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The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Armenia as at the date of the on-site visit (25 May to 6 June 2015). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Armenia's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- Armenia has a broadly sound legal and institutional framework to combat money laundering (ML) and financing of terrorism (FT). Armenia's level of technical compliance is generally high with respect to a large majority of FATF Recommendations.
- Armenia is not an international or regional financial centre and is not believed to be at major risk of ML. The predicate offences which were identified by the 2014 national risk assessment (NRA) as posing the biggest threat are fraud (including cybercrime), tax evasion, theft and embezzlement. The findings of this assessment indicate that corruption and smuggling also constitute a ML threat. The real estate sector, the shadow economy and the use of cash all constitute significant ML vulnerabilities. Competent authorities have assessed and demonstrated an understanding of some, but not all, ML risks in Armenia.
- The NRA concludes that the risk of FT is very low. Although Armenia shares a border with Iran, which is considered by the FATF to pose a higher risk of FT, the evaluation team found no concrete indications that the Armenian's private sector and non-profit organisations (NPOs) are misused for FT purposes. There have never been any investigations, prosecutions and convictions for FT. There is an effective mechanism for the implementation of Targeted Financial Sanctions (TFS). No terrorist-related funds have been frozen under the relevant United Nations Security Council Resolutions (UNSCRs).
- The financial intelligence unit (FIU) has access to a wide range of information sources and is very effective in generating intelligence for onward dissemination to LEAs. Law enforcement access to information is somewhat restricted by a combination of issues connected with the legislation dealing with law enforcement powers to obtain information held by financial institutions and law enforcement ability to successfully convert intelligence into evidence. Law enforcement authorities (LEAs) did not demonstrate that they make effective use of FIU notifications to develop evidence and trace criminal proceeds related to ML.
- The number of ML investigations and prosecutions has increased in the period under review. However, it appears that LEAs target the comparatively easy self-laundering cases mainly involving domestic predicate offences. One ML conviction (described as autonomous) was secured, although the judiciary appears to have based its ruling on the admission that the predicate offence had been committed. Overall, law enforcement efforts to pursue ML are not fully commensurate with the ML risks faced by the country.
- Seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent value are not pursued as a policy objective. It is doubtful whether LEAs are in a position to effectively identify, trace and seize assets at the earliest stages of an investigation, since proactive parallel financial investigations for ML and predicate offences are not conducted on a regular basis.
- The banking sector is the most important sector in terms of materiality. Banks understand the risks that apply to them according to the FATF Standards and the AML/CFT Law. However, they have not demonstrated that they have incorporated the risks identified in the NRA into their internal policies. The real estate sector, notaries and casinos pose a relatively higher risk compared to other DNFBPs. Their understanding of risk is limited.

- The application of customer due diligence (CDD), record-keeping and reporting measures by financial institutions is adequate. Major improvements are needed by the DNFBP sector with respect to preventive measures.
- The approach of the Central Bank of Armenia (CBA) to anti-money laundering/counter financing of terrorism (AML/CFT) supervision is to some extent based on risk. Developments in this area are on-going. Adequate procedures for the imposition of sanctions are in place. However, the level of fines could be improved. The supervision of the DNFBP sector was found to be in need of improvement relative to casinos and notaries, and inadequate relative to real estate agents, dealers in precious metals and stones, lawyers and accountants.
- Most basic information on legal persons is publicly available through the State Register. All legal persons in Armenia are required to disclose the identity of their beneficial owners to the State Register upon registration and, *inter alia,* whenever there is a change in shareholding. Information on beneficial ownership of legal entities is also ensured through the application of CDD measures by banks.
- While all the banks understand that they have to apply freezing of funds to proliferation financing and there is an innovative system in place in financial institutions to ensure that matches are detected, there is a concern that the legal framework based on the AML/CFT Law could be open to legal challenge. Coordination between the different competent authorities involved in this area needs to be further developed.

Risks and General Situation

2. The 2014 NRA identifies swindling, theft, tax evasion, contraband and squandering/ embezzlement as posing the highest ML threat. The General Prosecutor's Office indicated that, from its perspective, the highest risk of ML arises from fraud (including cybercrime), falsifying plastic cards and theft through ICT, embezzlement, theft, smuggling and drug trafficking. This is more or less the view of the FIU and other law enforcement authorities. The evaluation team identified corruption as also posing a ML threat. The level of foreign proceeds introduced into the Armenian financial system could not be determined with certainty, since little information was made available to the evaluation team. However, STR information suggests that attempts to launder proceeds from cybercrime and other ICT-related crime committed outside Armenia are not uncommon. The FMC has procedures in place to monitor cross-border movement of funds with subsequent analysis and comparison with applicable foreign trade indicators. There are no indications that the risk of FT faced by Armenia is any way elevated.

3. The large majority of funds from and to Armenia flow through the banking sector. In terms of materiality, this sector constitutes the biggest ML vulnerability to the Armenian private sector generally and financial sector particularly. The real estate sector, which involves various DNFBPs, including real estate agents and notaries, is considered to pose a relatively higher risk of ML. Casinos are also vulnerable to ML due to shortcomings in supervision and weaknesses in the application of preventive measures, although the fact that they do not provide certificates of winning (i.e. documentary basis for facilitating the laundering of illicit proceeds) certainly mitigates the potential for their use in ML. The large presence of the shadow economy, the use of cash and financial exclusion create a favourable environment for the commission of economic crime, especially tax evasion and related ML that could possibly detract from law enforcement efforts in detecting crime.

Overall Level of Effectiveness and Technical Compliance

4. Since the last evaluation in 2009, Armenia has made major improvements in terms of technical compliance with the FATF Recommendations. Armenia is largely compliant or compliant with most Recommendations. The ML offence, the confiscation regime, the FT offence, mechanisms for the freezing of terrorist assets, preventive measures and institutional measures and powers of the financial supervisor are all largely in place. The identification, assessment and understanding of ML risk need some improvement, although it is noted positively that Armenia has made significant efforts to conduct a national risk assessment. Some of the deficiencies in relation to law enforcement powers persist, particularly in relation to the legislation dealing with law enforcement powers to obtain information held by financial institutions and law enforcement ability to successfully convert intelligence into evidence. The mechanism to ensure transparency of legal persons should be further developed and the regulation and supervision of DNFBPs needs to be strengthened. The authorities should ensure that the legal provisions providing for the application of PF sanctions are clarified.

5. In terms of effectiveness, Armenia achieves substantial ratings in IO 2, 4, 5, 9, 10 and 11, moderate ratings in IO 1, 3 and 6 and low ratings in IO 7 and 8.

Assessment of Risks, Coordination and Policy Setting (Chapter 2 - IO.1; R.1, R.2, R.33)

6. Armenia conducted its first 'full scope' NRA in 2014. The most positive aspect of this assessment is that it aggregates high-level information from all AML/CFT stakeholders, some of which had been previously analysed solely at institutional level. With respect to the assessment of ML threats and vulnerabilities, the information that was considered was not always complete and as a consequence some conclusions appear to be debatable. For instance, the threat of ML is based on the analysis of convictions for all predicate offences and ML, without considering the magnitude and significance of the overall criminal activity in Armenia. Nevertheless, the authorities are confident that the overall criminality rate is commensurate with the patterns and trends inferred from convictions. Consideration of the shadow economy and the use of cash are limited to recognising that these phenomena are present without linking the potential effects to other information, such as predicate criminality and the use of cash to purchase real estate. It is the view of the evaluation team that ML risks in Armenia might not be fully assessed and understood. The understanding of FT risks appears to be adequate.

7. Cooperation and coordination of national AML/CFT policies is conducted through the Interagency Committee on the Fight against Counterfeiting of Money, Fraud in Plastic Cards and Other Payment Instruments, Money Laundering and Terrorism Financing ('Interagency Committee'). An action plan agreed by the Interagency Committee provides a foundation for addressing the ML/FT risks identified in the NRA. While operational cooperation between competent authorities appears to be sound, the coordination of strategies, particularly within the law enforcement sphere, does not seem to be sufficiently developed. Moreover, because the NRA does not properly identify and assess certain risks, the policies, objectives and activities of competent authorities do not fully address the ML risks present in country. In addition, it appears that important intelligence work being undertaken by the arms of government and law enforcement handling licensing and export control issues was not routinely being brought in the policy-making which is undertaken by the Interagency Committee.

8. The authorities have shared the results of the NRA with the private sector. The banking sector presented a relatively better understanding of risk to the evaluation team compared with other sectors. Even in the banking sector, however, the understanding differed. It was not common for financial institutions to go beyond the NRA conclusion for their own sectors when discussing risk even though the AML/CFT Law requires institutions to undertake a risk assessment of their business.

9. The exemptions and the instances where the application of simplified measures are permitted are based on the FATF Standards rather than being justified by the findings of the NRA, although these instances have been carefully considered by the Interagency Committee and do not contradict the findings of the NRA.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

10. The Financial Monitoring Centre (FMC), which is the FIU of Armenia, is the lead agency within the AML/CFT operational system. It has access to a very broad range of information and can request additional information from all reporting entities, regardless of whether the entity had previously submitted an STR. The FMC has in place advanced processes for the operational and strategic analysis of information and disseminates useful intelligence to law enforcement authorities.

11. The quality of STRs has improved, although reporting entities may be overlooking certain suspicious transactions and/or business activities due to potential overreliance on typologies and pre-defined indicators issued by the FMC. The level of reporting by banks appears to be adequate, but not for other relatively higher risk entities such as money remittance providers, casinos, real estate agents and notaries. Information on cash declarations made at the border is regularly communicated by the Customs Administration to the FMC, which process has been enhanced by the introduction of the Integrated Information System (IIS) providing a secure environment for the exchange of information and disclosures between all stakeholder public agencies.

12. Information that is subject to financial secrecy is available to law enforcement authorities under the Criminal Procedure Code (when it is required in relation to a suspect or an accused person) and the Law on Operational Intelligence Activities (without any limitation relative to a suspect or an accused). Nonetheless, the availability of certain operative measures to LEAs is subject to unduly burdensome conditions (e.g. only available in relation to grave and particularly grave crimes, thereby excluding basic ML). In practice, this limits LEAs' ability to broaden the scope of an investigation by using the measures provided under the LOIA.

13. There is little evidence that intelligence, whether generated by the FMC or LE operative units, is used to a great extent to identify ML and to conduct financial investigations. Information is generally used to secure a conviction for predicate crimes, rather than to identify and trace criminal proceeds. The FMC intelligence by LEAs has been used on some occasions to identify and seize proceeds.

14. The authorities have increased their efforts in identifying ML offences. Nevertheless, since LEAs do not routinely conduct proactive parallel financial investigations, at least in relation to major proceeds-generating crimes, the potential for identifying ML cases is limited. It appears that LEAs still operate under the notion that concrete links between a specific predicate offence and the laundering of the funds need to be demonstrated. As a result, 12 out of the 13 ML convictions achieved in the period under review were self-laundering cases mainly involving domestic predicate offences. Only one autonomous ML conviction was achieved and, even there, the judiciary appears to have based its ruling on the admission that the predicate offence had been committed. No convictions for third party laundering were secured. Overall, law enforcement efforts to pursue ML are not fully commensurate with the ML risks faced by the country. For instance, ML connected to tax evasion, corruption and cybercrime does not appear to receive sufficient attention.

15. Armenia does not appear to pursue the seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent value as a policy objective. It is doubtful whether LEAs are in a position to effectively identify, trace and seize assets at the earliest stages of an investigation, since proactive parallel financial investigations for ML and predicate offences are not conducted on a regular basis. Since the evaluation team was not presented with information on the estimated cost of reported criminal offences, it was not in a position to make a reasoned judgement on whether the

level of confiscated assets in Armenia is adequate. There is uncertainty among practitioners regarding the legal interpretation on the confiscation of indirect proceeds. There are some statistics on confiscation of cash and bearer negotiable instruments) at the borders. The systematic management of seized and confiscated property does not appear to have been addressed to a great degree.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

16. There have been no investigations, prosecutions and convictions for FT. This seems to be in line with the risk of FT that Armenia faces. Armenian authorities confirm that comprehensive operational intelligence work is carried out by the National Security Service supported, whenever necessary, by full scope involvement of the FMC for consideration of financial aspects of relevant cases, to identify any FT implications relevant for the country in a timely manner. The legal framework for the criminalisation of FT is largely in line with international standards.

17. Targeted financial sanctions have been adequately implemented into the Armenian system, although no funds have been frozen to-date. Dedicated staff of the FMC checks designations on the UNSC website on a daily basis. The FMC has implemented innovative software which automatically updates financial institutions' databases whenever new designations are made.

18. The number of non-profit organisations registered in Armenia amounts to around 9,000. However, in the view of the Armenian authorities, the overwhelming majority of these organisations do not fall within the definition of NPOs in the FATF Glossary (which, as assessed by the authorities, might amount to a few hundred only). While the authorities have not conducted a formal review of the sector to identify which subset of entities pose a higher risk of FT, the authorities demonstrated that they are in possession of information on the activities, size and other relevant features of the NPO sector. NPOs are to a large extent subject to requirements which ensure that their activities are transparent, all funds are fully accounted for and the beneficiaries are known. Supervision of this sector needs to be strengthened by allocating further resources.

19. Armenia is taking a number of very meaningful steps to address all the issues surrounding proliferation financing. Those involved at governmental level in licensing and export control of proliferation sensitive material seem well attuned to the risks, and are taking their responsibilities seriously. Intelligence and information from their work would benefit from being brought into the Interagency Committee for AML/CFT on a more regular basis. There is a system in place for PF sanctioning, and the evaluators understood that the private sector appreciated that the requirements of the relevant UNSCRs should be implemented. The evaluators concluded nonetheless that the legal regime based as it is on the AML/CFT Law could be open to possible challenge. This has been discussed with the Armenian authorities, who recognise that this issue, while not perceived by either the public or public sectors as an impediment to the effective implementation of PF-related requirements, could be quickly fixed.

Preventive Measures (Chapter 5 - IO4; R.9-23)

20. Financial institutions demonstrated a good understanding of the risks which are applicable to them according to the FATF Standards and the high risk relationships and features specified in the AML/CFT Law and relevant regulations. However, financial institutions did not demonstrate that they have taken specific measures to integrate the risks identified in the NRA into their internal risk policies. The authorities confirm that, whereas such formal integration of NRA findings into the internal policies of financial institutions has not been carried out, the findings of supervision reveal that in practice these policies reflect the major ML/FT treats present in the country by means of relevant indicators and typologies of high risk. DNFBPs do not demonstrate adequate understanding of ML risks which are inherent to their activities, especially as far as real estate intermediaries and casinos are concerned. It is the authorities' view that due to the under-developed status of the

DNFBP professions such as real estate intermediation, precious metals and stones dealership, as well as to the low level of social and economic involvement of lawyers, the materiality of DNFBPs in the country is limited.

21. The application of adequate CDD measures (including enhanced CDD) by financial institutions is good. DNFBPs verify the identity of their customers but there are significant gaps in some DNFBP sectors. There are also partial deficiencies in relation to foreign PEPs, although such customers are very rare. There are no measures in relation to domestic PEPs although a few firms have mitigating measures in relation to such PEPs.

22. The quality of STR reporting has improved. 99.9% of STRs are submitted by banks. The evaluation team expected to see a better STR output from MVTS given the risks usually associated with this sector. The authorities confirm that MVTS only have 0.3-0.5% share in the total amount of cross-border transfers (the remaining part transacted by banks), and that they operate under strict controls and below certain thresholds, which significantly reduces their STR reporting potential. No STRs have been submitted by DNFBPs. This is not consistent with the risks emanating from the real estate, notarial and casino sectors in particular.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)

23. Armenia has a comprehensive and robust licensing regime for all Core Principles financial institutions, MVTS and credit organisations. There are no measures in place to prevent criminals and their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in DNFBPs such as real estate agents, dealers in precious metals and stones, lawyers and accountants.

24. While the CBA demonstrates adequate understanding of ML/FT risks with respect to financial institutions, its practices and procedures are not demonstrably risk-based. The Financial Supervision Department of the CBA does not conduct a formal risk assessment either of the different financial sectors or of individual institutions. It relies on the results of the NRA and its close cooperation with the Financial Monitoring Center. Consideration of relevant factors such as specific client or product risks emanating from different sectors or individual institutions is not documented.

25. Overall, supervisory practices and processes of the CBA, while quite comprehensive in terms of prudential supervision, appear to apply a rule-based approach by examining all risks – including those related to ML/FT – with similar scope and depth. There is a lack of understanding of risk by DNFBP supervisors, although some of them have manuals and guidelines for the application of the risk-based approach (e.g. the MoF for supervising casinos).

26. Under the AML/CFT Law amended in October 2014, the FMC has been designated as the supervisor of real estate agents, dealers in precious metals and stones, accountants, TCSPs, lawyers and law firms. No supervisory regime has been implemented yet by the FMC.

27. The CBA has adequate procedures for the imposition of sanctions. However, the CBA has not demonstrated that it has used the sanctioning regime effectively, particularly since the volume of fines that have been imposed appears to be low. Sanctions are very rarely used by DNFBP supervisors for ML-related violations.

28. The CBA promotes the understanding of ML/FT risks and obligations to the private sector through feedback and guidance. There is almost no outreach to the private sector by DNFBP supervisors.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

29. All legal persons are required to be registered. Basic information is publically available and is, therefore, transparent. It appears that a combination of legal provisions and practice at the State

Register and tax office means that all legal persons must have at least one bank account, which is subject to CDD by the banking sector. The CBA assesses the adequacy of verification of beneficial ownership information by reporting entities while conducting on-site examinations and checks whether it is adequate, accurate and current. Its sanctions framework is not wholly effective or dissuasive but – while there have been occasional gaps in relation to beneficial ownership – none has been a significant/systemic issue. Accurate and up-to-date information appears to be available from banks and other financial institutions.

30. It is positive that rules have been introduced for beneficial ownership information to be provided to the State Register. However, there is no formal mechanism for monitoring the adequacy, accuracy or currency of this information. There is also no mechanism for checking whether changes of beneficial ownership information are provided to the Register. The State Register has no powers of sanction.

31. Beneficial ownership information which is maintained by legal persons, the State Register, the Central Depository and reporting entities is available to competent authorities. According to the authorities, during the period under review, the authorities have always been able to obtain adequate, accurate and current information when needed, without impediments, and in a timely manner.

32. Armenia has provided some information on legal persons in its NRA and a generic statement of risk. Whereas this does not constitute an in-depth assessment of the vulnerabilities of the specific types of legal persons, the State Register is working towards an understanding of the complexities of the risks of beneficial ownership. Nevertheless, some key authorities have a much more developed understanding of the risks of misuse of legal persons than is reflected in the NRA albeit that understanding might not be complete. Overall, the authorities as a whole do not have fully documented information and comprehensive assessment of that information (e.g. on fraud risk) to appropriately inform their responses to risk.

International Cooperation (Chapter 8 - IO2; R. 36-40)

33. Armenia demonstrates characteristics of an effective system in the area of international cooperation. Based on the legal framework, Armenian authorities are able to provide the widest possible range of mutual legal assistance and extradition in a timely manner in relation to investigations, prosecutions and related proceedings involving ML/FT and associated predicate offences. Some key authorities have been actively seeking legal assistance for international cooperation.

34. The FMC is very active in the area of informal exchange of information with foreign counterparts and it demonstrated that it has done so effectively. This is not the case for law enforcement authorities. In the absence of a law enforcement policy to actively identify ML/FT cases, there is little scope for the informal exchange of information with foreign counterparts. Although some information is exchanged internationally it is mainly done for securing convictions of predicate offences. Supervisory authorities have never exchanged information with their foreign counterparts on AML/CFT issues.

Priority Actions

- Armenia should not limit its assessment of the ML threat to the analysis of convictions. Instead, consideration should be given to the magnitude and significance of the overall criminal activity faced by Armenia, be it domestic or foreign. Increased attention should be paid to criminal activity that may have not been detected (e.g. corruption), the overall cost of crime for the country, cross-border illicit flows (be it outwards or inwards), foreseeable trends in ML and also analysis of other relevant information, such as STRs and other financial intelligence.

- Armenia should deepen its analysis and re-evaluate certain vulnerabilities faced by the country towards ML. This should include a re-evaluation of the vulnerabilities stemming from DNFBPs, abuse of legal persons, corruption, shadow economy and the extensive use of cash. These improvements should enable Armenia to have a more informed understanding of gaps that need to be closed.
- Law enforcement authorities should make full use of intelligence (whether generated internally or by the FMC) in financial investigations, particularly to develop evidence and trace criminal proceeds. This should be accompanied by specialised regular training to the relevant law enforcement authorities, particularly the NSS, on the use of FMC (operational and strategic) intelligence products.
- Armenia should develop a national law enforcement policy to investigate and prosecute ML offences. This should set out a co-ordinated strategy applicable to all relevant law enforcement bodies involved in the fight against ML and associated predicate offences, which specifies the responsibility and functions of each body and the role that each body is expected to undertake in the course of a ML investigation.
- The policy should require law enforcement authorities to develop proactive parallel financial investigations when pursuing ML and associated predicate offences, at least in all cases related to major proceeds-generating offences. Practical guidance and specialised regular training should be provided to staff at all levels of law enforcement bodies, including the GPO and the judiciary, on financial investigations.
- As part of the requirement to proactively conduct parallel financial investigations, law enforcement authorities should be required to routinely apply provisional measures to prevent any dealing, transfer or disposal of property subject to future confiscation/forfeiture.
- Armenia should include the confiscation of criminal proceeds, instrumentalities and property of equivalent value as an objective in the national law enforcement policy.
- The authorities should introduce requirements to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in DNFBPs such as real estate agents, dealers in precious metals and stones, lawyers and accountants. An effective supervisory regime for all DNFBPs should be implemented.
- The CBA should develop a fully-fledged risk-based approach to AML/CFT supervision. This should include establishing relevant criteria to determine the ML/FT risk rating for different sectors of the financial system and for each individual financial institution.
- Armenia should improve its assessment of the risk associated with legal persons, introduce an explicit mechanism for ensuring that the basic information maintained by the State Register is accurate and updated on a timely basis, and establish sanctions for the failure to provide the State Register with registration or beneficial ownership information.
- PF sanctioning needs to be brought more explicitly into the AML/CFT Law to avoid legal challenges to sanctions under R.7. The work of relevant governmental bodies on licensing and export control needs to be brought into the policy-making of the Interagency Committee on a formalised basis to ensure better coordination and sharing of information and intelligence across all relevant competent authorities on R.7 issues and PF risks.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 Risk, policy and coordination	IO.2 International cooperation	IO.3 Supervision	IO.4 Preventive measures	IO.5 Legal persons and arrangements	IO.6 Financial intelligence
Moderate	**Substantial**	**Moderate**	**Substantial**	**Substantial**	**Moderate**

IO.7 ML investigation & prosecution	IO.8 Confiscation	IO.9 FT investigation & prosecution	IO.10 FT preventive measures & financial sanctions	IO.11 PF financial sanctions
Low	**Low**	**Substantial**	**Substantial**	**Substantial**

Technical Compliance Ratings

AML/CFT Policies and coordination

R.1	R.2
PC	**LC**

Money laundering and confiscation

R.3	R.4
LC	**LC**

Terrorist financing and financing of proliferation

R.5	R.6	R.7	R.8
LC	**LC**	**PC**	**LC**

Preventive measures

R.9	R.10	R.11	R.12	R.13	R.14
C	**LC**	**C**	**PC**	**C**	**C**
R.15	**R.16**	**R.17**	**R.18**	**R.19**	**R.20**
C	**C**	**C**	**C**	**C**	**C**
R.21	**R.22**	**R.23**			
C	**LC**	**C**			

Transparency and beneficial ownership of legal persons and arrangements

R.24	R.25
LC	LC

Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
LC	C	PC	C	LC	PC
R.32	**R.33**	**R.34**	**R.35**		
C	C	C	LC		

International cooperation

R.36	R.37	R.38	R.39	R.40
LC	LC	LC	LC	C

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was conducted on the basis of information provided by Armenia and information obtained by the evaluation team during its on-site visit to Armenia from 25 May to 6 June 2015.

The evaluation was conducted by an assessment team consisting of:

- Ms Shlomit Wagman, Acting Head, Israel Money Laundering and Terror Financing Prohibition Authority (legal expert)
- Mr Ladislav Majernik, Prosecutor, General Prosecutor's Office of the Slovak Republic (legal expert)
- Mr Ionut Sorinel Gabor Jitariu, Head of Unit, Directorate for Analysis and Processing of Information, National Office for the Prevention and Control of Money Laundering, Romania (law enforcement expert)
- Ms Bianca Hennig, Lawyer, Financial Market Authority, Liechtenstein (financial expert)
- Mr Richard Walker, Director of Financial Crime Policy, Guernsey (financial expert)
- Mr John Ringguth and Mr Michael Stellini of the MONEYVAL Secretariat[1]

The report was reviewed by Dr Giuseppe Lombardo, International Strategic Advisor – Financial Integrity, Mr Radoslaw Obczynski, Chief AML/CFT Specialist of the Polish Financial Supervision Authority and Dr Gordon Hook, Executive Secretary of the Asia/Pacific Group.

Armenia previously underwent a MONEYVAL Mutual Evaluation in 2009, conducted according to the 2004 FATF Methodology. The 2009 evaluation and the follow-up (2010 and 2012) reports have been published and are available at http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Armenia_en.asp.

That Mutual Evaluation concluded that the country was compliant with 6; largely compliant with 20; partially compliant with 17; and non-compliant with 5 Recommendations. One recommendation was considered to be not applicable (NA). Armenia was rated compliant or largely compliant with 7 of the 16 Core and Key Recommendations.

[1] Ms Kuralay Igembayeva from the Eurasian Group Secretariat assisted the MONEYVAL Secretariat as an observer.

CHAPTER 1. ML/FT RISKS AND CONTEXT

1. The Republic of Armenia is a landlocked mountainous country in the South Caucasus with a territory of 29,800 square kilometres. Armenia shares borders with Georgia in the north, Iran in the south, Turkey in the west, and Azerbaijan in the south and in the east. The population of Armenia is 3.01 million (2015 National Statistical Service). According to some estimates, about 8 million Armenians live outside of Armenia, mainly in the Russian Federation, the United States of America, France, Georgia and Iran. Armenia's 2014 Gross Domestic Product was USD 10.88 billion.

2. According to the Constitution of Armenia, the President is the head of government. The executive power is exercised by the government. Legislative power is vested in the parliament. A unicameral parliament, the National Assembly, consists of 131 deputies. National Assembly deputies are elected for a four-year term. Armenia's legal system is based on civil law. Primary legislation is in the form of laws. Secondary legislation is in the form of regulations.

3. Armenia is a member of the United Nations, the Organisation for Security and Cooperation in Europe, the World Trade Organisation, the Council of Europe, the European Bank for Reconstruction and Development, the World Bank, the International Monetary Fund, and other international organisations. On 9 October 2014, Armenian joined the Customs Union and, later, on 1 January 2015, the Eurasian Economic Union.

ML/TF Risks and Scoping of Issues of Increased Focus

Overview of ML/FT Risks

4. Armenia is not an international or regional financial centre and is not believed to be at major risk of money laundering (ML) or financing of terrorism (FT). The United Nations Office on Drugs and Crime does not highlight any criminal threats, such as drug trafficking or organised criminality, which are of particular significance within Armenia[2].

5. The top five offences which generated particularly large amounts of proceeds[3] in the period from 2010 to 2013[4] were swindling, theft, tax evasion, contraband and squandering/embezzlement[5]. However, no estimations on the value and significance of the overall criminal activity, including criminal activity that may have not been detected and foreseeable trends, were made available to the assessment team[6]. It is therefore difficult to estimate the overall level of proceeds-generating crime and to determine with some degree of accuracy the most prevalent sources which generate the proceeds that are being laundered in Armenia.

6. Information provided by the Armenian financial intelligence unit (FIU) indicates that the most common underlying criminal activities identified through suspicious transaction reports (STRs) were fraud (including cybercrime), transactions with fake payment cards and transactions through counterfeit payment instruments. Not many convictions have been achieved domestically for these underlying offences in STRs. The FIU confirmed that in the majority of cases the underlying criminal activity was committed outside Armenia and the proceeds introduced into the Armenian banking system.

7. The GPO indicated that, from its perspective, the highest risk of ML arises from the following predicate offences in order of importance: fraud (including cybercrime), falsifying plastic

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[2] http://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf; http://www.unodc.org/documents/data-and-analysis/Studies/Opiate_Trafficking_and_Trade_Agreements_english_web.pdf; http://www.unodc.org/documents/wdr2014/World_Drug_Report_2014_web.pdf

[3] 'Particularly large amounts' is a term used in Armenia's National Risk Assessment (NRA) to refer to those offences that generate in excess of AMD 3 million (approximately EUR 5,400)

[4] The period covered by the NRA.

[5] NRA p. 20; almost all of the 12 ML convictions achieved over the period 2010-2013 involved one of these predicate offences.

[6] Nor is it taken into consideration by the NRA for the purpose of determining the ML threat in Armenia

cards and theft through ICT, embezzlement, theft, smuggling and drug trafficking. This alternative view to the NRA and to STR data on criminal activity informs its priorities in prosecuting crime. The Police also see cybercrime, certain types of economic crime and drug trafficking as the greatest risks for money laundering.

8. Given that there does not appear to be a single, agreed conclusion and understanding within the Armenian authorities in relation to criminal activity most prevalent for ML, the assessment team consulted external independent sources.

9. In a recent report issued in 2012 by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings on Armenia[7], it is noted that Armenia is primarily a country of origin for trafficked persons with the main countries of destination being the Russian Federation, Turkey and the United Arab Emirates. The official figures indicate that in the period from 2008 to 2011 there were 126 victims of human trafficking. Statistics in Armenia's national risk assessment (NRA) indicate that in the period from 2010 to 2013 there were 21 convictions for human trafficking, none of which apparently generated particularly large amounts of proceeds. Public officials and non-governmental organisations (NGOs) in Armenia acknowledge that the actual scale of trafficking in human beings may be larger than the official figures suggest. The authorities do not believe that human trafficking in Armenia is conducted by organised criminal groups and that the proceeds involved are significant enough to have meaningful ML implications[8].

10. According to the 2015 International Narcotics Control Strategy Report by the Department of State of the United States Congress, Armenia is not a major drug-producing country and domestic consumption of illegal drugs is modest. Because Armenia is landlocked and the two longest of its four borders (with Turkey and Azerbaijan) are closed, the resulting limited transport options have traditionally made the country less attractive for drug trafficking[9]. In 2014 law enforcement authorities seized the largest haul of heroin (928 kilograms) in the history of Armenia. The consignment which, as confirmed by the authorities had been a controlled delivery administered by the National Security Service, had been in the process of being trafficked through Armenia from Iran, suggesting that the risk of drug trafficking through the Iranian-Armenian border is not to be entirely dismissed.

11. The Armenian authorities do not consider organised crime to be a widespread problem within the country. No convictions were achieved in the period under review for the creation of or participation in criminal associations or groups[10]. The authorities do not believe that foreign criminal organisations, especially those based in countries with a significant Armenia Diaspora, generally attempt to introduce criminal proceeds into the Armenian financial system. However, during the on-site visit, the prosecution service alluded to several cybercrime cases which appeared to have been perpetrated by organised criminal groups. It appears that one of the convictions secured by the authorities, which resulted from a notification disseminated by the Financial Monitoring Centre, involved elements of organised criminality[11]. A recent ML national risk assessment published by the United States of America refers to an Armenian criminal group that operated in the Los Angeles area until 2011, which used bank wire transfers and couriers carrying cash, gold and diamonds to send illicit proceeds to Armenia.[12] The FMC confirmed that they engaged in comprehensive exchange of information with their US counterparts on that specific case. The authorities also confirmed that other government agencies (i.e. the National Security Service, the General Prosecutor's Office) did not receive MLA or other requests for assistance in relation to that case.

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[7] http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2012_8_FGR_ARM_en.pdf

[8] In 2009 there was one ML case in relation to which the predicate offence was human trafficking: https://www.cba.am/Storage/EN/FDK/Court%20Verdicts/EMD_0082_01_09(Amalya_Matulyan)_Eng.pdf

[9] http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/238943.htm

[10] Organised crime is criminalised under Articles 41, 222 and 223 of the CC.

[11] See the box under Immediate Outcome 6

[12] http://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/National%20Money%20Laundering%20Risk%20Assessment%20%E2%80%93%2006-12-2015.pdf p.20

12. No significant information on other major proceeds-generating crime was identified from public sources.

13. Armenia possesses some information on cross-border customers using its financial system. Although the customer base is geographically diverse, a large number of customers are descendants of the Armenian Diaspora. There are a significant number of customers in Russia, either Armenian citizens or representatives of the diaspora. Some banks are owned by Russian entities. FIU information suggests that there were some cases involving foreign proceeds introduced into the Armenian financial system for laundering purposes. While statistics on mutual legal assistance requests have been included in the NRA, they have not been broken down into those which are linked to ML/FT and those which are not. The authorities believe that, in relation to cross border criminality and predicate offending, the low number of incoming MLA requests is indicative of the fact that both the Armenian financial/ non-financial systems and Armenian nationals/ legal entities are of little interest for respective foreign counterparts due to the lack of involvement in criminal activity with international implications. Since the NRA was completed, work has been undertaken by the Ministry of Justice to prepare comprehensive statistics including a breakdown according to predicate offences, including ML/FT. The NRA considers the ML/FT vulnerability arising from the physical transportation of cash through Armenia's borders. It concludes that given the stringent controls imposed at the borders (which was confirmed by the evaluation team on-site) and the main underlying reasons for which people physically transport cash in and out of Armenia (seasonal work abroad and small retail businesses) significantly reduce the potential ML/FT risks.

14. The authorities consider that ML in Armenia generally takes place through the banking system[13]. The large majority of STRs are filed by banks[14]. FIU information indicates that the delivery channels used by bank customers (such as internet banking) and certain banking products provided by banks (credit and debit cards) are being misused for ML purposes.

15. The buying and selling of real estate is considered to pose a relatively higher risk since payment is often made in cash and, in some cases, transactions are carried out on behalf of third parties[15]. No STRs were submitted by either real estate brokers or notaries, who are invariably involved in a real estate transaction, suggesting that the private sector may not have been effective in implementing preventive measures to detect suspicious real estate transactions.

16. Turning to the risk of FT, relevant fact-finding by the authorities conducted within the framework of the 2014 NRA revealed that the risk of funds being: a) raised in, or b) moved in or through Armenia is very low.

17. Particularly, comprehensive analysis was conducted to determine whether funds for FT purposes could be raised in Armenia. The authorities also sought to identify any ideological, political, practical or other rationale and motivation for Armenian nationals to sympathise with or join as foreign fighters ISIS and/ or other prominent terrorist groups and organisations operating in the world generally and in the region particularly. The analysis concluded that such rationale and motivation is practically non-existent, since:

a) Armenia is highly homogeneous in terms of ethnicity (98.11% of population are Armenians) and religion (the country has 17 century-long tradition of apostolic Christian religion). There has never been (extremist) Islamic propaganda or practice in the country, and the possibility that Christians (or even persons who do not associate themselves with any religion/ confession) would sympathise with or join the terrorist movements in the neighbouring Middle East region for ideological reasons is non-existent. Moreover, the largest national minority in the country are Yazidis (1.19% of population), who themselves, just like other religious and ethnic minorities, have been victims of ISIS misdoings and, subsequently, would never be motivated to be involved in terrorist and terrorism-financing activity.

[13] As confirmed through an analysis of sanitised cases submitted by the FIU.
[14] NRA p. 81
[15] NRA p. 86

b) In political terms, Armenia has strongly and unconditionally condemned – at the highest official level – ISIS and other terrorist activities and acts around the globe.

c) In practical terms, there are no reports on factual or potential involvement of Armenian nationals in international terrorist organisations or activities, be it ISIS or others such as Al Qaeda (not to speak about Boko Haram, National Liberation Army of Colombia, Tamil Tigers etc.), which, in addition to the reasons listed above, are structurally and logistically far from Armenia to constitute a realistic potential threat in terms of involvement of its nationals.

18. According to the authorities, this in turn means that there is little risk of Armenian nationals using their home country's system to facilitate the financing of terrorism on behalf or for the benefit of foreign terrorist groups and organisations.

19. The authorities also considered whether foreign nationals or organisations might attempt to use the Armenian system for the financing of terrorism (including through the misuse of NPOs). The analysis concluded that terrorists or terrorist organisations situated outside Armenia barely have the possibility, if any, to misuse financial and non-financial systems of Armenia, for the following reasons:

a) There is a total lack of, ideological, political, practical or other links with/ nexus to Armenia (the logical chain "individuals or organisations who raise funds to finance terrorism" – "Armenia as a proxy country to facilitate movement of funds" – "individuals or organisations who receive funds to finance committal of terrorist acts" is not practicable due to obvious material and immaterial barriers);
b) Armenia's financial and non-financial systems are not developed to an extent to be attractive for facilitating the financing of terrorism (naturally, the perpetrators would seek for more sophisticated and advanced systems, e.g. providing a range of non-face-to-face, distant control and use services, to ease 'disappearance' of their transactions among a multitude of similar ones);
c) There are stringent controls at the border to ensure that cash is not physically transported to/ from Armenia for FT purposes;
d) There are effective mechanisms (e.g. processes for freezing of terrorism-related property) in place that enable preventing the misuse of financial and non-financial systems of Armenia by terrorists or terrorist organisations situated outside Armenia; all transactions and business relationships are checked against applicable lists of terrorism-related persons (meaning that in case of positive matches they would be suspended and the respective assets would be frozen, which has never been the case so far).

20. The main areas of activity of and spending by NGOs and charitable organisations are education, culture, social security, sports, healthcare and agriculture (as opposed to, for example, (extremist) Islamic or other religious propaganda), and foreign funding – mostly coming through government channels – never goes further to other countries/ territories, especially the ones associated with high terrorist-related activity (meaning that, given the absence of home-grown terrorist activity, NPOs use the funds for purposes definitely different from FT, and that they are by no means involved in raising funds for further use in international terrorist activity).

21. The evaluation team did not come across any information, either when conducting research in preparation for the scoping note or during the on-site visit, which suggests that there is an elevated risk of FT in Armenia. There have been neither FT investigations, prosecutions and convictions in Armenia nor freezing of terrorist assets under the relevant UNSCRs. [16]. The Armenian authorities confirm that comprehensive operational intelligence work is being carried out by the National Security Service supported, whenever necessary, by full scope involvement of the FMC for

[16] As discussed in Chapter 2, Armenia has rated the threat of FT as very low in its NRA.

consideration of financial aspects of relevant cases, to identify any FT implications relevant for the country in a timely manner.

Country's risk assessment

22. Armenia has a single NRA report published in 2014. The NRA report considers both ML and FT. The FIU provided the driving force for the development of the NRA. Representatives of the authorities have participated in the analysis and other work leading up to the final report. There is high-level commitment to an effective AML/CFT framework and the evaluation team welcomes the considerable efforts undertaken by Armenia to produce a NRA.

23. In order to form a picture of the risks, two main factors have been considered as part of the NRA, namely potential threats from the perspective of ML/FT and potential vulnerabilities in the AML/CFT system. The analysis of the interactions between these two factors is seen as leading to a conclusion on the potential consequence of ML/FT risks (residual risk) in relation to which commensurate prevention and mitigation measures should be undertaken. The broader conclusions of the NRA have been transposed into individual actions which form the basis for the most recent National Strategy for Combatting ML/FT.

24. The analysis and assessment of potential ML threats was undertaken by considering convictions from 2010 to 2013 for crimes arising from designated predicate offences, on the basis that such convictions are the best reflection of crimes in Armenia with proven or potential elements of ML offence. In addition, proceeds-generating crimes were separated from other crimes and focus was given to analysis of crimes that generated particularly large sums.

25. The analysis and assessment of the potential FT threats is based on the existence of favourable conditions (for example, presence of conflicts on religious, ethnic, or other grounds, breach of minority rights, promotion of extremism, organised terrorist organisations) for terrorist and FT fundraising activity in Armenia and the implementation of effective mechanisms (for example, processes for freezing of terrorism-related property) to prevent the misuse of financial and non-financial systems for FT purposes by means of moving FT-related funds.

26. The NRA report looks at potential ML/FT vulnerabilities (circumstantial elements such as geographic circumstances and economic circumstances; structural elements such as political stability and appropriateness of the judicial system; the contextual factors of corruption and financial inclusion; the legislative framework; the institutional framework; reporting entities; legal persons and legal arrangements; and NPOs) by way of a series of conclusions based on grades on a scale from very low to very high and a statement of the trend of the threat or vulnerability (declining, stable or growing) going forward. In order to reach a conclusion on residual risk, the NRA provides for the following process: if potential ML threats in a country arising from predicate offences committed in particularly large amounts are rated very high (for example, based on high crime rates in that country), while the AML/CFT vulnerabilities from financial institutions from the perspective of withstanding these threats are rated very low (for example, based on strong AML/CFT regimes in place within these financial institutions), residual risk will neither be rated very high nor necessarily high - instead, the expected level of risk would be rated as medium or low depending on the assessed severity of ML/FT threats and vulnerabilities.

Scoping of Issues of Increased Focus

27. The assessment team identified those areas which required an increased focus through an analysis of information provided by the Armenian authorities, including the NRA, and by consulting various open sources.

28. **Law enforcement policy to proactively conduct financial investigations**: Information provided to the assessment team indicated that, in relation to ML, financial investigations are not conducted as a matter of policy, neither at a strategic nor at an operational level. For instance, very few parallel ML investigations have been initiated in relation to major proceeds-generating offences

and very few orders for seizure or confiscation of proceeds have been issued by the courts in the period under review. During the on-site visit, the assessment team explored law enforcement authorities' capacity, both in terms of expertise and resources, to undertake financial investigations and identify and trace direct and indirect proceeds of crime.

29. **Predicate offences**: Although there is no conclusive information on the criminal environment within Armenia, there are indications that fraud (including cybercrime), tax evasion, embezzlement and smuggling (including narcotics) may be the most common proceeds-generating offences in Armenia. The threat of organised criminality was also considered. The evaluation team explored the manner in which the authorities are pursuing ML cases related to these offences.

30. **Corruption:** The assessment team paid particular attention to whether efforts to combat ML/FT are potentially thwarted by corruption within the judiciary and the police. The assessment team also examined in this context (and generally) the speed of the criminal justice system with regard to AML/CFT. The treatment of domestic PEPs by reporting entities and supervisors, especially within their risk assessments, also received considerable attention.

31. **Shadow economy and financial exclusion:** The assessment team is of the view that the presence of the shadow economy, the use of cash and financial exclusion create a favourable environment for the commission of crime, especially tax evasion and related money laundering that could possibly detract from law enforcement efforts in detecting crime. The impact of these phenomena was discussed at length with law enforcement authorities, the Central Bank and the private sector.

32. **Banking sector and money remittances:** The large majority of funds from and to Armenia flow through the banking and, to a much lesser extent, money remittance sectors. In terms of materiality, the banking sector constitutes the biggest ML vulnerability to the Armenian financial sector. The assessment team held individual meetings with 8 banks (out of 22) and all 7 money remittance service businesses in Armenia. The banks were selected by the assessment team on the basis of their size, the products and services that they offer, and their customer-base.

33. **Real estate sector:** The real estate sector, which involves various DNFBPs, including real estate agents and notaries, is considered to pose a relatively higher risk of ML. Discussions were held with law enforcement authorities on the number and type of investigations, prosecutions and convictions involving ML through the real estate sector and whether real estate has been seized or confiscated. Information on STRs involving real estate and FMC outreach to the real estate sector were also discussed. The assessment team held meetings with 9 real estate agents, 9 notaries, 4 advocates and the Real Estate Cadastre of Armenia.

34. **Casinos:** Casinos are vulnerable to ML threats mainly due to the shortcomings in the anti-money laundering/counter financing of terrorism (AML/CFT) supervision and the weak application of preventive measures by the sector. The effectiveness of the AML/CFT supervisory regime was considered carefully, particularly the measures implemented by the supervisory authorities to prevent criminals and their associates from holding a significant or controlling interest or holding a management function in a casino and all other DNFBPs. Meetings were held with 4 land-based casinos and 2 internet casinos.

35. **Dealers in precious metals and stones:** The assessment team chose to focus on this sector for reasons similar to those concerning the casino sector. Meetings were also held with 8 dealers in precious metals and stones.

36. **Financing of terrorism:** The assessment team discussed the risk of FT and the results of the NRA on FT at great length with various authorities, including law enforcement authorities, the FIU, prosecutors, the Ministry of Finance (in charge of tax and customs administration), the Ministry of Foreign Affairs and the Ministry of Justice supervising non-profit organisations. The assessment team also focussed on the awareness and understanding of FT risks within the private and non-profit sectors and the measures in place to freeze terrorist assets.

Materiality

37. The banking system dominates the Armenian financial sector and holds roughly 90% of the financial market. According to the authorities, the banking services provided are traditional in nature, such as deposits, loans, money transfers, foreign exchange and guarantees. High-risk products are either forbidden or not largely provided[17]. Only 2.3% of the banks' customers are classified as higher-risk (such as PEPs, natural persons involved in large cash transactions, natural and legal persons conducting unusual transactions, customers from higher-risk countries, etc.).

38. The size of the shadow economy in Armenia, which is exacerbated by the widespread use of cash, constitutes a significant ML vulnerability[18]. According to unofficial sources, the size of the shadow economy in the country is around 25 to 30% of the GDP and the proportion of cash in the supply of money is around 40 to 45%[19]. These conclusions are supported by statistics on recorded predicate offences to ML and STRs received by the Armenian FIU[20]. For instance, tax evasion features as the third most common crime which generates 'particularly large amounts' of proceeds in Armenia. Nevertheless, no ML convictions with tax evasion as a predicate offence were achieved in the period under review, indicating that efforts to curb this particular ML phenomenon may not be a priority for the country. This could be linked to the effectiveness of government policies to clamp down on the shadow economy itself. For instance, in the period 2010-2013, only 62 convictions for evasion from taxes, duties or other mandatory payments were achieved[21]. Media reports suggest that the International Monetary Fund (IMF) and the World Bank have long been pressing the Armenian authorities to implement serious tax reforms.

39. Money remittances (through banks and other non-bank financial institutions) play a significant role within Armenia's economy. A study conducted in 2008[22] showed that over one-third of households in Armenia received remittances from relatives, mainly in Russia. Seventy percent of the money is spent on day-to-day expenses and the rest is spent on investments, or acquisition of durable goods. Only a very small percentage of money is saved. According to data from the Central Bank of Armenia, the volume of private remittances fell in 2014 due to the continuing economic stagnation in Russia[23].

40. Some areas of the DNFBP sector are vulnerable to ML threats mainly due to the shortcomings in the anti-money laundering/counter financing of terrorism (AML/CFT) supervision and the weak application of preventive measures by the sector[24]. In particular, the activities of casinos are considered to pose a relatively higher ML risk since transactions in this sector generally involve cash. Additionally, fit and proper requirements to prevent criminals and their associates from controlling or managing casinos had only put in place shortly before the on-site visit. It should be noted, however, that the number of casinos decreased drastically between 2010 and 2014 (from 100 down to 6) and that casinos are not permitted to issue certificates of winnings (i.e. documentary basis for facilitating the laundering of illicit proceeds).

41. The sector for precious metals and stones is considered to pose a relatively higher risk of ML due to the presence of a diamond refining industry in Armenia. Precious stones are imported from the Russian Federation and Belgium into the Republic of Armenia, refined locally and

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[17] NRA p. 78

[18] The NRA classifies the economic circumstances of the country (including the shadow economy and the use of cash) as a medium vulnerability with a declining trend going forward.

[19] NRA p. 31

[20] Number of STRs related to potential tax evasion is 2011 – 55; 2012 – 52; and 2013 – 79, comprising an annual average of 35 percent of the total number of STRs received at the FMC.

[21] The total number of convictions for the period under review was 7378.

[22] http://www.thedialogue.org/PublicationFiles/FINAL_mR_117_Remittance_Transfers_to_Armenia_Study.pdf

[23] http://arka.am/en/news/economy/private_money_remittances_to_armenia_fall_by_7_5_percent_in_2014_to_1_7_billion_central_bank/

[24] The Armenian authorities suggest that none of the activities of DNFBPs are material in terms of the social/ economic life of the country and therefore no conclusions are made in the NRA on the level of ML/FT risk presented by the weight/role of these activities in relation to the entire economy.

subsequently exported back to the country of origin[25]. The NRA indicates that the involvement of dealers in precious metals and stones in cross-border wire-transfers for unrefined diamonds is limited since the underlying financial transactions are facilitated by banks. It is also stated that the diamond refining industry is fully compliant with the *Kimberly Process,* which is intended to ensure that 'conflict diamonds' do not enter the mainstream rough diamond market through Armenia. Information on the sector is however limited since no AML/CFT supervision has yet been undertaken by the Armenian authorities and no STRs have been reported by the sector. The evaluation team noted anecdotal information that cash is used in the precious metals and precious stones sector. The authorities are of the view that cash technically cannot be used for the import and export of precious metals and stones, and the retail business would rarely, if ever, fall under the reporting requirements of filing STRs in case of cash transactions in excess of AMD 5 million (in compliance with R23), as they are legislatively forbidden to use cash over the following transaction thresholds – AMD 300 thousand (approximately EUR 540) for one-off cash payments and AMD 3 million (approximately EUR 5,400) for the cumulative value of all cash payments within a one-month period.

Structural Elements

42. The key structural elements which are necessary for an effective AML/CFT regime are generally present in Armenia. There is a high-level commitment to address AML/CFT issues. AML/CFT policy-making and coordination is conducted through the Interagency Committee on Combatting Counterfeit Money, Fraud with Plastic Cards and Other Payment Instruments, Money Laundering and Terrorism Financing. The Committee is composed of very senior officials representing all the authorities involved in the prevention of ML/FT.

43. Armenia is regarded as a politically-stable country. The Constitution of Armenia provides for a system of democratic governance and rule of law, including stable and accountable institutions. Armenia is in the process of reforming its constitution with the assistance of the Council of Europe's European Commission for Democracy through Law (Venice Commission)[26]. However, as stated under section 1.4 below, the judiciary and the police are susceptible to corruption.

Background and other Contextual Factors

44. Information gathered by the assessment team from publicly-available sources suggests that corruption may have an indirect negative impact on the effectiveness of the AML/CFT regime. According to Transparency International[27], corruption in Armenia is endemic and widespread, permeating all levels of society. The public administration, particularly the judiciary and the police, are especially vulnerable to corruption. Reports issued by the Group of States against Corruption (GRECO)[28] and other organs[29] of the Council of Europe also highlight the extent of corruption in Armenia and the lack of independence of the judiciary and the police. This notwithstanding, the number of convictions in Armenia related to corruption constituted 2 percent of all convictions with a potential ML element[30], although according to Transparency International, ML risks, including from corruption, are considered to be low in Armenia. The authorities met on-site were not convincing in demonstrating that proceeds deriving from corruption are properly traced and identified, especially when connected to cases of abuse of power and public procurement. However, no indication was found by the evaluation team that corruption had any impact on the effective functioning of the AML/CFT system.

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[25] NRA p. 28

[26] The latest report by the Venice Commission on the reform process may be found in the following link: http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2015)015-e

[27] http://www.transparency.org/files/content/corruptionqas/Overview_of_corruption_in_Armenia_1.pdf

[28] http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)4_Armenia_One_EN.pdf

[29] http://www.assembly.coe.int/CommitteeDocs/2014/amondoc19-2014.pdf; http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)007-e

[30] NRA p. 38

45. Financial inclusion constitutes a challenge in Armenia. Although the government has recently instituted various measures to address this issue, access to basic financial services by some segments of the population remains limited. The shadow economy and the use of cash also have implications as to how the level of financial inclusion might affect the criminal environment (including ML) in Armenia.

Overview of AML/CFT strategy

46. The 2013-2015 National Strategy for Combating Money Laundering and Terrorism Financing was finalised in 2012. The strategy specifies that it will guide the activities of the FMC. It is planned to update the strategy every three years. In addition, in 2013 Armenia completed an AML/CFT sectorial risk analysis for DNFBPs and finalised a national risk assessment report in December 2014, together with an action plan agreed by the Interagency Committee shortly before the on-site element of the evaluation. In practice, the action plan can also be considered to form part of Armenia's AML/CFT strategy.

47. The national strategy is based on two principles. The first of these is to develop legislative and institutional frameworks, with the following strategic objectives: develop a legal system compliant with international AML/CFT standards; implement a co-ordinated national AML/CFT policy; build up domestic co-operation for combating ML/FT; build up international co-operation for facilitating the fight against ML/FT. The second principle is to develop stakeholder capacities, with the following strategic objectives: develop capacities for operative intelligence, criminal prosecution, and judicial inquiry of ML/FT cases; develop capacities of supervisory authorities for combating ML/FT; develop capacities of the FMC as the national financial intelligence unit; develop capacities of reporting entities for the prevention of ML/FT.

48. The strategy specifies that measures aimed at attaining the strategic objectives shall be included in the work plans of committee member agencies and self-regulated organisations of DNFBPs.

Overview of the legal framework

49. Money laundering (ML) is criminalised under Article 190(1) of the Criminal Code and is broadly in line with international standards. Since the last evaluation, Armenia has taken steps to improve the framework for the investigation and prosecution of ML. Notably, the list-based approach to predicate offences for ML was abandoned in favour of an all-crime regime to facilitate law enforcement efforts in proving that laundered property derives from criminal activity, especially where a conviction for an underlying predicate offence does not exist. Mandatory confiscation of (direct and indirect) proceeds, instrumentalities and property of equivalent value is provided for under Article 103(1) of the Criminal Code, which was introduced in 2014. This article is mainly intended to provide a measure for depriving criminals of property obtained through the commission of a crime. It supplements Article 55 of the Criminal Code, which provides for the confiscation of property as a criminal punishment measure. Both the Criminal Procedure Code and the Law on Operational Intelligence Activity provide for a range of measures to identify, trace and seize property subject to confiscation. Armenia has still not adopted measures to ensure that legal persons can be held criminally liable for ML.

50. Financing of terrorism (FT) is criminalised under Article 217(1) of the Criminal Code, which covers the provision or collection of funds by any means, directly or indirectly, with the knowledge that it is to be used or may be used, in full or in part, for committing terrorism (criminalised under Article 217), any acts referred to in Article 218 (taking of hostages), or by a terrorist organisation or an individual terrorist.

51. The National Security Service is responsible for the investigation of ML/FT cases (and certain predicate offences), except for certain circumstances[31], where the investigative authority sits with the Special Investigative Service. The majority of predicate offences for ML are investigated, based on competence rules, by the Investigative Committee and the Ministry of Finance in charge of tax and customs administration.

52. The Code of Criminal Procedure identifies three distinct stages within the pre-trial process leading up to an indictment: the instigation, the inquest and the investigation. Prior to the instigation of case, law enforcement authorities may conduct activities pursuant to the Law on Operational and Intelligence Activities (LOIA). The NSS, the Investigative Committee and the Ministry of Finance may all instigate a ML case[32]. The instigation of a case is the first step in the pre-trial procedure. Once a ML case is instigated, the competence of the case is transferred to the NSS, which acts under the supervision of the GPO. The GPO retains the ultimate discretion to determine whether a case is to be instigated. Where the case is instigated without a suspect having been identified, the case goes through the inquest stage (which is optional). This consists of a 10-day period within which law enforcement authorities may use investigation powers and powers under the LOIA to identify a suspect. Upon the expiration of the 10-day period, the formal pre-trial investigation is initiated, irrespective of whether a suspect has been identified. During the formal investigation, the NSS has exclusive competence to investigate ML under the instruction and supervision of the GPO[33].

53. The GPO leads the prosecution of ML cases. It also has the authority to conduct, instruct and supervise ML/FT investigations and, as such, may be involved in the preparation of case materials, conduct investigative measures, including measures provided for in the LOIA, compose investigative teams, cancel any actions undertaken by the investigative officers, dismiss investigators from further participation in the investigation, and instruct investigators to conduct additional investigative measures. The GPO may also co-ordinate criminal investigations and prosecutions on a case-by-case basis and transfer cases to different law enforcement bodies.

54. The duration of the criminal procedure (including pre-trial and trial stages) was found to be adequate, which is a significant improvement on the situation as at the time of the previous evaluation.

55. Since the previous evaluation, Armenia has overhauled the framework for the freezing of terrorist assets under UNSCRs 1267 and 1373. The legal basis for targeted financial sanctions is set out in Article 28 of the AML/CFT Law, which requires persons to freeze terrorist assets without delay and without prior notice to the persons involved. There is no provision which prohibits Armenian nationals or persons or entities within Armenia (other than reporting entities) from making any funds or other assets available to designated persons. The FMC, on its own initiative or upon the request of a competent foreign body, is responsible for developing, reviewing and publishing lists of terrorism-related persons designated under UNSCR 1267 and 1373. Article 28 also provides for the de-listing and de-freezing of funds, when so required under the Standards. The provisions in the AML/CFT Law are supplemented by the Rules for Proposing Persons or Entities for Designation under the Lists Published by or in Accordance with the UNSCRs.

56. The mechanism which is in place for UNSCRs 1267 and 1373 also applies to UNSCRs 1718, 1737 and their successor resolutions. However, Article 28 of the AML/CFT Law, which provides the legal basis for PF-targeted financial sanctions, could be open to legal challenge, as it only applies to 'terrorism-related persons'.

[31] Where ML/TF and predicate offences are committed in complicity with or by high level officials of legislative, executive and judicial authorities of the Republic of Armenia and persons in special public service, in relation to their position

[32] The Investigative Committee and the Ministry of Finance in charge of tax and customs administration may only instigate a ML case if it is connected to a predicate offence falling within their competence.

[33] Further information on the pre-trial process may be found in paragraphs 330 to 350 of the Third Round Mutual Evaluation Report of Armenia.

57. The regulatory framework to ensure that NPOs are not misused for FT purposes is set out in Article 29 of the AML/CFT Law and various other legislative acts, depending on the activities carried out by the specific type of NPO (e.g. Law on Charity, Law on Foundations, Law on NGOs, etc.). The definition of an NPO is set out in Article 51 of the Civil Code, which stipulates that non-profit or non-commercial organizations can take the form of social organisations, foundations, unions or legal entities, as well as other forms prescribed by law. The authorities indicated that a legislative process has been initiated to adopt a Law on NGOs and Religious Organisations.

Overview of the institutional framework

58. The institutional framework for the development and implementation of Armenia's AML/CFT policies has not changed significantly since the 2009 Mutual Evaluation. The main agencies involved are the following:

Interagency Committee

59. The Interagency Committee was established by the Republic of Armenia President's Ordinance No. NK-1075 of March 21, 2004 as a high-level policy-making and co-ordination body responsible for AML/CFT matters. The composition of the Interagency Committee is as follows:

- Chairman of the Central Bank of Armenia (Chairman of the Committee);
- Head of the Financial Monitoring Centre (Secretary of the Committee);
- Assistant to the Republic of Armenia President;
- Deputy Prosecutor General;
- Deputy Head of the Investigative Committee;
- Deputy Head of Police;
- Deputy Minister of Justice;
- Deputy Minister of Foreign Affairs;
- Deputy Minister of Finance (for DNFBP issues);
- Deputy Minister of Finance (for tax and customs issues);
- Deputy Director of the National Security Service;
- Head of the National Central Bureau of Interpol;
- Chairman of the Criminal Chamber of the Court of Cassation;
- Chairman of the Association of Banks of Armenia.

60. The Interagency Committee convenes twice a year, or whenever necessary, to consider and make recommendations on issues related to national AML/CFT policy, cooperation of involved competent authorities, international and national developments and trends in the area.

Financial Monitoring Centre (FMC)

61. The FMC, which is an administrative-type FIU, is an independent and autonomous structural unit of the Central Bank of Armenia authorised to:

- Receive and request reports and other information from reporting entities and from state bodies; analyse information and disseminate/exchange the results of its analysis to law enforcement bodies, as appropriate;
- Suspend suspicious transactions or business relationships; freeze the property of terrorism-related persons; develop, endorse and publish the lists of terrorism-related persons;
- Supervise certain types of reporting entities for AML/CT compliance and apply sanctions for compliance breaches; assist other supervisory authorities in the monitoring of AML/CFT compliance by entities falling within their supervisory remit;
- Develop by-laws and guidelines (including criteria and typologies of suspicious transactions) in the field of AML/CFT;
- Require reporting entities' to apply measures for the proper implementation of their AML/CFT obligations;

- Conclude agreements of co-operation with international structures and foreign financial intelligence bodies.

General Prosecutor's Office (GPO)

62. The GPO is responsible for initiating, guiding, controlling and overseeing ML/FT investigations and for instituting criminal proceedings for ML/FT offences. The GPO is also responsible for mutual legal assistance during the pre-trial stage.

National Security Service (NSS)

63. The NSS is a national executive body responsible for formulating and implementing the Government's policy in the field of national security and administering the national security bodies. Within the AML/CFT framework, the NSS is responsible for operational intelligence and investigation of ML and FT cases.

Police

64. The Police is a body of inquiry and performs the functions stipulated under the Criminal Procedure Code, which include undertaking the necessary operative-investigatory measures for the detection of crime, instituting criminal cases and, within 10 days after instituting the case or identifying an offender, forwarding the case to the investigator of the relevant law enforcement body with investigative powers (i.e. the NSS, the Investigative Committee, or the MOF).

Investigative Committee

65. The Investigative Committee is a national executive body in charge of investigating suspected crimes falling within its competence as defined under the Criminal Procedure Code. Within the AML/CFT framework, the Investigative Committee is responsible for the investigation of predicate offences (other than those falling within the competence of the NSS and the MOF). Until 2014, the Investigative Committee formed part of the Police and has since been designated as an operationally independent agency. The Investigative Committee was established in order to guarantee independence of investigation and improve effectiveness of the criminal justice process.

Central Bank of Armenia (CBA)

66. The Central Bank of Armenia is authorised to license, register (some), regulate, and supervise all types of financial institutions operating in Armenia (including banks, credit organizations, foreign currency dealers/brokers, MVTS, investment companies and intermediaries, insurance companies and intermediaries, and pawnshops). The CBA's regulatory and supervisory powers and functions are set out under the LCBA and other sectorial laws regulating the activities of financial institutions.

67. Under the AML/CFT Law, the CBA is responsible for monitoring compliance by financial institutions with AML/CFT requirements.

Ministry of Finance

68. The MOF is a national executive body responsible for formulating and implementing the Government's policy regarding the management of public funds, including tax and customs administration. Within the AML/CFT framework, the MOF is responsible for: a) regulating and supervising the activities of licensed auditing companies and sole practitioner auditors, operators of games of chance, lotteries, and casinos; and b) conducting operational intelligence and investigating tax and customs-related predicate offences.

Ministry of Justice

69. The MOJ is a national executive body responsible for coordinating the drafting of legislation in Armenia. In addition, it comprises separate divisions tasked with, *inter alia*, registration of legal

entities and compulsory enforcement of judicial acts; and performs functions related to the management of the penitentiary mechanism. Within the AML/CT framework, the MOJ is responsible for: a) appraising and registering of primary and secondary legislation; b) appointing and supervising notaries; and c) supervising non-commercial organisations. The Department for Legitimacy Control is responsible for the supervision of the NPO sector.

70. The MOJ is also responsible for mutual legal assistance during the trial stage.

Judicial Department

71. The Judicial Department is the administrative arm of the courts and provides support to the General Assembly of Judges, the Council of Courts Chairmen and the Council of Justice. The functions of the Judicial Department are set out in its Charter approved by the Chairman of the Court of Cassation. Within the AML/CFT framework, the Judicial Department provides detailed statistics on ML/FT and convictions for predicate offences.

Ministry of Foreign Affairs

72. The MOFA is a national executive body in charge of formulating and implementing the Government's policy in the area of foreign affairs. Within the AML/CFT framework, the MOFA coordinates the conclusion and implementation of international treaties, coordinates membership of the country (and of its representative bodies) in international organisations, and regularly updates competent national authorities on the UN Security Council Resolutions in connection with terrorist financing and proliferation financing.

Chamber of Advocates

73. The Chamber of Advocates is a SRO responsible for the licensing of advocates. The activities of the Chamber of Advocates are regulated by the Advocacy Law. The Chamber of Advocates also supervises AML/CFT activities of licensed advocates.

Counter-Proliferation Interagency Commission

74. At the initiative of the Ministry of Foreign Affairs, an interagency committee was established by the Decision of the Prime Minister N 920-A from October 4, 2011, for coordinating activities of stakeholder agencies in fulfilling the obligations under the "Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction". The Counter-Proliferation Interagency Commission comprises of the following agencies:

- Ministry of Foreign Affairs;
- Ministry of Economy;
- Ministry of Energy and Natural Recourses;
- Ministry of Environmental Protection;
- Ministry of Finance;
- Ministry of Territorial Administration and Emergency Situations;
- Ministry of Defence;
- National Security Service; and
- Ministry of Health.

Overview of the financial sector and DNFBPs

75. The tables below set out the population of Armenia's reporting entities as at 31 December 2014:

All data as of October 2014

Types of financial institutions	Registered number of financial institutions	Assets under management[34] (AMD million)	Assets under management (equivalent EUR million)
Banks	22	2,959,107	5,360
Credit organisations	32	250,229	453
Investment companies	8	30,342	55
Asset management companies	4	1,520	3
Investment funds	10	6,198	11
Non-life insurance companies	8	47,249	86
Payment and settlement organisations (MVTS)	7	25,821	47
Pawnshops	136	11,000	20
Currency exchange offices	267	325,537 [35]	590

Type of DNFBP	Licence/ Registration/Appointment/ Regulation	Competent authority/SRO	Subject to AML/CFT Law	Registered number of DNFBPs (as of December 2014)
Casinos	Licence	Ministry of Finance	Yes	6 (land based) 2 (internet casinos)
Real estate agents	Registration	CBA (FMC)	Yes	213[36]
Dealers in precious metals	Registration	CBA (FMC)	Yes	Not available
Dealers in precious stones	Yes, but very limited (C28.3) (MoF)	CBA (FMC)	Yes	21
Lawyers & law firms	Registration	CBA (FMC)	Yes	27[37]
Advocates	Certificate	Chamber of Advocates	Yes	1434
Notaries	Certificate/Appointment	MoJ	Yes	101
Accountants (sole practitioners)	Certificate (MoF)	CBA (FMC)	Yes	609 (certified accountants)
TCSPs[38]: • trust management • company registration	No	CBA (FMC)	Yes	None

76. Banks dominate the finance sector within Armenia, comprising 90% of the market share of the sector measured by total assets of FIs. A large majority of the banks are owned by foreign groups. The investment sector deals mostly in securities, treasury bills and corporate paper issues. There are no life insurance companies.

[34] For PSOs, pawnshops and currency exchange offices the table refers to the total annual amount of transactions.

[35] The apparently high number of transactions of money exchange offices has to be treated with caution. The figure has to be seen in relation to the total number of money exchange offices as well as the concerned period. This means that each money exchange office had an average transactions of EUR 3,000 per day. This amount can be explained by the level of use of foreign currencies (such as US dollars and euros) in Armenia which is explained in the 2014 NRA.

[36] Caused by a deregulation there is no centralized register maintained on the number of real estate agents

[37] There is no licensing requirement for the professional activity of lawyers. Therefore no centralized register is maintained on the number of firms and sole practitioners providing legal services.

[38] TCSPs are not defined under the Armenian legislation.

77. The country is not a regional or international financial centre and nor a centre for company formation. However, international customers do exist, particularly representatives of the Armenian Diaspora using, for example, banking services, forming companies and purchasing real estate. There is some economic integration with Russia. There is trade with Iran, mostly in relation to agriculture and trade in manufactured goods such as glass.

78. The following facts and figures were provided by the Armenian authorities in relation to the DNFBP sector (all data as of December 2014):

- There are 6 active casino licence holders, with total annual revenues of AMD 10.6 billion (approximately EUR 19.2 million) and total gross profit of AMD 1.9 billion (approximately EUR 3.4 million) only. Casinos do not provide certificates of winning (i.e. documentary basis for facilitating the laundering of illicit proceeds), which mitigates the potential misuse for ML/FT;
- Lawyers and notaries never engage in a financial transaction in relation to the activities described in essential criterion 22.1(d); at that, the general practice in the country has been to form Armenian companies and other legal persons without intermediation by a lawyer or notary;
- Real estate agents have an insignificant or no role to play in the financial/ fiduciary aspects of real estate transactions. The number of transactions in the real estate sector in 2014 above the reporting threshold of AMD 50 million (approximately EUR 90 thousand) amounted to 530 transactions with a total value of AMD 88,1 billion (approximately EUR 159.6 million);
- No TCSP business is conducted within Armenia;
- Dealers in precious metals and stones operate under strict limitations on cash transactions well below the threshold specified in criterion 23.1(b) (for one-off payments – AMD 300 thousand (approximately EUR 540) and for cumulative value of payments within a one-month period – AMD 3 million (approximately EUR 5,400)).

Overview of preventive measures

79. The AML/CFT obligations for reporting entities (i.e. FIs and DNFBPs) are specified in two legal instruments, the AML/CFT Law and the Regulation on Minimum AML/CFT Requirements.

80. All entities included within the FATF concepts of FI and DNFBP are covered except for aspects of trust and company service provider activity albeit that trusts cannot be formed under Armenian law. The two legal instruments are enforceable. The law was last amended in June 2014 with the amendments coming into effect in October of that year.

81. The risk based approach was introduced by amendments to the AML/CFT Law in 2014. The full version of the NRA has not been made public. Instead, an executive summary was published on the FMC website after endorsement of the NRA report by the Interagency Committee in December 2014.

82. Armenia has also issued guidance (which is not enforceable) to promote more effective compliance with the AML/CFT framework. This includes Guidance on the Criteria for Suspicious Transactions issued by the FMC. It also includes CBA Guidance on Money Laundering and Terrorism Financing Typologies; RBA Guidance for Financial Institutions; Guidance for Realtors on Assessing and Preventing ML/FT Risks; Guidance for Attorneys, Sole Practitioner Lawyers, and Firms providing Legal Services on Assessing and Preventing ML/FT Risks; Guidance for Sole Practitioner Accountants, Accounting Firms and Sole Practitioner Auditors and Auditing Firms on Assessing and Preventing ML/FT Risks; Accountants and Auditors; and Guidance for Entities Organizing Games of

Chance and Lotteries and Casinos, including Entities Organizing Online Games of Chance on Assessing and Preventing ML/FT Risks.

Overview of legal persons and arrangements

83. Numerous types of legal person can be formed in Armenia (see the table below). At the time of the on-site element of the evaluation a total of around 171 thousand were in existence. All legal persons are obliged to register with the State Register (residing at the MoJ) upon formation. Armenia seeks to meet the FATF Standards on transparency by a combination of legislation requiring beneficial ownership information to be provided to the State Register and customer due diligence obligations for reporting entities. The general practice in the country has been to form Armenian companies and other legal persons without intermediation by a lawyer or advocate.

84. Most legal persons have been formed as limited liability companies by individuals for commercial purposes. The table below provides information on the number of different types of legal person formed in Armenia.

Type of legal persons	Number of legal persons registered:			
	In 2012	In 2013	In 2014	As of end 2014
Limited liability company	3190	3180	3168	48190
NGO	298	312	294	4128
Production cooperative	2	4	4	3593
Closed joint-stock company	128	74	69	2994
Institution (state and community governance)	3	7	4	2378
Non-commercial state organization	6	1	4	1779
Separate subdivision	43	21	33	1402
Non-commercial community organization	67	69	110	1307
Foundation	85	95	81	917
Open joint-stock company	6	0	1	825
Trade organization	27	28	21	741
Condominium	18	12	10	716
General partnership	0	0	0	707
Consumer cooperative	45	34	53	389
Union of legal persons	11	16	10	296
Party	3	2	3	77
Religious organization	0	0	2	49
Chamber of commerce	0	0	0	11
Notarial chamber	0	0	0	1
Chamber of Advocates	0	0	0	1
Company with supplementary liability	0	0	0	0
Limited partnership	0	0	0	0

85. Armenia is not an international or regional centre for the creation or administration of legal persons. According to the authorities, Armenian legal persons are not very active outside Armenia. Any such activities are linked to the export of goods. Some foreign legal persons use the services of Armenian reporting entities and hold ownership interests in Armenian legal persons. Apart from branches and representative offices of major international corporation/companies, most of the foreign legal persons are owned by representatives of the Armenian Diaspora doing business in Armenia. As a generality, Armenia does not have the complex cross-border relationships using legal persons that would normally be expected in an international or regional centre.

86. Statistics on entities with foreign shares is maintained for limited liability companies as this type of entity is the second most common following individual entrepreneurs. Limited liability companies (48,190) comprise about 28% of total number of registered entities (171,963) as of December 31, 2014. There are 5,860 limited liability companies with foreign shares, which comprise about 3.4% of the total number of registered entities. The most active countries which hold shares in Armenian companies are Russia, the US and Georgia, followed by France, Ukraine and Germany.

87. Armenia is not a signatory to the Hague Convention on Laws Applicable to Trusts and Their Recognition. Armenia does not have legislation governing the establishment or operation of legal

arrangements. Therefore, there is no statutory basis for the establishment of legal arrangements. There is no information available on the number of foreign legal arrangements which have non-professional trustees in Armenia, and the authorities confirmed that such appointments have never been detected. The evaluation team noted no examples from its interviews. The evaluation team also considered whether any foreign legal arrangements are using the services of reporting entities in Armenia either directly or indirectly and found no examples of such use.

Overview of supervisory arrangements

88. The Central Bank of Armenia (CBA) is responsible for the authorisation, regulation and supervision of all financial institutions. It enjoys full operational independence under the Law on the Central Bank of Armenia (LCBA). Within the CBA there are three different departments which are involved in AML/CFT matters: the Legal Department (LD) which is responsible for the licensing of financial institutions; the Financial System Regulation Department (FSRD), which regulates the activities of the financial system participants and develops supervisory manuals, tools and methodologies, and the Financial Supervision Department (FSD), which is responsible for ensuring compliance with primary and secondary legislation by FIs. The FSD conducts off-site and on-site supervision. The FMC (Armenian FIU), which is a structural unit of the CBA, cooperates with the FSD with respect to inspection planning, is present during AML/CFT inspections and develops guidance together with the CBA staff. The draft of the annual inspection plan is submitted to the Licensing and Supervision Committee and to the CBA Chairman for approval. The CBA has adequate powers to fulfil its supervisory functions. The relevant departments involved in AML/CFT are equipped with the necessary human, financial and technical resources. The staff is qualified and well-trained. There is no specialised unit within the CBA dealing specifically with AML/CFT issues. A fully-fledged risk-based approach to supervision is still being developed.

Resources of CBA (LD, FSRD and FSD)

Year	Total staff (annual average)	Recruits	Dismissals	Turnover
2013	86	6	4	4.6 %
2014	83	2	4	4.8 %
2015	85	7	4	4.7 %

89. Four supervisory bodies are responsible for the AML/CFT supervision of DNFBPs. The Ministry of Finance (MoF) exercises supervision over casinos and organisers of games of chance. The Ministry of Justice (MoJ) is responsible for the supervision of notaries. The Chamber of Advocates supervises advocates. Since October 2014, the CBA, through the FMC, is responsible for the supervision of real estate agents, accountants, dealers in precious metals and stones, lawyers & law firms and TCSPs[39]. However, the FMC has neither established a supervisory regime nor dedicated any staff to AML/CFT supervision or conducted any supervisory activity since then.

Resources of DNFBP Supervisors

MOJ	MOF	Chamber of Advocates
5	12	12

90. The MoF and the MoJ have adequate and comprehensive powers to monitor reporting entities' compliance with AML/CFT requirements. However, these powers are rarely used in practice. The Chamber of Advocates has very limited powers to conduct off-site surveillance and on-site inspections. It is only permitted to conduct inspections (in a limited way) where it receives external complaints. Therefore, it has never conducted any AML/CFT inspections.

[39] Previously there had not been a designated supervisory authority for these categories of DNFBPs.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

Armenia conducted its first 'full scope' NRA in 2014. The most positive aspect of this assessment is that it aggregates high-level information from all AML/CFT stakeholders, some of which had been previously analysed solely at institutional level. With respect to the assessment of ML threats and vulnerabilities, the information that was considered was not always complete and as a consequence some conclusions appear to be debatable. For instance, the threat of ML is based on the analysis of convictions for all predicate offences and ML, without considering the magnitude and significance of the overall criminal activity in Armenia. It is the view of the evaluation team that ML risks in Armenia might not be fully assessed and understood. The understanding of FT risks appears to be adequate.

Cooperation and coordination of national AML/CFT policies is conducted through the Interagency Committee on the Fight against Counterfeiting of Money, Fraud in Plastic Cards and Other Payment Instruments, Money Laundering and Terrorism Financing ('Interagency Committee'). An action plan agreed by the Interagency Committee provides a foundation for addressing the ML/FT risks identified in the NRA. While operational cooperation between competent authorities appears to be sound, the coordination of strategies, particularly within the law enforcement sphere, does not seem to be sufficiently developed. Moreover, because the NRA does not properly identify and assess certain risks, the policies, objectives and activities of competent authorities do not fully address the ML risks present in country. In addition, it appears that important intelligence work being undertaken by the arms of government and law enforcement handling licensing and export control issues was not routinely being brought in the policy-making which is undertaken by the Interagency Committee.

The authorities have shared the results of the NRA with the private sector. The banking sector presented a relatively better understanding of risk to the evaluation team compared with other sectors. Even in the banking sector, however, the understanding differed. It was not common for financial institutions to go beyond the NRA conclusion for their own sectors when discussing risk even though the AML/CFT Law requires institutions to undertake a risk assessment of their business

The exemptions and the instances where the application of simplified measures are permitted are based on the FATF Standards rather than being justified by the findings of the NRA, although these instances have been carefully considered by the Interagency Committee and do not contradict the findings of the NRA.

Recommended Actions

A number of improvements are needed to Armenia's AML/CFT system in terms of national AML/CFT policies and coordination:

- Armenia should make sure that the NRA is more descriptive on the rationale underlying the ratings awarded to threats and vulnerabilities. This would increase users understanding of the factors that have a greater impact on the overall level of risk. Thus the usability of the document would be increased (e.g. more targeted risk mitigation measures may be thought of by the users) and an increased confidence of the users in the NRA process would be achieved;

- Armenia should not limit its assessment of the ML threat to convictions. Instead, consideration should be given to the magnitude and significance of the overall criminal activity faced by Armenia, be it domestic or foreign. Increased attention should be paid to criminal activity that may have not been detected (e.g. corruption), the overall cost of crime for the country, cross-border illicit flows (be it outwards or inwards), foreseeable trends in ML and also analysis of other relevant information, such as STRs and other financial intelligence;

- Armenia should deepen its analysis and re-evaluate certain vulnerabilities faced by the country towards ML. This should include a re-evaluation of the vulnerabilities stemming from DNFBPs, abuse of legal persons, corruption, shadow economy and the extensive use of cash. These improvements should enable Armenia to have a more informed understanding of gaps that need to be closed;
- Authorities should develop individual strategy and policy documents containing measures that are coordinated horizontally across the AML/CFT system (i.e. with the measures envisaged by other authorities within the value chain). Provided that the measures are informed by a NRA considering afore-mentioned recommendations, such an approach should lead to a coordinated, more effective risk mitigation policy at system level;
- As already planned, Armenia should introduce further coordination measures for combating PF within its relevant structures.

The relevant Immediate Outcome considered and assessed in this chapter is IO1. The recommendations relevant for the assessment of effectiveness under this section are R1-2.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's understanding of its ML/FT risks

91. Armenia has been engaging in a risk assessment process since 2010, when it conducted its first strategic analysis of ML/FT risks, followed by an AML/CFT sectorial risk analysis for DNFBPs in 2013. In 2014, Armenia conducted its first 'full scope' national risk assessment (NRA), which was largely modelled on the FATF Guidance published in February 2013[40]. According to the authorities, the most positive aspect of the 2014 NRA is that it aggregates high-level information from all AML/CFT stake-holders, some of which had been previously analysed solely at an institutional level. Considerable efforts were made to compile information from as many available sources as possible, which has enabled the authorities to approach the assessment of ML/FT risks in the country more holistically and acquire a better understanding of some of the ML/FT risks in Armenia. As part of the NRA process questionnaires were issued to a selection of FIs and DNFBPs.

92. Despite providing a good initial basis for the assessment of ML risk by identifying threats and vulnerabilities, the NRA does not articulate any specific conclusions on what the residual risks are in practice: the NRA presents the level of threats and vulnerabilities on the one hand and the conclusion on residual risk on the other without articulating in detail how this conclusion was arrived at. The authorities' view is that the matrix of the ratings for all threats and vulnerabilities, which also includes an assessment of their trends in the foreseeable future (being stable, increasing or declining), provides an overall picture of the residual risk as it can be inferred from the findings and conclusions on its constituents. In some instances, certain key data and information collected in order to inform the authorities' judgement was not complete and, as a consequence, some conclusions appear to be debatable (as discussed in further detail below). It is the view of the assessment team that ML risks in Armenia might therefore not be fully understood by the users of the NRA. This is not the case with respect to risk of FT, which as described in more detail under Chapter 1, has been the subject of very close attention and scrutiny by the authorities.

(a) ML threats

93. The potential ML threat is rated as medium, which appears to be reasonable given that Armenia is not a financial centre and not considered to be at major ML risk. However, this conclusion is based solely on the analysis of convictions for proceeds-generating crimes. The magnitude and significance of the overall criminal activity, including criminal activity that may have not been detected and foreseeable trends in ML have not been taken into consideration. While the team notes the view expressed by the Armenian authorities that information based on convictions is certain, it excludes assessment of whether the level of convictions itself is appropriate (including whether any

[40] http://www.fatf-gafi.org/media/fatf/content/images/National_ML_TF_Risk_Assessment.pdf

vulnerabilities impact on the number and type of investigations and prosecutions) and, linked to these factors, information from outside Armenia such as mutual legal assistance requests made to Armenia specifically related to ML and the implications of those requests.

94. The authorities demonstrated differing views about the predicate crime environment. While the NRA identifies a number of predicate offences as generating the highest amounts of criminal proceeds, FMC information on the most common predicate offences identified through STRs presents a slightly different picture. The view of the GPO on predicate offences which pose the highest ML threat also somewhat differs from the position expressed in the NRA (refer to Section 1.1). For instance, the representatives of the GPO confirmed that cybercrime, which in their view is the predicate offence posing the highest ML threat, is not well reflected in the NRA. Neither this information nor an analysis of the reasons for the differences between the most prevalent convictions achieved and STR data/GPO information have been included in the NRA report, and the evaluation team has not seen such articulated analysis. The authorities are of the view that these differences do not amount to significant divergences in terms of the perception of ML threats. However, they acknowledge that coordination between stakeholder agencies would ensure a more attuned understanding of threats.

95. The NRA does not address the level of cross-border illicit flows to a significant extent, except for the physical transportation of cash. Reference is made to an assessment of financial flows between Armenia with countries identified by the FATF as posing a higher risk of ML, which indicated that transfers were made with the Republic of Iran and Turkey predominantly serving the economic and trade relationships with these two countries. Although the NRA refers to financial flows to countries which are not identified by the FATF as posing a higher risk, it does not consider whether such flows may involve illicit proceeds. FMC information, which contains indications of the level of foreign proceeds introduced into the Armenian financial system, does not appear to have been integrated in the NRA for the purpose of estimating the ML threat arising from cross-border crime. As stated under Section 1.1 of Chapter 1, although statistics on mutual legal assistance requests have been included in the NRA, no conclusions were drawn in relation to cross-border criminality and predicate offending. The authorities believe that in relation to cross border criminality and predicate offending, the low number of incoming MLA requests is indicative of the fact that both the Armenian financial/ non-financial systems and Armenian nationals/ legal entities are of little interest for respective foreign counterparts due to the lack of involvement in criminal activity with international implications. As regards the risks associated with cross-border transportation of cash and BNIs, although identified and more thoroughly addressed by the NRA, it seemed underestimated to the evaluation team given the wide-spread availability of cash in the context of an important shadow economy.

96. In light of the above, the evaluation team has concluded that the links between various sources of information on actual and potential underlying criminality and the level of cross-border illicit flows need to be more properly tied together by Armenia in the NRA.

(b) Vulnerabilities

97. The assessment team considers that the shadow economy, which is believed to be predominantly linked to tax evasion, and the use of cash, which is considered to reflect certain cultural/ traditional realities in the country, potentially pose a significant ML vulnerability in Armenia. Nevertheless, consideration of the shadow economy and the use of cash in the NRA are limited to recognising that these phenomena are present in the Armenian reality; relying on (unofficial) assessments of these phenomena by independent third parties; and describing the measures taken by the authorities to suppress these phenomena. In the opinion of the Armenian authorities, this is sufficient for the purposes of NRA. The potential effects and links of the shadow economy with other information (for example, predicate criminality and to what extent cash from the shadow economy might be used in the banking system or to purchase real estate, with cash purchases being common in this sector) have not demonstrably been explored in such a way as to assist understanding of risk and specific mitigating actions which can be taken. The evaluation team,

therefore, remains of the view that the information in the NRA is too high level to facilitate an in-depth understanding of ML risk.

98. The overarching premises of the NRA text on legal persons is that the State Register holds information on the ownership of limited liability companies and that no cases have been identified of legal entities being involved in ML/FT. However, the evaluation team has noted comments from various meetings with the authorities that companies could be used to facilitate fraud. In addition, the State Register does not carry out checks to verify beneficial ownership information it holds. The evaluation team therefore suggests that the risks of legal persons might need further analysis and consideration so as to be fully assessed and understood.

99. Corruption is rated as a medium vulnerability in Armenia's NRA. Information from public sources consulted by the evaluation team (as stated under Chapter 1) indicates that corruption still poses a problem in Armenia. No indication was found by the evaluation team that corruption had any impact on the effective functioning of the AML/CFT institutional framework itself.

National policies to address identified ML/FT risks

100. The action plan agreed by Interagency Committee immediately prior to the on-site element of the evaluation provides a foundation for addressing the ML/FT risks and the shortcomings identified in the NRA. It is the national AML/CFT response to the NRA report. The action plan contains 21 measures, which the Armenian authorities have advised are to be implemented on a fixed-deadline or recurrent/continuous basis. The measures to address shortcomings are divided into a series of thematic groups, including ML and predicate offences, circumstantial elements such as the shadow economy, contextual factors such as corruption risks in the public sector, the legislative framework, the institutional framework and reporting entities. Of the measures (1 of which has several actions specified each with its own time-frame for completion), 1 has been completed, 5 have a completion deadline of 2015, 1 has a deadline of 2016, 4 with a deadline of 2015 – 2016, 5 with a deadline of 2015-2017 and 14 have an implementation mode designated as "continuous".

101. The progress on the measures defined by the Action Plan is reviewed during the meetings of the Interagency Committee. Particular care will need to be taken that these measures do not drift and the incorporation of "mile stones" in the action plan is strongly encouraged by the evaluation team. It is also appropriate to consider other deadlines. In particular, in relation to NPOs, the potential deadline of the end of 2016 (specified as 2015/2016 in the action plan) for estimating resources to carry out adequate supervision, presenting a requirement in relation to this to the Armenian Government and articulating more triggers for unplanned examinations suggests that a particularly measured approach is being taken to addressing some shortcomings.

102. Work plans of Interagency Committee member agencies and self-regulated organizations of DNFBPs providing information on the measures aimed at attaining the strategic objectives have not been provided to the evaluation team. It is not clear to what extent policies and activities of individual authorities have been co-ordinated in practice where this has been appropriate in the context of national policies and activities.

103. It is welcome that the Armenian authorities have developed an Action Plan so as to take forward the measures arising from their conclusions on the NRA report. However, since the Action Plan was endorsed shortly before the evaluation visit, the team could not make any conclusions as to its application[41]. The assessment team therefore reviewed the 2013-2015 National Strategy for Combatting Money Laundering and Financing of Terrorism, which is based on the 2010 Strategic Assessment and the 2013 DNFBP Assessment, and the measures undertaken in the period before the on-site visit to implement the actions set out under the 2013-2015 Strategy. The evaluation team

[41] The authorities, however, provided an example of policies being adopted after the completion of the NRA. On February 19, 2015 the Government adopted the decision No 165-N "On the Establishment of an Anti-Corruption Committee and an Experts Team, Approval of the Membership and Procedure of the Committee, Experts Team and Division of Anti-Corruption Program Monitoring within the Government's Staff".

noted positively that all the actions under the 2013-2015 Strategy had been implemented. For instance, a self-assessment of the Armenian AML/CFT system was carried out which resulted in extensive legislative amendments, especially to the AML/CFT Law and the CC. An information-sharing system was created to enhance cooperation and to ensure that information is exchanged securely between prosecutors, law enforcement officers and the FMC. Dedicated units within criminal prosecution and investigation bodies (GPO, NSS, and MOF) specialised in operative intelligence and prosecution of ML/FT cases were created. Supervisory mechanisms were introduced to improve the monitoring of compliance through off-site and on-site supervision and the sanctions regime. Legislation was passed to strengthen the supervision and regulation of casinos. The actions implemented under the strategy underscore the authorities' commitment to improve the AML/CFT system in Armenia.

Exemptions, enhanced and simplified measures

104. There are no exemptions in relation to the FATF's descriptions of types of financial institution and DNFBP which should be subject to AML/CFT obligations.

105. There are a small number of circumstances in relation to which simplified CDD may be applied in the AML/CFT regulation, namely life insurance policies where the annual premium is below 400-fold of the minimum salary (approximately EUR 720) or the single premium is below 1.000-fold of the minimum salary (approximately EUR 1,800); insurance policies for pension schemes, provided that there is no early surrender option, and the policy cannot be used as collateral; payments to the state or community budgets of Armenia; payments for utility services; payments related to the provision of salaries, pensions or allowances from known sources. In the guidance for financial institutions on adopting the risk-based approach, the normal level of CDD can be reduced in recognised lower risk categories, such as natural persons whose main source of funds is derived from salary, pensions and social benefits from known sources; where the features of the certain transaction are not materially different from regularly exercised transactions and customers; where the information on their identity and actual beneficial owners are publicly available and whose activities are subject to oversight by state authorities; and certain transactions, where *de minimis* amounts are required for execution (for example, utility payments, insurance payments, etc.). The regulation and guidance were published before the NRA. However, the risk of the circumstances referred to above was carefully considered by the Interagency Committee before the AML/CFT Law and the Regulation were issued. Additionally, these circumstances do not contradict the findings of the NRA.

106. Under the AML/CFT regulation Armenia requires enhanced measures to be applied in relation to legal persons or arrangements that are personal asset-holding vehicles; companies that have nominee shareholders or shares in bearer form; businesses and business relationships that are cash-intensive; companies that have unusual or excessively complex ownership structure; private banking activities; and non-face-to-face business transactions or relationships. It does not appear that Armenia has specifically considered how these categories tie in with the NRA but, nonetheless, they are not inconsistent with the NRA. Enhanced measures do not apply to domestic PEPs. The AML/CFT guidance also includes a series of factors which may result in a determination that certain countries, categories of customers, or products, services and delivery channels are high risk.

Objectives and activities of competent authorities

107. The GPO has identified, in part at least, different priorities to adopt in its prosecutorial strategy in relation to predicate offences other than the major proceeds generating offences identified in the NRA. It is predicate offences which drive the priorities of the GPO and its governing Council takes the final decision on priorities for the GPO. The GPO advised the evaluation team that it does not regard the NRA list as exhaustive and that it can be dynamically changed. Strategic decisions were taken by the governing Council to ensure that the objectives and activities of the GPO are consistent with the evolving risks posed by cybercrime. A specialised unit dealing with cybercrime was established. A binding decision concerning cybercrime was issued by the Council to be implemented by all regional offices of the GPO. The decision, for instance, requires prosecutors to

notify the GPO on a weekly basis of the actions taken when a notification of a suspected offence is investigated. The Justice Academy provides ongoing training to judges and prosecutors on the particularities of cybercrime. The evaluation team is of the view that this good practice should be followed with respect to ML and all other major proceeds-generating predicate offences.

108. Although law enforcement authorities have been actively involved in the national risk assessment process, there is little evidence that investigative bodies focus consistently on high-risk areas identified by the NRA. Law enforcement authorities do not have strategy and policy documents on the areas which deserve higher attention in terms of ML/FT risks within their specific area of activity. However, the Interagency Committee serves as a mechanism for the development of law enforcement objectives and policies based on the findings of the NRA. Although some initiatives to allocate resources for high risk areas have been highlighted (e.g. resources have been increased at police level for combating cybercrime), such actions seem to have been generated by the need to mitigate operational risks in the field, rather than a coordinated policy focus by each investigative body on risk areas identified by the NRA. On-site interviews only confirmed such conclusions as investigative bodies (including the NSS) indicated that Armenian legislation is the main guide for their activities.

109. As regards the FMC, the unit is proactive and adopted a risk-based approach in relation to its analytical processes. Risk assessment procedures used by the FMC to assess incoming financial and other disclosures have been informed by the results in the NRA. As a result, the investigative component of the system is fed with financial intelligence on threats and vulnerabilities identified by the NRA. Additionally, FIU output should be integrated within the policies and objectives of law enforcement authorities through the national strategy.

110. Turning to supervision, there is no documented analysis to demonstrate that the objectives and activities of the AML/CFT supervisors are fully consistent with the evolving national AML/CFT policies and, in particular, with the identified risks. The CBA predominantly focuses on banks since they are the most important players within the Armenian financial market and, as stated previously, money laundering in Armenia generally is believed to take place through the banking system. Although DNFBPs are rated as relatively high risk in the NRA, this area has not yet been addressed in practice. The FMC has not implemented a supervisory regime for the AML/CFT supervision of DNFBPs falling under its responsibility. No staff is dedicated to AML/CFT supervision of DNFBPs. The risk of the real estate sector has not received sufficient attention.

111. The supervisors fully rely on the identified sectorial risks in the NRA without exploiting information concerning each individual supervised entity. The CBA, for instance, does not have documented analysis as to how it takes into consideration any specific factors such as the individual customer base or the different products/services offered by the individual financial institutions although the authorities advise that such factors are without failure taken into account for both off-site surveillance and on-site inspections. In practice, this leads to a situation in which all banks are treated in the same way in terms of AML/CFT supervision.

112. Generally, the CBA applies only a limited risk-sensitive or targeted approach to supervision of AML/CFT. There is no difference in the frequency of the inspection cycle as well as in the intensity of the inspections within one sector on the basis of ML/FT risks. The CBA does not particularly focus on the most common criminal activities identified in the NRA such as transactions with fake payment cards and transactions through counterfeit payment instruments. Neither the MoF nor the MoJ could demonstrate a risk-sensitive or targeted supervisory approach, although the MoF is required to apply risk-sensitive supervision for casinos pursuant to the document entitled "Methodology and Risk-Based Check-Ups" that contains a comprehensive list of criteria which is relevant for assessing the individual risks. The Chamber of Advocates does not conduct a risk-based supervision - until now it has not even carried out any inspections.

113. The recently approved Action Plan does not fully address the risks identified by the NRA which are of particular relevance for the supervisors. The absence of a supervisory regime for certain categories of the DNFBPs is considered in a limited way ("Design a strategy to supervise the

implementation of AML/CFT requirements by realtors, dealers in precious metals and stones.”). Supervision of lawyers is excluded from the action plan. The gap regarding the registration requirements for some of the DNFBPs, which was identified as an issue in the NRA, has been covered by introducing a regulation on the registration of all reporting entities with the FMC. No significant measures are set out to deal with the serious lack of resources regarding the supervision of NPOs.

National coordination and cooperation

114. The Interagency Committee has responsibility for developing national co-ordination and co-operation arrangements. The Committee considers AML/CFT matters from a strategic perspective. The Committee is chaired by the Governor of the CBA and comprises representatives from stakeholder agencies and the institutions involved in AML/CFT. Secretariat services are provided by the FMC. The Committee’s work is underpinned by a Working Group comprised of representatives of the same authorities as those on the Committee; the FMC also provides secretariat services to this group. To date there has been co-ordination in relation to some AML/CFT strategies and approaches while responses to PF have been undertaken by individual authorities.

115. The Interagency Committee and the underlying Working Group are the main mechanisms through which individual authorities cooperate and coordinate the development of their policies and activities. The action plan in response to the NRA provides a framework for a range of the objectives and activities of individual authorities to be consistent with Armenia’s national approaches to AML/CFT.

116. Co-operation between the intelligence and investigative components of the Armenian AML/CFT system is sound. The FMC and the main law enforcement bodies in the country (NSS, the Ministry of Finance and the Investigative Committee) are very active in exchanging information. Co-operation is mutual, which adds value to the operational chain of the system, and is based on spontaneous or “*on request*” flows of information.

117. A secure and rapid infrastructure for information exchange is used for access to information and general cooperation purposes by the competent authorities involved in fighting ML, predicate offences and FT. The system has been developed and is being administered by the FMC. The Integrated Information System (IIS) between the FMC and other authorities (National Security Service, Police, Interpol, Real Estate Cadastre, State Register, General Prosecutors Office, Ministry of Finance and the Compulsory Enforcement Service) involved in the AML/CFT system was introduced in 2014, ensuring information exchange in a secure environment and providing online shared access (subject to agreed permissions) to other AML/CFT intelligence available to ISS users.

118. Despite good operational co-operation, it was not demonstrated that intelligence and law enforcement bodies actually coordinate the development and implementation of policies and activities to combat ML/FT. It is not clear whether horizontal policy objectives, addressing the risks identified in the NRA, are being implemented across the entire spectrum of actors involved in the AML/CFT (reporting entities, intelligence structures, investigative bodies, GPO). There is limited awareness of the role that the system as a whole must play in addressing risks identified by the NRA.

119. The CBA has a key role in the area of AML/CFT supervision of the financial system. The co-operation amongst all supervisors is led by the FMC. Therefore, the FMC serves as a single point of contact for AML/CFT relevant issues. The FMC together with the FSD provides guidance and training to the private sector and other authorities on a regular basis. They initiate and draft relevant AML/CFT guidance and co-ordinate the development of new guidance. However, the coordination between law enforcement authorities seems to be limited. The Chamber of Advocates mentioned that further training would be needed in the area of AML/CFT which indicates a lack of co-operation.

120. The evaluators have some concerns that important intelligence from the work being undertaken by the arms of government and law enforcement handling licensing and export control issues was not routinely being brought into the policy-making which is undertaken by the Interagency Committee. The Armenian authorities indicated that there had not been any real cases of

information exchange on the PF issue so far. While relevant intelligence on goods for which such licenses for export are granted or refused is shared with the Customs Administration for border control purposes, the Interagency Committee appeared not to have been advised by the Ministry of Economy of refused permissions for export of dual-use goods to higher-risk countries. The authorities advised that certain key members of the Interagency Committee, such as the National Security Service, the Ministry of Finance (in charge of tax and customs administration) and the Ministry of Foreign Affairs are also members of the Counter-Proliferation Interagency Commission (as set forth in the Overview of the Institutional Framework under Chapter 1 of this report), thus providing a tentative framework for coordination at operational level. Nonetheless, the evaluators consider that information on applications for licences and refusals of licences to export proliferation-sensitive goods could usefully be shared with the FMC and the Interagency Committee on regular basis for intelligence purposes, policy making on PF financing, and possible operational coordination.

121. It was also noted that the 2012 FATF Best Practices Paper "Sharing among Domestic Competent Authorities Information Related to the Financing of Proliferation" had not been discussed in the Interagency Committee. Formal arrangements for better coordination between the Interagency Committee and other relevant actors in the PF field should be put in place. The evaluators consider that the Interagency Committee's agenda should cover PF issues routinely, including how PF sanctions may be evaded and for the purposes of identification of potential PF investigations by law enforcement.

Private sector's awareness of risks

122. The NRA report is not a public document. As specified in the methodology for conducting the NRA, to enable access for users of the report outside the Interagency Committee and its Working Group, the FMC has prepared a version of the report suitable for use by reporting entities and experts for study and forming conclusions. In addition, a further version of the report comprising the introduction and key findings has been posted on the FMC's website in order to facilitate public awareness of ML/FT risks.

123. In October and November 2014 and during 2015 the FMC provided information on the analysis and key findings of the NRA to the representatives of the private sector through seminars and trainings.

124. With regard to the effectiveness of the outreach, the banking sector presented a relatively better understanding of risk to the evaluation team compared with other sectors. Even in the banking sector, however, understanding differed, with a few larger institutions evidencing a rounded understanding. It was not common for financial institutions to go beyond the NRA conclusions for their own sectors when discussing risk even though the AML/CFT Law requires institutions to undertake a risk assessment for their business. Generally, in terms of understanding of FT risk the reporting entities appreciated the conclusion that it is a very low threat and that appropriate implementation of the requirements with regard to UN lists, relevant indicators and typologies of FT suspicions would amount to mitigation of that risk commensurate to its factual level. To this extent, reporting entities are aware of the relevant results of the NRA.

Overall conclusions on Immediate Outcome 1

125. Armenia has made significant efforts to identify, assess and understand its ML/FT risks, by conducting strategic and sectorial analyses of risk in 2010 and 2013 and a fully-fledged national risk assessment in 2014. An Action Plan was approved in 2015 to address the risks identified in the NRA, which is expected to be implemented by the end of 2017. Nevertheless, a number of gaps were identified by the evaluation team in Armenia's assessment of its ML risks, particularly due to the lack of certain key data and information. As a result, the understanding of ML risks still needs considerable improvement in Armenia, and this has an impact on the development and prioritisation of AML/CFT policies and activities across both the public and private sector. The limited

circumstances in relation to which simplified CDD may be applied are based on a careful assessment by the Interagency Committee and are not inconsistent with the findings of the NRA.

126. Operational co-operation and co-ordination is a strong point within Armenia's AML/CFT system. The FMC and the relevant law enforcement bodies are very active in exchanging information in the course of criminal investigations. There is also close co-operation between the FMC and other supervisory bodies. However, little evidence was found that the relevant authorities, particularly within the law enforcement sphere, co-ordinate their strategies to combat ML/FT.

127. Co-operation and co-ordination concerning proliferation financing needs to be developed further. Important intelligence from the work being undertaken by the arms of government and law enforcement handling licensing and export control issues should be routinely brought into the policy-making which is undertaken by the Interagency Committee.

128. **Overall, Armenia shows a moderate level of effectiveness for Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Although the FMC produces good financial intelligence packages in its disseminations to law enforcement and law enforcement can apply for access to the FMC's databases in the pre-investigative stages, there is limited use by law enforcement of financial intelligence in ML investigations.

Law enforcement concerns about the legislative framework to obtain access to information at sufficiently early stages need addressing by a review of the LOIA and authoritative clarification that its application does not require a suspect or an accused. At the same time LEAs need more skills and training to convert intelligence into material which can be used to obtain court orders which would grant them access, both under the LOIA and the CPC, to financial information to be used as evidence.

There is little evidence of the use of parallel financial investigations despite a 2009 directive from the General Prosecutor to pursue criminal proceeds.

The prosecution have targeted the comparatively easy self-laundering cases mainly involving domestic predicate offences. There have been no third party ML cases involving some of the predicate offences identified in the NRA.

There is a presumption of overly high levels of evidence to prosecute ML cases.

Given the limited use of parallel financial investigations and provisional measures, confiscation is not used effectively to make crime unprofitable.

Recommended Actions

Immediate Outcome 6

- Law enforcement authorities should use financial intelligence (whether generated internally or by the FMC) more proactively. They should develop written instructions for the use of intelligence in financial investigations, particularly to develop evidence and trace criminal proceeds related to ML, associated predicate offences and FT. This should be accompanied by on-going specialised training to the relevant law enforcement authorities, particularly the NSS, as well as the Ministry of Finance (in its capacity of the investigative body of predicate offences related to tax and customs administration) on the use of FMC (operational and strategic) intelligence products.
- The FMC should also engage more closely with the private sector to improve the quantity and quality of disclosures. This should result in more meaningful suspicions being identified and reported to the FMC and ultimately enhance the quality of the FMC dissemination process.
- The authorities should review the provisions of Article 31 of LOIA to remove unduly cumbersome conditions hindering its effective use by LEAs during the preliminary stage of the criminal investigation. In particular, Article 31 should be available in all ML investigations given that LEAs may not be able to identify whether "large amounts" or "particularly large amounts" are involved until the financial information has been considered.

Immediate Outcome 7

- The GPO should establish a clear national law enforcement strategy and policy to investigate and prosecute a wide range of ML offences (including third party ML and autonomous ML). This should set out a co-ordinated strategy applicable to all relevant law enforcement bodies involved in the fight against ML and associated predicate offences, which specifies the responsibility and functions of each body and the role that each body is expected to undertake in the course of a ML

investigation. It is recommended that the results of this policy are regularly monitored by the Interagency Committee.

- The policy should require law enforcement authorities to develop proactive parallel financial investigations when pursuing ML and associated predicate offences, at least in all cases related to major proceeds-generating offences. Practical guidance and a comprehensive training programme on financial investigations should be provided regularly to staff at all levels of law enforcement bodies, including the GPO (particularly those prosecutors who are responsible for major-proceeds generating offences) and the judiciary.

- The ML prosecution policy should also consistent with the ML risks that the country faces, as highlighted in this report and from the reviews of the ML-related criminality patterns to be conducted by involved national agencies on a regular basis.

- In order to develop a more proactive approach to ML investigation and prosecution, law enforcement bodies and the GPO should challenge the judiciary with more cases where it is not possible to establish precisely the underlying offence(s) but where the courts could infer the existence of predicate criminality from adduced facts and circumstances.

- Armenia should introduce criminal liability for legal persons. Pending the introduction of criminal liability for legal persons, the authorities should make use of Article 31 of the AML/CFT Law on the involvement of legal persons in ML, where applicable, and revise the level of fines which should reflect the gravity of the offence.

Immediate Outcome 8

- Armenia should include the confiscation of criminal proceeds, instrumentalities and property of equivalent value as an objective in the national law enforcement policy referred to under IO. 7.

- As part of the requirement to proactively conduct parallel financial investigations, law enforcement authorities should be required to routinely apply provisional measures to prevent any dealing, transfer or disposal of property subject to future confiscation/forfeiture.

- Armenia should re-consider introducing the reversal of the burden of proof regarding the lawful origin of alleged proceeds or other property liable to confiscation in serious offences and consider introducing non-conviction based confiscation measures.

- The authorities should take more proactive steps to identify false or non-declarations of cash which may be an indicator of proceeds of crime.

- There should be a body with legally defined competences to actively manage frozen and confiscated assets.

The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4 & R29-32.

Immediate Outcome 6 (Financial intelligence ML/FT)

Use of financial intelligence and other information

(a) Access to information

129. Law enforcement authorities in Armenia have access to a wide range of databases containing financial[42], administrative[43] and law enforcement[44] information. The evaluation team was

[42] E.g. CBA database on licensing and supervision of financial institutions, CBA database on credit register, Armenia's 1000 large taxpayers' database and also databases of financial institutions.
[43] E.g. State Register database, Real Estate Cadastre database, Vehicle database, Social Security information database.

satisfied that these databases are accessed on a regular basis, when law enforcement authorities require information in the course of an investigation for ML, predicate offences and FT. The FMC has access to an even broader range of information, which, in addition to the information referred to above, includes information from STRs, threshold reports, cross-border declarations and commercial databases[45]. The FMC can also request additional information (including documents or data covered by financial secrecy) from any public authority or reporting entity, regardless of whether such entity had previously submitted an STR to the FMC.

130. As regards information covered by financial secrecy, LEAs have access to such information in the course of the formal investigation process, using the provisions of Article 172(3) (2) of the CPC. These provisions only apply to persons who are formally suspects or accused. When there is no suspect or accused, LEAs have two options. First, they can approach the FMC to obtain intelligence, using the provisions of Article 13.4 of the AML/CFT Law. The material provided by the FMC on this basis is not evidence. It is necessary for LEAs to convert this intelligence, using normal law enforcement methods, into evidence to formally turn a person into a suspect or an accused and to subsequently seek an order from the court to obtain financial information which may otherwise be covered by financial secrecy. Second, the provisions of Article 31.4 of the LOIA are available at the pre-investigative stage, as well as once a suspect or an accused has been established. LOIA has provisions which appear to be wider so far as access to financial secrecy is concerned but its provisions are limited to grave and particularly grave crimes and other conditions which are perceived by law enforcement as being burdensome. These are detailed further in subsection (c) below.

(b) Use of intelligence

131. The FMC is the main body which generates financial intelligence for AML/CFT purposes in Armenia. It integrates data obtained from domestic databases and its own internal databases to generate financial intelligence products, which it then disseminates to law enforcement authorities[46]. FMC intelligence is processed by the specialised operative units of law enforcement bodies, which also generate their own financial intelligence. These units are tasked with intelligence coverage of the targeted criminal environment falling within their mandate. Nevertheless, there is little evidence that intelligence, whether generated by the FMC or the operative units, is used to any great extent to identify ML through proactive financial investigations. Information is generally obtained to secure a conviction for predicate crimes, rather than to identify and trace criminal proceeds[47]. As stated beneath, FMC intelligence has only been used to secure one ML conviction, although the LEAs confirm that for all other convictions the information received from the FMC pursuant to relevant requests (as set forth in detail in the below paragraph) played a key role.

132. In the course of their activities, law enforcement authorities may submit requests for information to the FMC, using the provisions of Article 13.4 of the AML/CFT Law. The information obtained by the FMC at the request of law enforcement authorities is analysed in detail and the results of the analysis are then sent back to LEAs as a comprehensive intelligence product. Despite the availability of this valuable source of intelligence, law enforcement authorities have only submitted an average of 54 requests per year to the FMC in the period under review (see the table below). This may be due to the fact that information obtained from the FMC may not be used as evidence during the pre-trial and trial stages. It also appears that the practice of conducting proactive financial investigations (see analysis on IO7), which would necessitate the intervention of the FMC, is still not common.

Information requests from LEA to FMC	**2010**	**2011**	**2012**	**2013**	**2014**	**Total**

[44] E.g. MOF - Tax and Customs information database, NSS – border crossing and operational information database, Police – passport data, criminal record, registry of natural persons and wanted persons, Court Department database – court verdicts and other judicial rulings.
[45] E.g. World Check, Acuity On-line, PEP database
[46] Further information on the analysis and dissemination processes of the FMC is provided under core issue 6.3(a).
[47] Further information on the use of FMC disseminations by law enforcement is provided under core issue 6.3(b).

NSS	*14*	*19*	*26*	*12*	*18*	**89**
MOF	*9*	*15*	*9*	*6*	*21*	**60**
GPO	*24*	*7*	*9*	*10*	*13*	**63**
Police	*5*	*15*	*13*	*5*	*6*	**44**
Interpol National Bureau	*1*	*2*	*3*	-	*5*	**11**
Special Investigative Service	-	-	*1*	*3*	*2*	**6**
Investigative Committee	-	-	-	-	*1*	**1**
Total	**53**	**58**	**61**	**36**	**66**	**274**

133. The Armenian authorities could not produce statistics demonstrating the extent to which financial intelligence is accessed and used to develop evidence in terrorist financing cases. Nonetheless, instances of a number of requests to FMC by operative units within the NSS, for FT purposes, were referred to by the representatives met on-site with subsequent provision of comprehensive feedback including the analysis of financial transactions, cash declarations and other data accessible to the FMC. However, since no FT investigations were carried out during the period under review, it was impossible for the evaluation team to assess the effective use and quality of intelligence in this context.

134. The authorities have however made use of financial intelligence available at FMC level to suspend suspicious transactions, under the provisions of Article 26(2) of the AML Law. Around AMD 49 million (approximately EUR 99,000) were suspended by the FMC based on a notification submitted by investigative bodies (see the table below). The funds were subsequently seized by means of an arrest order issued by the body in charge of the criminal proceedings (information on seizure and confiscation is provided under IO 8). Although this is recognised by the evaluation team as a useful tool, the mechanism is insufficiently used in practice. In particular, it was surprising to see that the tax authority does not resort to this mechanism more often, given the significant threat posed in Armenia by tax offences.

Suspended and seized funds

Year	Body	Currency *	FIs **	LEAs ***	Total
2010	FMC	AMD (EUR)	73,859,840 (148,911)	39,277,862 (79,189)	113,137,702 (228,100)
	LEAs	AMD (EUR)	73,859,840 (148,911)	39,277,862 (79,189)	113,137,702 (228,100)
2011	FMC	AMD (EUR)	0 (0)	0 (0)	0 (0)
	LEAs	AMD (EUR)	0 (0)	0 (0)	0 (0)
2012	FMC	AMD (EUR)	12,895,274 (24,971)	10,108,000 (19,574)	23,003,274 (44,545)
	LEAs	AMD (EUR)	12,895,274 (24,971)	10,108,000 (19,574)	23,003,274 (44,545)
2013	FMC	AMD (EUR)	54,893,971 (100,889)	0 (0)	54,893,971 (100,889)
	LEAs	AMD (EUR)	773,641 (1,422)	0 (0)	773,641 (1,422)
2014	FMC	AMD (EUR)	0 (0)	0 (0)	0 (0)
	LEAs	AMD (EUR)	0 (0)	0 (0)	0 (0)
Total	FMC	AMD	141,649,085	49,385,862	191,034,947

		(EUR)	(274,772)	(98,763)	(373,535)
	LEAs	AMD (EUR)	87,528,755 (175,304)	49,385,862 (98,763)	136,914,617 (274,068)

* Euro equivalent of the relevant funds has been calculated on the basis of average annual EUR/ AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

** The figures in this column represent the amounts suspended by the FMC and subsequently seized by LEAs based on STRs filed by financial institutions.

*** The figures in this column represent the amounts suspended by the FMC and subsequently seized by LEAs based on notifications submitted by investigative bodies in charge of the criminal proceedings.

(c) Issues related to access to information

135. Article 29 of the LOIA provides LEAs with the power to access information covered by banking, insurance or securities secrecy, both prior and during the pre-trial investigation process. However, according to the representatives of LEAs, Article 29 of the LOIA has hardly been used in practice (two cases were referred to by the authorities) due certain conditions which in their view are unduly cumbersome i.e. it may be implemented only (1) where the persons against whom it is directed is suspected of grave and particularly grave crimes, thereby excluding basic ML; and (2) provided that there is substantial evidence indicating that it would be impossible for the investigation body to perform the duties assigned to it by law through other operational activities.

136. The Armenian authorities were unable to provide statistics on the number of applications made under LOIA or under Article 172 of the CPC, which provides access to financial secrecy information on a suspect or an accused person in a criminal case. While it is clear that LEAs have access to intelligence from the FMC, the lack of comprehensive information about the number of applications to obtain court orders for the disclosure of financial secrecy information which can be used as evidence appear to indicate that LEAs are not successful in converting intelligence into the necessary evidence, in order to formally identify a person as a suspect or an accused, and then to obtain necessary financial evidence under the CPC to be used in court proceedings. Many LEAs complained to the evaluation team about the complex legislative provisions which inhibit the obtaining of necessary financial evidence. Some suggested that in an application under LOIA for access to financial information in the inquest and pre-trial investigation phases, the court would apply the more restrictive provisions under the Law on Banking Secrecy and require a suspect or an accused before granting an order.

137. The evaluators are of the view that the use of LOIA has certain restrictions under it (particularly the need to exhaust other operational activities before making an application). This provision of itself deserves review in the evaluators' opinion. The evaluators also took particular note of law enforcement concerns that in ML cases the investigations may not know whether the offence involves large or particularly large amounts until financial evidence is examined, although they confirmed that relevant information constituting financial intelligence is always accessible from the FMC under Article 13 of the AML/CFT Law upon a substantiated request. It is considered that LOIA should apply to all ML offences and that it should be clarified authoritatively that applications under LOIA do not require a suspect or an accused as a required under the LBS.

138. Nevertheless, it seems also to the evaluation team that LEAs lack the necessary skills and training required in many cases to convert intelligence into material, from which a reasonable suspicion arises sufficient to obtain access to financial information, which can be used as evidence. This is a particular concern, given the lack of financial investigations which are conducted generally by LEAs and underlines the need for more comprehensive training of LEAs, generally, on investigative techniques.

STRs received and requested by competent authorities

139. The FMC receives three different types of reports: i) suspicious transactions and/or business relationship reports, ii) transactions subject to mandatory reporting and iii) reports

generated by the cash declaration system. The first category (STRs) is submitted by reporting entities, regardless of the amount, and regardless of whether property involved in a transaction or attempted transaction, or within a business relationship or an attempted business relationship is suspected of being proceeds of criminal activity or related to terrorism. Second, mandatory transaction reports are submitted by specific categories of reporting entities in relation to certain types of transactions and thresholds (see the table below). Third, reports generated by the customs cash declaration system are received from the Customs Administration at different time intervals depending on the type of report. Information is received by the FMC mainly in electronic format through secured channels, which improves the ability of the FMC to act in the most efficient manner. Information contained in these reports is broken down into a complex schema of data concepts which is further processed through complex queries, data mining, alerting capabilities and visualisation tools.

Category of reporting entities subject to mandatory reporting	**Types of transactions subject to mandatory reporting**	**Non-cash – AMD (EUR[48])**	**Cash – AMD (EUR)**
Financial institutions	• All transactions	> AMD 20 million (EUR 36 thousand)	> AMD 5 million (EUR 9 thousand)
Notaries	• Buying and selling of real estate; • Management of client property; • Management of bank and securities accounts; • Provision of property for the creation, operation, or management of legal persons; • Carrying out functions involving the creation, operation, or management of legal persons, as well as the alienation (acquisition) of stocks (equity interests, shares and the like) in the statutory (equity and the like) capital of legal persons, or the alienation (acquisition) of issued stocks (equity interests, shares and the like) of legal persons at nominal or market value.	> AMD 20 million (EUR 36 thousand) > AMD 50 million (EUR 90 thousand), in case of transactions related to buying/ selling real estate	AMD 5 million (EUR 9 thousand)
• Casinos • Organizers of games of chance (including on-line) • Organizers of lotteries	• Sell/ buy back casino tokens (lottery tickets); • Accept wagers; • Pay out or provide winnings; • Make financial transactions related to above operations.		
State Register	• State registration of the alienation (acquisition) of stocks (equity interests, shares and the like) in the statutory (equity and the like) capital of legal persons, or • The formation of, or changes in, the statutory (equity and the like) capital thereof.	> AMD 20 million (EUR 36 thousand)	> AMD 5 million (EUR 9 thousand)
Real Estate Cadastre	• Buying and selling of real estate	> AMD 50 million (EUR 90 thousand)	> AMD 5 million (EUR 9 thousand)

[48] Based on an official exchange rate of 537.14 AMD for one euro,

140. Disclosures are sent to the FMC by domestic competent authorities (see the table below), which are treated by the FMC as incoming signals and represent triggers for detailed analysis of bank accounts, transactions and other activities carried out by natural or legal persons. Where a reasonable suspicion of ML/FT arises, notifications are disseminated to the appropriate law enforcement authority. The table below represents data on spontaneous disclosures (excluding the requests) made by LEAs to the FMC:

Notifications from LEA to FMC	**2010**	**2011**	**2012**	**2013**	**2014**	**Total**
National Security Service	-	-	2	1	1	4
Ministry of Finance	-	-	-	-	-	-
General Prosecutor's Office	-	-	-	-	1	1
Police	1	1	-	1	3	6
Interpol National Bureau	1	-	1	1	2	5
Special Investigative Service	-	1	-	-	-	1
Total	2	2	3	3	7	17

(a) Suspicious transaction reports

141. According to the authorities, the quality of suspicious transaction reports has improved, although in the view of the evaluators there is still room for improvement. The automatic rejection rate of reports submitted electronically is very low, which indicates that reporting entities are familiar with the reporting procedure. A 3% increase rate in STRs reported to the FMC during the period under review was noted. Reports originate exclusively from the financial sector, as well as from some public agencies (see the table below). Over 99.9% of STRs are submitted by banks - since banks hold 90% of the market share. Nevertheless, as stated below, banks may be underreporting STRs since insufficient attention may be given to suspicions which are not in pre-defined indicators. The evaluation team expected to see a better (qualitative and quantitative) STR output from payment and settlement institutions (MVTS), given the risks associated with this sector. In relation to this issue, the supervisors of financial institutions and the Financial Monitoring Center are of the view that, since MVTS have only 0.3-0.5% share in the total amount of cross-border transfers (the remaining part transacted by banks), and they operate under strict controls and below certain thresholds, this significantly reduces their STR reporting potential.

STRs from reporting entities		Banks	Non-bank FIs, including	*Central Depositary*	*Credit organizations*	DNFBPs	Other reporting entities, including	*State Register*	*Other CBA departments*
		1	***2***	***2.1***	***2.2***	***3***	***4***	***4.1***	***4.2***
2010	Number	427	-	-	-	-	4	*4*	-
	Value	3,902	-	-	-	-	-	-	-
2011	Number	182	2	*2*	-	-	2	*2*	-
	Value	5,282	-	-	-	-	-	-	-
2012	Number	189	3	*2*	*1*	-	-	-	-
	Value	2,900	74	*72*	*2*	-	-	-	-
2013	Number	196	-	-	-	-	1	-	*1*
	Value	10,406	-	-	-	-	-	-	-
2014	Number	209	1	-	*1*	-	-	-	-
	Value	7,598	-	-	-	-	-	-	-
Total	Number	**1,203**	**6**	**4**	**2**	**-**	**7**	**6**	**1**
	Value	**30,088**	**74**	**72**	**2**	**-**	**-**	**-**	**-**

* All values are in million Armenian drams; the Euro equivalent can be achieved by using the average annual EUR/AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

142. No STRs were submitted by DNFBPs to the FMC although guidance has been issued for this sector. This is not consistent with the risks (set out under Chapter 1) emanating from the real estate

and casino sector. The LEAs met on-site referred to the investment of proceeds of crime into real estate as one of the preferred forms of ML in Armenia. The absence of STRs from casinos also raises concerns in light of the high level of cash within the economy. In relation to this, the authorities advise that since casinos do not provide certificates of winning (i.e. documentary basis for facilitating the laundering of illicit proceeds), this certainly mitigates the potential for their use in ML and reduces the subsequent STR reporting potential.

143. During on-site interviews, it was noted that reporting entities may be overlooking certain suspicious transactions and/or business activities due to potential overreliance on typologies and pre-defined indicators issued by the FMC. The FMC has been proactive in guiding reporting entities in complying with their reporting obligations. Guidance on suspicious transactions or business relations and guidance on typologies (14 typologies as of the date of the on-site visit) were published by the FMC, based on national experience. Reporting entities from the financial sector demonstrated some awareness in this respect. However, some reporting entities stated that they mainly check whether their customers' transactions meet any of the suspicious criteria/typologies published by the FMC. As a result, the FMC may not be receiving information on certain suspicious transactions and business activities. The FMC indicated that 20 to 25% of the STRs do not match with any pre-defined indicators of suspicious conduct or typologies issued by the FMC, which, in their view, is a clear indication that reporting entities report any conduct which is suspicious.

(b) Above-threshold transaction reports

144. The FMC data repository contains a valuable database of threshold transaction reports (see the table below). During the period under review, a total of 856,697 threshold transaction reports were received by the FMC, with a total value of assets amounting to around AMD 103 billion. The main contributors are banks, followed by insurance companies, notaries and the Real Estate Cadastre. The high number of data concepts contained within such reports adds significant value to the analysis function of the FMC. It also provides the FMC with a comprehensive database containing accounts held by natural and/or legal persons in Armenia.

Reporting entities	**Number of over-threshold reports (2010-2014)**
Banks	623.693
Insurance (including re-insurance) companies	6.578
Notaries	3.590
Real Estate Cadastre	2.719
Credit organizations	801
Investment companies	788
Central Depositary	618
State Register	274
Insurance (including re-insurance) intermediaries	138
Casinos	28
Pawnshops	27
Currency exchange offices	13

(c) Cash Declarations

145. Information collected under the customs cash declaration system is directly available to the FMC through the Integrated Information System. This information is used for analytical purposes and disseminated by the FMC to law enforcement authorities where reasonable grounds to suspect ML/FT exist. It is also integrated with other existing information within the FMC's database to develop a monitoring list containing high-risk individuals, which is disseminated to the Customs Administration. A risk analysis is carried out by the Customs Administration over such data. This data is also available to law enforcement authorities for investigation purposes, upon request. Further information on the cash declaration system and the identification of false declarations/non-declarations is provided under Core Issue 8.3.

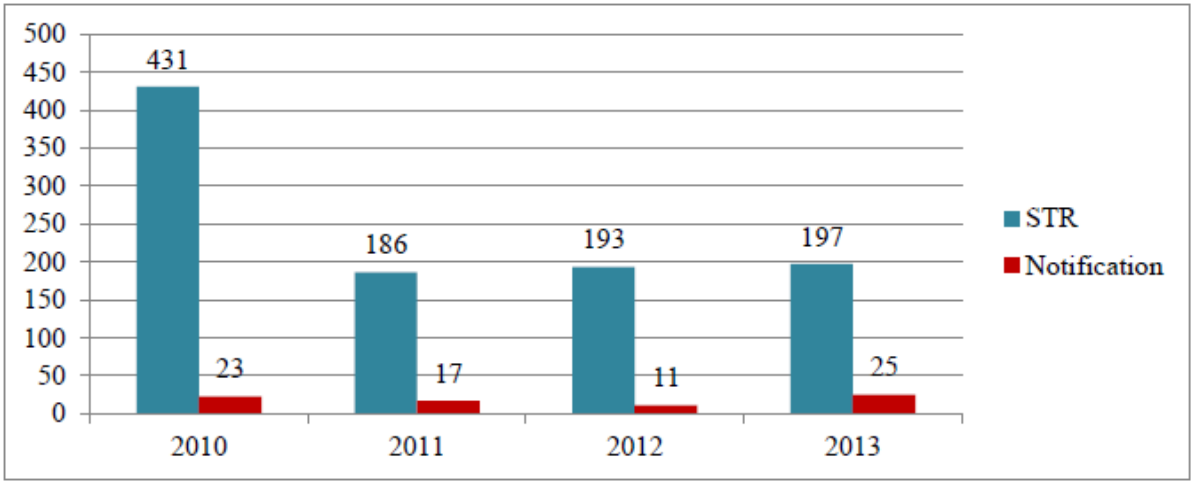
Operational needs supported by FIU analysis and dissemination

(a) Analysis and Dissemination

146. The FMC is the lead agency within the operational AML/CFT system in Armenia. The FMC has sound technical capabilities and its employees are highly professional. Value is added to incoming STRs by integrating data from a wide range of sources containing information on real estate, beneficial ownership of legal persons, tax, customs declarations, criminal records and others. The implementation of an Integrated Information System administered by the FMC provides a secure environment for information exchange with all the authorities represented in the Interagency Committee and enhances the flow of information.

147. The FMC has adopted a risk-based approach to intelligence analysis and demonstrated a strong understanding of its potential contribution to financial investigations. In addition to operational analysis, data-mining processes are run through the FIU's data repository for proactive identification of high risk transactions (e.g. transactions with higher risk jurisdictions), which may trigger an analysis. The outputs, disseminated on a need-to-know basis, contain useful analysis accompanied by visualisation of financial flows. These are considered as very helpful by law enforcement authorities.

148. The ratio of notifications (by the FMC to law enforcement authorities) to STRs has been in the range of 6-13%, with an average of 8% annually (see the chart below). Compared with figures in the previous evaluation, there has been a 9% increase in notifications by the FMC to LEAs, which the authorities attribute to an improvement in STR quality and the enhancement of FMC analytical capabilities. Although it is difficult to ascertain whether these figures represent an adequate result, a comparison between the total number of notifications generated over a 5 year period (104) and the total number of convictions for predicate offences[49] (637) in the same period, does raise some concern. This may be a direct result of the reporting mechanism, which, as noted under the analysis of Immediate Outcome 4, may not be entirely effective.



(b) Use of FMC notifications

149. The case example in the box below demonstrates how FMC notifications are used by law enforcement authorities to initiate a ML investigation.

Case on laundering proceeds of card fraud

According to an STR received from Armenian MSB1, a customer carried out 195 transactions to transfer AMD 7 million from his newly opened virtual accounts to 3 virtual accounts held with

[49] Not taking into account of other factors such as overall criminal activity, the shadow economy, proceeds of crime generated outside Armenia, etc.

Armenian MSB 2. The actions were inconsistent with the client's business profile and anticipated transaction turnover.

FMC analysis, followed by information sharing with LEAs, revealed the presence of a group of 27 people involved in laundering the proceeds generated through plastic card fraud by one of its members. That person purchased stolen data online of 10 plastic cards (cardholder's name, surname, 16-digit number, card issuance and validation terms, CVV triple-code) issued by foreign banks, paying 2-10 USD for each.

Using this data, the person opened virtual accounts in Armenian MSB 1 system and transferred the card balances to those accounts. Subsequently, the person made transfers to virtual accounts opened with Armenian MSB 2 and withdrew the funds. The perpetrator came to agreement with an unidentified non-resident to transfer the funds to foreign MSB virtual accounts for encashment and subsequent transfer to Armenia (less the commission). He also used his relatives and other affiliates (in total 27 persons) for the same purposes.

Out of the entire group, only the person having committed the predicate crime was convicted for money laundering and sentenced to 2 years and 3 months in prison.

150. The table below contains the number of notifications submitted by the FMC to each law enforcement authority. Despite being the main recipient of FMC financial intelligence products, the NSS only instigated a total of 17 cases, based on FMC notifications, during the evaluated period. Out of the 17 cases only 6 were considered by the NSS to contain ML elements. Across the system, only one of three FMC disseminations is turned by LEAs into an investigation (104 disseminations/36 instigated criminal cases). Moreover, the evaluation team was informed that only one FMC notification resulted in a ML conviction.

151. Although the evaluation team was not presented with sanitised examples of reports disseminated by the FMC to LEAs, the analysis of the sanitised cases provided and the opinion of the LEAs on the value of FMC disseminations are indicative of the good quality of financial intelligence generated by the FMC. It is the opinion of the evaluation team that despite the FMC's efforts, LEAs face difficulties in turning financial intelligence into evidence, which points to the need for more comprehensive training of LEAs, generally, on investigative techniques. Also, the lack of a culture of proactive parallel financial investigations in at least all major proceeds generating crimes impacts on the effective use of available financial intelligence for the purpose of identifying, tracing and preventing dissipation of assets.

FMC disclosures and instigated criminal cases		**NSS**	**MOF**	**GPO**	**Police**	**Interpol National Bureau**	**Special Investigative Service**	**Total**
2010	FMC to LEA	13	7	3				23
	Instigated criminal cases	7	2					9
	Including ML	4	1					5
2011	FMC to LEA	12	3		1	1		17
	Instigated criminal cases	2	2					4
	Including ML		1					1
2012	FMC to LEA	11						11
	Instigated criminal cases	3						3
	Including ML							0
2013	FMC to LEA	19	5	1				25
	Instigated criminal cases	3	5	1				9

	Including ML	2		1				3
2014	FMC to LEA	17	7	3	1			28
	Instigated criminal cases	2	6	3				11
	Including ML		1					1
Total	FMC to LEA	72	22	7	2	1	0	104
	Instigated criminal cases	17	15	4	0	0	0	36
	Including ML	6	3	1	0	0	0	10

152. Strategic analysis products, in the form of typologies and suspicious indicators, are generated on a regular basis and disseminated to the reporting sectors. Guidance on suspicious transactions or business relations and guidance on typologies (a total of 14 as of the date of the on-site visit) were published by the FMC, based on national experience. However, reporting entities appear to place undue reliance on typologies and pre-defined indicators in the implementation of their reporting obligations. This may distort the FMC's image of the ML/FT environment in Armenia. The results of FMC's strategic analysis process are discussed by the relevant competent authorities within the Interagency Committee. The evaluation team was not presented with cases where the operational objectives of individual law enforcement agencies (or supervisors) were informed by the findings of the strategic analysis products generated by the FMC (e.g. tactical policy documents at LEA level pointing to threats and vulnerabilities identified by FMC strategic work).

(c) Other FMC Powers

153. The FMC may give assignments to reporting entities to (1) recognise as suspicious; (2) suspend; (3) refuse; or (4) terminate a transaction or business relationship. Reporting entities are obliged to comply with such assignments based on the identification data, criteria or typologies of suspicious transactions or business relationships as provided by the authorised body. The mechanism has high operational value and is used in practice as an effective tool to ensure that specific threats (e.g. a specific criminal group) are addressed at the level of the entire financial/non-financial sector, as demonstrated in the case below.

Case on plastic card fraud

According to an STR received from Armenian Bank 1, two foreign individuals asked the bank to issue MasterCard Standard (AMD) and MasterCard Gold (USD) cards for business purposes in Armenia and abroad. They had also tried to open accounts in other banks, but were refused by some as their Armenian visas were term-limited. Analysis revealed that the suspects managed to open accounts with 7 Armenian banks and obtained MasterCard Gold (USD) cards, but no transactions had been conducted yet.

A notification was sent to all banks in Armenia to draw their attention to the fact that the real purpose of the two individuals was to obtain cards to perpetrate a fraud scheme, possibly through offline POS terminals. The banks were requested to monitor the mentioned persons' card transaction attempts, especially in case of insufficient balance on their accounts, and to file an STR, as appropriate.

The banks provided a number of other foreigners' names and identification data, who had opened bank accounts and obtained Visa and Master cards (similar to the notified scheme). It was also revealed that the initial subjects had already started conducting transactions with amounts exceeding the card balance via offline POS terminals. Particularly, transactions were conducted through offline POS terminals located in airport "Duty Free" shops (in foreign countries) or on board of aircrafts.

Identification data of the newly identified subjects were provided to all banks requesting them to apply relevant measures.

Cooperation and exchange of information/financial intelligence

154. Cooperation between the FMC and the authorities involved in investigating ML, predicate offences and FT was found to be satisfactory. As described earlier, the FMC disseminates financial intelligence to LEAs both spontaneously and upon request. The FMC regularly requests and receives information from domestic competent authorities to integrate it with its own data and develop valuable intelligence. The FMC closely cooperates with supervisory authorities for operational purposes. During case analysis, the FMC regularly requests and receives information from FIs through the FSD (when making general requests) and directly (when obtaining additional information on STRs and related analysis) and uses this tool for collecting information on routine basis. As regards other supervisory authorities (MoJ, MoF, Chamber of Advocates), the FMC cooperates with them on a regular basis and exchanges information concerning the reporting entities supervised by them.

155. A secure and rapid infrastructure for information exchange is used to access information. The system has been developed and is administered by the FMC. The Integrated Information System (ISS) which connects the FMC with other authorities (National Security Service, Police, Interpol, Real Estate Cadastre, State Register, General Prosecutors Office, Ministry of Finance and the Compulsory Enforcement Service) was introduced in 2014, ensuring the exchange of information in a secure environment and providing online shared access (subject to agreed permissions) to other AML/CFT intelligence available to ISS users. At the time of the on-site visit, the following information resources were available directly (on-line) to the FMC through this system: database on wanted persons, database on natural persons, cross border transit database, real estate database, legal persons' registration database, database with information on cash couriers).

Overall Conclusions on Immediate Outcome 6

156. Armenia's use of financial intelligence and other information for ML and FT investigations demonstrates some characteristics of an effective system. The FMC has access to a wide variety of information sources, which it uses to generate intelligence for law enforcement purposes. The FMC's advanced technical resources and professional staff ensures that the quality of its intelligence products is high. A positive feature of the system is that information requested by law enforcement authorities from the FMC is delivered in an analytical format rather than as raw data. The FMC is empowered to suspend suspicious transactions (and does so in practice) to enable law enforcement to seize illicit assets even at the earliest stages of an investigation. The FMC integrates information on cash declarations with information within its databases to develop a monitoring list containing high-risk individuals, which it then disseminates to the Customs Administration. Also, the good level of international cooperation proved by the FMC adds to the value of financial intelligence it produces.

157. Nevertheless, there are a number of factors which have a negative impact on the receipt and use of intelligence and other information. There are doubts about the quality of STRs submitted by reporting entities, given their potential overreliance on typologies and pre-defined indicators issued by the FMC. Some relatively higher-risk sectors have not submitted any STRs. There is little evidence that FMC intelligence products are used by competent authorities to investigate money laundering through proactive financial investigations. This mainly relates to difficulties faced by LEAs in turning financial intelligence into evidence which underlines the need for more training of LEAs on investigative matters.

158. Cooperation between the FMC, as the main source of intelligence for ML/FT purposes, and other law enforcement authorities, is a strong point in the system. Information is exchanged rapidly and securely between the relevant authorities spontaneously and upon request.

159. **Overall, Armenia has achieved a moderate level of effectiveness with Immediate Outcome 6.**

Immediate Outcome 7 (ML investigation and prosecution)

ML identification and investigation

160. The authorities appear to have increased their efforts in identifying ML offences. Since the previous evaluation, the number of instigated ML cases (53) (see the table below) has doubled[50]. However, of these cases, 26[51] were suspended on the grounds specified under Article 31(2) (1) of the CPC[52] and 3 were terminated on the grounds specified under Article 35(2) (1) of the CPC[53] and Article 35(2) (2) of the CPC[54]. Few cases were taken forward to the pre-trial stage (11) or resulted in an indictment (15)[55].

	Cases instigated	Cases suspended	Cases terminated	Cases in pre-trial stage	Indictments	Cases in trial stage	Convictions	Acquittals
2010	13	7	1	0	6	0	2	1
2011	12	6	1	0	3	0	2	0
2012	9	8	1	0	2	0	6	0
2013	10	3	0	3	2	0	2	1
2014	9	2	0	8	2	1	1	0
Total	53	26	3	11	15	1	13[56]	2

161. While the authorities indicated that over the last four years the reported cases of serious crime have decreased by 12 percent, it is the view of the evaluation team that the volume of cases which have resulted in a formal pre-trial investigation or an indictment remains low[57]. This suggests that law enforcement authorities may still not be actively pursuing ML as a matter of policy, especially during the pre-trial stage. This assumption is supported by the fact that parallel financial investigations, at least in relation to major proceeds-generating crimes, are not carried out on a regular basis. The representatives met on-site acknowledged that the primary purpose of a criminal investigation is to gather evidence on predicate offences. Measures to identify and trace proceeds and other property belonging to or in the possession of a suspect or accused as part of the investigation process are not carried out systematically. There is no policy document compelling and guiding law enforcement authorities which are competent to investigate ML and predicate offences to conduct financial investigations. As a result, the potential for identifying ML cases is limited.

162. The representatives met on-site were of the view that ML cases tend to be more complex than other criminal cases. While there are no legal obstacles to the investigation of ML *per se*, the practitioners are generally inclined to assume that ML cases require a higher evidentiary threshold and a level of certainty that a predicate crime, which generated proceeds, had been committed. In practice, before initiating a pre-trial investigation, law enforcement authorities seek to develop a body of evidence which is far more extensive than would normally be required at the trial stage. Where this is not possible, a ML investigation would generally be terminated, particularly in those cases where there is no direct link between the ML activities and the predicate crime. Additionally, in order to secure a ML conviction, it is necessary to prove that the predicate offence was carried out with a 'mercenary' (i.e. profit-making) purpose. This view is based on a 2009 court judgement[58] and is perceived by practitioners as requiring an additional element of proof. It appears to the evaluation team that an element of uncertainty still exists among practitioners as to the expectations of the

[50] In the period 2005-2009 the number of instigated ML cases was 22
[51] One case, which was not assigned a criminal case number, has been separated (and suspended) from another criminal case, which resulted in conviction
[52] The accused has absconded, or his whereabouts remain unknown
[53] The corpus delicti of the alleged act is missing/not identified
[54] Criminal prosecution is liable to termination and the case proceedings are liable to suspension, if the involvement of the accused in the committed crime has not been proven, and all avenues to obtain new evidence have been extinguished
[55] Of which 1 had been brought before the court in 2009 and resulted in a ML conviction in 2011
[56] Three of these convictions were the result of cases instigated in 2009
[57] The evaluators did not compare the number of ML investigations with the number of convictions for proceeds-generating crime, since in their view this figure does not comprehensively reflect the crime environment in Armenia (see analysis of Immediate Outcome 1)
[58] EKD/0090/01/09

courts in terms of evidentiary thresholds for ML cases. This may have the effect of discouraging the authorities from pursuing more complex ML cases.

163. Another obstacle to law enforcement efforts is the unduly cumbersome conditions provided by LOIA for the use of Article 29 of the same law (as explained in detail under Core Issue 6.1). Since this article is not applicable to basic form of ML offence it could prove difficult for LEAs to establish at the early stages of an investigation the volume of laundered criminal assets to enable them to go to court with a request under Article 29 in order to gain access to financial information that is required to instigate a case and formally accuse a person. Nonetheless, the LEAs confirmed that relevant information constituting financial intelligence is always accessible from the FMC under Article 13 of the AML/CFT Law upon a substantiated request. The authorities stated that the law enforcement powers under the CPC are sufficient and are regularly used in the course of an investigation. For instance, requests for information are sent to various domestic authorities such as the FMC, the CBA, the Real Estate Cadastre, the Tax Administration, the registry of legal persons, in order to identify the assets belonging to the suspect or accused, and any suspicious movement of funds. There are no particular challenges in obtaining bank account information.

164. Most ML cases in the period under review were instigated in conjunction with an underlying predicate offence. While law enforcement authorities appear to have become more active in looking for ML elements during the investigation of a predicate offence, in most cases ML is still viewed as an ancillary crime to the predicate offence. Triggers for the instigation of a case are generated by the operative investigation departments situated within the various law enforcement authorities. Information is gathered through the application of the measures under the LOIA, but also through the media and informants. The authorities stated that there are significant challenges in pursuing ML cases where the predicate offence is committed outside Armenia. They appeared to suggest that charges of ML in Armenia would only be brought where a decision by a foreign court exists in relation to the underlying predicate crime.

165. As indicated under Immediate Outcome 6, notifications disseminated by the FMC very rarely lead to a pre-trial investigation, despite the fact that law enforcement authorities were satisfied with the quality of FIU notifications. However, there are strong indications suggesting that law enforcement authorities may not always follow up on an FMC notification where the link between the ML activity and the predicate offence is difficult to establish.

166. The authorities have not developed joint investigations to a significant extent and have not established task forces to investigate ML. As a rule, the Investigative Committee and the Ministry of Finance (in charge of tax and customs administration) investigate those predicate offences falling within their competence and, where ML is identified, a case is instigated and transferred to the NSS. The adoption of a more integrated approach between the various competent authorities in Armenia would result in a higher incidence of ML cases being identified. It would also extend the scope of investigations and result in more meaningful ML convictions being achieved.

167. Turning to the institutional framework, it appears that all the relevant law enforcement authorities are adequately structured and resourced in terms of staff. The evaluation team was satisfied with the level of commitment and professionalism displayed by the representatives met on-site. However, despite the fact that training on the identification and tracing of proceeds has been provided, the evaluation team was not convinced that there is adequate expertise in Armenia to conduct financial investigations and pursue complex ML investigations. The evaluation team did not find any evidence that corruption at the level of law enforcement and the judiciary has had an impact on the outcome of ML investigations and prosecutions. No obstacles were identified in relation to the pre-trial and trial procedures which could have the potential of impacting negatively on the investigation and prosecution of ML.

Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

168. The shortcomings identified by the evaluation team with respect to Armenia's assessment of risks under Immediate Outcome 1 have a bearing on the extent to which ML activity is being investigated and prosecuted consistent with the country's threats and risk profile and national AML/CFT policies. However, it should be emphasised that the evaluation team does not consider Armenia to be at major risk of ML and the results achieved by the authorities within the law enforcement framework should be assessed consistently with the global (moderate) level of risk in the country.

169. Given that the impact of economic crime was underestimated in the NRA, it is difficult to determine the extent to which the law enforcement effort to investigate and prosecute ML is in line with the overall ML threat in Armenia. At a more granular level, the evaluation team found that there is insufficient focus on ML associated with tax evasion. The size of the shadow economy and the widespread use of cash significantly increase the potential of tax evasion. However, there is no co-ordinated effort to curtail this phenomenon and the laundering of proceeds generated by this offence. Additionally, practitioners did not demonstrate an adequate awareness of money laundering typologies that flow from a cash-based economy (e.g. purchase of real estate using cash). Although, the authorities have considered the threat of organised criminality domestically, they have not explored the degree to which proceeds generated by foreign organised criminal groups are introduced into the Armenian financial system for laundering purposes. There are indications that this threat deserves further attention. The customs authorities have taken certain action towards detecting cash smuggling – although never linked to ML suspicions – through the borders. Further efforts should be made in this respect. Corruption and related ML do not appear to receive sufficient focus, notwithstanding the fact that corruption is present at various levels in the country.

170. As to the risks identified in the NRA, most law enforcement authorities met on-site confirmed that some form of discussion was held at institutional level to bring the results of the NRA to the attention of all law enforcement officers involved in the investigation of ML and predicate offences. However, little evidence was found that law enforcement bodies focus consistently on these higher-risk areas. No sectorial policy documents defining AML/CFT threats or vulnerabilities (and the measures to address them) have been presented to the evaluation team. In addition, except for representation in the Interagency Committee, there is no further (operational-level) mechanism for the development of law enforcement objectives and policies based on the findings of the NRA. Although some initiatives to allocate resources for high risk areas have been highlighted (e.g. resources have been increased at police level for combating cybercrime), such actions seem to have been generated by the need to mitigate operational risks in the field, rather than a coordinated policy focus by each investigative body on risk areas identified by the NRA. On-site interviews only confirmed these conclusions, as investigative bodies (including the NSS) indicated that Armenian legislation is the main guide for their activities.

171. The assessment team did however note positively one instance where operational activities are driven by the level of risk identified at institutional level. The GPO sees cybercrime as one of those posing the highest ML threat. Strategic decisions were taken by the governing Council to ensure that the objectives and activities of the GPO are consistent with the evolving risks posed by cybercrime. A specialised unit dealing with cybercrime was established. A binding decision concerning cybercrime was issued by the Council to be implemented by all regional offices of the GPO. The Justice Academy provides ongoing training to judges and prosecutors on the particularities of cybercrime. This good practice should be followed with respect to ML and all other major proceeds-generating predicate offences.

Types of ML cases pursued

172. In the period under review, the Armenian courts secured 13 final ML convictions and 2 acquittals, which represent some progress since the previous round[59]. While at face value the success rate in prosecuting ML appears to be high (13 convictions out of 15 indictments), on closer inspection, it is immediately evident that in all cases, but one, ML was prosecuted together with the domestic predicate offence (see the table below). No third party ML convictions were achieved, despite the existence of certain conditions in Armenia (e.g. weak regulation of lawyers, notaries and real estate agents and the purchase of real estate in cash) which increase the risk of, and facilitate, laundering by third parties. One conviction for autonomous ML was secured by the courts in 2014. Overall, these results suggest that the authorities have not been very effective in prosecuting and convicting offenders for different types of ML activity. The authorities appear to have targeted the comparatively easy self-laundering cases mainly involving domestic predicate offences.

	Offence (Article in Criminal Code)	**Sentence for each offence (imprisonment[60])**	**Concurrent sentence**
1.EKD/0090/01/09	Theft (177)	5 years	9 years
	ML (190)	7 years	
2. LD/0144/01/10	Theft committed by means of computer (181)	8 months	1 year
	ML (190)	8 months	
3. SD/0072/01/10	Defendant 1: Squandering or embezzlement (179)	4 years	7 years
	ML (190)	6 years	
	Defendants 2 - 6: Abuse of authority by the employees of commercial or other organization (214)	2 years	Awarded amnesty
4. GD/0023/01/10	Defendant 1: Squandering or embezzlement (179)	5 years	9 years
	ML (190)	7 years	
	Defendant 2: Squandering or embezzlement (179)	4 years	7 years
	ML (190)	6 years	
5. GD5/0038/01/10	Defendant 1: Swindling (178)	2 years	12 years
	Squandering or embezzlement (179)	6 years	
	ML (190)	9 years	
	Defendant 2: Abuse of authority by the employees of commercial or other organization (214)	3years, 6 months	3 years and 6 months
	Defendant 3: Swindling (178)	2 years	5 years and 6 months
	Squandering or embezzlement (179)	5 years	
	ML (190)	5 years	
	Defendants 4 - 7: Accomplices to crime	3 years	Awarded amnesty
	Defendant 8: Swindling (178)	3 years	Awarded amnesty
6. EKD 0088/01/11	Theft (177)	5 years	9 years
	ML (190)	6 years	
7. EAND/0071/01/11	Theft (177)	5 years	8 years
	ML (190)	6 years	
	Manufacture and sale of forged payment documents (203)	7 years	

[59] At the time, only 2 ML convictions had been achieved.
[60] The number and value of confiscation orders issued by the courts are set out in the table under Immediate Outcome 8.

8.EKD 0319/01/10	Defendant 1: ML (190)	8 years	11 years
	Swindling (178)	6 years	
	Forgery, sale or use of forged documents, stamps, seals, letter-heads, vehicle license plates. (325)	2 years	
	Defendant 2: Swindling (178)	5 years	Sentence suspended for 5 years
	Forgery, sale or use of forged documents, stamps, seals, letter-heads, vehicle license plates. (325)	1 year	
9.EKD 0056/01/12	Theft committed by means of computer (181)	3 years	6 years; sentence suspended for 3 years
	Infliction of damage to property by deception or abuse of confidence (184)	1 year and 6 months	
	ML (190)	3 years	
10. EKD/0252/01/11	Theft (177)	6 years	9 years
	ML	8 years	
11. LD/0040/01/13	ML (190)	2 years	2 years and 3 months
	Theft committed by means of computer (181)	6 months	
12. EKD/0044/01/13	Theft (177) part 2 Theft (177) part 3	1 year 3 year	7 years
	ML	5 years	
13. ARD/0071/01/14	Autonomous ML (190(1))	2 years and 6 months	2 years and 6 months

173. The one autonomous ML conviction secured by the courts does not constitute a significant achievement. An examination of the case reveals that the accused had admitted to committing the predicate offence, which involved the theft of credit card details and the unauthorised withdrawal of EUR 520. The court judgement itself goes into a detailed account of the predicate offence which generated the proceeds and provides a very clear link between the laundering activity and the underlying crime. Although the accused was not convicted for the predicate offence, the authorities did not face any challenges in proving that laundered property derived from a criminal activity. As already stated, while there are no formal obstacles for the prosecution of autonomous ML, it appears that the authorities do not press ML charges unless there is clear evidence that the predicate offence was committed and that the proceeds originated from that predicate offence. Indeed, the court's decision in acquitting the accused persons in two cases is likely to have been driven by this reasoning.

174. There were no ML convictions for legal persons, since corporate criminal liability does not apply in Armenia. Some representatives met on-site appeared to suggest that, on a number of occasions, criminal proceedings (most likely in relation to a predicate offence) had to be terminated because of the absence of this form of liability. A number of challenges were cited in this context, such as the difficulty in determining whether an offence was committed for the benefit of the legal person or for the benefit of the directors. These representatives expressed strong views in favour of the introduction of corporate criminal liability, indicating that this would greatly enhance their activities, particularly in targeting crimes of economic nature.

175. There is a degree of divergence between the predicate offences underlying the ML convictions, which were theft, squandering/embezzlement, cybercrime and swindling, and the most common proceeds-generating offences in Armenia (as set out in the NRA), which were swindling, theft, tax evasion, contraband and squandering/embezzlement. The fact that no ML convictions were achieved in relation to tax offences and contraband (but also corruption[61]) raises significant concern, in light of the threat posed by these offences. Additionally, only half the ML cases involved

[61] Which was found by the evaluation team to pose a ML threat, despite the findings of the NRA

particularly large amounts[62] (in excess of EUR 5,400), indicating that the ML offence is not being used as effectively as possible to disrupt the activities of those who are profiting most from crime.

176. The laundering activities identified in those cases where a conviction was secured followed a similar, somewhat simple, pattern. Generally, the illicit proceeds were deposited into bank accounts held by the predicate offender and then transferred to other bank accounts, in one or more operations, held by the same person or third parties, with the intention of concealing or disguising the origin of the funds. The (ab)use of electronic payment systems also featured in a number of cases. This supports the evaluator's conclusions that law enforcement authorities generally pursue less complex ML cases, where the movement of proceeds may be traced without necessarily carrying out a full-scope financial investigation.

177. The evaluation team examined the speed of the criminal justice system with regard to ML. It was found that, on average, an investigation of a predicate offence or ML is carried out within 6 months, while court proceedings are generally concluded within 3 months. Where the assistance of other experts (such as accountants) is needed, the investigation could take up to 1 year, while court proceedings would be concluded within 8 months. The authorities stated that the statute of limitations in Armenia has never had an adverse effect on the investigation or prosecution of ML. An example was referred to where an offender laundered funds deriving from a predicate offence committed outside of the prescribed period. In that case, the authorities would still be able to institute ML proceedings against the offender.

Effectiveness, proportionality and dissuasiveness of sanctions

178. Article 190 of the Criminal Code envisages three different levels of sanctions, depending on the gravity of the ML offence. Self-laundering is punishable by a term of imprisonment of 2 to 5 years. Where the offence involves large amounts or is committed with prior agreement among a group of people, it is punishable by a term of imprisonment of 5 to 10 years, including confiscation, where applicable. Where the offence involves especially large amounts, is committed by an organised group or through the abuse of an official position, it is punishable by a term of imprisonment of 6 to 12 years, including confiscation, where applicable.

179. The statistics indicate that the courts appear to have adopted a strict application of the sentencing provisions under Article 190. In most cases, the courts applied sentences at the higher end of the scale. Additionally, the sentence imposed for the ML offence was generally higher than the sentence imposed for the predicate offence, which had the effect of incrementing the resulting concurrent sentence. Considering the type of ML offences that are being pursued (mainly self-laundering), it was concluded that the sanctioning regime is not being applied in the most appropriate and effective manner to target autonomous and third party ML and dissuade potential criminals from carrying out proceeds generating crimes and ML.

Extent to which other criminal justice measures are applied where conviction is not possible

180. Since Armenian legislation does not provide for the criminal liability of legal persons, the evaluation team sought to determine whether any other criminal justice measures are applied by the authorities where a ML case involves legal persons. During on-site interviews, representatives of the judiciary referred to some examples, involving embezzlement and fraud, where persons acting on behalf of a legal person were successfully prosecuted, although they could not state with certainty whether these cases were common. It was also noted that although administrative sanctions for legal persons were introduced in the AML/CFT Law in 2014, none have been imposed so far. The effectiveness of this regime could not therefore be assessed.

[62] 'Particularly large amounts' is a term used in Armenia's National Risk Assessment (NRA) to refer to those offences that generate proceeds in excess of AMD 3 million (approximately EUR 5,400).

181. The authorities confirmed that, where a conviction for ML is not possible, for instance where the defendant has absconded or has died in the course of criminal proceedings, the courts may order the confiscation of criminal proceeds under Article 103.1 of the Criminal Code on forfeiture. This situation has never arisen in practice and, therefore, the implementation of this provision has never been tested.

Overall Conclusions on Immediate Outcome 7

182. Armenia has made some efforts to ensure that ML offences are investigated and offenders are prosecuted. There are indications that law enforcement authorities have become more active in looking for ML elements during the investigation of a predicate offence. However, the large majority of ML convictions achieved in the period under review were for self-laundering, mainly involving domestic predicate offences. Parallel financial investigations are not conducted as a policy objective, a result of which is that the potential for identifying ML cases is limited. While there are no legal obstacles to the investigation of ML, the practitioners generally assume that ML cases require a high evidentiary threshold and a level of certainty that the laundered proceeds derived from a specific predicate offence. It was not demonstrated that the types of ML activity being investigated and prosecuted are consistent with the country's ML risks. While the sanctions imposed appear to be dissuasive, they are not applied in an effective manner in the full range of significant proceeds-generating cases.

183. **Overall, Armenia has achieved a low level of effectiveness with Immediate Outcome 7.**

Immediate Outcome 8 (Confiscation)

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

184. The Armenian authorities do not appear to pursue the seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent[63] value as a policy objective, despite the existence of a 2009 decision by the GPO calling on prosecutors to target the proceeds generated by predicate offences. As noted, this conclusion flows from the fact that the authorities do not generally conduct parallel financial investigations to identify, trace and evaluate property that is subject to confiscation. This is also evident from the results achieved by the authorities in the period under review.

Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

185. The number of confiscation orders made by the courts and the volume of property that was confiscated is indicated in the table below. The evaluation team was not presented with information on the estimated cost of reported criminal offences and was therefore not in a position to make a reasoned judgement on the real impact of the provisional and confiscation measures taken in Armenia. However, it is the view of the evaluation team that, although some encouraging progress has been made since the previous evaluation[64], the results achieved remain rather modest in light of the risks present in the country. The highest confiscation order was made in 2012 and amounted to AMD 238.6 million (approximately EUR 460 thousand). The average confiscation order in the other cases amounted to AMD 10.9 million (approximately EUR 20 thousand). All confiscation orders were made under Article 55 of the Criminal Code (i.e. imposed as a criminal punishment measure rather than to deprive criminals of property obtained through the commission of a crime, as envisaged under Article 103.1 of the Criminal Code – see Technical Assessment of Recommendation 4). The courts have ordered the confiscation of instrumentalities and confiscation for property of equivalent value, although the value was limited (see the table below). The evaluation team was not provided

[63] Hereinafter collectively referred to as 'property subject to confiscation'

[64] At the time, property had been confiscated in only one case. The value of confiscated property was AMD 4,6 million (approximately EUR 9,100 at the 2009 average annual EUR/ AMD exchange rate at 507)

with statistics on confiscations that have been ordered in relation to proceeds-generating offences which did not include an indictment for ML.

	2010	2011	2012	2013	2014
Number of confiscation orders (ML convictions)	0	2	6	2	1
Value of proceeds of crimes, instrumentalities or property of equivalent value confiscated *	0	AMD 26,113,579 (EUR 50,344)	AMD 238,697,785 (EUR 460,185)	AMD 25,079,666 (EUR 48,351)	AMD 283,600 (EUR 547)
Number of confiscation orders (convictions for predicate offences)	0	0	0	0	0
Value of seized proceeds *	0	AMD 2,628,000 (EUR 5,067)	0	AMD 774,000 (EUR 1,492)	0

* Euro equivalent of the relevant proceeds has been calculated on the basis of average annual EUR/ AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

186. The table below provides a breakdown of the confiscation orders made by the courts in relation to each ML conviction secured in the period under review. In a few cases, in addition to the confiscation order, the court ordered the offender to pay compensation to the bank for losses incurred. It appears that in most cases the confiscation order covered the amounts of proceeds generated by the underlying offence and did not extend to other property of the offender.

	Offence (Article in Criminal Code)	Confiscation *
1.EKD/0090/01/09	Theft (177)	AMD 17,163,000 (EUR 34,603) Illicit proceeds
	ML (190)	
2. LD/0144/01/10	Theft committed by means of computer (181)	No confiscation order AMD 344,000 (EUR 694) as compensation to a bank for losses incurred
	ML (190)	
3. SD/0072/01/10	Defendant 1: Squandering or embezzlement (179)	No confiscation order AMD 340,216,012 (EUR 685,919) as compensation to a bank for losses incurred
	ML (190)	
	Defendants 2 - 6: Abuse of authority by the employees of commercial or other organization (214)	
4. GD/0023/01/10	Defendant 1: Squandering or embezzlement (179)	AMD 8,950,579 (EUR 18,046) AMD 16,864,515 (EUR 34,001) as compensation to a bank for losses incurred
	ML (190)	
	Defendant 2: Squandering or embezzlement (179)	AMD 5,637,784 (EUR 11,367) as compensation to a bank for losses incurred
	ML (190)	
5. GD5/0038/01/10	Defendant 1: Swindling (178)	AMD 10,488,440 (EUR 21,146)
	Squandering or embezzlement (179)	
	ML (190)	
	Defendant 2: Abuse of authority by the employees of commercial or other organization (214)	
	Defendant 3: Swindling (178)	
	Squandering or embezzlement (179)	
	ML (190)	
	Defendants 4 - 7: Accomplices to crime	
	Defendant 8: Swindling (178)	
6. EKD 0088/01/11	Theft (177)	AMD 5,416,398 (EUR 10,442)
	ML (190)	
7. EAND/0071/01/11	Theft (177)	AMD 34,572,000 (EUR 66,651)

	ML (190)	
	Manufacture and sale of forged payment documents (203)	
8.EKD 0319/01/10	Defendant 1: ML (190)	AMD 176,000,000 (EUR 354,839)
	Swindling (178)	
	Forgery, sale or use of forged documents, stamps, seals, letter-heads, vehicle license plates. (325)	
	Defendant 2: Swindling (178)	
	Forgery, sale or use of forged documents, stamps, seals, letter-heads, vehicle license plates. (325)	
9.EKD 0056/01/12	Theft committed by means of computer (181)	AMD 237,453 (EUR 460)
	Infliction of damage to property by deception or abuse of confidence (184)	
	ML (190)	
10. EKD/0252/01/11	Theft (177)	AMD 11,983,494 (EUR 23,103)
	ML	
11. LD/0040/01/13	ML (190)	AMD 461,500 (EUR 848)
	Theft committed by means of computer (181)	
12. EKD/0044/01/13	Theft (177) part 2 Theft (177) part 3	AMD 24,618,166 (EUR 45,246)
	ML	
13. ARD/0071/01/14	Autonomous ML (190(1))	AMD 283,600 (EUR 514)

* Euro equivalent of the relevant amounts has been calculated on the basis of average annual EUR/ AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

187. The legal framework governing confiscation (Articles 55 and 103(1) of the Criminal Code) and seizure (Article 232 of the Criminal Procedure Code) of property is largely in line with international standards. Nevertheless, the evaluation team noted a degree of uncertainty among practitioners regarding the interpretation of these legal provisions, especially insofar as the confiscation of indirect proceeds and laundered property is concerned. There has never been a confiscation order for indirect proceeds. It appears that in the one autonomous ML case, the court ordered the confiscation of the laundered property, which, although only amounting to EUR 520, indicates that the courts appear to be inclined to interpret Article 103.1 of the CC as extending to the laundered property regardless of the presence or absence of a conviction for the predicate offence that generated the proceeds. The evaluation team was advised that Armenia never made or received requests to and from other countries for repatriation or sharing of confiscated assets.

188. Provisional measures to prevent the dealing, transfer or disposal of property subject to confiscation are applied on the basis of Article 233(1) (1) of the CPC, which is applicable not only in relation to the suspect or accused person but also to any other person holding the property. The table below provides data on the entire mechanism from the moment suspicious funds are identified through to confiscation ordered by the courts upon conviction. The value of property seized by law enforcement authorities appears to be rather low, which is not surprising given that the authorities very rarely seek to identify and trace assets in the course of an investigation.

	2010	**2011**	**2012**	**2013**	**2014**	**Total**
Funds suspended by CBA Board						
AMD (EUR)	113,137,702 (228,100)	0 -	23,003,274 (44,545)	54,893,971 (100,889)	0 -	191,034,947 (373,535)
Funds suspended by financial institutions						
AMD (EUR)	73,859,840 (148,911)	69,565,929 (134,116)	46,991,082 (90,997)	94,878,627 (174,377)	38,187,900 (69,168)	323,483,378 (617,570)

* Euro equivalent of the relevant funds has been calculated on the basis of average annual EUR/ AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

189. The seizure and confiscation regime may also be impaired to some extent by the unduly cumbersome conditions imposed by LOIA for the use of its Article 29 (see analysis under IO6). Furthermore, it is doubtful whether the authorities have sufficient expertise to seize and confiscate proceeds deriving from foreign predicate offences and proceeds which have been transferred from outside of Armenia, since this has never taken place in practice. No examples were provided to the evaluation team of cases where confiscated property was shared with other states pursuant to asset-sharing agreements. Concerns remain about the authorities' ability to seize and confiscate property belonging to legal persons, given that corporate criminal liability does not apply in Armenia.

190. The possibility of introducing non-conviction based confiscation within the Armenian legal system was discussed by the Interagency Committee. It was concluded that this type of confiscation would contradict the fundamental principles of Armenian law. The evaluation team urges the authorities to re-consider this matter, since in their view it would greatly enhance the effectiveness of the confiscation regime. As stated under Immediate Outcome 7, more than half of the ML cases instigated by law enforcement authorities had to be terminated due to the fact that the suspect or accused had absconded or could not be apprehended.

191. Despite having signed and ratified the Warsaw Convention without reservations, Armenia has not adopted provisions providing for the reversal of burden of proof concerning the lawful origin of alleged proceeds or other property liable to confiscation. As a result, law enforcement authorities do not target unexplained wealth which is not manifestly linked to a particular criminal offence. The authorities should consider introducing this mechanism in their legal system to reinforce the existing confiscation regime.

192. The management of seized property during the pre-trial stage falls within the responsibility of multiple agencies according to the nature of the attached property. No further information was provided to the evaluation team on the manner in which this is done in practice. Although Armenia has set up a Compulsory Enforcement Service, this mainly involves the execution of confiscation orders. The systematic management of property has not yet been addressed to any great degree. Additionally, there are doubts regarding the time limit (1 year) concerning the execution of confiscation imposed as a result of criminal proceedings as stipulated in Article 23 of the Law on Compulsory Implementation of Judicial Acts.

Confiscation of falsely or undeclared cross-border transaction of currency/BNI

193. As stated in the introduction, Armenia shares borders with Georgia in the north, Iran in the south, Turkey in the west, and Azerbaijan in the south and in the east. Of these, only the borders with Georgia and Iran are open. There is only one international airport in the country, which operates from the capital city, Yerevan. Despite the limited borders, the evaluation team took into consideration the risk of smuggling of cash through the borders emanating from the extensive shadow economy and the widespread use of cash in the country. Nonetheless, the authorities are of the view that the shadow economy, which is believed to be predominantly linked to tax evasion, and the use of cash, which is considered to reflect certain cultural/ traditional realities in the country, in practice do not increase the risk of cash smuggling through the Armenian borders, also since the flow of cash is generally incoming rather than outgoing.

194. Armenia has implemented an adequate cash declaration system with a potential to address the existing risks. Before 1 January 2015, any export of cash exceeding AMD 5 million (approximately EUR 9,000) was prohibited. No limits were imposed for the importation of cash, although a customs declaration for an amount exceeding EUR 15,000 was required. Following Armenia's accession to the Eurasian Economic Union, the prohibition on the exportation of cash was lifted and instead a requirement to submit a declaration for the import/export of cash exceeding USD 10,000 was introduced. The information contained in the declarations is entered into an electronic system, which is subject to a risk analysis by a special division within the Customs Administration. The analysis is conducted to identify high-risk individuals, which is communicated to the FMC. X-ray technology and, whenever necessary, personal searches are used at the borders to identify undeclared cash.

195. The legal provisions in force permit the authorities to stop or restrain currency or bearer negotiable instruments for a reasonable period of time in order to ascertain whether ML/FT evidence may be found. A special division within the NSS is responsible with the border control of Armenia. Both customs and NSS officials are present at each border point and they are mandated to act as instigation bodies. Based on the provisions of the CPC, in cases where ML/FT suspicions arise, the NSS is authorised to question a person for three hours, in order to ascertain whether grounds for instigating a case are present. Once the case is instigated, an up to 72 hour detention period (based on the decision of the inquest body) becomes available. Also, arrest of property, including cash and BNIs, can be immediately applied.

196. Figures indicate an increasing trend in the number of cash declarations and in the volume of cash involved. According to the authorities, inbound transportation of cash mainly relates to Armenian nationals returning from seasonal work abroad (mostly from the Russian Federation) or representatives of the Armenian Diaspora, while outbound cash is transported by businesses involved in the importation of small-scale mass-market merchandise for retail in Armenia. The authorities reported that in 2012 around 2.19 million persons entered the territory of Armenia (this figure includes multiple entries by the same persons; i.e. the number of individuals having entered the country would be certainly lower). The highest percentage (over 50%) consisted of Armenians, followed by Georgian, Russian and Iranian citizens. An analysis was carried out indicating that cash movement through the border consisted of small amounts which, if not intended for personal use, were physically transported due to the inability of small businesses to make payments through the financial system for commercial purposes (only 4-5 cases exceeded the EUR 10,000 threshold).

Year	Number of declarations	Currency	Amount
2010	19	USD	828,900
2011	21	USD	839,300
2012	11	USD	525,300
2013	79	USD	8,923,314
		EUR	338,665
		RUR	722,6420
2014	118	USD	10,169,726
		EUR	449,790
		GBP	23,000
		RUB	6,690,910

197. The Armenian authorities confirm they have identified falsely declared/undeclared cash/BNIs and even cases of smuggling for such commodities, which is supported by the statistics provided to the evaluation team. No ML/FT suspicions at the Armenian borders have been identified. During interviews with the NSS it transpired that in one particular case around 600.000 undeclared USD were discovered at the border with Iran. However, this case apparently related to a controlled delivery operation and does not feature in the statistics provided by the Customs Administration. It is understood that the Customs Administration has confiscated sums at the border as reflected in the statistics provided to the assessment team.

Consistency of confiscation results with ML/FT risks and national AML/CFT policies and priorities.

198. Since the NRA was issued towards the end of 2014 and there were no confiscation orders thereafter, it is difficult for the evaluation team to determine whether the confiscation results reflect the assessment of ML/FT risks and national AML/CFT policies and priorities. Nevertheless, it is the view of the evaluation team that the results achieved so far by the authorities do not appear to be proportionate with the level of ML threat present in the country (see Chapter 1 for a description of ML risks). The absence of an overarching national policy to target illicitly generated funds and unexplained wealth and the various (including legal) restrictions, which hinder the seizure and confiscation of proceeds, have a serious negative impact on the effectiveness of the system.

Overall Conclusions on Immediate Outcome 8

199. Armenia's system of provisional measures and confiscation does not demonstrate many characteristics of an effective system. The Armenian authorities do not appear to pursue the seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent value as a policy objective. The system is constrained by the absence of parallel financial investigations to identify, trace and evaluate property that is subject to confiscation, at the earliest stages of an investigation. Confiscation has been ordered for most ML convictions secured in the period under review. However, it is unclear whether the property subject to confiscation had been previously seized. The courts have ordered the confiscation of instrumentalities and confiscation of property of equivalent value, although the value was limited. There is a degree of uncertainty among practitioners concerning the confiscation of indirect proceeds. In the one autonomous ML case, the court ordered the confiscation of the laundered property, which indicates that the courts appear to be inclined to interpret the relevant provisions of the CC as extending to the laundered property regardless of the presence or absence of a conviction for the predicate offence that generated proceeds. The authorities have confiscated some funds at the borders. Comprehensive statistics on confiscations in non ML-related cases were not available.

200. **Overall, Armenia has achieved a low level of effectiveness with Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

The authorities have concluded that the risk of FT in Armenia is very low. The evaluation team did not come across any concrete information to suggest otherwise. There have been no investigations, prosecutions or convictions for FT. However, the evaluation team was assured that given the potential national security issues attaching to terrorism and FT activities, the National Security Service with close cooperation with the FMC ensure that the financial aspects of any suspected terrorist activities would be followed where necessary.

The authorities have developed an innovative system whereby the FMC remotely inputs updates into financial institutions' databases through an algorithm installed within their IT systems to ensure that any matches with FT and PF UNSCRs are automatically detected. There have been no matches so far on either FT or PF UNSCRs. Guidance for freezing property of designated persons and entities, providing access to frozen property and related actions has been posted on the FMC's official website and circulated among reporting entities and their supervisors.

The MoJ appears to be in possession of sufficient information on the activities, size and other relevant features of the NPO sector. However, no formal domestic review has yet been undertaken to determine if there is a subset within the sector which may potentially be at risk of being misused for FT. The risk-based supervision of the sector is in the process of being strengthened. Sanctions have been imposed on NPOs for breaching their statutory obligations.

Armenia is taking a number of very meaningful steps to address all the issues surrounding proliferation financing. Those involved at governmental level in licensing and export control of proliferation sensitive material seem well attuned to the risks, and are taking their responsibilities seriously. Intelligence and information from their work would benefit from being brought into the Interagency Committee for AML/CFT on a more regular basis. There is a system in place for PF sanctioning and the evaluators understood that the private sector appreciated that the requirements of the relevant UNSCRs should be implemented. The evaluators concluded nonetheless that the legal regime based as it is on the AML/CFT Law could be open to possible challenge. This has been discussed with the Armenian authorities, who recognise that this issue, while not perceived by either the public or private sectors as an impediment to the effective implementation of PF-related requirements, could be quickly fixed.

Recommended Actions

Immediate Outcome 9

- Corporate criminal liability for FT offences should be introduced together with dissuasive and proportionate sanctions.
- The authorities should continue monitoring closely Armenia's open borders to ensure that they are not misused for FT purposes.
- The authorities should formalise the practice for conducting proactive parallel financial investigations in FT cases (e.g. by way of developing a policy paper for involved agencies), and conduct on-going trainings to the relevant law enforcement units (NSS).

Immediate Outcome 10

- Armenia should conduct a formal review of the entire NPO sector to identify which subset of entities falls within the FATF definition of NPO and then identify which NPOs in the subset could potentially pose a higher risk of FT.

- The MoJ as the supervisor of NPOs should have some discretion in determining the type of questions to be asked during on-site inspections, depending on the level of risk posed by the NPO.

Immediate Outcome 11

- PF sanctioning needs to be brought more explicitly into the AML/CFT Law to avoid any possible legal challenges to sanctions under R.7.
- The FMC and the Interagency Committee could usefully be made aware on a routine basis of decisions by other governmental bodies on licensing and refusals of the export of proliferation-sensitive material, technologies and intellectual property.
- The work of relevant governmental bodies on licensing and export control needs to be brought into the policy-making of the Interagency Committee on a formalised basis to ensure better coordination and sharing of information and intelligence across all relevant competent authorities on R.2 and 7 issues.
- The FMC and the supervisory authorities should be more actively involved in raising the private sectors' awareness on PF issues generally, including ways in which PF sanctions could be evaded.

The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The recommendations relevant for the assessment of effectiveness under this section are R.5-8.

Immediate Outcome 9 (FT investigation and prosecution)

Prosecution/conviction of types of FT activity consistent with the country's risk-profile

201. The Armenian authorities have not prosecuted any type of FT activity and no convictions for the offence of FT have been secured in the period under review. As discussed in Chapter 1, the authorities have conducted an in-depth assessment of the potential of risk of FT in Armenia and concluded that the risks are very low. The evaluation team did not come across any information suggesting that the conclusions of the authorities are unreasonable. The absence of prosecutions and convictions for FT therefore appears to be commensurate with the risk-profile of the country.

FT identification and investigation

202. The FMC analyses incoming STRs in order to detect potential suspicions of FT, such as matches with the UNSCR lists. In recent years, the FMC received a small number of STRs related to UNSCRs, which resulted in false positives (there was no actual match with persons or entities designated by the UNSC). In addition, the FMC systematically monitors threshold transaction reports in order to identify transfers of funds from countries and territories identified by the FATF as posing a higher risk with a potential FT link.

203. The NSS is the law enforcement agency authorised to investigate suspicions of terrorism or FT. The NSS stated that no cases with indications of FT have ever been investigated within the reference period, although permanent and large scale operational intelligence work carried out (supported by the FMC, as necessary) to detect any indicia of potential terrorism or FT activity. The absence of any FT investigations was one of the factors underlying the very low risk rating of FT in the 2014 NRA. The evaluation team was informed that the NSS is constantly monitoring for possible terrorism activity within the borders of Armenia and thus the team were assured that terrorism activity would be picked up. The evaluation team was also assured by authorities that although the NSS has a limited practice in conducting parallel financial investigations in relation to criminal predicate offences (as was expressed under IO 7), in cases of national security and grave crimes such as terrorism they do take all needed actions to use financial intelligence proactively, can develop intelligence into evidence and trace funds. It is however recommended, as a measure to ensure further improvement of the system, that the authorities formalise the practice of parallel financial

investigations regarding FT (e.g. by way of developing a policy paper for involved agencies) and conduct on-going training to the relevant law enforcement (NSS).

204. The evaluation team was informed that the presence of NSS at the open borders ensures that the transit of cash in and out of Armenia is under constant surveillance. As stated under IO 8, the authorities have demonstrated that they are effective in detecting undeclared cash through the borders.

FT investigation integrated with -and supportive of- national strategies

205. The Armenian authorities indicated that to date, no proactive FT financial investigations have been formally conducted. As a result, it appears that no FT investigations were integrated with or used to support national counter-terrorism strategies and investigations. According to the authorities, counter-terrorism operational monitoring takes place in the country and where appropriate, any terrorist investigation would always include inquiries into the financing of terrorist activities.

Effectiveness, proportionality and dissuasiveness of sanctions

206. The sanctions provided in the law for FT offences appear to be proportionate and dissuasive. With respect to legal persons, sanctions seem to be very limited, as stated under Recommendation 5.

Overall conclusions on Immediate Outcome 9

207. The evaluation team has taken into consideration the fact that the absence of formal investigations, prosecutions and convictions for FT should not of itself lead to a conclusion that major improvements to the system are required if they are satisfied that the country seems to have sufficient/appropriate mechanisms and practices to investigate the financial aspect of terrorist activities when necessary. This appears to be the position of the assessment team.

208. **Armenia has achieved a substantial level of effectiveness for Immediate Outcome 9.**

Immediate Outcome 10 (FT preventive measures and financial sanctions)

Implementation of targeted financial sanctions for FT without delay

209. The mechanism for freezing terrorist assets under UNSCRs 1267 and 1373 is set out under Article 28 of the AML/CFT Law. In addition, the CBA issued rules setting out the procedure for proposing designations under UNSCR 1373, for de-listing of terrorism-related persons and for unfreezing property of terrorism related persons.

210. In relation to UNSCRs 1267, Article 28(1) of the AML/CFT Law states that property owned or controlled, directly or indirectly, by terrorism-related persons included in the lists published or in accordance with the UNSCR shall be subject to freezing by customs authorities and reporting entities without delay and without prior notice. Any designations made under UNSCR 1267/1989 and 1988 apply automatically within the territory of Armenia. In practice, the FMC maintains a database on persons or entities listed under UNSCR 1267/1989 and 1988. On a daily basis, a staff member of the FMC checks the UNSC website for any new designations. Where a new designation is made by the UNSC, the FMC publishes the update on its website and a notification is circulated to the financial and non-financial sector and to the Customs Administration. The time between the FMC receiving information and putting up the information on the website and its circulation to the reporting entities is estimated as no more than 1 or 2 days. While this may not be squarely within the definition of "without delay" in the Glossary to the Methodology ("ideally within a matter of hours"), the examiners consider it is within the spirit of this definition and is acceptable. The evaluation team was informed that no assets have been frozen yet under UNSCR 1267/1989 and 1988.

211. Armenia has also developed an innovative system whereby the FMC remotely inputs updates into financial institutions' databases through an algorithm installed within their IT systems[65]. Where a match is identified by the system, an automatic notification is generated, which then disables continuation of the transaction and prompts the financial institutions to freeze the assets belonging to the designated persons and submit an STR. The FMC conducts periodic checks on the databases of financial institutions to ensure that designated persons are automatically captured by the system.

212. Turning to UNSCR 1373, in April 2015, Armenia adopted the Rules for Proposing Persons or Entities for Designation under the Lists Published or In Accordance with the United Security Council Resolutions. The rules set out the procedure to be followed in the implementation of Article 28(2) of the AML/CFT Law. The FMC is authorised to propose, either on its own initiative or at the request of competent foreign authorities, persons or entities for designation under UNSCR 1373, where the person or the entity meets the criteria for designation. Given that the rules were adopted very shortly before the on-site visit, an assessment on the effective application of UNSCR 1373 was not possible. The authorities have not yet designated any person domestically under UNSCR 1373. It was indicated that no requests from foreign countries have been made to Armenia to designate a person or entity. In practice, the banks monitor the lists issued in the regulations adopted by the European Union which implement UNSCR 1373. No assets have been frozen under UNSCR 1373.

213. Guidance for freezing property of designated persons and entities, providing access to frozen property and related actions has been posted on the FMC's official website, circulated among reporting entities and their supervisors.

Targeted approach, outreach and oversight of at-risk non-profit organisations

214. The number of legal entities registered in Armenia as non-profit organisations at the end of 2013 stood at around 9,000. Pursuant to Article 51 of the Civil Code, NPOs may take various legal forms. Depending on their activity, NPOs are regulated by the Law on Foundations, Law on Charity, Law on Public Organisations (for NGOs), Law on Political Parties, Law on Trade Unions, Law on Freedom of Conscience and on Religious Organisations, and Law on Condominium.

215. The table below provides an overview of the main types and activities of NPOs operating within Armenia. The authorities do not appear to have conducted a formal review of the entire sector to identify which subset of entities fall within the FATF definition of NPO which, as assessed by the authorities, amount to a few hundred only, and then identify which NPOs in the subset could potentially pose a higher risk of FT. However, all information collected under Article 29 of the AML/CFT Law, as well as the information from the founding documents and annual reports published by NPOs give the authorities an overview of the activities of NPOs. According to the authorities, NGOs are active in the spheres of education, culture, social security, sports, healthcare and agriculture. Some NPOs receive funding from foreign countries, which, according to the authorities, mainly come from the United States of America, Germany and Switzerland mostly through government channels.

Type of NPO	Registered number of NPO	Main activities
NGOs	5000+	Youth activities Tourism Educational activities Gender issues Women's rights Research and development Environmental issues
Foundations	917	
Charities	200	Charitable work
Religious Organisations	48	Collective manifestation of beliefs, Religious activities
Artisan Unions	700	Protection of the rights of employees and working collectives

[65] The algorithm is based on fuzzy logic and is designed to capture partial matches.

Schools	1400	Educational activities
Condominiums	800	Protection of the interests of the communities, residents of apartment buildings, different works regarding the apartment buildings

216. According to the Armenian NRA, the potential vulnerability of NPOs is rated as medium, with a declining trend going forward. The rating is based on the following factors: gaps in the regulation of activities of non-profit organisations, weaknesses in accountability and supervision (in particular, the heterogeneity of the legislative framework across different categories of non-profit organisations), the absence of any accountability requirements in relation to some categories of non-profit organisations, and the practical problems in supervision over these organisations. The authors of the NRA considered the activities, size and other relevant features of the NPO sector and concluded that due to their characteristics it is unlikely that these organizations might be somehow misused for FT purposes. Nonetheless, in the absence of a formal review aimed at identifying the features and types of NPOs that are particularly at risk of being misused for FT or other forms of terrorist support, it is doubtful whether the authorities are in a position to undertake a targeted approach without disrupting legitimate NPO activities.

217. A number of requirements apply indiscriminately to all NPOs by virtue of Article 29(3) of the AML/CFT Law (which was introduced in 2014). NPOs are required to keep (1) information and documents on national and international transactions in such detail so as to permit the authorities to ascertain that the property was used in a manner which is consistent with the purposes of the organisation; (2) identification information of the management of the organisation; (3) a record of the founding documents and management decisions; (4) documents on the financial and economic activities of the organisation. Failure to comply with these requirements is subject to an administrative penalty under the laws regulating the activities of each type of NPO.

218. Under the laws which regulate NPO activity, all NPOs are required to register with the State Register and publish annual reports (except for religious organisations and with regard to the requirement to publish annual reports only). As stated in the analysis of Recommendation 8 in the TC Annex, the registration and other requirements which apply to NPOs vary from one law to another.

219. The Ministry of Justice monitors NPOs' compliance with Article 29 of the AML/CFT Law and the requirements under other relevant laws. In addition to regular monitoring procedures, there is a risk-based monitoring approach regarding the NPOs. The procedures are set out by the Government Decree No 624-N from June 13, 2013[66] on Approving the General Description of the Methodology, the Risk Criteria and the Checklists Used for the Risk-Based Inspections Conducted by the Inspectorate of Legality Control of the Staff of the Ministry of Justice of the Republic of Armenia. Sector-specific, as well as individual criteria are taken into account. The supervisory authority decides on the risk level based on combination of sector-specific risk and individual features of the organization. In addition, sources of financing and projects are taken into account and thoroughly monitored.

220. The evaluation team was informed that the MoJ conducts approximately 40 to 50 on-site inspections annually on the basis of risk. The staff complement of the unit within the MoJ, which is responsible for the oversight of NPOs, comprises five employees. The action plan issued in conjunction with the 2014 NRA does not envisage an increase in the human resources of this unit. The inspection procedure is as follows: firstly the risks are assessed and submitted for the approval of the Minister. After the approval a Minister's order is issued which also provides the framework for the inspection. The NPOs to be inspected are notified within a 3-day period after which an inspection is carried out. The supervisor is not permitted to extend the scope of the pre-approved questionnaire in the course of an on-site inspection. Where a suspicion of criminal activity is detected, the MoJ refers the case to law enforcement authorities.

[66] This entered into force in 2015.

221. Where the MoJ identifies a breach of the requirements, it is empowered to impose sanctions. According to information provided by the authorities, in 2014 the Department for Legitimacy Control of the MoJ initiated a total of 305 administrative proceedings as follows:

- 3 proceedings were triggered by a complaint. As a result:
  a) 1 petition was satisfied and a warning was issued for the manager of the NGO for the violation of domestic legislation (he was ordered to bring the activity of the NGO in accordance with law in the prescribed period);
  b) 1 petition on alleged illegal activity of the NGO was refused because of lack of reason;
  c) 1 petition was related to the illegal activity of the branch of the religious organisation, and the relevant proceedings are still on-going.
- 302 proceedings were triggered on the initiative of the Department for Legitimacy Control of the MoJ. As a result, a warning was issued to the managers of 251 foundations for reporting failures (publishing a report). From among this figure:
  a) 42 proceedings were initiated due to the failure to meet the above requirement in the prescribed period. As a result, 5 proceedings were terminated, and managers of 37 foundations were fined AMD 50 thousand each;
  b) 9 administrative proceedings were initiated due to the failure to meet the above requirement. As a result, managers of 37 foundations were fined AMD 200 thousand each.

222. In 2014, the FMC issued a typology "Financing of Terrorism through Non-Profit Organizations", and published criteria on FT suspicious transactions on its website. The guidance sets out the threats, typologies and indicators for FT through NPOs. A seminar was organised for non-profit organizations and the representatives of their supervisor by the authorities in the period under review. It was noted that the MoJ and the representatives of the NPO sector met on-site were unfamiliar with the FMC's FT typology. This seems to indicate that there is no significant cooperation between the MoJ and the FMC (and other law enforcement authorities).

223. The Armenian authorities indicated that a new regulation concerning NPO supervision is in the process of being drafted, which, in their view, will be instrumental in implementing fully a risk-based approach to the supervision of the NPO sector. The assessment team welcomes this positive initiative, which demonstrates the authorities' recognition of the shortcomings within the sector.

Deprivation of FT assets and instrumentalities

224. Although there is a mechanism in place, Armenia has not identified any positive matches with the UNSCR FT lists and, as a result, has not frozen or confiscated assets or instrumentalities of terrorists, terrorist organisations and terrorist financiers, whether through criminal civil or administrative processes.

Consistency of measures with overall FT risk profile

225. Armenia has concluded that the risk of FT is very low. It is the view of the evaluation team that the measures undertaken so far are consistent with the overall FT risk profile of the country.

Overall conclusions on Immediate Outcome 10

226. Armenia has an appropriate mechanism in place for identifying terrorists, terrorist organisations and terrorist support networks and depriving them of resources and means to financial terrorist activities and organisations. The software implemented by the FMC to update reporting entities' lists of designated persons is a positive aspect of the system. To date, Armenia has not frozen terrorist assets pursuant to UNSCRs 1267 and its successor resolutions and UNSCR 1373. Measures have been taken since the 3rd Mutual Evaluation to strengthen the legal framework regulating the NPO sector. The authorities indicated that they have knowledge of the activities, size and other relevant features of the NPO sector. However, they have not conducted a formal review to

identify if any features and types of NPOs are particularly at risk of being misused for FT or other forms of terrorist support.

227. Armenia has put in place an innovative mechanism to facilitate effective compliance with UNSCR obligations. Measures have been taken to ensure the oversight of the NPO sector, which is being developed further to support a more targeted and risk-based monitoring of the sector as a whole. Thus the evaluators have concluded that these issues should have significant weight in their overall assessment. **Armenia has achieved a substantial level of effectiveness for Immediate Outcome 10.**

Immediate Outcome 11 (PF financial sanctions)

228. There are a range of governmental authorities dealing with the proliferation issue, with ongoing technical assistance from the US and EU authorities. There has been a system in place for at least 6 years for licensing and export controls of proliferation-sensitive goods and technologies, with direct involvement of the Ministry of Economy for dual-use materials, the Ministry of Defence (for military commodities), and the Nuclear Safety Committee (for nuclear material). Six permissions for export of dual-use goods were granted in 2014. None of the permissions were for export either to Iran or DPRK.

229. Armenia is seeking to join the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The local lists of materials and intellectual property subject to licensing and export control arrangements by Armenia appear comprehensive and in line with developing standards under the Wassenaar Arrangement.

230. Armenia has made a consolidated report to the UN in 2012 under UNSCR 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010). Armenia elaborated UNSCR 1540 implementation National Action Plan for 2015-2020 (adopted on February 5, 2015). The document takes stock and outlines a series of concrete steps which range from reviewing already implemented national measures to the coordination of ongoing and anticipated activities. It underpins Armenia's activities, law, regulations in the nuclear, chemical and biological spheres, as well as export control and border security issues.

231. The process of alerting reporting entities on PF designations is the same as for UNSCR 1267, as described under Immediate Outcome 10. So far, no matches have been made with UNSCR PF lists (including no false positives). The assessors were told that such a freeze would be immediate, imposed by the reporting entities or relevant authorities without notice and that this freeze would be of an indefinite duration. The authorities emphasised that it would not be dependent on an STR being submitted to law enforcement and the subsequent institution of criminal proceedings.

232. There are nevertheless some underlying concerns about the legal basis of this system, as noted in the technical analysis, which could adversely impact on its effectiveness once tested in practice. It seems to the assessors that the mechanism for targeted financial sanctions related to PF, based as it is on Article 28 of the AML/CFT law, could be subject to legal challenge, though the Armenian authorities considered this very remote. The evaluators understood that the private sector accepts that a person listed on the UNSCRs related to PF should be subject to freezing under UNSC resolutions. However, to avoid possible legal challenges on the language of Article 28 of the AML/CFT Law, PF targeted sanctions need to be more clearly and explicitly brought into the structure of the AML/CFT law. The authorities confirmed that this can be quickly achieved.

233. The assessors also had some concerns that important intelligence from the work being undertaken by the arms of government and law enforcement handling licensing and export control issues was not routinely being brought into the policy-making which is undertaken by the Interagency Committee. The authorities advised that certain key members of the Interagency Committee, such as the National Security Service, the Ministry of Finance (in charge of tax and customs administration) and the Ministry of Foreign Affairs are also members of the Counter-Proliferation Interagency Commission (as set forth in the Overview of the Institutional Framework under Chapter 1 of this report), thus providing a tentative framework for coordination at operational

level. The Armenian authorities confirmed that there had not been any real cases of information exchange on the PF issue so far.

234. The evaluators were advised in interviews that checks are always made on the end user certificates and other relevant documents provided in these licensing applications. Any permission or refusal involves the prior agreement of the NSS. The Ministry of Economy has refused one application to export dual-use goods to Iran. The evaluators were satisfied that the refusal of this licence had been followed up appropriately by the Ministry of Economy, in conjunction with the National Security Service. Regular inspections were taking place on the applicant company's premises to ensure that disallowed dual-use goods were still in the possession of the company that applied for the licence.

235. While relevant intelligence on goods for which such licenses for export are granted or refused is shared with the Customs Administration for border control purposes, the Interagency Committee appeared not to have been advised by the Ministry of Economy of the refused licence for export of dual-use goods. The evaluators consider that information on applications for licences and refusals of licences to export proliferation-sensitive goods could usefully be shared with the FMC and the Interagency Committee – for intelligence purposes, for policy making on PF financing, and for possible operational coordination.

236. It was also noted, in this context, that the 2012 FATF Best Practices Paper "Sharing among Domestic Competent Authorities Information Related to the Financing of Proliferation" had not been discussed in the AML/CFT Interagency Committee. Arrangements for better coordination between the Interagency Committee and other relevant actors in the PF field should be put in place. The evaluators consider that the Interagency Committee's agenda should cover PF issues routinely, including how PF sanctions may be evaded and for the purposes of identification of potential PF investigations by law enforcement.

237. General awareness-raising initiatives on this whole issue have been placed in the hands of NGOs. As the evaluators were unable to meet the responsible NGOs onsite, the extent and success of this initiative is difficult to assess. Financial institutions were however clearly aware of their obligations to freeze under PF UNSCRs. Additionally, FIs have the benefit of the algorithm developed by the FMC within their databases. DNFBPs, though of less materiality in this context, do not have the algorithm and rely on publications and on-line matching tool using the same algorithm available on the FMC website. DNFBPs with whom the team met also were aware of the requirements to check the PF lists. Supervisors monitor the application of freezing requirements as part of their regular supervisory activities and also check that the algorithm is functioning properly.

Overall conclusions on Immediate Outcome 11

238. Armenia is taking a number of very meaningful steps to address all the issues surrounding proliferation. Those involved at governmental level in licensing and export control of proliferation sensitive material seem well attuned to the risks, and are taking their responsibilities seriously. Intelligence and information from their work would benefit from being brought into the Interagency Committee for AML/CFT on a more regular basis.

239. It is clear that there is a system in place to freeze property of persons identified on UNSCR PF lists. The notifications by FMC to the private sector seem reasonably fast, and the FMC has been proactive in equipping the financial institutions with software which ought to ensure that matches are made with names on PF lists. No matches have so far been found. DNFBPs regularly check the FMC websites which contains updated lists of designated persons.

240. While there is a residual concern that the freezing system might be open to legal challenge, this issue can quickly be addressed by bringing PF sanctions more clearly and explicitly into the AML/CFT Law. Notwithstanding this problem, the evaluators have concluded that a working system is in place and that **Armenia has achieved a substantial level of effectiveness for Immediate Outcome 11.**

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

Banks and other financial institutions have a good understanding of the risks which apply to them according to the FATF Standards and the high risk relationships and features specified in the AML/CFT Law. However, while being aware of the threats and the vulnerability set out in the NRA, this does not appear to have led to a formal change in the internal policies and procedures. Mitigation measures are appropriate to the risk.

Although there are exceptions, in particular accountants, DNFBPs do not fully understand the ML risks to which they are subject and only have some mitigating measures in place commensurate with these risks. In order to put this in context, there are no TCSPs in Armenia; there are only 6 casinos remaining in Armenia, which are not large; in practice, lawyers, notaries and advocates, as well as real estate agents do not appear to engage in financial transactions or to have a role in financial aspects of the FATF-defined types of activities; there are limitations on the use of cash by DPMS.

The application of adequate CDD measures (including enhanced CDD) by financial institutions is good. DNFBPs verify the identity of their customers. Although in nominal terms there are significant gaps in some DNFBP sectors, these should be understood within the context described above and in particular the limited role of real estate agents and notaries. There are also partial deficiencies in relation to foreign PEPs, although such customers are very rare. There are no measures in relation to domestic PEPs although a few firms have mitigating measures in relation to such PEPs.

The vast majority of STRs are made by the banking sector although the evaluation team still has some concerns about the quality and quantity of STRs made by the sector. The evaluation team also expected to see better STR output from MVTS and DNFBPs.

Internal control and training programmes across FIs are good although some improvement is needed to bring them up to the level desired by the CBA. DNFBPs which are not sole practitioners have internal procedures in place. This is not the case with respect to law firms.

Recommended Actions

- Armenia should take specific measures aimed at restricting the use of cash in commercial transactions, particularly in the area of real estate, by way of introducing an upper threshold (based on an assessment of risk) for the use of cash in real estate transactions and an appropriate enforcement mechanism.
- The CBA should continue its work of informing reporting entities of ML/FT developments, including understanding of risk, and in motivating reporting entities to improve their understanding of risk and in incorporating this understanding in their policies and procedures. These actions should take full account of the NRA.
- The CBA should continue to be active in seeking improvements in internal controls and training requirements within FIs.
- The authorities should (a) undertake outreach to DNFBP sectors so as to seek to ensure they put mechanisms in place to understand risks (including the information in the NRA) and introduce appropriate risk based mitigation measures; and (b) take steps to improve the standard of preventive measures by DNFBPs.

The relevant Immediate Outcome considered and assessed in this chapter is I04. The recommendations relevant for the assessment of effectiveness under this section are R9-23.

Immediate Outcome 4 (Preventive Measures)

Understanding of ML/FT risks and AML/CFT obligations and applying mitigating measures

241. On-site inspections by the CBA have led it to conclude that there is a growing recognition and appreciation by reporting entities of how to identify their risks and to address the risks by mitigation measures. It has noted that banks' own definitions of high risk go beyond those established by the CBA.

242. Armenia is not a regional or an international finance centre and the asset management and complex business relationships seen in such centres are not present in Armenia. Armenia's economy has been in decline, business levels have reduced and it is not used by foreign investors to any significant degree. Personal asset holding companies do not appear to be used in Armenia. Nominee arrangements are not utilised and bearer securities are forbidden. Wealth management services are basic and private banking relationships are not present. Complex relationships are rare. There is no non-face to face business and no reliance on third parties to undertake CDD. Ninety-seven per cent of legal persons are owned by Armenians with most of the remainder being owned by representatives of the Armenian Diaspora. The vast majority of customers are Armenian residents, as reflected in reports submitted to the CBA within the framework of its prudential supervision and the conclusions from the results of a fact-finding exercise conducted in the DNFBP sector for the NRA. All of these factors serve to mitigate risk not just to banks but to financial institutions and DNFBPs more generally.

243. The starting point for mitigating measures is that financial institutions and DNFBPs are required to have business risk assessments assessing the ML/FT risk to the entity. These assessments have provided a good foundation for understanding risk.

244. Banks consider that ML risk to the sector is generally low in light of the foregoing and the types of services and products they offer.

245. Banks typically grade their business relationships as low, medium or high risk. Enhanced due diligence is undertaken for high risk relationships. This entails the application of measures such as requesting the customer to provide additional documentation, certification of documentation, obtaining senior management approval for the establishment of a business relationship, obtaining source of wealth and conducting enhanced scrutiny of transactions. Some banks extend enhanced due diligence measures to medium risk customers.

246. Customers which are resident natural persons are considered by banks as presenting lower risk. Only 2.3% of customers – both natural persons and legal entities – are graded by banks as high risk customers. The economy is largely based on cash. Banks pay particular attention to cash transactions irrespective of the risk rating and have introduced additional controls in relation to it such as additional approvals or seeking to ascertain the source of funds and requiring documentation to support this information. The widespread use of cash does not necessarily have an impact on the total number of high risk business relationships as the use of cash often results in a single transaction. Hence, the banks treat cash transactions above a certain threshold as high risk which leads in practice to further clarification and verification without affecting the risk rating of the business relationship, if any.

247. Wire transfers, correspondent banking relationships and PEP relationships were also described as presenting higher risk with transfers and such relationships being subject to enhanced mitigating measures. Other risk factors were also advised to the evaluation team as leading to enhanced measures, for example customers which are businesses such as casinos, DPMS, and money transfer businesses. Legal persons are considered to pose a higher risk than individuals. Customers which are natural persons from outside Armenia were also considered as higher risk than Armenian residents, but as many of these are from the Armenian Diaspora, the reasons for using Armenia are easily understood. Services are provided by some banks to individuals or commercial entities in countries in the wider region considered to be high risk. Relationships from these countries appear

to be rated as high risk. Attention is paid to unusual transactions, which are scrutinised. There was awareness that the level of risk of a customer may change once a business relationship has been established.

248. Internet banking is increasing, including use of mobile banking. The risks are mitigated by requiring potential users to meet bank officials face-to-face, with the bank verifying identity in person.

249. Whereas banks appeared to be relatively fluent in discussions on ML risks (assisted by outreach by the CBA) and were able to discuss without difficulty the sort of customers and products which, according to the FATF Standards, would normally pose a higher risk, it was not demonstrated that all the specific risks identified in the NRA have been integrated into their internal risk policies. While being aware of the threats and vulnerability set out in the NRA, they did not appear to have considered it necessary to make any formal changes to their policies. This same point on the NRA also applies to other financial institutions. It was also noted that the major banks, as part of international financial groups, have policies going further than the NRA in considering risks and stipulating mitigation measures by "de-risking" by means of rejecting acceptance of certain types of customer.

250. FT risk is considered by banks to be zero or negligible on the basis that individuals from countries with higher FT risk do not frequently visit or transit through Armenia and that the country's financial system is quite small, thus making transactions for terrorist financing purposes easily detectable. In practice, responses to FT risk are focussed predominantly on UNSCR regimes and designations under those regimes; reporting entities do not appear to have any advanced concept of FT risk or response to such risk beyond this. The CBA advised the evaluation team that FIs consider FT risk, that consideration of the UNSCRs is a starting point and that enhanced due diligence (for example, in relation to higher risk countries) is also relevant.

251. Although there is increasing use of banks and their services by, for example, employers paying staff through banks rather than in cash, financial exclusion is still high.[67] Inclusion is being improved through the classical solution of banks opening branches. Individual banks advised that they are looking for solutions beyond this for commercial reasons through, for example, the ability to pay utility bills by using ATMs, the provision of internet services, accessing banking services through mobile telephones. Mobile penetration is widespread. The CBA carries out its own studies on financial inclusion, which have demonstrated that financial inclusion is increasing, although challenges remain. A number of measures have been undertaken, such as enhancing the availability and affordability of retail financial services, supporting micro-financing initiatives, promoting mobile banking and micro-financing technologies and improving financial awareness.

252. Non-bank investment sector firms noted that the funds of clients using the sector emanate from the banking system. The sector mostly engages in the purchase and sale of government debt. The sector has close business ties with customers, which are Armenians, and significant information is known about them (therefore mitigating risk). Few customers have been graded as high risk within the non-bank investment sector. Customers do not engage in a significant number of transactions which enables close scrutiny of transactions. Generally, the sector considers its clients to be low risk although the understanding of the customer base and its risks goes beyond this.

253. Credit organisations, which provide loans in cash or electronically, consider their risks to be low or non-existent depending on the service provided. Customers are Armenian residents (i.e. there appear to be no foreign customers), firms are familiar with them for business reasons and there are no international transactions. The mitigating measures focus on verification of identity and obtaining documentation such as financial documents to support understanding of the transaction.

[67] Information on the level of financial exclusion is provided in the Financial Access Survey conducted as part of the IMF's annual studies (http://data.imf.org/?sk=41e672ac-765b-4bc0-9960-fd93b53df8bd) and in the CBA Financial Stability Report (https://www.cba.am/en/sitepages/finstabilityreports.aspx).

254. Currency exchange houses see their varying business models as low risk principally because of the very low amounts of cash involved in transactions and their low turnover. The sector is based on occasional transactions rather than business relationships and it is rare to have a significant cash transaction warranting CDD. Identification documents are required and larger sums attract further scrutiny and questioning about the source of funds to understand the transaction further and the adequacy of mitigating measures.

255. There is a trend in the PSO sector from cash to non-cash payments through use of cards for payment purposes; the sector also includes online business. This business is recognised as being greater risk and is subject to stricter mitigating measures. These measures include particular scrutiny of wire transfers (including to whom they are sent), monitoring the frequency of transactions for customers and maximum value levels for individual transactions. Those PSOs met by the evaluation team sent domestic transfers only or, where international transfers are issued, have a list of countries to which they will not send transfers. Their customer base appears to be individuals rather than legal persons; the customers of those met by the evaluation team include individuals making payments to the government and economic migrants. Payments are received by Armenians working abroad. The firms were convincing that they understand risk, are undertaking appropriate mitigating measures.

256. The MoF sees the main ML risk in relation to casinos as being use of cash. The casino sector itself suggested large amounts of cash and collusion as being the highest risks. Junket operators are no longer present in Armenia. For both physical casinos and e-casinos the sums played are small. From a risk perspective, customers are individuals and the sector concentrates on non-resident customers, which are a very small minority of customers. ML mitigating measures appear to be limited to identification of the player by, for example, a passport or identification card and closer monitoring of the customer as they play games. With reference to e-casinos, Armenians represent the vast majority of the customer base. Mitigation measures include prohibition of multiple accounts and payments to third parties. Play cannot commence unless the customer has been identified. The possibility of collusion is monitored closely through software and, for example, analysis of the email addresses of players. However, customers are not graded by ML risk but by whether they are profitable or unprofitable players. This increases risk and militates against the adequacy of mitigating measures. The authorities consider that, as casinos do not provide certificates of winning (i.e. a documentary basis for facilitating ML), the potential for their use in ML is mitigated.

257. The MoJ and the Chamber of Advocates consider real estate to present the main ML risk. The evaluation team also considers real estate to present a relatively higher ML risk in light of the use of cash, even though the use of cash for the purchase of real estate appears to be decreasing. Real estate agents appear not to be involved in the payment whether it is cash or not. The pattern of use of cash between buyer and seller seen by the agents met by the evaluation team differs markedly. Some of the agents suggested that the risk of real estate is close to zero or very low. These views are on the basis that the market is small, that most of those undertaking transactions are Armenian and that legal persons are rarely used for purchasing property. There do not appear to be any risk based approaches to AML/CFT within the real estate sector. It was suggested that notaries check all the AML/CFT requirements in practice. There is a poor understanding of the AML/CFT Law and AML/CFT mitigating measures by the sector.

258. Notaries are also involved with the real estate sector as their certification is required for the transfer of property to be lawful. However, notaries appear not to be involved in the payment whether or not it is cash. Notaries are considered as relatively higher risk than lawyers as they give advice on real estate transactions. Notaries met by the evaluation team had very limited knowledge of AML/CFT risk and obligations and appeared to link risk to mismatches in prices (i.e. real estate being sold for too low a price). A significant proportion of notarial activity is linked to real estate transactions. Individuals who are the buyers and sellers of property appear to be subject to some CDD by estate agents and notaries; examples include identity documents and marriage certificates and employment related documents. Sellers provide evidence of title to the property and a letter from the Real Estate Cadastre. Source of funds and source of wealth for purchasers and other mitigating measures regarding enhanced due diligence do not appear to be taken.

259. The Armenian authorities consider the risk of lawyers to be low on the basis that lawyers do not handle money or provide advice on transactions. Lawyers and advocates provide advice and represent their customers in Court respectively. They do not participate in transactions and have very limited AML/CFT knowledge and awareness of risk. Those met by the evaluation team do not appear to profile their customers in practice although failure to understand clients is seen as a source of risk. Foreign customers appear to be listed companies, which mitigates risk. Source of funds is obtained by the firm met for transactions over USD 50,000 and comfort is taken from the use of prime banks. The evaluation team was advised that the legal community has a poor understanding of the AML/CFT law, which suggests that risk and appropriate mitigating measures are not in place. The further provision of information to the legal sector was suggested as being necessary.

260. Accountants and auditors have a systematic approach to understanding the risks posed by their customers, particularly from the perspective of laundering the proceeds of tax evasion. The evaluation team was advised that particular attention is paid to companies dealing with remittances, commercial entities making transfers outside Armenia and specific sectors such as the construction sector. Firms met by the evaluation team appeared to understand risk and respond to it by, for example, requiring supporting documentation so as to understand the beneficial ownership of any legal persons, the client's activities and the funding for those activities.

261. Dealers in precious metals and stones in the business of refining diamonds recognise the risks arising from the provenance of the diamonds and follow the *Kimberley Process*. Cut diamonds are returned only to the customer, which has provided the diamonds for cutting. This process constitutes significant risk mitigation. In addition, supporting information on the business and financing of counterparties appears to be required by dealers in Armenia in order to support the commencement of such business relationships. Other parts of the sector sell jewellery products to Armenian residents, either retailers or other customers. The customers of those met by the team appeared to be known to them over many years and the rare transactions over AMD 300 thousand (approximately EUR 540) are subject to identification of the customer through an independent source. Cash is seen as a risk but is not used for transactions above AMD 3 million (approximately EUR 5,400); dealers met by the evaluation team were aware of the legal requirement in the Law on Cash Desk Operations. Nevertheless, it appeared to the evaluation team that, risk is not fully understood as the dealer sector is not seen as at risk of ML and that the application of mitigating measures such as enhanced due diligence may therefore not take risk fully into account.

262. It is the view of the evaluation team that, although there are exceptions, DNFBPs do not fully understand the ML risks to which they are subject and only have some mitigating measures in place commensurate with these risks. As with financial institutions, the NRA does not appear to have been incorporated within DNFBPs' polices.

Application of CDD and record keeping requirements

263. Application of CDD requirements is also contained in the section above on the mitigating measures taken to address risk.

264. Meetings with the financial sector indicated a relatively high level of awareness of their customer due diligence and record keeping obligations. The FMC has provided guidelines, which are available to all obligated entities. Awareness of such guidelines was found to be high.

265. Most of the interviewed financial institutions displayed good knowledge of identification and verification requirements of the AML/CFT Law. Graduated approaches to CDD are undertaken by FIs dependant on risk. The evaluation team was satisfied with the descriptions provided on the identification and verification procedures which are applied to all customers and their representatives, where applicable. All prospective customers, whether natural or legal persons, are required to be physically present for verification purposes and have to complete an application form. The very large majority of customers reside in Armenia. Customers are required to submit documentation as part of the verification process. A description of the type of documents that are

submitted was provided, which in all cases corresponded to the requirements provided in the law. Documents are scrutinised and scanned into an automated filing system.

266. Beneficial ownership requirements are well understood by financial institutions. None of the financial institutions interviewed had difficulties explaining the complexities that come with the definition of beneficial ownership. It is widely understood that the ultimate natural person(s) behind the legal person must be determined. Where legal persons are involved, financial institutions request the customer to provide information on every level of the corporate structure down to the natural person controlling the structure. Most stated that they rarely encounter customers that have a complex ownership structure. Verification of identity measures include meeting the beneficial owner, requiring provision of the founding documents of a company, registration information, other documents linking the beneficial owner to the company, checking the origin of funds and wealth for consistency with other beneficial ownership information, checking the economic activities of the legal person are consistent with the beneficial ownership information.

267. The large majority of customers that are legal persons are registered in Armenia and are owned by Armenians. There appeared to be awareness of the measures to be applied if foreign legal persons were to approach firms. Financial institutions were convincing in stating that they do not enter into a business relationship with the customer unless they understand the structure of the customer and are able to identify the ultimate beneficial owners. They appear to have advanced risk management practices in place and screening processes that include the identification of beneficial owners. Persons acting on behalf of customers are also verified, which is also confirmed by the findings of CBA inspections.

268. The representatives of financial institutions appeared to apply adequate measures to understand the purpose of a business relation or transaction and the source of funds in a transaction. It was stated that information on the source of funds is verified on the basis of reliable documents, such as contracts (purchase-sale, loan, rental, and service contract), invoices, customs declarations, inheritance documents, etc. Most financial institutions request information on the source of funds as part of their ongoing monitoring procedures.

269. Financial institutions monitor customer relationships on an on-going basis. Monitoring arrangements vary across banks with some banks engaging in daily transaction monitoring by use of triggers. In addition, the level of on-going monitoring is dependent on risk. For high risk relationships the reporting entities are obliged to update collected data at least every six months, for medium risk relationships annually and low risk every two years (one bank mentioning three years as against the minimum standard of two years in Armenia). On-going monitoring in the larger banks is conducted by the compliance unit. They explained how, based on the risk of a specific transaction and filters embedded within the banking system, enquiries are sent to branches to clarify the origin of the funds of the customer, the purpose of the transaction, sector of activities that the customer is engaged in and whether the customer has provided full and comprehensive information. In those cases where the customer refuses to provide clarifications, depending on the circumstances, a STR would be submitted to the FMC. In fact, cases where STRs were submitted to the FMC as a result of monitoring appear to be the norm.

270. Reliance on third parties to undertake CDD is permitted but such reliance does not appear to occur in practice (as indicated by the authorities and the evaluation team's discussions with financial institutions); third parties are not used by banks. None of the institutions met on-site reported that they had placed reliance on another reporting entity for CDD purposes. In relation to difficulties in obtaining CDD, banks indicated that CDD must be complete to accept customer relationships and that difficulties in obtaining information are simply timing issues or that there have been situations where they have refused to accept customers for failing to provide CDD.

271. Financial institutions met on site explained that generally records are kept longer than five years after the termination of a business relationship or transaction. It was confirmed that they maintain identification data, account files, business correspondence (transaction data, updated information, SARs and CTRs, termination of the business relationship, etc.) and other relevant

documents for at least for 5 years. Financial institutions also confirmed that data is available in electronic databases, which permit a full and immediate reply to enquiries from the FSD and FMC. The FSD and FMC also confirmed that customer and transaction records are available on a timely basis when a request is made. The CBA indicated that, as far as record-keeping obligations are concerned, no serious deficiencies were identified in the course of their inspections. None of the competent authorities mentioned delays (or problems) in obtaining all relevant data and information from financial institutions.

272. The only category of DNFBP which presented an adequate understanding of all CDD and record-keeping requirements was the accountancy sector. The representatives met on-site were convincing in their explanations of how customers (both natural and legal) are categorised according to risk, identified and their identity verified on the basis of official documentation. Procedures for the identification and verification of beneficial owners are in place, which include updating information whenever changes in beneficial ownership occur. Information on the purpose and nature of the business relationship is determined on the basis of information provided by the client, together with supporting documentation. Particular attention is paid to how customers are financed. Business relationships are monitored on an on-going basis.

273. Real estate agents, notaries and dealers in precious metals and stones were aware of the identification and verification requirements in the law and appeared to apply them adequately to natural persons. For instance, real estate agents explained how they would require the production of official identification documentation and other information about the person (e.g. employment-related information) when contact is initially made with the customer. This was also confirmed by notaries, who adopt a similar approach, and reference was made to checks at the State Register in connection with customers that are legal persons. There was no real understanding of beneficial ownership requirements (in this context, it should be noted that most property purchase is undertaken by natural persons). Additionally, none appeared to apply any measures to understand the source of funds and wealth of a transaction or other enhanced measures, which is of particular concern, given the level of use of cash in Armenia. Overall, awareness of CDD obligations, other than the identification and verification of identity of a natural person, appeared to be limited.

274. The casinos met by the evaluation team have CDD measures in place, which mainly consist in requiring the customer to produce an identification document before being permitted to enter the casino. Once within the premises of the casino, customer activity is closely monitored, mainly as part of the casino's internal "fair play" procedures. For example, the casino monitors the volume of money that is exchanged for chips and whether players collude with each other to the detriment of the casino. The same approach is applied by e-casinos using software. Casinos confirmed that certificates of winnings are not provided. Additionally, they do not deposit any winnings directly into a customer's account. Casinos do not seem to request customers to justify the source of funds; more generally, enhanced due diligence measures do not appear to be applied.

275. Lawyers have very limited awareness of even the simpler CDD requirements and do not understand the AML/CFT Law and its obligations.

276. DNFBPs were aware that they are required to maintain records for 5 years.

Application of EDD or specific measures

277. 2.3% of customers are graded by banks as high risk customers. Few banks indicated that they have business relationships with foreign PEPs, and the CBA confirms that foreign PEPs are very rare in the financial system (mainly comprising high-level staff of foreign embassies, foreign state companies operating in Armenia or other persons otherwise demonstrating a reasonable nexus to the country). The number of domestic PEPs is limited. Banks subject PEPs to enhanced due diligence in line with the FATF Standards. Application forms invite confirmation of whether or not the customer is a PEP or a family member or close associate of a PEP and advise customers that they should inform the bank if they become a PEP or a close associate or family member at a later stage; it was suggested that the latest banks would ascertain a change of status to a PEP in practice would be

when undertaking their ongoing due diligence for high risk customers. There is also use of the internet, third party IT screening tools and local knowledge to identify PEPs. It appeared that banks would ascertain a change of status (including at the beneficial ownership level) in a timely way. A few banks seek confirmation of whether individuals are local PEPs.

278. Domestic customers are dominant in other FIs met by the evaluation team; in a few cases there appeared to be a lack of systematic process to identify foreign PEPs. This might be attributable to the very small number of foreign PEPs using Armenia and using the banking system rather than any other service provider. Foreign customers outside the banking sector are very rare.

279. Use of DNFBPs by foreign PEPs is very rare; domestic customers comprise the vast majority of the customer base of DNFBPs but some customers are international. Of those DNFBPs met by the evaluation team, only casinos appear to have had foreign PEPs as customers. Casinos responded to questions by confirming that they had checked whether individuals are PEPs by asking if they are on an official trip to Armenia or by asking customer group leaders for information.

280. Awareness and compliance with the standards on correspondent banking appear to be satisfactory. The quality of potential correspondent banks is assessed and potential correspondents have been rejected. Correspondent banking arrangements have not been established with shell banks. Correspondent banks are subject to periodic reviews.

281. With regard to new technologies there is some internet banking activity, including banking through mobile telephones. The risks have been dealt with by requiring any person wishing to establish an internet account or to use mobile banking to meet bank officials face-to-face. The assessment of risks arising from new products and services is covered by procedures. The economic difficulties faced by Armenia mean that products and services outside internet banking are simple.

282. There appears to be a good level of compliance with wire transfer requirements, including the requirements for beneficiary information (although the CBA has identified a very few cases where relevant fields of payment instructions had not been completed, with subsequent remedial action in a timely manner). Wire transfer systems are automated and all persons involved in a transaction are processed through the FMC algorithm related to UNSC resolutions. Checks are undertaken on whether all necessary information is included on incoming transfers. In addition, attention is paid to the beneficiary by banks when considering the risks of transactions.

283. With regard to measures in relation to targeted financial sanctions for FT there was reliance on ascertaining whether persons are listed under applicable UNSCRS (and relevant successor resolutions). There have been a few "false positives" but no designated persons have been found by Armenia. Banks were aware of changes to designations. There was widespread knowledge by financial institutions and DNFBPs generally about the importance of checking customers against the lists and doing so in practice. This is made easier by the dominance of Armenian residents within the customer base of reporting entities.

284. There was awareness by banks of the FATF lists of countries which insufficiently or do not apply FATF Recommendations. A few banks have de-risked by exiting all relationships with customers from some countries in the wider region and by not accepting new customers from these countries. Casinos are aware of the FATF lists and match the nationality of customers against the countries on these lists.

Reporting obligations and tipping off

285. All STRs filed relate to suspicion of ML. No STRs have been made in connection with FT. Amongst FIs there was knowledge of the typologies issued by the FMC.

286. It is mandatory for reporting entities to make STRs electronically to the FMC. Supervised reporting entities (i.e. financial institutions) make reports in this way. However, DNFBPs may submit reports in hard copy.

287. Reports originate exclusively from the financial sector (see the table below). The vast majority of STRs are made by banks; it is standard for banks' staff to generate internal reports of potential suspicion for review by the internal monitoring unit or senior staff responsible for AML/CFT in the bank before a final decision is made on whether or not to file a STR with the FMC.

288. The Armenian authorities have not analysed to what extent FIs (including patterns between peer groups within the banking sector) and DNFBPs are meeting their reporting obligations and what conclusions and actions might be drawn from this. The FMC considers that the pattern of reporting by FIs is consistent with the size, materiality and risk of the various FI sectors. Banks hold 90% of the market share and over 99.9% of STRs are submitted by them. Banks may be underreporting since insufficient attention may be given to suspicions which are not in pre-defined indicators. The evaluation team expected to see a better STR output from payment and settlement institutions (MVTS) given the risks associated with this sector.

289. No STRs have been submitted by DNFBPs. This is not consistent with the risks (set out under IO1) emanating from the real estate, notary and casino sectors in particular. The LEAs met on-site referred to the investment of proceeds of crime into real estate as one of the preferred forms of ML in Armenia. There are also significant gaps in CDD – other than identification and verification of identity – in relation to the real estate sector and notaries. The absence of STRs from casinos raises concerns in light of the high level of cash within the economy. Notaries have some involvement with real estate transactions. This alone would suggest STRs might be made by notaries. The Armenian authorities are of the view that the absence of STRs by DNFBPs is the result of the low levels of inherent risks and the lack of awareness and resource by DNFBPs. This lack of awareness was particularly apparent to the evaluation team in the real estate and notary sectors. It was suggested that legal privilege applies in relation to advocates and that lawyers provide only limited advice (i.e. there are limited situations in which they might make STRs) and that these factors account for the lack of STRs. DPMS are not permitted to conclude transactions above AMD 300 thousand (approximately EUR 540) for one-off cash payments and AMD 3 million (approximately EUR 5,400) for the cumulative value of all cash payments within a one-month period – this was suggested as explaining the lack of reports by such businesses.

290. FIs may be overlooking certain suspicious transactions and/or business activities due to potential overreliance on typologies and pre-defined indicators issued by the FMC. The FMC has been proactive in guiding reporting entities in complying with their reporting obligations. FIs demonstrated some awareness in this respect. However, some reporting entities stated that they mainly check whether their customers' transactions meet any of the suspicious criteria/typologies published by the FMC. As a result, the FMC may not be receiving information on some suspicious transactions and business activities. The FMC indicated that 20 to 25% of the STRs do not match with any pre-defined indicators of suspicious conduct or typologies issued by the FMC. In its view this is a clear indication that reporting entities report any conduct which is suspicious.

291. Turning to FT, the Armenian authorities consider that there is understanding of the obligation to report FT on the basis that reporting is linked to UN lists, applicable indicators and typologies of suspicious activity, and that banks and others understand their obligations in relation to the lists. However, the evaluation team considers that the view that FT risk is predominantly linked to persons on the lists may be indicative of a lack of more advanced understanding of the obligation to report FT. No internal reports of suspicion have included reference to FT.

292. The Armenian authorities advised that sanctions have been applied for ML-related non-reporting by FIs (although separate statistics are not available).

293. The quality of STRs has improved. Around 6% of STRs relate to attempted transactions. The automatic rejection rate of reports submitted electronically is very low. The FMC considers that banks provide good quality STRs although there is some room for improvement, for example in relation to the inclusion of information on suspected predicate offences. There is a gap, although it does not appear to be significant, between the quality of reports which have been made and the quality desired by the FMC.

	STRs from reporting entities	2010		2011		2012		2013		2014		TOTAL	
		Number	Value	Number	Value	Number	Value	Number	Value	Number	Value	Number	Value
1	Banks	427	3902	182	5282	189	2900	196	10406	209	7598	**1203**	**30088**
2	Non-bank FIs, including	0	0	2	0	3	74	0	0	1	0	**6**	**74**
2.1	*Central Depositary*	*0*	*0*	*2*	*0*	*2*	*72*	*0*	*0*	*0*	*0*	**4**	**72**
2.2	*Credit Organizations*	*0*	*0*	*0*	*0*	*1*	*2*	*0*	*0*	*1*	*0*	**2**	**2**
3	DNFBPs	0	0	0	0	0	0	0	0	0	0	**0**	**0**
4	Other reporting entities, including	4	0	2	0	0	0	1	0	0	0	**7**	**0**
4.1	*State Register*	*4*	*0*	*2*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	**6**	**0**
4.2	*Other CBA departments*	*0*	*0*	*0*	*0*	*0*	*0*	*1*	*0*	*0*	*0*	**1**	**0**

* All values are in million Armenian drams; the Euro equivalent can be achieved by using the average annual EUR/AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

294. There have been no issues in connection with tipping off. Financial institutions were familiar with the legal requirement in relation to tipping off although not all of them had procedures to reflect this requirement. Protection from tipping off includes the requirement for internal reports of suspicion to be provided to internal monitoring unit staff, therefore divorcing relationship managers from knowledge of whether or not a STR has been issued. Generally, training within institutions also appears to include tipping off, and the CBA and FMC include reference to tipping off in their own seminars. Prevention of tipping off in the DNFBP sectors appears to centre on safeguards on information so that STR information is secure and on training from the CBA and FMC in relation to tipping off.

Internal controls and legal/regulatory requirements impending implementation

295. There is a good level of commitment at board level by banks to AML/CFT with consideration by boards of the effectiveness of AML/CFT measures.

296. Competence requirements for staff within banks, including training requirements, have increased during the last few years. This has improved AML/CFT capacity and there does not appear to be any lack of resources devoted to AML/CFT. It is routine for staff to be screened through interview, the holding of educational and professional requirements and the taking of references, as well as ascertaining whether or not staff have clean criminal records by obtaining a certificate from the Police. Higher standards attach to members of compliance departments. Not surprisingly, banks have the ability to recruit the highest quality staff within the financial sector. All banks had internal monitoring units, which monitor compliance with AML/CFT. They appear to be adequately staffed both in terms of quality and quantity with the larger banks having commensurately larger departments. The most senior officer responsible for compliance is appointed at senior management level. These officers must pass a qualification exam set by the CBA before undertaking their functions. The CBA has prevented individuals from taking up appointments as a result of the exam (and also from interviews it has held).

297. Banks have procedures in place and have established annual internal audit programmes, which include branches (there are no subsidiaries). The evaluation team noted a few examples of internal audit review by banks of greater than annual frequency (for example, quarterly or six monthly reviews). No significant problems in the internal audit findings were advised to the evaluation team.

298. Training programmes are embedded within banks with a combination of training for newly recruited staff within three months of their appointment and at least annual training. Training is a

combination of the cascading of information within the bank, e-learning, group training, third party providers and seminars by the CBA.

299. Other financial institutions demonstrate some of the same general characteristics in relation to internal controls although to a lesser degree compared with banks.

300. Independent entrepreneurs (who are, for example, active in the currency exchange house sector) do not appear to have established controls such as procedures and with reference to training by the currency exchange sector in particular, rely on training by the CBA. Senior management commitment, internal monitoring units, internal audit functions and procedures manuals are in place in non-bank financial institutions and appear to be effective (bearing in mind financial institutions outside the banking sector consider their ML/FT risk profiles to be low). Internal audits appear to be on an annual basis. The quantity and quality of staff generally appear to be satisfactory for the risks presented by the businesses. Staff are subject to screening through interviews and the taking of references. Compliance staff are subject to Police checks on whether or they have criminal records and the senior officer is subject to examination by the CBA. Professional qualifications are less commonly held by staff in non-bank financial institutions. These institutions are aware of the training requirements and rely to a large extent on training provided by the CBA.

301. Nevertheless, overall, financial institutions still have differing interpretations of what constitutes satisfactory levels of controls and training and a few of them, including a small number of banks and currency exchange houses, still need to make improvements. The CBA will be taking steps as it moves towards risk based AML/CFT supervision to address these weaknesses, specifically by means of introducing an e-learning system comprising reading material, quiz and self-testing questions and, at a later stage, audio and video aids.

302. The majority of DNFBPs are sole practitioners. They do not have any branches or subsidiaries. The low level of resource of DNFBPs agreed by the FMC is described above in the context of awareness and reporting of suspicion. A number of the DNFBPs met by the evaluation team were covered by the exclusion in the AML/CFT Law that small firms need not have internal audit functions. The accountancy, audit and legal firms, together with the casinos, met by the evaluation team have AML/CFT procedures. Staff training is generally by in-house training and FMC/CBA seminars. Casinos have internal audits. The issue of understanding in the legal profession will need to be addressed.

303. There are no legal or regulatory requirements which impede the implementation of internal controls and procedures to ensure compliance with AML/CFT requirements. The only financial institutions within groups are banks. Only branch structures have been established. There are no legal or regulatory difficulties in the transfer of customer and other CDD information between group entities either for internal audit or internal control purposes. During its on-site inspections the CBA promotes the need for a good flow of information between branches and head office for internal audit and other relevant purposes. There is no secrecy legislation preventing such transfers of information.

Overall conclusions on Immediate Outcome 4

304. In considering the effectiveness of the AML/CFT framework for the purposes of this IO, particular weight is given to the materiality and risk within the banking sector. Most risk appears to reside within the banking sector, which is the most significant sector in Armenia, from an AML/CFT perspective. The evaluation team has also considered the effectiveness of other FIs and of DNFBPs given the gaps in understanding risk and in AML/CFT countermeasures beyond the identification and verification of individuals, particularly in relation to real estate agents and notaries. The wider context of ML and FT risk reflected in IO1 has also been considered, including the analysis by Armenia referred to in Paragraphs 16 to 19 that FT risk is very low.

305. Banks and other financial institutions have a good understanding of the risks which apply to them according to the FATF Standards and the high risk relationships and features specified in the

AML/CFT Law. However, while being aware of the threats and the vulnerability set out in the NRA, this does not appear to have led to a formal change in the internal policies and procedures. Mitigation measures are appropriate to the risk. Although there are exceptions, in particular accountants, DNFBPs do not fully understand the ML risks to which they are subject and only have some mitigating measures in place commensurate with these risks.

306. The application of adequate CDD measures (including enhanced CDD) by financial institutions is good. DNFBPs verify the identity of their customers but there are there are significant gaps in some DNFBP sectors. These gaps are particularly important in the context of the cash purchase of real estate. There are also partial deficiencies in relation to foreign PEPs, although such customers are very rare. There are no measures in relation to domestic PEPs although a few firms have mitigating measures in relation to such PEPs.

307. The vast majority of STRs are made by the banking sector although the evaluation team still has some concerns about the quality and quantity of STRs made by the sector. The evaluation team also expected to see better STR output from MVTS and DNFBPs.

308. Internal control and training programmes across FIs are good although some improvement is needed to bring them up to the level desired by the CBA. DNFBPs which are not sole practitioners have internal procedures in place. However, this is not the case with respect to law firms.

309. In considering the rating for this outcome, the evaluation team has considered a range of contextual factors. Armenia is not a regional or an international finance centre and the asset management and complex business relationships seen in such centres are not present in Armenia. Armenia's economy has been in decline, business levels have reduced and it is not used by foreign investors to any significant degree. Personal asset holding companies do not appear to be used. Nominee arrangements are not utilised and bearer securities are forbidden. Wealth management services are basic and private banking relationships are not present. Complex relationships are rare. There appears to be no non-face to face business or reliance on third parties to undertake CDD. Ninety-seven per cent of legal persons are owned by Armenians with most of the remainder being owned by representatives of the Armenian Diaspora. Foreign PEPs using Armenia are rare. There are only 6 casinos remaining in Armenia, which are not large. In practice, lawyers, notaries and advocates, as well as real estate agents do not appear to engage in financial transactions or to have a role in financial aspects of the FATF-defined types of activities. There are limitations on the use of cash by DPMS.

310. All of these factors serve to mitigate risk not just to banks but to financial institutions and DNFBPs more generally. In addition, the evaluation team is mindful of the magnitude of the banking sector compared with other reporting entities.

311. **Armenia shows a substantial level of effectiveness for Immediate Outcome 4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

Armenia has an adequate and effective licensing regime for all financial institutions. The relevant department of the CBA (FSD) is well staffed and well trained and is provided with sufficient powers. However, the risk-based approach to supervision of financial institutions needs to be developed. The CBA has adequate procedures in place for imposing sanctions against financial institutions and it applies remedial actions against all kinds of financial institutions.

The DNFBP sector is almost completely neglected, with the exception of casinos and notaries. There is a lack of risk awareness of all DNFBP supervisors as well as of the private sector. There are no measures in place to prevent criminals and their associates from entering the DNFBP sector for lawyers, real estate agents, dealers in precious stones, dealers in precious metals as well as accountants. The new requirements for fit & proper controls for casinos have yet to be implemented in practice.

None of the DNFBP supervisors applies a risk-sensitive approach to supervision. The FMC has not yet implemented a supervisory regime for the AML/CFT supervision of DNFBPs under its mandate, and the Chamber of Advocates has never conducted an on-site inspection. The sanctions regime for DNFBPs is not effective. Remedial actions against DNFBPs are very rarely used in practice. Additionally, the available actions and sanctions for AML/CFT violations of DNFBPs are limited and not dissuasive.

The outreach to the private sector should be further developed. The CBA – the FMC together with the FSD – promotes its understanding of ML/FT risks and AML/CFT obligations through feedback, guidance and various training. However, additional/ sector specific training is needed for the private sector as well as for some authorities.

Recommended Actions

- The CBA should formally develop a risk-based approach to AML/CFT (both on-site and off-site) supervision, which should be clearly articulated within a supervision manual.
- During on-site inspections, the CBA should concentrate more on sample testing in addition to checking compliance with internal procedures and formal requirements.
- The authorities should introduce requirements to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in the following DNFBPs: lawyers, accountants, real estate agents and dealers in precious metals and stones.
- An effective supervisory regime for lawyers, accountants, real estate agents and dealers in precious metals and stones should be implemented, and a risk-sensitive approach to supervision should be applied for all types of DNFBPs
- Sanctions should be available for the senior management and directors of DNFBPs (except for casinos) other than those which are individual entrepreneurs.
- The CBA should consider revising the existing guidelines as they are not tailored to the specific needs of the Armenian reporting entities. The authorities should provide more sector specific and focused training, in particular for the DNFBP sector, in order to improve the level of awareness and knowledge of the private sector with regard to AML/CFT.

The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26-28 & R.34 & 35.

Immediate Outcome 3 (Supervision)

Licensing, registration and controls preventing criminals and associates from entering the market

312. Armenia has a comprehensive and robust licensing regime for all Core Principles financial institutions and other financial institutions.

Shareholders

313. The acquisition of a significant participation in the statutory fund for core principles financial institutions is subject to a rigorous procedure. A person or related parties may acquire a significant participation in a financial institution's statutory capital through one or several transactions only with the consent of the CBA. The acquisition of a significant participation without the consent of the CBA is void and null.

314. Applicants are required to submit to the CBA a declaration that no other person will acquire an indirect significant participation through the applicant's own participation. Where this is not the case, the person is also required to submit documentation as specified by the CBA. An applicant is also required to submit to the CBA sufficient information which confirms the legality of the source of funds to be invested in the institution and data on other entities (including name, location, financial statements, data about the managers, data about parties holding the significant participation) within which the applicant holds significant equity interests.

315. Persons residing or operating in an offshore territory or jurisdiction, including legal entities or legal arrangements and related parties related may only acquire a participation in the statutory capital of an institution (regardless of the extent of the participation) with the preliminary consent of the CBA. The Board of the CBA prescribes the list of offshore territories or jurisdictions.

316. The CBA's preliminary consent is required where the applicant's or related parties' participation in the statutory capital of the institution exceeds 10%, 20%, 50% and 75%, respectively. An application is rejected where:

a) The person has a criminal record;
b) The person is interdicted by court from holding a position in financial, banking, tax, customs, commercial, economic, or other law areas;
c) The person is adjudicated bankrupt and has outstanding liabilities;
d) Previous actions of the person have resulted in the bankruptcy of a bank or of another person;
e) Actions of the person or persons may have resulted in the bankruptcy or deterioration of the financial situation or diminished its reputation or business credibility;
f) The person does not submit sufficient and complete grounds of legality of the source of the funds to be invested in the financial institution;
g) False or unconvincing data is included in the documents or information submitted to the CBA.

Managers

317. The list of managers of core principles financial institutions includes the supervisory board, executive director (executive board), his (her) deputies, chief accountant and his (her) deputy, internal audit, certified actuary, heads of territorial and structural subdivisions (heads of department, division, unit), as well as employees having a direct link to the main activities of the

bank, or operating under the immediate supervision of its executive director, or having any influence on decision-making process in the managing bodies.

318. The CBA shall refuse to appoint a person as a manager in a financial institution, if the person:

a) Has a criminal record;
b) Is interdicted by the court from holding a position in financial, banking, tax, customs, commercial, economic, or other law areas;
c) Is adjudicated bankrupt and has outstanding liabilities;
d) His qualifications and professional integrity do not comply with the criteria determined by the CBA;
e) Actions of the person or persons may have resulted in the bankruptcy or deterioration of the financial situation or diminished its reputation or business credibility;
f) Is engaged in a criminal case as a suspect, defendant or accused.

319. The CBA has a procedure in place for the assessment of qualifications and criteria for the verification of professional integrity. All the managers (except the heads of structural subdivisions) are required to get a certificate of qualification (from CBA or another institution) and pass the registration process including an interview with the Licensing and Supervision Committee.

320. In practice, the CBA conducts detailed checks on the beneficial owners and managers, including checks on their criminal records and the origin of funds. The relevant information is kept up-to-date, which is ensured in practice by a requirement to submit periodic notifications, regular checks during on-site inspections and inspections of annual reports submitted by the FIs. The CBA has referred to cases (credit organisations and pawnshops) where licensing applications were rejected as a result of the applicant's failure to meet the fit and proper requirements. Although the legislative powers to prevent criminals and their associates from involvement in money exchange offices, PSOs and insurance intermediaries are limited, in practice the CBA applies the same measures for all financial institutions falling under its responsibility in accordance with an internal regulation. Based on information received during the on-site visit from the authorities and the private sector, the evaluation team concluded that there are no unlicensed MVTS operating in Armenia.

321. There are almost no measures in place to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in DNFBPs such as real estate agents, dealers in precious metals and stones, lawyers and accountants. At the time of the on-site visit, the fit and proper requirements for casinos were subject to a transitional period (which expired in May 2015). At the time, the MoF had still not received relevant information and documents (e.g. criminal records) on the beneficial owners and managers of the existing casinos. Furthermore, the deficiencies in the supervisory regime of DNFBPs have not been completely addressed in the recently approved Action Plan, which only includes actions in relation to real estate agents and dealers in precious stones and metals. The evaluation team noted that the authorities are not in possession of exact figures on the number of certain persons and entities operating within the DNFBP sector (e.g. the lawyers, real estate agents, dealers in precious metals and stones). It is therefore doubtful whether the authorities are in a position to implement an effective supervisory strategy for the time being[68].

[68] In relation to this, the authorities advised that since July 2015, the FMC has launched a DNFBP register integrated into its Automated Case Management System and implementing the requirements of the Rules for Registration of Reporting Entities adopted earlier. The register enables to, in addition of re-ascertaining the status of DNFBPs supervised by the MoF, the MoJ and the Chamber of Advocates, identify those DNFBPs supervised by the FMC (i.e. realtors, lawyers, dealers in precious metals and stones) and enforce their registration with the FMC thus establishing a framework for further supervisory action, as necessary.

Supervisors' understanding and identification of ML/FT risks

322. The understanding of ML/FT risks by the CBA with respect to financial institutions is limited. The Financial Supervision Department of the CBA relies on the results of the NRA and its close cooperation with the Financial Monitoring Center. The understanding of risks is mainly focused on the size of the financial sector, also limited use of STR reporting and other relevant information provided by the FMC was noted. Consideration of other relevant factors, such as specific client or product risks emanating from different sectors or individual institutions is not documented. In its consideration of risk, the CBA predominantly focuses on banks. While banks are materially the most significant sector in the Armenian financial sector, PSOs and money exchange offices are also at risk of being misused for ML/FT purposes, although they generally carry out low-volume transactions (on average EUR 80-100 per transaction). This is not documented in the CBA's risk understanding. In practice, all banks are categorised as posing the same (low) risk and afforded the same supervisory treatment. According to the FSD, this approach flows from the fact that all banks conduct more or less the same business. Information on the customer-base of each individual institution is not demonstrably taken into account. Overall, supervisory practices and processes of the CBA, while quite comprehensive in terms of prudential supervision, appear to apply a rule-based approach by examining all risks – including those related to ML/FT – with similar scope and depth.

323. There is a lack of awareness and understanding of risks by DNFBP supervisors, although some of them have manuals and guidelines for the application of the risk-based approach. Whereas some categories of DNFBPs are rated as posing a relatively higher risk in the NRA, the sector has not received sufficient attention by the authorities. The evaluation team is of the view that the DNFBP sector could serve as an additional safeguard to mitigate the existing risks posed by, for instance, corruption, the shadow economy and the widespread use of cash. The absence of an appropriate risk understanding of the sector is further intensified by the lack of exact information on market participants and a lack of knowledge on AML/CFT matters by the representatives of the MoJ, the MoF and the Chamber of Advocates.

Risk-based supervision of compliance with AML/CFT requirements

324. The CBA conducts comprehensive prudential supervision of financial institutions, in particular the banking sector. AML/CFT supervision forms part of the prudential inspections. The risk factors which are taken into consideration for setting up the annual inspection plan are mainly based on prudential information. The FSD develops the annual inspection plan in co-operation with the FMC. The CBA takes into consideration the number of STRs submitted by an institution as well as other relevant information received by the FMC. It also takes into account the findings of previous inspections.

325. Off-site reporting of all financial institutions covers prudential issues exclusively. The CBA stated that prudential information received through the off-site inspection process is also relevant for AML/CFT supervision, such as for example significant changes in the turnover of an institution. However, in practice, such information has never resulted in any AML/CFT-related measures or inspections being undertaken. Furthermore, no institution-specific information, which could ensure effective AML/CFT supervision, is received through off-site reporting.

326. The risk-sensitive approach to supervision is not reflected in the inspection cycle. As all banks are considered to pose the same (low) risk, there is no difference in the frequency of AML/CFT inspections. This was confirmed by private sector participants met on-site. Banks are inspected on a three-year cycle and money exchange offices on a biannual cycle. The same applies to all other types of financial institutions - there is no difference in the inspection cycle within each category of FIs. Details on the number of inspections carried out by the CBA annually are set out in the table below. The CBA conducts management discussions with banks to clarify any emerging uncertainties with respect to banks' AML/CFT programmes, whenever it is necessary. According to the CBA, these discussions have always been sufficient to clarify open issues without the need for conducting an additional on-site examination.

327. There is no difference in the intensity of on-site inspections. AML/CFT inspections form a part of the so called "complex inspections", which cover prudential and AML/CFT issues. This means that a full scope AML/CFT inspection is conducted whenever a complex inspection is carried out. However, the complex inspection does not focus on the specific risks of an institution or sector. The CBA uses a comprehensive questionnaire for on-site examinations which covers all relevant areas of the AML/CFT requirements. The questionnaire does not take into account institution-specific aspects, such as for example the customer base, e.g. number of clients within the different risk categories or the type of products/services which are offered etc.

328. The CBA did not demonstrate that it adopts a risk-sensitive approach when it conducts sample testing. The CBA selects more or less the same number of samples (around 150 samples) for all banks, regardless of the client structure or other institution-specific risks. The size of an institution, particularly assets under management or the number of clients, does not have an impact on the number of tested samples. This was confirmed during the on-site interviews. The length of time of an on-site visit dedicated to AML/CFT issues is roughly the same for all institutions within each category of FIs. On average the duration of an AML/CFT inspection was estimated to be between two weeks to one month. Generally, two staff members focus exclusively on the AML/CFT on-site questionnaire. There is no notable difference in the on-site inspections of other types of financial institutions.

329. During an inspection, the CBA's primary focus is on the on-site questionnaire and the internal procedures of the institution, followed by sample testing which does not demonstrably take into account the risk profile of the institution. It is the view of the evaluation team that given the large number of file that are inspected within the relatively short period of time which is available, sample testing needs to be enhanced by introducing specific guidance on forming samples within each risk category.

330. In addition to complex inspections, the CBA also conducts targeted inspections of some institutions. Targeted inspections focus on specific topics and may also cover AML/CFT-related issues. The authorities referred to a recent round of targeted inspections which focused on the examination of FI's implementation of terrorist asset freezing requirements. On another occasion targeted inspections were carried out on bank accounts with a large turnover. Targeted inspections, unless aimed at ascertaining the situation in a certain topic (e.g. implementation of UNSCRs) are not carried out in all institutions. The inspected institutions are selected on the basis of the principle "whenever necessary and relevant".

331. The DNFBP supervisors do not apply a risk-based approach to supervision. According to the Law on Inspections, the MoF and the MoJ are required to apply a risk-sensitive approach to supervision, taking into account the industry risks etc. However, this is not done in practice, as confirmed by the private sector entities met on-site. Neither the MoJ nor the MoF could demonstrate the application of a risk-based approach to supervision. The inspection planning process for casinos, for instance does not consider information about the individual supervised entities. Examinations of the MoF and the MoJ are based on a checklist approved by the respective Ministry and which cannot be extended or amended on an individual basis.

332. The scope of the DNFBP inspections carried out by the MoF and the MoJ does not vary according to the entity being inspected. AML/CFT issues are considered on a very limited basis during the on-site inspections of notaries. Excerpts of inspection reports, examined by the evaluation team, support these conclusions. There is no AML/CFT off-site inspection process.

333. The Chamber of Advocates is not required to conduct risk-based supervision since the Law on Inspections does not apply to the Chamber of Advocates. In the period under review, the Chamber of Advocates had not conducted any AML/CFT inspections. AML/CFT off-site inspection process is not carried out. The evaluation team noted a lack of knowledge and understanding of ML/FT risk by the Chamber. The authorities believe that in practice the legal privilege applies to the activities of the advocates supervised by the Chamber; therefore, little need is seen for advanced supervisory measures in relation to them.

334. In October 2014, the FMC was designated as the supervisor for real estate agents, dealers in precious stones and metals, accountants, TCSPs, lawyers and law firms. The FMC has not implemented a supervisory regime for these categories of DNFBPs yet. No staff has been dedicated to AML/CFT supervision of DNFBPs, and there is no guidance or manuals on the supervisory function of the FMC. Before October 2014 there was no supervisory system in place for these types of DNFBPs.

AML/CFT on-site examinations (complex inspections including an AML/CFT component)

Type of FI/DNFBP	2010	2011	2012	2013	2014
Banks	7 (21)[69]	7 (22)	5 (22)	5 (22)	4 (22)
Credit organizations	6 (32)	6 (32)	5 (32)	7 (33)	5 (32)
Investment companies	4 (8)	4 (8)	4 (9)	3 (8)	4 (8)
Insurance companies	4 (10)	3[70] (8)	3 (7)	4 (9)	2 (8)
PSOs	0 (12)	0 (11)	1 (7)	2 (7)	1 (7)
Pawnshops	63 (128)	40 (137)	63 (143)	30 (141)	37 (136)
Currency exchange offices	258 (303)	121 (298)	141 (290)	111 (275)	259 (267)
Casinos	78 (100)	100 (93)	92 (83)	86 (79)	6 (6)
Real estate agents	0 (260)	0 (-[71])	0 (-)	0 (-)	0 (-)
Dealers in precious metals	0 (-)	0 (-)	0 (-)	0 (-)	0 (-)
Dealers in precious stones	0 (18)	0 (19)	0 (21)	0 (16)	0 (21)
Lawyers & law firms	0 (-)[72]	0 (-)	0 (-)	0 (-)	0 (-)
Advocates	0 (884)	0 (1014)	0 (1130)	0 (1357)	0 (1434)
Notaries	0 (88)	5 (77)	0 (83)	3 (96)	3 (101)
Accountants	0 (369)	0 (510)	0 (576)	0 (622)	0 (609)

Targeted AML/CFT on-site examinations of banks

Year	2010	2011	2012	2013	2014
Targeted inspections of banks	6	3	5	4	10

Remedial actions and effective, proportionate, and dissuasive sanctions

335. The CBA applies remedial actions and sanctions for non-compliance with AML/CFT requirements against all types of financial institutions (see the table below). Remedial actions and sanctions in regard to AML/CFT violations are very rarely used by DNFBP supervisors.

336. The CBA applies proportionate sanctions. It has adequate procedures in place for imposing sanctions. The LD receives input from the FSD and the FMC before sending a proposal to the CBA's Licensing and Control Commission. There is an internal "case law book" which guarantees a consistent approach in the way the CBA imposes sanctions. A decision of the CBA's Commission is required for the imposition of a sanction. Sanctions have been imposed on all categories of financial

[69] In brackets = number of licensed/registered entities
[70] Due to the introduction of the motor vehicle insurance in 2011
[71] Deregulation in 2010 – since then no centralized register is maintained on the number of real estate agents
[72] No licensing requirement for the professional activity of lawyers; therefore no centralized register is maintained on the number of lawyers/law firms

institutions. Violations by FIs are mainly related to formal requirements and internal procedures, which invariably contain provisions on the implementation of legislatively defined AML/CFT requirements. Based on information received by the FSD, the breaches generally relate to inadequate implementation of the requirements in the AML/CFT Law, in particular concerning the updating of internal regulations and procedures; deficiencies in documenting results and conclusions of analyses; the identification of customers in cases of occasional transactions above the threshold; the recognition and the reporting of suspicious transactions and business relationships; the submission of regular reports to the highest management body and the organisation of training for the management and involved staff.

337. The evaluation team is of the view that the full range of available sanctions, including the power to suspend or revoke licenses for financial institutions seems to be adequate. However, it was noted positively, that the CBA referred to cases where licences of money exchange offices and pawnshops were revoked and suspended due to serious failures in complying with AML/CFT requirements. While the CBA is empowered to impose sanctions on senior management and directors, it has never done so in practice.

338. The available remedial actions and sanctions for non-compliance with AML/CFT requirements of DNFBPs are neither dissuasive nor effective. Sanctions for DNFBPs have been used very rarely. The range of available fines for breaches of the AML/CFT Law varies between approximately EUR 400-1,200 for DNFBPs (for legal as well as natural persons). This has to be compared to the average monthly salary in Armenia, which is AMD 146,524 (EUR 265)[73] and especially with the average monthly salary of a compliance officer of a bank which is approximately EUR 1,000. There is no legal basis to impose sanctions against managers and/or directors of DNFBPs (except for casinos) other than those which are individual entrepreneurs and to revoke or suspend licences. No sanctions have ever been imposed against real estate agents, dealers in precious stones, dealers in precious metals, lawyers, advocates, notaries and accountants. Furthermore, the imposed sanctions against casinos, organisers of games of chance and auditors are negligible.

Overview of remedial actions and sanctions of all supervisors

Type of FI/DNFBP	2010	2011	2012	2013	2014
Banks	**51**	**72**	**48**	**19**	**34**
Warning	29	54	26	14	24
Fines (number)	22	18	22	5	10
Fines (amount in AMD)	3,050,000	900,000	600,000	100,000	1,200,000
Fines (EUR equivalent)	6,149	1,735	1,162	184	2,174
Fines, average (EUR equivalent)	280	96	53	37	217
Credit Organizations	**2**	**10**	**26**	**8**	**18**
Warning	1	3	9	2	-
Fines (number)	1	7	17	6	18
Fines (amount in AMD)	150,000	200,000	300,000	100,000	300,000
Fines (EUR equivalent)	302	386	581	184	543
Fines, average (EUR equivalent)	302	55	34	31	30
Insurance Companies	**4**	**-**	**14**	**9**	**6**
Warning	4	-	14	9	6
Investment Companies	**4**	**-**	**14**	**9**	**6**
Warning	1	12	-	-	2
Fines (number)	1	-	-	-	-
Fines (amount in AMD)	50,000	-	-	-	-
Fines (EUR equivalent)	101	-	-	-	-
Fines, average (EUR equivalent)	101	-	-	-	-
Pawnshops	**67**	**98**	**103**	**42**	**56**
Warning	41	73	61	29	40
Fines (number)	25	25	40	12	34
Fines (amount in AMD)	5,250,000	1,100,000	2,900,000	2,200,000	5,750,000
Fines (EUR equivalent)	10,585	2,121	5,616	4,043	10,415
Fines, average (EUR equivalent)	423	85	140	337	306
Revocation of license	1	-	-	-	-
Suspension of license	-	-	2	1	-

[73] 2014 NRA (page 26, para 88)

PSOs	**-**	**-**	**-**	**-**	**8**
Warning	-	-	-	-	4
Fines (number)	-	-	-	-	4
Fines (amount in AMD)	-	-	-	-	250,000
Fines (EUR equivalent)	-	-	-	-	453
Fines, average (EUR equivalent)	-	-	-	-	113
Money exchange offices	**8**	**4**	**15**	**6**	**6**
Warning	6	4	12	4	4
Fines (number)	1	-	1	1	2
Fines (amount in AMD)	2,000,000	-	2,000,000	2,000,000	4,000,000
Fines (EUR equivalent)	4,032		3,873	3,676	7,245
Fines, average (EUR equivalent)	4,032		3,873	3,676	3,623
Revocation of license	1	-	-	-	-
Suspension of license	-	-	2	1	-
Casinos[74]	**-**	**31**	**39**	**9**	**1**
Organizer of games of Chance	**-**	**22**	**37**	**6**	**41**

* Euro equivalent of the relevant fines has been calculated on the basis of average annual EUR/ AMD exchange rate at 496 in 2010, 519 in 2011, 516 in 2012, 544 in 2013, and 552 in 2014.

Impact of supervisory actions on compliance

339. The feedback received from some of the financial institutions met on-site indicated that the private sector outreach and the remedial actions and sanctions taken by the CBA had to some extent a positive effect on the compliance by the private sector. Furthermore, the targeted inspections on the compliance with FT and PF sanction lists obviously had a positive effect on the awareness of the reporting entities. Moreover, the CBA is well regarded by the private sector and other supervisory authorities.

340. Nevertheless, due to the absence of an effective supervisory regime for DNFBPs and the lack of remedial actions and sanctions against DNFBPs, compliance by DNFBPs remains weak. No notable progress has been made in this regard since the last assessment. The private sector interviews clearly showed that the DNFBP supervisors play a very limited role in the area of AML/CFT compliance.

Promoting a clear understanding of AML/CFT obligations and ML/FT risks

341. The CBA promotes the understanding of ML/FT risks and AML/CFT obligations to the private sector through feedback and guidance. There is almost no outreach to the private sector by the DNFBP supervisors.

342. The FMC publishes AML/CFT relevant information and is in constant contact with the private sector. It publishes annual reports, AML/CFT-related court verdicts and the results of its strategic analyses. The FSD meets with banks and other financial institutions on a regular basis. During these meetings AML/CFT issues are also covered amongst other prudential topics. However, there are no regular meetings with DNFBPs.

343. The FMC together with the FSD provides training to the private sector. Training is provided at least twice a year or whenever needed, such as, for instance, where the AML/CFT Law is amended. However, there is a need for further sector-specific training. This was also mentioned during the private sector interviews. The level of AML/CFT awareness and knowledge varies among the private sector. There is in particular a significant gap regarding the AML/CFT awareness and knowledge of DNFBPs and their supervisors.

344. Since the last assessment, the CBA has published various guidelines for financial institutions and DNFBPs. The private sector involvement in drafting these new guidelines was limited to banks. The Regulation on the Minimum AML/CFT Requirements, which was published in October 2014, is quite comprehensive and applies to all reporting entities. The FMC published guidance on freezing

[74] No details available on the imposed sanctions of DNFBPs

obligations as recommended in the 3rd round MER shortly before the on-site visit (22 April 2015). Therefore, it is not possible to judge the effectiveness of the new guidance. The sector-specific guidelines for DNFBP do not appear to be tailored to the needs of different reporting entities.

345. The guidance does not focus on specific risks. For example, the risk of the DNFBP sector being misused for ML/FT purposes, in particular the potential risk for lawyers, advocates and real estate agents, is not adequately covered. This is in turn reflected in the lack of awareness by the private sector. It is the authorities' view that due to the under-developed and immature status of the DNFBP professions such as real estate intermediation, precious metals and stones dealership, social and economic involvement of lawyers, none of the DNFBP subject areas are material in the country.

Training provided to the private sector and other supervisors[75]

Year	2011	2012	2013	2014
Number of trainings	5 (4 banks, 1 DNFBPs/ DNFBP supervisors)	2 (1 FIs, 1 DNFBPs)	4 (1 banks; 2 FIs, 1 DNFBPs/ DNFBP supervisors)	4 (1 FIs; 3 banks)

*Overall conclusions on Immediate Outcome **3***

346. Armenia has an adequate and effective licensing regime for all financial institutions. The CBA (FSD) is well staffed and well trained and is provided with sufficient powers. However, the risk-based approach to supervision of financial institutions needs to be developed. The CBA has adequate procedures in place for imposing sanctions and it applies remedial actions against financial institutions.

347. The DNFBP sector is almost completely neglected, with the exception of casinos and notaries. There is a lack of risk awareness of all DNFBP supervisors as well as of the private sector. There are almost no measures in place to prevent criminals and their associates from entering the DNFBP sector for lawyers, real estate agents, dealers in precious stones, dealers in precious metals as well as accountants. The new requirements for fit & proper controls for casinos have yet to be implemented. None of the DNFBP supervisors applies a risk-sensitive approach to supervision. The FMC has not yet implemented a supervisory regime for the AML/CFT supervision of DNFBPs under its mandate, and the Chamber of Advocates has never conducted an on-site inspection. The sanctions regime for DNFBPs is not effective. Remedial actions against DNFBPs are very rarely used in practice. Additionally, the available actions and sanctions for AML/CFT violations of DNFBPs are very limited and not dissuasive.

348. The outreach to the private sector needs to be enhanced. The CBA – FMC together with the FSD – promotes its understanding of ML/FT risks and AML/CFT obligations through feedback, guidance and various training. However, the published guidance is only of a limited use and additional and sector specific training is needed for the private sector as well as for some authorities.

349. **Overall, Armenia shows a moderate level of effectiveness for Immediate Outcome 3.**

[75] Statistic based on the annual reports of the FMC

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

All legal persons are required to be registered. Basic information is publicly available and is, therefore, transparent. Armenia uses a combination of mechanisms to ensure that information on the beneficial ownership is accurate and up-to-date. Authorities use existing information obtained by banks in accordance with CDD requirements, in particular, and a beneficial ownership registry maintained by the State Register. It appears that a combination of legal provisions and practice at the State Register and the Tax Administration means that all legal persons must have at least one bank account, which is subject to CDD by the banking sector, which means that beneficial ownership information of all legal persons in Armenia is maintained by banks. The CBA assesses the adequacy of verification of beneficial ownership information by reporting entities while conducting on-site examinations and checks whether it is adequate, accurate and current. Its sanctions framework is not wholly effective or dissuasive but – while there have been occasional gaps in relation to beneficial ownership – none has been a significant/systemic issue.

It is positive that rules have been introduced for beneficial ownership information to be provided to the State Register. However, there is no formal mechanism for monitoring the adequacy, accuracy or currency of this information and ensuring that information is provided to it. There is also no mechanism for checking whether changes of beneficial ownership information are provided to the Register. The State Register has no powers of sanction.

Beneficial ownership information which is maintained by legal persons, the State Register, the Central Depository and the reporting entities is available to competent authorities. According to the authorities, during the period under review, the authorities have always been able to obtain adequate, accurate and current information when needed, without impediments, and in a timely manner.

Armenia has provided some information on legal persons in its NRA and a generic statement of risk. Whereas this does not constitute an in-depth assessment of the vulnerabilities of the specific types of legal persons, the State Register is working towards an understanding of the complexities of the risks of beneficial ownership. Nevertheless, some key authorities have a much more developed understanding of the risks of misuse of legal persons than is reflected in the NRA. Overall, the authorities as a whole do not have fully documented information and comprehensive assessment of that information (e.g. on fraud risk) to appropriately inform their responses to risk.

Recommended Actions

- Under the coordination of the State Register, the Armenian authorities should gather together and consider all pertinent information on legal persons so as to comprehensively identify, assess and understand their vulnerabilities, and coordinate responses to those vulnerabilities.
- The State Register should introduce mechanisms to monitor and follow up late filings proactively.
- The State Register's role should be supported by the introduction of a statutory framework for sanctions for failure to file basic and beneficial ownership information with it, late filings of information, failure to provide any additional information necessary for it to undertake its functions, and for the provision of false or misleading information. The sanctions frameworks for supervisors should also be extended.
- In order to seek to ensure the vulnerabilities of legal persons are widely understood, the CBA should maintain detailed statistics on irregularities found during on-site inspections and subsequent actions such as remediation by FIs. In addition, the Interagency Committee should

consider what other statistics should be maintained for the effectiveness of responses to misuse of legal persons to be monitored.

The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25.

Immediate Outcome 5 (Legal Persons and Arrangements)

Public availability of information on the creation and types of legal persons and arrangements

350. Information on the creation and types of legal persons is publicly available in Armenian on the website of the State Register (https://www.e-register.am/en/docs), with some information being available in Russian and English as well. Information which can be accessed from the website without paying a fee includes the name of the company, its legal form, the date of registration, the number of registration, the names of founders and information about whether the legal entity is in the process of liquidation.[76] Other information is available upon payment of a small fee. Guidance and information on the creation of legal persons is also available on the website. The evaluation team considers that the information available to the public is adequate.

351. Legal arrangements are not permitted to be formed under Armenian legislation and, consequently, there is no public information available on them. The Armenian authorities consider that it is almost impossible for trust arrangements to use reporting entities in the absence of legislation governing trusts.

Identification, assessment and understanding of ML/FT risks and vulnerabilities of legal entities

352. The NRA includes some information on legal persons but it comprises factual information and a generic statement on risk. It does not enable Armenia to demonstrate that it has identified, assessed and understood the vulnerabilities of ML/FT risks of legal persons created in the country. While the State Register contributed to the NRA it does not use the NRA or have an inherent understanding of risk. Its understanding of the complexities of beneficial ownership is still in the process of formation. More liaison between the FMC and the State Register would benefit the understanding of both authorities (particularly the latter) on the extent to which the role of the Register is leading to the formation of suspicions of ML[77].

353. The overarching premise of the NRA text on legal persons is that the State Register holds information on the ownership of limited liability companies and that no cases have been identified of legal persons being involved in ML/FT. There is also over reliance in the NRA on the fact that law enforcement authorities have not identified cases involving legal persons for the purposes of understanding vulnerabilities and the misuse of legal persons for ML/FT. This means that relevant information from other sources such as STRs and other financial intelligence, findings of on-site inspections by supervisors and any other pertinent information has not been used as efficiently as possible.

354. The NRA does not assess the implications of information provided to the evaluation team while on-site in Armenia that companies are used to facilitate fraud and that legal persons are generally involved in cases to do with financial crime. Information in relation to the beneficial owners of legal persons has not been used, nor the level of compliance by reporting entities, the implications of the general practice that companies are formed without intermediation by a reporting entity, or the level of compliance with the FATF Standards. The gaps in DNFBP supervision are highlighted in IO3 and mean a missed opportunity to understand the vulnerabilities presented by legal persons using DNFBPs.

[76] Further information on this matter may be found in the analysis of Criterion 24.3 in the TC Annex.

[77] Although not a financial institution of DNFBP, the State Register is a reporting entity under the AML/CFT Law.

355. Nevertheless, although not articulated in the NRA, in practice there is a much more developed understanding of the vulnerabilities by some key authorities in practice. The pattern of ownership of legal persons is known, with 97% being owned by Armenian residents and most of the remainder being owned by representatives of the Armenian Diaspora. The geography of the ownership of legal persons is understood. Armenia's economy has been in decline and it is not used by foreign investors to any significant degree. Legal persons are used for trading purposes. Armenia is not a regional or an international centre for legal persons and the asset management and complex business relationships seen in such centres are not present in the country.

356. Under the AML/CFT regulation, Armenia requires enhanced measures to be applied in relation to legal persons or arrangements that are personal asset-holding vehicles; companies that have an unusual or excessively complex ownership structure; and non-face-to-face business transactions or relationships. It does not appear that Armenia has specifically considered how these categories tie in with the NRA. However, based on experience, the authorities are of the view that personal asset holding companies are not used in Armenia (and the evaluation team did not note any such use during its visit to Armenia). Investment products and services are basic. Nominee arrangements are not utilised and bearer shares and warrants are forbidden. The authorities also advise that there is no non-face to face business and no reliance on third parties to undertake CDD; the evaluation team came across no examples. The level of compliance with beneficial ownership requirements by financial institutions (and the requirements of the State Register for legal persons in relation to bank accounts (see below)) is also understood, together with the extent to which the seeking of basic and beneficial information from financial institutions has been possible in practice.

357. It was apparent to the evaluation team while on-site in Armenia that the authorities were mindful of the facts and assessment specified above when considering the vulnerabilities of legal persons. Nevertheless, an articulated assessment of vulnerabilities shared by all authorities is not in place to identify, assess and understand such vulnerabilities. This should be addressed by undertaking a coordinated and comprehensive assessment across the authorities. It should not be a major exercise to undertake such an assessment given the characteristics of legal entities described above and the developed views of some authorities.

Mitigating measures to prevent the misuse of legal persons and arrangements

358. The Armenian authorities have taken a number of steps aimed at preventing and mitigating the risk of misuse of Armenian legal persons. These include transparency of basic information through registration, prohibition of bearer securities, legal provisions on providing beneficial ownership information to the State Register, legal provisions and practices on the use of bank accounts, limits on the use of cash for transactions by legal persons, CDD obligations for banks in particular and providing for access to information by the authorities. These steps are discussed below.

359. With regard to transparency, the basic information held at the State Register (for all types of entities other than JSCs) and at the Central Depository (for JSCs) is publicly accessible. Armenia uses a combination of mechanisms to ensure that information on the beneficial ownership is accurate and up-to-date. Authorities use existing information obtained by banks in accordance with CDD requirements. Additionally, the Declaration of Beneficial Owners (see Recommendation 24) contains a requirement to file a form within two business days of submitting an application for state registration providing details of statutory capital, founders, participants, members, stakeholders or shareholders, and within two business days of any change to those details.

360. Bearer securities cannot be issued by legal persons.

361. It appears that nominee arrangements are not used in practice. Nominee services are not offered and persons acting on behalf of customers are subject to CDD requirements.

362. The authorities have advised that all legal persons use Armenian bank accounts, and that the CDD standards of banks in relation to beneficial owners of legal persons further reduce vulnerability.

This view about the use of bank accounts is verified by: (a) Article 26 of the Company Registration Law, which requires that the taxpayer identification number and the social contributions card account number of the legal entity must be submitted when applying for the registration of a legal entity; and (b) the fact that a statement of the bank account is considered by the State Register as being the only way of satisfying it as to the availability of authorised capital. Moreover, the evaluation team has noted the profile of Armenian legal persons for trading purposes and by implication the importance of a bank account for companies. Article 6 of the Law on Cash Desk Operations requires that legal persons cannot use cash over the following transaction thresholds – AMD 300 thousand (approximately EUR 540) for one-off cash payments and AMD 3 million (approximately EUR 5,400) for the cumulative value of all cash payments within a one-month period. This means that cash can be used only for minor transactions and, in practice, the establishment of a bank account (including access to wire transfers) would be the only practical way for companies to transact business.

363. Banks are the only type of financial institution to maintain currency accounts for customers and to facilitate such non-cash transactions (as MVTS providers undertake business only with natural persons). Compliance with this instrument is verified by the authorities through on-site inspections by the CBA (including reviews of customer files at banks). This is complemented by the Tax Administration, which seeks to ensure accuracy of tax returns and requires that tax payments can only be made by using a bank account. The Armenian authorities have confirmed that all legal persons must file tax returns. The authorities have also confirmed that the CBA and the Tax Administration have never found an instance of a legal person not having a bank account. The evaluation team has concluded from meetings with authorities and reporting entities that it would seem impractical for legal persons not to have at least one bank account in Armenia.

364. There is no formal mechanism for checking whether changes to basic or beneficial ownership information have been notified to the State Register. In addition, there are no deadlines for advising the State Register of changes to basic ownership information. The Declaration of Beneficial Owners contains a requirement to file a form providing details of any changes to statutory capital, founders, participants, members, stakeholders or shareholders, within two business days of the relevant change to the State Register. However, the State Register does not have any powers to impose sanctions and, except for financial institutions licensed by the CBA and subject to the CDD standards in the AML/CFT Law and the AML/CFT regulation, this approach does not amount to a clear, enforceable requirement for timely notification of changes. As a result, information at the Registry cannot be considered to be wholly reliable.

365. The State Register receives approximately 1,000 to 2,000 applications each month. These applications involve both the updating of beneficial ownership information and directors for existing legal persons (estimated at 80%) and for the formation of new legal persons (estimated at 20%). The State Register seeks to complete its processes for applications within two days, depending on the type of legal person. Online registration, which is a rapid process in Armenia, is available only to natural persons who are Armenian residents. Furthermore, such registration is only available for the registration of sole entrepreneurs and LLCs. There have been some 400 online registrations for LLCs. Online registration has not reduced the adequacy of information available.

366. From the beginning of 2012 until the end of 2013, the State Register rejected some 2900 applications to form companies under Articles 35 and 36 of the Company Registration Law. The State Register checks information received for consistency against its own records and the information received in the application. The reasons for rejection include the provision of incorrect or inconsistent information. Checks also cover whether or not the founders of the company or directors have been prohibited by the court from holding these positions. The State Register confirmed that a few cases of inaccurate or incomplete information had slipped through the system at the early stages of implementation, which were addressed by obtaining the missing information. Names are also matched by the State Register against persons designated by the United Nations in relation to FT and PF sanctions. To some extent, these checks amount to seeking to ensure the accuracy and adequacy of information provided to it in accordance with the legislative requirements and helping to prevent misuse of legal entities. Further measures are necessary to ensure currency of information, which

will also facilitate the accuracy and adequacy of information if the information becomes out of date. The authorities advise that, in practice, companies are motivated to provide for the information to be current to enable the users of information – particularly reporting entities – to cross-check it with the State Register without bothering the legal entity. Such cross-checking is undertaken.

367. More importantly, the authorities have also expressed the view that, notwithstanding the absence of a clear enforceable requirement for timely notification of changes, the fact that changes which have not been advised to the State Register are not legally in force as stipulated under Articles 55, 56, 63, and 69 of the Civil Code, is an extremely strong incentive for changes to be notified to the State Register in a timely way in order to ensure that contractual obligations, benefits and liabilities attach only to the appropriate parties, i.e. it is in the interests of the legal person and its new and previous owners (depending on the change to be notified) to notify a change quickly to the Register. The authorities are not aware that there have been any shortfalls in the provision of information on changes (through, for example, action in the courts) and have confirmed that, when processing updates to beneficial ownership information, those updates are provided within the two day deadline. In addition, banks have not noted any issues of lack of accuracy in the information at the Register.

368. With reference to the Central Depository, shareholders of around 3,800 JSCs are responsible for providing the Depository with information on their shareholdings. The Central Depository is a reporting entity under the AML/CFT Law. In this capacity it requires the provision of information to it to enable it to verify the identity of beneficial owners of JSCs in accordance with the AML/CFT Law and the AML/CFT regulation. It is subject to on-site inspections by the CBA at least every three years along with routine daily off-site monitoring of all transactions conducted by the Central Depository. The CBA has not noted any issues in relation to the adequacy, accuracy or currency of information held by the Depository.

369. The Central Depository also provides custody services for companies quoted on the Yerevan Stock Exchange (NASDAQ-OMX Armenia). It has installed software so that any person, including a legal person, can only be registered as a shareholder in a quoted company if basic information about the person is provided, such as their name, residence and taxpayer number. This information is not checked per se but Depository staff assess whether transactions are unusual and, if they are, documentation on the registered person can be required by the operators of the Depository.

370. Reporting entities are subject to the beneficial ownership requirements of the AML/CFT Law. CDD measures, including verification of beneficial ownership measures are described in IO4 (see Paragraph 266). Reporting entities use but do not exclusively rely on State Register information, which is only part of the CDD process. Supervisors have an important role to play in helping to prevent misuse as they can monitor performance by reporting entities and require failings to be remediated. The effectiveness of the regimes applied by supervisors is considered in IO3. Information held by banks in Armenia and its accessibility is the key in preventing misuse of legal persons. The CBA conducts on-site inspections and sample testing.

371. However, an effective supervisory framework for the DNFBP sector is not in place and, in light of this, there are some significant gaps in compliance by DNFBPs in relation to CDD standards. In this context, however, lawyers, advocates and notaries are not generally involved in the formation of legal persons. Compared with regional or international centres, this significantly reduces the materiality of the DNFBP sector relative to the financial sector and the key part played by banks. Casinos do not have legal persons as customers. It appears to be rare for legal persons to be used to purchase (and therefore sell) real estate as trading entities prefer to rent accommodation instead of purchasing property. This also reduces the materiality of the DNFBP sector notwithstanding the weaknesses in AML/CFT measures in respect of the sector. In light of the trading activities of legal persons and the consequential importance of accountancy and audit for such persons, it is positive that the accountancy sector appears to have an adequate understanding of CDD – this is helpful in preventing misuse and in providing another source of beneficial ownership information for the authorities.

372. The CBA indicated that it had found only occasional failures of non-compliance by FIs in relation to meeting the beneficial ownership requirements. From its meetings with FIs, the evaluation team concluded that such reporting entities have adequate and accurate CDD on beneficial owners. It also appears to be current. FIs also understand the purpose of business relationships, thus bolstering their ability to obtain information.

373. Overall, the requirements for information on beneficial owners to be held by banks and other FIs (including the Central Depository in its capacity of a reporting entity) in Armenia and the measures taken through on-site supervision of the CBA in seeking to ensure that such information is adequate, accurate and timely are important mitigations in preventing misuse by legal persons for criminal purposes. The efforts by FIs (banks in particular) and the CBA appear to be successful. This mitigates the risks arising from the fact that the system to ensure the adequacy, accuracy and currency of beneficial ownership provided to the State Register is indirect and is based on the incentive to ensure that information held at the Register is accurate and current to ensure that the changes are legally enforceable. Changes are only provided to the State Register in a timely way if the deadline in the rules is satisfied and new and previous beneficial owners of legal persons recognise the importance of updating the information at the Register in a timely fashion. That said, there seems to be no evidence to suggest that changes are not normally made within the two day deadline (see the following section). Nevertheless, it is FIs rather than the State Register which is used as the preferred source of information on beneficial owners by the authorities. This is partly because FIs hold more than beneficial ownership information on business relationships. This significantly reduces the vulnerability of any potential shortcomings of information held at the State Register. Nevertheless, the absence of an explicit and systematic mechanism for ensuring changes are made in a timely way and for information held at the State Register to be adequate, accurate and current should be addressed, albeit there appears to have been no significant problem with the accuracy, adequacy or currency of information at the State Register in practice.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons/arrangements

374. The foregoing is relevant to the adequacy, accuracy and currency of basic ownership information. The introduction of rules for the disclosure of beneficial owners of legal persons and the establishment of a registry of beneficial ownership information at the State Register is a very positive initiative by Armenia. This benefit is enhanced in the context of Armenia as the vast majority of legal persons are owned by Armenians, allowing the beneficial ownership matrix of legal persons being owned by other legal persons to be tracked through information held at the Register. As indicated above, banks met by the evaluation team considered that information at the State Register is accurate and complete. However, although there is a deadline in place for the provision of information and the incentive of ensuring that the Register has appropriate notification in order to ensure that changes are legally enforceable, and the Armenian authorities believe that the information is correct (there is no intelligence to the contrary), it cannot be certain that beneficial ownership information held by the State Register is always adequate, accurate and current.

375. The evaluation team concluded from its meetings with FIs that beneficial ownership information held by them is adequate. While there might be a difference between meeting the risk-based requirements for ongoing monitoring in criterion 10.7 of Recommendation 10 and the requirements in criterion 24.7 of Recommendation 24 to keep beneficial ownership information as accurate and up-to-date as possible, that difference does not appear to have manifested in any reduction in the adequacy of beneficial ownership information. This is consistent with the findings of the CBA during its inspections, as it has noted only occasional failures to meet beneficial ownership requirements (see IO4) although separate statistics are not maintained on this and in IO3 the evaluation team has recommended enhanced sampling practices.

376. The materiality of DNFBPs in the context of adequacy of beneficial ownership information is addressed above. While there are gaps (amplified by the serious shortcomings in DNFBP supervision and regulation to monitor the CDD standards of DNFBPs), legal persons are not used in the casino

sector and are uncommon in the purchase of real estate. CDD standards are understood by the accountants and auditors, presenting a useful source of adequate information for the authorities.

377. It is not explicit in legislation that legal persons themselves should maintain up to date information on beneficial ownership. However, it might be assumed that there is no or little difference in the information available at the legal person compared to that provided to the State Register and the reporting entities (banks, in particular). It is probable that the quality of information and the verification process within legal persons is comparable – if not more comprehensive – to the process of the State Register or reporting entities.

378. With reference to the timeliness of access to information by the competent authorities, basic information is publicly available and there are mechanisms in place governing timely access to beneficial ownership information. The State Register is required to provide information on beneficial owners to the FMC upon request. There have been no impediments to the provision of beneficial ownership information to the FMC by the State Register. Information has been provided on a timely basis, within the time limits specified by the FMC. Similarly, there are also no impediments to the CBA's supervision of FIs and, as indicated above, information on legal persons which are customers of FIs has been made available to it when conducting on-site inspections.

379. The evaluation team also had discussions with the authorities on the adequacy and timeliness of provision of beneficial information from financial institutions for the purposes of gathering intelligence and investigatory activity. The FMC and the LEAs have been able to obtain information from FIs when it has been needed; in practice the information has been required from – and provided by – banks. There have been no impediments to obtaining this information and it has been provided within the time frames needed for intelligence activity and for investigators. Some 10 to 15 investigations annually require an approach to banks for beneficial ownership information. To date the authorities have not approached any DNFBP to provide such information; this has not been an impediment to the authorities in obtaining information.

380. With regard to legal arrangements, these cannot be established in Armenia. Reporting entities are obliged to comply with all CDD requirements should they conduct transactions in relation to foreign trusts and other legal arrangements. There is no guidance available on how to deal with such cases. However, the reporting entities met by the evaluation team did not have any business relationships with legal arrangements and it is not likely in the short term that Armenia will be used by legal arrangements.

Effectiveness, proportionality and dissuasiveness of sanctions

381. No sanctions or other remedial actions have been taken for failures to comply with the requirement to provide beneficial ownership information to the State Register. There are no penalties for failure to provide the information or for providing incorrect information. The State Register does not have any legal power to impose sanctions or to take remedial actions. The work of the State Register is undermined by the absence of any legal powers to ensure compliance with the requirements of the law. Several reporting entities advised the evaluation team that they place reliance on the basic ownership information at the State Register to check CDD which has been provided as it is an official body. However, even if shortcomings have not been identified in practice with the data held by the State Register, in practice, in the absence of a framework to ensure that the information is adequate, accurate and current, reliance for this reason is not justified. The authorities advise that such reliance would not be used by financial institutions as a reason for failure to carry out their own CDD measures regarding beneficial owners of legal persons.

382. The CBA applies remedial actions and sanctions for non-compliance with the requirements which are not fully dissuasive or effective. There has been no need to impose sanctions for failure to provide basic or beneficial ownership information. Such information has been forthcoming, principally but not wholly in relation to on-site inspections. The CBA is willing to apply sanctions. Sanctions for AML/CFT failings have been imposed by the CBA against all types of financial institutions, although no separate statistics are maintained on sanctions imposed in relation to

failings involving adequacy of beneficial ownership information. Such statistics would be helpful to the authorities in considering risks and the adequacy of preventive measures in preventing misuse. Overall, the CBA's work, including sanctions imposed, has to some extent had a positive effect on AML/CFT compliance overall by FIs – this includes standards in relation to CDD on beneficial ownership.

383. The FMC and LEAs have powers of sanction available to them for failure to provide basic or beneficial ownership information. There have been no cases where it has been necessary to impose sanctions as information has been provided in a timely manner.

*Overall conclusions on Immediate Outcome **5***

384. Armenia has provided some information on legal persons in its NRA and a generic statement of risk. Whereas this does not constitute an in-depth assessment of the vulnerabilities of the specific types of legal persons, the State Register is working towards an understanding of the complexities of the risks of beneficial ownership. Nevertheless, some key authorities have a much more developed understanding of the risks of misuse of legal persons than is reflected in the NRA. Overall, the authorities as a whole do not have fully documented information and comprehensive assessment of that information (e.g. on fraud risk) to appropriately inform their responses to risk.

385. Legal arrangements cannot be formed in Armenia and the evaluation team did not note any examples of use of Armenia in relation to legal arrangements. It is not likely in the short term that Armenia will be used by legal arrangements.

386. All legal persons are required to be registered. Basic information is publically available and, therefore, transparent. While changes of basic information are not deemed to be enforceable unless they have been notified to the State Register, this does not ensure that the information is accurate and up to date after a company has been formed in the absence of specific provisions. Nevertheless, the adequacy, accuracy and currency of information appear to have been satisfactory in practice.

387. It appears that a combination of legal provisions and practice at the State Register and the Tax Administration means that legal persons will in practice have a bank account, which is subject to CDD by the banking sector. The CBA assesses the adequacy of verification of beneficial ownership information by reporting entities while conducting on-site examinations and checks whether it is adequate, accurate and current. Its sanctions framework is not wholly effective or dissuasive but – while there have been occasional gaps in relation to beneficial ownership – none has been a significant/systemic issue. Accurate and up-to-date information appears to be available from banks and other financial institutions.

388. It is positive that rules have been introduced for beneficial ownership information to be provided to the State Register. However, there is no formal mechanism for monitoring the adequacy, accuracy or currency of this information. There is also no mechanism for checking whether changes of beneficial ownership information are provided to the Register. The State Register has no powers of sanction. These are weaknesses. Nevertheless, the combination of the deadline in the rules for providing updates to beneficial ownership to the Register and the importance for new and previous beneficial owners in ensuring that changes of beneficial ownership are legally enforceable mean that there do not appear to have been any significant issues of effectiveness. The information held by the State Register provides support to the information held by financial institutions.

389. Beneficial ownership information which is held by legal persons, the State Register, the Central Depository and the reporting entities is available to competent authorities. During the period under consideration by the evaluation team the authorities have always been able to obtain adequate, accurate and current information when needed, without impediments, and in a timely manner according to their needs. There has been no necessity to impose sanctions for failure to provide information.

390. In assessing this outcome, particular weight is given to a range of contextual factors.

391. Ninety-seven per cent of legal persons are owned by Armenian residents, with most of the remainder being owned by representatives of the Armenian Diaspora. Legal persons are used for trading purposes. Armenia is not a regional or an international centre for legal persons and the asset management and complex business relationships using legal persons seen in such centres are not present in Armenia. Armenia's economy has been in decline and it is not used by foreign investors to any significant degree. The authorities are of the view that personal asset holding companies are not used in Armenia and the evaluation team did not note any such use during its visit to Armenia. Nominee arrangements are not utilised and bearer securities are forbidden. There appears to be no non-face to face business or reliance on third parties to undertake CDD.

392. Particular weight is also given to the materiality of the banking sector, its standards for verifying beneficial ownership information, the requirements in relation to the use of bank accounts by legal persons, and the success of the authorities in obtaining adequate, accurate and current beneficial ownership information from the reporting financial institutions (including the State Register) and specifically from the banks.

393. **Armenia shows a substantial level of effectiveness for Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

The Armenian authorities are able to provide the widest possible range of mutual legal assistance and extradition in a timely manner in relation to investigations, prosecutions and related proceedings involving ML/FT and associated predicate offences. However, the low enforcement authorities have not been actively seeking legal assistance for international cooperation, since there is a limited practice in investigating and prosecuting ML/FT domestically.

Recommended Actions

- Armenia should seek foreign legal assistance and extradition more actively in cases with a cross-border element, in line with the ML/FT risks that the country faces. This also applies to informal exchanges of information between domestic law enforcement and supervisory authorities and their foreign counterparts.
- Comprehensive statistics should be maintained for MLA, broken down by different categories of offences, including ML and FT.

The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

Immediate Outcome 2 (International Cooperation)

Providing constructive and timely MLA and extradition

394. The Criminal Procedure Code sets out a comprehensive legal framework for mutual legal assistance, which enables the authorities to provide the widest possible range of assistance in relation to investigations, prosecutions and related proceedings concerning ML, associated predicate offences and FT. The evaluation team received positive feedback from the global AML/CFT network in relation to the quality and timeliness of assistance provided by Armenia. On average, requests for MLA are processed within 1 to 2 months, unless a shorter time-frame is specified in the request. According to the authorities, in the majority of MLA requests, Armenia is requested to produce documentary evidence and taking evidence or statements from witnesses.

395. Pursuant to the relevant provisions of the CPC, MLA is to be provided in accordance with the requirements set out in international treaties and domestic legislation. In exceptional circumstances, MLA may also be provided on the basis of reciprocity in the absence of an international treaty between Armenia and a foreign state. Armenia has maintained its reservation under Chapter I of the 1978 Additional Protocol to the 1959 European Convention on Mutual Assistance in Criminal Matters, which relates to the provision of assistance concerning fiscal matters. In these circumstances, Armenia may not be in a position to provide assistance in relation to the search or seizure of property. It should be noted, however, that this restriction is not specified in the CPC. Moreover, according to Article 476 (1) of the CPC when the obligation to execute requests for conducting procedural actions made by a competent authority of a foreign state stems from more than one international treaty, in case the request refers to a specific international treaty providing the basis for drawing up and filing the request, then the court, prosecutor, investigator or inquest body in charge of executing the request shall be governed by the given international treaty. Hence, taking into consideration that the Republic of Armenia made no declarations with regard to other Conventions, for instance the CETS 198 Convention, in case of MLA request under the CETS 198 Convention the provisions of the latter will apply. The representatives met on-site, in fact, stated that in practice this reservation would not represent an obstacle to providing the widest form of assistance. As authorities have never faced this situation, no practical examples could be provided to support the authorities' claims.

396. Before 2015, Armenia did not maintain disaggregated statistics on MLA requests broken down by different categories of offences and types of information requested (e.g. beneficial ownership information on accounts). No breakdown on the type of assistance provided and requested was made available. It was indicated that, in the period between 2010 and 2014, the GPO received 1 request for MLA on ML from a foreign counterpart. No requests on FT were received. No information was provided by the MoJ on ML-related requests. None were made for FT. No extradition requests, either for ML or FT, were received. The country with which Armenia cooperates most frequently is Russia. As a requested state, Armenia has not encountered any problems or obstacles during the fulfilment of the legal assistance requests.

397. The total number of MLA and extradition requests received from foreign counterparts is indicated in the tables below.

Statistics on Mutual Legal Assistance provided by the GPO

Year	All types of MLA requests	General MLA requests	General extradition requests	Prosecution requests
2010	2232	76	27	17
2011	4013	104	30	19
2012	1293	81	22	11
2013	2894	89	27	17
2014*	1708	48	9	12

** 2014 data covers the period January 1 - July 1*

Statistics on Mutual Legal Assistance provided by the MoJ [78]

Year	Requests received from foreign states
2012	248
2013	232
2014	269
Total	**749**

398. Turning to extradition, Armenia adheres strictly to the 1957 European Convention on Extradition and thus the level of assistance it provides is timely and constructive. Since 2012, Armenia refused 46 and executed 18 extradition requests. In the majority of cases, the extradition request was refused on the basis of the fact that the person concerned was an Armenian citizen. In these cases, the foreign authorities were requested to transfer the criminal proceedings to Armenia.

399. The table below indicates the number of requests received to recognise a decision by a foreign court or a foreign confiscation order.

Statistics on MLA requests received for recognition of foreign court confiscation orders

2010	2011	2012	2013	2014	2015*
15	18	12	17	11	17

400. The confidentiality of MLA requests is maintained and all appropriate safeguards are applied on the basis of the CPC. In particular, interrogation, inspection, seizure, search, expert examination

[78] Statistics were provided in aggregated form for criminal and civil cases.

and other procedural actions provided for by the CPC are carried out in accordance with international treaties, in the manner prescribed by those treaties and the CPC.

Seeking timely legal assistance to pursue domestic ML, associated predicate and FT cases with transnational elements

401. In the period from 2012 to 2014, 9 MLA and 5 extradition requests were made by Armenia for ML (two persons were extradited to Armenia). None were made for FT. The total number of MLA and extradition requests sent to foreign counterparts is indicated in the tables below.

Statistics on Mutual Legal Assistance sought by the GPO

Year	All types of MLA requests	General MLA requests	General extradition requests	Prosecution requests
2010	2250	49	82	23
2011	2915	97	82	24
2012	1013	113	69	34
2013	2796	116	77	30
2014*	1667	121	52	9

** 2014 data covers the period January 1 - July 1*

Statistics on Mutual Legal Assistance sought by the MoJ [79]

Year	Requests sent to foreign states
2012	70
2013	94
2014	75
Total	**239**

402. The Armenian authorities indicated that in some cases they did not receive any responses in relation to some parts of the legal assistance requests sent to foreign competent authorities. A small number were received within 6 months or a longer period of time.

403. Since there is no overall formal policy within the country to investigate and prosecute ML and FT, international cooperation in this area is very limited. This also applies to cooperation concerning predicate offences since the investigation of transnational criminal cases domestically is not widespread. An encouraging trend was however noted with respect to the application of the MLA provisions of the Council of Europe Budapest Convention on Cybercrime. In relation to this, within the period of 2013-2015 overall 80 MLA requests with regard to crimes against computer information security were sent to foreign counterparts in the framework of the aforementioned Convention. Disappointingly, only 13 requests have been responded to.

Seeking and providing other forms of international cooperation for AML/CFT purposes

404. The FMC demonstrated that it actively cooperates with foreign counterparts for AML/CFT purposes. Although it is not required to do so in order to exchange information, the FMC entered into MoUs with thirty foreign FIUs. The legal framework in place is broad enough for the FMC to exchange information, both spontaneously and upon request, either on the basis of a MOU or of international best practices. The FMC can cooperate not only with its foreign counterparts, but also with non-counterpart authorities within the framework of diagonal cooperation. For the purpose of international exchange of information, the FMC may request information from any reporting entity,

[79] Statistics were provided in aggregated form for criminal and civil cases

irrespective of whether the particular reporting entity had previously filed an STR. During the period under review, the FMC carried out 280 exchanges of information (121 requests received / 159 requests sent). An average period of 15 days was required for the FMC to respond to requests received from foreign counterparts, depending on whether the requested information was contained within the databases of the FMC or additional enquires were required to be made to reporting entities or domestic competent authorities. Cases where information obtained from foreign counterparts was used to develop analysis have been presented by the FMC. Prioritisation of requests depends on the urgency specified by the requesting authority, or on the nature of the request (for example, requests related to bank account balances are dealt with urgently). In the period under review, the FMC did not reject any request for the exchange of ML/FT information.

Statistics on FMC international cooperation

	2010	2011	2012	2013	2014
Requests received by FMC	25	36	11	32	17
Requests made by FMC	28	30	38	24	39

405. The FMC supports the investigative effort by providing intelligence obtained from foreign counterparts to law enforcement authorities (once the authorisation from the foreign counterpart is obtained). Various cases were presented to the evaluation team which demonstrate the operational support the FMC provides to the LEAs.

Exchange of information with foreign counterparts

The FMC received a request from a LEA concerning a foreign national in connection with cybercrime and money laundering activities. Information was requested on the bank accounts of the foreign national and his family members. Requests were sent out to banks by the FMC. The information was analysed and sent to the LEA. The LEA requested further information on bank accounts held in foreign banks. The FMC sent requests to two foreign FIUs situated in the country where the bank accounts had been opened and requested permission to disseminate information to LEAs. Upon receipt of information from the foreign FIUs, an analysis was conducted and intelligence was disseminated to law enforcement authorities.

406. The AML/CFT Law guarantees the confidentiality of information received from foreign authorities. The FMC is prohibited from disclosing information received or requested from foreign authorities to third parties without the prior consent of that foreign authority. In order to ensure that information exchanges are conducted in a secure manner, the FMC widely cooperates with the Egmont Group member FIUs through the Egmont Secure Web. The FMC exchanges information with non-Egmont Group members through alternative protected channels. The confidentiality regime which applies domestically is also available for information received from foreign counterparts. All FMC staff members are required to sign a confidentiality agreement. Access to FMC facilities and information is restricted, including IT systems.

407. In line with the Egmont Group Principles of Information Exchange, whenever information is requested from foreign counterparts, the FMC provides complete, factual and legal information including the description of the case being analysed and the potential link with the country receiving the request, to the largest extent possible. The FMC uses the Egmont Group query form when requesting information.

408. There is little evidence of LEAs' proactive involvement in information exchange with foreign counterparts for AML/CFT purposes. The Police, NSS, and Ministry of Finance (in charge of tax and customs administration) are authorised by the CPC provisions to exchange information directly with their foreign counterparts on the basis of international agreements. Although relevant agreements are in place, during the period under review neither the Tax nor the Customs Administration exchanged information with a foreign counterpart on AML/CFT matters. The Police exchange information through the Interpol network on a regular basis. However, this mainly relates to

investigations of predicate crimes. During the period of 2010-2014 the Police received overall 46 foreign requests and all the requests were executed and responded. As for the NSS, informal exchanges of information are mainly conducted through the FMC to support their ML investigations, although information requested by the FIU from foreign counterparts cannot be used as evidence. This is, in the opinion of the evaluation team, another indication that LEAs do not focus sufficiently on proactive financial investigations aimed at identifying and freezing proceeds whether domestically or abroad.

409. Limitations on LEAs' access to some special investigative techniques under LOIA may impact on their ability to provide the widest form of cooperation outside the MLA framework. While law enforcement bodies may deploy special investigative techniques provided by LOIA when so requested by foreign counterpart, the restrictive conditions for access to these measures would have an impact on the extent to which these measures can be used in practice (i.e. access to financial data and to secretly monitor transactions may be implemented only in those cases when the persons against whom it is directed is suspected in grave and particularly grave crimes (*basic ML is excluded*), and provided there is substantial evidence that it would be impossible for the investigation body to perform duties assign to it by law through any other means of operational work).

410. It is unclear whether supervisors have exchanged information for AML/CFT purposes. Although the Central Bank of Armenia has the power to provide relevant information related to off-site supervision and on-site inspections of financial institutions to foreign authorities, even in cases when such information comprises banking or other secrecy, over the last years, information exchanges of the CBA with foreign supervisory bodies were not related to AML/CFT supervision.

International exchange of basic and beneficial ownership information of legal persons and arrangements

411. Armenia has not sent or received any requests for cooperation in identifying and exchanging basic and beneficial ownership information of legal persons registered in Armenia. Given that the Armenian authorities consider that predicate criminality and related ML are largely domestically, the need for requesting such information from foreign authorities at present is minimal.

Overall conclusions on Immediate Outcome 2

412. Armenia demonstrates characteristics of an effective system in the area of international cooperation. Based on the legal framework, Armenian authorities are able to provide the widest possible range of mutual legal assistance and extradition in a timely manner in relation to investigations, prosecutions and related proceedings involving ML/FT and associated predicate offences. Some key authorities have been actively seeking legal assistance for international cooperation.

413. The FMC is very active in the area of informal exchange of information with foreign counterparts and it demonstrated that it has done so effectively. This is not the case for law enforcement authorities. In the absence of a formal law enforcement policy to actively identify ML/FT cases, there is little scope for the informal exchange of information with foreign counterparts. Although some information is exchanged internationally it is mainly done for securing convictions of predicate offences. Supervisory authorities have never exchanged information with their foreign counterparts on AML/CFT issues.

414. **Overall Armenia has achieved a substantial level of effectiveness with Immediate Outcome 2.**

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country situation or risks, and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2009. This report is available from: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL(2009)25Rep-ARM3_en.pdf.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

3. These requirements were added to the FATF Recommendations when they were last revised in 2012 and, therefore, were not assessed during Armenia's 3rd mutual evaluation which occurred in 2009.

4. *Criterion 1.1* (Partly met) – Armenia conducted its first strategic analysis of ML/FT risks in 2010. A separate DNFBP sector risk assessment was conducted in 2013, within the framework of the IMF's technical assistance programme (2012-2014). The most recent national assessment of ML/FT risks was conducted in 2014. The methodology utilised in the 2014 NRA, which is set out in a publicly-available manual, consisted of four main processes: the collection of information, the analysis of information, the identification of risks and the assessment of risks. A range of quantitative and qualitative data sources was used, including statistics and other information collected from state authorities and the private sector.

5. The NRA identifies and assesses potential ML/FT threats against AML/CFT vulnerabilities to determine the residual ML/FT risk that Armenia faces. In order to identify ML threats, the assessment looks at crime patterns and characteristics and expected trends of crime. For the identification of FT threats, the assessment considers the conditions in the country which could favour the commission of acts of terrorism, the operation of terrorist organisations or the financing of terrorism and any possible information on FT involvements nationally and internationally. In assessing potential vulnerabilities consideration is given to circumstantial elements (such as geographic, economic and demographic circumstances), structural elements (such as political stability, the political commitment of the country to implement AML/CFT measures, the stability of institutions, the application of the rule of law, the appropriateness of the judicial system), other contextual factors (such as the level of corruption, and issues of financial inclusion), the legislative framework (including certain peculiarities of its implementation) and the institutional framework (both at the public and the private sector level). Threats and vulnerabilities are rated as very low, low, medium, high, or very high and categorised as either declining, stable or on the increase.

6. The breadth and depth with which some threats and vulnerabilities were considered raises questions about the reasonableness of certain conclusions of the country's assessment of risk. For instance, the understanding of the ML threat is based on convictions for all proceed-generating predicate offences without taking into consideration criminal activity which has not resulted in convictions. The evaluation team is of the view that the conclusions on the ML threat would have been more accurate had the authorities considered additional information on the criminal environment, such as intelligence gathered by the various law enforcement authorities and the FMC, MLA requests from foreign countries and reports by international organisations on the incidence of crime in Armenia.

7. With regard to vulnerabilities, the evaluation team is not persuaded that either sufficient information or links between different information have been assessed for ML/FT risks to be demonstrated as fully understood. For example, MLA statistics were not broken down into those linked with ML and those which are not; it is difficult to determine with any degree of accuracy the most prevalent sources generating proceeds; assessment of the differences between the underlying

criminal offences within STRs compared with those underlying convictions (to which great weight is given in the Armenian framework) has not been demonstrated; there are differences between the GPO's views on which predicate offences have a greater risk of ML attached to them compared with the NRA; there is an absence of information on domestic PEPs and the full significance for the potential negative impact of corruption does not appear to have been assessed; consideration of the shadow economy and the use of cash is at too high a level to allow for an informed assessment of risk. More information can be found in IO1.

8. *Criterion 1.2* (Met) – The Interagency Committee on Combatting Counterfeit Money, Fraud with Plastic Cards and Other Payment Instruments, Money Laundering and Terrorism Financing is the body responsible for co-ordinating actions to assess risks. The committee brings together all competent authorities involved in the prevention of ML/FT and the banking association (see Paragraph 59 of this MER for the composition of the Interagency Committee).

9. *Criterion 1.3* (Met) – Since 2010, the authorities have taken various measures to understand the ML/FT risk in Armenia. The 2014 NRA is expected to be updated regularly at intervals not exceeding three years.

10. *Criterion 1.4* (Met) – The (abridged) methodology and the main findings of the NRA are publicly-available on the FMC website. The detailed findings of the NRA were extensively discussed in the meetings of the Interagency Committee, where all competent authorities and the private sector were represented. In addition, relevant findings of the NRA were discussed in detail in the course of the regular meetings held with the reporting entities and their supervisors after the endorsement of the NRA report by the Interagency Committee. The strategic and sectorial analysis, conducted in 2010 and 2013 respectively, are also available on the FMC website.

11. *Criterion 1.5* (Mostly met) – The risk assessments conducted in Armenia serve as the basis for the development of national AML/CFT strategies. The 2010-2013 and 2013-2015 national strategies reflect the outcomes of the 2010 Strategic Risk Analysis and 2013 Sectorial Analysis. The findings of the 2014 NRA will be used to develop the national strategy for a three year period commencing in 2016. Based on these assessments, and in order to make changes to reflect the 2012 FATF Recommendations, the AML/CFT legislation was amended in 2014 after a four year process. Other measures have been taken on the basis of risk assessments, such as an increase in the number of staff within the FMC and the introduction of a lower reporting threshold for reporting cash transactions. In addition, an action plan was agreed immediately before the on-site element of the evaluation. For instance, following the 2013 DNFBP risk assessment, the FMC developed risk assessment checklists and risk mitigation measures for each type of DNFBP. The authorities have also organised trainings and held discussions with all public and private stakeholders on the findings of risk assessments. The regulation of the casino sector was tightened in light of the risks identified in the NRA. The Armenian authorities are moving towards a risk based approach to implementing measures (for example, the RBA approach is work in progress at the CBA). However, it has not been demonstrated that recourses have been (or will be) allocated to the law enforcement and DNFBP supervisory authorities (other than the MoF casino sector) to prevent or mitigate the relevant ML/FT risks identified in the NRA.

12. *Criterion 1.6* (Not applicable) – Armenia does not provide any exemptions from the application of AML/CFT requirements.

13. *Criterion 1.7* (Met) – There are several mechanisms through which Armenia requires enhanced measures or additional consideration of higher risks, including the following:

- Enhanced measures for certain higher risk situations and customers (e.g. PEPs, customers domiciled in non-compliant countries, complex or unusual transactions with no lawful economic purpose, correspondent banking relationships, private banking business, non-face to face transactions or business relationships, legal persons or arrangements that are personal asset holding vehicles, companies that have nominee shareholders or shares in bearer form, cash-intensive businesses and complex corporate structures).

- AML/CFT obligations apply to the following entities in addition to those required by the FATF Recommendations: the Real Estate Register, the State Register, the Central Depository, general insurance companies, reinsurance companies, pawnshops, auditing firms and auditors, dealers in works of art, organisers of auctions, lotteries and credit bureaus.

- Bearer securities are prohibited and additional controls apply to non-commercial organisations (NPOs).

- There are requirements for systematic reporting of large cash and non-cash transactions.

14. *Criterion 1.8* (Mostly met) – Armenia allows simplified measures to be applied by FIs and DNFBPs in circumstances which present a lower risk of ML/FT including where the customer is a financial institution, effectively supervised for compliance with the requirements to combat ML/FT, a government body, local self-government body, state-owned non-commercial organisation, public administration institution (except for the bodies or organisations domiciled in non-compliant countries or territories), and in relation to low-risk certain products and transactions. Although these measures were published and permitted before the NRA and an assessment of risks was not used to justify the use of simplified measures, most of the circumstances in relation to which simplified measures may be applied are referred to as examples in the interpretive note to Recommendation 10. In discussions with the FMC, it was clear that in the other circumstances not referred to under the interpretive note to Recommendation 10 (e.g. payment for utility services), low risk was the main driver which was used to justify the application of simplified measures. It should be noted that none of the circumstances which are referred to in the AML/CFT Law and Regulation as presenting a lower risk are inconsistent with the country's assessment of ML/FT risks.

15. *Criterion 1.9* (Partly met) – Financial institutions and DNFBPs are required to apply measures to assess and mitigate risks under the AML/CFT Law. These measures are subject to monitoring and supervision by the CBA (for all financial institutions), the MoF (for casinos), the MoJ (for notaries), the Chamber of Advocates (for advocates) and the FMC (for all other DNFBPs). While it was found that the CBA has adequate inspection powers, this is not the case for the MoF, the MoJ and the Chamber of Advocates. Moreover, at the time of the on-site evaluation, the FMC had still not implemented a supervisory regime for the DNFBPs under its supervisory mandate, despite having all the necessary powers to do so. It is therefore doubtful, whether the DNFBP supervisory authorities were in a position to ensure that DNFBPs were implementing their recommendations under Recommendation 1.

16. *Criterion 1.10* (Met) – Financial institutions and DNFBPs are required to identify and assess their potential and existing ML/FT risks. When assessing such risks, reporting entities should consider all relevant risk factors before determining the level of overall risk and the appropriate level of mitigation to be applied. Subsequently they may differentiate the extent of the applied measures, depending on the type and level of risk. The potential and existing risks should be regularly reviewed, at intervals of not more than one year. In conducting CDD, reporting entities should introduce risk management procedures to enable detection and assessment of potential and existing risks and to take measures proportionate to the risk. Reporting entities are required to provide a copy of their policies and procedures to the Central Bank within one week of their approval, as well as upon making changes or amendments thereto.

17. *Criterion 1.11* (Met) – Financial institutions and DNFBPs are required to identify and assess their potential and existing ML/FT risks, and to have policies, controls, and procedures enabling them to effectively manage and mitigate identified risks. When establishing policies and procedures, regard should be given to the size and nature of the reporting entity's activities and the risks which are pertinent to each institution. Policies and procedures are required to be approved by the Board of the reporting entity and submitted to the CBA. The internal audit function of the reporting entity is required to periodically monitor the implementation of the policies and procedures internally. In the presence of high risk criteria, including the cases when such criteria are detected or come forth in the course of the transaction or business relationship, reporting entities are required to conduct enhanced CDD.

18. *Criterion 1.12* (Met) – Simplified CDD is only permitted in situations which present a lower risk. Simplified CDD is prohibited where higher risks or suspicions of ML/FT exist.

Weighting and Conclusion

19. Armenia meets, or mostly meets, almost all criteria under Recommendation 1. Criteria 1.1 and 1.9 are partly met. Criterion 1.6 is not applicable. In determining the rating, the evaluation team took into consideration the fact that Criterion 1.1 is a core criterion under Recommendation 1. The deficiencies with respect to the risk identification and assessment process (Criterion 1.1) have an impact on the other criteria under the risk assessment (Criteria 1.2 to 1.4), the risk mitigation (Criteria 1.5 to 1.8) and the requirement by private sector to conduct its own risk assessment (Criterion 1.10) and mitigate the risk (Criteria 1.11 to 1.12). **Armenia is Partially Compliant with Recommendation 1.**

Recommendation 2 - National Cooperation and Coordination

20. In its 3rd MER, Armenia was rated Largely Compliant with these requirements (Paragraphs 918 to 927). The rating was based on two deficiencies: insufficient risk assessment of the varying sectors in relation to ML or FT risk; and limited mechanisms for consultation with regulated institutions. Since the 3rd round, Armenia has conducted a number of risk assessments, with the most recent one being completed in 2014, which cover all the sectors susceptible to ML/FT risks. No changes were made to the composition of the Interagency Committee in terms of broader involvement of the private sector and, as a result, there is still no formal mechanism to consult with regulated entities other than banks. However, the requirement under the previous Recommendation 31 to have mechanisms in place for consultation between competent authorities, the financial sector and other sectors (including DNFBPs) was an additional element and has not been included under the 2012 FATF Recommendations.

21. *Criterion 2.1* (Met) – The 2013-2015 National Strategy for Combating Money Laundering and Terrorism Financing was approved on 25 October 2012 by the Interagency Committee. This was preceded by the 2010-2013 strategy. Both strategies build upon the findings of the risk assessments to ensure that the identified risks are effectively mitigated and managed. An action plan was agreed by the Interagency Committee in May 2015 to address the ML/FT risks and the shortcomings in Armenia's AML/CFT system identified in the 2014 NRA.

22. *Criterion 2.2* (Met) – The Interagency Committee on Combatting Counterfeit Money, Fraud with Plastic Cards and Other Payment Instruments, Money Laundering and Terrorism Financing is the body responsible for developing coordinated national AML/CFT policies. The committee was established by an ordinance of the President and brings together all competent authorities involved in the prevention of ML/FT in Armenia.

23. *Criterion 2.3* (Met) – The Interagency Committee comprises all of Armenia's key AML/CFT agencies, including policy makers, the financial intelligence unit, law enforcement authorities, supervisors, customs and tax authorities, intelligence services, the judiciary and, upon agreement, the banking association. The Committee is responsible for implementing a coordinated national policy in, *inter alia*, the field of ML/FT, develop a plan of action for the implementation of the policy, develop relevant legal acts in the field of ML/FT, and gather and analyse information on AML/CFT issues. The AML/CFT Law (Chapter 4) provides the legal framework for operational cooperation between competent authorities domestically. This applies, in particular, to cooperation between the FMC and the financial supervisory body regarding compliance monitoring matters, cooperation between the FMC and criminal prosecution authorities regarding the investigation of ML/FT suspicions, and cooperation between the FMC and the Customs Administration regarding the cross-border movement of cash. Competent authorities are required to submit statistical data to the FMC on ML/FT investigations, prosecutions, convictions, confiscation and seizure of criminal proceeds, mutual legal assistance and supervisory inspections. The Working Group set up under the Interagency Committee is intended to provide a platform for cooperation on an operational level. Additionally, bilateral MoUs have been signed by the FMC with the Police, the Prosecutor General's

Office, the National Security Service, and the State Revenue Committee (now within the structure of the Ministry of Finance). The manual of cooperation between the FMC and the Financial Supervision Department of the CBA regulates interaction between these two departments in the area of combating ML/FT.

24. *Criterion 2.4* (Mostly met) – According to Section II, Paragraph 8(d) of the Statute of the Ministry of Foreign Affairs of the Republic of Armenia (MOFA), the MOFA is responsible for the general supervision over Armenia's performance of international obligations, including those falling within the United Nations framework. The MOFA disseminates information on UNSCRs related to terrorism financing and proliferation financing to the competent authorities in Armenia. It requests the authorities to report back on practical actions undertaken to properly implement the UNSCRs. The MOFA also co-operates with the CBA when it receives requests from a UNSCR designated person or entity to access frozen property whenever this is necessary for basic or extraordinary expenses. On 2 March 2012, the Interagency Committee discussed the new requirements under the revised FATF Recommendations (2012) in relation to FT and PF, where it was decided that the Working Group set up under the Interagency Committee would analyse these new requirements and propose amendments within the framework of the next revision of the AML/CFT legislation. Coordination on PF issues takes place through the Counter-Proliferation Interagency Commission. However, further coordination is needed between the AML/CFT Interagency Committee and the Counter-Proliferation Interagency Commission for the implementation of PF requirements.

Weighting and Conclusion

25. Armenia is compliant with almost all of the criteria under Recommendation 2. However, the framework for cooperation and the coordination of policies on PF issues needs to be further developed. **Armenia is Largely Compliant with Recommendation 2.**

Recommendation 3 - Money laundering offence

26. In its 3rd round MER, Armenia was rated Largely Compliant with the then Recommendations 1 and 2 (Paragraphs 122-168). Those Recommendations were merged in the 2012 FATF Standards as the new Recommendation 3. The LC rating for R.1 was based on a lack of clarity on whether to prove that property is proceeds of crime a conviction for a predicate offence is required. For R.2 the central relevant factor underlying the rating was the absence of criminal liability for legal persons. In addition, in both instances effectiveness concerns were articulated. Under the current methodology effectiveness is not a factor relevant to the assessment of technical compliance. In the period since the last MER Armenia has enacted further relevant legislation in this context including amendments to Article 190 of the Criminal Code (CC) on the legalisation of illicit property (money laundering) of June 2014 (HO-114 N).

27. *Criterion 3.1* (Met) – Armenia has signed and ratified both the Vienna Convention and the Palermo Convention and has generally criminalised money laundering on the basis of the relevant provisions of these international treaties (Article 190(1) of the CC).

28. *Criterion 3.2 and 3.3* (Met) – At the time of the 2009 MER, Armenia utilised a list approach in defining predicate offences for money laundering which extended to all of the then FATF designated categories of predicate offences plus tax evasion (Paragraph 134). In 2014 this was abandoned in favour of what the Armenian authorities describe as an "all proceeds-generating crimes" approach. The Armenian authorities confirm that under the current law the CC continues to include a range of offences in each of the FATF-designated categories (including those added or amended in 2012) and that these all remain as predicate offences for money laundering.

29. *Criterion 3.4* (Met) – In June 2014, Armenia enacted legislative amendments relevant to the satisfaction of this criterion. By virtue of the new formulation of Article 190(5), property constituting proceeds of criminal activity is that "directly or indirectly derived from or obtained through the commission of crimes as stipulated in this Code". The term "property" for the purposes of the CC is

defined in Article 103.1(4) of the same (as amended by HO-114-N of June 21, 2014) in a manner which is in line with current FATF Standards.

30. *Criterion 3.5* (Met) – As noted previously, the 2009 MER expressed concern over the lack of clarity of whether it was necessary to obtain a conviction for a predicate offence in order to prove that property is the proceeds of crime. It was acknowledged that while there might be a general understanding among prosecutors and the judiciary that such a conviction was not required in order to secure a conviction for autonomous money laundering "it is too early to determine whether the courts will be receptive to this new orientation" (Paragraph 130). The Armenian authorities have, however, drawn the attention of the evaluators to the reasoning and conclusions made by the Criminal Chamber of the Cassation Court on 24 February 2011 (Criminal Case No EKD/0090/01/09). The judges stated, *inter alia*, that it "is not necessary to have a lawful conviction for the predicate offence, nor is it necessary that the person accused of the legalization of the proceeds of crime has any relation to the predicate offence" (Paragraph 11).

31. *Criterion 3.6* (Met) – The 2009 MER concluded, on the basis of the interaction of Articles 14 and 15 of the CC (Paragraphs 136-137: Article 15 was amended by HO-18-N from February 9, 2012) that the expectations of the FATF Standards on extraterritorial predicate offences were met. Armenia continues to satisfy the criterion.

32. *Criterion 3.7* (Met) – Article 190(1) of the CC applies to self-laundering. This interpretation has been reflected in judicial practice.

33. *Criterion 3.8* (Met) – In the previous MER it was noted that while criminal law does not explicitly foresee that the intentional element of ML can be inferred from objective factual circumstances, Armenia relies heavily on the principle of the free evaluation of evidence by the judiciary (Article 25 of the CPC) which enables the judge to make this inference (Paragraph150).

34. *Criterion 3.9* (Met) – Natural persons convicted of the basic offence of money laundering (Article 190(1) of the CC) are, since 2014, subject to a period of imprisonment of 2 to 5 years. The law also provides for heavier periods of imprisonment where specified aggravating factors are present. There are two such categories. In the first of these (Article 190(2)) a range of 5 to 10 years in prison is set. The most serious cases (Article 190(3)) now attract a tariff of 6 to 12 years. The evaluators were assured that the criminal sanctions in question are in step with those applicable in relation to other economic crimes in Armenia. The team was informed that to date the average sentence imposed by the courts is 5.4 years in prison.

35. The evaluators are satisfied that the criminal sanctions noted above, which are set at a somewhat higher level than previously, are proportionate and should prove to be dissuasive. As noted in the analysis of R.4 below, Article 55 of the CC also provides in certain circumstances for confiscation (as a criminal penalty) upon conviction for money laundering. This Article was amended in June 2014. Under it confiscation is no longer provided for in respect of the basic offence and is discretionary rather than mandatory in the two more serious categories. However, since June 2014, Article 103.1 of the CC has entered into force, which provides a much wider basis for the mandatory confiscation of direct and indirect proceeds.

36. *Criterion 3.10* (Not met) – As noted previously, the sole technical compliance factor underlying the rating of LC for Recommendation 2 in the 2009 MER was the absence of criminal liability for legal persons in Armenia. While the Armenian authorities held that two principles of its criminal law precluded the introduction of this concept, "the assessors could not confirm that this amounts to a fundamental principle under Armenian law as this is not confirmed by any provision in the Armenian Constitution, nor through a ruling to that effect by the Supreme Court" (Paragraph 153).

37. In the intervening period, this issue has been subject to further study and discussion in Armenia, the nature and extent of which is outlined in the 2014 NRA. In reaching the conclusion that criminal liability for legal persons could not be introduced, emphasis was placed both on principles embodied in the Criminal Code (Articles 4 and 23) and on the presumption of innocence as

articulated in Article 21 of the Constitution of the Republic of Armenia. In the view of the evaluators, however, the wording of the Constitution in this regard, in the absence of relevant jurisprudence from the highest level of courts, fails to disturb the conclusions reached in the previous evaluation on this point.

38. In the absence of criminal liability for legal persons Armenia continues to rely exclusively on administrative liability for legal entities involved in money laundering. This matter is now governed by Article 31 of the AML/CFT Law. Sanctions include, *inter alia*, fines, liquidation, and revocation, suspension or termination of a licence. In so far as fines are concerned, the level of the sanction depends on whether or not the legal person is or is not a reporting entity under the Law. In the case of a reporting entity this is set at "5,000-fold amount of the minimum salary" (approximately EUR 9,000) (Article 31(1)). For non-reporting entities it is "2,000-fold amount of the minimum salary" (approximately EUR 3,600) (Article 31(1)). The evaluators are of the view that this level of fines is insufficiently dissuasive.

39. *Criterion 3.11* (Met) – In the 2009 MER it was concluded that the Criminal Code of Armenia contained an appropriate range of ancillary offences (Articles 33, 34, 35, 38, 39, 41, and 223 of the CC) to the money laundering offence so as to satisfy the FATF Standard (Paragraphs 139-144 of the 3rd MER). There have been no changes in Armenia in the intervening period in this respect.

Weighting and Conclusion

40. Armenia meets all the criteria under Recommendation, except for Criterion 3.10. The evaluation team was not convinced that fundamental principles of domestic law preclude the application of criminal liability and sanctions to legal persons. The applicable administrative sanctions in the absence of criminal liability, were not deemed to be sufficiently dissuasive. **Armenia is Largely Compliant with Recommendation 3.**

Recommendation 4 - Confiscation and provisional measures

41. In the 2009 MER, Armenia was rated Partially Compliant in relation to confiscation and provisional measures as reflected in R.3 of the then FATF Standards. While R.4 in the 2012 version of the Recommendations is substantially similar some modifications were introduced. These included the following: 1) R.4 now extends explicitly to confiscation and provisional measures in the context of the financing of terrorism; 2) the new standard articulates a more robust approach to the adoption of non-conviction based confiscation measures; and, 3) the Interpretative Note to R.4 now requires countries to establish mechanisms that will enable their competent authorities to manage and dispose of property that is frozen, or seized or has been confiscated.

42. In addition to concerns regarding effectiveness, which are not relevant for present purposes, the PC rating in 2009 was based on several factors. The major deficiencies identified were: 1) the confiscation provisions covered some but not all FATF designated predicate offences; 2) Article 55(3) of the CC did not allow for the confiscation of property regardless of whether it was held or owned by the defendant or a third party; and 3) the CPC did not adequately provide for seizure of property equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML, FT or predicate offences. In 2014 Armenia enacted several important amendments to relevant Articles of both the CC and CPC which are addressed below.

43. *Criterion 4.1* (Met) – At the time of the previous evaluation Armenia relied on Article 55 of the CC entitled "Confiscation of Property" (and the cross references to the same in Article 190 of the CC on money laundering) in this context. Both provisions were amended in 2014 (HO-114-N) and these amendments entered into force later that year. At the same time, a new provision was introduced into the CC entitled "Forfeiture" (Article 103.1). This appears in Chapter 15 of the Code which now has the title "Measures of Medical Enforcement and Forfeiture of Property". The Armenian authorities now appear to rely exclusively on Article 103.1 for the satisfaction of the international requirements in the context of this criterion.

44. It should be noted that the Armenian authorities have clarified the respective fields of operation of and the interaction between Articles 55 and 103.1 of the CC as follows: "In the course of the analysis for drafting amendments to the CC, the authorities came to the conclusion that Article 55 of the CC on confiscation embraced two different concepts, particularly those of: a) a criminal punishment measure, and b) a measure depriving criminals of property obtained through the commission of a crime. Hence the amendments to the CC were designed to clearly delineate these two concepts." Article 55 of the CC addresses the former while Article 103.1 is concerned with the latter.

45. Article 103.1(1) provides explicitly for the forfeiture of property (including income or other benefits) "derived from or obtained, directly or indirectly, through the commission of crime". The unrestricted nature of the wording ensures that the provision extends to money laundering, terrorist financing and predicated offences. Also explicitly covered is "property allocated for use in the financing of terrorism, the income or other types of benefits gained through the use of such property". In Article 103.1(4) the term "property" is broadly defined. In addition, forfeiture of instrumentalities used in or intended for use in the commission of crimes is adequately addressed (Article 103.1(1)). Article 103.1(1) uses mandatory language ("shall be subject to forfeiture for the benefit of the state").

46. Article 103.1(1) excludes from forfeiture, *inter alia*, "the property of bona fide third parties" (a concept that is, in turn, defined in Article 103.1(2)). It therefore follows that, as envisaged by international standards, forfeiture can be applied to relevant property held by third parties who are not "bona fide" in this sense.

47. Criterion 4.1 also requires that forfeiture measures should extend to "laundered property". The wording of Article 103.1(1) does not directly address this issue. In the view of the Armenian authorities, laundered property is considered to be property derived from crime regardless of the presence or absence of a conviction for the predicate offence. In the one autonomous ML case secured by the courts (ARD/0071/01/14), the court ordered the confiscation of the laundered property, indicating that the courts appear to be inclined to interpret Article 103.1 of the CC as extending to the laundered property regardless of the presence or absence of a conviction for the predicate offence. Furthermore, Article 103.1(1) provides for the forfeiture of "other property of corresponding value", "in case of the absence" of tainted property and instrumentalities.

48. *Criterion 4.2* (Mostly met) – Both the CPC and the Law on Operational Intelligence Activity (LOIA) provide for a range of measures to identify and trace property subject to confiscation. While these are mostly triggered after the initiation of a criminal case, some measures are available before that stage (see, e.g., LOIA Article 14). However, unduly cumbersome requirements imposed by LOIA for the deployment of certain investigative techniques may impact on law enforcement authorities' ability to identify and trace property that is subject to confiscation (please refer to a more detailed analysis on this issue under Recommendation 31).

49. In terms of provisional measures to prevent any dealing, transfer or disposal of property subject to confiscation, Armenia continues to rely primarily on Article 233 of the CPC entitled "Grounds for Arrest of Property". In the period since the last evaluation (Paragraphs 217-226 of the 3rd MER) this central provision has been subject to amendment (HO-115-N from June 21, 2014). Of particular relevance is Article 233(1.1) which stipulates that "The body in charge of the criminal proceedings shall without delay impose arrest on the property subject to forfeiture as specified in Part 1 of Article 103.1 of the Criminal Code of the Republic of Armenia". As discussed above, Article 103.1(1) extends to, *inter alia*, property held by non-bona fide third parties and, in specified circumstances, "other property of corresponding value". It follows that such property is subject to arrest under Article 233 (1.1) of the CPC. As at the time of the 2009 MER (Paragraph 227), these measures may be applied *ex parte* and without prior notice to the parties concerned.

50. In the previous evaluation that part of the then standard which overlaps with criterion 4.2(c) was found to be satisfied (Paragraph 235; see also Civil Code, Articles 306 and 313). The authorities

have also brought to the attention of the evaluators Articles 237 and 238 as being relevant to the satisfaction of the revised standard.

51. *Criterion 4.3* (Met) – Article 103.1 of the CC exempts the property of bona fide third parties from measures of forfeiture (Article 103.1 (1)), defines this important concept (Article 103.1(2)) and makes specific provision for the resolution of disputes (Article 103.1(3)).

52. *Criterion 4.4* (Mostly met) – The management of attached property during the pre-trial stage falls within the responsibility of multiple agencies according to the nature of the attached property. It is not subject to systematic management. The mechanism for the management and disposal of property subject to confiscation, confiscated property and property which constitutes material evidence is governed by the Law on Compulsory Implementation of Judicial Acts, Articles 119 and 236 of the CPC and Chapter 4 of the Law on Public Auctions. There are however justified doubts regarding the time limit (1 year) concerning the execution of confiscation imposed as a result of criminal proceedings as it is stipulated in Article 23 of the Law on Compulsory Implementation of Judicial Acts. Armenia has set up a Compulsory Enforcement Service, which is mainly involved in the execution of confiscation orders.

Weighting and Conclusion

53. All criteria under Recommendation 4 are either met or mostly met. The following deficiencies were identified: unduly cumbersome requirements imposed by LOIA for the deployment of certain investigative techniques may impact on law enforcement authorities' ability to identify and trace property that is subject to confiscation; and attached property is not subject to systematic management. **Armenia is Largely Compliant with Recommendation 4.**

Recommendation 5 - Terrorist financing offence

54. In the 2009 MER, Armenia was rated Partially Compliant with respect to these requirements (Paragraphs 169-195). Armenia had not criminalised the financing of a terrorist or a terrorist organisation in situations where the property or funds were provided or collected without the intention or knowledge that the funds or property would be used in the commission of a specific act of terrorism. In addition, there had been an inconsistent use of terminology pertaining to the funds provided or collected for the financing of terrorism. In relation to the provision referring to terrorism, the definition had not contained a reference to "international organisations". Armenia had not applied criminal liability to legal persons. Armenia has subsequently made extensive amendments to legislation in order to address many of these deficiencies, including significant amendments to legislation on June 21, 2014.

55. *Criterion 5.1* (Mostly met) – Pursuant to the amendments to the CC, FT is now criminalized in a manner that is largely consistent with the FT Convention. It appears that Article 217.1 of the CC is broader than the requirement prescribed in Article 2(a) of the Terrorist-Financing Convention, which requires the offence to be committed unlawfully and wilfully, with the intention or in the knowledge that the funds are used to carry out the offence. Armenia requires that the offence be committed only with knowledge thereof.

56. The acts which constitute an offence within the scope of and as defined in one of the treaties listed in the annex to the FT Convention are covered under Article 217 of the CC, which defines terrorism as, *inter alia*, any action recognised as terrorism by international treaties ratified by the Republic of Armenia. However, Armenia has ratified most, but not all, of the treaties listed in the annex. In particular, Armenia has not acceded to the 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft; and the 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (New Civil Aviation Convention).

57. *Criterion 5.2* (Met) – The FT offence covers any person who provides or collects property by any means, directly or indirectly, with the knowledge that it is to be used or may be used, in full or in part, for committing terrorism, any acts in Article 218, or by a terrorist organisation or an individual

terrorist. In addition, the provision or collection of funds need not be committed in a wilful manner. Article 217.1 appears to cover the provision or collection of property that is used or may be used by a terrorist organisation or an individual terrorist.

58. *Criterion 5.3* (Met) – Articles 103.1 and 217.1 of the CC were amended in June 2014. The definition of property, as currently stipulated in Article 217.1 with reference to Article 103.1, extends to a wide range of assets, including material goods of every kind, moveable or immoveable objects of civil rights, including financial funds, securities and property rights, documents or other instruments evidencing title to or interest in property, any interest, dividends, or other income generated by or accruing from such property, as well as neighbouring and patent rights. Although Article 217.1 does not expressly indicate whether FT offences extend to funds from a legitimate or illegitimate source, as required in this criterion, Armenia indicated that a broad interpretation of the term funds is to be applied, which includes both legitimate and illegitimate sources.

59. *Criterion 5.4* (Met) - Article 217.1 does not require that funds be actually used in order to perform or attempt a terrorist act, or that they should be linked to a specific act.

60. *Criterion 5.5* (Met) – As noted in the analysis for Criterion 3.8, in the previous MER it was noted that while the CC does not explicitly foresee that the intentional element of ML/FT can be inferred from objective factual circumstances, Armenia relies heavily on the principle of the free evaluation of evidence by the judiciary (Article 25 of the CPC), which enables the judge to make this inference (Paragraph 150).

61. *Criterion 5.6* (Met) – Natural persons convicted of FT are subject to imprisonment from 3 to 7 years, with or without confiscation of property. If the offence is committed by a group of persons in prior agreement or by an organised group, the punishment extends to 8 to 12 years imprisonment, with or without confiscation of property. Armenia has indicated that the sanctions for FT offences are similar to those for other crimes against public order (banditry, establishment and participation in criminal association). It seems that the sanctions applicable to natural persons are proportionate and dissuasive.

62. *Criterion 5.7* (Not met) – Armenia does not apply criminal liability for legal persons. The evaluation team is not satisfied that the Armenian authorities have established that fundamental principles of domestic law preclude criminal liabilities for legal persons. Armenia, however, applies administrative liability and sanctions to legal persons which are punishable by a fine, pursuant to AML/CFT Article 31, as explained above under Criterion 3.10. These sanctions do not seem to be proportionate and dissuasive.

63. *Criterion 5.8* (Met) – Armenia has a comprehensive range of ancillary offences to the FT offence including: attempt to commit the FT offence (Articles 33-34 of the CC); participation as an accomplice in a FT offence (Articles 38-39 of the CC); organising or directing others to commit a FT offence (Articles 38-39 of the CC); and contributing to the commission of a FT offence (Article 41 of the CC).

64. *Criterion 5.9* (Met) – Pursuant to Article 190 of the CC, any criminal activity may be considered as a predicate offence for ML, including FT.

65. *Criterion 5.10* (Met) – Article 217.1 of the CC does not specify whether the offence should apply regardless of whether the person alleged to have committed the offence is in the same country or different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred. Therefore, the broadest interpretation would be applied.

Weighting and Conclusion

66. Armenia meets most of the criteria under Recommendation 5. However, the FT offence does not apply to certain acts within the scope of and as defined in one of the treaties listed in the annex

of the FT Convention. Additionally, there is no criminal liability for legal persons. **Armenia is Largely Compliant with Recommendation 5.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

67. In its 3rd MER, Armenia was rated Non-Compliant with these requirements (Paragraphs 244-272). It was found that the designation and freezing mechanisms were not in line with the freezing obligations pursuant to UNSCR 1267, UNSCR 1373 and were not consistent with Recommendation 6. Freezing measures were dependent on the initiation of domestic proceedings and, in the absence of a conviction, were therefore merely of a temporary nature. In addition, in the absence of legal criminal liability for legal entities, funds and other assets of legal entities could not remain frozen after the expiration of the initial freezing period of 15 days.

68. Moreover, beyond the initial freezing period, Armenia did not have a freezing mechanism in place to give effect to freezing actions initiated under the freezing mechanism of other jurisdictions. Freezing measures did not apply to all financial assets and property, other than funds. Furthermore, they could not be implemented in cases where property was owned jointly by a designated person or entity, or where property was controlled but not owned by designated persons. It was also found that there had been lack of guidance to reporting entities and with respect to procedures available to listed persons or entities by the CBA for delisting. Lastly, the AML/CFT Law did not provide for the protection of bona fide third parties involved in the initial freezing process.

69. Since the previous MER, Armenia has made significant amendments to its legislation in order to address these deficiencies. Armenia has adopted rules on proposing persons/entities for designation to the UNSCR Committees and for designation under UNSCR 1373, as well as guidance on freezing of property of designated persons/entities and related procedures, which seem to fully cover the requirements of Recommendation 6 and the UNSC resolutions.

70. *Criterion 6.1* (Met) – In relation to designations pursuant to UNSCR 1267/1989 and 1988:

a. The authority for proposing persons or entities to the 1267/1989 and 1988 Committee is the Ministry of Foreign Affairs.

b. In April 2015, Armenia adopted the Rules for Proposing Persons or Entities for Designation under the Lists Published by or in Accordance with the UNSCR (the Listing Rules). Chapter 2 of these Listing Rules provides the necessary mechanisms for identifying targets for designation, based on the designation criteria set out in the UNSCRs.

c. Chapter 4 of the Listing Rules sets out the grounds for proposing persons/entities for designation. The grounds for proposal are the following: (1) the presence of a valid decision regarding dissolution or prohibition of activities of an entity for the involvement in terrorism or FT; (2) the presence of a valid court judgment regarding a natural person for charges of terrorism or FT; (3) designation under lists published by international organisations; (4) the presence of a valid decision or court judgement of a foreign state in relation to (1) and (2); (5) other grounds permitted by fundamental principles of the Republic of Armenia.

   The grounds listed under (3) and (5) appear to be wide enough to allow designations which are not conditional upon the existence of criminal proceedings.

d. Chapter 5 of the Listing Rules sets out the procedures for listing.

e. This sub-criterion is not applicable since no names have been proposed by Armenia to date.

71. *Criterion 6.2* (Met) - In relation to designations pursuant to UNSCR 1373:

a. The competent authority responsible for designation of persons or entities that meet the criteria for designation as stipulated in UNSCR 1373 is the CBA (AML/CFT Law Article 28 and 10, and the Listing Rules fully provide the relevant powers to the FMC).

b. Part 2, Article 28 of the AML/CFT Law generally stipulates that the FMC has authority to "develop, review, and publish list of terrorism-related persons". Chapters 3 to 5 of the Listing Rules provide the mechanisms and procedures for identifying targets for designation pursuant to UN resolution 1373.

c. The Authorised Body, on its own initiative or upon the request of competent foreign bodies, shall develop, review, and publish lists of terrorism-related persons (Part 2, Article 28 of the AML/CFT Law). Upon receipt of a request for designation, the Authorised Body shall within 3 business days analyse the information to identify grounds and criteria for designation. To that end, the Authorised Body may request information from other bodies (Chapter 5, Listing Rules). In the presence of reasonable grounds or reasonable basis for designation, the Authorised Body shall within 2 business days publish information on its official website, and if possible, notify the designated person or entity.

d. The standard of proof applied when deciding whether or not to make a designation is set out in Chapter 4 of the Listing Rules (see Criterion 6.1(c)).

e. This sub-criterion is not applicable since Armenia has never requested another country to give effect to the actions initiated under its freezing mechanism.

72. *Criterion 6.3* (Met) – The FMC, which is the competent authority responsible for the implementation of Article 28 of the AML/CFT Law and the Listing Rules, is empowered to request and obtain information, including information subject to secrecy, from reporting entities and state bodies, including supervisory and criminal prosecution authorities relevant for the performance of its functions, including those stipulated under Criterion 6.3. The FMC is not required to inform a person or entity against whom a designation is being considered.

73. *Criterion 6.4* (Met) – New designations are updated by the FMC on a daily basis (Order of the Head of FIU No. 23-14/07 from November 28, 2014). Chapter 29 of the FMC Operational Manual establishes the procedure for the dissemination of the lists of terrorism-related persons to the reporting entities. The Armenian authorities indicated that the process is manual. Every day a staff member of the International Relations Division of the FMC checks the UN lists. In the event of amendments to the lists, a report is circulated within FMC to the IT division to update the automatic database. The FMC makes the information from the UN lists available on the website, includes that in its news release, and circulates it to banks within a timeframe of 1 - 2 days. For Resolution 1373, the situation is relatively similar, as established in Section 105, Chapter 29 of the FMC Operational Manual. Once the designation is made, Part 1 of Article 28 of the AML/CFT Law provides that the property owned or controlled, directly or indirectly, by terrorism-related persons included in the lists published by or in accordance with the United Nations Security Council resolutions, as well as in the lists specified by the FMC, shall be subject to freezing by customs authorities and reporting entities without delay and without prior notice to the persons involved.

74. *Criterion 6.5* (Mostly met) - Armenia has the following legal authorities and procedures for implementing and enforcing TFS (Targeted Financial Sanctions).

a. For Resolutions 1267/1989 and 1988, there is an obligation to freeze all funds, financial assets or economic resources of designated persons/entities without delay and without prior notice to the persons involved. As described in the analysis for Criterion 6.4, the relevant lists are updated on a daily basis. The same procedure apples to the list of the Authorised Body developed pursuant to Resolution 1373 (Part 1, Article 28 of the AML/CFT Law). The Guidance on Freezing of Property of Designated Persons and Entities, Article 3 specifies that natural and legal persons and state authorities are subject to the freezing requirement stipulated in the UNSC resolutions.

b. The freezing obligation extends to all funds/other assets that are wholly or jointly owned or controlled, directly or indirectly by the designated person or entity. In addition, the definition of "property" as provided under Part 4 Article 103.1 of the CC comprises, *inter alia*, any interest, dividends, or other income generated by or accruing from such property. The Guidance on Freezing of Property of Designated Persons and Entities, Article 2, establishes that the freezing obligation extends beyond funds/assets which can be tied to a particular terrorist act, plot or threat, including property owned by persons and entities acting on behalf, or at the direction, of designated persons/entities.

c. The definition of "freezing of property" pursuant to Clause 37, Part 1, Article 3 of the AML/CFT Law requires the freezing for an indefinite term, a prohibition on the factual and (or) legal movement of the property directly or indirectly owned or controlled by terrorism-related persons; this includes prohibition on direct or indirect possession, use, or disposal of the property, as well as on establishment of any business relationship (including provision of financial services) or conducting occasional transactions. The prohibition extends to natural and legal persons, and state authorities. There is no provision which prohibits Armenian nationals or persons or entities within Armenia (other than reporting entities) from making any funds or other assets available to designated persons.

d. Armenia applies a mechanism for communicating designations to the financial sector and the DNFBPs.[80] The procedure for freezing of property is stipulated within the Guidance on Freezing of Property of Designated Persons and Entities.[81]

e. Upon freezing property of terrorism-related persons, reporting entities are required to submit a suspicious transaction or business relationship report to the FMC. If the freezing is conducted by state bodies and persons indicated in Part 1, Article 28 of the AML/CFT Law, they shall notify the Authorised Body without delay. According to Part 1, Article 7 of the AML/CFT Law, any attempted suspicious activity is also to be reported.

f. Bona fide third parties acting in good faith are protected under Part 9 of Article 28 of the AML/CFT Law.

75. *Criterion 6.6* (Met) – There are mechanisms for de-listing and unfreezing the funds/other assets of persons and entities which do not or no longer meet the criteria for designation, as described below:

a. For 1267/1989 and 1988 designations, Armenia refers persons included in the lists of terrorism-related persons published by the UNSCRs to apply directly to the United Nations for delisting (Part 3, Article 28 of the AML/CFT Law).

b. For 1373 designations, persons included in the lists of terrorism-related persons published by the Authorized Body (FMC) may apply to the Authorized Body (FMC) for delisting (Part 3, Article 28 of the AML/CFT Law). On December 2, 2014, the CBA issued the "Rules for Delisting of Terrorism-Related Persons Designated under the Lists Published by the Authorized Body, and for Unfreezing the Property of Terrorism-Related Persons". The rules indicate that the Authorized Body (FMC) shall notify the applicant of the outcomes of the consideration of application for delisting within one month. In the case of a rejected delisting application, the designated party may reapply to the FMC for delisting, provided that additional circumstances have emerged to indicate that the person does not or no longer meets the criteria for designation.

[80] Pursuant to Part 2, Article 28 of AML/CFT law, the Authorized Body shall publish lists of terrorism-related persons on the website of the Authorised Body. Section 106 of Chapter 29 of the FMC Operational Manual indicates that within 1 working day after the recommendation to add new designations to the FMC database is endorsed by the Head of the FMC, the head of the International Relations Department at FMC shall submit a draft letter for disseminating the list of terrorism-related persons to the reporting entities or for posting a relevant notice on the FMC website. The letter to the reporting entities shall be disseminated in accordance with the internal procedures of the CBA.

[81] It was indicated in the MEQ, however, that FMC has delivered a number of seminars on the freezing obligation to financial institutions, DNFBPs and their respective supervisors and that FMC has developed and circulated an algorithm to facilitate identification and freezing of the funds and property of designated persons.

c. For UNSCR 1373 designations, the procedures for the review of the designation decision before a court or other independent competent authorities are stipulated in Article 70 of the Administrative Fundamentals Law.

d. For UNSCR 1988 designations, Armenia has referred to the procedures described in Criterion 6.6(a), namely a designated person pursuant to UNSCR 1988 shall apply directly to the United Nations for delisting (Part 3, Article 28 of the AML/CFT Law).

e. For UNSCR 1267/1989 designations, Armenia maintains a website with contact information to the United Nations Office of the Ombudsperson (regarding the de-listing petitions).

f. On December 2, 2014, the CBA issued the "Rules for Delisting of Terrorism-Related Persons Designated under the Lists Published by the Authorized Body, and for Unfreezing the Property of Terrorism-Related Persons". The rules, posted on the FMC website, specify the procedures and process to be applied when unfreezing the funds/assets of persons or entities that are inadvertently affected by a freezing mechanism (false positive).

g. With regard to the mechanism for communicating de-listings and unfreezings to the financial sector and the DNFBPs, immediately upon taking such action, the FMC removes such applicants from the list within a two day period, whilst reporting relevant changes on its official website. The FMC notifies the person whose property has been frozen, as well as the person or body having applied the freezing measure within a three-day period after completing the analysis, on the outcomes of the analysis. (Clauses 9, 12, and 14 of the Delisting and Unfreezing Rules).

76. *Criterion 6.7* (Met) - Part 5 of Article 28 of the AML/CFT Law provides a mechanism for authorising access to frozen funds or other assets which have been determined to be necessary for basic expenses, the payment of certain types of expenses, or for extraordinary expenses. The Guidance on Freezing of Property of Designated Persons and Entities sets out the necessary procedures.

Weighting and Conclusion

77. All criteria under Recommendation 6 are met, except for Criterion 6.5 which is mostly met. There is no provision which prohibits Armenian nationals or persons or entities within Armenia (other than reporting entities) from making any funds or other assets available to designated persons. **Armenia is Largely Compliant with Recommendation 6**.

Recommendation 7 – Targeted financial sanctions related to proliferation

78. These requirements were added to the FATF Recommendations, when they were last revised in 2012 and, therefore, were not assessed during Armenia's 3rd mutual evaluation which occurred in 2009.

79. *Criterion 7.1* (Partly met) – According to the authorities, the legal basis for the application of targeted financial sanctions under UNSCRs 1718, 1737 and their successor resolutions is found under Article 28 of the AML/CFT Law, which requires the freezing of property of terrorism-related persons designated by UNSCRs. A 'terrorism-related person' is defined in Article 3(33) as any individual terrorist, including the persons suspected in, accused in, or convicted for committed or attempted terrorism (including accomplices of any type), or any terrorist organisation, the persons associated with them, any other person acting in their name, on their behalf, or under their direction, or directly or indirectly owned or controlled by them, which have been included in the lists published by or in accordance with the United Nations Security Council resolutions, or by the Authorised Body. Although both Article 28 and Article 3 refer to UNSCRs in general, there is a clear conceptual difference between terrorism and proliferation. As a result of the specific reference to terrorism-related persons, the reference to UNSCRs in Articles 28 and Article 3 could therefore be interpreted as encompassing only those UNSCRs dealing with terrorism.

80. *Criterion 7.2* (Met) – The Ministry of Foreign Affairs is responsible for implementing TFS in this area:

a. Reference is made to the analysis for Criterion 6.5(a).

b. The freezing obligations extend to all funds/other assets as described in the analysis for Criterion 6.5(b).

c. The law prohibits funds/other assets from being made available, directly or indirectly to or for the benefit of terrorism-related persons, unless otherwise licensed authorised or notified in accordance with the relevant UN resolutions.

d. Mechanisms for communication designations and guidance to financial institutions and DNFBPs are the same as described above in the analysis for Criterion 6.5(d).

e. The requirement to report frozen assets or any actions taken by financial institutions and DNFBPs are described in the analysis for Criterion 6.5(e).

f. The rights of bona fide third parties are protected, pursuant to Article 28(9) of the AML/CFT Law.

81. *Criterion 7.3* (Met) – The FMC is responsible for monitoring and ensuring compliance with these requirements. Failure to comply results in administrative sanctions.

82. *Criterion 7.4* (Met) – Armenia's law implements procedures for submitting de-listing requests to the UN Security Council in the case of designated persons and entities that no longer meet the criteria for designation:

a. Pursuant to Part 3, Article 28 of the AML/CFT Law, any person included in the lists of terrorism-related persons published by the United Nations Security Council resolutions may apply to the United Nations for delisting.

b. The procedures to unfreeze the funds/assets of persons or entities with the same or similar name as designated persons or entities who are inadvertently affected by a freezing mechanism (false positive), are as described in the analysis for Criterion 6.6(f).

c. There are specific provisions for authorizing access to funds or other assets, where the FMC has determined that the exemption conditions set out in Resolutions 1718 and 1737 are met, and in accordance with the procedures set out in those Resolutions (Part 5, Article 28 of the AML/CFT Law). Specific procedures as well as forms by which entities may submit their requests are provided in the Guidance on Freezing of Property of Designated Persons and Entities.

d. The mechanisms for communicating de-listings and unfreezings to the financial sector and the DNFBPs, and guidance available, are as described in the analysis for Criterion 6.6(g).

83. *Criterion 7.5* (Met) – The addition to frozen accounts of interest, other earnings, or payments due under contracts, agreements or obligations that arose prior to the date of designation is addressed in the Guidance on Freezing of Property of Designated Persons and Entities. Payment of amounts due under contract entered into prior to designation is authorized, provided it has been determined that the contract and payment are not related to any of the items or activities prohibited under Resolution 1737.

Weighting and Conclusion

84. Criterion 7.1, which is the core criterion under Recommendation 7, is partly met. Therefore, although all the other criteria are met, **Armenia is Partially Compliant with Recommendation 7**.

Recommendation 8 – Non-profit organisations

85. In its 3rd MER, Armenia was rated Partially Compliant with respect to these requirements (Paragraphs 884-917). The main deficiencies were: frequency of periodic assessments was not mandated or scheduled, nor were there any trigger events for an assessment, by way of additional or new information on trends or methodologies; no outreach programme was in place by the authorities to the NPO sector; limited resources and technical skills were available to address any risks of FT within the NPO sector, with no focus on the risks involved.

86. In Armenia, the legal definition of NPO is defined in Article 51 of the Civil Code, which stipulates that non-profit or non-commercial organizations can be founded in the form of social organisations, foundations, unions or legal entities as well as in other forms prescribed by the law. The legal requirements applying to NPOs are set out, among others, in the Law on Charity, Law on Foundations and Law on NGOs, and additional requirements are set out in the AML/CFT Law. As a result, there is large diversity among the separate legal, registration and oversight regimes for each type of NPO, which lead to gaps in regulation of activities by NPOs. A number of amendments are in train, such as the draft law on NGOs and religious organisations.

87. As provided by the 2014 NRA, by the end of 2013 there were about 9000 non-profit organisations registered with the State Register, the majority of them being non-governmental organisations (NGOs) (state and community non-commercial organisations including schools, kindergartens, higher education institutions, community condominium unions, trade and consumer associations), foundations and charitable organisations. The authorities advise that only a few hundred NPOs would fall within the FATF's functional definition of NPO.

88. *Criterion 8.1*– (a) (Met) Armenia reviewed the adequacy of legislation dealing with NPOs in 2014, as part of its NRA. (As indicated in the 3rd MER, a previous review was conducted in 2007). The 2014 NRA indicates certain vulnerabilities and deficiencies in that regard, such as gaps in regulation of activities by NPOs, weakness in accountability and supervision (in particular the heterogeneity of the legislative framework across different categories of NPOs), the absence of any accountability requirements in relation to some categories of NPOs and practical problems in supervision over the sector. Armenia has indicated that certain amendments are expected, which should improve the scope and depth of supervision. Among others, Armenia indicated that a draft Law on NGOs will subject NGOs to the certain requirements, including the source and objectives of funding. Armenia has also provided that amendments are expected with regard to religious organizations, which will also be required to provide information on the sources of funding.

89. (b) (Not met) The NRA does not contain analysis to consider the activities, size and other relevant features of the NPO sector to identify the features and types of NPOs that are particularly at risk of being misused for FT or other forms of terrorist support. This amounts to a lack of a formal review aimed at identifying such features and types of NPOs. Hence, it is doubtful whether the authorities are in a position to undertake a targeted approach without disrupting legitimate NPO activities. According to a Government Decree (N 624-N of 13 June 2013) on Risk-Based Inspections of NPOs, all NPOs whose source of funding amounts to 70% and higher from the same source or country for a considerable period of time will be considered as higher risk organisations.

90. (c) (Not met) No formal review of the NPO sector's vulnerability has yet been undertaken in Armenia.

91. *Criterion 8.2* (Met) – Since the adoption of the 2009 MER, the FMC published a typology on FT through NPOs and criteria on FT suspicious transactions.

92. *Criterion 8.3* (Met) – It appears that Armenia aims to promote transparency in the administration and management of NPOs. In general, NPOs are required to maintain certain information, such as domestic and international transactions, identification data of their management, foundation documents etc. (Article 29 of the AML/CFT Law). Furthermore, NPOs should maintain and register various documents with the State Register including a copy of the

instrument by which it is established, such as the founding charter pursuant to Article 55 of the Civil Code directly relevant to the NPOs' activities, which shall reflect the purpose, nature, object, scope of activities of the organization, and voting rights. Each of the relevant laws includes general provisions regarding the purpose and governance of that NPO type. NPOs' supervisors are required, upon request from the FMC, to take measures to prevent the involvement or usage of NPOs in AML/CFT (Article 29 of the AML/CFT Law). In order to improve transparency among all NPOs, draft law amendments are in process to relevant categories, such as draft Law on NGOs and religious organisations.

93. *Criterion 8.4* (Mostly met) – According to the authorities, NGOs, foundations and charitable organisations account for the most significant portion of the financial resources of the NPO sector.

94. NGOs are required to maintain the information required by 8.4(a) under Part 3 and 4, Article 29 and Article 22 of the AML/CFT Law. They are required to submit reports on the organisation's activities every two years, ensuring public accessibility of these reports, although 8.4(b) requires annual submission. The satisfaction of 8.4(c) is ensured by Part 3, Article 29 of the AML/CFT Law, which requires non-commercial organisations to maintain information (including documents) on domestic and international transactions in such detail as to allow ascertaining whether the property involved in these transactions was expended in accordance with the purposes of the organisation; documents on financial and economic activities etc. NGOs are required to be state registered, by the Law on NGOs as stipulated by 8.4(d). In case of persons, which are reporting entities under the AML/CFT Law, also a declaration on legitimacy of the property transferred to the legal person, with identification of the composition, amount and origin of the property whenever its value exceeds AMD 25 million (approximately EUR 45,000). The current regulation does not appear to cover the requirements of elements under 8.4 (e).

95. Foundations are required to implement most of the elements set out in the criterion: maintaining the information required by 8.4(a) under Part 3, Article 29 of the AML/CFT Law, issuing annual financial statements required by 8.4(b), having controls to account for funds as required by 8.4(c) are required by Article 39 of the Law on Foundation. Audit requirements for foundations with financial activities of AMD 10 million or more (approximately EUR 18,000) apply, pursuant to Article 39 of the Law on Foundations. Foundations are subject to state registration as required by 8.4(d) pursuant to Article 16 of the Law on Foundations, and are required to implement element 8.4(f) (maintaining records for 5 years), pursuant to Part 3 and 4, Article 29 and Article 22 of the AML/CFT Law. The requirement of 8.4(e) is covered by Part 2, Article 15 of the Law on Foundations which sets forth that the founding charter should include information on categories of possible beneficiaries of foundation.

96. Charitable Organisations are required to implement most of these elements: maintain information (Part 3 and 4, Article 29 and Article 22 of the AML/CFT Law), issue annual reports (Article 18 of the Law on Charity), have controls to ensure that all funds are fully accounted for (Article 19 of the Law on Charity), be established in the form of public unions and foundations (Article 11(3) of the Law on Charity). Charities are required to implement the element 8.4(f) by Part 3 and 4, Article 29 and Article 22 of the AML/CFT Law. Element (e) is not covered by law.

97. *Criterion 8.5* (Met) – Supervision over NPOs is exercised by Ministry of Justice, with its supervisory power exercised on the basis of certain legal acts (including the Law on Inspections, the Administrative Fundamentals Law, the Administrative Violations Code, the Law on Foundations, and the Law on NGOs). A risk-based monitoring approach regarding the NPO sector was recently set out in the Government Decree No 624-N (2013) designated to control compliance of the various sectors and in which sector-specific, as well as individual criteria is taken into account. Supervision over non-profit organizations was exercised by the State Register at the MoJ until 2012 and, starting from 2012, by the Department for Legitimacy Control of the MoJ (Paragraphs 69 and 221 of this MER). Supervision over non-profit organizations is exercised based on information in the annual reports and legal proceedings triggered by complaints.

98. Depending on the category of non-profit organisation, supervision over their activities is regulated under corresponding laws. For instance, the Law on Foundations regulates activities of foundations. Article 38 of this law stipulates that supervision over the compliance of foundations' activities with the law shall be implemented by the Ministry of Justice and, in cases stipulated by the law, also by other competent state authorities in conformity with their powers and through the procedures stipulated by the law for inspections and examinations. In case of violations and non-compliance to legislative requirements, the supervising body or the authorized state body shall send a written warning to the foundation bearing recommendations on the manner and terms of rectifying the violations. The foundation shall notify the Ministry of Justice, in writing, within 15 days after publishing its annual report. In case if the foundation fails to publish the report, or to fulfil the demands of the warning, within the established deadlines, the Ministry of Justice may apply to the court for the dissolution of the foundation. Article 169.18 of the Administrative Violations Code provides sanctions for non-compliance of the requirement to publish or submit reports to MOJ by foundations.

99. Concerning charitable organisations, non-compliance with the requirements (including the publication of annual reports) is stipulated by Law on Charity. Particularly, according to Article 19, the MOJ shall warn the charitable organisation in writing, whenever the organization carries out activities that contradict the objectives set forth by this law. The MOJ may invalidate the state qualification and registration of a charitable program as such, if the charitable organization has received more than one written warning during a year, as well as if significant violations of the requirements of the law have been ascertained in the course of implementing the charitable program.

100. Pursuant to the Law on Organising and Conducting Examinations in the Republic of Armenia, the MoJ has a mandate to carry out risk-based examinations, depending on the risk level of examined groups. Procedures for planning and carrying out examinations are specified by this law, by means of checklists. A follow-up procedure is carried out by the Department for Legitimacy Control of the MoJ in the course of the administrative proceeding until the moment when the breach is corrected by the non-profit organisation, or the fine is settled, or the organization is liquidated by the court.

101. The administrative sanctions detailed in Article 31 of the AML/CFT Law relate to sanctions applied to legal persons for the involvement in ML and FT. The sanctions are imposed by the FMC pursuant to Part 9, Article 31 of the AML/CFT Law. Additionally, the State Register has administrative remedies available including the deposition of written notices to NPOs concerning their violation of the law; the right to appeal to court for remedy, if no action has been undertaken by the NPO, following the issuance of a written notice, or the liquidation of the NPO. This does preclude any additional civil or administrative proceedings with respect to NPOs or persons acting on their behalf that the State Register may wish to pursue through the court.

102. *Criterion 8.6 – (a) and (c)* (Met) Domestic co-operation, co-ordination and information sharing take place within the context of Interagency Committee and between the various authorities on a bilateral basis. *(b)* (Met) There is nothing which hinders the authorities' full access to information on the administration and management of NPOs.

103. *Criterion 8.7* (Met) – International cooperation is provided regardless of whether the requests from foreign counterparts are related to ML, FT or other predicate offences on any type of involved legal entity (be it an NGO, limited liability company or any other organizational/ legal type of entity).

104. Such cooperation would be provided by:

a) The FMC, if the requested information relates to details of a financial investigation (under Article 14 of the AML/CFT Law);

b) The NSS, if the requested information has operative-investigatory or criminal-legal nature (under Articles 9, 13 and 18 of the Law on National Security Agencies).

Weighting and Conclusion

105. Armenia meets most of the criteria under Recommendation 8. Armenia should however undertake a formal domestic review to identify the features and types of NPOs that are particularly at risk of being misused for FT or other form of terrorist support. Information on the NPO sector should be reassessed periodically. **Armenia is Largely Compliant with Recommendation 8**.

Recommendation 9 – Financial institution secrecy laws

106. In its 3rd MER Armenia was rated Partially Compliant with these requirements (Paragraphs 522-552), and the FATF Recommendations have not changed in this area. The main deficiencies related to the ability of law enforcement agencies to access information covered by financial secrecy and the sharing of information between financial institutions.

107. *Criterion 9.1* (Met) – The AML/CFT legislation includes a range of provisions on the exchange of information between reporting entities, including financial institutions, and competent authorities. On specific requirements set out in the Criterion:

- Article 5 of the AML/CFT Law requires reporting entities to submit information on ML and FT, including classified information. Article 10 of the AML/CFT Law empowers the FMC to request and obtain from reporting entities classified information for the purposes of the AML/CFT Law. Equally, the CBA has access to information subject to secrecy held by all financial institutions (Paragraphs 530 to 533 of the 3rd MER). With regards to the LEA's powers to access information, this is covered by the provisions of Article 29 of the LOIA in combination with the provisions of Article 172(3) (2) of the Criminal Procedure Code (see the analysis of Recommendation 31 in Paragraphs 337 to 341 of this TC).
- Sharing of information between competent authorities, domestically and internationally, is ensured through Articles 10, 13 and 14 of the AML/CFT Law. The FMC, under Article 10 of the AML/CFT Law, has powers to request from "state bodies, including supervisory and criminal prosecution authorities' information (including documents) relevant for the purposes of this Law, including classified information as defined by the law". According to Article 13 of the AML/CFT Law, within a period of 10 days, the FMC is required to provide information to criminal prosecution authorities upon their request, provided that "the request contains sufficient substantiation of a suspicion or a case of ML or FT". With respect to international cooperation, under Article 14 of the AML/CFT Law, the FMC can request or exchange classified information with foreign FIUs based on bilateral agreements or commitments, and ensure adequate level of confidentiality of information and limited use of information for combating ML and FT purposes.
- Article 14 of the LBS allows banks to exchange or provide information on their customers "even if it represents bank secrecy" with each other or credit organisations. Banks should reject requests for obtaining information representing bank secrecy in cases when it contradicts provisions of the LBS.
- According to Article 117 of the Law on Insurance, the insurers, reinsurers, insurance intermediaries may exchange or provide each other with information on their customers even in cases when it represents an insurance secret. Insurance, reinsurers and insurance intermediaries are required to decline the requests for obtaining information constituting an insurance secret if it contradicts the provisions of the Law on insurance.
- There are no legislative provisions which hinder the sharing of information between financial institutions as required under R.13, 16 or 17.

Weighting and Conclusion

108. Financial institution secrecy does not inhibit the ability of the FMC, CBA or LEAs from accessing information they require to properly perform their functions. The sharing of information between competent authorities, domestically and internationally is not limited by financial secrecy.

Equally, financial institutions may share information where this is required by Recommendations 13, 16 or 17. **Armenia is Compliant with Recommendation 9**.

Recommendation 10 – Customer due diligence

109. In the 2009 MER, Recommendation 5 was rated Partially Compliant. It was found that financial institutions were permitted to issue certain financial instruments in bearer form, which were similar to anonymous accounts. Financial institutions were not required to adopt effective risk management procedures concerning conditions under which a customer is permitted to utilise the business relationship prior to CDD verification; to apply CDD measures to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times. A low level of effectiveness was identified with respect to the obligations established by the AML/CFT Law and implementing regulations. Under the current methodology effectiveness is not a factor relevant to the assessment of technical compliance.

110. In the period since the last MER, Armenia has amended the AML/CFT law to address the technical deficiencies concerning CDD.

111. *Criterion 10.1* (Met) – Article 15(1) of the AML/CFT Law prohibits the opening, issuing, provision and servicing of anonymous accounts, accounts in fictitious names, accounts with only numeric, alphabetic or other conventional symbolic expression and bearer securities.

112. *Criterion 10.2* (Met) – Pursuant to Article 16(2) and 18 (5) of the AML/CFT Law, reporting entities are required to undertake CDD when:

1) Establishing a business relationship;
2) Carrying out an occasional transaction (including linked occasional transactions), including domestic or international wire transfers, at an amount equal or above the 400-fold of the minimum salary (approximately EUR 720), unless stricter provisions are established by legislation;
3) Doubts arise with regard to the veracity or adequacy of previously obtained customer identification data (including documents);
4) Suspicions arise with regard to ML/FT.

At that, simplified CDD is not permitted in the presence of high risk criteria of money laundering or terrorism financing, or in the case of a suspicious transaction or business relationship.

113. *Criterion 10.3* (Met) – Article 16(4) of the AML/CFT Law states that reporting entities shall identify the customers and verify their identity using reliable and valid documents issued by competent authorities, and other relevant data. Paragraphs (1) to (3) of Article 16(4) specify the data and information that identification documents must contain for (a) a natural person, (b) a domestic or foreign legal person (which includes a legal formation without legal personality under foreign law) and (c) a government body or local self-government body. A customer is defined as a person establishing, or is already in, a business relationship with the reporting entity, as well as the person which requests the reporting entity to conduct, or conducts, an occasional transaction.

114. *Criterion 10.4* (Met) – Under Article 3(19) (a), CDD includes identifying and verifying the identity of the customer (including that of the authorised person). Pursuant to Article 16(5) (1), reporting entities are required to establish whether any authorised person exists, identify such person and verify his identity (using reliable and valid documents issued by competent authorities) and the authority to act on behalf of the customer. An authorised person is defined under Article 3(15) as the person authorised, by the order and on behalf of the customer, to conduct a transaction or to take certain legal or factual actions in a business relationship, including the authorisation to represent the customer through a power of attorney or in any other manner stipulated by law.

115. *Criterion 10.5* (Met) – Under Article 3(19) (a), CDD includes identifying and verifying the identity of the customer (including that of the beneficial owner). Pursuant to Article 16(5) (2),

reporting entities are required to establish whether any beneficial owner exists, identify such person and verify his identity (using reliable and valid documents issued by competent authorities). A beneficial owner is defined under Article 3(14) as the natural person, on behalf or for the benefit of whom the customer in reality acts; and (or) who in reality controls the customer or the person on behalf or for the benefit of whom the transaction or the business relationship is conducted; and (or) who owns the customer which is a legal person, which includes both domestic and foreign legal persons and legal formations without legal personality under foreign law (for more information on the beneficial owner of a legal person refer to the analysis for Criterion 10.8).

116. *Criterion 10.6* (Met) – Article 16(7) of the AML/CFT Law requires reporting entities to establish the business profile of the customer, as well as the purpose and intended nature of the business relationship. The business profile is defined under Article 3(17) as the totality of information of the reporting entity concerning the nature, impact, and significance of a customer's activities; the existing and expected dynamics, volumes, and areas of business relationships and occasional transactions; the existence, identity and interrelations of authorised persons and beneficial owners; as well as other facts and circumstances regarding the customer's activities.

117. *Criterion 10.7* (Met) – Pursuant to Article 17 of the AML/CFT Law and Article 38 of the Regulation on Minimum AML/CFT Requirements, reporting entities are required to conduct ongoing due diligence throughout the whole course of the business relationship, which shall include the scrutiny of transactions with the customer to ascertain the veracity of the information regarding the customer, its business and risk profile, the consistency of that information with the activities of the customer and, where necessary, also the source of funds and wealth of the customer. Reporting entities are also required to keep CDD data updated and relevant. The periodicity of data reviews shall be determined by each reporting entity (on the basis of risk) but must be conducted at least once a year and, in case of high risk business relationships, at least every six months. Clauses 30, 31, 32, 35, 37 and 41 of the Regulation on Minimum AML/CFT requirements specify in more detail the measures to be applied when conducting ongoing monitoring.

118. *Criterion 10.8* (Met) – Article 16(6) of the AML/CFT Law requires reporting entities to obtain complete information on the ownership and control structure of that legal person (except for the listed issuers (public companies) as defined by the Law on the Securities Market). Article 16(7) of the AML/CFT Law requires reporting entities to establish the business profile of the customer (refer to the analysis for Criterion 10.6 for the definition of business profile of the customer). When registering (or making changes to the statutory capital or composition of the members of) a legal person in Armenia, Article 9(1) of the AML/CFT Law requires the founders to file a declaration on the beneficial owners of the legal person with the State Register. Further details on the register of beneficial owners may be found under Recommendation 24.

119. *Criterion 10.9* (Met) – When identifying and verifying the identity of a legal person, Article 16(4) requires reporting entities to obtain state registration or other official documents which shall at least contain the company name, the domicile (address), individual identification number of the legal person, forename and surname of the chief executive officer and, if available, the tax identification number. The state registration document also includes the legal form of the entity. Although there is no requirement to obtain information on the powers that regulate and bind the legal person or arrangement (c. 10.9(b)), the authorities indicated that when establishing the beneficial owner of a customer under Article 16(6) of the AML/CFT Law, reporting entities are obligated to obtain complete information on the ownership and control structure of that legal person, which would include information on the powers regulating/binding the legal person.

120. *Criterion 10.10* (Met) – According to a combined reading of Articles 16(5) (2) and 3(14) of the AML/CFT Law, for customers that are legal persons, reporting entities are required to identify (and verify the identity of) the natural person who exercises actual (real) control over the legal person, the transaction or the business relationship, and (or) for the benefit of whom the transaction or the business relationship is conducted. The beneficial owner of a legal person may also be the natural person who: (a) holds, with voting power, 20 or more percent of the voting shares (stocks, equity interests) of the legal person involved (except for listed companies), or has the capacity to

predetermine its decisions by virtue of his shareholding or due to a contract concluded with the legal person; or (b) is a member of the executive and (or) governance body of the legal person involved; or (c) acts in concert with the legal person involved, on the basis of common economic interests.

121. *Criterion 10.11* (Mostly met) – Legal arrangements are not recognised under Armenian law. Foreign legal arrangements are covered under the definition of a legal person in Article 3(16) of the AML/CFT Law, which includes a legal formation without legal personality under foreign law. Therefore, the identification and verification requirements under the AML/CFT Law which apply to a (domestic or foreign) legal person also apply to a foreign legal arrangement. There is no separate definition of the beneficial owner of legal arrangements in the AML/CFT Law. The Armenian law is not familiar with the terms used for defining beneficial owners of legal arrangements (settlor, trustee or protector) as legal arrangements are not recognised under Armenian law. The definition of a beneficial owner of a legal person (referred to under c. 10.10) would, in the context of a trust, potentially cover the settlor (the natural person who exercises actual control over the legal formation e.g. by virtue of a letter of wishes), the beneficiary or class of beneficiaries (the natural person for the benefit of whom the transaction or the business relationship is conducted), the trustee and the protector (the natural person who acts in concert with the legal person on the basis of common economic interests). The same would apply to persons holding equivalent or similar positions in other types of legal arrangements.

122. *Criterion 10.12* (Not met) – There are no CDD requirements for beneficiaries of life insurance and other investment related insurance policies. The assessment team was informed that, although life insurance may be licensed under the Insurance Law, no such licences have been issued yet by the CBA.

123. *Criterion 10.13* (Met) – Article 18(2) of the AML/CFT Law stipulates that in the presence of high risk criteria, reporting entities should conduct enhanced customer due diligence. The Guidance on Suspicious Transaction Criteria provides situations related to life insurance transactions.

124. *Criterion 10.14* (Met) – Pursuant to Article 16(1) of the AML/CFT Law, reporting entities may only establish a business relationship or conduct an occasional transaction with a customer after obtaining identification information on the customer and verifying the customer's identity. Customer verification may be carried out in the course of establishing the business relationship or conducting the occasional transaction, or thereafter within a reasonable timeframe not exceeding 7 days, provided that the risk is effectively managed and that this is essential not to interrupt the normal conduct of business relationships with the customer.

125. *Criterion 10.15* (Met) – Article 23(1) (12) of the AML/CFT Law requires reporting entities to adopt internal legal statutes which should include procedures for effective risk management in case of establishing a business relationship or conducting an occasional transaction without prior verification of identity.

126. *Criterion 10.16* (Met) – Article 18(6) of the AML/CFT Law requires reporting entities to conduct CDD with respect to existing customers, at appropriate intervals and in relevant cases, on the basis of materiality and risk pertinent to such customers. Clause 39 of the Regulation on Minimum AML/CFT Requirements specifies further the measures to be undertaken with respect to existing customers.

127. *Criterion 10.17* (Met) – Article 18(2) of the AML/CFT Law requires reporting entities to conduct enhanced CDD where high risk criteria exist. High risk criteria are defined under Article 3(1) (21) of the law as criteria which indicate a high likelihood of ML/FT; such criteria include (in addition to categories set out by the AML/CFT Law, legal statues issued by the CBA and internal legal statutes of the reporting entities) PEPs, persons from non-compliant countries, complex or unusual large transactions, or unusual patterns of transactions or business relationships, which have no apparent economic or other lawful purpose. Article 3(1) (22) of the law sets out the enhanced CDD measures to be applied where high risk criteria exist. These include, in addition to standard CDD, at a minimum obtaining senior management approval for the establishment of a business relationship,

taking necessary measures to establish the source of funds and wealth of the customer, examining the background and purpose of a transaction or business relationship and conducting enhanced ongoing monitoring (for PEPs). These measures are further explained in Clauses 33 and 34 of the Regulation on Minimum AML/CFT Requirements. The Guidance for Financial Institutions on Adopting the Risk-Based Approach for Combatting Money Laundering and Terrorism Financing provides examples of countries, customers and products/services that may present a higher risk.

128. *Criterion 10.18* (Met) – Article 18(5) of the AML/CFT Law permits reporting entities to conduct simplified CDD where low risk criteria exist, except if high risk criteria and suspicions of ML/FT exist. Low risk criteria are defined under Article 3(1) (23) of the AML/CFT Law and Article 28 of the Regulation on Minimum AML/CFT Requirements as criteria which indicate a low likelihood of ML/FT; such criteria shall include appropriately supervised financial institutions, government bodies, state-owned non-commercial organisations, public administration institutions, certain low risk life insurance policies, insurance policies for pension schemes, payments to state or community budgets, payments for utility services and payments related to the provision of salaries, pensions or allowances from known sources. Article 3(1) (24) of the AML/CFT Law stipulates that simplified CDD shall be a process involving limited application of CDD and sets out the minimum identification and verification information to be collected for a natural person, a legal person and a government body or local self-government body. Clauses 35 and 36 of the Regulation on Minimum AML/CFT Requirements specify further the type of simplified measures that may be applied in the event of low risk.

129. *Criterion 10.19* (Met) – Article 27 of the AML/CFT Law requires reporting entities to refuse a transaction or business relationship and consider submitted a STR, where CDD measures cannot be implemented. Where the business relationship has already been established, the reporting entity is required to terminate the transaction or business relationship and consider filing an STR.

130. *Criterion 10.20* (Not Met) – The AML/CFT Law does not permit reporting entities to refrain from pursing the CDD process (and file an STR instead) in cases where a suspicion of ML/FT is formed and it is reasonably believed that the performance of the CDD process will tip-off the customer.

Weighting and Conclusion

131. Armenia meets all the criteria except for Criteria 10.12 and Criterion 10.20 of Recommendation 10. **Armenia is Largely Compliant with Recommendation 10**.

Recommendation 11 – Record-keeping

In the 2009 MER, Armenia was rated Largely Compliant. It was found that there was lack of guidance as to the notion of "main conditions of the transaction (business relationship)" subject to the record-keeping requirements, in those cases where transactions were not contracts.

132. *Criterion 11.1* (Met) – Reporting entities are required to maintain records on transactions or business relationships, both domestic and international (including the name, the registration address (if available) and the place of residence of the customer (and the other party to the transaction), the nature, date, amount, and currency of transaction and, if available, type and number of account. Records on transactions are required to be kept for at 5 years from the termination of the business relationship or the completion of the transaction (Article 22 of the AML/CFT Law).

133. *Criterion 11.2* (Met) - Reporting entities are required to maintain customer identification data, including the data on the account number and turnover, as well as business correspondence data, records on business relationships (as explained in the analysis for Criterion 11.1), information on suspicious transactions or business relationships, as well as information concerning the process of review (analysis) and findings on transactions or business relationships recognised as suspicious, the findings of the assessment of potential and existing ML/FT risks and records on wire transfers.

Such records shall be maintained for at least 5 years from the termination of the business relationship or the completion of the transaction (Article 22 of the AML/CFT Law).

134. *Criterion 11.3* (Met) - Reporting entities are required to maintain all necessary records on transactions which would be sufficient to permit full reconstruction of individual transactions (Article 22 of the AML/CFT Law).

135. *Criterion 11.4* (Met) - Information maintained by reporting entities should be sufficient to enable submission of comprehensive and complete data on customers, transactions or business relationships whenever requested by the CBA or, in cases established by law, by criminal prosecution authorities. Information should be made accessible to relevant supervisory and criminal prosecution authorities, as well as to auditors, on a timely basis.

Weighting and Conclusion

136. **Armenia is Compliant with Recommendation 11**.

Recommendation 12 – Politically exposed persons

137. In its 3rd MER Armenia was rated Largely Compliant with these requirements. Since then, the FATF Standards have changed. Armenia does not appear to have taken any steps to update the relevant requirements.

138. *Criterion 12.1* (Met) – Armenia defines a politically exposed person (PEP) under Article 3, Part 1 (25) of the AML/CFT Law, as "an individual, who is a former or present high-level public official entrusted with prominent public, political, or social functions in a foreign country or territory", namely:

a) Heads of State, Government, Ministers and Deputy Ministers;

b) Members of the Parliament;

c) Members of the Supreme, Constitutional or any other high-level courts;

d) Members of the Auditors' Court or members of the Board of the Central Bank;

e) Ambassadors, chargés d'affaires, and high-level military officers;

f) Prominent members of political parties;

g) Members of administrative, managerial, or supervisory bodies of state-owned organizations.

139. This is in line with the FATF definition of a foreign PEP.

140. According to Article 3, Part 1 (21) of the AML/CFT Law, "PEPs, their family members or persons otherwise associated with them (father, mother, grandmother, grandfather, sister, brother, children, spouse's parents), who are potential or existing customers or beneficial owners" are considered to be a high risk criterion, and as stated under Article 18 of the AML/CFT Law, reporting entities are required to take enhanced due diligence measures with regards to such customers. With respect to the risk management procedures, under Article 23(1) (11) of the AML/CFT Law, reporting entities are required to have in place and apply internal legal statutes which establish "procedures for effective risk management to establish the presence of high risk criteria, including the circumstance whether the customer is a PEP, or a family member of or otherwise associated with such person".

141. As mentioned above, in case of a high risk, reporting entities should apply enhanced CDD measures, whereby the reporting entities in addition to the established due diligence measures should at minimum: a) obtain senior management approval to establish a business relationship with the customer, to continue the business relationship, as well as when the customer or the beneficial owner is subsequently found to be characterized by high-risk criteria, or when the transaction or the business relationship is found to compromise such criteria; b) take necessary measures to establish

the source of funds and wealth of the customer; c) examine, as far as possible, the background and purpose of the transaction or business relationship; d) conduct enhanced ongoing monitoring of relationships with PEPs.

142. *Criterion 12.2* (Not met) – Armenia does not have any legislative measures relating to domestic PEPs or persons who are or have been entrusted with a prominent function by an international organisation.

143. *Criterion 12.3* (Partly met) – Family members of and persons associated with foreign PEPs, who are potential or existing customers or beneficial owners, are considered to pose a high risk. Therefore, reporting entities are required to apply enhanced CDD measures described in the analysis for Criterion 12.1. The requirements of Criteria 12.1 and 12.2 do not only apply to family members of and persons associated with domestic PEPs.

144. *Criterion 12.4* (Not met) – There are no specific measures in relation to the beneficiaries and/or the beneficial owners of beneficiaries of life insurance policies who are PEPs. The CBA has not issued any license in relation to life insurance policies.

Weighting and Conclusion

145. Domestic PEPs or persons who are or have been entrusted with a prominent function by an international organization (and their family members and associated) are not subject to any preventive measures. FIs are not required to determine that the beneficiary of a life insurance policy and/or the beneficial owner of the beneficiary are PEPs, although this deficiency is not given a lot of weight since there are no life insurance companies in Armenia. **Armenia is Partially Compliant with Recommendation 12**.

Recommendation 13 – Correspondent banking

146. In its 3rd MER, Armenia was rated compliant with these requirements.

147. *Criterion 13.1* (Met) – Pursuant to Article 19 of the AML/CFT Law, in relation to correspondent or other similar relations with foreign financial institutions, financial institutions are required to apply the following measures, in addition to the CDD requirements:

- Gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and, based on publicly available and other available information, determine the reputation of the respondent institution and the quality of its supervision, including whether it has been or is subject to a criminal investigation or other proceeding related to ML or FT.
- Assess the respondent institutions procedures for combating ML and FT to ascertain that they are adequate and effective.
- Obtain the approval of the senior management before establishing correspondent or other similar relationships.
- Document the respective responsibilities of each institution with regard to combating ML and FT, if such responsibilities are not apparently known.

148. *Criterion 13.2* (Met) – With respect to "payable-through accounts", under Article 19 of the AML/CFT Law, FIs are required to ascertain that the respondent institution has conducted due diligence on customers having direct access to the accounts of the respondent and is in a position to provide, upon request, relevant data regarding the due diligence on these customers.

149. *Criterion 13.* (Met) – According to Article 19 of the AML/CFT Law, FIs are prohibited from entering into, or continuing, correspondent or other similar relations with shell banks. In addition to that, FIs are required to ascertain that, in connection with payable-through accounts, the respondent institution does not allow the use of its accounts by shell banks.

Weighting and Conclusion

150. **Armenia is Compliant with Recommendation 13**.

Recommendation 14 – Money or value transfer services

151. In its 3rd MER Armenia was rated Largely Compliant with these requirements (Paragraphs 713-722). The deficiency identified related to the potential abuse by unauthorised money remitters operating in Armenia.

152. *Criterion 14.1* (Met) – Armenian legislation defines MVTS providers as "payment and settlement organizations" (PSO), which, under Article 19 of the Law on Payment and Settlement Systems and Organizations (LPSSO), "is a legal entity having received a license as required by this law and CBA normative acts to provide payment and settlement services". In order to carry out money remittances, PSOs are required to obtain a license from the CBA, according to Article 43 of the Licensing Law. Under Article 20 of the Licensing Law, a PSO license is not limited in time. The CBA maintains a public register of issued licenses.

153. *Criterion 14.2* (Met) – Carrying out MVTS activities without a license is prohibited in Armenia. According to Article 188 of the Criminal Code, entrepreneurial activities without special permit (license) is punishable by a fine in the amount of 200 to 400 minimal salaries (approximately EUR 360 to 720), or with an arrest for the term of 2 to 3 months.

154. *Criterion 14.3* (Met) – MVTS providers are subject to the requirements of the AML/CFT Law (Article 3, Part 4 (d)). According to Article 29, Part 2 of the AML/CFT Law, the CBA[82] is required to conduct on-site inspections of MVTS providers to ensure compliance with the AML/CFT law.

155. *Criterion 14.4* (Met) – Armenian legislation does not contain the definition of agents as articulated in the FATF general glossary. Thus, the only way to act on behalf of the MVTS provider in Armenia is through branch offices and representations. Pursuant to Article 21 of the LPSSO, MVTS branch offices and representations are required to be registered according to the procedures determined by the CBA. Because branch offices are registered with the CBA, the current list of branches and representations of MVTS providers are maintained by the CBA.

156. *Criterion 14.5* (Met) – As mentioned above, PSOs are subject to general AML/CFT requirements. They are required to have in place and apply internal legal statutes (policies, concept papers, rules, regulations, procedures, instructions or other means) aimed at the prevention of ML and FT. PSOs branches and representations are required to comply with the requirements applicable to the PSO, including AML/CFT policy of the PSO.

Weighting and Conclusion

157. **Armenia is Compliant with Recommendation 14**.

Recommendation 15 – New technologies

158. In its 3rd MER Armenia was rated largely compliant with these requirements.

159. *Criterion 15.1* (Met) – Under Article 4, Part 4 of the AML/CFT Law FIs are required to identify and assess potential and existing risks, which may arise in relation to the development of new products and new business practices, and the use of new or developing technologies.

160. *Criterion 15.2* (Met) – As stated in Article 4, Part 5 of the AML/CFT Law, FIs are required to identify and assess potential and existing ML and FT risks, prior to the launch of new products or

[82] According to Article 24 of the LPSSO Law, CBA is a body which is "exclusively authorized to exercise supervision of PSO" as required by the Law on CBA and CBA normative acts. CBA carries out examinations and on-site/off-site inspections in PSOs, imposes penalties and other sanctions in cases of non-compliance with the obligation

business practices, or the use of new or developing technologies. FIs should, pursuant to Article 4, Part 1 of the AML/CFT Law, identify and assess their potential and existing ML and FT risks, and have policies, controls and procedures, which enable them to effectively manage and mitigate identified risks.

Weighting and Conclusion

161. **Armenia is Compliant with Recommendation 15**.

Recommendation 16 – Wire transfers

162. In its 3rd MER, Armenia was rated Largely Compliant with these requirements.

163. *Criterion 16.1* (Met) – Article 20, Part 1 of the AML/CFT Law requires ordering financial institutions to obtain and maintain the following information: a) forename and surname or company name of the originator and the beneficiary of the transfer; b) account numbers of the originator and the beneficiary of the transfer (the unique reference number accompanying the transfer, in the absence of the account number); c) with regard to the originator of the transfer, details of the identification document for natural persons or individual identification number for legal persons. As stated in Part 2 of Article 20 of the AML/CFT Law, this information, should be included in the payment order accompanying the wire transfer of the ordering financial institution for both domestic and cross-border wire transfers. This requirement applies to all wire transfers irrespective of their value.

164. *Criterion 16.2* (Met) – Where more than one wire transfers are bundled in a batch file, under Article 20, Part 2 of the AML/CFT Law, the ordering financial institution "may choose to include in each individual transfer only the originator information (account numbers of the originator and the beneficiary of the transfer or, in the absence thereof, the unique reference number accompanying the transfer), provided that the batch file contains full information required (forename and surname or company name of the originator and the beneficiary of the transfer; account numbers of the originator and the beneficiary of the transfer (or, in the absence thereof, the unique reference number accompanying the transfer); with regard to the originator of the transfer, details of the identification document for natural persons or individual identification number (state registration, individual record number etc.) for legal persons)".

165. *Criterion 16.3* (Met) – Armenian legislation does not apply a *de minimis* threshold for the requirements of Criterion 16.1. Financial institutions are required to include information specified under Article 20, Parts 1 and 2 of the AML/CFT Law, for all domestic and cross-border wire transfers, regardless of their value.

166. *Criterion 16.4* (Met) – Under Article 16, Part 2 of the AML/CFT Law, reporting entities are required to undertake CDD measures when the ML or FT suspicions arise. Part 4 of the same article establishes obligations for reporting entities to conduct verification of the customers "using reliable and valid documents issued by competent authorities and other relevant data".

167. *Criterion 16.5* (Met) – As mentioned in the analysis for Criterion 16.1, wire transfer rules apply equally to both domestic and cross-border wire transfers.

168. *Criterion 16.6* (Met) – The AML/CFT Law does not permit the provision of information accompanying wire transfers by other means (other than those required under Article 20 of the AML/CFT Law). With respect to the LEAs access to the wire transfer information, under Article 22 of the AML/CFT Law, reporting entities are required to maintain information and documents specified under Article 20 of the AML/CFT Law, i.e. Criterion 16.1 and 16.2, and make this information (including documents) accessible to criminal prosecution authorities.

169. *Criterion 16.7* (Met) – According to Article 22, Part 1 of the AML/CFT Law, reporting entities are required to maintain information and documents obtained in the course of CDD regardless of

whether the transaction or business relationship is ongoing or terminated. This requirement includes information obtained with respect to obligations related to wire transfers (Article 20 of the AML/CFT Law). In addition to that, under Article 22, Parts 2-4 of the AML/CFT Law, reporting entities are obliged to maintain information (including documents) obtained through CDD and transaction information for at least 5 years, and to enable submission of comprehensive and complete data on customers, transactions, business relationships whenever requested or in cases established by the law, to the FMC and criminal prosecution authorities.

170. *Criterion 16.8* (Met) – Article 27, Part 3 of the AML/CFT Law provides that ordering FI should refuse any cross border wire transfer equal (below) or above the 400 fold amount of minimum salary (approximately EUR 720) which lack the information specified in Article 20 of the AML/CFT Law, and should consider them as suspicious. Article 30, Part 2 of the AML/CFT Law sets out that non-compliance or inadequate compliance of the reporting entities with the requirements of the AML/CFT Law or other legal statutes results in appropriate responsibility measures established by the legislation regulating their activities. The range of measures includes, but is not limited to, the issuance of the warning and directive to eliminate infringements; imposition of fines; bank managers' deprivation of the qualification certificate; and the revocation of the license.

171. *Criterion 16.9* (Met) – Under Article 20, Part 3 of the AML/CFT Law all intermediary FIs involved in the processing of a wire transfers are required to ensure that the information accompanying a wire transfer is transmitted with the transfer.

172. *Criterion 16.10* (Met) – Where technical limitations prevent the intermediary FI from transmitting the information accompanying a cross border wire transfer with a related domestic wire transfer, according to Article 20 of the AML/CFT Law, the intermediary FI should "maintain that information in the manner and timeframes established by the AML/CFT law". As mentioned above, FIs are required to keep the information (including documents) for at least 5 years following the termination of the business relationship or completion of the transaction.

173. *Criterion 16.11 & Criterion 16.12* (Met) – Article 20, Part 5 of the AML/CFT Law establishes the obligation for intermediary and beneficiary FIs to "adopt effective risk based policies and procedures for identifying and taking relevant measures (including refusal or suspension) with regard to wire transfers that lack the information specified in Criterion 16.1. In addition to that, FIs are required to consider terminating correspondent or other similar relationships with the FIs involved in the wire transfer.

174. *Criterion 16.13* (Met) – See the analysis for Criterion 16.11.

175. *Criterion 16.14* (Met) – Under Article 16 of the AML/CFT Law, reporting entities are required to undertake CDD measures when carrying out domestic/international wire transfers at an amount equal or above 400-fold minimum salary (approximately EUR 720); this includes measures on identification and verification the identity of the customer (including that of the authorized person and the beneficial owner). In addition, under Article 22 of the AML/CFT Law reporting entities must maintain information (including documents) received in the course of the CDD for at least 5 years following the termination of the business relationship or completion of the transaction.

176. *Criterion 16.15* (Met) – See the analysis for Criterion 16.11.

177. *Criterion 16.16* (Met) – Pursuant to Article 3 of the AML/CFT Law, MVTS providers defined as entities engaged in money (currency) transfer services are reporting entities, to which all requirements of the AML/CFT Law apply.

178. *Criterion 16.17* (Met) – MVTS fall within the scope of the AML/CFT law, which contains general requirements on recognition of potential suspicious transactions and filing STRs.

179. *Criterion 16.18* (Met) – Under Article 28, Part 1 of the AML/CFT Law reporting entities are obliged to freeze without delay and without prior notice to the person involved the property owned

or controlled, directly or indirectly, by terrorism related persons included in the lists published by or in accordance with the UNSCR, as well as in the lists specified by the authorised body.

Weighting and Conclusion

180. **Armenia is Compliant with Recommendation 16**.

Recommendation 17 – Reliance on third parties

181. In its 3rd MER Armenia was rated non-compliant with these requirements (see Paragraphs 518-522). In subsequent follow-up reports, Armenia reported on draft amendments to the AML/CFT Law, which came into force in 2014.

182. *Criterion 17.1* (Met) – The AML/CFT law sets out the conditions in which a reporting entity, when applying measures on identification and verification of the customer's identity and on understanding the purpose and intended nature of the business relationship, may rely on information obtained through customer due diligence undertaken by a third party. The ultimate responsibility for CDD measures remains with the reporting entity (Article 16 of the AML/CFT Law). On the specific elements set out in the criterion, under Article 16 of the AML/CFT Law, reporting entities are required:

- To immediately obtain the following information: a) on customer identification and verification; b) establish whether the customer is acting on behalf and (or) for the benefit of another person; c) information on the ownership and control structure of the legal person; d) establish the business profile of the customer, purpose and intended nature of the business relationship; e) establish business profile of the customer.
- To take adequate steps to satisfy themselves that the third party "is authorized and has the capacity to provide, immediately upon request, the information obtained through due diligence, including the copies of documents" and that the third party "is subject to proper regulation and supervision in terms of combatting ML and FT, as well as having effective procedures to conduct CDD and to maintain relevant information", as provided for under the AML/CFT legislation.

183. *Criterion 17.2* (Met) – Article 16 of the AML/CFT Law requires reporting entities to take adequate steps to satisfy themselves that the third party "is not domiciled or residing in, or is not from a non-compliant country or territory". Furthermore, Article 3(1) (26) of the same law defines a non-compliant country or territory as "a foreign country or territory that, according to the lists published by the Authorized Body, is in non-compliance or inadequate compliance with the international requirements on combating money laundering and terrorism financing".

184. *Criterion 17.3* (Not applicable) – Financial institutions are required to apply the same measures when relying on a third party that is part of the same financial group.

Weighting and Conclusion

185. **Armenia is Compliant with Recommendation 17**.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

186. In its 3rd MER, Armenia was rated partially compliant with R.15 and compliant with R.22. It was noted that FIs' internal legal acts were inadequate as they did not consider the risk of ML and FT and the size of the business; there were concerns about the screening procedures for hiring employees other than the staff of the internal compliance unit; there was lack of measures for FIs to maintain adequately resourced and independent audit function; insufficient training provided by FIs to their staff; and low level of implementation of AML/CFT obligations and regulations by FIs.

187. *Criterion 18.1.* (Met) – Article 23 of the AML/CFT Law requires FIs and other reporting entities to have in place and apply internal legal statutes (policies, concept papers, rules, regulations,

procedures, instructions or other means) aimed at the prevention of ML and FT, which have regard to the size and nature of the reporting entity's activities and pertinent risks. The internal legal statutes are required to establish, at minimum, requirements on procedures for CDD, internal audit, requirements on hiring, training and professional development of the staff, procedures for effective risk management and other AML/CFT obligations. On the specific elements set out in the criterion:

- *Compliance management arrangements* – Reporting entities are obliged to have an internal monitoring unit and its staff members are required to have appropriate qualification according to the criteria defined by the FMC (Article 24 of the AML/CFT Law). The *Internal monitoring unit* is defined under Article 3 of the AML/CFT Law as a division or employee of the reporting entity performing the function of preventing ML and FT as provided for under the AML/CFT Law and the legal statutes of the FMC. The definition of the internal monitoring unit also states that the reporting entities may delegate the functions of the Internal monitoring unit to a specialized professional entity in cases and manner established by the FMC. Article 24 of the AML/CFT Law further requires internal monitoring unit to be independent and have the status of senior management of the reporting entity; and to have direct and timely access to the information (including documents) obtained and maintained under the AML/CFT Law. *Senior management*, under Article 3 of the AML/CFT Law, is defined as a body or employee of the reporting entity authorized to make decisions and take actions on behalf of the reporting entity on AML/CFT matters.
- *Screening procedures* – Article 24 of the AML/CFT Law addresses internal monitoring unit of reporting entities. Part 2 of this Article states that Internal monitoring unit staff members "should have appropriate qualification awarded on the basis of qualification competence criteria defined by the Authorized Body". In addition, Article 23 of the AML/CFT Law requires reporting entities to adopt internal legal statutes, which should establish requirements with regard to hiring of the staff members of the internal monitoring unit and other employees in connection with the obligations defined by the AML/CFT legislation and other legal statutes.
- *Ongoing employee training* – Article 23 of the AML/CFT Law requires reporting entities to establish requirements with regard to training and professional development of the staff members of the internal monitoring unit and other employees performing obligations defined by the AML/CFT legislation and other legal statutes, as well as in connection with potential and existing risks and typologies. Chapter 10 of the Regulation on Minimum AML/CFT Requirements requires reporting entities to arrange regular trainings for the Board, the Executive body, the internal monitoring unit, the staff performing customer service and internal audit functions, newly recruited staff and other staff involved in the prevention of ML/FT.
- *An independent audit function* – Reporting entities, under Article 23 of the AML/CFT Law, are required to establish rules and conditions for conducting the internal audit to check compliance with AML/CFT Law, legal statutes adopted on the basis of the AML/CFT Law, and legal statutes of the reporting entity, whenever the conduction of audit is required. According to Article 25 of the AML/CFT Law, reporting entities are required to conduct internal audit in cases and the periodicity established by the FMC in order to ascertain adequate implementation of the obligations and functions stipulated by the AML/CFT Law. Chapter 9 of the Regulation on Minimum AML/CFT Requirements states that internal audit should be conducted according to the annual program of internal audit. Conclusions of the audit conducted should be submitted to the FMC within one week following approval by the Board of the reporting entity.

  In addition to that, under Article 25 of the AML/CFT Law, upon the request of the FMC or reporting entities' own initiative, and in the manner established by the FMC, reporting entities should commission external audit to check the proper implementation of the AML/CFT legislation and effectiveness of the regime. Chapter 9 of the Regulation on Minimum AML/CFT Requirements specifies that FMC may request the reporting entity to conduct an external audit in cases when the reporting entity regularly violates the requirements of the AML/CFT legislation, or engages in high-risk activities. Reporting entities are obliged to conduct external audit within one month after receiving request from the FMC and inform the FMC on conclusions of the external audit within one week upon its receipt.

Chapter 9 of the Regulation on Minimum AML/CFT Requirements also requires reporting entities having branches, subsidiaries and representations to assess compliance of their activities with the AML/CFT legislation and review the conclusions of audit conducted.

188. *Criterion 18.2* (Met) – Article 3 of the AML/CFT Law introduces the concept of financial group, which is defined as a "group comprising a legal person, which exercises control and coordinates functions over the members of the group (including the branches and (or) representations that are subject to anti-money laundering and counter terrorism policies and procedures at the group level) involved in banking, provision of investment services, central depositary or insurance (including reinsurance) and intermediary insurance (including reinsurance) services, for the application of effective consolidated supervision at the group level". Reporting entities are required, under Article 23 of the AML/CFT Law, to have in place and apply group-wide internal legal statutes for the prevention of ML and FT. These internal legal statutes should establish operational procedures of the internal monitoring unit; requirements on hiring, training and professional development of the staff on obligations defined by the AML/CFT legislation, potential and existing risks and typologies; rules and conditions for the conduction of internal audit. On the elements set out in the criterion:

- *Sharing information & group level compliance, audit and/or AML/CFT functions* – with regard to policies and procedures for sharing information, Article 23 of the AML/CFT Law provides that financial groups are required to establish the procedures for sharing information within the group for combating ML and FT.
- *Confidentiality and use of information exchanged* – These are governed by the confidentiality provisions under the sectorial laws.

189. *Criterion 18.3* (Met) – The AML/CFT Law provides under Article 21 that reporting entities are obliged to ensure that their subsidiaries, branches and representations operating in foreign countries or territories observe the measures determined under the AML/CFT legislation of the home country, if the AML/CFT legislation of the home country establishes stricter norms as compared with the laws and other legal statutes of the country or the territory, where the subsidiary, branch or representation is domiciled. In cases when the legislation of the country or territory, where the subsidiary, branch or representation is domiciled, prohibit or do not enable implementing the requirements under the AML/CFT legislation of the home country, then the subsidiary, branch or representation should inform the reporting entity on that matter, and the reporting entity should respectively inform the FMC.

Weighting and Conclusion

190. **Armenia is Compliant with Recommendation 18**.

Recommendation 19 – Higher-risk countries

191. In its 3rd MER, Armenia was rated largely compliant with these requirements. Recommendation 19 contains new requirements regarding measures with respect to high-risk countries that were not assessed under the 2004 Methodology.

192. High-risk countries in Armenian legislation are defined as non-compliant countries or territories, which according to Article 3 of the AML/CFT Law, are foreign countries or territories that according to the lists published by the FMC, are not in compliance or do not adequately comply with the international requirements on AML/CFT.

193. Article 10 of the AML/CFT Law provides that FMC has the powers to publish the lists on non-compliant countries or territories, based on data publicized by international structures and (or) by foreign countries.

194. Chapter 29 of the FMC Operational manual establishes procedures for approval, publication and update of the lists of higher ML/FT risk countries. The lists of high ML/FT countries are regularly published on the FMC (CBA) website.

195. *Criterion 19.1* (Met) – Article 18 of the AML/CFT Law requires reporting entities, including FIs to conduct enhanced due diligence measures in the presence of high-risk criteria and when a criterion of high risk is detected or becomes apparent in the course of the transaction or business relationship. Article 3 of the AML/CFT Law defines the term "high-risk criterion" as a criterion indicating a high likelihood of ML or FT and include, among others, the persons (including financial institutions), which are domiciled or reside in or are from non-compliant countries or territories. Thus, whenever the reporting FIs detect that the business relationship or transactions involves natural or legal persons (including financial institutions) from non-compliant country or territory, they are obliged to apply enhanced CDD measures.

196. *Criterion 19.2* (Met) – Armenia is able to apply countermeasures when called upon to do so by the FATF and independently of any call by the FATF to do so. Reporting entities are required to recognize customers as high risk and apply enhanced due diligence measures, which involves at minimum: a) obtaining senior management approval when the customer is found to be characterized by high-risk criteria, or when the transaction or the business relationship is found to comprise such criteria; b) taking necessary measures to establish the source of funds and wealth of the customer; c) examining, as far as possible the background and purpose of the transaction or business relationship (Articles 3 and 18 of the AML/CFT Law). In addition to that, according to Article 10 of the AML/CFT Law, the FMC is authorized to give assignments to reporting entities on taking relevant measures with regard to persons (including financial institutions) which are domiciled or residing in or are from non-compliant countries or territories.

197. *Criterion 19.3* (Met) – Armenian authorities issue a notice on the FMC website to advise reporting entities of countermeasures or weaknesses in the AML/CFT system of other countries. This is based on data publicised by international structures active in the AML/CFT field and (or) by foreign countries. The formal letter to reporting entities is disseminated according to the FMC internal procedures**.**

Weighting and Conclusion

198. **Armenia is Compliant with Recommendation 19**.

Recommendation 20 – Reporting of suspicious transaction

199. In its 3rd MER, Armenia was rated largely compliant with these requirements (Paragraphs 586-623). The report considered that Armenia had implemented most elements of the Recommendation, but noted concerns about the level of effectiveness (in particular a low level of suspicious transaction reports by FIs and a lack of guidance that hampered the effective implementation of the FT reporting obligation). Since then, the revised AML/CFT Law has been adopted (on June 21, 2014).

200. *Criterion 20.1* (Met) – The obligation for financial institutions to report suspicious transactions is found in Articles 6 and 7 of the AML/CFT Law where reporting entities are required to submit to the FMC any suspicious transactions or business relationships regardless of the amount. The obligation applies to both the proceeds of a criminal activity and to those related to FT. FIs are also required to recognise a transaction or business relationship as suspicious, regardless of whether it matches fully or partly the criteria or typology of suspicious transactions or business relationship, which, by its nature (the logic, pattern of implementation or other characteristics), could be related to ML/FT (Part 2, Article 7 of the AML/CFT Law). There is an obligation to record and maintain the grounds for non-recognition a transaction or business relationship as suspicious, the respective conclusions and findings, as well as the process of conducted analysis in accordance with the provisions of the AML/CFT Law, in case if the suspicion of a transaction or business relationship is disproved (Part 3, Article 7 of the AML/CFT Law). The reporting of suspicious transactions related to tax crimes and other criminal activity is covered, as Armenia has an all-crimes approach to its criminalization of ML (Part 5, Article 190 of the CC).

201. *Criterion 20.2* (Met) – There is an explicit requirement to report all suspicious transactions regardless of their amount. This requirement also applies to suspicious attempted transactions (Part 2 of Article 6 and Part 1 of Article 7 of the AML/CFT Law).

Weighting and Conclusion

202. **Armenia is Compliant with Recommendation 20**.

Recommendation 21 – Tipping-off and confidentiality

203. In its 3rd MER, Armenia was rated compliant with these requirements (Paragraphs 609 - 612).

204. *Criterion 21.1* (Met) – Financial institutions and their employees (including managers) are exempted from liability when disclosing information in good faith to the FMC. Besides, the FMC or its employees are also exempted from criminal, administrative or other responsibility in case of duly performing their obligations under this Law (Part 1, Article 30 of the AML/CFT Law).

205. *Criterion 21.2* (Met) – Reporting FIs, their employees and representatives are prohibited from "tipping off" a customer or any third party about the fact that an STR or related information is being filed with the FIU. Sanctions for breaching the disclosure prohibition are available to both legal and natural persons (including managers, directors, senior/executive management, and other officials of the reporting entity) under Parts 2-7, Article 30 of the AML/CFT Law. The sanctions to be imposed for breaching the disclosure prohibition are covered under sector specific legislations. The range of sanctions available includes warnings and fines. Although there are no specific criminal sanctions for the violations to the AML/CFT law or other related regulations, intentional failure by individuals to comply with the AML/CFT provision could be punished under the Criminal Code, if the conduct amounts, for example, to aiding or abetting ML or FT (including attempt).

Weighting and Conclusion

206. **Armenia is Compliant with Recommendation 21**.

Recommendation 22 – DNFBPs: Customer due diligence

207. *Criterion 22.1* (Met) – The CDD requirements for DNFBPs are the same as those applicable to FIs. The types of DNFBPs subject to CDD requirements include: entities engaged in realtor activities, notaries, attorneys, as well as sole practitioner lawyers and legal firms, sole practitioner accountants and accounting firms, auditing firms and auditors, dealers in precious metals, dealers in precious stones, dealers in works of art, organisers of auctions, organisers of casino, games of chance, including online games of chance, and lotteries and entities providing trust management and company registration services. CDD measures are required to be applied in the circumstances and in relation to the activities referred to under Criterion 22.1 (a) to (c).

208. *Criterion 22.2* (R.11) (Met), *Criterion 22.3* (R.12) (Partly Met) and *Criterion 22.5* (R.17) (Met). For a description of record-keeping, PEP and third party reliance requirements reference should be made to the analysis under R.11, R.12 and R 17. The same deficiencies under Recommendation 12 apply.

209. *Criterion 22.4* (R.15) (Met) – DNFBPs are required to have in place and apply internal legal statutes which include adequate procedures to counter (manage) the potential and existing risks, which may arise in relation to the development of new products and new business practices, to the use of new or developing technologies, as well as to non-face to face transactions or business relationships.

Weighting and Conclusion

210. All criteria under Recommendation 22 are met, except for Criterion 22.3 which is only partly met. **Armenia is Largely Compliant with Recommendation 22**.

Recommendation 23 – DNFBPs: Other measures

211. *Criterion 23.1* (R.20) (Met) – The requirements to report suspicious transactions set out in Recommendation 20 apply to lawyers, notaries, other independent legal professionals, accountants, dealers in precious metals and stones and trust and company service providers in the circumstances referred to under Criterion 22.1(c), (d) and (e).

212. *Criterion 23.2* (R.18) (Met), *Criterion 22.3* (R.19) (Met) and *Criterion 22.4* (R.21) (Met). For a description of requirements on internal controls, high-risk countries and tipping-off/confidentiality reference should be made to the analysis under R.18, R.19 and R.21.

Weighting and Conclusion

213. **Armenia is Compliant with Recommendation 23**.

Recommendation 24 – Transparency and beneficial ownership of legal persons

214. In the 3rd round Armenia was rated as Largely Compliant with Recommendation 33. Information on beneficial ownership appeared to have been obtained and maintained but very recent enforcement meant that in some areas the evaluation team could not determine that implementation was effective.

215. Since the evaluation, Article 15 of the AML/CFT Law has been amended to introduce provisions on bearer securities.

216. A wide range of legal persons can be formed in Armenia (the table below provides information on the number and type of legal persons from Armenia's perspective). The establishment, registration and operation of legal persons are governed by Chapter 5 of the Civil Code and the Law on the State Registration of Legal Entities.

Number of registered legal entities as of December 31, 2014

N	Types of entities	Number
1.	Individual entrepreneur	95975
2.	Limited liability company	48190
3.	Non-governmental organisation	4128
4.	Sole proprietorship	3869
5.	Producers cooperative	3593
6.	Closed joint-stock company	2994
7.	Institution (INST)	2373
8.	State non-commercial organisation	1779
9.	Separated subdivision	1402
10.	Community non-commercial organisation	1307
11.	Foundation	917
12.	Open joint-stock company	825
13.	Trade union organisations	741

14.	Condominium	716
15.	Full (economic) partnership	707
16.	Subsidiary enterprise	602
17.	Separated subdivision (non-commercial)	467
18.	Consumer cooperative	389
19.	State enterprise (of a local self-government body	283
20.	Union of legal persons (non-commercial)	210
21.	Rural collective farm	167
22.	Union of legal persons (commercial)	86
23.	Political party	77
24.	Religious organisation	49
25.	Water consumers company	47
26.	Union of employers	35
27.	Chamber of Commerce and Industry	11
28.	Community administration institution	10
29.	Institution (establishment — non-commercial)	9
30.	State administration institution	5
	Total number	***171,963***

217. Statistics on entities with foreign shares is maintained for limited liability companies as this type of entity is the second most common, following individual entrepreneurs. Limited liability companies (48,190) comprise about 28% of total number of registered entities (171,963) as of December 31, 2014. There are 5.860 limited liability companies with foreign shares, which comprise about 3.4% of the total number of registered entities. The most active countries which hold shares in Armenian companies are Russia, the US and Georgia, followed by France, Ukraine and Germany.

218. *Criterion 24.1 (a) Types, forms and basic features of legal persons* (Met) – The types of legal persons that may be established in Armenia are provided under Article 51 of the Civil Code, which states that legal persons may be commercial or non-commercial in nature. The same article stipulates the forms of legal persons as follows: (1) commercial organisations, that may be created in the form of a business partnership (general partnership or a limited partnership) or company (limited liability company, supplementary liability company or a joint-stock company) and (2) non-commercial organisations created in the form of societal amalgamations, funds, unions of legal persons, and also in other forms provided by a statute. In addition, the Code allows for establishment of cooperatives that may be commercial or non-commercial depending on the nature of their activity. The basic provisions for legal persons are provided under Titles 2 to 4 of Chapter 5 of the Civil Code. Separate laws provide further detail on regulating the activities of the types of legal persons listed above.

219. *(b) Processes for creation of legal entities and obtaining information* (Met) – Article 53 of the Civil Code provides that the founders of a legal person shall conclude a contract in which they determine the procedure for the creation of the legal person, the conditions of transfer to it of their property and the conditions of their participation in its activity. Article 56 provides for the registration of companies. Registration is governed by the Company Registration Law. In addition, the Law on JSCs provides for the maintenance of the register of shareholders for joint stock companies (that have 50 or more shareholders).

220. Pursuant to Article 56 of the Civil Code, all legal persons must register with the State Register in accordance with the Company Registration Law. A registration procedure is provided for under

Article 35 of the Company Registration Law. Guidance on documents required for registration is available at the website of the State Register (https://www.e-register.am), together with other information such as templates, the description of the procedure for submitting electronic application, relevant legislation, etc. In addition, the authorities have stated that guidance on company formation is available at the website of the Ministry of Justice. Guidance on the documents required for the formation of JSCs and other information is also available on the State Register website.

221. Information about incorporation is maintained in the record-book which is publicly accessible on the State Register's website. Public accessibility of the information held within the Register is ensured by Articles 6, 61 and 64 of the Company Registration Law. The procedure for obtaining information from the record-book is articulated in Article 61. Information which can be accessed from the website without paying a fee is specified in Article 61 and includes the name of the company, its legal form, the date of registration, the number of registration, the names of founders and information about whether the legal entity is in the process of liquidation. The other information held by the State Register under Article 26 is available for a small fee (except the passport number, social security number and addresses of individuals are not publicly accessible).

222. The data subject to recording in the Register's record-book is specified under Article 26 of the Company Registration Law. Information on beneficial owners must be submitted pursuant to Article 66, which provides that, in initiating state registration, making changes to the statutory capital or in the composition of the shareholders, legal persons must file a declaration on their beneficial owners with the State Register. Under the Rules for Disclosure of Beneficial Owner made pursuant to the AML/CFT Law, information on beneficial ownership must be provided to the State Register for recording by the Register. The rules are available on the website of the State Register.

223. In relation to JSCs, under Article 40 of the Company Registration Law, the State Register does not hold information on shareholders of JSCs. Article 51 of Law on JSCs defines that the registry of JSCs' shareholders is maintained by a specialised organisation. The role of registrar is performed by the Central Depository subject to the requirements under Articles 175 and 176 of the Law on Securities Market (and rules and regulations of the Depository). The Central Depository administers the register of the owners/holders of securities, as well as maintains information on the number, type and class of securities they own, based on a contract signed with the issuer. The procedures for obtaining and recording information on owners/holders of securities are provided under the Central Bank's Regulation 5/10 (available at https://www.cba.am/en/SitePages/regsecurities.aspx). Under Article 51 of the Law on JSCs, owners/holders must provide timely notice to the Depository on changes in information maintained in the register.

224. *Criterion 24.2* (Partly met) – The NRA includes some information on legal persons but it comprises factual information and a generic statement on risk. Nevertheless, although not articulated in the NRA, there is much more developed understanding of vulnerabilities and risk by key authorities within Armenia. There has been some assessment of the risks in order to arrive at this understanding albeit that a full assessment to reflect all relevant information and shared between the authorities has not been carried out. It should not be a major task to complete this assessment given the developed views of some authorities.

225. *Criterion 24.3* (Met) – Information maintained by the State Register is publicly accessible under Articles 61 and 64 of the Company Registration Law. Articles 26 and 34 of the law (as well as other provisions on the status of the company) apply to all legal persons and cover the basic information in this criterion. Also see the analysis for Criterion 24.1 above.

226. *Criterion 24.4* (Met) – Legal persons are required to maintain information provided under Criterion 24.3 in the Charter of the legal person. The State Register possesses this information under Article 26 of the Company Registration Law. The same article provides that information on the shareholdings of the founders of the statutory capital is maintained at the State Register (except for information on the shareholders of JSCs, which is maintained by the Central Depository) with ongoing requirements in relation to the Charter and shares.

227. With reference to JSCs, Article 51 of the Law on JSCs contains a requirement for the Central Depository to maintain data on each registered person and the other information required by the legislation. Article 32 of the Law on JSCs provides that a JSC may issue two types of share – ordinary and/or several types of preferred shares. According to Article 37, ordinary shares are granted with voting rights; under Article 38, preferred shares are not granted with voting rights unless such rights are stipulated in the Charter of the company. Article 32 provides that, upon the allocation of shares, the company shall register the shares in the personal accounts of shareholders in the Depository in accordance with Chapter 6 of the Law on JSCs. Under Article 16 of the Rules on Operation of the Unified System of Securities Registry Maintenance and Settlement, the maintenance of registration shall be delegated to the Central Depository. The Charter (containing information on number (volume), nominal value and class of the shares) and other required documents must be provided to the Central Depositary.

228. *Criterion 24.5* (Partly met) – There are no explicit provisions within the Company Registration Law on ensuring that basic information maintained by the State Register is accurate and updated on a timely basis. The Armenian authorities place emphasis on changes to information at the State Register and the Central Depository not being enforceable by virtue of Articles 55, 56, 63 and 69 of the Civil Code until the registries have been notified of the changes. However, this does not amount to a clear mechanism that basic information is updated on a timely basis.

229. Under Article 51 of the Law on JSCs, shareholders and nominal shareholders shall provide timely notice to the Central Depositary of changes to information on shareholders or nominal holders. This information includes the one stipulated by Criterion 24.4 on shareholders or members except for voting rights for preferred shares.

230. Under the Rules for Disclosure of Beneficial Owner made under the AML/CFT Law, legal persons must provide updated information to the State Register within 2 business days of any change in statutory capital (shareholder capital, etc.), founders, participants, members, stakeholders, shareholders thereof, as prescribed under Articles 27, 29, 34 and 39 of the Company Registration Law.

231. *Criterion 24.6. (a) and (b)* (Met) – Articles 9.1 and 9.2 of the AML/CFT Law specify that, on registration or on changes to the statutory capital or to the founders, participants, members, shareholders or stockholders a declaration of the beneficial owners must be made by the legal person to the State Register in a manner, form and time frame established by the CBA.

232. The underlying requirements have been established by Central Bank Decision No 20-N in 2009 (Rules for Disclosure of Beneficial Owner), which is a template form for the declaration of beneficial owners. The deadline for providing beneficial ownership information is two days after the application for registration is made or the changes referred to in the law. A beneficial owner in connection with a legal person is described as being a natural person who has actual (real) control over the legal person or its transactions (business relationships), or one who benefits from those.

233. The declaration allows for the possibility on reasonable grounds that a legal person has no beneficial owners. Examples provided include legal persons which are funds or state owned or other reasons. The authorities confirm that this "other reasons" element of the provision has never been used. It is possible for the declaration to specify that information regarding the legal person is unavailable. This is applicable only for open joint stock companies (which have more than 50 shareholders), and when there are reasonable grounds whereon the person does not or cannot possess information regarding the beneficial owner. Space for explanations is included in the form.

234. For joint stock companies, the Central Depository, as a reporting entity under the AML/CFT Law, is required to apply CDD measures, including identifying and verifying the identity of beneficial owners. The Armenian authorities have suggested that open joint stock companies have diversified ownership as a result of the number of shareholders, which would mean that there are no natural persons ultimately having a controlling interest.

235. Under Article 66.1 of the Company Registration Law, for transactions above AMD 20 million (approximately EUR 36 thousand) which are acquisitions or the formation or alteration of share capital, the State Register must be provided with identification information for shareholders, authorised persons and beneficial owners identified as legal persons – namely, company name, domicile, the state registration number and the tax payer identification number. Article 66.3 goes on to say that, in cases of registration, or making changes in statutory capital or in the composition of shareholders, legal persons are obliged to file declarations on the beneficial owners with the State Register in the manner established by the AML/CFT Law. A copy must be provided to the CBA on request.

236. *Criterion 24.6(c)* (Met) – See the analysis for Recommendations 10 and 22.

237. *Criterion 24.7* (Met) – The rules for disclosure of beneficial owners require a declaration on beneficial ownership to be made to the State Register within two business days of submitting an application for registration at the State Register and within two days of any change in statutory capital.

238. *Criterion 24.8* (Met) – Beneficial ownership information is provided to the State Register by the legal person under the Rules for Disclosure of Beneficial Owner. In addition, Articles 34, 39 and 66 of the Company Registration Law permit the State Register to obtain information subject to it first having received, for example, an application or updated information to be included in the register. Article 66 of the Company Registration Law provides for information to be provided to the State Register for certain large transactions and when initiating state registration. Paragraphs 4 and 5 of Article 10, Part 1 of the AML/CFT Law provide the CBA with power to obtain information from reporting entities and state bodies. These state bodies include the State Register and, therefore, the information it holds on basic and beneficial ownership. Under Part 5 of Article 13 of the AML/CFT Law, this information must be provided within ten days or less if specified (or a longer period if necessary). There are no provisions in the AML/CFT Law covering legal persons which are not reporting entities or state bodies. Except for the gaps in basic information referred to above, this criterion appears to be met.

239. *Criterion 24.9* (Mostly met) – Article 22 of the Company Registration Law requires the State Register to maintain information it possesses for 10 years. Article 50 of the law refers to Article 20 of the Archival Affairs Law, which provides that persons involved in the dissolution of a legal person must pass all information and records to the state or regional archive; such documents must be kept for at least 10 years. Article 22 of the AML/CFT Law requires reporting entities to maintain information for at least 5 years (although it will not apply when an entity ceases to be a reporting entity). It is not clear how long legal persons are required to retain basic and beneficial ownership. Not all relevant, persons and authorities are covered by the record keeping requirements but the coverage suggests that information and records will be available within the system.

240. *Criterion 24.10.* (Mostly met) – Paragraphs 4 and 5 of Article 10 of the AML/CFT Law provide the CBA with power to obtain information from reporting entities and state bodies. Under Part 5 of Article 13 of the law, this information must be provided within ten days or less if specified (or a longer period if necessary). Also see the analysis for Recommendations 27 and 28 on the powers of supervisors to obtain information and impose sanctions for failure to provide information. The CBA has adequate legal powers to supervise AML/CFT compliance and has full access to beneficial owner information. The DNFBP supervisors have only limited powers. The MoF has limited powers to request additional information and therefore only limited access to beneficial ownership information. The Chamber of Advocates has almost no powers to monitor compliance with AML/CFT requirements. Importantly, Articles 8 and 14 of the LOIA permit LEAs to access information held on the beneficial ownership and control of a legal person.

241. *Criterion 24.11* (Met) – Paragraph 3 of Part 1, Article 15 of the AML/CFT Law provides that it shall be prohibited to open, issue, provide and service bearer securities. This embraces both bearer shares and bearer warrants.

242. *Criterion 24.12.* (Mostly met) – Nominee shareholders and nominee directors are not a feature of Armenian law. Notions of nominee shareholders and nominee directors are not defined in Armenian legislation except to the extent that the term used in the Securities Markets Law (and only in this law) and translated into English as "nominee" is construed as "a person, in whose name nominal securities owned by another person are registered without transfer of ownership rights". Such persons, which are licensed for custodial activities, perform only safekeeping/custodian functions and are not entitled to use, dispose of or otherwise manage the securities for themselves or on behalf of the owners. Reporting entities do not offer nominee shareholder or director services. In addition, nominees (either on a professional or non-professional basis) are not a feature in Armenia. Nominees are not expressly allowed in Armenia but neither do they appear to be specifically prohibited or controlled. The CDD requirements of the AML/CFT Law and the AML/CFT regulation include verification of the identity of the customer and of the person acting on their behalf when they undertake business with a reporting entity.

243. *Criterion 24.13* (Partly met) – No sanctions are available to the State Register under the AML/CFT Law or Company Registration Law for failure to provide it with registration or beneficial ownership information. Penalties for failure to provide information to the State Register are included at Article 189 of the Administrative Violations Code (100 times the minimum salary, which is approximately EUR 180) although these seem to apply only to individuals, while it is not clear how this regime operates in practice.

244. Also see the analysis for Recommendations 27 and 28. Sanctions for DNFBPs are not proportionate or dissuasive.

245. *Criterion 24.14* (Met) – Article 14 of the AML/CFT Law covers international cooperation. The CBA and other relevant state bodies (which Armenia advises as being the GPO and the MOJ) are able to cooperate with international structures and relevant bodies of other countries (which Armenia advises means all jurisdictions with which it has diplomatic relations) within the framework of treaties or, in the absence of treaties in accordance with international practice, which is interpreted by the Armenian authorities as being exchange of information on the basis of reciprocity. The FMC of the CBA may also exchange intelligence voluntarily with foreign intelligence bodies based on bilateral treaties or commitments arising from membership of international organisations.

246. Also see the analysis for Recommendations 37 and 40.

Criterion 24.15 (Met) – There is a small number of cases where the Armenian authorities have requested assistance from other countries in relation to basic and beneficial ownership information. The FMC is responsible for most of these cases and has a case management database which includes progress of and quality of assistance. The GPO has had one case (which is ongoing) and is monitoring the quality of assistance being received. It appears therefore that the quality of assistance is monitored.

Weighting and Conclusion

247. Armenia meets nine of the criteria under this Recommendation, with three of the criteria being mostly met and three being partly met. There are some weaknesses in relation to the country's assessment of the risk associated with legal persons, to the lack of an explicit mechanism for ensuring that the basic information maintained by the State Register is accurate and updated on a timely basis, and to the lack of sanctions for the failure to provide the State Register with registration or beneficial ownership information. **Armenia is Largely Compliant with Recommendation 24.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

248. In the previous round Recommendation 34 was rated as NA.

249. There is no statute or common law governing the formation and operation of trusts or other legal arrangements in Armenia. As a consequence, trusts cannot be established in the country as subject to Armenian law. There is nothing in Armenian law precluding foreign trustees to contract a business relationship with a financial institution or DNFBP in Armenia. However, as far as the authorities are aware, these type of relationships are non-existent in practice.

250. Armenia is not a signatory to the Hague Convention on Laws Applicable to Trusts and their Recognition.

251. Article 3 of the AML/CFT Law provides that entities providing trust management services are reporting entities; there are no trust service providers in Armenia.

252. *Criterion 25.1* (Not applicable) – As outlined above, there is no trust law in Armenia and the criterion is not applicable.

253. *Criterion 25.2* (Met) – This criterion applies only insofar as foreign trustees establish a business relationship with an Armenian financial institution or DNFBP, which, according to the Armenian authorities, is not the case in practice. Should this be the case, pursuant to Article 17 of the AML/CFT Law, financial institutions and DNFBPs are required to keep CDD data updated and relevant. The periodicity of data reviews shall be determined by each reporting entity (on the basis of risk) but must be conducted at least once a year.

254. *Criterion 25.3* (Met) – Article 16(5) of the AML/CFT Law specifies that reporting entities should determine whether the customer is acting on behalf and (or) for the benefit of another person. Reporting entities should establish where such persons are authorised, identify and verify the identity of authorised persons and their authority to act on behalf of the customer.

255. *Criterion 25.4* (Met) – There appear to be no provisions in law or enforceable means which would prevent trustees from providing information to the competent authorities.

256. *Criterion 25.5* (Mostly met) – This criterion would seem to apply to situations where a foreign trustee enters into a business relationship with an Armenian reporting entity. Articles 8 and 14 of the LOIA permit LEAs to access information held by reporting entities on the beneficial ownership and control of a legal arrangement, although these powers are somewhat restricted (see the analysis for Recommendation 31). Also, see the analysis for Recommendations 27, 28 and 29 on the powers of the CBA and the FMC to obtain information.

257. *Criterion 25.6* (Met) – Article 14 of the AML/CFT Law covers international cooperation. The CBA and other relevant state bodies (which Armenia advises as being the GPO and the MOJ) are able to cooperate with international structures and relevant bodies of other countries (which Armenia advises means all jurisdictions with which it has diplomatic relations) within the framework of treaties or, in the absence of treaties, in accordance with international practice, which is interpreted by the Armenian authorities as being exchange of information on the basis of reciprocity.

258. The FMC of the Central Bank may also exchange intelligence voluntarily with foreign intelligence bodies based on bilateral treaties or commitments arising from membership of international organisations.

259. Also see the analysis for Recommendations 37 and 40.

260. *Criterion 25.7* (Not applicable) – Provisions are not in place to meet some of the above criteria, and therefore, there are no provisions in place on liability for failure to perform duties or proportionate or dissuasive sanctions. In addition, in the context of record keeping requirements, sanctions for DNFBPs are not proportionate or dissuasive.

Criterion 25.8 (Not applicable)

Weighting and Conclusion

261. The criteria which apply in Armenia are met or mostly met. **Armenia is Largely Compliant with Recommendation 25.**

Recommendation 26 – Regulation and supervision of financial institutions

262. In its 3rd round MER, Armenia was rated largely compliant with respect to the regulation and supervision of financial institutions and the requirements concerning shell banks. The examination procedure was found to be out-dated at the time of the on-site visit and some financial institutions demonstrated a low level of effective compliance with preventive measures. Additionally, the definition of shell banks was not found to be in line with the FATF Standards.

263. *Criterion 26.1* (Met) – All financial institutions covered by the FATF Glossary are subject to the AML/CFT Law[83]. The CBA is the sole competent supervisory authority for all financial institutions and is responsible for the prudential and AML/CFT supervision of all financial institutions.

264. *Criterion 26.2* (Met) – All Core Principle financial institutions are required to be licensed. A licensing regime is also applicable to other financial institutions, including MVTS providers, pawnshops and currency exchange offices. The CBA is the designated authority responsible for licencing all financial institutions. Shell banks are prohibited in Armenia. The amended definition of shell banks is in line with the FATF Standard.

265. *Criterion 26.3* (Mostly met) – The CBA, as the single supervisor, conducts comprehensive fit and proper checks for banks, insurance companies, credit organisations, investment funds, pension fund managers and investment firms. The relevant sector-specific laws prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest (10% of the voting rights), or holding a management function.

266. The Insurance Act and the LPSSO do not contain specific requirements to prevent criminals from being the beneficial owners of a significant or controlling interest, or holding a management function, in an insurance intermediary or a PSO. Additionally, there are no specific restrictions applicable to associates of criminals. However, it should be noted that to-date Armenia has not granted any licences for the provision of life insurance.

267. The Pawnshop Activity Law and the Currency Control Law do not provide for any fit and proper requirements with respect to persons who own, control or manage such entities.

268. All sector-specific laws expressly prohibit the provision of banking, insurance, investment, money and value transfer and credit organisation activities without holding a licence.

269. *Criterion 26.4* (Mostly met) – The latest Financial System Stability Assessment (FSAP) report of Armenia was published in 2013[84]. As part of the FSAP process, an assessment of Armenia's compliance with the Basel Core Principles for Effective Banking Supervision and the IAIS Insurance Core Principles was carried out. The results of the 2013 FSAP report are used as a basis for the assessment of this criterion.

270. The Basel Core Principles assessment found that, in general, the CBA has a well-structured banking supervisory regime. The majority of the Core Principles were found to be fully complied with. Nonetheless, a number of FSAP recommendations were made to address certain deficiencies in the regulatory and supervisory framework. It was noted that there was no requirement for banks to inform the CBA immediately of substantive changes. This recommendation was addressed and relevant changes were made to the respective banking regulation. The insurance regulatory

[83] Credit bureaus are also covered by the AML/CFT Law, although they do not fall under the FATF definition of financial institutions. The scope of activities of credit bureaus is limited since their main activity is the collection, analysis and the dissemination of the credit history of natural and legal persons.
[84] http://www.imf.org/external/pubs/ft/scr/2013/cr1310.pdf

framework was found to be adequate. However, it was pointed out that improvements would be needed in the event that developments take place within the life insurance industry. It was also noted that the framework in Armenia is largely compliant with the IAIS Core principles, supported by robust supervision of the CBA. The regulatory framework governing the capital market was described as adequate to meet the needs of the small capital market in Armenia. Should the market further develop, the CBA would need to consider establishing a separate market conduct unit to address consumer protection issues and eventually the securities market.

271. The Law on the Unified Financial Regulation and Supervision regulates the responsibility of the CBA for consolidated group supervision of Core Principles financial institutions in Armenia. This Law refers to financial institutions in Armenia only. There is no specific legal basis for consolidated group AML/CFT supervision of Core Principles financial institutions licensed in Armenia, which are situated outside Armenia. However, there were no foreign branches or subsidiaries of Armenian financial institutions situated outside Armenia at the time of the on-site visit.

272. MVTS, currency exchange offices and all other Non-Core Principles financial institutions are subject to AML/CFT regulation and supervision by the CBA. The CBA may conduct off-site supervision and on-site examinations of all obliged financial institutions. However, there is no explicit legal basis for risk-based supervision.

273. *Criterion 26.5* (Mostly met)

Type of Institution	**Number of entities at the end of 2014**
Banks	22
Credit organisations	32
Investment companies	8
Asset management companies	4
Investment funds	10
Insurance companies	8
Life insurance companies	0
Life insurance intermediaries	0
Payment and settlement organizations (MVTS)	7
Pawnshops	136
Currency exchange offices	267

274. To a certain extent, the CBA applies a risk-based approach to supervision, although this is not specified in the law. There is a different inspection cycle for the different types of institutions. The evaluators based their conclusion on information gathered from supervision manuals of the CBA, interviews held on-site and the NRA.

275. The frequency of on-site and off-site examinations depends on the individual prudential risks of the FIs. The CBA uses individual prudential risk profiles of the financial institutions to determine the level of frequency of examinations. The supervisory cycle depends on the size, market share, relative significance, types of financial operations, and the relative prudential risk level of FIs. The CBA uses a separate on-site examination manual for banks, insurance companies and investment companies. These manuals contain the procedures and processes for the examination of AML/CFT requirements and specify the minimum scope of each on-site examination (e.g. policy check, risk assessment). However, there is no specification within the guidelines regarding the intensity of on-site examinations according to the ML/FT risks and other characteristics referred to under c.26.5 (a) to (c). Therefore, the individual ML/FT risk of a financial institution is not reflected in the scope of the on-site examination. All FIs are treated and inspected in the same way (e.g. the same number of samples for all banks, no specific focus etc.). There is no guidance for the staff to tailor the AML/CFT on-site inspection to individual areas. All inspections follow the same approach and have the same extent, irrespective of the pertinent individual ML/FT risks (see further details under the effectiveness section).

276. The CBA uses the following information for the risk assessment of financial institutions: reports of the financial institution, reports on violations from the FSD, information on suspicious transactions from the FMC as well as additionally required information. ML/FT policies, internal controls and procedures are not explicitly mentioned in the manuals. The inspection cycle of on-site examinations of banks varies between 5 years for low risk institutions and annual inspections for high risk banks. The ML/FT risk is one of the criteria listed in the Inspection Planning Guidance. The main focus is based on prudential risk factors. Targeted/specific examinations take place outside of the examination plan which can cover prudential as well as AML/CFT issues.

277. The Guidance on Off-Site Supervision of Core Principles financial institutions is exclusively focussed on prudential issues – AML/CFT related information is not covered by this guidance and therefore not subject to off-site reporting.

278. There is no formal requirement for the CBA to take the findings of the NRA into consideration when drawing up the annual examination plan.

279. *Criterion 26.6* (Mostly met) – The CBA conducts prudential off-site supervision through weekly, monthly, quarterly and yearly reviews of various aspects (e.g. banks financial condition and prudential risks). Therefore, the CBA is in a position to identify relevant major prudential events or developments in the management and operations of the FI. However, AML/CFT related information is not covered by off-site supervision.

Weighting and Conclusion

280. All the criteria are met or mostly met. **Armenia is Largely Compliant with Recommendation 26.**

Recommendation 27 – Powers of supervisors

281. In its 3rd round MER Armenia was rated largely compliant with these requirements. The inspection procedures were out-dated at the time of the assessment and the assessors concluded that there had only been a partial implementation of inspections for banks, credit organizations, money remitters and securities/investment firms.

282. *Criterion 27.1* (Met) – The CBA is responsible for the supervision of all financial institutions and has adequate powers to monitor compliance by all financial institutions with AML/CFT requirements.

283. *Criterion 27.2* (Met) – The CBA has the authority to conduct off-site supervision and on-site inspections of all financial institutions. Inspections are carried out by an authorised department of the CBA (FSD). The CBA may examine the activity of supervised entities at the premises of the supervised entity or conduct a desk review at the CBA. The legal framework for conducting on-site inspections is comprehensive (e.g. access to the premises as well as to the server and computer software of the supervised entity, meeting executive managers/customers and/or participants as requested, obtaining of required information and documents, copies of required documents etc.).

284. *Criterion 27.3* (Met) – The CBA has the power to compel production of or obtain access to all relevant documents and information. The supervised entity must observe the lawful requirements of the inspection team, and must deliver explanations, information and clarifications, in writing or verbatim, to the inspection team regarding the documents and information subject to inspection. The inspection team is authorised to demand the necessary documents even if such documents contain banking, commercial or other secrecy. There is no restriction on the access to the relevant documents/information and in particular there is no need for a court decision to get the relevant documents/information.

285. *Criterion 27.4* (Met) – Armenia has a wide range of administrative sanctions available to deal with natural as well as legal persons who fail to comply with the AML/CFT Law. There are sanctions

available to cover all relevant obligations regarding Recommendations 6, and 8 to 23. The CBA has adequate powers to impose sanctions for failures to comply with the AML/CFT requirements. For AML/CFT breaches by banks, credit organizations, insurance companies, insurance intermediaries, investment companies, investment funds, pension fund managers, PSOs and pawnshops, the CBA can apply the following sanctions: issue warnings and directives or remedial sanctions to eliminate infringements; impose penalties/ fines; deprive managers' qualification certificates and revoke licences. For failures by money exchange offices, the CBA can issue warnings, impose fines and suspend/or revoke the licence. For failures by PSOs the CBA has the following sanctioning powers: issue warnings, require the institution to rectify infringements or to comply with the requirements; prohibit the activity of a PSO or, in case of a foreign PSO, withdraw its authorisation; demand the change of the Armenian PSO management, or terminate/ withdraw its authorisation; or impose fines.

Weighting and Conclusion

286. **Armenia is Compliant with Recommendation 27.**

Recommendation 28 – Regulation and supervision of DNFBPs

287. In its 3rd round MER, Armenia was rated non-compliant with these requirements due to the following deficiencies: there were no competent authorities responsible for monitoring and ensuring compliance with AML/CFT obligations for independent lawyers and firms providing legal services, independent accountants and accounting firms and dealers in precious stones and metals; the absence of a supervisory regime for advocates (attorneys); no fitness and propriety requirements for managers, owners, and beneficial owners of casinos; no legal or regulatory measures to preclude criminals or their associates from holding or being beneficial owners of a significant or controlling interest, holding a management function in, or being an operator of a casino; insufficient supervision staffing and the absence of an effective system for supervising compliance. Armenia addressed some of these issues and improved its supervisory system of DNFBPs to some extent. However, there are still significant deficiencies in the framework of DNFBPs except for casinos.

288. *Criterion 28.1* (Met) – The organisation of prize games (games of chance, which essentially includes lotteries and betting) and gambling halls require a licence. The MoF is the responsible licencing body. There is a simplified licencing regime for organisers of online games of chance.

289. Natural persons with a criminal record are excluded from being a substantial shareholder, stakeholder or participant, or being a beneficial owner of an organizer of games of chance or a casino. The same applies for persons who were deprived by a court of the right to hold positions in e.g. financial areas. Also, persons who have failed to present sufficient and comprehensive justification on the source of funds or persons whose licence for organizing a game of chance or a casino has been terminated within the past three years are excluded. Associates are also covered. The relevant threshold for being a related person is 20% of the voting shares or if a person has the capacity to predetermine the decisions of an entity. Natural persons are also covered by the definition of "related persons" by law. Natural persons shall be considered as related, if they are members of the same family, or have common household, or run joint business activity, or have acted in on common economic interests.

290. The MoF exercises supervision over casinos and organisers of games of chance for AML/CFT compliance. The MoF conducts off-site supervision and on-site examinations of game of chance and casino organizers.

291. The MoF has the power to sanction for violations of the law. It can issue warnings and assignments to rectify breaches, impose fines, suspend licences or terminate licences of organizers of games of chance or casinos.

292. *Criterion 28.2* (Met) – All categories of DNFBPs[85] are subject to monitoring either by the CBA, the MoF, the MoJ or the Chamber of Attorneys (see the table below).

Type of DNFBP	Licence/ Registration/Appointment/ Regulation	Competent authority/SRO	Subject to AML/CFT Law	Registered number of DNFBPs at the end of 2014
Casinos	Licence	Ministry of Finance	Yes	6 (land based) 2 (internet casinos)
Real estate agents	Registration	CBA (FMC)	Yes	213[86]
Dealers in precious metals	Registration	CBA (FMC)	Yes	0
Dealers in precious stones	Yes, but very limited (C28.3) (MoF)	CBA (FMC)	Yes	21
Lawyers & law firms	Registration	CBA (FMC)	Yes	27[87]
Advocates	Certificate	Chamber of Advocates	Yes	1434
Notaries	Certificate/Appointment	MoJ	Yes	101
Accountants (sole practitioners)	Certificate (MoF)	CBA (FMC)	Yes	609 (certified accountants)
TCSPs[88]: • trust management • company registration	No	CBA (FMC)	Yes	None

293. *Criterion 28.3* (Partly met) – All categories of DNFBPs which are subject to the AML/CFT Law are also subject to supervision for AML/CFT compliance. The MoJ supervises notaries. The Chamber of Advocates is responsible for the supervision of advocates, and the CBA supervises real estate agents, dealers in precious metals and stones, lawyers and law firms, accountants and TCSPs.[89]

294. There is no centralised register of individuals providing legal services in Armenia. Following the deregulation of real estate agents in 2011, no centralised register containing information on the number of firms or individuals providing realtor activities is maintained. There is no legal definition of dealership in precious metals and stones. Licensing/registration requirements for dealers in precious metals and stones are only available for entities involved in trade, import, export, and transportation of polished or unpolished, but unframed or loose natural diamonds. Therefore, the supervisors do not appear to be in a position to monitor compliance with AML/CFT requirements without having an overview of the entities which have to be monitored[90].

295. *Criterion 28.4* (Partly met) – The CBA has adequate legal powers to supervise AML/CFT compliance. The comprehensive powers of the CBA to monitor AML/CFT compliance are the same for financial institutions and DNFBPs (see also R.27). The MoF and the MoJ broadly have adequate

[85] Auditing firms and auditors are also covered by the AML/CFT Law, although they do not fall under the FATF definition of DNFBPs.
[86] Caused by a deregulation there is no centralized register maintained on the number of real estate agents.
[87] There is no licensing requirement for the professional activity of lawyers. Therefore no centralized register is maintained on the number of firms and sole practitioners providing legal services.
[88] TCSPs are not defined under the Armenian legislation.
[89] Dealers in works of art as well as organizers of auctions are also covered by the AML/CFT Law. However this is not further described as they are not covered by the FATF definition of DNFPBs.
[90] In relation to this, the authorities advised that since July 2015, the FMC has launched a DNFBP register integrated into its Automated Case Management System and implementing the requirements of the Rules for Registration of Reporting Entities adopted earlier. The register enables to, in addition of re-ascertaining the status of DNFBPs supervised by the MoF, the MoJ and the Chamber of Advocates, identify those DNFBPs supervised by the FMC (i.e. realtors, lawyers, dealers in precious metals and stones) and enforce their registration with the FMC thus establishing a framework for further supervisory action, as necessary.

and comprehensive powers to supervise AML/CFT compliance based on the AML/CFT Law and the Law on Inspections. However, the relevant departments of the MoF have limited powers to request additional information from reporting entities within the framework of off-site supervision, whereas such powers within the framework of on-site inspections appear to be appropriate. Furthermore, the pre-determined questionnaires include a limited number of AML/CFT-related questions. The Chamber of Advocates has very limited powers to conduct on-site as well as off-site inspections. The Chamber of Advocates does not carry out examinations of its members based on the fact that the Law on Organising and Conducting Examinations in the Republic of Armenia does not apply to the Chamber of Advocates: it is only permitted to conduct limited inspections when it receives external complaints.

296. There are very limited requirements for DNFBPs regarding measures to prevent criminals from being professionally accredited, or holding a management function in an entity or holding or being the beneficial owner of a significant or controlling interest. A person cannot be an advocate if he has been convicted for deliberately committed crime, and his conviction has not been expired or removed. A person cannot be appointed to notary office if he has a criminal record. There are no requirements in place regarding associates of criminals.

297. There are no requirements regarding measures to prevent criminals or their associates from being professionally accredited, or holding a significant or controlling interest, or holding a management function or being the beneficial owner of TCSPs, lawyers (apart from advocates) and law firms, accountants, real estate agents, dealers in precious metals and stones.

298. There are sanctions available for failures to comply with AML/CFT requirements for all DNFBPs. The competent supervisory authorities are responsible for imposing sanctions. The range of available sanctions for AML/CFT failures of DNFBPs is limited. For example, there is no legal basis in the sector specific laws of the DNFBPs which empower the supervisory authorities/the authorized body to suspend or revoke a license for breaches of the AML/CFT Law. There is no legal basis to sanction directors or the senior management of DNFBPs except for the gambling sector (see also the analysis for Criteria 35.1 and 35.2).

299. *Criterion 28.5* (Partly met) – According to the Law on Inspections, the MoF and the MoJ are required to apply a risk-sensitive approach to supervision. The supervisory authority has to develop criteria for assessing the individual risk levels, including the sector specific risks. The individual risk has to be calculated on the basis of the violations of requirements, the frequency of violations, the actions aimed to remedy the violations, as well as other indicators characterizing operations of the supervised entities. The supervised entities should be classified in a) high risk, b) average risk, or c) low risk. The annual inspection program has to take into account the risk level of the supervised entity. The relevant Law on Organizing and Conducting Inspections does not specify the assessment of adequacy of the AML/CFT internal controls, policies and procedures.

300. The MoF is required to apply risk-sensitive supervision for casinos. The document entitled "Methodology and Risk-Based Check-Ups" contains a comprehensive list of criteria which is relevant for assessing the individual risks (e.g. last year's turnover, number of gambling/casinos organized by the licensed entity, frequency of violations of the gambling legislation, staff engaged in AML/CFT training etc.) of a supervised entity. The supervised entities are classified in three different categories: a) high-risk zone, b) moderate-risk zone, and c) low-risk zone.

301. The Chamber of Advocates does not conduct risk-based supervision.

302. Real estate agents, dealers in precious metals and stones, lawyers (apart from advocates) and law firms, accountants and TCSPs are now supervised by the CBA (FMC). The FMC took over its new supervisory task in October 2014. However, there are no guidance and internal manuals available. No staff has yet been dedicated to AML/CFT supervision. No supervision has been carried out yet.

Weighting and Conclusion

303. Armenia only meets two of the five criteria under Recommendation 28. The others are only partly met. **Armenia is Partially Compliant with Recommendation 28.**

Recommendation 29 - Financial intelligence units

304. In its 3rd MER, Armenia was rated Largely Compliant with these requirements (Paragraph 273-329). The only technical deficiency identified at the time referred to the unclear relation between the AML/CFT Law and professional secrecy provisions with regard to request for additional information (in the case of lawyers, accountants and auditors). Two effectiveness issues were also noted regarding the lack of reporting guidance for dealers in precious metals and stones and the shortage of staff of the FMC with a possible impact on the operational independence of the FMC. These aspects are not assessed as part of technical compliance under the 2013 Methodology. Since Armenia's last mutual evaluation, the FATF Standards have been significantly strengthened in this area by imposing new requirements which focus on the FIU's strategic and operational analysis functions, and the FIU's powers to disseminate information upon request and request additional information from reporting entities.

305. *Criterion 29.1* (Met) – The Financial Monitoring Center, which serves as the Armenian FIU, is a structural unit established within the Central Bank of Armenia. It acts as a national center for receiving and analysing suspicious transaction reports (STRs) and other information relevant to ML/FT and associated predicate offences, and for disseminating the results of that analysis (AML/CFT Law, Article 10; FMC Statute, Chapter 1, Clauses 1-3; Chapter 2, Clause 6.1).

306. *Criterion 29.2* (Met) – The FMC is the central agency for the receipt of disclosures filed by reporting entities, including: 1) STRs filed by reporting entities as required by R.20 and R.23; and b) TTRs (threshold transaction reports) filed by reporting entities according to certain types of transactions and thresholds, including reports on cash-related transactions, reports on transactions involving real estate, reports on transactions related to managing of client property, bank and securities accounts, etc. (AML/CFT Law, Parts 3-4 of Article 6; Part 1 of Article 10). A TTR is to be submitted to the FMC within three working days of concluding the transaction, whereas in the case of an STR it is to be submitted within the same working day or, if it is not possible (these cases are indicated by the Guidelines), before noon of the following working day.

307. *Criterion 29.3* (Met) – The AML/CFT Law empowers the FMC to request from any reporting entities (even those which had not submitted an STR) additional information relevant to the purposes of the AML/CFT Law, including classified information as defined by the law (Clauses 2 and 4 in Part 1 of Article 10; Part 5 of Article 13 of the AML/CFT Law). As it was mentioned above, the main technical deficiency identified in the 3rd MER was an ambiguity on whether the obligations of the AML/CFT Law override the secrecy provisions and permit the provision of additional information with regard to lawyers, accountants and auditors. Armenia addressed this deficiency by amending the AML/CFT Law which now provides that information should be provided regardless of confidentiality (Clauses 2 and 4 in Part 1 of Article 10; Part 5 of Article 13 of the AML/CFT Law). In addition to data and information within its database, the FMC has direct and indirect access, through MoUs signed with state authorities, to a wide range of administrative, law enforcement, financial and other information[91] that it requires to properly undertake its functions.

308. *Criterion 29.4* (Met) – The FMC undertakes operational analysis based on the information received from reporting entities and the other information available to it (as described in the analysis for Criterion 29.3). The analysis is aimed at identifying specific targets, following the trail of

[91] **Financial:** CBA database, including licensing and supervision data on financial institutions, CBA Credit Register, databases of financial institutions, Armenia's 1000 large taxpayers' database. **Administrative**: database of the State Register, Database of the Real Estate Cadaster, Database of the MLSA (for social security information). **Law enforcement:** Database of the MOF (for tax and customs information), Database of the NSS (for border crossing and operational information), Police database (for passport data and criminal record information), Database of the Court Department (for court verdicts and other judicial rulings). **Other:** World-check Online Database, Accuity Online PEP Database.

particular activities or transactions and determining links between those targets and possible proceeds of crime, ML/FT and predicate offences.[92] The FMC uses Automated Case Management System (ACMS) that has analytical and data processing functions and provides tools for both operational and strategic analysis. The ACMS has been assessed and found compliant with the FIU Information System Maturity Model (FISMM) of the Egmont Group. FMC is also required to undertake strategic analysis and over the period of 2010-2014 has issued seven typology studies and a number of strategic analysis reports including the 2010 Strategic Risk Analysis, the 2013 DNFBP sector risk assessment and the National Assessment of ML/FT Risks conducted by national competent authorities in 2014.[93] FMC has two staff members assigned to carry out strategic analysis of ML/FT trends and patterns regularly.

309. *Criterion 29.5* (Met) – The FMC is authorised to disseminate (spontaneously or upon request) the results of operational analysis, in the form of a notification as well as additional data related to the circumstances described in the notification, to criminal prosecution authorities (Parts 3 and 4 of Article 13 of AML/CFT Law). Information disseminated by the FMC is classified and handled in accordance with the relevant CBA procedures (Section IV of the FMC Operational Manual). A notification or a response by the FMC to an inquiry to competent domestic authorities is processed within the Automated Case Management System. This and other information exchange is conducted via a dedicated network "Integrated Information Area" (with no Internet access) which provides competent authorities with a secure and protected communication channel.

310. *Criterion 29.6* (Met) – The FIU is required by law to keep confidential any information received, analysed or disseminated by it. For such purpose, there are detailed internal procedures in place for the handling, storage, protection of, and access to, information contained in the FIU's IT system, which can only be accessed by FIU staff (Parts 7-8 of Article 10; Article 12 of AML/CFT Law). In 2012 the CBA was assessed and found fully compliant with the ISO Standard 27001:2005 (Information Technology – Security Techniques – Information Security Management Systems – Requirements Standard).

311. The staff of the FMC has clear instructions governing security, confidentiality and the handling of information, and is subject to security clearance.[94] In addition, the FMC employees sign a special agreement defining information access level and responsibilities. Breaching confidentiality duties may constitute a criminal offence or a disciplinary infringement, established by the Code of Administrative Violations and by the Criminal Code (Article 199).

312. Access to FMC's facilities and information, including IT systems, is restricted and protected. The FMC designed and operates its own information systems and facilities (separate from the CBA information system environment). The information that is maintained in a database is only accessible to FMC's designated staff. Physical access to the FMC is restricted to special entry pass holders (electronic key).

313. *Criterion 29.7* (Met) – The following factors are relevant to FMC's operational independence and autonomy.

a. FMC is a "responsible structural unit" within the CBA, but acts with operational autonomy and independence (Parts 1-6 of Article 10 of the AML/CFT Law). The head and the staff members of FMC are appointed by the Board of the CBA which also oversees FMC by approving its statute, the annual operations plan, and the budget (FMC has a separate budget). The Board of the CBA also decides upon application of responsibility measures[95] for AML/CFT violation by legal persons and reporting entities that have no supervisory authority in the field of AML/CFT and

[92] Clause 2 in Part 1 of Article 10 of AML/CFT Law; Clauses 6.1 and 7.2 in Chapter 2 of the FMC Statute; Section III of the FMC Operational Manual.
[93] https://www.cba.am/en/SitePages/fmcstrategicanalyses.aspx
[94] Part 8 of Article 10 of the AML/CFT Law; Clauses 9 and 10 of the FMC Statute.

[95] Defined under AML/CFT Law and the Code of Administrative Violations

takes decision on the proposal of the FMC to suspend a suspicious transaction or business relationship or to freeze the property of terrorism-related persons.

At the time of the 3rd round evaluation of Armenia it was indicated that in all instances in which FMC has proposed the Board of the CBA to adopt one of these measures the Board has always sustained the proposal. All operational decisions and matters such as specific STRs or other sources of information which are to be disseminated by FMC on a strictly technical basis are left to FMC sole discretion.

b. FMC is able to make arrangements or engage independently with other domestic competent authorities or foreign counterparts on the exchange of information. For this purpose, it may conclude agreements of cooperation with foreign counterparts (Part 1 of Article 13; Parts 1, 2 and 4 of Article 14 of the AML/CFT Law; Clauses 6.1-6.4, 7.1- 7.3, 7.5-7.6, and 11 of the FMC Statute).

c. FMC has legally established core functions (Parts 1-6 of Article 10 of the AML/CFT Law; Clauses 1-2, 7.1-7.6, 11 and 14 of the FMC Statute; Sections I- IV of the FMC Operational Manual).

d. FMC is able to obtain and deploy the resources needed to carry out its functions, on an individual and routine basis, free from any undue political, government or industry influence or interference. The FMC staff (both the management and the operational level) is assigned and dismissed by the CBA Board (the highest collegial management body of the Central Bank). The FMC has a distinct budget within the CBA budget, which provides for covering both operational and administrative expenses, as well as capital expenditures. The FMC staff has doubled in number since the last evaluation and comprises about 30 persons. The FIU is equipped with technical resources necessary for the proper implementation of its functions (computers, printers, etc.). High professional standards of the FIU staff are ensured by requirements set out in the Labour Code, job descriptions established for each job position and the FMC Code of Conduct which sets outs professional and ethical standards for its employees (Parts 3 and 5 of Article 10 of the AML/CFT Law; Clauses 13, 15-16 and 18 of the FMC Statute).

314. *Criterion 29.8* (Met) – The FMC obtained the status of a member of the Egmont Group during the Egmont Group Plenary Session on March 29, 2007.

Weighting and Conclusion

315. **Armenia is Compliant with Recommendation 29.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

316. In the 3rd MER, Armenia was rated Largely Compliant for requirements that now fall under Recommendation 30 (Paragraphs 330-359 and 407). The deficiencies were related to the impact that the lack of AML/CFT training and legal issues regulating access to information covered by financial secrecy had on the effectiveness of the ML/FT investigations. With the revised standards, these issues mainly fall under Recommendation 31. During the follow up process, targeted training has been provided to ML/FT investigators complemented by a review of the legislation in the field. Also, at operational level a new investigative agency – Investigative Committee (with responsibilities for the investigation of the majority of predicate offences) was created, by granting an independent agency status to the former Investigations Department of the Police and combining into it the functions of the former Investigations Department of the Military Police.

317. *Criterion 30.1* (Met) – The authority for pre-trial investigation of ML/FT cases and specific predicate offences is attributed by the Armenian CPC to the National Security Service (Article 190(3)). Where ML/FT and predicate offences are committed in complicity with or by high level officials of legislative, executive and judicial authorities of the Republic of Armenia and persons in special public service, in relation to their position, the investigative authority sits with the Special Investigative Service (Article 190(6)). The majority of predicate offences are investigated, based on competence rules, by the Investigative Committee (Article 190 (1)) (which is an independent agency

since 2014) and by tax and customs authorities (through the Investigations Department of the Ministry of Finance, which integrated the State Revenue Service in 2014) (Article 190(2) & (4)).

318. As regards the investigation process, competence to conduct investigative measures is attributed to different authorities, depending on the stage of the case proceedings. A full description of this system is available under Paragraphs 330-350 of the 3rd MER and may be summarised as follows:

Money laundering, associated predicate offences and terrorist financing investigative system		
Stage of proceedings	**Competent authorities**	**Legal framework**
INSTIGATION opening an investigation for ML/FT	National Security Service Police* Ministry of Finance*	Articles 56 & 57 of the CPC
INQUEST allow the competent authority 10 days to prepare materials for the criminal case	National Security Service Police* Ministry of Finance*	Articles 56 & 57 of the CPC
ML/FT INVESTIGATION pre-trial investigation process	National Security Service Investigative Committee Special Investigative Service Ministry of Finance*	Article 190 of the CPC

* In connection to crimes under their mandate

319. Although operational changes have been introduced since the adoption of the 3rd MER in the sense that the Investigative Committee (former Investigations Department of the Police) is now responsible for investigating the majority of predicate offences, the main authority for investigating ML/FT remains with the National Security Service. It is supplemented by the Special Investigative Service for specific categories of offenders. The NSS, Police, tax and customs authorities (in the person of the Ministry of Finance) may all instigate cases and thus open ML/FT investigations if such cases arise in connection to crimes under their competence. Following the inquest phase they have to defer the case to NSS for investigation, unless the prosecutor in charge decides to leave the investigation with the Ministry of Finance (for predicate offences related to violations of tax and customs legislation).

320. Also, while the NSS is the body conducting the investigation, the prosecutor's office has the authority to instruct and supervise the investigator (NSS, Investigative Committee, Ministry of Finance or Special Investigative Service) in investigating money laundering and terrorism financing cases, including in the preparation of materials for the case, conducting investigative measures including measures provided for in the LOIA, composing investigative teams, cancelling any actions undertaken by the investigative officers, dismissing investigators from further participation in the investigation, and instructing investigators to conduct additional investigative measures (Article 53 of the CPC). This framework provides clear responsibilities for authorities in investigating ML, associated predicate offences and FT.

321. *Criterion 30.2* (Partly met) – The Armenian CPC does not expressly authorise law enforcement bodies entrusted with the investigation of predicate crimes to carry out proactive parallel financial investigations. Moreover, the law makes no reference to the concept of financial investigation or an obligation for LEAs in this respect. This notwithstanding, both the CPC (Chapters 31&33) and LOIA (Article 14) provide for various investigative techniques that can be used for financial investigations (e.g. examination of items and documents, access to financial data and secret monitoring of financial transactions, monitoring of correspondence, mail, telegrams and other communications, seizing, etc.). In addition, investigators are authorised by law to request information from the FMC. All of these techniques are available to LEAs for the investigation of predicate crimes under their mandate. Provided results of such techniques generate reasons and grounds to instigate a new ML/FT case in connection to a crime under their competence, they are authorised to do so and defer the case to the National Security Service to follow up with the investigation (Article 56 of the CPC). Overall, there is no provision under CPC that would prevent LEAs from proactively pursuing the investigation of ML/FT during a parallel financial investigation.

322. Recommendation 30 and its interpretive note require that, at least in all cases related to major proceeds-generating offences, the designated law enforcement authorities should develop a pro-active parallel financial investigation when pursuing ML, associated predicate offences and FT. Although the legal framework permits the Armenian law enforcement authorities to develop pro-active financial investigations, they have not done so in practice. Therefore the evaluation team is of the view that Armenia does not meet the Standard and Criterion 30.2 is only partly met.

323. *Criterion 30.3* (Met) – According to the provisions of the CPC and CC, bodies in charge of criminal proceedings (i.e. prosecutor, investigator and the inquest body *(Article 6 Paragraph 22 of the CPC*) are obliged to impose without delay arrest (*Article 233 (1.1) of the CPC*) on the following categories of property (*Article 103.1 of the Criminal Code*):

f. Derived from or obtained, directly or indirectly, through the commission of crime, income or other types of benefit gained through the use of such property,
g. Instrumentalities and means used in or intended for use in the commission of crimes, which have resulted in gaining property,
h. Property allocated for use in the financing of terrorism, the income or other types of benefit gained through the use of such property,
i. Objects of smuggling transported through the customs border of the Republic of Armenia and, in case of the absence thereof,
j. Other property of corresponding value.

324. The measure shall be applied in all stages of the criminal proceedings on the basis of the decision of the inquest body, investigator or prosecutor (Article 233(2) of the CPC), regardless of whether the property is owned or possessed by an offender or by a third party (Article 232(2.1) of the CPC).

325. In order to comply with this obligation, law enforcement bodies in Armenia have equal authority in identifying and tracing property that may be related to crimes under their competence. Both the CPC (Chapters 28-36) and the LOIA (Article 14 – Types of operational intelligence measures) provide for a range of investigative techniques that may be deployed to identify and trace property subject to arrest (e.g. access to financial data and secret monitoring of financial transactions, monitoring of correspondence, mail, telegrams and other communications etc.). Such techniques may be used both before (under LOIA - Article 57 of the CPC) and after (under CPC and LOIA – Articles 53 & 55 of the CPC) the instigation of a criminal case. In addition, information may be requested from the FMC (based on AML/CFT Law) or from other authorities (based on CPC). The legal framework provides for the authority required by Essential Criterion 30.3.

326. *Criterion 30.4* (Not applicable) – Armenia has no competent authorities that would fall under the scope of Essential Criterion 30.4. All investigative bodies – i.e. National Security Service, Investigative Committee, Special Investigative Service, and the Ministry of Finance are law enforcement authorities *per se*.

327. *Criterion 30.5* (Met) – Law enforcement bodies in Armenia have equal authority in identifying, tracing, and freezing/seizing assets for the crimes under their competence.

Weighting and Conclusion

328. Armenia meets all the criteria of Recommendation 30, except for Criterion 30.2, since the authorities do not routinely pursue pro-active parallel financial investigations. Criterion 30.4 is not applicable. **Armenia is Largely Compliant with Recommendation 30**.

Recommendation 31 - Powers of law enforcement and investigative authorities

329. In the 3rd MER, Armenia was rated partially compliant for requirements that now fall under Recommendation 31 (Paragraphs 360-371). The main deficiencies were related to the limited powers of LEAs to obtain information and documents covered by financial secrecy and the fact that

the provisions in the CPC were not sufficiently wide to allow for law enforcement authorities or the courts to compel the production of documents and information in all cases. Also efficiency issues, which now are evaluated separately, were raised. Amendments were brought to the CC and CPC after the last evaluation, for a more clear definition of LEAs' authority to obtain documents and information covered by financial secrecy.

330. *Criterion 31.1* (Partly met) – According to the provisions of CPC (Articles 59(2.3), 77 (6.3) and 79 (5.4)) the injured in a criminal case as well as legal representatives of the injured, the plaintiff, the suspect and the accused, upon request by law enforcement authorities, have to provide items and documents. Also, as a general rule, when necessary to take articles and documents significant for the case and provided their location or possession is known, the investigator is authorised to conduct a seizure (Part 1, Article 226 of the CPC*)*. No subject has the right to refuse the handover of articles and documents, or their copies, requested by the investigator (Part 3, Article 226 of the CPC*).*

331. Persons who are asked by the body in charge of the criminal proceedings to communicate or present in accordance with provisions of the CPC information constituting secrecy protected by the law, cannot refuse fulfilling that requirement by referring to the provisions on securing information constituting official, commercial and other secrecy protected by the law (Part 3, Article 172 of the CPC). However, the court, prosecutor, investigator or body of inquest may be requested to provide beforehand proof of the necessity of such disclosure.

332. In respect of information constituting banking secrecy, information on transactions with securities or information constituting insurance secrecy, the powers of investigators are limited to data related to persons suspected or accused in a criminal case (Part 3.2, Article 172 of the CPC). The measure is only available after a formal investigation process has been initiated and a prosecutor's permission is required for seizing state secrets while a court decision is mandatory for seizing information that constitutes banking, insurance and notaries' secrecy (Article 279 of the CPC).

333. The operational intelligence measure of *access to financial data and secret monitoring of financial transactions* under LOIA (*Articles 14 (15) & 29*) may be used by some investigative bodies (Investigative Committee and NSS). The measure however is not available for tax and customs investigative authorities and is difficult to apply in practice since it may be deployed only in those cases when the persons against whom it is directed are suspected in grave and particularly grave crimes (basic ML is excluded), and provided there is substantial evidence that it would be impossible for the investigation body to perform duties assigned to it by law through any other means of operational work (Article. 31 (4) of the LOIA). Although Article 29 of the LOIA provides LEAs with powers beyond those provided for through Article 10 of the LBS, prior to the initiation of the pre-trial investigation process, and during the inquest stage, and also with respect to persons other than the suspect or accused, the LEAs interviewed by the evaluation team held the view that this was not the case because the court would apply the more restrictive provisions envisaged by the LBS in any case and require a "suspect" or an "accused" to grant an order, even if the request for the court order were to be submitted on the basis of Article 29 of the LOIA.

334. Also, law enforcement and investigative authorities can approach the FMC to obtain intelligence, using the provisions of Article 13.4 of the AML/CFT Law. The material provided by the FMC on this basis is not evidence and it is necessary for LEAs to convert this intelligence, using normal law enforcement methods, into evidence.

335. After a case has been instigated, search powers may be used whenever the investigator has reasonable grounds to believe that in any building or at another place or with any person there are instrumentalities of crime, illegally obtained objects and values, as well as other objects and documents that may be relevant to the case (Article 225 of the CPC). The measure is available for all LEAs for crimes under their competence (Articles 225, 228 & 229 of the CPC) and is applicable to both premises and persons.

336. According to the Criminal Procedure Code, after a case has been instigated, LEAs may take witness statements as an investigatory measures for crimes under their mandate (Articles 55 (4) 2, 112, 153 & 206 of the CPC).

337. The results of the majority of operational-investigative measures conducted by LEAs under the LOIA may be used as evidence (Article 40 (1) of the LOIA). After the instigation of the case, seizure and other measures for obtaining evidence are available for LEAs for investigating crimes under their mandate (Chapters 28-36 of the CPC).

338. *Criterion 31.2* (Partly met) – Armenian LEAs have access to a wide range of operational intelligence measures under the LOIA (Article 14). A full description of their content is available under 3rd MER (Paragraphs 352-356).

Operational intelligence measure	Legal basis (under LOIA)	Authority of LEAs
Operational inquiry	Articles 14 (1) & 15	Police, NSS, customs and tax authorities
Acquisition of operational information	Articles 14 (2) & 16	Police, NSS, customs and tax authorities
Collection of samples for comparative examination	Articles 14 (3) & 17	Police, NSS, customs and tax authorities
Control purchase	Articles 14 (4) & 18	Tax authorities
Controlled delivery and purchase	Articles 14 (5) & 19	Police, NSS, customs and tax authorities
Examination of items and documents	Articles 14 (6) & 20	Police, NSS, customs and tax authorities
External surveillance	Articles 14 (7) & 21	Police, NSS, customs and tax authorities
Internal surveillance	Articles 14 (8) & 22	Police, NSS, customs authorities
Identification of person	Articles 14 (9) & 23	Police, NSS, customs authorities
Examination of buildings, constructions, locality, premises and transportation means	Articles 14 (10) & 24	Police, NSS and tax authorities
Interception of correspondence, postal, telegram and other communication	Articles 14 (11) & 25	Police and NSS
Wiretapping	Articles 14 (12) & 26	Police and NSS
Operational penetration	Articles 14 (13) & 27	Police, NSS, customs and tax authorities
Operational experiment	Articles 14 (14) & 28	Police, NSS, customs and tax authorities
Access to financial data and secret monitoring of financial transactions	Articles 14 (15) & 29	Police and NSS
Imitation of taking or giving bribes	Articles 14 (16) & 30	Police and NSS

339. These operational intelligence measures may be deployed for the investigation of crimes under their mandate, both before (Article 57 of the CPC) and after (Articles 53 & 55 of the CPC) instigation of a criminal case. However only 9 out of 16 measures are available for customs and tax investigative authorities (although, in case of need, other inquest bodies may conduct the mentioned measures for customs and tax related predicate offences by virtue of prosecutor's written instruction) and 4 of them (i.e. internal surveillance, interception of correspondence, postal, telegram and other communication, wiretapping and access to financial data and secret monitoring of financial transactions) may be implemented only in those cases when the persons against whom they are directed is suspected in grave and particularly grave crimes (basic ML is excluded), and provided there is substantial evidence that it would be impossible for the investigation body to perform duties assign to it by law through any other means of operational work. Such limitations apply also to cases when the inquest body is instructed by the prosecutor and/or investigator to carry out operational measures (Clause 7 in Part 4 of Article 55 of the CPC).

340. Some investigative techniques are also available under the CPC (e.g. Chapter 33 – Monitoring of correspondence, mail, telegrams and other communications) but these may only be deployed in relation to the suspect or the accused in the criminal case. Accessing computer systems is not available as an investigative technique.

341. *Criterion 31.3* (Partly met) – There are three mechanisms available to LEAs in Armenia that provide them with access to information related to accounts held by natural or legal persons, respectively:

Mechanism	Legal basis	Characteristics
Requesting FMC to provide such information. FMC sends request to all financial institutions in Armenia to identify accounts held by the subjects in the request and replies to requesting LEA	• Article 14 of the AML/CFT Law • Article 13.1 of the Law on Bank Secrecy	• May be carried out *ex parte;* • Is available both before and after instigation of a criminal case; • Sufficient substantiation of a ML/FT suspicion is needed; • Information shall be provided within a 10-day period, unless a different timeframe is specified in the request.
Access to financial data and secret monitoring of financial transactions as an operational intelligence measure	• Articles 14(15) & 29 of the LOIA	• May be carried out *ex parte*; • Is available both before and after instigation of a criminal case; • Is not available for basic ML offence; •
Search and seizure	• Articles 172, 225, 226, 228 & 279 of the CPC	• Is available only after the instigation of a criminal case; • Is available only for the suspect or accused person; • The seizure entails that LEAs already know the accounts used.

342. As regards identification of assets without prior notification to the owner, Armenian authorities indicated that LEAs are authorised and have processes for making requests, without prior notification to the owner, to all existing state registers for identification of assets. Such registers include the Real Estate Cadastre (for real estate information), the State Register (for legal entity information), the Central Depository (for joint-stock company information), the Traffic Police (for vehicle information), the tax and customs authorities, etc. (Clause 5 in Part 4 of Article 55 and Clause 14 in Part 2 of Article 57 of the CPC).

343. *Criterion 31.4* (Met) – LEAs are authorised to ask for relevant information held by FIU when investigating crimes under their mandate (Article 13 (4) of the AML/CFT Law).

Weighting and Conclusion

344. Although important amendments have been brought by Armenia to a broad range of legislative acts during the follow up process, competent authorities conducting investigations of money laundering, associated predicate offences and terrorist financing are limited in their ability to obtain access to all necessary documents for use in investigations and in prosecutions as required by Recommendation 31. In addition, legal limitations impact on the range of investigative techniques available for investigation. Consequently, **Armenia is Partially Compliant with Recommendation 31.**

Recommendation 32 – Cash Couriers

345. In the 3rd MER, Armenia was rated Partially Compliant for requirements that now fall under Recommendation 32 (Paragraphs 408-439). The main deficiencies were related to the limited scope

of the physical movement of currency control system (not applicable to mail or cargo), the lack of power to stop or restrain currency when suspicions of ML/FT arise, limited confiscation powers of customs authorities and the relative low level of available sanctions.

346. Starting from 1 January 2015 Armenia became a member of the Eurasian Economic Union (hereinafter "the EEU", formerly the Customs Union) and a number of binding legal acts within EEU (i.e. the Customs Union Customs Code, international treaties ratified by the Republic of Armenia and the decisions of the Customs Union Committee regulating customs legal relationship between the EEU member countries) became part of the Armenian legislation. Subsequently, the Customs Code of Armenia was partially repealed and new legal acts regulating customs issues were adopted. At present, the field is regulated by the following legal acts:

- The Customs Union Customs Code (effective for Armenia from January 1, 2015);
- EEU Agreement on Measures for Counteracting Legalization (Laundering) of Proceeds of Crime and the Financing of Terrorism in Transportation of Cash and (or) Monetary Instruments through the Customs Border of the Customs Union (adopted in Moscow on December 19, 2011; effective for Armenia from January 1, 2015); hereinafter referred to as the EEU Agreement on ML/FT Measures;
- EEU Agreement on the Rules for Transportation of Cash and Monetary Instruments by Natural Persons through the Customs Border of the Customs Union (adopted in Astana on July 05, 2010; effective for Armenia from January 1, 2015); hereinafter referred to as the EEU Agreement on Transportation of Cash;
- Republic of Armenia Law on Customs Regulation (effective for Armenia from January 1, 2015);
- Republic of Armenia Customs Code (certain parts);
- CBA Board Decision No 386-N from July 29, 2005.

347. Measures have been taken to address the deficiencies identified by the 3rd MER, i.e. – currency moved through mail and cargo has been covered, the powers of competent authorities to stop or restrain currency when ML/FT arise were clarified.

348. *Criterion 32.1* (Met) – The authority entrusted with setting the rules for cash couriers in Armenia is the Central Bank (Article 5.2 of the Law on Currency Regulation and Currency Control). The updated regulation issued by the CBA (Decision # 386-N of July 29, 2005 as amended by Decision # 106-N of April 29, 2014) provides for a declaration system in respect of transportation, delivery, import, export and declaration of currency values and bearer securities, as follows:

OUTGOING Article 2.1	Bearer securities	Irrespective of the amount	Written declaration required
	Currency values Government treasury securities Traveller checks	> USD 10.000	Written declaration required
		< USD 10.000	No declaration Required
INCOMING Article 2.2	Bearer securities	Irrespective of the amount	Written declaration required
	Currency values Government treasury securities Traveller checks	> USD 10.000	Written declaration required
		< USD 10.000	No declaration Required

349. The system entered into force on 1 January 2015, as the CBA *Decision # 386-N of July 29, 2005* was amended by the Decision # 106-N of April 29, 2014 and is applicable to physical and cargo cross-border transportation. Currency values and bearer securities movement through mail is forbidden (Article 313 of the Customs Union Customs Code).

350. The legal definitions of currency values (Article 3.1 of the Law on Currency Regulation and Currency Control), which include payable securities (Article 153 of the Civil Code), and bearer securities cover the FATF concepts of currency and bearer negotiable instruments. The provisions in force make the scope of the cash declaration system wide enough to cover the requirements of

Criterion 32.1 both in terms of the objects it applies to and the means these objects may be physically moved for ML/FT purposes.

351. *Criterion 32.2* (Met) – Armenia opted for a written declaration system for all travellers carrying currency values, government treasury securities or traveller checks (defined as monetary instruments) above a predetermined threshold or bearer securities irrespective of their amount (Articles 2.1, 2.2 and 2.3 of the Decision # 386-N of July 29, 2005 as amended by Decision # 106-N of April 29, 2014), regardless of the type of transport (physical or cargo). The written customs declaration required:

- Is mandatory for outgoing and incoming monetary instruments exceeding 10.000 USD or equivalent and all bearer securities regardless of their value;
- Is binding for the declarant (*Article 134(3) of the Customs Code (before January 1st, 2015*); *Article 163(10)*) *of the Law on Customs Regulation (after January 1st, 2015)*; and
- Has to be presented to the customs authorities (Customs Administration within the Ministry of Finance) at the moment the accompanying luggage is presented for customs control (*Article 130(3) of the Customs Code (before January 1st, 2015*); *Article 249 (3) of the Law on Customs Regulation; Parts 1 and 2 of Article 355 of the Customs Union Customs Code (after January 1st, 2015)*); and
- Shall be refused by the customs authorities, if the document lacks the mandatory data required by legislation (*Article 128(2) & 134(4) of the Customs Code (before January 1st, 2015); Article 163 (4) of the Law on Customs Regulation; Article 6 of the EEU Agreement on Transportation of Cash (after January 1st, 2015*)*; Article 2.3 of the Decision # 386-N of July 29, 2005 as amended by Decision # 106-N of April 29, 2014*).

352. *Criterion 32.3* - (Not applicable)

353. *Criterion 32.4* (Met) – Article 128(2) of the Customs Code *(before January 1st, 2015) /* Article 6 of EEU Agreement on Transportation of Cash (after *January 1st, 2015*) provides for a general obligation to provide additional information on the origin of currency values and (or) bearer securities whenever such goods are declared to the customs authorities. In addition, Article 133 (3) of the Armenian Customs Code *(before January 1st, 2015*)) / Article 111 (3) of the Customs Union Customs Code *(after January 1st, 2015)* provides a general authority for customs bodies to demand other information and documents for meeting their obligation. This is supplemented by the specific authority to perform oral questioning of physical persons during the customs control procedures (Article 138 (2d) of the Customs Code *(before January 1st, 2015);* Articles 110 (2) and 112 of the Customs Union Customs Code *(after January 1st, 2015)*) and the general obligation of subjects under customs control to meet the demands of customs officers (Article 153 (2) of the Customs Code *(before January 1st, 2015); Article* 124 (1) of the Law on Customs Regulation; Article 98 (1) of the Customs Union Customs Code (after *January 1st, 2015*)). All these powers are also available upon discovery of a false declaration on currency values and (or) bearer securities or a failure to declare them. In addition, provided that the failure/false declaration represents indication of a crime, customs bodies have the general authority under LOIA to perform "operational inquiries" – collection of information on committed, planned or in-progress crime, as well as on circumstances to be clarified in the course of operational intelligence activity by way of asking questions (making inquiries) to legal entities or natural persons, who actually possess or are supposed to possess such information (Articles 8 & 14 of the LOIA).

354. *Criterion 32.5* (Met) – There are two types of sanctions applicable in case of failure/false declaration of goods (including currency values and (or) bearer securities stipulated by Article 2(a) of the Customs Code *(before January 1st, 2015)*; Article 5(1) of the Law on Customs Regulation *(after January 1st, 2015*)) under the customs regime:

Type of sanction	Sanctioned behaviour	Sanction	Legal text
ADMINISTRATIVE	Failure to declare goods and means of transportation crossing the customs	Penalty in the amount of	Article 203 of the Customs Code (*a full*

	border of the Republic of Armenia, i.e. failure to submit accurate information in specified form, as well as declaration of goods and means of transportation under false names, provided absence of indications of crime	customs value of goods and means of transportation	*description of administrative sanctioning regime is available under 3rd MER, Paragraphs 425-429*)
CRIMINAL	Contraband - transportation of goods, cultural or other items through the customs border of the Republic of Armenia bypassing customs supervision or concealing them, or by deceptive use of customs or other documents, if they were committed in large amounts (*the value of transported goods or items exceeds the 2000 amount of minimal salaries*)	Fine in the amount of 500-1000 minimal salaries[96], or imprisonment for the term of up to 5 years	Article 215 of the Criminal Code

355. Administrative sanctions seem proportionate as they amount the value of goods involved and are supplemented by the mandatory measure of confiscation of property involved in the infringement. Criminal sanctions seem proportionate as contraband is considered a medium-gravity crime with aggravated circumstances reaching 12 years imprisonment when carried out by criminal groups. The upper limit of the basic punishment (imprisonment for up to 5 years), is equal to the punishment for the money laundering offence.

356. *Criterion 32.6* (Met) – In the event of import, export, or transit transportation of currency and (or) bearer securities through the customs border of the Republic of Armenia, Article 156(3) of the Customs Code provides for the customs authorities the general obligation to submit to the FMC information, in the manner prescribed by the latter. The Memorandum of Understanding concluded between the Financial Monitoring Service and the State Revenue Committee (now the Customs Administration within the Ministry of Finance) provides for the following flow of information between the two (Article 5 of the MOU):

- Quarterly information, on the cases of importing cash expressed in banknotes, treasury bills and coins, payment securities or other currency in excess of EUR 15,000, if any (Article 5(1)a);
- Monthly information, on the cases of violating the legislative requirements for the import and export of cash expressed in banknotes, treasury bills and coins, payment securities or other currency, if any (Article 5(1)b);
- Information, within a 4-day period, on the cases of importing and exporting cash expressed in banknotes, treasury bills and coins, payment securities or other currency, in relation to which the MOF has grounds to suspect money laundering or terrorism financing (Article 5(1)c).

357. *Criterion 32.7* (Met) – Besides the bilateral cooperation agreements concluded with the FMC under the provisions of the AML/CFT Law (e.g. the MOU between the FMC and MOF), a relevant coordination mechanism is provided at national level by the platform of the Interagency Committee on Combating Counterfeit Money, Fraud with Plastic Cards and Other Payment Instruments, and Money Laundering. This mechanism comprises the relevant authorities at national level with direct attributions in the AML/CFT field (Article 1 of the President of Armenia Ordinance NK-1075/March 21st 2004), including prosecutor's office, police, tax and customs services, etc. Moreover, the Committee has a mandate for fight against money laundering and terrorist financing (including issues under Recommendation 32) which ranges from analysis of relevant issues, drafting of action plans and development of relevant legislation (Chapter 2 of the Rules of Procedure of the Committee). The Committee however does not comprise representatives of the immigration authorities. Authorities confirmed that cooperation between customs and immigration takes place

[96] The minimum salary (calculation base for fines, penalties etc.) at the moment of the on-site visit was AMD 1.000 (approximately EUR 1.8).

routinely, as representatives of both authorities are always present together at the border crossing points and airports.

Criterion 32.8 (Met) – There are two legal mechanisms available for competent authorities to stop or restrain currency values and (or) bearer securities for a reasonable time in order to ascertain whether evidence of ML/FT may be found:

Mechanism	Legal basis	Characteristics
Suspending transportation of currency and(or) bearer securities based on information received from FMC or LEAs	• Article 156.1 of the Customs Code *(before January 1st, 2015)*; • Article 3(1) of the EEU Agreement on ML/FT Measures *(after January 1st, 2015)*	• There is a 30 day interval for the FMC or LEA that submitted the initial information to provide customs authorities with a decision on the suspended currency or bearer securities;
Confiscation of currency and(or) bearer securities being the direct object of customs regulations infringement	• Article 212 of the Customs Code	• Only available for cases of failure/false declarations representing infringements under the Customs Code

358. The legal provisions in force permit the authorities to stop or restrain currency or bearer negotiable instruments for a reasonable period of time in order to ascertain whether ML/FT evidence may be found. A special division within the NSS is responsible for the border control of Armenia. Both customs and NSS officials are present at each border point and they are mandated to act as investigation bodies. Based on the provisions of the CPC, in cases where ML/FT suspicions arise, the NSS is authorised to question a person for three hours, in order to ascertain whether grounds for instigating a case are present. Once the case is instigated an up to 72 hour detention period (based on the decision of the inquest body) becomes available. Also, arrest of property can be immediately applied.

359. *Criterion 32.9* (Met) – Article 156(4) of the Customs Code *(before January 1st, 2015)* obliges customs authorities to maintain data on transportation of currency and bearer securities, as well as identification data on the persons involved, and Article 98(5) of the Customs Union Customs Code *(after January 1st, 2015)* obliges customs authorities to maintain all documents required for customs control for at least 5 years in cases specified by Criterion 32.9. As such, the following data retention situations are relevant:

- Data on above threshold cross-border movements of currency and(or) bearer securities (*including information on the bearer and the amount involved*) is collected by customs authorities through the mandatory written customs declaration system (*Article 2.3 of the Decision # 386-N of July 29, 2005 as amended by Decision # 106-N of April 29, 2014*). Part of this data is submitted to the FMC quarterly (*Article 5(1)a of the MOU between FMS and MOF*);
- Data on failure/false declarations of currency and(or) bearer securities (*including information on the bearer and the amount involved*) is captured by the customs authorities within the protocol of customs regulation infringements, which is a mandatory document under the Customs Code (*Article 209 of the Customs Code*). This data is submitted to the FMC monthly (*Article 5(1)b of the MOU between FMS and MOF*);
- Data on suspicions of ML/FT is collected by customs authorities and submitted to the FMC within a 4 day period (*Article 5(1) c of the MOU between FMS and MOF*).

360. Both the FMC (Article 14 of the AML/CFT Law) and customs authorities (Article 9(1) h of the Customs Code *(before January 1st, 2015)*; Article 9(14) of the Law on Customs Regulation; Article 94 (3) of the Customs Union Customs Code *(after January 1st, 2015)*) are authorised to cooperate with relevant bodies of foreign countries and international structures, including through exchange of information. The afore-mentioned provisions seem wide enough to allow for the exchange of

captured information for international co-operation and assistance purposes, in accordance with Recommendations 36 to 40.

361. *Criterion 32.10* (Met) – As already indicated under criterion 32.9, information collected through the declaration/disclosure system in Armenia is available both for FMC and the customs authorities. The AML/CFT Law (Article 12 on Protection of Information) provides for the FMC a double prohibition: (a) to disclose any information received except in cases stipulated by the law and (b) to provide or use information received for any purpose unrelated to the fight against money laundering and terrorism financing. Similarly, the Customs Code (Article 16 on Information Provided for Customs Authorities for Customs Purposes *(before January 1st, 2015)* and the Customs Union Customs Code (Article 8 on Dealing with the Information Provided to Customs Authorities for Customs Purposes *(after January 1st, 2015)*) sets a general obligation that information provided to customs authorities shall not be used by the latter for other purposes, except for cases envisaged by the law. There is also an express disclosure prohibition which is only applicable to state, bank, trade or official secret information. From a technical compliance perspective, there are no indications that these provisions would be restrictive for trade payments between Armenia and other countries or for the freedom of capital movement.

362. *Criterion 32.11* (Met) – Based on the provisions of the Customs Code and the Criminal Code, there are two types of sanctions applicable in case of persons carrying out physical cross-border transportation of currency and(or) bearer securities that are related to ML/FT or predicate offences:

Type of sanction	Sanctioned behaviour	Sanction	Legal text
ADMINISTRATIVE	Transportation of currency and (or) bearer securities allocated for use in the financing of terrorism or constituting proceeds of criminal activity in the meaning of Article 190 of the Criminal Code, in the absence of indications of crime	Penalty in the amount of the currency or the face value of bearer securities	Article 202.1 of the Customs Code
CRIMINAL	Money laundering offence	Imprisonment for the term of 2 to 5 years (for basic crime)	Article 190 of the Criminal Code
	Terrorist financing offence	Imprisonment for a term of 3 to 7 years (for basic crime)	Article 217.1 of the Criminal Code

363. Administrative sanctions seem proportionate and dissuasive as they amount the value of goods involved and are supplemented by the mandatory measure of confiscation of property involved in the infringement (Article 212 of the Customs Code). The criminal sanctions seem to be proportionate as basic ML has the same upper limit of imprisonment with contraband. The dissuasiveness character of the sanctions was impossible to estimate by the evaluation due to a lack of practice in the area.

Weighting and Conclusion

364. ***Armenia is Compliant with Recommendation 32.***

Recommendation 33 – Statistics

365. *Criterion 33.1* (Met) – Article 13(8) requires state bodies to gather and, in the manner, form and timeframes established by the FMC, submit to the FMC the following statistics:

- The number of investigations, prosecutions and judgements (acquittals and convictions) on ML/FT, including, for convictions, the penalties and value of confiscated and forfeited property;

- The number of investigations which were concluded without charges being brought and the reasons for not instituting criminal proceedings;
- The value of arrested or seized property in the course of ML/FT investigations;
- Requests received and sent within international legal assistance regarding ML/FT;
- The number of inspections carried out by supervisory authorities and any action taken for non-compliance.
- The FMC's operational manual provides for the following statistics to be maintained:
- The number of reports received from the reporting entities for every quarter.
- Information on the status of suspicious transaction reports received from the reporting entities for every quarter.
- Information on inquiries received from and made to competent domestic authorities and foreign FIUs for every quarter.
- Statistics on ascertained violations of AML/CFT requirements and on the sanctions applied thereto.
- Statistics on restraint of currency at the border.

Weighting and Conclusion

366. **Armenia is Compliant with Recommendation 33.**

Recommendation 34 – Guidance and feedback

367. In its 3rd round MER Armenia was rated Largely Compliant regarding financial institutions and Partially Compliant regarding DNFBPs - mainly based on effectiveness issues. The rating concerning guidance for FIs was based on missing guidance to assist FIs in the effective implementation of CDD measures as well as missing guidance on FT typologies and freezing obligations. The PC rating regarding DNFBPs was based on minimal guidelines and no outreach to DNFBPs on relevant techniques, vulnerabilities of the sector, methods or trends. Armenia addressed some of these issues and published new sector-specific guidelines.

368. *Criterion 34.1* (Met) – The CBA, as the authorised body under the AML/CFT Law, is responsible for providing all reporting entities with feedback, adopting legal statutes, approving guidelines expounding implementation procedures of such statutes and publishing lists of non-compliant countries. The AML/CFT Law sets out the legal basis for the issuance of a large variety of normative legal statutes in the field of AML/CFT. The CBA also has the power to organise trainings in the field of AML/CFT and to raise public awareness on combating ML and FT.

369. **Guidance:** The CBA published the following AML/CFT related guidelines on its website (https://www.cba.am/en/SitePages/fmcregulationnational.aspx): Regulation on Minimum Requirements to Reporting Entities in the Field of Preventing Money Laundering and Terrorism Financing (October 2014); Guidance on Suspicious Transaction Criteria; Guidance on Money Laundering and Terrorism Financing Typologies (first published 2008 and regularly amended/ supplemented by new typologies, a total of 14 as of the date of the assessment); RBA Guidance for FIs; RBA Guidance for Accountants and Auditors (published 2010); RBA Guidance for Gambling Industry (published 2010); RBA Guidance for Lawyers (published 2010); and RBA Guidance for Realtors (published 2010); as well as separate reporting Forms for all types of reporting entities.

370. The CBA (FMC) publishes annual reports, AML/CFT related court verdicts, strategic analysis including the NRA and the sector specific risk analysis for DNFBPs.

371. The new Regulation on Minimum AML/CFT Requirements covers a wide range of implementation issues (e.g. rules for determining the ML/FT risk, CDD, review process, training etc.) and is addressed to all financial institutions as well as to all DNFBPs which are covered by the AML/CFT Law. The guidance was published in October 2014 and supplies the reporting entities with comprehensive details (including mandatory risk criteria e.g. asset-holding vehicles, shares in

bearer-form, cash-intensive business, non-face-to-face business etc.) for the effective implementation of the AML/CFT obligations.

372. Guidance on freezing obligations was published on 22 April 2015. The Guidance on Money Laundering and Terrorism Financing Typologies contains one FT typology case.

373. **Feedback:** the CBA provides the reporting entities through circulars in written and verbal form.

Weighting and Conclusion

374. **Armenia is Compliant with Recommendation 34**.

Recommendation 35 – Sanctions

375. In its 3rd round MER Armenia was rated compliant.

376. *Criterion 35.1* (Mostly met) – Generally, Armenia has a wide range of administrative sanctions available to deal with natural as well as legal persons who fail to comply with the AML/CFT Law. There are sanctions available to cover all relevant obligations regarding Recommendations 6 and 8 to 23.

377. In case of infringements of the AML/CFT Law by FIs the relevant sanctions of the sector specific laws apply. If a sector specific law does not provide any responsibility measures for non-compliance with the AML/CFT Law, the sanction measures of the AML/CFT Law apply.

378. If DNFBPs breach AML/CFT obligations, the AML/CFT Law applies directly to legal persons. With regard to natural persons, there are sanctions available under the Code of Administrative Offences. The sanctions for legal and natural DNFBPs are identical.

379. Each supervisory body (respectively, the CBA as the authorized body) is responsible to sanction infringements of their supervised entities.

380. **Dissuasive:** the full range of sanctions for financial institutions appears to be dissuasive. For AML/CFT failures of banks, credit organisations, insurance companies, insurance intermediaries, investment companies, investment funds, pension fund managers, PSOs and pawnshops, the CBA can apply the following sanctions: warnings and directives or remedial sanctions to eliminate infringements; fines; deprivation of bank managers' qualification certificate and nullification of the licence. The revocation of a banking licence, a licence under the Insurance Act or a licence of credit organizations has to be published. The CBA may also publish sanctions imposed on pension fund managers.

381. The amount of a fine for banks for a single violation, for example, shall not exceed one percent of the amount of the minimal statutory fund. The size of the statutory fund of a bank shall be set by its charter and amount at least AMD 50 million (approximately EUR 90 thousand). The minimum amount for each violation of a bank is AMD 100 thousand (approximately EUR 180). The maximum recorded amount was AMD 50 million (approximately EUR 90 thousand) for several violations of the AML/CFT Law. The amount of fines imposed for each violation of insurance companies and insurance intermediaries shall not exceed the 2500-fold of the minimum salary (approximately EUR 4,500)[97]. For investment companies, investment funds, pension fund managers the maximum shall not exceed the 2000-fold of the minimum salary (approximately EUR 3,600); and for PSOs – the 500-fold of the minimum salary (approximately EUR 900). For pawnshops, the maximum amount is AMD 500 thousand (approximately EUR 900).

[97] The minimum salary (calculation base for fines, penalties etc.) at the moment of the on-site visit was AMD 1.000 (approximately EUR 1.8).

382. For failures of money exchange offices the CBA can issue warnings, impose penalties/fines and suspend/or withdraw the licence. For PSOs, the CBA has the following sanctioning powers: give warnings and charge the institution to eliminate infringements; prohibit the activity of a PSO or in case of a foreign PSS withdraw its authorization; demand a change of management of the Armenian PSO or terminate or withdraw its authorization, or impose fines (see also the analysis for Criterion 27.4).

383. **Proportionate:** The Security Market Law, the Insurance Act, the Law on Funded Pensions, the Currency Control Act, and the Law on Pawnshops as well as the Law on Investment Funds define in detail which elements the CBA has to take into consideration while imposing a fine (e.g. nature of the violation, existence of damage, extent of the unjustified enrichment etc.). The Banking Act does not define details which should be taken into consideration while imposing a fine on a bank. However, there is a Manual for Application of Precedent in Proceedings of the Central Bank in place, which describes the processes and procedures to make fining decisions which also applies to banks.

384. With regard to DNFBPs, only the following sanctions are available: warnings and fines. The available amount of fines for DNFBPs is limited. The range of available fines for breaches of the AML/CFT Law varies between approximately EUR 400-1,200 for DNFBPs (for legal as well as natural persons). Referring to the NRA, the average monthly salary in Armenia is AMD 146,524 (EUR 265) and the average monthly salary of a compliance officer of a financial institution, for example, is approximately EUR 1,000. There is no legal basis in the sector specific laws which empowers the supervisory authorities/authorized body to suspend or revoke a license for breaches of the AML/CFT Law. Infringements of AML/CFT requirements by natural persons shall be examined by the relevant supervisory body respectively the authorized body, on behalf of which, the head of the respective supervisory body shall impose administrative sanctions.

385. *Criterion 35.2* (Mostly met) – Sanctions are available for natural as well as legal persons. Apart from the Law on Pawnshops, all other sector specific laws of FIs provide the CBA with the power to sanction the supervised entity as well as their directors respectively the management.

386. Managers of banks, for example, are the chairman of the board, his deputy, members of the board, executive director, chief accountant, head of internal audit, members of the internal audit, members of banks directorate, as well as heads of territorial and structural subdivisions of the bank, as well as employees of the departments having in the well-reasoned opinion of the CBA a direct link to the main activities of the bank, or having any influence on decision-making process. For any infringements of the law, the CBA may apply to the bank and/or the bank's management (except for members of the board) both, the warning with the order to eliminate the infringements and/or penalize the bank or the bank's manager, and/or deprive the bank managers of the qualification certificates.

387. Supervised insurance companies and insurance intermediaries, pension fund managers and fund management companies as well as their managers may be subject to all sanctions available under their sector specific laws. For infringements of laws the CBA may impose a penalty on PSOs or its managers or withdraw the certificate of qualification for managers of PSOs.

388. There is no explicit legal basis to sanction directors and senior management of pawnshops.

389. Only the Gambling Act mentions the responsibility of managers. There is no other legal basis to sanction directors or the senior management of other DNFBPs.

Weighting and Conclusion

390. **Armenia is Largely Compliant with Recommendation 35.**

Recommendation 36 – International instruments

391. In the 2009 MER, Armenia was rated Partially Compliant with these requirements (as then reflected in R.35 and the relevant part of SR I). In so far as the former is concerned the factors underlying the rating related to, inter alia, the scope of available confiscation measures, restrictions on the seizure of legitimate property which had been intermingled with tainted proceeds, the lack of sufficiency of provisions relevant to the production of documents and information in certain circumstances, and access to information covered by financial secrecy. In so far as SR I was concerned, the sole relevant factor for present purposes related to the criminalisation of FT. While R.36 is substantially similar to the corresponding standards evaluated in 2009, it now extends to the ratification and implementation of the UN Convention against Corruption, 2003 (the Merida Convention).

392. **Criterion 36.1** (Met) – Armenia is a party to the Vienna Convention, the Palermo Convention, the Merida Convention, and the Terrorist Financing Convention. It should be noted that it has become a party to, *inter alia*, the 2005 Warsaw Convention of the Council of Europe.

393. **Criterion 36.2** (Mostly met) – This criterion requires the full implementation of a range of specified articles of the UN Conventions mentioned above. However, Armenia has not acceded to 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft and 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation.

Weighting and Conclusion

394. **Armenia is Largely Compliant with Recommendation 36.**

Recommendation 37 - Mutual legal assistance

395. In the 2009 MER Armenia was rated Partially Compliant in relation to the then basic standard on the provision of mutual legal assistance (MLA). This rating (for the then R.36) was based primarily on factors cascading from other relevant standards (confiscation and provisional measures; financial secrecy; dual criminality). Some effectiveness concerns were also articulated. Similar factors contributed to the rating of PC for SR V. R.37 was rated LC on the basis that while not required by law, in practice all forms of MLA may be rendered only on the basis of dual criminality. The current version of R.37 in effect consolidates the MLA aspects of all three of the earlier Recommendations mentioned above.

396. *Criterion 37.1* (Met) – The Armenian CPC allows for the provision of mutual legal assistance in criminal matters on the basis of bilateral or multilateral agreements. Armenia has concluded several bilateral treaties of this kind and is a party to a range of relevant multilateral treaties, including the European Convention on Mutual Assistance in Criminal Matters of 1959. The CPC also permits the provision of assistance on an ad hoc basis (Paragraphs 944-947 of the 3rd MER). Furthermore the Armenian authorities may utilise any powers provided for in the CPC on behalf of a third country that could be taken with respect to a domestic investigation or prosecution (Article 484 of the CC). It thus possesses a legal basis that allows it to provide a wide range of assistance in relation to investigations, prosecutions and related proceedings involving ML, FT and associated predicate offences.

397. *Criterion 37.2* (Mostly met) – The CPC contains relevant provisions which regulate the transmission and execution of requests for MLA (Articles 474, 475 and 482 of the CC). There is no legislative provision which addresses the issue of prioritisation of requests and the evaluators are not aware of an established process in this respect. However, they were assured that within the MoJ in instances of extreme urgency and when so requested a case would be prioritised internally. The MoJ possesses both manual and electronic case management systems to monitor the progress of requests. It is understood that there is no case management system within the GPO.

398. *Criterion 37.3* (Met) – Article 484 of the CPC stipulates that requests for assistance "shall not be executed" if "execution may harm the independence, constitutional order, sovereignty or security of the Republic of Armenia, or contradicts the legislation of the Republic of Armenia" (see also, Article 477 of the CPC). Though framed in mandatory terms these grounds for refusal of assistance are common in international practice and are not regarded by the evaluators as unreasonable or unduly restrictive. Nor have the evaluators identified other provisions within the CPC that should be so considered.

399. *Criterion 37.4* (Mostly met) – The refusal of assistance on the sole ground that the offence is also considered to involve fiscal matters is not provided for in the CPC. Furthermore, Armenia is a party to the 1978 Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters. Article 1 of the Protocol explicitly removes this ground for refusal of assistance. However, in its reservation of 23 March 2004 to Article 2 of the Protocol Armenia has indicated that "it will not make the execution of letters rogatory for search and seizure" in this context (see further the discussion of dual criminality in 37.6 below). This presents a point of tension with the requirements of Criterion 37.4(a). Legal and professional privilege and secrecy are not grounds for refusal for mutual legal assistance.

400. *Criterion 37.5* (Met) – It is common for relevant international agreements to which Armenia is a party to contain specific provisions requiring the confidentiality of MLA requests to be maintained and these have force in Armenian law by virtue of Article 474 of the CPC. In other circumstances the Armenian authorities are of the view that Article 201 of the CPC forms the basis for the necessary protection.

401. *Criteria 37.6 & 37.7* (Mostly met) – Unlike in the context of extradition, Armenian law does not generally require the satisfaction of dual criminality for mutual legal assistance. It is not listed as a mandatory ground of refusal in the CPC (see above). Article 499.9 of the CPC permits but does not require the refusal of recognition of a foreign court judgment on this basis. Notwithstanding the absence of a stipulated general provision on dual criminality, the 2009 MER concluded (see Paragraph 981) that "in practice no request would be granted in the absence of dual criminality, regardless of the measure requested". Such was the concern of the evaluators that this was a factor underlying the rating of R.36, R.37, R.38 and SR.V. The assessors did not find out any facts or evidence on-site supporting this concern.

402. Where a request is based on a pre-existing treaty, the grounds for refusal contained in it govern the situation (see, e.g., Articles 477 and 499.9 of the CPC). It should be noted that on 25 January 2002 Armenia made a reservation to Article 2 of the 1959 European Convention on Mutual Assistance in Criminal Matters to permit it to refuse assistance on the grounds of absence of dual criminality even of non-coercive types. This stance sits uneasily with the expectations articulated in Criterion 37.6. A reservation of the same date to Article 5 triggered a dual criminality requirement in respect of letters rogatory for a search and seizure.

403. The above posture in respect of dual criminality in case of fiscal crime and not involving coercive action (search and seizure of property) has negative implications for cooperation and also in areas where there are technical shortcomings such as the absence of criminal liability for legal persons.

404. As explained further in the analysis of R.39 on extradition below, the concept of dual criminality in the CPC is such as to satisfy the requirement of Criterion 37.7.

405. *Criterion 37.8* (Met) – All the required investigative techniques that are available under domestic law are also available for the purpose of mutual legal assistance except for the exemptions provided by the relevant treaties.

Weighting and Conclusion

406. **Armenia is Largely Compliant with Recommendation 37.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

407. In the 2009 MER Armenia was rated as PC for Recommendation 38. The factors underlying this rating cascaded from other relevant FATF Standards. Specific issues of concern were: shortcomings with respect to provisional and confiscation measures; access to information covered by financial secrecy; the impact of dual criminality given the absence of criminal liability for legal persons. While Recommendation 38 of the 2012 FATF Recommendations is broadly similar to its predecessor several amendments of style and substance were made. In particular, it now specifically extends to terrorist financing; adopts a more robust approach to assistance on the basis of non-conviction based confiscation proceedings and associated provisional measures; and strengthens expectations relating to management and disposition of tainted property pursuant to requests by foreign countries.

408. *Criterion 38.1* (Met) – The legal framework described in R.37 also applies to mutual legal assistance in the present context. It follows that Armenia has, generally speaking, the authority to take appropriate action in response to requests by foreign countries to identify, arrest and subject to forfeiture proceeds from, instrumentalities used in or intended for use in money laundering, predicate offences or terrorist financing. As noted in the analysis of R.36, Armenia is a party to various international treaties (including the Strasbourg and Warsaw Conventions of the Council of Europe) which contain detailed treatment of these issues.

409. *Criterion 38.2.* (Not met) – In Armenia forfeiture is conviction based and, as was the case at the time of the last evaluation (see, e.g., Paragraph 987 of the 3rd MER) civil forfeiture orders cannot be recognised at this time in any circumstances. It is clear from the 2014 NRA that this stance is being reconsidered. However, for the present Armenia does not comply with these requirements.

410. *Criterion 38.3* (Partly met) – As was the case in 2009 (Paragraph 990 of the 3rd MER) no formal arrangements are in place to coordinate seizure and confiscation actions with other countries although such arrangements could no doubt be made on an ad hoc basis should the need arise.

411. *Criterion 38.4* (Met) – No legal provisions or administrative procedures or processes directly address the sharing of confiscated property with third countries. However, no provisions of the law prohibit or obstruct the ability of the authorities to share assets in this way on an ad-hoc basis should the need arise.

Weighting and Conclusion

412. **Armenia is Largely Compliant with Recommendation 38.**

Recommendation 39 – Extradition

413. In 2009 Armenia was rated as Compliant with R.39 on extradition. In 2012 the FATF introduced several amendments of both style and substance in this context. Importantly the extradition elements of both R.37 and SR.V were incorporated into R.39. In 2009 no extradition related deficiencies were identified in a R.37 context. However, for SR.V identified deficiencies with the FT offence were considered to pose a possible impediment to extradition due to the need to satisfy the requirement of dual criminality. The new R.39 also places greater emphasis than previously on procedural matters and on the introduction of simplified extradition mechanisms.

414. *Criterion 39.1* (Met) – Armenia is able to provide extradition based on bilateral or multilateral agreements and it has become a party to the European Convention on Extradition of 1957 and to the 1st and 2nd Protocols thereto. Under the CPC extradition can also take place on an ad hoc basis (see, e.g., Articles 487-496, 498-499). Both ML and FT are extraditable offences.

415. Armenian law (primarily the CPC) contains clear provisions on the execution of extradition requests. There are both manual and electronic case management systems in the MoJ which are relevant in this context. While the law does not address prioritisation of requests the evaluators

were assured that in cases of urgency priority would be afforded to the request internally on an ad hoc basis.

416. Armenian law does not place unreasonable or unduly restrictive conditions on the execution of extradition requests (see, e.g., Articles 488 of the CPC).

417. *Criterion 39.2* (Met) – Article 30.1 of the Constitution of the Republic of Armenia states that citizens may not be extradited "with the exception of cases stipulated in international treaties" to which it is a party (see also Article 16(1) of the CC). However, Armenia has never concluded a treaty permitting the extradition of citizens. In instances, *inter alia*, where extradition is declined on the grounds of nationality the individual in question, upon the request of the foreign state, must be prosecuted domestically (Article 498 of the CPC; see also Article 16(5) of the CC).

418. *Criterion 39.3* (Met) – As was the case at the time of the previous evaluation (Paragraphs 999-1002 of the 3rd MER) dual criminality must be satisfied before extradition can take place (Article 487(2) & (3) of the CPC). This requirement is deemed to be satisfied regardless of whether both countries place the offence within the same category or denominate it by the same terminology.

419. *Criterion 39.4* (Not met) – R.39, as revised by the FATF in 2012, requires countries (subject to consistency with fundamental principles of domestic law) to have simplified extradition mechanisms in place. The Armenian authorities have confirmed that there are, at the present time, no such simplified procedures for extradition. The authorities did not indicate that Armenia intended to sign the Third Additional Protocol to the European Convention on Extradition (CETS 209).

Weighting and Conclusion

420. **Armenia is Largely Compliant with Recommendation 39.**

Recommendation 40 – Other forms of international cooperation

421. In the 3rd MER, Armenia was rated largely compliant for requirements that now fall under Recommendation 40 (Para 1018-1045 of the 3rd MER). The main deficiencies were related to the impact that legal provisions regulating access of FMC to professional secrecy and access of LEAs to financial secrecy information might have on their ability to provide widest international cooperation. During the follow-up process amendments brought to laws regulating financial and professional secrecy addressed the issue in respect to FMC. However limitations on LEAs access to such information still persist.

422. *Criterion 40.1* (Met) – A general provision under the Armenian AML/CFT Law grants the competent bodies with the authority to cooperate with international structures and other relevant bodies of foreign countries, in the field of combating ML and FT (Article 14(1) of the AML/CFT Law). The wording is wide enough for compliance with Essential Criterion 40.1 in respect of all competent authorities.

FMC

423. For the FMC there is an express authority to exchange information (including documents), including classified information as defined by the law, with foreign financial intelligence bodies, which, based on bilateral agreements or commitments due to membership in international structures, ensure an adequate level of confidentiality of the information and use it exclusively for the purposes of combating money laundering and terrorism financing (Article 10(1) 17 and Article 14(2) of the AML/CFT Law). This authority extends also to indirect (via foreign FIU) exchange of information with foreign supervision authorities competent in the field of combating ML/FT, for supervision purposes (Article 14(1) of the AML/CFT Law).

SUPERVISORS

Financial institutions

424. The Central Bank of Armenia is authorized to cooperate with foreign financial supervision bodies in the framework of bilateral and multilateral agreements, which regulate matters related to the exchange, use, and dissemination of confidential information on on-site inspections and off-site supervision, regulatory, prudential and other information. Based on such agreements, foreign supervisory bodies are also allowed to conduct on-site inspections in Armenia resident branches and other establishments of the financial groups headquartered abroad (Articles 8(1) & art 39^1(1) of the Law on CBA). Information may be provided both spontaneously or upon request.

DNFBPs

425. The Ministry of Finance and the Ministry of Justice are both authorized to cooperate with their respective foreign counterparts in accordance with the provisions of the Law on International Treaties. In particular, they are empowered to sign interagency treaties with foreign supervision bodies in order to facilitate effective cooperation on the matters of mutual interest (Articles 6(5) and 7(4) of the Law on International Treaties). More specifically, both ministries are authorized to cooperate with their foreign counterparts on the matters related to supervision of relevant DNFBPs, including compliance of the DNFBPs with the AML/CFT requirements (Article 14(1) of the AML/CFT Law). There are specialized departments established within both ministries – the International Relations Department of the MOF and the International Legal Assistance and Internal Relations Department of the MOJ to facilitate international cooperation of the ministries within the framework of their powers and mandate.

LEAs

426. According to the provisions of the Criminal Procedure Code, LEAs may directly exchange information with their foreign counterparts, on the basis of international or bilateral agreements (Article 475.4 of the CPC). In addition, police, national security agencies, tax and customs authorities are authorised to provide operational support upon inquiries from law enforcement authorities and special services of foreign countries and international law enforcement organizations (Article 10(2) of the LOIA).

427. *Criterion 40.2* (Met) – Competent authorities:

a) Have a general lawful basis for providing international cooperation (Article 14(1) of the AML/CFT Law). Additionally, FMC, police, national security agencies, tax and customs authorities, have specific texts under their statute laws or other legislation, that allow for such cooperation (Article 14(2) of the AML/CFT Law; Article 15 (o) & (p) of the Law on National Security Agencies; Article 9 of the Customs Code, Article 10(2) of the LOIA); authority for CBA in this respect is provided by the Law on CBA (Articles 8(1) & 39^1(1)); authority of the Ministry of Finance and of the Ministry of Justice is provided by the Law on International Treaties (Articles 6(5) & 7(4));

b) Have no legal limitation on their authority to use the most efficient means to cooperate;

c) Use clear and secure gateways for the transmission or execution of cooperation requests such as:
   - FMC – Egmont Secure Web (Clauses 34 and 44-47 of the FMC Operational Guidance);
   - Central Bank, Ministry of Finance and Ministry of Justice – channels agreed by the bilateral agreements concluded with foreign counterparts;
   - LEAs – different (including electronic) secure channels e.g. Interpol network, Customs Enforcement Network.

d) The FMC has clear processes for the prioritisation and timely execution of cooperation requests (Clauses 34 and 44-47 of the FMC Operational Guidance). According to authorities, LEAs execute requests pursuant to the timeframes indicated by the foreign counterparts, spreading from 10 days to 3 months, depending on the nature and other circumstances of the request. Also, CBA abides by the bilateral agreement provisions it has concluded with foreign counterparts; the Ministry of Finance and Ministry of Justice are bound by the provisions of respective interagency agreements.

e) The FMC has clear processes for safeguarding information received. According to authorities, any information exchanged by LEAs with foreign counterparts is rated as confidential and it is secured according to the concluded bilateral and multilateral agreements, the provisions of the Secrecy Law and LEA's internal procedures for dealing with such information. As for the CBA, information received from foreign supervision authorities is covered by the provisions of the Banking Secrecy Law; the Ministry of Finance and the Ministry of Justice have clear processes to ensure confidentiality of information received from foreign counterparts.

428. *Criterion 40.3* (Met) – There are no legal texts that would limit the authority for international cooperation of the competent authorities to bilateral or multilateral agreements only. The wording of the general rule provided by the AML/CFT Law makes reference to international treaties or international practice, which excludes such an interpretation.

429. *Criterion 40.4.* (Met) – Based on the legislation provided, there are no legal limitations that would prevent competent authorities to provide feedback on the use and usefulness of information obtained through cooperation. Being a member of Egmont Group, the FMC provides such feedback in accordance with Clause 19 of the Egmont Principles for Information Exchange. As regards LEAs and the supervisory bodies (CBA, MoF, MoJ), according to the authorities, provision of feedback is mainly regulated by the bilateral and multilateral agreements signed with foreign counterparts.

430. *Criterion 40.5* (Met) – As regards technical compliance with this criterion:

a) Armenian legislation does not exclude or prohibit the submission of information in the case of tax matters. In fact, tax offences are considered predicate crimes for ML.

b) Both FMC and CBA are authorised to exchange information which is subject to secrecy (Article 14(2) of the AML/CFT Law, Article 39[1](1) of the Law on CBA). The Ministry of Finance and the Ministry of Justice are empowered to exchange confidential information in accordance to the interagency treaties. Also, LEAs do not seem to be limited in exchanging such information with counterparts.

c) Legislation provided does not exclude or prohibit the submission of information by competent authorities when there is an inquiry, investigation or proceeding underway, and

d) Legislation provides for cooperation with international structures and relevant bodies of foreign countries, making no distinction on the nature or status of such counterparts.

431. *Criterion 40.6* (Met) – According to Article 14 of the AML/CFT Law, FMC is not authorised to disclose the received information to a third party, as well as to use or share it for criminal, prosecutorial, administrative and juridical purposes without the prior consent of the foreign authority which has provided the information. As regards LEAs, the CBA, the Ministry of Finance and the Ministry of Justice, according to the authorities, multilateral and bilateral agreements in force prohibit the use or disclosure by parties of received information, to any third party, without the prior consent of the provider.

432. *Criterion 40.7* (Met) – According to Article 14 of the AML/CFT Law, FMC is not authorised to disclose the received information to a third party, as well as to use or share it for criminal, prosecutorial, administrative and juridical purposes without the prior consent of the foreign authority which has provided the information. Moreover, staff of the FMC is under an obligation to maintain confidentiality of classified information both in the course of performing their duties and after termination thereof. According to authorities, any information exchanged by LEAs with foreign counterparts is rated as confidential and it is secured according to the bilateral and multilateral agreements concluded, to the provisions of the Secrecy Law and LEA's internal procedures for dealing with such information. Also, confidentiality and non-disclosure of information received from foreign supervisory bodies is guaranteed by the Bank Secrecy Law and provisions of the international agreements concluded by the CBA. All CBA staff members sign an agreement on confidentiality of information. In case of the Ministry of Finance and the Ministry of Justice, privacy and data protection regime of information received from the foreign counterparts is regulated by interagency agreements. In addition, non-disclosure of the received information to third parties is

ensured by the internal procedures regulating information secrecy regime. Obligation of the civil servants to ensure confidentiality of information, including after termination of their duties, is stipulated by the Law on Civil Service (Article 23(1)).

433. *Criterion 40.8* (Met) – There is no provision under the AML/CFT Law that would prevent FMC from conducting inquiries on behalf of foreign counterparts. Also, Article 14 of the AML/CFT Law makes no distinction on the information FMC may exchange – obtained or obtainable. As regards LEAs, they have the ability to conduct inquiries on behalf of foreign counterparts (Article 10(2) of the LOIA). The LCBA provides that the CBA can cooperate with foreign authorities with supervisory powers disclosing all information that is necessary for them to conduct their supervision, including confidential information. There are no provisions limiting the CBA from requesting such information for the foreign counterparts on their behalf (Article 39^1 (1) of the LCBA). Information exchange matters, including obtaining information for and on behalf of foreign counterparts are regulated by interagency treaties of the Ministry of Finance and the Ministry of Justice.

434. *Criterion 40.9* (Met) – Article 14 of the AML/CFT Law provides for the FMC an adequate legal basis for cooperation on money laundering, associate predicate offences and terrorist financing. The wording "*relevant bodies* and *foreign financial intelligence bodies"* makes no distinction on the legal nature or status of such organisations consequently allowing cooperation. Also, although the text states that cooperation is done with bodies involved in combating ML/FT, the framework for such cooperation – international treaties or international practice – allows for cooperation on associate predicate offences too.

435. *Criterion 40.10* (Met) – There is no legal provision that would prevent the FMC to provide feedback to its foreign counterparts, upon request and whenever possible, on the use of the information provided, as well as on the outcome of the analysis conducted, based on the information provided. Also, being a member of Egmont Group, the FMC provides such feedback in accordance with Clause 19 of the Egmont Principles for Information Exchange.

436. *Criterion 40.11* (Met) – The wording of Article 14 of the AML/CFT Law places no limitations on the categories of information that could be exchanged by the FMC with foreign counterparts. Membership of the FMC in the Egmont Group enables the exchange of relevant information in accordance to provisions of Clause 22 of the Egmont Principles for Information Exchange. Thus there is no legal impediment that would prevent the FMC from exchanging the categories of information mentioned by Criterion 40.11.

437. *Criterion 40.12* (Met) – CBA has the legal basis for providing co-operation to foreign counterparts and may exchange supervisory information relevant for AML/CFT purposes (Articles 8(1) & 39^1(1) of the Law on CBA).

438. *Criterion 40.13* (Met) – The legislation does not limit the authority of CBA to exchange with foreign counterparts information domestically available to them, including information held by financial institutions, in a manner proportionate to their respective needs.

439. *Criterion 40.14* (Met) – Article 39^1(1) of the Law on CBA empowers CBA to transfer all lawfully possessed information to other relevant foreign bodies for the purpose of prevention of law violations or prosecutions. The provision is wide enough to cover the categories of information (regulatory, prudential and AML/CFT) provided by Essential Criterion 40.14.

440. *Criterion 40.15* (Met) – The LCBA provides general regulation of international cooperation between the CBA and foreign counterparts, whereas details on the specific ways of cooperation are provided by international or bilateral agreements signed by the CBA. For example, in line with the MoUs signed by the CBA, these regulate *inter alia* cooperation with foreign counterparts on matters related to establishment, licensing and on-going supervision of financial organizations founded in Armenia or in the relevant foreign country. This includes the exchange of information based on requests made in writing or, in case of urgency, any other mutually agreed form. Hence, there are no

limitations for the CBA to proceed with request and conduct any supervisory activity including conducting inquiries on behalf of foreign counterparts whenever requested.

441. Moreover, based on international or bilateral agreements, foreign supervisory bodies are allowed to conduct on-site inspections in Armenia resident branches and other establishments of the financial groups headquartered abroad (Articles 8(1) & 39^1(1) of the Law on CBA). There are no limitations in the legislation for the foreign financial supervisory bodies to conduct inquires themselves in order to facilitate effective supervision of financial groups.

442. *Criterion 40.16* (Met) - According to Article 28 of the LCBA, supervisory information constitutes classified information (official secrecy). There are relevant restrictions for the dissemination, publication and use of such information provided in the LCBA. Particularly, Article 39^1(1) states that the CBA is empowered to disseminate supervisory information constituting banking or other secrecy to its foreign counterparts. As set forth above, detailed regulation of international cooperation is provided under the multilateral or bilateral agreements signed by the CBA. For example, in line with the MoUs signed by the CBA, when exchanging information, it shall ensure confidentiality of received information, use exclusively for lawful supervisory purposes, and refrain from disclosing the received information without a prior consent of the foreign counterpart. In case the CBA is legally compelled to produce information, it shall endeavour to ensure confidentiality of received information and promptly consult with foreign counterpart.

443. *Criterion 40.17* (Met) – Domestically available information (including banking secrecy) may be collected by LEAs either through operational intelligence measures based on LOIA (Article 14 (1) and 15), or through investigatory measures conducted under the Criminal Procedure Code. The first category may be disseminated (exchanged) with foreign counterparts based on the provisions of Article 10 (2) of the LOIA. For the second, although no provision in this respect is available under the CPC, the authority to exchange it with foreign LEAs should be based on the general cooperation rule provided by the AML/CFT Law (Article 14(1)).

444. *Criterion 40.18* (Met) – Article 10 (2) of the LOIA reads that operational intelligence measures may be carried out by LEAs, in the manner prescribed by the Law, upon inquiries from law enforcement authorities and special services of foreign countries and international law enforcement organizations, in accordance with international treaties of the Republic of Armenia. The Republic of Armenia as a member of Interpol (starting from 1992) extensively cooperates with foreign counterparts based on multilateral agreements in the context of Interpol.

445. *Criterion 40.19* (Met) – There is no provision that would restrict the authority of LEAs to form joint investigative teams or to conduct cooperative investigations. Also, authorities indicated that multilateral and bilateral agreements concluded by LEAs provide for the authority to conclude bilateral or multilateral arrangements to enable such joint investigations.

446. *Criterion 40.20* (Met) – The general cooperation rule provided by Article 14 of the AML/CFT Law allows for cooperation with international structures and relevant bodies of foreign countries (including foreign financial intelligence bodies) involved in AML/CFT within the framework of international treaties or, in the absence of such treaties, in accordance with international practice. This rule does not restrict indirect exchange of information by LEAs or FMC.

Weighting and Conclusion

447. **Armenia is Compliant with Recommendation 40**.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
1. Assessing risks & applying a risk-based approach	PC	• Armenia did not properly identify and assess its ML risks, since insufficient consideration was given to certain threats and vulnerabilities. • Law enforcement and DNFBP supervisory authorities (other than the MoF) have not allocated resources on a risk-sensitive basis to prevent or mitigate the relevant ML risks identified in the NRA. • DNFBP supervisors are not in a position to ensure that DNFBPs implement their obligations under Recommendation 1.
2. National cooperation and coordination	LC	• Co-ordination between the AML/CFT Interagency Committee and the Counter-Proliferation Interagency Commission to combat PF should be enhanced.
3. Money laundering offence	LC	• Criminal liability does not apply to legal persons.
4. Confiscation and provisional measures	LC	• There are unduly cumbersome requirements for the deployment of some investigative techniques to facilitate identification and tracing of property subject to confiscation. • Attached property is not subject to systematic management.
5. Terrorist financing offence	LC	• Not all acts which constitute an offence within the scope of and as defined in one of the treaties listed in the annex to the FT Convention are covered by the FT offence. • Criminal liability does not apply to legal persons.
6. Targeted financial sanctions related to terrorism & FT	LC	• There is no provision which prohibits Armenian nationals or persons or entities within Armenia (other than reporting entities) from making any funds or other assets available to designated persons.
7. Targeted financial sanctions related to proliferation	PC	• The legal basis for implementation of targeted financial sanctions related to proliferation could be open to legal challenge.
8. Non-profit organisations	LC	• No domestic formal review was conducted on the activities, size and other relevant features to identify the features and types of NPOs that are particularly at risk of being misused for FT or other forms of terrorist support by virtue of their activities or characteristics.
9. Financial institution secrecy laws	C	
10. Customer due diligence	LC	• There are no CDD requirements for beneficiaries of life insurance and other investment related insurance policies. • Reporting entities are not permitted to refrain from pursuing the CDD process and file an STR instead in cases where a suspicion of ML/FT is formed and it is reasonable believed that the performance of CDD will tip-off the customer.
11. Record keeping	C	
12. Politically exposed persons	PC	• There are no requirements relating to domestic PEPs or persons who are or have been entrusted with a prominent public function by an international organisation. • There are no requirements relating to family members or close associates of domestic PEPs or persons who are or have been entrusted with a prominent public function by an international organisation. • There are no requirements in relation to the beneficiaries and/or

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		the beneficial owners of beneficiaries of life insurance policies who are PEPs.
13. Correspondent banking	C	
14. Money or value transfer services	C	
15. New technologies	C	
16. Wire transfers	C	
17. Reliance on third parties	C	
18. Internal controls and foreign branches and subsidiaries	C	
19. Higher-risk countries	C	
20. Reporting of suspicious transaction	C	
21. Tipping-off and confidentiality	C	
22. DNFBPs: Customer due diligence	LC	• There are no requirements relating to domestic PEPs or persons who are or have been entrusted with a prominent public function by an international organisation. • There are no requirements relating to family members or close associates of domestic PEPs or persons who are or have been entrusted with a prominent public function by an international organisation. • There are no requirements in relation to the beneficiaries and/or the beneficial owners of beneficiaries of life insurance policies who are PEPs.
23. DNFBPs: Other measures	C	
24. Transparency and beneficial ownership of legal persons	LC	• Risks associated with all types of legal entities have not been fully assessed. (24.2) • There are no explicit provisions within the Company Registration Law to ensure that basic information maintained by the State Register is accurate and updated on a timely basis. (24.5) • No sanctions are available for the failure to provide the State Register with registration or beneficial ownership information. (24.13).
25. Transparency and beneficial ownership of legal arrangements	LC	• Law enforcement authorities have restricted powers to obtain information held by financial institutions and DNFBPs on the beneficial ownership and control of the trust (25.5)
26. Regulation and supervision of financial institutions	LC	• There are no requirements to prevent criminals from being the beneficial owners of a significant or controlling interest, or holding a management function, in an insurance intermediary or PSO. The Currency Control Law does not provide for fit and proper requirements with respect to persons who own, control or manage currency exchange services. (26.3) • There is no legal basis for consolidated group AML/CFT supervision of Core Principles FIs situated outside Armenia. (26.4(a)) • The intensity of on-site and off-site supervision is not determined on the basis of considerations of risk. (26.5)

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		• No AML/CFT information is gathered through off-site supervision. (26.6)
27. Powers of supervisors	C	
28. Regulation and supervision of DNFBPs	PC	• The monitoring of compliance by lawyers, real estate agents and dealers in precious metals and stones is inadequate. (28.3) • Limited powers of the Chamber of Advocates to conduct on-site inspections; limited powers of the MoF to request additional information from casinos under off-site supervision; limited requirements to prevent criminals from being professionally accredited or holding a management function (except for casinos); limited sanctions for AML/CFT breaches. (28.4) • No risk based supervision by the Chamber of Advocates and the FMC. (28.5)
29. Financial intelligence units	C	
30. Responsibilities of law enforcement and investigative authorities	LC	• Law enforcement authorities do not routinely pursue pro-active parallel financial investigations.
31. Powers of law enforcement and investigative authorities	PC	• Legal limitations impact on: a) LEA powers to use compulsory measures for production of records; and b) the range of investigative techniques available for investigation.
32. Cash couriers	C	
33. Statistics	C	
34. Guidance and feedback	C	
35. Sanctions	LC	• There is no legal basis to sanction directors and senior management of DNFBPs other than casinos.
36. International instruments	LC	• Armenia has not acceded to 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft and 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation.
37. Mutual legal assistance	LC	• No legislative provision to address the issue of prioritisation of requests; no case management system within the GPO. • In its reservation of 23 March 2004 to Article 2 of the Protocol Armenia has indicated that "it will not make the execution of letters rogatory for search and seizure" on the ground that the offence is also considered to involve fiscal matters. • On 25 January 2002 Armenia made a reservation to Article 2 of the 1959 European Convention on Mutual Assistance in Criminal Matters to permit it to refuse assistance on the grounds of absence of dual criminality even of non-coercive types. A reservation of the same date to Article 5 triggered a dual criminality requirement in respect of letters rogatory for a search and seizure.
38. Mutual legal assistance: freezing and confiscation	LC	• Forfeiture is conviction-based, and civil forfeiture orders cannot be recognised in any circumstances. • No formal arrangements are in place to coordinate seizure and confiscation actions with other countries.
39. Extradition	LC	• There are no simplified procedures for extradition.
40. Other forms of international cooperation	C	

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Anti-money laundering and counter-terrorist financing measures

Armenia

Fifth Round Mutual Evaluation Report

This report provides a summary of the AML/CFT measures in place in Armenia as at the date of the on-site visit (25 May to 6 June 2015). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Armenia's AML/CFT system, and provides recommendations on how the system could be strengthened.