





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

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# Mutual Evaluation Report

## Anti-Money Laundering and Combating the Financing of Terrorism

# ARMENIA

22 September 2009

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Table of Contents

Acronyms ..... 7

Preface ..... 8

Executive Summary ..... 9

1. GENERAL ..... 14
   1.1. General Information on Armenia ..... 14
   1.2. General Situation of Money Laundering and Financing of Terrorism ..... 15
   1.3. Overview of the Financial Sector ..... 18
   1.4. Overview of the DNFBP Sector ..... 20
   1.5. Overview of Commercial Laws and Mechanisms Governing Legal Persons and Arrangements ..... 25
   1.6. Overview of Strategy to Prevent Money Laundering and Terrorist Financing ..... 28

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES ..... 38
   2.1. Criminalization of Money Laundering (R.1 & 2) ..... 38
      2.1.1. Description and Analysis ..... 38
      2.1.2. Recommendations and Comments ..... 46
      2.1.3. Compliance with Recommendations 1 & 2 ..... 46
   2.2. Criminalization of Terrorist Financing (SR.II) ..... 46
      2.2.1. Description and Analysis ..... 46
      2.2.2. Recommendations and Comments ..... 50
      2.2.3. Compliance with Special Recommendation II ..... 50
   2.3. Confiscation, Freezing and Seizing of Proceeds of Crime (R.3) ..... 51
      2.3.1. Description and Analysis ..... 51
      2.3.2. Recommendations and Comments ..... 57
      2.3.3. Compliance with Recommendation 3 ..... 57
   2.4. Freezing of Funds Used for Terrorist Financing (SR.III) ..... 58
      2.4.1. Description and Analysis ..... 58
      2.4.2. Recommendations and Comments ..... 62
      2.4.3. Compliance with Special Recommendation III ..... 63
   2.5. The Financial Intelligence Unit and its Functions (R.26) ..... 63
      2.5.1. Description and Analysis ..... 63
      2.5.2. Recommendations and Comments ..... 79
      2.5.3. Compliance with Recommendation 26 ..... 80
   2.6. Law Enforcement, Prosecution and other Competent Authorities—the Framework for the Investigation and Prosecution of Offenses, and for Confiscation and Freezing (R.27 & 28) ..... 80
      2.6.1. Description and Analysis ..... 80
      2.6.2. Recommendations and Comments ..... 90
      2.6.3. Compliance with Recommendations 27 & 28 ..... 91
   2.7. Cross Border Declaration or Disclosure (SR.IX) ..... 91
      2.7.1. Description and Analysis ..... 91
      2.7.2. Recommendations and Comments ..... 97
      2.7.3. Compliance with Special Recommendation IX ..... 98

3. PREVENTIVE MEASURES —FINANCIAL INSTITUTIONS ..... 99
   3.1. Risk of Money Laundering or Terrorist Financing ..... 99

3.2. Customer Due Diligence, Including Enhanced or Reduced Measures (R.5 to 8) .....99
3.2.1. Description and Analysis .....99
3.2.2. Recommendations and Comments .....116
3.2.3. Compliance with Recommendations 5 to 8 .....117
3.3. Third Parties And Introduced Business (R.9) .....118
3.3.1. Description and Analysis .....118
3.3.2. Recommendations and Comments .....119
3.3.3. Compliance with Recommendation 9 .....119
3.4. Financial Institution Secrecy or Confidentiality (R.4) .....120
3.4.1. Description and Analysis .....120
3.4.2. Recommendations and Comments: .....125
3.4.3. Compliance with Recommendation 4 .....126
3.5. Record Keeping and Wire Transfer Rules (R.10 & SR.VII) .....126
3.5.1. Description and Analysis .....126
3.5.2. Recommendations and Comments .....130
3.5.3. Compliance with Recommendation 10 and Special Recommendation VII 130
3.6. Monitoring of Transactions and Relationships (R.11 & 21) .....130
3.6.1. Description and Analysis .....130
3.6.2. Recommendations: .....133
3.6.3. Compliance with Recommendations 11 & 21 .....133
3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 & SR.IV) ...134
3.7.1. Description and Analysis .....134
3.7.2. Recommendations and Comments .....141
3.7.3. Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV .....142
3.8. Internal Controls, Compliance, Audit and Foreign Branches (R.15 & 22) .....142
3.8.1. Description and Analysis .....142
3.8.2. Recommendations and Comments .....147
3.8.3. Compliance with Recommendations 15 & 22 .....147
3.9. Shell Banks (R.18) .....148
3.9.1. Description and Analysis .....148
3.9.2. Recommendations and Comments .....148
3.9.3. Compliance with Recommendation 18 .....148
3.10. The Supervisory and Oversight System—Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17 & 25) .....148
3.10.1. Description and Analysis .....148
3.10.2. Recommendations and Comments .....170
3.10.3. Compliance with Recommendations 17, 23, 25 & 29 .....171
3.11. Money or Value Transfer Services (SR.VI) .....171
3.11.1. Description and Analysis (summary) .....171
3.11.2. Recommendations and Comments .....174
3.11.3. Compliance with Special Recommendation VI .....175

4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS .....175
4.1. Customer Due Diligence and Record-keeping (R.12)4.1.1. Description and analysis .....175
4.1.2. Recommendations and Comments .....183
4.1.3. Compliance with Recommendation 12 .....185
4.2. Suspicious Transaction Reporting (R.16) .....186
4.2.1. Description and Analysis .....186

4.2.2. Recommendations and Comments ..... 192
4.2.3. Compliance with Recommendation 16 ..... 192
4.3. Regulation, Supervision, and Monitoring (R.24-25) ..... 193
4.3.1. Description and Analysis ..... 193
4.3.2. Recommendations and Comments ..... 198
4.3.3. Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP) ..... 198
4.4. Other Non-Financial Businesses and Professions—Modern-Secure Transaction Techniques (R.20) ..... 199
4.4.1. Description and Analysis ..... 199
4.4.2. Recommendations and Comments ..... 201
4.4.3. Compliance with Recommendation 20 ..... 201

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS ..... 202
5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33) ..... 202
5.1.1. Description and Analysis ..... 202
5.1.2. Recommendations and Comments ..... 205
5.1.3. Compliance with Recommendations 33 ..... 205
5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34) ..... 205
5.2.1. Description and Analysis ..... 205
5.2.2. Recommendations and Comments ..... 206
5.2.3. Compliance with Recommendations 34 ..... 206
5.3. Non-Profit Organisations (SR.VIII) ..... 206
5.3.1. Description and Analysis ..... 206
5.3.2. Recommendations and Comments ..... 212
5.3.3. Compliance with Special Recommendation VIII ..... 212

6. NATIONAL AND INTERNATIONAL CO-OPERATION ..... 213
6.1. National Co-Operation and Coordination (R.31) ..... 213
6.1.1. Description and Analysis ..... 213
6.1.2. Recommendations and Comments ..... 215
6.1.3. Compliance with Recommendation 31 ..... 216
6.2. The Conventions and UN Special Resolutions (R.35 & SR.I) ..... 216
6.2.1. Description and Analysis ..... 216
6.2.2. Recommendations and Comments ..... 218
6.2.3. Compliance with Recommendation 35 and Special Recommendation I ..... 219
6.3. Mutual Legal Assistance (R.36-38, SR.V) ..... 220
6.3.1. Description and Analysis ..... 220
6.3.2. Recommendations and Comments ..... 226
6.3.3. Compliance with Recommendations 36 - 38 & Special Recommendation V ..... 226
6.4. Extradition (R.37, 39, SR.V) ..... 228
6.4.1. Description and Analysis ..... 228
6.4.2. Recommendations and Comments ..... 230
6.4.3. Compliance with Recommendations 37 & 39, and Special Recommendation V ..... 230
6.5. Other Forms of International Co-Operation (R.40 & SR.V) ..... 231
6.5.1. Description and Analysis ..... 231
6.5.2. Recommendations and Comments ..... 236
6.5.3. Compliance with Recommendation 40 and Special Recommendation V ..... 236

7. OTHER ISSUES ..... 237
7.1. Resources and Statistics ..... 237
7.1.1 Descriptions and Analysis ..... 237
7.1.2. Recommendations and Comments ..... 239
7.1.3. Compliance with Recommendations 30 and 32 ..... 239

Tables
Table 1. Ratings of Compliance with FATF Recommendations ..... 240
Table 2. Recommended Action Plan to Improve the AML/CFT System ..... 252

Annexes
Annex 1. Authorities' Response to the Assessment ..... 265
Annex 2. Details of All Bodies Met During the On-Site Visit ..... 266
Annex 3. List of All Laws, Regulations, and Other Material Received ..... 268
Annex 4. Copies of Key Laws, Regulations, and Other Measures ..... 274

## ACRONYMS

| | |
|---|---|
| AML/CFT | Anti-Money Laundering and Combating the Financing of Terrorism |
| APC | Administrative Procedure Code |
| BL | Banking Law |
| BCP | Basel Core Principles |
| CC | Criminal Code |
| CBA | Central Bank of Armenia |
| CDD | Customer Due Diligence |
| CPC | Criminal Procedure Code |
| CSP | Company Service Provider |
| DNFBP | Designated Non-Financial Businesses and Professions |
| FATF | Financial Action Task Force |
| FI | Financial Institution |
| FIU | Financial Intelligence Unit |
| FMC | Financial Monitoring Center |
| FSAP | Financial Sector Assessment Program |
| FSRB | FATF-style Regional Body |
| IAIS | International Association of Insurance Supervisors |
| KYC | Know your Customer/client |
| LBS | Law on Banking Secrecy |
| LEAs | Law Enforcement Agencies |
| LEG | Legal Department of the IMF |
| LOSA | Law on Operational and Search Activities |
| MoF | Ministry of Finance |
| MoFA | Ministry of Foreign Affairs |
| MFD | Monetary and Financial Systems Department of the IMF |
| MoJ | Ministry of Justice |
| MoU | Memorandum of Understanding |
| ML | Money Laundering |
| MLA | Mutual Legal Assistance |
| NSS | National Security Service |
| NPO | Nonprofit Organization |
| NGO | Non Governmental Organizations |
| PEP | Politically-Exposed Person |
| PSO | Payment and Settlement Organizations |
| PSS | Payment and Settlement Systems |
| RA | Republic of Armenia |
| ROSC | Report on Observance of Standards and Codes |
| SRC | State Revenue Committee |
| SRO | Self-Regulatory Organization |
| STR | Suspicious Transaction Report |
| TF | Terrorism Financing |
| TTR | Transaction Threshold Report |
| UN | United Nations Organization |
| UNSCR | United Nations Security Council Resolution |

## PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Armenia is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004. The assessment team considered all the materials supplied by the authorities, the information obtained on site during their mission from February 23 to March 10, 2009, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the detailed assessment report.

The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF) and two experts acting under the supervision of the IMF. The evaluation team consisted of: Giuseppe Lombardo (LEG, team leader); Francisco Figueroa (LEG); and Gabriele Dunker and Lisa Kelaart-Courtney (both LEG consultants). The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in Armenia at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out Armenia's levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

The assessors would like to express their gratitude to the Armenian authorities for their support and cooperation and for the high standard of organization throughout the assessment mission.

## EXECUTIVE SUMMARY

### Key Findings

1. Armenia has made considerable improvements in its AML/CFT framework in a relatively short timeframe, particularly by replacing a first AML/CFT law, enacted in 2005, with a more comprehensive law, which was passed in 2008. The new law needs to be implemented effectively, especially by DNFBPs. The authorities have not yet conducted a systemic assessment of ML and TF threats and risks in Armenia to support the development and implementation of a robust AML/CFT regime.

2. Armenia's financial system remains small and bank-dominated. Total assets of the banking sector accounted for approximately 91 percent of the assets in the financial system. Most banks are domestically owned but there is a major foreign presence in the system. The non bank financial sector plays a small role in financial intermediation.

3. The risk that the financial system can be used in the "layering" stage of ML or to launder proceeds is not high (although certain financial instruments, such as bearer securities pose a risk of being used for ML). Armenia appears to be more vulnerable to the "integration" stage of ML, because of the highly cash-based economy, the significant volume of remittances from abroad, the relevant level of proceed-generating crime and the lack of adequate AML/CFT mechanisms in certain sector, such as real estate.

4. Although Armenia has established a mechanism to boost coordination among the various authorities responsible for AML/CFT, in the form of an Interagency commission, and political commitment in fighting against ML and TF is strong, more focus should be placed on an overall assessment of the risk of ML Armenia is exposed to because of the above mentioned vulnerabilities.

5. The risk of TF is extremely low.

6. The Financial Intelligence Unit – the Financial Monitoring Center (FMC), established within the Central Bank of Armenia – is a young though very knowledgeable and active FIU. However it is understaffed to properly undertake the new responsibilities assigned to it by the new AML/CFT law.

7. The money laundering offence is criminalized broadly in line with the international standard. A range of technical deficiencies have been identified with respect to the terrorism offense. The seizure and confiscation framework needs to be further strengthened, in particular with respect to the predicate offenses. Armenia should revisit its response to UNSCRs 1267 and 1373 as the current mechanism is inadequate.

8. The Vienna, Palermo and SFT Conventions have been ratified by Armenia and many, albeit not all, provisions of the Conventions have already been implemented.

9. The Armenian AML/CFT preventive measures for financial institutions operating in the financial system are comprehensive, provide for risk-based elements, and relatively close to the FATF Recommendations. However, implementation across all sectors is evolving, particularly for the non-banking sectors. In general, the supervisory authorities are conducting AML/CFT on-site inspections which are largely focused on regulatory compliance.

**Legal Systems and Related Institutional Measures**

10. Armenia's criminal provisions for money laundering are basically sound and address many criteria under the FATF standard. Although there are some convictions, it has not yet been ascertained through a court judgment that money laundering can be prosecuted as an autonomous stand alone offense and in the absence of a conviction for the predicate offense. Legal persons are not subject to criminal liability under Armenian law. The number of ML criminal investigations, prosecutions and convictions is low if compared to the number of criminal investigations, prosecutions and convictions for the main proceeds-generating predicate offenses. The standard of proof applied by the courts to establish that assets originate from crime remains a challenge.

11. The criminal provisions relating to terrorism financing are broadly in line with the TF Convention. However, the provisions should be amended to be applicable to all nine Conventions and Protocols Annexed to the TF Convention and to cover the notion of "funds" as defined in the Convention. Moreover, the TF criminal provision is not in line with FATF Special Recommendation II, because it does not extend to situations in which property or funds are provided to individual terrorists or terrorist organizations without the intention or knowledge that the funds will be used in the commission a specific act of terrorism.

12. The provisions relating to the confiscation of property involved in the commission of money laundering, terrorism financing and predicate offenses meet several albeit not all criteria of the international standard. Most notably, confiscation is not available for all FATF designated predicate offenses. Armenian financial secrecy is regulated by a number of different provisions, which have not been harmonized and in practice are interpreted in the most restrictive way. This creates some uncertainties in the application of the legal framework and limits the power of law enforcement agencies to identify and trace property that is or may become subject to confiscation, especially prior to the identification of a suspect or where the information sought relates to a person other than the suspect. The confiscation and seizing provisions do not seem to be implemented effectively.

13. The freezing mechanism applied by Armenia to address its obligations under UNSCR 1267 and 1373 is deficient; the AML/CFT law provides for the freezing of terrorist-related assets only for a limited period of time, after which domestic proceedings for a specific offense must be instigated, including in the case of designations pursuant to UNSCR 1267.

**Preventive Measures—Financial Institutions**

14. The AML/CFT Law establishes the principal preventive obligations for financial institutions broadly in line with the FATF Recommendations. The AML/CFT legal provisions are implemented through detailed requirements contained in the regulation issued by the Central Bank of Armenia (CBA), the sole regulatory authority of financial institutions. Other sector specific sector laws complement the AML/CFT obligations. Both laws and the implementing regulations are enforceable and sanctionable in accordance with the provisions established in the applicable AML/CFT Law and financial sector laws. The CBA, through the FMC, issues guidance to financial institutions to improve the implementation of the preventive measures.

15. The AML/CFT law and regulations cover all financial institutions and activities as set out under the FATF definition of financial institution, and impose detailed AML/CFT requirements on the financial sector for; inter alia, CDD including for PEPs, record-keeping, correspondent banking, unusual, large and suspicious transaction reporting, internal controls, compliance management arrangements, and training.

However, there are a number of areas where the requirements do not comply with the FATF Recommendations. These include the lack of: prohibition for opening a business relationship through or using bearer bank records or other bearer securities; effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification; and CDD measures to existing customers on the basis of materiality and risk. In addition, there are no requirements with respect to third parties and introduced business. Finally, measures dealing with compliance management arrangements and internal programs and control are deficient.

16. Implementation of the preventive/regulatory requirements by financial institutions varies, for example, slightly more advanced in the banking sector, but less so in other important and risky sectors (i.e., securities, insurance, foreign exchange offices, and money remitters). The AML/CFT Law and regulations provide for risk-based elements for purposes of CDD. Going forward, these risk-based provisions could be better supported with sector-specific guidelines, and refinements to the simplified CDD regime allowed for in the regulations. CDD requirements for introduced business and third parties should also be revised to provide for more comprehensive measures. There is a clear obligation to report suspicions of ML and FT; however, the level of suspicious transaction reports is very low and restricted mainly to the banking sector.

17. The CBA, through the Financial Supervision Department (FSD) is the sole supervisory authority responsible for AML/CFT compliance supervision and for the enforcement of the preventive requirements of the AML/CFT Law and regulation. The CBA has broad powers to obtain access to and inspect financial institutions under its jurisdiction and to sanction for noncompliance. In practice, the CBA has applied administrative sanctions, including fines for noncompliance with the AML/CFT Law and implementing regulations. The FSD has implemented a fairly comprehensive system for supervision; however, it could enhance this system by updating supervisory tools like the examination manual and related examination procedures to incorporate risk-based elements and the requirements of the 2008 AML/CFT Law.

18. This supervisory process could benefit from the introduction of more risk-based processes and updated examination manuals/procedures in line with the 2008 AML/CFT Law and implementing regulation. The Armenian authorities acknowledge the need to update their supervisory manuals and examination procedures in line with their risk-based approach to supervision and the 2008 AML/CFT Law (e.g. for the credit organizations, securities, insurance, foreign exchange offices, and money services sectors).

**Preventive Measures—Designated Non-Financial Businesses and Professions**

19. All DNFBPs as described in the FATF definition are encompassed within the AML/CFT Law as reporting entities. The preventive measures for DNFBPs set forth in the AML/CFT law are similar to those for financial institutions; however the additional regulations, rules or guidance in place for financial institutions to complement the requirements of the AML/CFT law are not applicable to DNFBPs. Consequently, the DNFBPs legal regime of preventive measures is substantially deficient. No obligations for the treatment of politically exposed persons (PEPs) or any other high risk customer or business transaction is in place and there are no legal or regulatory measures to prevent 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.

20. Implementation of preventive measures by DNFBPs is inadequate across the sector and no DNFBP has ever yet filed a suspicious transaction report. A number of DNFBPs including independent

lawyers and firms providing legal services, dealers in precious metals or dealers in precious stones and independent accountants and accounting firms are unlicensed and unsupervised for compliance with AML/CFT obligations. Further, the licensing and monitoring regime in place for the remaining DNFBPs is not focused on AML/CFT or in some instances such as advocates (attorneys) there is a complete absence on a supervisory or monitoring framework. Overall, minimal resources of authorities, and in some instances limited technical expertise, were in place, with a view to improving AML/CFT compliance. The trust and company service providers (TCSP) sector is not established in Armenia, although TCSPs are subject to the AML/CFT law.

21. For the most part, the effectiveness of implementation of the existing requirements and obligations is marginal with DNFBPs on a whole reflecting very little knowledge or understanding of their obligations and very little evidence of practice of their obligations.

**Legal Persons and Arrangements & Non-Profit Organizations**

22. Armenia has measures in place that ensure that information on beneficial ownership of legal entities is obtained and maintained. However, due to the very recent enforcement of those measures, it could not be determined that they are already implemented effectively. Armenian law does not recognize trusts or any other forms of legal arrangements. Armenia is also not a signatory to the Hague Convention on Laws Applicable to Trusts and on their Recognition.

23. Both foreign and domestic NPOs operating within Armenia are required to be registered with the Legal Persons State Register of the Republic of Armenia Ministry of Justice (State Register). NPOs take the form of charities, foundations or other social organizations, and over 5500 NPOs were registered with the State Registry at the time of the assessment. Although no vulnerabilities to abuse for TF purposes were identified by authorities when a review of the applicable laws was undertaken, it is recommended that the authorities undertake outreach to, and a review, of the sector.

**National and International Co-operation**

24. Significant improvements in the national cooperation framework and practices have taken place over the past few years with the establishment of a national body with a wide mandate in relation to financial crime. Known as the *"Interagency Standing Commission on Fight against Counterfeiting Currency, Plastic Cards, and Other Payment Instruments, against the Money Laundering, as well as Financing terrorism in the Republic of Armenia"* (Interagency Commission), it is the principal forum for cooperation and coordination between domestic authorities. The Interagency Commission's membership represents all relevant authorities although consultation with the financial institutions and other businesses subject to supervision for AML/CFT purposes is passive with only the Association of Banks of Armenia formally represented.

25. The Interagency Commission's mandate includes but is not limited to AML and CFT policy considerations and directives; the oversight and evaluation of the effectiveness of implemented policies and programs on AML/CFT, information sharing on trends and methodologies and educational programs. However, the Interagency Commission has not undertaken an analysis of the risk of ML/TF in Armenia to determine vulnerabilities, sectors at risk, types of predicate offenses committed in Armenia that could generate proceeds. Such assessment should serve as a basis for streamlining its AML/CFT strategy and further develop the work already undertaken.

26. Additionally, formal gateways are in place through bilateral Memorandums of Understanding (MoUs), specific to ML and TF, between the financial intelligence unit, known as the Financial

Monitoring Center, and the National Security Service, the Police, State Revenue Service and the Prosecutor's Office. The MoUs all have the same parameters for co-operation in relation to the exchange of information on suspicious ML/TF transactions; joint discussions on suspicious ML/TF transactions; mutual assistance in drafting the rules, guides and other methodological materials on combating the ML/TF; joint activities on maintaining case statistics and development of typologies; and the implementation of joint training, education and consulting programs on combating the ML/TF.

27. The legal framework for mutual legal assistance (MLA) and extradition is sound and the provision of MLA is not subject to any unreasonable or unduly restrictive conditions. Even though not required by law, in practice Armenia provides any form of MLA only subject to dual criminality. This also entails that the shortcomings noted with respect to the money laundering and terrorism financing provisions may impact Armenia's ability to provide mutual legal assistance, for example if the request involves a legal entity. Equally, the limitations noted in regard to provisional measures (including seizing, freezing and tracing), confiscation and financial secrecy can affect the provision of MLA. Both ML and TF are extraditable offenses under Armenian law. Armenia has not received or made any requests for MLA, including extradition request, relating to ML or FT.

**Other Issues**

28. The lack of comprehensive and meaningful statistics precluded a meaningful assessment of the level of effectiveness of AML/CFT measures across all sectors. There is also a present need for additional human resources, particularly in the area of AML/CFT supervision and within the FMC, and need for specific AML/CFT training for law enforcement authorities, particularly the NSS.

# 1. GENERAL

## 1.1. General Information on Armenia

29. The Republic of Armenia is a landlocked mountainous country in the South Caucasus. It has a territory of 29,800 square kilometers. 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.

30. According to the Constitution[1] 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.

31. Armenia is a member of the United Nations, the Organization for Security and Cooperation in Europe, the World Trade Organization, the Council of Europe, the European Bank for Reconstruction and Development, the World Bank, the International Monetary Fund, and other international organizations.

32. Armenian dram (AMD) is the official currency in Armenia.

33. The population of Armenia is 3,231,900 (2008 estimate). The country is highly urbanized, with 64 percent of all residents living in cities or towns. The population is concentrated in river valleys, especially along the Hrazdan River, where Yerevan, the capital and largest city, is located. Armenia's official state language is Armenian.

34. Armenia has a large diaspora: according to some estimates, about 9 million Armenians live outside of Armenia. There are Armenian communities all around the globe—the largest ones found in the Russian Federation, the USA, France, Iran, and Lebanon.

35. Armenia had a Gross National Product of USD 6.6 billion in 2006 (USD 2,501 per capita) and of USD 9.5 billion in 2007 (USD 2,939 per capita). The economy grew by around 11-13% per annum in 2005, 2006, and 2007.

36. Since the collapse of the Soviet Union in 1991, Armenia has made significant progress in implementing many economic reforms including privatization, price reforms, and prudent fiscal policies. By 1994, the Armenian Government launched an ambitious economic liberalization program that resulted in positive growth rates. Economic growth has averaged over 13% in recent years. The country managed to reduce poverty, slash inflation, stabilize its currency, and privatize most small- and medium-sized enterprises. Under the old Soviet central planning system, Armenia developed a modern industrial sector, supplying machine tools, textiles, and other manufactured goods to other Soviet republics in exchange for raw materials and energy. Armenia has since switched to small-scale agriculture and away from the large agro industrial complexes of the Soviet era.

37. Natural resources in Armenia include copper, molybdenum, zinc, gold, perlite (a lightweight aggregate used in concrete and plaster), and granite. The country lacks deposits of petroleum, natural gas, and coal, and has to import these energy resources.

38. One of the most important sectors in the export industry is the diamond industry. Diamonds are imported from countries (e.g. Russia) and are processed through the Armenian diamond cutting industry and exported afterwards. At present, Armenia annually exports approximately USD 250 million of

[1] Armenia adopted (July 5, 1995) and amended (November 27, 2005) its Constitution by national referendums.

jewellery and gems to the world markets, making it one of the top-ten diamond processing countries globally.

39. Armenia has a large shadow economy unofficially estimated to be at least one third of GDP that does not rely on the formal financial sector. The firms and individuals in this economy rely exclusively on cash for transactions, partly to evade taxes. There are also substantial remittances from abroad, which could be as large as one-quarter of nominal GDP. They provide a source of funds for investment and real estate expenditures that reduces the need for financing from the financial sector.

### 1.2. General Situation of Money Laundering and Financing of Terrorism

40. Although Armenia is not considered a country of significant money laundering concern[2] there is ample evidence of proceeds-generating crimes. Owing to its geographical location in the Caucasus, Armenia has the potential to become a transit point for drugs and other trafficking (especially human trafficking). Corruption remains a serious problem throughout Armenia[3]: Armenia ranks 109 (out of 180 countries) in the 2008 corruption perceptions index issued by Transparency International.[4]

41. Moreover, Armenia is a cash-based society which presents a challenge to implementing effective AML/CFT measures. There is also a high level of remittances, as the Armenian economy largely depends on remittances from abroad, which account for about 14% of GDP.[5] About 40% of these remittances come from seasonal labor migrants, the vast majority of which are in Russia. Remittances are also fuelled by a large Armenian diaspora established in Western Europe and the United States.

42. The following offences were found to be the major sources of illegal proceeds in 2005-2008 (during the first 9 months):

1) Tax evasion and other duties – related crimes (Article 205 of the CC);
2) robbery and theft (Articles 176 & 177 of the CC);
3) fraud (Article 178 of the Criminal Code);
4) embezzlement and squandering, extortion (Articles 179 & 182 of the Criminal Code);
5) illegal or false entrepreneurial activity (Articles 188 & 189 of the Criminal Code);
6) abuse of authority, corruption, bribery (Articles 308, 311& 312 of the Criminal Code).

[2] Source: 2008 International Narcotics Control Strategy Report (INCSR) issued by the United States Department of State to Congress.

[3] Source: 2009 International Narcotics Control Strategy Report (INCSR) issued by the United States Department of State to Congress.

[4] Source: Transparency International 2008 Corruption Perceptions Index. http://www.transparency.org/news_room/in_focus/2008/cpi2008

[5] As per 2006-2008 GDP data and data on non-commercial transfers of individuals.

43. The table below shows statistical data on predicate offences to money laundering.

| Offence type | 2005 | | | 2006 | | | 2007 | | | 2008 (first 9 months) | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1[6] | 2[7] | 3[8] | 1 | 2 | 3 | 1 | 2 | 3 | 1 | 2 | 3 |
| Article 175 Racketeering | 106 | 61 | 2 | 94 | 52 | 2 | 76 | 38 | 3 | 111 | 48 | - |
| Article 176 Robbery | 161 | 109 | | 171 | 102 | - | 123 | 68 | 2 | 157 | 69 | - |
| Article 177 Theft | 2463 | 1962 | 11 | 3090 | 1853 | 15 | 2712 | 1465 | 13 | 2204 | 1011 | - |
| Article 178 Fraud | 466 | 346 | 5 | 416 | 321 | 10 | 432 | 335 | 8 | 257 | 167 | - |
| Article 179 Embezzlement or squandering | 123 | 88 | - | 78 | 52 | - | 69 | 43 | - | 63 | 30 | - |
| Article 182 Extortion | 15 | 15 | - | 12 | 10 | 1 | 19 | 14 | - | 35 | 29 | - |
| Article 188 Unlawful entrepreneurial activity | 23 | 17 | - | 48 | 37 | 1 | 16 | 14 | 1 | 37 | 15 | - |
| Article 188.1 Unlicensed dealing in foreign currency | 3 | 3 | - | 17 | 15 | - | 5 | 5 | - | 10 | 4 | - |
| Article 189 False entrepreneurial activity | 23 | 12 | - | 13 | 7 | - | 9 | 4 | - | 18 | - | - |
| Article 200 Commercial bribe | 3 | 2 | - | 1 | - | - | - | - | - | 7 | 2 | - |
| Article 202 Counterfeiting currency or securities | 60 | 9 | - | 52 | 2 | 1 | 57 | 6 | 1 | 59 | 1 | - |
| Article 203 Counterfeiting or realization of false payment documents | 3 | 3 | - | 4 | 2 | - | 2 | 2 | - | - | - | - |
| Article 205 Evasion from taxes, duties, other mandatory | 21 | 11 | - | 50 | 40 | 1 | 59 | 32 | 2 | 104 | 33 | 2 |

[6] Number of registered crimes.
[7] Number of disclosed crimes.
[8] Number of crimes committed by foreigners.

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| payments | | | | | | | | | | | | |
| Article 215 Smuggling | **50** | **31** | **15** | **62** | **45** | **28** | **77** | **53** | **12** | **39** | **15** | **6** |
| Article 216 Acquisition or realization of illegally acquired property | **15** | **15** | **-** | **25** | **23** | **-** | **17** | **17** | **-** | **17** | **16** | **-** |
| Article 235 Procurement, storage, carrying, and transportation of arms, ammunition, explosives or incendiary devices | **264** | **236** | **8** | **211** | **191** | **4** | **204** | **175** | **2** | **189** | **161** | **2** |
| Article 266 Illegal distribution of narcotics, psychotropic substances, equivalents and precursors thereof | **76** | **57** | **3** | **162** | **122** | **10** | **235** | **175** | **3** | **170** | **101** | **-** |
| Article 308 Abuse of official authority | **26** | **21** | **-** | **22** | **15** | **-** | **21** | **14** | **-** | **51** | **17** | **-** |
| Article 311 Taking bribery | **7** | **5** | **-** | **14** | **10** | **-** | **5** | **3** | **-** | **46** | **10** | **-** |
| Article 312 Giving bribery | **1** | **1** | **-** | **3** | **3** | **-** | **2** | **1** | **-** | **3** | **-** | **-** |

44. The number of ML investigations and prosecutions is quite low relative to the number of investigations, prosecutions and convictions for the predicate crimes. This indicates the law enforcement authorities' tendency to focus more on the repression of these crimes, rather than ML.

| **Statistics on instigated ML criminal cases** | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Year** | **Initiated cases** | **Suspended cases** | **Cases with discontinued prosecution** | **Acquittals** | **Seized property** | **Convictions** | **Penalties** |
| 2005 | 5 | 1 | 1 | | | | |
| 2006 | 4 | 2 | | | | 1 | Fine of 400,000 AMD |
| 2007 | 3 | | 3 | 1 | | | |
| 2008 | 6 | | 1 | | 40,000 EUR and 31,650,000 AMD | | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 2009 (as of 15/02) | 4 | | | | | 1 | Confiscation of 4,600,000 AMD |

45. According to the authorities, the analysis of the money laundering or suspected money laundering cases suggests that the most common money laundering schemes are:

- Tax evasion, where natural persons transfer large amounts of funds for business purposes, in an attempt to conceal the actual flows of the respective company and thereby to avoid the fulfillment of tax obligations;
- Structured transactions, where the purpose is to conceal the source of funds and the actual beneficiaries.

46. As for the types of financial institutions, DNFBP or other businesses used in ML activities, authorities indicated that the money laundering schemes are realized mainly through the banking system. However, during the mission the real estate sector and the use of undertakings were also pointed out as a profitable way to launder illegal proceeds.

47. The authorities acknowledged that the risk of TF is low in Armenia: no terrorist financing incidents, attempt or suspicion was registered in the territory of the Republic.

### 1.3. Overview of the Financial Sector

48. The Armenian financial system is comprised of 22 banks (with 380 branch offices), 25 credit organizations (with 48 branch offices), 10 securities/investment firms, 11 insurance & re-insurance companies, 5 insurance brokerage firms, 11 money remitters, 288 foreign exchange offices (including branch offices), and 2 foreign exchange dealers-brokers.

49. The financial system remains small and bank dominated. Total assets of the banking sector accounted for about 91 percent of the assets in the financial system. Most banks are domestically owned but there is a major foreign presence in the system. The non-bank financial sector plays a small role in financial intermediation.

50. The legal and regulatory AML/CFT framework is implemented and administered by the Central Bank of Armenia (CBA), which is the sole regulator for financial institutions in Armenia. The CBA also regulates and supervises 71 pawnshops and 1 central depository institution. The CBA is responsible for the licensing of all financial institutions seeking to operate within the financial sector of Armenia and for the supervision of compliance with AML/CFT obligations imposed by law and regulation.

51. The table below reflects the breakdown for each type of financial institution operating in Armenia.

Statistical Table 1. Structure of Financial Sector, December 31, 2008.

| | Number of Institutions | Total Assets ($ million) | Authorized/ Registered and Supervised by: |
|---|---|---|---|
| Banks | 22 | $3,330 | CBA |
| Credit organizations | 25 | $217 | CBA |
| Securities/Investment firms | 10 | $25.2 | CBA |

| | | | |
|---|---|---|---|
| Insurance & Re-insurance companies | 11 | $38.1 | CBA |
| Insurance brokerage firms | 5 | $0.8 | CBA |
| Money remitters | 11 | $13.4 | CBA |
| Foreign exchange offices | 288 | $1.5 | CBA |
| Foreign exchange dealers-brokers | 2 | $0.2 | CBA |
| Central Depository | 1 | $0.55 | CBA |
| Pawnshops | 71 | $15.6 | CBA |

* Data provided by the CBA authorities.

52. The following table sets out the types of financial institutions that can engage in the financial activities that are within the definition of "financial institutions" in the FATF 40+9.

Statistical Table 3. Financial Activity by Type of Financial Institution

| Type of financial activity (See glossary of the 40 Recommendations) | Type of financial institution that performs this activity | AML/CFT regulator & supervisor |
|---|---|---|
| 1. Acceptance of deposits and other repayable funds from the public (including private banking) | 1. Banks | 1. CBA |
| 2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting)) | 1. Banks<br>2. Credit organizations<br>3. Pawnshops | 1. CBA<br>2. CBA<br>3. CBA |
| 3. Financial leasing (other than financial leasing arrangements in relation to consumer products) | 1. Banks<br>2. Credit Organizations | 1. CBA<br>2. CBA |
| 4. The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds) | 1. Banks<br>2. Money remitters | 1. CBA<br>2. CBA |
| 5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money) | 1. Banks | 1. CBA |
| 6. Financial guarantees and commitments | 1. Banks<br>2. Credit Organizations | 1. CBA<br>2. CBA |
| 7. Trading in:<br>(a) money market instruments (cheques, bills, CDs, derivatives etc.);<br>(b) foreign exchange; | 1. Banks<br>2. Securities /Investment firms<br>3. Foreign exchange offices (only (b)) | 1. CBA<br>2. CBA<br>3. CBA<br>4. CBA<br>5. CBA |

| | | |
|---|---|---|
| (c) exchange, interest rate and index instruments;<br>(d) transferable securities;<br>(e) commodity futures trading | 4. Foreign exchange dealers-brokers (only (b))<br>5. Credit Organizations | |
| 8. Participation in securities issues and the provision of financial services related to such issues | 1. Banks<br>2. Securities /Investment firms | 1. CBA<br>2. CBA |
| 9. Individual and collective portfolio management | 1. Banks (only individual portfolio management)<br>2. Securities /Investment firms (only individual portfolio management) | 1. CBA<br>2. CBA |
| 10. Safekeeping and administration of cash or liquid securities on behalf of other persons | 1. Banks<br>2. Securities /Investment firms<br>3. Credit Organizations | 1. CBA<br>2. CBA<br>3. CBA |
| 11. Otherwise investing, administering or managing funds or money on behalf of other persons | 1. Banks<br>2. Credit Organizations | 1. CBA<br>2. CBA |
| 12. Underwriting and placement of insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers)). **Note: There is no life insurance underwriting or placement in Armenia.** | 1. Insurance & Re-insurance companies<br>2. Insurance intermediaries | 1. CBA<br>2. CBA |
| 13. Money and currency changing | 1. Banks<br>2. Foreign exchange offices<br>3. Credit Organizations | 1. CBA<br>2. CBA<br>3. CBA |

Source: Data provided/confirmed by the CBA authorities.

### 1.4. Overview of the DNFBP Sector

53. All DNFBPS listed in the FATF Recommendations Glossary are covered under the Republic of Armenia Law on Combating Money Laundering and Terrorism Financing (AML/CFT Law). The categories of DNFBPs, as defined in the AML/CFT Law are "realtors (real estate agents); notaries; attorneys, as well as independent lawyers and firms providing legal services; independent accountants and accounting firms; independent auditors and auditing firms; dealers in precious metals; dealers in precious stones; persons and casinos organizing prize games and lotteries, including the persons organizing internet prize games; trust and company service providers".

54. The majority of categories of DNFBPs are present in the Republic of Armenia with the exception of the business of providing Trust and Company Services (formation of legal structures, nominee directors, nominee shareholders, professional trusteeships, business addresses, etc). There are no prohibitions to such activities contained in the law, however there has been not demand for the establishment of such activities nor was evidence found of such operations in Armenia.

55. There are terrestrial 131 gambling establishments of which 14 are casinos and 117 operators of prize gaming, generating approximately 6.6% of Armenia's GDP[9]. All of the entities are licensed and supervised by the Ministry of Finance pursuant to the RA Decree 895. Additional to the AML/CFT Law, casinos are subject to the provisions of the Law on Gambling.

56. Real estate agents covering the residential and commercial real estate sectors, of which there are 215[10], are licensed and supervised by the State Committee of the Real Property Cadastre (Cadastre). The assessors were advised by the industry and authorities that less than 10 per cent of real estate transactions are conducted through real estate agents as the majority are private transactions though such private transactions still need to be notarized and subsequently registered with the Cadastre, who performs the registration of property rights pursuant to the Law on Title Registration.

57. There are 30 auditors, of which 26 are audit companies and 4 independent auditors, licensed and supervised by the MoF. In addition to the AML/CFT Law, the auditing profession is subject to the provisions of the Law on Audit Activities.

58. In relation to legal services, any person, regardless of the background, expertise or profile, can act as a representative or provide consultations in the civil and administrative proceedings if there is a power of attorney verified by the notary (Article 40, Civil Procedure Code "CPC" and Article 21 Administrative Procedure Code "APC"). Also, pursuant to the CPC, any person can act as a representative of the persons (e.g. victims, civil plaintiff, etc.) involved in the criminal proceedings, except for the defense of the suspected or the accused, which is the prerogative of advocates. It is not evident that the foresaid services do not exclude acting as a consultant or representative or providing legal services, for example transactions on real estate or the establishment of a business that do not amount to a court representation.

59. The Law on Advocacy applies only to Advocates (attorneys). Advocates are registered with the Chamber of Advocates and abide by the Code of Ethics and the Charter of the Chamber, pursuant to the Law of Advocates however the Law of Advocates does not empower the Chamber to undertake any supervisory activities in relation to AML/CFT. In Armenia the provision of legal services (including representation in court) is not exclusively reserved to advocates; such services can be rendered by any individual, or legal person.

60. Notaries, currently numbering 70, are licensed and supervised by the Ministry of Justice and are further subject to the provisions on the Law of Notarial System. Notaries are members of the Chamber of Notaries, of which the Chamber's Code of Ethics applies to all members.

61. The number of dealers in precious metals and dealers in precious stones is unknown and no system is in place for monitoring and ensuring compliance by either a competent authority or Self-regulatory Organization (SRO). The Republic of Armenia has a gold mining industry, though the size cannot be determined, and a diamond processing industry and annually exports jewelry and gems worth approximately USD 250 million and is one of the world's top ten diamond processing countries.[11]

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[9] Based on the estimated GDP of US$12.07 billion (https:/www.cia.gov/library/publications/the-world-factbook/geos/AM/html) and the annual turnover of the casino and prize game industry of nearly US$8 million as supplied by the RA authorities.

[10] As of April 2009.

[11] *The Jewelry and Gemstone Industry* The Ministry of Economy of the Republic of Armenia. http://www.mineconomy.am/en/37

Armenia is a signatory to the Kimberley Process[12], the purpose of which is the prevention of an illegal turnover of conflict diamonds. Armenia declared to only undertake trade of diamond raw materials with Countries-Members of the Kimberley Process since January 1, 2002, therefore any cargo of rough diamonds should have Kimberley Certification given by the exporting country irrespective of the fact whether it is imported in the country or is exported.

62. Further, the Ministry of Economy has recently announced that a national diamond and jewelry exchange will be established in the capital, Yerevan[13].

63. A number of DNFBPs covered under the AML/CFT Law, being independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals; dealers in precious stones; are currently not licensed or supervised as no licensing provisions are in place by way of laws, rules or regulations.

| DNFBP | Activities as provided under the laws of the Republic of Armenia | Number of licensed entities | Supervisory Body |
|---|---|---|---|
| Notaries | • Authentication of transactions (contracts, wills, letters of authorization, agreements, etc.);<br>• measures to preserve heritable property;<br>• issuing legatee right certificates;<br>• issuing ownership certificates with respect to a common or shared property;<br>• confirmation of document submission terms;<br>• transfer of applications, statements, or other documents of natural person and organizations to third party natural persons and organizations;<br>• acceptance, safe keeping, delivery, and return of monies and securities;<br>• safe keeping of documents;<br>• providing evidence;<br>• authentication of minutes of common board meetings or of sessions of other collegial bodies; | 70 | Ministry of Justice |

[12] The Decision of the Government of the Republic of Armenia from 19.12.2002 N2081-N "On connection of the Government of the Republic of Armenia to Kimberley Process".

[13] *The World Federation of Diamond Bourses supports Armenian initiative to establish diamond Bourse.* DIB Limited, July 6, 2009. http://www.wfdb.com/index.php?option=com_content&task=view&id=178

| | | | |
|---|---|---|---|
| | • legal assistance;<br>• clarification or legal opinion;<br>• preparation of transaction drafts and other legal documents;<br>• other relevant legal and notarial services. | | |
| Attorneys (Advocates) | • Consultancy, i.e. providing legal advice to clients on their rights and responsibilities, and on relevant aspects of the judicial system;<br>• examination and preparation of legal documents;<br>• legal representation, including representation in court;<br>• defense in criminal cases;<br>• legal assistance, unless prohibited by law;<br>• representing state and local self-government bodies in court proceedings of civil and administrative offences. | 855 | The Chamber of Advocates of the Republic of Armenia |
| Other independent legal professionals | • The laws of the RA prescribe no specific activities. | Unknown | Nil |
| Independent auditors and auditing firms | • Independent inspection of the information reflected in the financial statements and providing an audit conclusion thereupon;<br>• introduction, restoration, and maintaining accounting, as well as compiling financial statements;<br>• teaching accounting in the field of economics, finance, and audit;<br>• asset/liability valuation;<br>• projection and calculation of taxes, duties, and other mandatory payments;<br>• analysis of financial-economic activities of an organization;<br>• accounting, economic, financial, tax, managerial, and legal consultancy;<br>• preparation of business plans;<br>• expert examination in the fields of | 29[14] | Ministry of Finance |

[14] 24 being legal entities and 5 natural persons.

| | | | |
|---|---|---|---|
| | or in connection with accounting, audit, finance, taxes, duties and other mandatory payments;<br>• research/publications in the fields of or in connection with accounting, audit, finance, taxes, duties and other mandatory payments. | | |
| Independent accountants and accounting firms | • Introduction, restoration, and maintaining accounting, as well as compiling financial statements;<br>• teaching accounting in the field of economics, finance, and audit;<br>• asset/liability analysis;<br>• projection and calculation of taxes, duties, and other mandatory payments;<br>• analysis of financial-economic activities of an organization;<br>• accounting, economic, financial, tax, managerial, and legal consultancy;<br>• preparation of business plans;<br>• expert examination in the fields of or in connection with accounting, audit, finance, taxes, duties and other mandatory payments;<br>• research/publications in the fields of or in connection with accounting, audit, finance, taxes, duties and other mandatory payments;<br>• highlighting mistakes and omissions;<br>• identifying violations of requirements on accounting and compilation of financial statements;<br>• analysis of specific issues;<br>• elimination of mistakes and omissions, where provided under the agreements or as necessary. | Unknown | Nil |
| Persons and casinos organizing prize | • Installation and operation of prize gaming devices or other arrangement providing means for participating in commercial prize | 131[15] | Ministry of Finance |

[15] 24 being legal entities and 5 natural persons.

| | | | |
|---|---|---|---|
| games including persons organizing internet prize games | gaming. | | |
| Real estate agents/agencies | • commercial intermediation in real estate market transactions;<br>• consultancy on real estate transactions;<br>• overview of and consultancy on real estate market and prices;<br>• organization and operation of public real estate auctions;<br>• other paid services in real estate market. | 215[16] | State Committee of the Real Property - Cadastre |
| Trusts; legal person registration service providers | • No activities described in place by law, rules or regulations. | Nil | Nil |
| Dealers in precious metals; dealers in precious stones | • Retail and wholesale dealing in precious metals;<br>• Hallmarking of precious metals;<br>• Control of assay of precious metals;<br>• Refined of precious metals;<br>• Manufacturing of bank gold and standardized ingots. | Unknown | Nil |

### 1.5. Overview of Commercial Laws and Mechanisms Governing Legal Persons and Arrangements

64. Article 50 of the Civil Code defines "legal person" as "an organization that has separate property in ownership and that is liable for its obligations with this property and may acquire and exercise property and personal non property rights in its own name, bear duties and be a plaintiff or a defendant in court".

65. Article 51 of the Civil Code provides for two types of legal entities: commercial and noncommercial ones. Whereas commercial entities conduct their activities for the main purpose of generating profit, noncommercial entities do not have extraction and distribution of profit as their main purpose but may only conduct commercial activities if it serves the achievement of their noncommercial purpose and these activities corresponds to this purpose. In addition, the Law on Foundations provide for the establishment of foundation.

66. Articles 52(4) & 56 (3) Civil Code as well as Article 3 Law on Foundations in connection with Article 3 Law on State Registration of Legal Entities provide that the legal capacity of a legal person is

[16] As of April 2009.

obtained on the date of its registration with the State Registry. All information held at the State Registry is publicly accessible pursuant to Article 17 Law on State Registration.

67. For all legal entities, the State Registry maintains information on the management.

68. Armenian law does not prohibit the use of nominee founders or nominee directors. However, nominee shareholders are allowed both pursuant to the Law on Joint Stock Companies and the Law on Securities Market, whereby the latter defines them as "the person on whose nominal securities owned by other persons are registered without the transfer of ownership rights". However, based on a decision by the government, only professional intermediaries, which in turn are required under the AML/CFT Law to obtain, verify and maintain information on the beneficial owners, are allowed to act as nominee shareholders.

69. Joint Stock Companies are the only form of legal entity that may issue stocks. Although the Civil Code menions the possibility to issue bearer shares, Article 39 Law on Joint Stock Companies requires that stock certificates are issued on name of the shareholder, therefore effectively prohibiting the issuance of bearer shares. Bearer shares do not seem to be allowed under Armenian law and according to the authorities also do not exist in practice.

Commercial Companies:

70. Commercial companies may take the form of (a) Business partnerships, (b) Business Companies and (c) Commercial Cooperatives.

71. Business partnerships may be founded as general partnerships or limited partnerships. Business Companies may take the form of limited liability companies, supplementary liability companies or joint-stock companies. The capital of all partnerships and companies is broken down into ownership interests of the founders. All forms of partnerships and companies require at least one founder. Whereas legal entities may be founders of business companies and contributors (but not partners) in limited partnerships, only natural persons and commercial organizations may be participants in general and partners in limited partnerships.

72. For both forms of partnerships, management may be conducted exclusively by full partners. For limited liabilities companies, the form of management is to be determined by the meeting of participants, whereby management has to consist of at least one person. Joint stock companies and all forms of cooperatives are managed by the general meeting of stockholders or its members, who may elect a board of directors. Corporate directors are allowed under Armenian law.

Noncommercial Companies:

73. Noncommercial companies are: (1) Social Organizations; (2) Funds; (3) Unions of Legal Entities; and (4) Noncommercial Cooperatives.

74. Social Organizations are voluntary organizations of citizens who have joined in a manner provided for by a law on the basis of communality of their interests to satisfy spiritual or other nonmaterial needs. The general provisions of the Civil Code as well as Article 122 apply. Union of Legal Entities are regulated through to Articles 125-127 Civil Code and are established by commercial organizations for the purpose of coordination of their entrepreneurial activity and the representation and protection of common property interests.

Foundations:

75. Foundations are regulated by the Law on Foundations as well as Articles 123 & 124 of the Civil Code.

76. Article 124 Civil Code defines a foundation as "an organization not having membership, founded by citizen and/or legal entities on the basis of voluntary property contributions, pursuing social, charitable, cultural, educational, and other socially-useful purposes." Article 3 Law on Foundations further provides that a foundation is considered a noncommercial organization and is a legal person and has property separate from that of the founder.

77. A foundation may be created by one person, including any legal person, through written decision or will, or by two or more founders through a written agreement.

78. Pursuant to Article 4 Law on Foundations, foundations may have potential and actual beneficiaries, which are those for whose benefit certain payments have been made, services have been provided or to whom foundation property has been transferred. Until recently, Article 8(6) of the Law on Foundations contained a provision, prohibiting founders of a foundation to be beneficiaries. However, this provision was amended in February 2007 and it is now possible for founders to be beneficiaries of the foundation. Representatives of the State Registry stated that this change in the law has not resulted in an increase of registration of foundations.

79. While it is not required that the Charter of the foundation provides for the name or other information on the beneficiaries, it is required that a general description of the category of beneficiaries is provided. In addition, since 2008 Article 23.2 of Law on State Registration of Legal Entities requires that upon incorporation, the State Registry is provided with the names of the beneficiaries of Foundation.

80. Pursuant to Article 21 Law on Foundations, the bodies of the foundation, at a minimum, are the board of trustees, which is the supreme management and supervising body for the foundation and should consist of at least three natural persons, and the manager or executive director, who directs the current activities of the foundation. Founders of a foundation may take the function of a board member or manager of the foundation. However, for a change of beneficiaries of the foundation a court order is required in all cases. Foundations are not permitted to issue stocks.

81. As of March 2, 2009, approximately 56,000 legal entities were registered in Armenia. Of those, approximately 80% were commercial companies and only about 20% were foundations and non-commercial companies.

| General Partnership | Limited Partnership | Limited Liabilities Companies | Supplementary Liabilities Companies | Joint Stock Companies | Commercial Cooperatives | Foundations (as of 2007) |
|---|---|---|---|---|---|---|
| 1175 | 8 | 38.975 | N/A | 4139 | 5063 | 273 |

## 1.6. Overview of Strategy to Prevent Money Laundering and Terrorist Financing

### AML/CFT Strategies and Priorities

82. While the RA government has not published an AML/CFT strategy, as such, a political commitment has been given by the establishment of the "*Interagency Commission on the Fight against Counterfeiting Currency, Plastic Cards, and Other Payment Instruments, against the Money Laundering, as well as Financing terrorism in the Republic of Armenia*" (Interagency Commission). The foresaid Commission was established by the President of the RA, with a published mandate to focus on the combating and reducing of financial crime including but not limited to ML and TF. Members of the Interagency Committee include all of the relevant domestic authorities in the field of ML and TF.

83. In support of the domestic initiative, the main objectives of the authorities of the Republic of Armenia in the field of AML/CFT are:

- to implement a unified collaborative national policy in the field of AML/CFT;
- to formulate an effective enforceable legal framework in compliance with the international standards;
- to ensure the equal and non-discriminatory legal requirements in the field of AML/CFT applied by relevant state bodies and the private sector;
- to provide education and training to enhance the performance and the capabilities of relevant state bodies and the private sector in the field of AML/CFT.

84. The financial and non-financial sectors have been, on a whole, passive participants in the development of the RA's AML/CFT strategy. Whilst consultation is undertaken on certain aspects of the regime, representation at the Interagency Commission and integration in the policy process is limited to representation from the banking sector, being the Association of Banks of Armenia.

85. The authorities advised the assessors that the main issues are to ensure the full enforcement of normative legal acts regulating the field of AML/CFT; to develop risk based ML/TF prevention policies within the financial institutions; ensure the awareness about the AML/CFT issues among the non financial institutions and general public; increase the competence of law enforcement bodies in adjudicating on the ML/TF cases.

86. Looking forward, a number of significant programs and initiatives of the RA relating to AML/CFT are under consideration including but not limited to the development of a universal information system in the field of the AML/CFT; reduction of the ML risks through the expansion of the financial intermediation sector and the limitation of cash transactions; formulation of domestic typologies in the field of the ML/TT and dissemination of this information to all parties in the AML/CFT system; development of the ML/TF prevention systems within the financial institutions through effective supervision; raising awareness of ML/TF prevention mechanisms among non- financial institutions and the general public and implementation of such mechanisms; expanding the analytical capabilities of the FMC based on the best practice of the international investigative bodies; and development and effective practical application of mechanisms and capabilities of law enforcement and of the judicial system in adjudicating on the ML/TF cases.

## The Institutional Framework for Combating Money Laundering and Terrorist Financing

### National AML/CFT coordination

87. The Interagency Commission[17] is the principal forum for discussing AML/CFT issues in the RA. The Commission is both an advisory and a policy making group which meets at least bi-annually. It comprises regulators, ministries such as MoJ and MoF, law enforcement authorities though with minimal industry representation via the Association of Banks of Armenia and no professional representatives. Chairmanship of the Interagency Commission is held by the chairman of the CB.

88. The Interagency Commission's focus is related to matters concerning the cooperation of different state bodies in the field of AML/CFT, strategic questions concerning AML/CFT system, needs for educational programs, and matters raised by members. The Commission is supported by a working group to discuss the status of issues, to present an opinion on forthcoming topics and to draft the procedures for the implementation of the Commission decisions. The FMC, in the capacity of the Secretary, coordinates the work of the Commission.

89. The Commission reports to the RA President on the policy decisions and outcomes.

**Ministries**

Ministry of Finance

90. The Ministry of Finance (MoF) formulates and implements the policy of the RA Government regarding the state income formation and the management of public funds. Its primary functions related to AML/CFT include membership at the Interagency Commission, and the licensing and supervision of activities of private auditing companies, legal persons conducting audit activities, operators of prize gaming, lotteries and casinos.

Ministry of Justice

91. The Ministry of Justice (MoJ) is comprised of structural subdivisions such as the Legal Persons' State Register Agency, the Compulsory Judicial Act Enforcement Service, and the Penitentiary Service. The principal responsibilities and objectives of the MoJ in relation to AML/CFT are membership of the Interagency Commission, and as a consultation mechanism in all legislative initiatives in the field of AML/CFT.

92. Additionally, the MoJ is entitled to perform the legal appraisal of all the departmental normative acts relating to AML/CFT (for example: the normative regulations adopted by the Central Bank Board) and state registration. The MoJ also appoints and supervises the notaries and is the assigned supervisory function over the activities of non-commercial organizations.

[17] Established pursuant to the Presidential Decree No. NK-1075 of March 21, 2002 and operates within the framework set forth by the Regulation of the Functions of the Interagency Commission.

Ministry of Foreign Affairs

93. The Ministry of Foreign Affairs (MoFA) under the general guidance of the President of the RA, formulates and implements the policy of the RA Government in the area of foreign affairs, as well as organizes and administers consular services, as so designated.

94. Participation of the MoFA in the field of AML/CFT involves membership of the Interagency Commission. Additionally, the MoFA coordinates the process of conclusion and implementation of international treaties of the RA in the field of AML/CFT and accommodates the membership of the RA with the existing international organizations in the AML/CFT field and regularly presents the UN Security Council Resolutions in connection with the terrorist financing, that shall be enforced, to the authorized bodies.

95. The FMC consults with the MoFA in relation to the list of countries or regions, where the international requirements for AML/CFT are not in place or are not properly enforced, as prescribed under Article 19 of the AML/CFT Law.

**Criminal justice and operational agencies**

The Financial Monitoring Center

96. The Financial Monitoring Center (FMC)[18] of the Central Bank of Armenia (CBA) is the financial intelligence body in the Republic of Armenia and acts as a central body for the AML/CFT system. The FMC's statute, as approved by the CBA Board[19], sets forth the objectives and functions of the FMC, as well as the structure, the funding and other issues in connection with the FMC and the FMC was accepted as a member of the Egmont Group in 2007.

97. The FMC operates within a cycle of three-year strategic plans, with its objectives clearly set forth in the current strategic plan and focused on AML/CFT including to build institutional and operational capacities of the FMC; raise public awareness in the field of AML/CFT; strengthen both domestic and international cooperation in the field of AML/CFT; and to secure non-discriminatory legislative requirements in the field of AML/CFT.

## Law enforcement agencies

The National Security Service

98. The National Security Service (NSS) formulates and implements the policy of the RA Government in the field of national security and administers the national security bodies. The Service comprises the Central Apparatus, provincial bodies, the border-guarding forces, the training centers, the special-purpose units, and other subdivisions. A MoU is in place between the FMC and the NSS.

99. The NSS is involved in AML/CFT through the following:

[18] Established on December 14, 2004 pursuant to Article 10 of the AML/CFT Former Law of the RA.

[19] Resolution No.97-A of March 3, 2005.

- the Deputy Head of the NSS is a member of the Interagency Commission;
- the Service is designated to perform intelligence functions, pursuant to Article 8 of the Law on Operative Intelligence, hence it may also deal with ML/TF cases;
- the Service, as provided under Article 56 of the CPC, is also an investigative body, that may also engage in investigation of ML/TF cases;
- as provided under Article 190 of the Criminal Procedure Code, the inspectors at the NSA carry out preliminary examination of ML/TF cases, as prescribed under Articles 190 & 217.1 of the CC, respectively**.**

Police

100. The Police which, pursuant to its authority, formulates and implements the policy of the RA Government in the field of fight against the crime and infringement of law, safeguard public order and security. The Police exercise its authority pursuant to the Law on Police. The Police incorporate the Central Police Apparatus and its immediate subdivisions, Police Departments of Yerevan city and the provinces (Marzes) and the subsequent divisions.

101. Like other agencies, the Police hold membership in the Interagency Commission and are designated to perform operative intelligence functions, pursuant to Article 8 of the Law on Operative Intelligence; hence they may also deal with ML/TF cases. Further, as provided for under Article 56 of the Criminal Procedure Code, the Police are also an investigative body, which may also engage in investigation of ML/TF cases.

102. The Police and the FMC have a Memorandum of Understanding (MoU) in place governing the respective responsibilities of the two bodies in relation to AML and CFT.

Prosecution authorities

103. The Prosecution of the RA is a unified system comprised of the Prosecutor General's Office, the Central Military Prosecution Office, the Prosecutor's offices of the Yerevan city and its communities and the provinces, and the Garrison Military Prosecutor's Office.

As set forth by Article 4 of the Law on Prosecution, the prosecution authorities are designated:

- to initiate criminal proceedings;
- to ensure the legitimacy with respect to investigation and preliminary examination;
- to pursue charges in the court;
- to lodge claims with the courts for the sake of public interests;
- to dispute court orders, judgments and decisions;
- to ensure the legitimacy of execution of punishments and other compulsory measures.

104. The prosecution authorities are involved in AML/CFT through the membership of the Interagency Commission, providing control and oversight in relation to the legitimacy of investigation and preliminary examination of the ML/TF cases; and the pursuit of criminal charges against the crimes that involve ML/TF in the court. Additionally, an MoU in place between the Prosecutor's office and the FMC, governing the respective responsibilities of the two bodies in relation to AML/CFT.

State Revenue Commitee

105. The Customs Division of the State Revenue Committee (SRC) has also an important role to play in AML/CFT responsibilities, including by way of border controls and, in particular, implementing measures for cross-border movement of cash or negotiable instruments.

106. In June 2008 the tax and customs bodies of the merged under the State Incomes Committee by the RA Government. The aforementioned Committee is responsible for the administration and control over the collection of state income (taxes, customs duties, etc.). The Committee is also a law enforcement body that may, through its respective subdivisions, engage in operative intelligence, investigations and preliminary examinations. The Committee is involved in combating money laundering through the membership at the Interagency Committee, with representative from both the taxation and customs fields. The State Incomes Committee has an active MoU in place with the FMC to facilitate information sharing and governing the respective responsibilities.

107. Task forces or commissions on ML, TF or organized crime.

108. A Council on Combating Corruption was established in the RA, pursuant to President of the RA Decree No. NH-100-N of June 1, 2004. By status, the Prime Minister of the RA chairs the Council, and its members are the heads of all the agencies involved in combating corruption. In addition, a Committee on Monitoring the Anti-Corruption Strategy implementation is operated by the Council.

**Financial sector bodies**

Central Bank

109. Pursuant to the Law on Central Bank, the CBA is authorized to license, regulate, and supervise all financial institutions which comprise of banks, credit organizations, persons engaged in dealer-broker foreign currency trading, foreign currency trading, persons providing cash (money) transfers, persons rendering investment services in accordance with the Law on Securities Market, central depositary for regulated market securities, insurance (including reinsurance) companies and insurance (including reinsurance) brokers, pawnshops.

110. The CBA is the designated body in the field of fight against ML/TF, pursuant to the AML/CFT Law. For licensing and supervisory actions including sanctions, a committee, the Licensing and Supervision Committee, considers the recommendations from the legal department (responsible for licensing financial institutions) and the financial supervision department (responsible for supervising financial institutions) and, based on the results, the CBA Board makes relevant decisions.

111. Furthermore, the functions of the centralized depository, of the centralized register, and of the operator of the securities book-entry system of the publicly traded securities in the RA are assigned to the Central Depository as provided under the AML/CFT Law, the later is considered a reporting entity. In the RA the securities' market is regulated by the stock exchange. Only the investment services providers are eligible to participate in the stock exchange.

**DNFBP and other matters**

Ministry of Finance

112. The MoF, through designated departments, undertakes the licensing and supervision with respect to the casino activities and operators of prize gaming and lotteries; private auditors and legal persons conducting audit activities.

Ministry of Justice

113. Notaries are appointed and supervised by the MoJ.

State Committee of the Real Estate Cadastre

114. The State Committee of the Real Property Cadastre is designated the competent authority to license and supervise the real estate agents and agencies.

The Chamber of Advocates of the RA

115. The Chamber is responsible for qualifying lawyers that are considered reporting entities. The activities of the Chamber are defined in the Law on Advocacy.

Other DNFBPs

116. For the following DNFBPs, no specific licensing or supervising procedures are prescribed under the laws of the RA:

- private entrepreneurs and legal persons providing legal services;
- private entrepreneurs and legal persons providing accounting services;
- dealers in precious metals/stones.

Registry for companies and other legal persons

117. In the RA all legal persons[20] are required to register at the State Register Agency of Legal Persons. The agency comprises the central body and its regional subdivisions.

Mechanisms relating to non-profit organizations

118. As prescribed under Article 3 of the Law on State Registration of Legal Persons the state registration of non-profit entities such as non-government organizations (NGOs), charities and foundations is performed by the Central Body of the State Register. As prescribed under Article 18 of the Law on NGOs Article 38 of the Law on Foundations and Article 18 of the Law on Charities, the aforementioned non-profit organizations are licensed by the designated body, the Ministry of Justice. Additionally, all non-profit organizations are required to report their financial turnover to the tax authorities.

Other agencies or bodies

119. The self-regulatory bodies in connection with the financial institutions sector are:

[20] In the RA there exists no organizational-legal form of legal arrangements other than that of the legal person. Hence, any legal arrangement shall, prior to commencement of its activities, register as a legal person.

- the Association of Banks of Armenia, of which the Chairman of the Association is a member of the Interagency Commission;
- the Union of the Credit Organizations;
- Association of Insurers;
- Securities' Central Depository;
- the Stock Exchange.

**Approach Concerning Risk**

120. Armenia has not yet undertaken a systemic review of the ML and TF threats and risks that exist within the financial sector and other sectors in Armenia. It has however issued AML/CFT regulations for financial institutions that include risk-based elements for customer due diligence, including enhanced due diligence for higher-risk areas and reduced or simplified customer due diligence measures for low-risk areas. The authorities, in particular the CBA, have recently adopted a risk based approach to implementing preventive measures in the financial sector. However, supervisory tools including examination procedures for banks, credit organizations, insurance companies, securities firms, foreign exchange houses, and money remitters have not been updated to reflect the new risk based approach and the requirements of the 2008 AML/CFT Law. Moreover, although the AML/CFT Law provides for the waiving of certain articles to non-financial institutions with less than 10 employees, no formal sectoral review of ML/TF risks has been conducted/provided to justify the limited scope of application of the AML/CFT framework. The main justification appears to be relative to the size of the entities (assets size).

**Progress Since the Last IMF/WB Assessment or Mutual Evaluation**

121. On July 9, 2004, the MONEYVAL's Plenary Session approved the 1st and 2nd Evaluation Reports on the RA. At that time, Armenia was assessed under the FATF's 2002 Methodology. In connection with the consultations put forward in the report, Armenia presented a Progress Report, as well as Compliance Report on specific issues. Measures were undertaken pursuant to the practical implementation of the recommendations presented in the evaluation report, as well as strengthening the overall AML/CFT regime in line with the new international standards. As such, the Armenian authorities have addressed most of the recommendations of the last assessment. The following table reflects corrective actions taken by the authorities.

| Reference | Recommendation | Undertaken measures |
|---|---|---|
| Scope of the criminal offence of money laundering (FATF 4-6) | Ratification of the UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. | RA ratified the UN 1999 Convention for the Suppression of the Financing of Terrorism on March 3, 2004.<br>The Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime was ratified on October 8, 2003. |
| Provisional measures and confiscation (FATF 7) | Adopt provisions making it possible to seize and confiscate proceeds, property and instrumentalities. Consider adopting provisions making confiscation mandatory in particular types of offences, including money laundering, and possibly drug trafficking and other | Article 233 of the CPC was amended on November 28, 2006 by introducing sequestration/freezing of property in connection with adjudicating on money laundering and the predicate offences as mandatory judicial action. |

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| | major proceeds-generating offences. | The same year, Article 55 and the sanctions under Article 190 of the CC were amended by prescribing the confiscation of the property obtained from money laundering offence as a mandatory sanction. |
| Customer identification and record-keeping rules (FATF 10-13) | Adopt provisions for all relevant intermediaries on identification and record-keeping on occasional customers when performing transactions over a specified threshold. Adopt clear customer identification provisions for the securities sector. | Articles 15 & 20 of the AML/CFT Law adopted by the Parliament of the RA on May 26, 2008 promulgate detailed provisions for all reporting entities on identification and record-keeping when establishing business relationships and in connection with occasional transactions. These provisions extend to specialized participants in the securities market. |
| Increased diligence of financial institutions (FATF 14-19) | Adopt provisions for all relevant intermediaries on the performance of on-going monitoring of accounts and transactions. Adopt for all relevant intermediaries a mandatory reporting regime on suspicious transactions and activities. | Articles 15 & 16 of the AML/CFT Law provide for requirements for on-going monitoring and additional examination of customers.<br>Mandatory reporting of suspicious transactions by all reporting entities is promulgated under Articles 4-6 of the Law. |
| Measures to cope with countries with insufficient AML measures (FATF 20-21) | Consider on an up-dated basis providing all relevant intermediaries with information about which countries and jurisdictions should be considered non-cooperative in an AML/CFT context. | The mentioned recommendation was implemented pursuant to Article 19 of the AML/CFT Law, that specifies the responsibilities of designated body, that, in consultation with the authorized body of the Republic of Armenia in the field of foreign affairs, produces and updates the list of the countries and jurisdictions that do not apply appropriate measures, if any, to combat the ML/FT, based on the data published by international organizations involved in AML/CFT.<br><br>Considering this requirement, on July 4, 2008, the FMC circulated, among all financial institutions operating in the RA, brochures on the FATF Statement of February 28, 2008, proposing actions to be taken in response to the risks highlighted in the above statement. |
| Administrative Co-operation – Exchange of information relating to suspicious transactions (FATF 32) | Adopt an STR regime making it possible internationally to exchange information relating to suspicious transactions, persons and corporations. | The FMC is an Egmont group member since 2007 that enables it to exchange information with foreign financial intelligence units relating to suspicious transactions, persons and organizations.<br>With respect to this, Article 14 of the AML/CFT Law provides, that the authorized body (FMC) may, on a reciprocal basis, upon a request for, or on its own motion, exchange information (also such as rendered secret under |

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| | | the law) with foreign financial intelligence units, which, as so required under bilateral agreements or arising in connection with membership in international organizations, commit to ensure equal secrecy and use the information only for AML/CFT purposes. |
| 8 Special recommendations on terrorist financing | | |
| II. Criminalizing the financing of terrorism and associated ML | Adopt a separate offence on terrorist financing. | Article 217.1 amended the CC by incorporating provisions for terrorist financing offence on December 14, 2004. |
| III. Freezing and confiscating terrorist assets | Adopt a comprehensive normative act providing a mechanism to implement the freezing without delay of assets suspected to be related to the financing of terrorism. | Article 25 of the AML/CFT Law provides for the sequestrations/freezing of funds associated with financing terrorism.<br>Part 5 of Article 55 and sanctions under Article 217.1 of the CC provide for the confiscation of the funds. |
| IV. Reporting suspicious transactions related to terrorism | Adopt for all relevant intermediaries a mandatory reporting regime on suspicious transactions and activities related to the financing of terrorism. | The mandatory reporting with respect to suspicious transactions related to financing terrorism is mandatory for the reporting entities under part 2 of Article 6 of the AML/CFT Law . |
| VI. Alternative remittance | Adopt an obligation to identify clients exchanging or transferring large portions of money or other assets (as a minimum, transactions exceeding the equivalent of Euro 15,000). | Customer identification requirements are provided under Article 15 of the AML/CFT Law. Article 18 also specifies the obligations of the financial institution in connection with money transfers. |
| Law Enforcement and Prosecution | Setting up and making operational a Financial Intelligence Unit (FIU). The FIU should be properly resourced and should be able to exchange relevant information with national law enforcement authorities as well as foreign counterparts. | The national financial intelligence unit in the RA is the FMC of the CBA. The FMC was established on December 14, 2004 pursuant to the AML/CFT Former Law and the FMC Statute.<br>The authority of the FMC, as well as its functions with respect to exchange of information with law enforcement bodies and international counterparts, are defined in Articles 10, 13, 14 of the AML/CFT Law. |
| Law Enforcement and Prosecution | A comprehensive training strategy for the agencies involved in AML/CFT issues should be embarked upon. | The following measures were taken to organize comprehensive training in the field of fight against the money laundering:<br>1. the Interagency Commission Session of March 28, 2006, approved the strategy for the National Educational/Training Program on AML/CFT, that involves training of the law enforcement and prosecution employees in the field of the AML/CFT;<br>2. Armenian authorities were involved in a number of training activities organized by the |

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| | | UNODC and IMF. A group of trainers was formed comprised of representatives from various agencies;<br>3. The abovementioned group of trainers undertook assessment of training needs among the law enforcement and prosecution staff, and organized the training thereof in the field of AML/CFT. |
| Law Enforcement and Prosecution | Further use of investigative means, including special investigative techniques, such as controlled deliveries. | The law enforcement bodies are authorized, also when investigating ML/TF cases, to undertake all the investigative actions, provided for under part 8 of the Criminal Procedure Code. The law enforcement bodies (those authorized to perform operative intelligence functions) are authorized to make control purchases, as prescribed under Articles 14 & 18 of the Law on Operative Intelligence. |
| Law Enforcement and Prosecution | All relevant law enforcement authorities and the Office of the Prosecutor General should address the issue of the importance of financial investigations. | The cautiousness of the law enforcement bodies and of the Office of the Prosecutor General of the RA in investigating ML/TF cases is corroborated by the high level discussions of the issues arising in the course of investigations, particularly within the Interagency Commission.<br>Moreover, by the bulletin No. 2/1-1-05 by the Prosecutor General of the RA of February 8, 2005, the attention of all the law enforcement bodies was called upon identifying and analyzing money laundering offences in financial cases being investigated, and initiating judicial proceedings with respect thereto. |

## 2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

***Laws and Regulations***

### 2.1.Criminalization of Money Laundering (R.1 & 2)

#### 2.1.1. Description and Analysis

Legal Framework:

122. Armenia has criminalized money laundering through Article 190 of the CC. The offense was first introduced in 2003 and the definition of money laundering amended in 2006. The most important amendment to the provision was a change from an all crimes to a list approach in defining the predicate offenses for money laundering.

123. The first paragraph of the provision defines the basic money laundering offense whereas the second and third paragraphs provide for increased sanctions in aggravated circumstances.

124. Article 190(1) stipulates that the "conversion or transfer of property obtained in a criminal way, if it is known that such property was obtained as a result of criminal activities, which had the purpose of concealing or disguising the criminal origin of such property, or of assisting any person to avoid liability for a crime committed by such persons, or the concealment or disguising of the true nature, source, location, disposition method, movement, or rights with respect to, or ownership of such property, knowing that such property was obtained as a result of criminal activity, or the acquisition, possession, use or disposition of property, knowing, at the time of receipt, that such property had been obtained as a result of criminal activity" constitutes money laundering under Armenian law.

125. Conduct as defined in Article 190(1) CC may be sanctioned with imprisonment of up to four years and confiscation of the property involved. Article 190(2) &(3) provides for stricter sentences in aggravated circumstances.

**Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offence):**

126. Armenia has signed and ratified both the *United Nations Convention Against Transnational Organized Crime* (the Palermo Convention) and the *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (the Vienna Convention).

127. The first part of Armenia's money laundering offence covers the conversion or transfer of proceeds of crime, whereas the second part criminalizes the concealment or disguise of such property. The third part criminalizes the acquisition, possession, use or disposition of criminal proceeds if the person knew at the time of receipt that proceeds stem from the commission of a crime.

128. Armenia's money laundering offence therefore covers all material elements of the money laundering offences as defined in the Palermo and Vienna Conventions.

**The Laundered Property (c. 1.2):**

129. Article 190 defines the term "property obtained in a criminal way" in line with the international standard to include "any type of property, including assets, securities and property rights, and other objects of civil rights derived or obtained, directly or indirectly, through commission" of a predicate offense.

**Proving Property is the Proceeds of Crime (c. 1.2.1):**

130. Article 190 CC does not require that a person be convicted of a predicate offense to prove the illicit origin of proceeds. However, from discussions with the authorities it appeared that until recently, the common understanding was that in practice a conviction for the predicate offense was required to prove that proceeds stem from a predicate offense. Both representatives of the General Prosecutor's Office and the Judiciary stated that after having received training on AML/CFT, the general understanding would now be that a conviction or parallel proceedings for the predicate offense would no longer be required to convict a person for autonomous money laundering, but it is too early to determine whether the courts will be receptive of this new orientation.

131. The authorities pointed to one judicial case in which money laundering was the sole offence being adjudicated, which had resulted in a conviction. However, this case (Armenia vs. Vahan Suren Madatyan Case No. N 1/11-2006) is not conclusive because the defendant had been convicted for the predicate offense (illegal logging) in an earlier trial. In a second judicial case also referred to by the authorities, (Armenia vs. Volodya Tsatur Ghukasyan Case No. EADD/0041/0/08), parallel charges were brought for both the predicate offense (commercial bribery) and the money laundering offense and a conviction was handed down for both charges. Thus, in the judicial practice so far, a conviction for money laundering was obtained either based on or together with a conviction for the predicate offense.

132. The authorities also informed the assessors that an investigation only for the money laundering offense is currently in the pre-trial stage and would soon be filed with the courts. It is expected that this case will clarify the court's position on whether a charge for a standalone money laundering can be filed even in the absence of a conviction or pending proceedings for the predicate offense.

133. The authorities stated that the standard of proof applicable to prove that property is proceeds of crime would be the "beyond reasonable doubt" standard. This means that the prosecutor will have to prove the specifics of the predicate offense, *e.g.* that the conduct amounted to a designated offense, the timeframe when the predicate offense was committed, the perpetrator, the types of assets that originated from the predicate offense. The assessors consider this a rather high standard of proof.

**The Scope of the Predicate Offences (c. 1.3):**

134. All FATF designated categories of predicate offenses are covered, as outlined below. In addition, tax evasion is criminalized through Articles 205 & 206 CC and constitutes a predicate offense for money laundering under Armenian law.

| **Predicate Offense** | **Law** |
|---|---|
| Participation in an organized criminal group and racketeering | Article 222, 223 & 224 CC. |
| Terrorism, including terrorism financing | Articles 217, 388, 389 CC. |
| Trafficking in human beings and migrant smuggling | Articles 132, 132.1, & 168 CC. |
| Sexual exploitation, including sexual exploitation of children | Articles 132, 132.1, 166, 261&d 262 CC. |
| Illicit trafficking in narcotic drugs and psychotropic substances | Articles 215, 266 CC. |
| Illicit arms trafficking | Article 215, 235 CC. |
| Illicit trafficking in stolen and other goods | Article 216 CC. |

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| Corruption and bribery | Articles 200, 201, 311, 312 & 313 CC. |
| Fraud | Article 178, 184, 194, & 212 CC. |
| Counterfeiting Currency | Articles 202 & 203 CC. |
| Counterfeiting and piracy of products | Articles 197, 207 CC. |
| Environmental crime | Articles 281, 284, 286, 287, 288, 289, 291, 292, 295, 297 & 298 CC. |
| Murder, grievous bodily injury | Articles 104, 112, 113, 117 CC. |
| Kidnapping, illegal restraining and hostage-taking | Articles 131, 132, 133, 134, & 218 CC. |
| Robbery or theft | Articles 175-181, 234, 235, 238, 269, 383 CC. |
| Smuggling | Article 215 CC. |
| Extortion | Article 182 CC. |
| Forgery | Article 269 CC. |
| Piracy | Articles 220, 221 CC. |
| Insider trading and market manipulation | Articles 195, 199 & 214 CC. |

**Threshold Approach for Predicate Offences (c. 1.4):**

135. Since 2006, Armenia follows a list approach in defining the predicate offenses for money laundering. As outlined above, all FATF designated categories of predicate offenses are covered by this list.

**Extraterritorially Committed Predicate Offences (c. 1.5):**

136. Under Armenian law money laundering is punishable even if the predicate offence has been committed abroad if the underlying conduct also constitutes a criminal offence in Armenia. Article 14 CC provides that Armenian criminal law applies to all crimes that "started, continued or finished" in Armenia as well as to any act that was carried out "in complicity with a person who committed crimes abroad". The provision further states that for conduct that has been committed both in Armenia and another jurisdiction, the Armenian criminal provisions apply if the person was subjected to criminal liability in Armenia. Thus, if just an individual part of the conduct occurred in Armenia (for example the laundering activity), Armenian law would be applicable. Thus, as long as part of the laundering activity took place in Armenia, the Money Laundering provisions apply also with respect to predicate offenses committed in another jurisdiction.

137. In addition, Article 15 CC provides that, with respect to Armenian citizens and stateless persons permanently residing in Armenia, there is jurisdiction even when no part of the offence occurred in Armenia, provided the act constitutes a criminal offense in the country where the conduct occurred. Armenia is therefore in compliance with this criterion.

**Laundering One's Own Illicit Funds (c. 1.6):**

138. Article 190 CC criminalizes the conversion or transfer, the concealment or disguise and the acquisition, possession, use of disposition of criminal proceeds regardless of whether the predicate offence has been committed by the money launderer or a third party. Self-laundering is therefore criminalized for all acts constituting money laundering. This was confirmed in *Armenia vs. Grigoryan* (1/11-2006), where the court convicted the defendants for both the predicate and the money laundering offense. Representatives of the General Prosecutor's Office stated that, at the time of the onsite visit,

another case for self laundering was pending before court. This was also confirmed through a chart provided by the authorities, which indicates the status of all money laundering cases investigated or pending before the courts. Armenia is therefore compliant with this criterion.

**Ancillary Offences (c. 1.7):**

139. Ancillary offences are defined in the general section of the CC and apply to all criminal offenses, including money laundering.

140. Article 33 CC provides that sanctions for a criminal offense are not only being applied to completed crimes but also to attempted crimes or anybody who prepares a crime. Pursuant to Article 34CC a crime is considered attempted if a willful act or inaction immediately aimed at the committing a crime has been taken and the crime was not completed for reasons beyond the person's control. Article 35CC furthermore provides that a crime has been prepared if means or tools for the commission of a crime requiring direct willfulness have been provided or adapted or other conditions for the commission of a crime have been willfully created and the crime was not completed for reasons beyond the person's control. Persons voluntarily refusing to complete the crime and preventing the completion of the crime by the perpetrator are not subject to criminal liability.

141. Article 38 CC defines a number of types of accomplices, including organizers (the person who arranges or directs the commission of the crime or a group for the purposes of committing a crime); abettors (person who assists the main perpetrator of the crime through persuasion, financial incentives, threats or means) and helpers (person who assists the main perpetrator of the crime, through pieces of advice, instructions or information, or who provides means or tools or eliminates obstacles to the commission of the crime, or who has promised harbor to the criminal, or to hide means and tools of a crime, traces of the crime, or items acquired through a crime, or the person who has promised to acquire or sell such items).

142. Article 39CC further stipulates that the maximum sanction for all types of accomplices is the same as for the main perpetrator, whereby the nature and degree of participation of each of them in committing the crime has to be taken into account by the court.

143. The FATF standard requires that countries criminalize either conspiracy or association to commit money laundering. Conspiracy as generally known in common law systems is not criminalized under Armenian law, which is a civil-law jurisdiction. The Armenian law provides for the criminalization of "preparation" (by Article 35, described above), although the authorities confirmed that at a minimum, a preparatory act as defined in this Article has to be carried out for a person to be held criminally liable. A mere agreement (as in the case of conspiracy) would therefore not constitute the crime of "preparation".

144. However, Article 223 CC criminalizes the "creation of a criminal association" and Article 41 CC further defines the term "criminal association" as "a stable group of individuals who previously united to commit one or more crimes."

**Additional Element—Whether an act occurs overseas which does not constitute an offence overseas, but would be a predicate offence if it had not occurred domestically, leads to an offence of ML (c. 1.8):**

145. For certain grave offenses committed abroad and designated through Article 15 CC, Armenian citizens or stateless persons permanently residing in Armenia may be held criminally liable under Armenian law regardless of whether the conduct involved does or does not constitute a criminal offense

in the country where it occurred. Amongst others, the list of designated offences includes international terrorism, warfare, genocide, violations of international humanitarian law.

**Liability of Natural Persons (c. 2.1):**

146. The language of Article 190 CC provides that with respect to the acts of converting or transferring proceeds, the offender has to act with a purpose of either concealing or disguising the illicit origin of the property or to assist another person to evade liability for a crime. No specific purpose element is required for the other acts envisaged by Article 190 CC.

147. Article 28 CC provides that all crimes require that the perpetrator acts willfully unless it is specifically stated that a certain crime may be committed negligently. Article 29 CC further differentiates between "direct willfulness" where the person understood the danger and foresaw the consequences of his action and desired these consequences and "indirect willfulness" where a person "did not desire those consequences but knowingly allowed them to take place." For all acts covered by Article 190 CC, the offender therefore has to be acting with direct or indirect willfulness.

148. With respect to the property involved in the commission of the money laundering offense, for the acts of "conversion, transfer, concealing or disguising", Article 190 CC requires that the perpetrator of the money laundering offense knew that property is proceeds of crime. With respect to "acquisition, possession and use" that knowledge has exist at the time of receipt of the property.

149. Article 190 CC therefore meets the *mens rea* requirement as stipulated in the Vienna and Palermo Conventions.

**The Mental Element of the ML Offence (c. 2.2):**

150. Although the criminal law does not explicitly foresee that the intentional element of the ML offense may be inferred from objective factual circumstances, Armenia, as confirmed by the authorities, relies on the principle of free evaluation of evidence by the judiciary (codified by Article 25, CPC), which enables the judge to make this inference.

151. In accordance with this principle, the intentional element of any crime may therefore be inferred from factual circumstances as required by the Vienna and Palermo Conventions.

**Liability of Legal Persons (c. 2.3.); Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings & c. 2.4):**

152. Armenian law does not currently provide for criminal liability of legal persons.

153. While the authorities held that two principles of Armenian criminal law, namely the principles of "personal liability" or "*nullum crimen sine culpa"* would preclude the criminal liability of legal persons, 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.

154. In any case, the authority's interpretation as outlined above does not seem convincing as a draft law introducing the concept of criminal liability of legal persons in the area of corruption is currently being considered by government. The authorities also conceded that the introduction of the same principle for money laundering offences (but not for terrorism financing) was being discussed.

155. Legal persons involved in money laundering are, however, subject to administrative sanctions pursuant to Article 28 AML/CFT Law. Sanctions may include fines, revocation, suspension or

termination of the legal person's license and filing of a request with the courts to liquidate the legal person.

**Sanctions for ML (c. 2.5):**

156. Person guilty of money laundering pursuant to Article 190 CC may be sanctioned with imprisonment of up to four years and confiscation of the property involved pursuant to Article 55(4) CC[21]. Confiscation is a mandatory sanction for money laundering.

157. In aggravated circumstances, i.e. if the offense involves amounts exceeding 500-fold minimal salary at the time when the offense was committed. At the time of the onsite visit, the minimum salary was 1000 AMD and threshold was therefore 500,000 AMD (approximately 16,367 USD or 12,835 EUR). If the offense was committed based on a prior agreement of a group of people, the sentence may be increased on imprisonment of four to eight years and confiscation of the property involved in accordance with Article 55(4) CC.

158. In particularly grave cases, i.e. when the offense involves amounts exceeding 10000-fold of the minimal salary set at the time of the offense was committed (approximately 32,730 USD or 25,700 EUR), or the offense is committed by an organized group of people or with abuse of official functions, the sanction may even be increased to imprisonment of six to twelve years and confiscation of the property involved.

159. The sanctions for money laundering seem to be consistent with the sanctions applicable for other financial crimes under Armenian law. For example, fraud may be sanctioned with imprisonment of two years or a fine (Article 184 CC), embezzlement with up to two years and a fine (Article 179 CC), market manipulation with up to one year and a fine (Article 204 CC), and extortion with imprisonment of up to 4 years and a fine (Article 182 CC).

160. The statutory sanctions available for money laundering pursuant to Article 190 CC seem to be proportionate and would be dissuasive. However, it is difficult to reach a conclusion as to whether they are effective as, since the introduction of the ML offence, only two convictions were obtained for such offence and in neither case did the court sentence the defendant to imprisonment. In the first case the sanction actually imposed was a fine of 400,000 AMD (approx. 1,040 EUR or 1,308 USD), whereby the defendant was relieved from payment of the fine based on amnesty. In the second case, the court imposed a fine of 300,000 AMD (approx. 780 EUR or 980 USD) and confiscation of the property laundered in the amount of 4,600,000 AMD (approx. 12,000 EUR or 12,040 USD).

**Statistics and Effectiveness:**

Statistics:

161. Statistics on criminal investigations initiated and brought before the courts are maintained on a centralized basis by the Information Center of the Police. The relevant law enforcement agencies are also required to periodically provide to the FMC statistics on the conducted ML/TF criminal investigations as required by Central Bank Board Decision 23-N of January 27, 2009.

[21] As of June 10, 2009 the sanctions for the ML offenses have been amended. Basic ML is now sanctioned with imprisonment for 2 to 5 years and confiscation of the property involved and the aggravated offenses with imprisonment for five to ten years or six to twelve years, depending on the gravity of the case, and confiscation of the property involved.

162. Since 2005, about 15,000 investigations for predicate offenses were initiated, most of which involved the crimes of "Theft", "Swindling", "Illicit Turnover of Narcotic Drugs or Psychotropic Substances with the Purpose of Sale", and "Illegal procurement, Transportation or Carrying of Weapons, Ammunition, Explosives or Explosive Devices."

| The type of crime | Investigations | | | |
|---|---|---|---|---|
| | 2005. | 2006. | 2007. | 2008 |
| Kidnapping (Article 131) | 22 | 26 | 25 | 27 |
| Trafficking in human beings and migrant smuggling (Article 132) | 11 | 13 | 8 | 15 |
| Counterfeiting Currency (Article 202) | 52 | 44 | 44 | 70 |
| Counterfeiting alcoholic beverages (Article 207) | 16 | 13 | 15 | 10 |
| Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Arms) Article 215 | 50 | 62 | 77 | 69 |
| Banditry (Article 175) | 103 | 90 | 75 | 122 |
| Robbery (Article 176) | 152 | 147 | 94 | 171 |
| Theft (Article 177) | 1998 | 2489 | 2148 | 2573 |
| Swindling (Article 178) | 445 | 380 | 412 | 384 |
| Embezzlement (Article 179) | 119 | 75 | 68 | 75 |
| Extortion (Article 182) | 15 | 10 | 16 | 19 |
| Illegal Entrepreneurial Activity (Article 188) | 23 | 46 | 15 | 13 |
| Trade of Foreign Currency without a License (Article 188.1) | 0 | 0 | 0 | 3 |
| False Entrepreneurial Activity (Article 189) | 23 | 13 | 8 | 3 |
| Bribery (Article 200) | 3 | 1 | 0 | 9 |
| Counterfeiting Payment Documents (Article 203) | 3 | 4 | 2 | 0 |
| Tax Evasion (Article 205) | 21 | 48 | 53 | 16 |
| Illicit Trafficking in Criminally Obtained Goods (Article 216) | 15 | 22 | 15 | 16 |
| Illegal procurement, Transportation or Carrying of Weapons, Ammunition, Explosives or Explosive Devices (Article 235) | 212 | 190 | 184 | 214 |
| Illicit Turnover of Narcotic Drugs or psychotropic Substances wit the Purpose of Sale (Article 266) | 76 | 161 | 235 | 282 |

| | | | | |
|---|---|---|---|---|
| Abuse of Official Authority (Article 308) | 26 | 22 | 21 | 60 |
| Taking Bribes (Article 311) | 7 | 14 | 5 | 49 |
| Giving a Bribe (Article 312) | 1 | 3 | 2 | 10 |

163. Between 2005 and February 15, 2009, 22 criminal cases for money laundering were instigated, whereby three of those cases have been suspended (one of them in 2005, and the other two in 2006). Of the remaining 19 cases, five were discontinued, ten are pending before the courts, one led to an acquittal, two led to a conviction and one case was transferred to another jurisdiction. Of the 22 criminal investigations, 12 were instigated by the NSS, six by the GPO's Investigation Department, two by the police and two by regional prosecutor's offices. Of the 22 criminal investigations, seven were instigated on the basis of the FMC's referrals (one case in 2005, two cases in 2006, two cases in 2007 and two cases in 2008).

164. The statistics provided do not indicate the number of cases in which Law Enforcement Agencies (LEAs) conducted operational-search activities with respect to an alleged ML cases and subsequently decided not to instigate a criminal case.

| Statistics on instigated ML criminal cases | | | | | | | |
|---|---|---|---|---|---|---|---|
| Year | Initiated cases | Suspended cases | Cases with discontinued prosecution | Acquittals | Seized property | Convictions | Penalties |
| 2005 | 5 | 1 | 1 | | | | |
| 2006 | 4 | 2 | | | | 1 | Fine of 400,000 AMD |
| 2007 | 3 | | 3 | 1 | | | |
| 2008 | 6 | | 1 | | 40,000 EUR and 31,650,000 AMD | | |
| 2009 (as of 15/02) | 4 | | | | | 1 | Confiscation of 4,600,000 AMD |

Effectiveness:

165. While the money laundering criminal provision is largely in line with the material elements of the Vienna and Palermo Conventions, questions could be raised in regard to its effective implementation.

166. The overall number of cases investigated versus the convictions obtained for ML would be reasonable for a jurisdiction the size of Armenia, especially considering that, until recently, a prior conviction for the predicate offence was required.

167. However, compared with the overall number of investigations instigated for predicate offenses, which since 2005 amounts to approximately 15,000 cases, as outlined in the table above, the number of cases instigated for money laundering, which is 22, appears to be rather low. While the assessors acknowledge that many of those predicate offenses may have been petty crimes, the comparison still gives rise to questions regarding the effective implementation of the money laundering provisions.

168. Also, assessors were unable to determine whether the implementation of the ML offence is effective, as approximately the 80% of criminal investigations and prosecutions are still pending, or were discontinued or suspended.

### 2.1.2. Recommendations and Comments

- Undertake appropriate initiatives (such as outreach or training, for example) to all authorities involved in investigating, prosecuting and adjudicating money laundering (ML) cases to: (1) assess what barriers exists for prosecuting ML, for example whether and to what extent the level of proof applied to show that property stems from the commission of a specific predicate offence poses an obstacle to obtaining convictions for stand-alone money laundering; and (2) to further raise the awareness on the statutory requirements of the ML provisions.
- Amend the law to provide for criminal liability of corporate entities.

### 2.1.3. Compliance with Recommendations 1 & 2

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.1** | **LC** | • It remains unclear whether to prove that property is proceeds of crime a conviction for a predicate offense is required.<br>• The low number of ML criminal investigations compared to the number of criminal investigations for proceeds-generating crimes, as well as the high standard of proof applied by the courts to establish that assets originate from crime, indicate an issue of effectiveness in the implementation of the ML criminal provision. |
| **R.2** | **LC** | • There is no criminal liability of corporate entities.<br>• Because of the limited number of convictions, the assessors could not determine whether the sanctions are applied effectively. |

## 2.2. Criminalization of Terrorist Financing (SR.II)

### 2.2.1. Description and Analysis

Legal Framework:

169. Terrorist financing is criminalized through Article 217.1. CC. The provision was first introduced in 2004 and has last been amended in 2008. At the time of the onsite mission, there have been no investigations or prosecutions for terrorism financing and any discussion as to its interpretation by the prosecuting authorities therefore has not been confirmed through case law.

170. Armenia has ratified the International Convention for the Suppression of the Financing of Terrorism ("TF Convention") on March 16, 2004 and has acceded to all nine treaties listed in the TF Convention's annex.

**Criminalization of Financing of Terrorism (c. II.1):**

171. Article 217.1. CC provides that the direct or indirect provision or collection of financial means with the criminal intent or the knowledge that the funds will be used, fully or in part, by a terrorist organization or an individual terrorist to commit terrorism constitutes the offense of terrorist financing and may be sanctioned with imprisonment of three to seven years and confiscation of the property involved in the commission of the crime.

172. The CC does not provide for a definition of "terrorist organization" or "individual terrorist". However, the authorities stated that the definition of "terrorist" as contained in the Law on the Fight against Terrorism would be applicable to Article 217.1. CC. Article 5 of this law defines "terrorist" as "any person having committed an act of terrorism, or having prepared or attempted such."

173. If the offense is committed by a group of people based on a prior agreement, or by an organized group, the sanction may be increased to imprisonment of eight to twelve years and confiscation of the assets.

174. Special Recommendation II requires that the terrorist financing offense extends to any person who provides or collects funds by any means, directly or indirectly, with the intention that they be used for terrorist acts as defined in the TF Convention, by a terrorist organization or by an individual terrorist:

Financing of Terrorist Acts as defined in the TF Convention:

175. "Terrorism" is defined through Article 217 CC as "actions inflicting significant damage to property or actions causing danger to the public, or threat of such actions, if these actions were committed with the purpose of violation of the public security, intimidation of the population or exerting pressure on decision making by a state official, or for the purpose of fulfilling another demand of the perpetrator."

176. Pursuant to Article 2 TF Convention, "terrorist acts" include: (1) offences as defined in the nine Conventions and Protocols listed in the Annex to the TF Convention; and (2) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.

177. With respect to the generic terrorism offense it would appear that the scope of Article 217 CC covers all but one aspect of the TF Convention's definition. While the TF Convention's definition also includes acts designed to intimidate an international organization, no such reference to international organizations is contained in Article 217 CC.

178. Article 217 CC does not contain an express reference to the offenses defined in the nine Conventions and Protocols listed in the Annex to the TF Convention. To satisfy the requirements of the international standard on that point, the generic terrorism offense would therefore have to be broad enough to cover all offenses defined in the nine Conventions and Protocols. However, the generic terrorism offense as defined in Article 217 CC has a special intent requirement, namely that an act is committed "with the purpose of violation of the public security, intimidation of the population or exerting pressure on decision making by a state official, or for the purpose of fulfilling another demand of the

perpetrator," whereas most of the offences as defined in the nine Conventions and Protocols listed in the Annex to the TF Convention do not require such an intent.[22]

179. In addition, while the infliction of damage to property or the causing of danger to the public or threat with such action is required for an act to fall under the definition of Article 217 CC as outlined above, one of the offenses in the Conventions and Protocols do not require the occurrence of damage or danger or threat thereof. The Nuclear Material Convention makes it a terrorism offense to fraudulently obtain nuclear material, regardless of whether or not the perpetrator uses or threatens to use the material against the public or any state.

180. The scope of the terrorism offense therefore does not extend to all "terrorist acts" as defined in the TF Convention.

Financing of Individual Terrorist or Terrorist Organizations pursuant to Special Recommendation II:

181. Article 217.1. CC criminalizes the financing of terrorists or terrorist organization only if the financial means are being collected or provided with the intention or the knowledge that the property will be used to commit a specific act. Thus, the provision or collection of funds to finance a terrorist (e.g. supporting life style) or terrorist organization generally is not covered. This was also confirmed in discussions with the authorities. Therefore, the terrorist financing provision does not cover all the requirements of Special Recommendation II on this point.

182. With respect to all criminal offenses, Article 29 CC differentiates between two forms of intent, namely "direct willfulness," where the person understood the danger and foresaw the consequences of his action and desired these consequences, and "indirect willfulness", where a person did not desire those consequences but knowingly allowed them to take place. When providing or collecting funds, the offender of the terrorism financing therefore has to act with direct or indirect willfulness. In addition, the offender has to have the intent or the knowledge that funds will be used for terrorism. The international standard requires that the perpetrator of a terrorism financing offense acts willfully and with intent that the funds be used, in the knowledge that they are to be used, for financing of terrorism and Armenian law therefore meets the international standard on this aspect of Criterion II.1(a).

Funds:

183. While the language of the TF provision does not discriminate between "legitimate and illegitimate" assets (and therefore includes both types of funds), the notion of "financial means" is not defined in the law. Paragraph 3 of Article 217.1. CC, however, defines the term "objects of terrorism financing" as *property* aimed at terrorist financing, including "the property used or intended to be used to finance acts as defined in Article 217.1. CC as well as the crime instruments intended fo the commission of terrorism and owned by the convicted, and if property linked to terrorism financing has not been discovered, other property of equivalent value." The term "property" is further defined in the Civil Code to include all funds as defined in the FATF standard.

184. The authorities confirmed that the terminology used in paragraph 1 ("financial means") and paragraph 3 ("objects of terrorism") does not match due to a legal drafting mistake. However, they held

[22] Only the offenses defined in the Hostage Taking Convention require a similar intent, namely that the perpetrator acts with the intent to "compel a third party […] to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage […]".

that for the purpose of interpreting the scope of the terrorism financing provision in paragraph 1, the scope of "objects of terrorism financing" would still be applicable. Due to the lack of any case law on this point, however, this view has not yet been confirmed by the courts, Thus, to ensure that Article 217.1. CC applies to all "funds" as defined in the FATF standard and avoid any possibility to challenge the authorities' interpretation, the assessors would consider it important to harmonize the terms used in paragraphs 1 and 3 of Article 217.1. CC.

185. Article 217.1. CC provides that the offence of terrorist financing is committed when a person collects or provides funds with the intention to support a terrorist act. The language of the provision does not require that funds have actually been used to carry out or attempt to carry out a terrorist act or that the funds collected/provided are linked to a specific act on the list. Representatives of the General Prosecutor's Office confirmed that Article 217.1.CC does not require that a specific act has been carried out or attempted. The mere provision or collection of the funds with the required intent or knowledge would suffice to prosecute a person for terrorism financing.

Ancillary Offenses pursuant to Article 2(5) TF Convention:

186. The provisions in the general part of the CC defining ancillary offenses apply to all crimes, including terrorism financing. As outlined in detail under Recommendation 1, criterion 7, Article 33 CC criminalizes attempt and Article 38 CC extends to any person acting as accomplices in the commission of a crime or who arranges or directs the commission of the crime or directs or abets a group for the purposes of committing a crime. All ancillary offenses as defined in Article 2(5) TF Convention are therefore covered under Armenian law.

**Predicate Offence for Money Laundering (c. II.2):**

187. Terrorist financing is listed in Article 190 CC and therefore constitutes a predicate offense for money laundering under Armenian law.

**Jurisdiction for Terrorist Financing Offence (c. II.3):**

188. Article 217.1. CC provides that the provision or collection of funds with the intention that they are to be used by terrorists or terrorist organizations is a criminal offense. Article 217.1. does not discriminate between the financing of terrorists and terrorist organizations located in Armenia and those located abroad.

189. In addition, Article 14 CC provides that Armenia's criminal laws are applicable to all conduct committed in Armenia. As long as the "provision or collection" takes place in Armenia, Article 217.1. therefore applies even in situations where the beneficiary is located outside of Armenia.

190. Furthermore, terrorist financing offenses committed outside Armenia by Armenian citizens as well as stateless persons permanently residing in Armenia are subject to criminal liability under Armenian law if the act constitutes a criminal offense in the country where the conduct occurred. Therefore, the Armenian terrorism offense applies regardless of whether the person alleged to have committed the financing offense is in the same country or a different country from the one in which the terrorist or the terrorist organization is located or the terrorist act occurred or will occur.

**The Mental Element of the TF Offence (applying c. 2.2 in R.2):**

191. Article 25 CPC provides for the application of the general principle of free assessment of evidence in criminal cases. According to this principle, the judge is not bound by strict rules in assessing

and evaluating the evidence gathered but may decide according to his own conviction. In accordance with this principle, the intentional element of any crime may therefore be inferred from factual circumstances.

**Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2):**

192. Armenian law does not provide for criminal liability of legal persons but administrative sanctions are available. The detailed analysis carried out under Recommendation 2, criteria 2 and 3 also applies to the terrorism financing offense.

**Sanctions for TF (applying c. 2.5 in R.2):**

193. Terrorist financing pursuant to Article 217.1. CC may be sanctioned with imprisonment of three to seven years plus confiscation of the assets involved. If the offense was committed by a group of people based on a prior agreement, or by an organized group, the applicable sanction is eight to twelve years imprisonment and confiscation of the property involved.

194. The sanctions available for terrorist financing seem to be proportionate and would be dissuasive. However, in the absence of any case law it is impossible to establish whether they are also effective.

**Effectiveness:**

195. As of the time of the onsite visits, there have been no inquests, investigations or prosecutions for terrorism financing.

### 2.2.2. Recommendations and Comments

- Amend the definition of "terrorism" pursuant to Article 217 CC (1) to cover all terrorism offenses as defined in the nine Conventions and Protocols listed in the Annex to the TF Convention and (2) to include a reference to "international organizations", as required by Article 2 of the TF Convention;
- Amend Article 217.1. CC to cover situations in which the property or funds are provided or collected generally for use by an individual terrorist or a terrorist organization when there is no intention or knowledge that the funds or property will be used in the commission a specific act of terrorism;
- Harmonize the terms used in paragraph 1 ("financial means") and paragraph 3 ("objects of terrorist financing") to clarify that Article 217.1. applies to all "funds" as provided for in the TF Convention;
- Amend the law to provide for criminal liability of corporate entities.

### 2.2.3. Compliance with Special Recommendation II

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **SR.II** | **PC** | • Article 217.1. CC does not criminalize the financing of terrorist or terrorist organizations in situations where the property or funds are provided or collected without the intention or knowledge that the funds or property will be used in the commission a specific act of terrorism, as required under SR II.<br>• Due to the inconsistent use ot terminology in paragraph 1 "("financial means") and paragraph 3 ("objects of terrorist financing"), it is unclear whether Article 217.1. CC applies to all "funds" as defined by the TF Convention. |

| | | |
|---|---|---|
| | | • The definition of "terrorism" referred to by the TF provision does not contain a reference to "international organizations", as required by the TF Convention.<br>• The purposive element required by Article 217 (terrorism) unduly restricts the application of the TF provision to most of the terrorism offenses stipulated in the nine Conventions and Protocols listed in the Annex to the TF Convention.<br>• There is no criminal liability of corporate entities. |

### 2.3. Confiscation, Freezing and Seizing of Proceeds of Crime (R.3)

#### 2.3.1. Description and Analysis

Legal Framework:

196. Depending on the crimes involved, different provisions of Armenian Law provide for the confiscation of property. For predicate offenses, confiscation of property is provided for through Article 55(3) in combination with Article 55(1) CC. For ML offenses, property may be confiscated pursuant to Article 55(4) CC and for TF offenses pursuant to Article 55(3)CC.

197. For all predicate, ML and TF offenses, seizing measures are available based on Article 233 CPC.

198. Additional powers to identify and trace property that is or may become subject to confiscation or is suspected of being the proceeds of crime are to be found in Articles 225-228 CPC and Articles 14-30 of the Law of Operational and Search Activities (LOSA) as outlined under Recommendations 27 and 28 of this report.

**Confiscation of Property related to ML, TF or other predicate offences including property of corresponding value (c. 3.1); Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1):**

199. Confiscation is defined pursuant to Article 55(1) CC as "the compelled and ultimate deprivation of property or its part found to be owned by the defendant and its conversion into the state's ownership."

200. Article 55 comprises three separate confiscation provisions: 55(3) is the general confiscation provision which, with a few exceptions, is applicable to all grave and particularly grave crimes. Articles 55(4) & 55(5) contain confiscation provisions applicable exclusively to ML and TF offenses, respectively.

201. Article 55(3) provides that "confiscation of property can be applied to grave and particularly grave crimes […] in cases stipulated by the Special Part of the CC" and with the exception of those defined by Articles 55(4) & 55(5), which relate to cases of ML and TF, as for those crimes the more specific confiscation provisions of Article 55(4) and (5) apply as outlined below.

202. For the ML offence, Article 55(4) provides that "confiscation is mandatory with regard to illicit property including the property derived, directly or indirectly, from legalization of illicit proceeds and commission of the offenses defined by Article 190 CC, i.e. income or other benefits from the use of that property the instruments used or intended for use in the commission of those offences, and if the illicit property has not been discovered, other property of corresponding value." While the language of Article

55(4) CC would suggest that the provision is applicable not only to ML but to all offenses involving illicit proceeds, in discussions with the authorities it was stated repeatedly that the scope of the provision would be limited to ML only and that the provision could therefore not be used to confiscate property relating to the predicate offense.

203. Article 55(5) stipulates that "confiscation is mandatory with regard to property linked to, including property used or intended to be used for financing the actions defined in Article 217 CC and including income or other benefits from the use of that property, the instruments used or intended for use in the commission of those offences and, if the property […] has not been discovered, other property of corresponding value."

204. In all three cases, confiscation is a conviction based sentence. However, whereas confiscation is mandatory upon conviction for ML and TF, it is a discretionary sanction in the context of Article 55(3) as outlined above.

Property relating to the money laundering offense:

205. Article 55(4) CC provides for mandatory confiscation of illicit proceeds, including of property derived or obtained, directly or indirectly, from legalization of illicit proceeds and the commission of ML offenses, including income or other benefits from the use of that property, the instruments used or intended for use in the commission of money laundering offenses, and in cases the illicit property has not been discovered, property of corresponding value to such illicit proceeds.

206. The provision further stipulates that the property should be confiscated regardless of whether it is owned or held by the defendant or a third party, therefore also allowing for the confiscation of property that has been transferred to a third party. The authorities clarified that the provision would extend to property over which the defendant has legal ownership and property of which the defendant merely has in his possession, as well as to any property that is owned or held by a third party. Bona fide third parties are protected from confiscation as outlined below.

207. Article 55(4) CC therefore allows for the confiscation of proceeds from, instrumentalities used for or intended for use in the commission of the ML offense. While Article 55(4) CC does not expressly refers to the property laundered, the court in *Armenia vs. Ghukasyan* (EADD/0041/01/08) confiscated the proceeds of the predicate offense as the object of the ML offense pursuant to Article 55(4) CC.

Property relating to the commission of a terrorist financing offense:

208. Article 55(5) CC stipulates that confiscation is mandatory with regard to property linked to terrorist financing, including property used or intended to be used for the financing of actions defined in Article 217 CC, income or other benefits from the use of that property, the instruments used or intended for use in the commission of those offences, and, if the property has not been discovered, property of corresponding value.

209. As in the case of confiscation relating to ML, property relating to TF may be confiscated regardless of whether it is held by a defendant or a third party.

210. The Article 55(5) therefore covers both the object of the TF offense as well as the proceeds from, instruments used or intended for use of the commission of the offense.

Property relating to the predicate offense:

211. As outlined above, while the language of Article 55(4) CC would suggest that the provision is applicable not only to ML but to all offenses involving illicit proceeds, in discussions with the authorities

it was stated that the scope of the provision would indeed be limited to ML only and could not be used to confiscate property relating to the predicate offense.

212. However, for crimes other than ML and TF, the general confiscation provision of Article 55(3) stipulates that confiscation of property may be applied to "grave and particularly grave offences committed with mercenary motives" in cases provided for in the Special Part of the CC and with the exception of cases of ML and TF.

213. Article 55(1) further specifies that all property found to be owned by the defendant may be confiscated, whereby certain private items, such as household items in use, books needed for professional study, and moving accessories for disabled persons are excluded from confiscation pursuant to Section 3 Penitentiary Code. All other items owned by the defendant, including instrumentalities used for or intended for use in commission of predicate offense, proceeds from the commission of the offense and property of corresponding value may be confiscated.

214. "Grave offenses" include any willful act with a maximum applicable sentence of five to ten years, whereas "particularly grave offenses" comprise any such act with imprisonment of ten years to life pursuant to Article 19(4) & (5) CC. Most of the predicate offenses as defined in Article 190 CC do not fall under the categories of "grave" or "particularly grave" offense. In particular, Article 55(3) does not allow for the confiscation of proceeds from certain offenses relating to sexual exploitation (namely the crimes of "involvement in prostitution" and "promoting prostitution"), the basic arms trafficking offense, illicit trafficking in stolen or other goods, a number of offenses relating to fraud, corruption and bribery, the offence of counterfeiting of products, most offenses constituting environmental crimes, many offenses relating to theft or robbery, and the basic extortion offence.

215. Article 55(1) CC only applies to property owned by the defendant and only with respect to a limited range of predicate offenses as outlined above.

216. Thus, as the scope of Article 55(3) CC does not extend to all predicate offenses as outlined above, Armenian law only allows for the confiscation of proceeds of and instrumentalities used or intended to be used for the commission of some but not all predicate offenses.

**Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):**

217. As a general rule, Article 233(1) CPC allows for the seizure of property in criminal cases only to secure civil claims and court expenses, whereby seizure is possible only if: (1) the material to be seized may be hidden, spoiled or consumed; (2) there is sufficient grounds to suspect that the accused or the person possessing the property will hide, spoil or consume it; and (3) the property is or may become subject to confiscation. Seizure of property is imposed both on the property of the suspect as well as those persons whose actions can cause financial responsibility, regardless of who possesses and owns that property.

218. Article 233(1) refers to property that is or may become subject to confiscation and thus implies that all property that is or may become subject to confiscation as outlined under criterion 3.1. could also be seized.

219. However, Article 233(1.1.) CPC provides that with respect to a list of criminal offenses, including ML, TF and all FATF designated categories of predicate offenses, the prosecuting body shall impose a seizure on property if the evidence collected in the case provides a sufficient basis to assume that the suspect, the accused or person who possesses the property can hide, spoil, or consume the property subject to confiscation. The provision allows for the seizure of property derived or obtained, directly or

indirectly through the commission of the enlisted offenses, including income or other benefits, instruments used or intended to be used in the commission of any such crime, immediately after their discovering. Seizure is available with respect to property held or owned by the defendant or a third party. Unlike the confiscation provisions discussed under criterion 3.1., Article 233(1.1.) CPC does therefore not allow for the seizing of legitimate assets of equivalent value to proceeds from or instrumentalities used or intended for use in the commission of ML, TF or predicate offenses.

220. The decision to seize property does not require a court order but may be taken by the investigating body, which in the case of ML and TF is the NSS, anytime after a criminal case has been instigated and subject to the supervision of the prosecutor's office pursuant to Article 55 CPC in combination with Article 233(1.1.) as outlined above.

221. The Armenian CPC does not provide for separate restraint powers. Bank accounts would therefore be secured just like any other property, namely through a seizing order pursuant to Article 233 CPC. In addition to Article 233 CPC, Article 13 CPC provides for the "security of property" defined as the "imposition of an arrest on bank deposits and other property of a person" after a criminal case has been instigated. The measure may be taken even in the absence of a court order and based on a decision by the competent investigative or prosecuting body.

222. The Armenian CPC provides for three stages of investigating cases of ML and TF – the instigation of a criminal case, the stage of inquest, and the investigation of a case (all at pre-trial level).

223. Pursuant to Article 182 CPC, a criminal case may only be instigated if there are "reasons and grounds" to do so or "on the occasion."

224. A detailed discussion of the various stages of a ML case, including the difference between instigation, inquest, and investigation, is provided for under Recommendation 27 of this report.

225. Article 233(3) CPC further provides that the decision to seize assets must indicate the property that may be seized. Article 235 stipulates that upon making a decision to seize property, the investigator or prosecutor, as the case may be, should hand over the decision to seize to the owner or manager of the property and demand that the property be submitted. If the demand is rejected, or there are grounds to suspect that the property will not be surrendered based on the seizing order, the prosecutor may apply to the court for a search warrant to facilitate enforcement of the seizing order. The decision to seize property may be appealed to the prosecutor but an appeal does not prevent execution of the decision.

226. Additional powers are provided for in the Law on Police. Article 20 states that the police has the right to "enter [...] into the areas occupied for production and other entrepreneurial activities [...] and [...] perform inspection, including the vehicles, and confiscate [...] documents, samples of raw materials and production directly associated with the offence". Article 19 provides the police with the power to search hand-luggage and suitcases of train, air and sea passengers and to confiscate items of which the shipment is prohibited. Article 23 further allows for the inspection of places in which arms are being traded or kept and to confiscate and destroy the arms which are prohibited from circulation.

**Ex Parte Application for Provisional Measures (c. 3.3 ):**

227. Article 233(2) CPC provides that the decision to seize property is made by the investigating body or the prosecutor, as the case may be. It is not required to obtain a court order to seize assets pursuant to Article 233 CPC. The seizing measure remains in place until the case has either been terminated or the court has issued a conviction. The measure may therefore be applied ex parte and without prior notice to the parties concerned and Armenia is in compliance with this criterion.

**Identification and Tracing of Property subject to Confiscation (c. 3.4):**

228. Both the CPC and the LOSA provide for a range of measures to identify and trace property that is or may become subject to confiscation. Further provisions dealing with access to confidential information held at financial institutions are provided for in the Banking Secrecy Law and the AML/CFT Law.

229. The measures provided for in the LOSA include control over correspondence, mail, telegrams, phone conversations and other communications, internal observations of a person or premises by means of technical devices, controlled delivery and purchase of goods and services, and access to financial data and secret control over the financial transactions from financial institutions.

230. The CPC further provides for the seizure of evidence and documents and the issuance of search warrants by the courts. However, as outlined above as well as in the sections of this report dealing with Recommendation 28, investigative measures pursuant to the CPC are only available after a case has been instigated. Prior to the initiation of a criminal case measures pursuant to the LOSA are available (discussed later under Recommendation 27).

231. For the analysis of the provisions concerning access of competent authorities to information covered by financial secrecy, please refer to Recommendations 4 and the issues noted therein. For the analysis of the provisions concerning access to information which is protected by professional secrecy please refer to Recommendation 26 and Recommendation 28 and to the issues noted therein.

**Protection of Bona Fide Third Parties (c. 3.5):**

232. Both seizure pursuant to Article 233(1.1.) CPC and confiscation pursuant to Article 55(4) and (5) CC are possible regardless of whether the property in question is owned or held by the defendant or a third party. With respect to predicate offenses, however, Article 55(3) does not allow for the confiscation of the defendant's assets if they are held or owned by a third party and protection of bona fide third parties is therefore not provided for.

233. With respect to confiscation, Article 55(6) specifically provides that property held by bona fide third parties may not be confiscated, whereby "bona fide third party" is defined to include any person who, at the time of the transfer of the property to other persons or at the time of acquisition of the property, did not know or could not have known that the property will be used or is intended to be used for illicit purposes.

234. The provisions are therefore in line with this criterion**.**

**Power to Void Actions (c. 3.6):**

235. There is no express provision in the CPC that would allow a court or prosecutor to prevent or void actions, whether contractual or otherwise, where the person involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. However, transactions may be voided pursuant to Article 313 of the Civil Code if they were made under the influence of fraud or based on a bad-faith-agreement of the parties involved. Armenia's law is therefore in line with this criterion.

**Additional Elements (Rec 3)—Provision for: a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and c) Confiscation of Property which Reverses Burden of Proof (c. 3.7):**

236. Armenian law does not provide for civil forfeiture or confiscation of property with a reverse burden of proof to show the lawfulness of the property in question. Equally, the law does not allow for the

confiscation of assets of criminal organizations other than those directly related to an offense for which a conviction has been obtained.

**Effectiveness and Statistics (R 32)**

237. Statistics relating to seizures and confiscations are maintained by the Service for Compulsory Enforcement of Court Decrees.

238. According to those statistics, since 2005 Armenia has seized property in three ML cases instigated, amounting to EUR 40,000, AMD 15,000,000 (approx. 49,155 USD or 39,200 EUR) and AMD 16,650,000 (approx. 54,560 USD or 43,600 EUR). In the first case, the decision to seize was repealed and the assets of EUR 40,000 returned. In the other two cases, the trials are still pending.

239. In one case, assets in the amount of 4,600,000 AMD (approx. 12,000 EUR or 12,040 USD) were confiscated upon conviction for ML.

| Year | Number of criminal cases with property seized | Total value of property seized | Number of cases with property confiscated | Total value of property confiscated |
|---|---|---|---|---|
| **2005** | - | - | - | - |
| **2006** | - | - | - | - |
| **2007** | - | - | - | - |
| **2008** | 3 | EUR 40.000 and AMD 31,650,000 | - | Trials in process. |
| **2009 (as of Feb. 15, 2009)** | - | - | 1 | AMD 4,600,000 |

240. Since 2005 approximately 15,000 cases for predicate offenses have been instigated, whereby in 121 cases property in the total amount of approximately 500,000,000 AMD (approx. 1.3 million EUR or 1.6 million USD) was confiscated.

241. While the legal framework provides for the availability of seizing and confiscation measures with regard to property laundered, proceeds from and instrumentalities used in and intended for use in ML and TF and some predicate offenses, based on the statistics as outlined above assessors seriously question how effectively those measures are implemented in practice and in the context of ML and other cases.

242. In particular, it is unclear why in only three out of 22 cases prosecuted for ML the authorities decided to seize property or instrumentalities and why only one case led to the confiscation of property.

243. Looking at the overall number of cases investigated for predicate offenses and the total of assets confiscated in such proceedings, it seems that the law enforcement authorities are familiar with the seizing and confiscation provisions of the CC and CPC and also use those measures in the context of cases other than ML. It is therefore unclear why in ML cases, seizing measures have so far been used only in limited cases.

### 2.3.2. Recommendations and Comments

- With respect to all predicate offenses not covered by Articles 55(3) CC, measures should be put in place to allow for the confiscation of proceeds from and instrumentalities used or intended to be used for the commission of the offenses as well as of legitimate assets equivalent in value to such property.
- Article 55(3) CC should be amended to allow for the confiscation of property regardless of whether it is held or owned by the defendant or a third party.
- Put in place measures to allow for the seizing of legitimate assets equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML, TF or predicate offenses.
- Harmonize Article 10 LBS with Article 29 LOSA and Article 13.1 LBS with Article 13 AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities can effectively identify and trace property that is/may become subject to confiscation or is suspected of being the proceeds of crime, including in cases where a "suspect" has not yet been identified.
- The law enforcement authorities should ensure that provisional measures with respect to property that may become subject to confiscation are implemented effectively in the context of inquests/investigations/pre-trials for ML and TF.
- Armenian authorities should reconsider their approach to confiscation with a view to increasing the number of confiscation actions and to encourage a more frequent use of the confiscation provisions.
- The authorities should consider assessing the criminal law framework to determine whether it would be appropriate to introduce civil forfeiture, or confiscation of property with a reverse burden of proof or the confiscation of assets of criminal organizations other than those directly related to an offense for which a conviction has been obtained.

### 2.3.3. Compliance with Recommendation 3

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.3** | **PC** | • The confiscation provisions cover some but not all FATF designated predicate offenses.<br>• Article 55(3) CC does not allow for the confiscation of property that is held or owned by the defendant or a third party.<br>• Article 233(1.1.) CPC does not provide for seizure of property equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML, TF or predicate offenses.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' ability to effectively identify and trace property that is or may become subject to confiscation, especially prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• Confiscation provisions and provisional measures with respect to property that may become subject to confiscation do not seem to be implemented effectively. |

## 2.4. Freezing of Funds Used for Terrorist Financing (SR.III)

### 2.4.1. Description and Analysis

Legal Framework:

244. The provisions of Article 25 AML/CFT Law are aimed at the implementation of both UNSCR 1267 and UNSCR 1373. Pursuant to Article 25 AML/CFT Law, "to adhere to the resolutions of the UN Security Council[…] the Authorized Body shall release lists of persons linked to terrorism and ensure immediate freezing of funds" of listed persons or persons linked to terrorism. Article 3(11) AML/CFT Law provides that for the purposes of the AML/CFT Law, the CBA is the Authorized Body. Article 10.2. in combination with Article 10.1.(18) AML/CFT Law further provides that the CBA authority to release the lists pursuant to Article 25 AML/CFT Law is delegated to the FMC.

245. The term "funds" is not defined in the law. It therefore remains unclear to what extent Article 25 AML/CFT includes "property of every kind, whether corporeal or incorporeal, tangible or intangible, moveable or immoveable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such funds or other assets, including, but not limited to, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, letters of credits, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets." The authorities stated that Article 25 AML/CFT Law would merely extend to financial assets but not to property such as real estate or other economic resources.

246. The reporting entities covered by the AML/CFT Law and therefore subject to obligations pursuant to Article 25 include a number of DNFBPs, for example the "body responsible for maintaining the integrated state cadastre of real estate […] when [amongst others] buying or selling real estate". It would therefore appear that the obligation to freeze assets of designated terrorists could also apply to property that is real estate. In discussions with the authorities it was stated that while in theory such an obligation would exist, it is unclear how the freezing of such property would be implemented in practice, should such a case arise. The State Registry of Legal Entities serves as another example, as it is covered by the AMLCFT Law but it is nevertheless unclear how the freezing mechanisms envisaged by Article 25 would apply in the case of businesses or companies if these were to be found in the possession/control of a designated terrorist or terrorist organization.

247. "Terrorism related person" is defined in Article 3(23) of the AML/CFT Law as "any individual or organization included in the list of individuals and organizations published by the UN Security Council or designated by the Authorized Body, as well as persons suspected, accused or convicted for terrorism." Article 3(29) further defines the "freezing of funds" as the "blocking for a certain period of time, in the manner established by this law, of the factual and legal movement of funds of the persons linked to terrorism."

248. Based on Article 25(3) AML/CFT Law, the freezing of funds can be either initiated directly by the reporting entities (in case of a match they are obliged to freeze) or instructed by the Board of the CBA (upon a proposal by the FMC). The funds are frozen for a period of 5 days. In the case in which the funds are frozen directly by the reporting entity, the reporting entity is obliged to file a Suspicious Transaction Report (STR) with the FMC. Prior to the expiration of those 5 days, the board of the CBA may, either on its own initiative or upon request by the reporting entity, revoke the freeze.

249. Within the 5 days, the FMC either has to forward the report to the law enforcement authorities for investigation or revoke the decision to freeze. If no decision is taken within the prescribed period, the

freeze automatically expires. Once a report has been forwarded to the law enforcement authorities, the freeze is automatically extended for a period of 10 days. If within those 10 days the law enforcement authorities decide to instigate a case for terrorism financing, the property may be seized in accordance with Article 233 CPC. Otherwise, the freeze automatically expires after 10 days.

**Freezing Assets under S/Res/1267 (c. III.1):**

250. While Article 25 AML/CFT Law is meant to implement UNSCR 1267, the freezing measure pursuant to Article 25 is merely of a temporary nature. The authorities stated that also in the context of lists received from the UN Security Council pursuant to UNSCR 1267 the freeze can only be maintained based on the initiation of domestic criminal proceedings and remains in place until the end of such proceedings. This approach is problematic as the issuance of a domestic freezing order is within the discretion of the Armenian courts while under UNSCR 1267 countries clearly do not have any discretion to freeze property of designated individuals or organizations. Armenia's approach to link the freezing measures under Article 25 AML/CFT Law to domestic proceedings would also mean that a freeze can only be initiated if the authorities meet the standards articulated in the domestic legislation for a criminal law freeze.

251. Also, since the initiation of domestic proceedings is dependent on the identification of a suspect, which in the absence of criminal liability for legal entities may only be a natural person, the measures under Article 25 AML/CFT Law are also not available with respect to legal entities designated by the UN Security Council. No other procedures or measures adequately addressing the requirements under UNSCR 1267 are available under Armenian law.

**Freezing Assets under S/Res/1373 (c. III.2):**

252. As outlined above, while Article 25 AML/CFT Law gives the CBA the authority to designate persons linked to terrorism and release such lists of designation, this power has been delegated to the FMC pursuant to Article 10 AML/CFT Law.

253. The authorities stated that in practice it has never been considered necessary to make designations pursuant to UNSCR 1373 based on national intelligence or other information received. The authorities further stated that on two occasions, lists from other jurisdictions with a request to freeze the assets of designated individuals and entities (the US OFAC lists and the EU regulations on terrorism related persons and groups) have been received by Armenia. The FMC in consultation with the Interagency Commission considered the requests and decided not to adopt those designations. Therefore, the lists were not forwarded to the financial institutions or DNFBPs operating in Armenia. However, representatives of the FMC stated that in both cases the names of the listed individuals were added to the FMC database so that STRs and CTRs submitted by reporting entities would automatically be checked for a match, in which case the FMC would immediately freeze any transactions affected. The approach of the authorities took in those cases is not entirely comprehensible. On the one hand, the names on the OFAC and EU lists have been maintained for STR purposes, meaning that such person's funds would be frozen if a STR regarding that person would be received. On the other hand, the names were not sent to the institutions for matching persons, for the possibility that a suspicion would be raised and thus a STR filed if that name appears.

254. Armenia has not adopted any formal screening procedures for incoming lists of other countries.

**Freezing Actions Taken by Other Countries (c. III.3):**

255. Armenia has never received a request to give effect to freezing actions initiated under the freezing mechanisms of other jurisdictions. Should the case arise, the FMC may, based on Article 25 AML/CFT Law, freeze property for a period of 15 days. After expiration of this period, the freeze can only be maintained if domestic proceedings for TF can be initiated.

**Extension of c. III.1-III.3 to funds or assets controlled by designated persons (c. III.4):**

256. Article 25 AML/CFT Law provides for the freezing of "funds of the persons included in […] lists as well as of other persons linked to terrorism financing". There is no specific reference in the provision to property owned jointly and it is unclear whether the freezing measures may also be applied with respect to funds merely controlled but not legally owned by such individuals.

257. As discussed in the overview, the term "funds" is not defined anywhere in the law and it therefore remains unclear to what extent Article 25 AML/CFT includes all funds and other assets as defined in the FATF standard.While the reporting entities covered by the AML/CFT Law and therefore subject to obligations pursuant to Article 25 include a range of DNFBPs, it remains unclear how the freezing of such property would be implemented in practice. The authorities stated that Article 25 AML/CFT Law would merely extend to financial assets but not to property such as real estate or other economic resources.

**Communication to the Financial Sector (c. III.5):**

258. As outlined in the overview, while Article 25 AML/CFT Law makes the CBA responsible for the "release" of lists of "persons linked to terrorism", in practice Article 10 AML/CFT Law delegates this authority to the FMC.

259. The authorities stated that the lists issued pursuant to UNSCR 1267 would be forwarded to the financial institutions as well as the supervisory bodies of DNFBPs of hardcopy, instructing the financial institutions and DNFBPs to freeze, without delay, any funds held by listed entities or individuals. Some but not all financial institutions and supervisory bodies of DNFBPs acknowledged receipt of such written notifications.

260. In addition, the FMC would also make a notification of the update on the FMC homepage, reminding reporting entities of their obligations to freeze any funds held by designated entities and providing a direct link to the relevant UN web page.

261. With respect to designations made by the CBA as the Authorized Person, the authorities stated that while such designations have never been made in practice, dissemination of such designations would take place through circular letters should the case arise.

**Guidance to Financial Institutions (c. III.6):**

262. The FMC has not issued any formal guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to Article 25 AML/CFT Law.

**De-Listing Requests and Unfreezing Funds of De-Listed Persons (c. III.7); Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism (c. III.8):**

263. The authorities have not issued any guidance or procedures on how entities or persons listed by the Central Bank as "persons linked to terrorism" could challenge this decision and apply for delisting, should the situation arise. Persons and entities listed by the Security Council pursuant to UNSCR 1267 could apply for a delisting directly with the United Nations.

264. However, since freezing actions pursuant to Article 25 AML/CFT Law are dependent on the initiation of domestic proceedings and limited to the duration of such proceedings, upon determination that a person is not guilty the seizing measure would be lifted even with respect to persons or entities designated by the Security Council or the CBA. The authorities confirmed that freezing measures taken both in respect of entities or persons designated pursuant to UNSCR 1267 and 1373 could be lifted through domestic proceedings. This would apply regardless of whether the appeal is filed by persons claiming to be inadvertently affected or persons appealing the measure on the merits of the case.

265. Once the assets have been seized, the individual may take recourse to the prosecutor.

**Access to frozen funds for expenses and other purposes (c. III.9):**

266. Article 25 AML/CFT Law provides that persons are entitled to apply to the court for an order, allowing them access to frozen funds for family, medical, and other personal means. In the context of freezing measures issued for entities listed pursuant to UNSCR 1267, the court order should be issued in accordance with and in the manner provided for by the resolutions of the UN Security Council.

**Review of Freezing Decisions (c. III.10):**

267. As outlined in the previous sections, the maintenance of freezing measures applied pursuant to Article 25 AML/CFT Law is dependent on the initiation of domestic proceedings. During the initial 5 days of the freeze, in which the Authorized Body is to make a decision on whether or not to forward a specific case to the law enforcement authorities, the measure cannot be appealed against by the person or entity whose funds or other assets have been frozen with a view to having the measure removed. The same is true for the 10 days following a transfer of the case to the law enforcement authorities. However, once the law enforcement authorities have taken a decision to seize assets pursuant to Article 233 CPC, the individual concerned may challenge the seizure before the prosecutor and eventually the pre-trial court based on Article 290 CPC.

**Freezing, Seizing and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11)**

268. As outlined in the general section above, Article 25 AML/CFT Law not only applies with respect to persons designated by the UN Security Council or the CBA as the authorized person, but also with respect to domestic proceedings where a person has been identified as a "suspect, accused or convicted." In addition, seizing and confiscation measures based on Article 55(5) CC and Article 233 CPC apply. A detailed discussion and analysis of these measures is provided for under Recommendation 3 of this report.

**Protection of Rights of Third Parties (c. III.12):**

269. In confiscation matters, third party protection is covered by Article 55(7) CC, which expressly excludes from confiscation those assets that are owned or held by bona fide third parties, defined as a person who, at the moment of transfer of the property to other persons, did not know or could not know that the property was obtained in a criminal way.

270. Outside of criminal proceedings, there are no special and appropriate provisions on protection of bona fide third parties caught in the initial freezing process pursuant to Article 25 AML/CFT Law.

**Enforcing the Obligations under SR III (c. III.13):**

271. The authorities stated that compliance with Article 25 AML/CFT Law would be monitored in the course of the CBA's supervision for AML/CFT purposes. When conducting AML/CFT audits, financial

institutions would be required to provide their internal procedures with respect to freezing measures and be instructed to remedy any shortcomings identified.

272. Any violations of Article 25 AML/CFT Law may be sanctioned pursuant to Article 28 AML/CFT Law.

### 2.4.2. Recommendations and Comments

- Armenia should review the freezing mechanisms set forth in Article 25 AML/CFT law that are meant to implement obligations under UNSCR 1267, UNSCR 1373 and SR III. In particular, Armenian law should provide for meeting the designation and freezing responsibilities set forth in the UN Resolution in all instances regardless of whether it is possible to instigate an investigation or prosecution of a terrorist offence. It should provide an indefinite freezing mechanism that is available regardless of the initiation or outcome of a domestic criminal proceeding and does not allow for any discretion in implementing a freeze in case of a match with the UN Security Council lists;
- Put in place a mechanism to give effect to freezing actions initiated under the freezing mechanisms of other jurisdictions beyond the 15 days which are currently provided by the law. The freezing measures should be available in all instances for property owned jointly by a designated person or entity as well as with respect to funds merely controlled but not legally owned by designated entities or individuals;
- The freezing measures should apply not only to funds but also to any financial assets and property of every kind, as defined in the FATF standard and the Interpretative Note to Special Recommendation III;
- The FMC should issue formal guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to UNSCR 1373 and Article 25 AML/CFT Law;
- The FMC should issue guidance or procedures on how entities or persons listed by the Central Bank could challenge this decision and apply for delisting, should the situation arise;
- Article 25 AML/CFT Law should make provision for the protection of bona fide third parties caught in the initial freezing process.

### 2.4.3. Compliance with Special Recommendation III

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **SR.III** | **NC** | • The freezing mechanisms envisaged by Article 25 AML/CFT Law are not in line with the freezing obligations stemming from UNSCR 1267 and 1373 and are not consistent with SRIII, as such measures are dependent of the institution of domestic proceedings and in the absence of a conviction are therefore merely of a temporary nature.<br>• Beyond an initial period of 15 days, Armenia does not have a mechanism in place to give effect to freezing actions initiated under the freezing mechanisms of other jurisdictions.<br>• In the absence of legal criminal liability for legal entities, funds and other assets of legal entities cannot remain frozen after expiration of the initial 15 days.<br>• The freezing measures do not apply to financial assets and property other than funds.<br>• The freezing measures are not in all instances available for property owned jointly by a designated person or entity as well as with respect to funds merely controlled but not legally owned by designated entities or individuals.<br>• Lack of guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to UNSCR 1373 and Article 25 AML/CFT Law.<br>• No guidance or procedures have been issued on how entities or persons listed by the CBA could challenge this decision and apply for delisting, should the situation arise.<br>• Article 25 AML/CFT Law does not provide for the protection of bona fide third parties caught in the initial freezing process. |

## 2.5. The Financial Intelligence Unit and its Functions (R.26)

### 2.5.1. Description and Analysis

**Establishment of FIU as National Centre (c. 26.1) and Dissemination of Information (c. 26.5):**

273. The ROA Law on Combating Money Laundering and the Financing of Terrorism (June 21, 2008 HO-80-N, hereinafter "AML/CFT Law") provides for an "Authorized Body for Combating Money Laundering and Terrorism Financing" (Article 10). Article 3, paragraph 11 of the AML/CFT Law states that such Authorized Body is the Central Bank of Armenia (CBA). The ROA Law on the Central Bank of the ROA (hereinafter "Law on CBA") indicates, among the objectives of the CBA also "organize and regulate combating legalization of criminal proceeds and financing of terrorism' (Article 5, paragraph 1(d)).

274. Article 10 of the AML/CFT law enumerates various functions of the Authorized Body in the area of AML/CFT, which are performed by a "responsible structural unit" established within the CBA– the

Financial Monitoring Centre (FMC)[23]. These functions, according to Article 10, paragraph 2, (and on FMC's Statute) are to be exercised directly by the FMC – except in some cases, in which the functions of the Authorized Body are conferred either directly to its "supreme management body" or through its competent divisions[24]. The supreme management body, according to Article 19, paragraph 1 of the Law on CBA, is the Board of the CBA.

275. For the purpose of determining whether the FMC meets the R26 definition —that is an FIU that serves as a national centre for receiving, analyzing and disseminating disclosures of STR and other relevant information concerning suspected ML or TF activities (hereinafter referred to as "FIU's core functions")— it should be noted that among the various functions whose performance is assigned to the FMC directly by the law, Article 10 of the AML/CFT law specifically indicates the **reception** "of reports from reporting entities and information from state bodies and organizations" (paragraph 1.(1); the **analysis** of the "received reports and information" (paragraph 1.(2); and the **dissemination** of a "statement to criminal investigation authorities" when the FMC has reasonable suspicions of money laundering or terrorist financing, as a result of the analysis of a report filed by a reporting entity or of other information (Article

[23] According to Article 10, paragraph 2 of the AML/CFT law the following are the functions of the Authorized Body which are performed by the FMC:

- Receive reports from reporting entities and information from state bodies and organizations;
- Analyze the received reports and information;
- Send a statement to criminal investigation authorities in cases stipulated by Article 13 of the AML/CFT Law;
- For the purposes of the AML/CFT Law, request other information from reporting entities, including information constituting secrecy as prescribed by law, except for the cases stipulated by Part 3 of Article 4 of the AML/CFT Law;
- For the purposes of the AML/CFT Law, request other information from state bodies, including supervisory and criminal investigation authorities, including information constituting secrecy as prescribed by law;
- When reporting entities submit inaccurate or incomplete reports, or fail to submit such reports in cases established by this Law, as well as when deficiencies are found in the internal legal acts of reporting entities, issue assignments for rectifying them;
- Provide reporting entities with data necessary for identification of persons or with typologies, based on which reporting entities shall be obligated to suspend the business relationships or transactions matching with such names (titles) or typologies, or to reject their execution;
- In the manner established by normative legal acts of the Authorized Body, regularly provide reporting entities with information (feedback) on the reports filed by them;
- Organize trainings in the field of combating money laundering and terrorism financing and coordinate the trainings organized by other bodies, as well as confer qualification on the staff of the internal compliance units of financial institutions based on Part 2 of Article 22;
- In the manner established by its legal acts, publicize annual reports on its activities stipulated by this Law;
- Raise public awareness on combating money laundering and terrorism financing;
- Conclude agreements of cooperation with international organizations and foreign financial intelligence units in the manner established by Article 14 of this Law; exchange information (including information constituting secrecy as prescribed by law);
- Perform other authorities and functions stipulated by this Law.

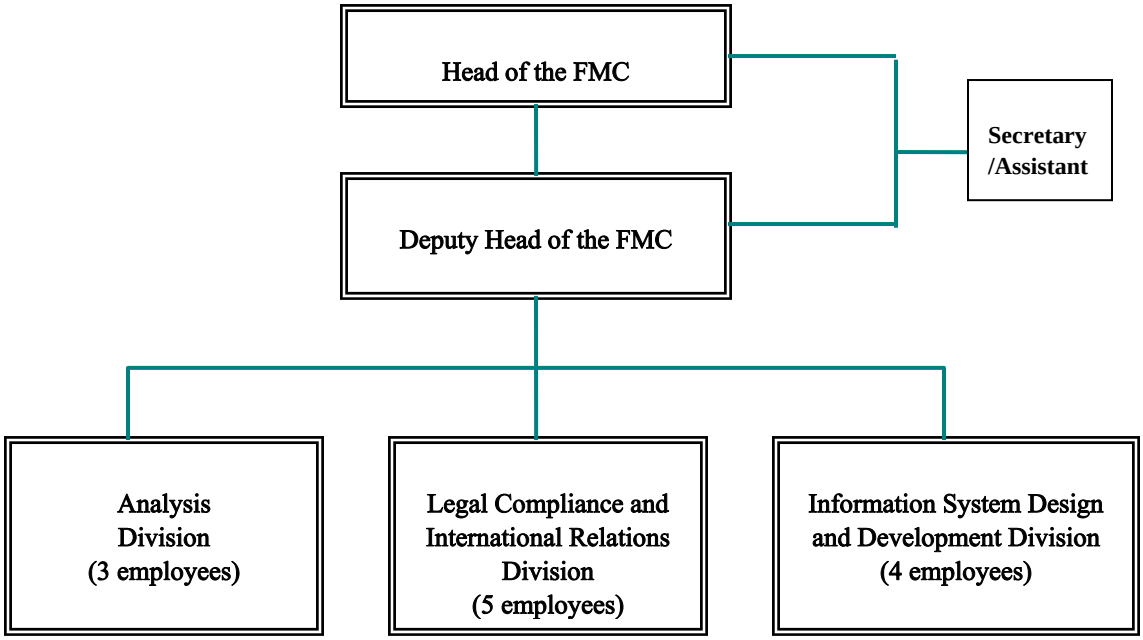
[24] According to Article 10, paragraph 3 of the AML/CFT law the following are the functions of the Authorized Body which are conferred to the Board of the CBA and exercised through its competent divisions:

- In the field of combating money laundering and terrorism financing, adopt legal acts, approve guidelines, and promulgate typologies as stipulated by this Law, in cooperation with reporting entities, supervisory and other bodies and organizations, where necessary;
- Contribute to the supervision over reporting entities in the manner and cases established by this Law;
- Define the cases and frequency for conduction of internal audit by financial institutions in the field of combating money laundering and terrorism financing; require conduction of external audit;
- Impose sanctions established by this Law for financial institutions and legal persons, as well as file a petition for imposing sanctions on reporting entities in cases established by the AML/CFT Law.

10, paragraph 1(3) and Article 13, paragraph 3, respectively). As mentioned earlier, the AML/CFT law assigns the performance of these "functions and authorities stipulated for the Authorized Body" directly to the FMC, which is therefore the FIU for Armenia.

276. The FMC was established in 2005, pursuant to 10 of the first AML/CFT law, adopted by Armenia on December 14, 2004 (this law was then superseded by the adoption of the new AML/CFT Law in 2008). According to the Article 10 of the former AML/CFT law established the FMC as a separate division of the CBA. The FMC is composed of the Head, Deputy Head and Secretary Assistant and of three division: "Legal compliance and International Relations Division"(5 employees); "Analysis Division" (3 employees) and "Information Technology (IT) division" (4 employees).

277. The FMC has the following structure:




278. The functions and structure and organization of the FMC are further detailed in the "Statute", adopted by the CBA Board with Decision no. N97A, dated March 3, 2005. In addition to restating the responsibility to receive, analyze and disseminate to competent investigative authorities referrals on ML/TF that are the result of the analysis the Statute describes analytically what these functions encompass and indicate various other functions, relevant to the FATF recommendations, such as the exchange of information and cooperation with other State authorities and foreign FIUs; training of staff of state authorities and reporting entities; supervision on the implementation of the AML/CFT requirements; formation of a database. While these other functions are performed (either fully or for certain aspects only) "with the support of the relevant subdivision of the CBA" (Article 5.2. of the Statute), the core FIU's responsibilities envisaged by R26 are solely of the FMC.

279. The FMC is also responsible to initiate the process of suspending a suspicious transaction or business relationship (Article 24 of the AML/CFT law) and it is the authority responsible to "release the lists of the persons linked to terrorism" and to initiate the freezing mechanisms envisaged by the AML/CFT law. Although the responsibility to "release the lists of terrorist" is vested in the CBA as authorized Body and not specifically assigned to for the FMC by an *ad hoc* provision, the FMC is

adamant that such responsibility stems from the provision in the Law according to which any responsibility vested in the Authorized body that it is not assigned to the CBA board is by default assigned to the FMC. As paragraph 18 of such Article states that the Authorized Body "performs other authorities and responsibilities stipulated by the Law" (and such provision is not among the ones in which the Authorized Body's responsibilities are vested in the Board of the CBA), it follows that the authority to "release the list" is of the FMC (by virtue of Article 25, in combination with Article 10, paragraph 18). However, while the FMC has the power to initiate the procedure for suspending a transaction/terminating the business relationship and the freezing mechanisms in the case of persons linked to terrorisms, the relevant decision is of the Board of the CBA, in both cases (Article 10, paragraphs 1(12) and 3)).

280. Pursuant to Article 5 of the AML/CFT law, that regulates the reporting of transactions requirements, the FMC receives from reporting entities 3 types of reports:

a. Transactions above the threshold of 20 million drams (approximately $55,000); from all reporting entities except attorneys, as well as for persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms.

b. Transactions related to real estate above the threshold of 50 million drams (approximately $130,000, these reports, as well as the ones mentioned under a) will be hereinafter referred to as "threshold transaction reports" TTR);

c. Suspicious transactions or business relationships, regardless of any amount.

281. In addition, the FMC may receive information relevant to ML or TF from other State bodies and organizations.

282. Most reports of the reporting entities (from all the financial institutions, the majority of notaries and the State Cadastre for real estate transactions) are received in electronic formats, through a secure line that enabled reporting entities have with the CBA (CBA Net network + TR20/50). A "Manual on internal procedures of the FMC" details the responsibilities and the procedures for processing the information (including the case in which the information is received by other state bodies, or foreign FIUs), from the moment it is received until a determination is taken of the case: referral to competent investigation authorities (the NSS), inclusion in a "monitoring list", suspension of the case in the case of need of additional analysis, filing of the case. In addition to this Manual another Manual (adopted with decision of the Chairman of the CBA 1/38 FOU-L and dated December 4, 2007) deals specifically with the actions to be taken by the FMC "in the course and as result of analysis of suspicious transaction cases" which has introduced a risk-based approach aimed at the prioritization of the processing and analysis of STRs.

283. The analysis process of the incoming information is described by the following sequence:

- preliminary analysis;
- decision to open a case/absence of grounds for opening a case. A case is open in the following circumstances;
- match of the incoming information with the terrorist list (an internal list maintained by the FMC) and a monitoring lists (which contains information on subjects/businesses/transactions considered at risk). These lists are maintained in the database of the FMC;
- on the basis of a match of the information with the criteria/typologies of suspicious and/or higher risk transactions (these are criteria are transposed as algorithms into the database and allow automatic red- flagging);
- on the basis of an STR; or

- on other grounds;
- analysis (including tactical analysis, that consists on a preparation of a analysis report for each of the opened case);
- conclusion of the case analysis: this can either be: i) referral to law enforcement; ii) entering the case in the monitoring list; and ii) suspension of further case analysis.

284. The major features of the analysis procedure are: review of the information received either through the CBA network/FMC's electronic mail/hard copy-received information; entry of the hard copy-received information into the FMC database; retrieval of electronic-received information in the forms of excerpts (TR). In the case of STRs (either received electronically or on hard paper) these are forwarded to the Head of FMC for "appropriate instructions" (including the opening of a case); entry of terrorist lists and "monitoring lists" into FMC database; regular screening/matching of data received against terrorist and monitoring lists; regular review of FMC database with reference to criteria/typologies of suspicious and/or higher risk transactions. The analysis is corroborated, if needed, by access to additional information from the reporting entities or from other state bodies (discussed later on in this section).

285. The FMC also conducts "Strategic analysis", mostly on the TTRs received, aimed at identifying typologies of risks and identify flows of money. This analysis also consists of compiling an outline of each case analyzed each year and summary of suspicious and/or high risk criteria/typologies.

**Guidelines to Financial Institutions on Reporting STR (c. 26.2):**

286. Regarding the manner on reporting, specification of reporting forms and the procedures that should be followed, these are envisaged directly by the AML/CFT law and further substantiated by decisions of the CBA board (for financial institutions only). Therefore such responsibility is not directly vested in the FMC but – as allowed by R.26 – in "another competent authority". The FMC indicated that it has also provided guidance to the reporting entities, either in the course of training initiatives or in the context of verbal feedback with respect to the suspicious transaction reporting obligation and, specifically, on "the manner of reporting".

287. The rules on the submission of STRs as well as the mandatory content of the STRs, applicable to all reporting entities, are stipulated directly in the AML/CFT law (Article 7), in a quite articulated and detailed manner (the provision requires the data on the customer, authorized persons and of the beneficial owner, differentiated in the case of a natural and legal persons, a description of the transaction, its value and the grounds for suspicions as well as indicating some procedural rules for the way or reporting)[25]. The

[25] Article 7 states that a report shall contain:
- Data on the customer, the authorized person, the other party to the transaction and, in case of a suspicious transaction, also data on the beneficial owner, including:
- for natural persons and private entrepreneurs – first and last names, place of residence, year, month and date of birth, citizenship, serial and successive number of the identification document, year, month and date of its issuance; whereas for private entrepreneurs – also number of the state registration certificate and taxpayer identification number;
- for legal persons – name, location, number of the state registration certificate and, in case of reporting by the financial institution, also taxpayer identification number;
- In case of reporting by financial institutions – also the number of the customer's bank account;
- Description of the subject of transaction;
- Price (value) of the transaction;
- Date of concluding the transaction.

(continued)

provision also establishes that normative legal acts of the Authorized Body "shall establish the rules, timeframes and forms for filing reports" (Article 7, paragraph 6). This responsibility falls with the Board of the CBA (which has the responsibility to adopt "legal acts and guidelines" which are stipulated by the law, pursuant to Article 10, paragraphs 1(7) and (3).

288. Different forms are available for: i) banks, credit organizations and financial intermediaries; ii) insurance companies; and iii) all DNFBPs, except dealers in precious metals and stones, and dealers in artworks and organizers of auctions. The reporting forms for lawyers, notaries, real estate agents, independent accountants and independent auditors were approved on January 27, 2009, but only entered into force on March 12, 2009 (right after the on site mission).

289. Unless a specific requirement exists (such in the case of DNFBPs or for the Cadastre) the form is for all STRs, TTRs and suspension of transactions/termination of business. With decision Number 231-N, dated July 31, 2008 the CBA Board has adopted the latest version of the form for reporting STR for financial institutions, which also includes "Guidelines for filling out and transmitting the forms" and the timeframe for the transmission.

290. The specified timeframe indicates that a TTR should be submitted to the FMC within three working days of concluding the transaction, whereas in the case of an STR it should 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.

291. As mentioned earlier, most reports of the reporting entities are received by the FMC in an electronic format, through a secure line that enabled reporting entities have with the CBA (CBA Net network + TR20/50). Banks and other financial institutions confirmed that they are reporting to the FMC using the CBA secure line and that they are using a program which was provided by the FMC. All DNFBPs met by the assessors stated they received a package from the FMC, including reporting forms. However with the exception of banks, the remaining FIs have not yet reported a single STR (except 1 STR submitted by a bureau de change) and are just reporting the TRs that fall in the threshold of 20 and 50 million drams.

**Access to Information on Timely Basis by FIU (c. 26.3):**

292. Financial, administrative and law enforcement information is accessible to the FMC mostly in an indirect way, based on written requests to the relevant authorities. The legal basis for the power of the FMC to request information and the relevant obligation for the requested parties to provide it, is in Article 10, paragraph 1(5) and Article 13, paragraph 5: the first provision empowers the FMC to request information (including information classified as secret as prescribed by the law) from state bodies, for the purpose of the AML/CFT law; the second provides that when such information is requested pursuant to the AML/CFT law, the state bodies, including supervisory and law enforcement authorities must provide it within ten days. A different timeframe for the provision may be indicated in the request of the FMC (shorter eventually, in order to accommodate cases which may require a quicker reply), but, conversely,

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The report on a suspicious business relationship or transaction shall also contain the ground, the criterion for recognizing the business relationship or transaction as suspicious, its description, as well as an indication on suspending, rejecting the transaction or business relationship, or freezing proceeds of the persons linked to terrorism.

The reports stipulated by this Article should be submitted with an indication of their successive number, the signature of the responsible employee of the reporting entity (for hard copies, also sealed, if any). The report shall contain an indication of the reporting entity's registration number at the Authorized Body.

the requested state body can also delay the provision of the information, although in such a case it would be required to provide substantiated reasons for that.

293. The FMC has stipulated MoUs with the GPO, NSS, Police, State Revenue Committee, which restate the obligation for these authorities to provide information "if the inquiry is justified by the need to implement the analysis of a ML/TF offence". In the MoUs with the GPO such information entails also "information classified as investigation or preliminary examination secret"; whereas in the case of the State Revenue Committee the information entails "operative and preliminary confidential information".

294. Through written requests, the FMC has therefore access to the information maintained by the following authorities:

- GPO
- NSS
- Police
- State Revenue Committee
- State Cadastre
- State Register of Legal Persons

295. The following are statistics on FMc's domestic exchange of information and referrals (notifications) received/made by the FMC to other domestic authorities under signed MoUs.

**Statistics on domestic exchange of information with the FMC**

| ***Agencies*** | ***2007*** | | ***2008*** | | ***2009 (as of 01.04.2009)*** | |
|---|---|---|---|---|---|---|
| | Outgoing from FMC | Incoming to FMC | Outgoing from FMC | Incoming to FMC | Outgoing from FMC | Incoming to FMC |
| General Prosecutor's Office | 5 | 5 | 4 | 5 | 0 | 2 |
| National Security Service | 1 | 3 | 9 | 12 | 2 | 6 |
| Police | 2 | 3 | 6 | 2 | 1 | 1 |
| State Revenue Committee | 4 | 2 | 4 | 2 | 1 | 1 |

296. A specific agreement with the Financial Supervision Department (FSD) of the CBA foresees the exchange of information between the FMC and the FSD obtained as a result of conducting supervision, which relates to AML/CFT, as well as the exchange of relevant information on ML/TF suspicious transactions. Such information is exchanged both in the stages of planning, conducting supervision and the conclusion of its results. The agreement specifies that the FSD will provide information either based on a request of the FMC—in which case the FMC's request must "substantiate the necessity of taking actions with regard to transactions related to ML/TF" — or on its own initiative, if the exercise of its supervisory tasks reveals "characteristics of suspicious transactions". The agreement also envisages "joint

discussions" between the FMC and the FSD on ML/TF-related suspicious transactions, "aimed at the disclosure of suspicious transactions and at the clarification of the circumstances thereof". The FMC indicated that these discussions are not on the STRs it receives but on "high risk transactions".

**Additional Information from Reporting Parties (c. 26.4):**

297. The AML/CFT law (Article 10, paragraph 1(4) clearly establishes the power of the FMC to request from requesting entities "other information for the purpose of this law (i.e. aimed at AML/CFT)". While financial secrecy law cannot be opposed to the FMC by reporting entities that are financial institutions for the express provision of this Article, there is an exception (by way of cross reference to the cases stipulated by Article 3, paragraph 4) in the case of notaries, attorneys, persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms. In these instances Article 4, paragraph 3 provides the obligation to provide the information "only in cases not contradicting to the confidentiality requirements established under the legislation regulating their activities"[26]. For these types of reporting entities it is more complex to establish whether, legally, they could claim professional secrecy to refuse the provision of additional information to the FMC, because of the language of Article 4, paragraph 3.

298. From the laws the assessors had access to and from the information gathered during the meetings with DNFBPs, it was determined that professional secrecy exists at least in regard to attorneys (advocates), notaries, accountants and auditors. The laws regulating these activities note specifically the requirements stemming from the AML/CFT law and prescribe that the regulated subjects abide by it; but these laws only generically refer to the duty to perform "responsibilities provided by the law on Combating Money Laundering and Terrorism Financing" (for lawyers, notaries, auditors and accountants). Only in the case of notaries there is a specific provision (Article 5, paragraph 9 on the law on notaries) that allows the notary to provide information to the CBA in compliance with the AML/CFT Law.

299. The Law on Advocacy, pursuant to Article 19, states that advocates cannot reveal 'advocates secrets' except for cases provided by the law. An Advocate's secret is defined in Article 25 as information confidentially provided to an advocate by a client as well as information and evidence obtained in the course of the advocate's activity. Further, the advocate can disclose the information if "there is definite information about preparation of grave or especially grave crime provided by the CC of the republic of Armenia." While the Law on Advocacy contains a specific provision (Article 19(7) which requires the advocate to "perform obligations set forth by the Republic of Armenia Law "On Combating Money Laundering and Terrorism Financing", this provision is silent as to whether it would comprise the power of the FMC to provide additional information. Because of the cross reference to the notion of secrecy in the relevant laws it could be argued that the provision of the additional information is not due when the ML offence is not "grave" (i.e. for basic ML).

300. The provisions set forth in the Law on Notarial System specifically require notaries to ensure observance of the provisions of the AML/CFT Law (Article 23(6)), but, as noted earlier, pursuant to

[26] The provision further states that "Legally defined confidentiality requirements for non-financial institutions or persons shall be applicable only to the information disclosed to the aforementioned organizations or persons in performing their legally provided authorities". The aim of this provision is to restrict the privilege only to the information which was legally disclosed to/acquired by the DNFBPs.

Article 5, paragraph 9 the notary is permitted to provide information to the CBA in compliance with the AML/CFT Law.

301. In relation to the audit profession, the Law on Audit Activities contains a confidentiality provision in Article 18 whereby auditors are expected to keep all information obtained in the course of their duties confidential except to perform responsibilities provided by the AML/CFT Law.

302. For accountants, Article 5.3 of the Law on Accounting requires "accounting of an organization shall be maintained in accordance with the requirements of the Law On Combating Money Laundering and Terrorism Financing". Article 18 of the Law on Accounting further provides that "information [contained in] the […] accounting documents, account books, as well as in the reports for internal use is considered to be commercial secrecy and can be accessed upon the permission of the organization's chief executive in cases and by the procedure provided for by the founding documents of the organization and the legislation." Ambiguity arises on whether the obligations of the AML/CFT law override the secrecy provisions and permits the provision of additional information.

303. No DNFBP raised issues with the confidentiality requirements and the ability to waive such requirements under the relevant laws for the purposes of the AML/CFT law. All DNFBPs met by the mission interpret this provision that confidentiality is waived for the reporting obligations and other obligations under the AML/CFT Law. However, no DNFBP has filed an STR, so the matter of confidentiality has not been tested. All understood that the provisions allowed for the waiver of privilege in the event of information needing to be supplied with the competent authority, the meaning of it all and the purpose. The FMC reckoned that obtaining access to additional information to a DNFBPs which is entitled to claim professional privilege can be challenging.

304. The law does not require that the additional information needed be linked to a received STR or limited to the reporting entity that has filed it; however in practice the provision has been implemented that if the additional information is for an STR (or TTR) the FMC would request it from the reporting entity that has filed the report, whereas in other (e.g. when the need for additional information is not originating by a report filed by a reporting entities or the information related to the report involves some institution other than the reporting entity) the information would be usually requested by the FSD of the CBA, on behalf of the FMC.

**Operational Independence (c. 26.6):**

305. Although the FMC operates within the CBA and the various AML/CFT responsibilities described above are vested by the AML/CFT law directly in the CBA as the "Authorized Body", the AML/CFT law gives a specific status and autonomy to the FMC, by defining it a "responsible structural unit" and, moreover, by specifically vesting it with the responsibility to implement the FIU's core functions of receiving, analyzing and disseminating the information received pursuant to the AML/CFT law, as well as other responsibilities envisaged therein. The autonomy of the FMC as a separate structure within the CBA is also manifested by the fact that the FMC (unlike other departments of the CBA) has a specific Statute: only the Internal Audit Group in the CBA enjoys a separate Statute. This circumstance also confirms that the core FIU's functions relevant to R.26 and to the definition of FIU adopted by the Egmont Group are the sole responsibility of the FMC. The FMC has also a separate budget.

306. Regarding the independent performance of the FIU's core functions by the FMC, it should be noted that these include the decision as to whether the information received pursuant to the law should be

referred to the competent investigation authorities, where the FMC "has reasonable suspicions on ML or TF" as the outcome of the analysis of such information[27]; or, where the analysis has failed to substantiate such suspicions, to discard the case or to store it in the "internal monitoring list". As stated earlier, the procedures for the reception and analysis of the information and for the referral of a case to the competent authorities or for the dismissing of it or storing in the internal monitoring lists, are not only regulated in detail by a specific manual but also designed in a way to prevent the risk of undue influence/interference.

307. The role of the Board of the CBA is limited to approving the strategy, the annual program and the budget of the FMC as well as deciding upon the proposal of the FMC to suspend a transaction or to terminate a business relationship pursuant to Article 24 of the AML/CFT law and to approve the decision to suspend a transaction/terminating a business relationships (Article 24) or the freezing mechanisms stipulated by Article 25. The FMC has informed the mission that, so far, in all instances in which it has proposed the Board of the CBA to adopt one of these measures the Board has always sustained the proposal. Finally, the FMC submits reports to CBA quarterly (and, once a year submits the public report on its activity).

308. Unlike other heads of structural units within the CBA— who are appointed and removed based on a decision of the Chairman of the CBA—the appointment/removal procedure of the head of the FMC is within the responsibility of the Board of the CBA, hence ensuring more collegiality in the decision process. The FMC enjoys also different procedures in the hiring process of its employees (detailed under the analysis of Recommendation 30). The FMC's budget has a different status within the CBA budget, in that (as an exception to the preparation/allocation of the budget of the CBA), it is composed and approved as a stand-alone expenditure line (category) within the overall budget of the CBA. This entails that the Head of FMC proposes the forthcoming yearly budget of the FMC (with an internal specification of certain categories), which should be inserted in the CBA's Budget without any alteration. The Budgetary commission, which oversees the budget allocation process for the CBA, has no right to change the FMC's budget, but can only make recommendations for its further substantiation. If such recommendations are raised, the Head of FMC substantiates the budgetary expenditures before the Board of the Central Bank. Then, by approving the CBA's overall budget, FMC's budget is considered automatically approved as a part of it.

309. Overall, it can be concluded that the role of the Board of the CBA vis-à-vis the FMC does not undermine the operational independence and autonomy of the FMC, nor influence or interfere with the FMC's activities.

310. Looking at the legal structure and responsibilities of the FMC as envisaged by the AML/CFT law, it can be fairly concluded that the FMC enjoys sufficient operational independence and autonomy. However, it has to be noted that the Statute of the FMC, approved in 2005, has not yet been changed[28] to reflect the wider spectrum of responsibilities assigned by the new AML/CFT law directly to the FMC. According to the Statute some of the AML/CFT responsibilities assigned by the AML/CFT law to the

[27] See Article 13, paragraph 3 of the AML/CFT law. See also article 2.3.3.(c) of the FMC's Statute and the Manual on Internal Procedures of the FMC, which states that the Head of the FMC instructs the Head of the Analysis division (who gives instructions in this respect to the case analyst) to prepare a message addressed to law enforcement body (Chapter 5, Article 5.2.); this message is then approved by the Heads of the 3 divisions of the FMC and by the FMC's Deputy Head and confirmed by the Head of the FMC (Chapter 6, Article1).

[28] On September 17, 2009 the authorities informed the assessment team that the CBA board has approved a new Statute of the FMC.

FMC are, however, to be implemented with the support of other structures of the CBA[29]. These include training of reporting entities, domestic cooperation with other AML/CFT competent authorities, and cooperation with foreign FIUs (although the latter is is only limited to the development of concepts of cooperation with foreign FIUs, preparation of cooperation agreements, coordination of their adjustment and signing procedures: the exchange of information, both with domestic counterparts and with foreign FIUs, is to be performed solely by the FMC, according to section 2.3.4. of the FMC Statute). These responsibilities may be not specifically pertaining to the FIU's core functions envisaged by R26, but they are nevertheless relevant to other FIU-related FATF recommendations and important for the FIU to properly develop as an autonomous "interface" with the relevant counterparts, at domestic and international level. The fact that for these responsibilities the FMC can rely on the support of other CBA units is not per se an issue (an intertwining between the FMC and the CBA is a consequence of the FMC operating within the CBA) except that the limited staff assigned to it makes it more likely that the FMC has to heavily rely on the CBA (particularly with the FSD) in order to effectively perform these other functions.

**Protection of Information Held by FIU (c. 26.7):**

311. Article 10, paragraph 7 of the AML/CFT law establishes that only staff of the FMC can have access to the information "in the course of the FMC's receiving and analyzing of the information" received pursuant to the law. Paragraph 8 further states that the FMC's employees who have access to "the received and stored information shall maintain confidentiality of the information constituting secrecy as prescribed by law and by the legal acts of the Authorized Body, both in the course of performing their duties and after termination thereof, as well as shall bear legally defined responsibility for its unlawful disclosure". Furthermore the provisions states that such information "can be used only for the purposes of this Law". The FMC's premises are accessible only to FMC's staff with a special pass (electronic key).

312. All the information maintained by the FMC is classified and it is protected pursuant to the regulations of the CBA and to the legislative provisions relevant to the classification of information as "state secret" or as "confidential information" for the purpose of the Law on banking secrecy, as appropriate. The information maintained in hard copy is in partly stored within the FMC's premises, which are not accessible to other staff than FMC's, partly in a separate section of the archive of the CBA, which is subject to restricted access by a selected number of staff, subject to confidentiality requirements under the CBA's rules. The information that is maintained in a database is only accessible to FMC's designated staff. The list of the server users, the scope of their responsibilities, and other recordings of

[29] According to the Statue of the FMC, the FMC relies on the support of other CBA department in the following areas:

a) "formation and development of information database on fight agains ML and FT" (section 2.3.);
b) "development and adjustment of effective cooperation methods, agreemets on fight against ML and TF between relevant authorized bodies, coordination of activities on their signing and further cooperation" (section 2.3.3. b.);
c) development of concepts of cooperation with foreing financial intelligence units, preparation of cooperation agreements, coordination of their adjustment and signing procedures (section 2.3.4. b);
d) implementation of activities aimed at the development of lesgilation, normative and other legal acts on fight against ML and FT (section 2.3.5. b);
e) monitoring of compliance of activities of entities reporting to Authorized Body with international and national standards on fight against ML and TF, implementation, if needed, of joint checks with other subdivisions of the Central Bank and other state authorities (section 2.3.6. c); and
f) implementation of consultation and training on fight agains ML and TF (section 2.3.7.).

information security are considered confidential and are available to authorized personnel only. Every case of access to data is monitored and regulated by procedures requiring written confirmations in the electronic registers. These registers are limited to administrators of information security and servers (system) with read-only permissions only.

313. For the purpose of network safety the FMC employs a separate Domain system, which is used to manage and monitor the exploitation of information in the FMS network by the users with corresponding authorities. The FMS exchanges information with the "external world" using physically separated digital channels. The software security of this communication system is ensured with a reliable and advanced network operation system (Lotus Domino System). The system is extended to all financial institution in Armenia, i.e. banks, credit organizations, (re)insurance organizations, and currency dealers. The center of the system service is located in the Central Bank, which is run by high-class experts of a separate department.

314. While access to the information maintained by the FMC electronically is restricted to FMC's staff only, the IT maintenance/security is of the responsibility of the IT staff of the CBA. However access to the servers where such information is stored is subject to a double password (one of which is known to the designated staff of the FMC only). The server where the database of the FMC is maintained (including a machine used for back-up purposes) is located where the CBA's servers are stored. Access to such room is also protected by password-based entry system.

**Publication of Annual Reports (c. 26.8):**

315. In accordance with Article 10, paragraph 1(15) the FMC, "in the manner established by its legal acts, publicize annual reports on its activities". So far, the FMC has published an annual report for 2007. At the time of the on site mission the 2008 report was being finalized. While the report for 2007 includes information regarding FMC's activities, it does not include statistics and trends.

**Membership of Egmont Group (c. 26.9):**

316. The FMC obtained the status of a member of the Egmont Group during the Egmont Group Plenary Session on March 29, 2007.

**Egmont Principles of Exchange of Information Among FIUs (c. 26.10):**

317. As a member of the Egmont Group, the FMC has regard to the Egmont principle of Exchange of information among FIUs which were adopted in The Hague on June 13, 2001. These principles are also at the base for the MoUs which the FMC has so far signed (at the time of the on-site visit, with Belarus, Georgia Russia, and Ukraine). A random check done on a sample of received requests for information, comparing the requests of exchange for information received from the FMC and the responses provided to the requesting FIUs, showed an average time of 7 days for providing the information and of 3-4 weeks (if the request prompted the need to obtain information not maintained by the FMC). Additional information on international cooperation is provided under the analysis for R.40.

**Adequacy of Resources to FIU (c. 30.1):**

318. The current total staff of the FMC is of 16 staff (including the Head, Deputy Head and the Secretary-assistant and one contractual staff). The "Legal compliance and International Relations Division" has 5 employees, the "Analysis Division" three and "Information Technology (IT) division" four. One pending vacancy is to be filled and the FMC is currently considering to open two more. The assessors deem the number of FMC's staff insufficient, especially given the broader responsibilities

assigned to the FMC by the new law and the likely increase of the volume of reporting (which has been low so far, for the STRs), once the new AML/CFT law will be fully implemented, including by DNFBPs.

319. The budget allocated to the FMC has so far been appropriate for the FMC to properly undertake its functions. The FMC budgets for years 2005, 2006, 2007, 2008 and the 2009 budget estimation are set forth below, broken down per year.

| FMC budget expenditures | 2005 | 2006 | 2007 | 2008 | 2009 |
|---|---|---|---|---|---|
| | | thousand drams | Thousand drams | thousand drams | Thousand drams |
| Operational costs (subscriptions to information databases, costs associated with memberships in international organizations) | | 5,180.0 | 7,080.0 | 1,440.0 | 12,985.0 |
| Administrative costs (business trips of the staff, representation expenditures, literature and stationary, excluding wages and bonuses) | | 11,430.6 | 16,001.2 | 16,456.2 | 26,328.6 |
| Fixed assets purchase (Office equipment, computers, software, excluding capital investments and projected construction costs) | | 19,897.0 | 18,371.0 | 4,211.0 | 9,050.0 |
| Operational Costs (Conferences, summits, regional workshops, translation of legal acts) | | - | - | 4,000.0 | 12,400.0 |
| Administrative Costs (Wages, bonuses, social protection and other costs) | | 31,412.70 | 50,661.72 | 61,853.77 | 74,224.52 |
| Total | | 67,920.30 | 92,113.92 | 87,960.97 | 134,988.12 |

320. Additional budget may be needed to increment FMC's staff, as well as for additional training for reporting entities, especially with regard to detection of STRs (all, especially financial institutions) and outreach to DNFBPs.

321. The FMC is presently equipped with technical resources necessary for the proper implementation of its functions (computers, printers, etc.).

***Integrity of FIU Authorities (c. 30.2):***

322. For the purpose of ensuring the high reputation and functionality of the FMC, several requirements are set out for the professional, moral characteristics and the corresponding skills of the FMC employees, in accordance with the Labor Code, as well as the job descriptions established for each job position. The FMC has also its own code of conduct which sets outs professional and ethical standards for its employees.

323. Allocation and removal of the FMC staff are regulated by the internal procedures of the CBA. Each vacancy at the FMC is filled with a competition process. According to the Statute of the FMC, the

Board of the CBA determines the number of FMC members, the requirements towards them and the job descrptions. The selection process entails an interview, which is held by the FMC Head (or substitute), Head of the relevant FMC division, and Head of the HR department (or substitute) who is responsible for organizational logistics. Short-listed applicants then pass a written exam, which is arranged based on the questionnaire provided and periodically updated by the FMC. Examination papers are anonymously checked by ad-hoc random panels, chosen from the FMC and other CBA departments relevant to the vacancy's profile (the latters are designated by the FMC through the HR). The assessment of examination papers is done through an established grading system. The HR department then calculates the average grade of each applicant's paper and such results are introduced to the Central Bank's Board consideration (this is exceptional for the FMC only, based on Para 5 of Article 10 of the AML/CFT law, since in the case of other structural units of the CBA, the hiring of the staff is vested in the Chairman of the CBA). Before considering the issue at the Board, the Internal Security Department of the CBA conducts screening of applicants based on its confidential procedures. During the discussions of written examination results at the Central Bank's Board, the Head of the FMC introduces his (her) substantiated opinion regarding the preferred candidacy, based on which the Board takes a decision on recruiting the successful applicant.

324. FMC's staff, as employees of the CBA are subject to the confidentiality requirements set forth by Article 28 of the Law on Central Bank (according to which the staff of the Central Bank may neither publicize nor otherwise disseminate information containing secrets, nor may use such information for personal gain). In addition to this provision a specific requirement is set forth in the AML/CFT law (Article 10, paragraph 8), which states that the employees of the FMC, who have access to the received and stored information, shall maintain, in the manner prescribed by law and legal acts of the Authorized Body, the confidentiality of information constituting secret in the course of performing their duties and after their termination, as well as shall be legally responsible for its disclosure. Appropriate sanctions exist for non compliance of these confidentiality requirements.

**Training for FIU Staff (c. 30.3):**

325. All the employees of the FMC have been trained on AML/CFT. The employees of the FMC participate in internal or external trainings on AML/CFT issues in a semi-annual periodicity on average. Training is mostly provided in the context of events organized by international organizations and donors. The staff of the FMC has also participated in-house training events organized by the Central Bank or the FMC (the FMC regularly organizes training when a staff member participated to training initiatives abroad and in the occasion of drafting off typologies and guidance for the reporting entities).

***Statistics (applying R.32 to FIU):***

326. The FMC maintains statistics on STRs and above-threshold transactions report; on cases disseminated to competent authorities and on international cooperation with foreign FIUs. The latter will be discussed under Rec. 40. The following table shows a breakdown of STRs and above-threshold transactions reports by type of financial institution, DNFBP, or other business or person making STR, for both ML and FT.

| Reporting entities | Reports filed to the FMC in 2006 | | Reports filed to the FMC in 2007 | | Reports filed to the FMC in 2008 | |
|---|---|---|---|---|---|---|
| | Above-threshold Transactions Reports | Suspicious transaction Reports | Above-threshold Transactions Reports | Suspicious transaction Reports | Above-threshold Transactions Reports | Suspicious transaction Reports |

| | | | | | | |
|---|---|---|---|---|---|---|
| Banks | 52006 | 27 | 74090 | 27 | 89588 | 36 |
| Credit organizations | 112 | - | 382 | - | 498 | - |
| Persons engaged in foreign currency trading | - | - | - | - | - | 1 |
| Persons engaged in dealer-broker foreign currency trading | 386 | - | 269 | - | 71 | |
| Licensed persons providing cash (money) transfers | - | - | - | - | - | - |
| Persons rendering investment services in accordance with the Republic of Armenia Law on Securities Market | 739 | - | 976 | - | 250 | - |
| Central depositary for regulated market securities in accordance with the Republic of Armenia Law on Securities Market | - | - | - | - | - | - |
| Insurance (including reinsurance) companies | 16 | - | 69 | - | 167 | - |
| Insurance (including reinsurance) brokers | - | - | - | - | - | - |
| Pawnshop | - | - | 2 | - | - | - |
| Realtors (real estate agents) | - | - | - | - | - | - |
| Notaries | 148 | - | 1546 | - | 1232 | - |
| Attorneys, as well as independent lawyers and firms providing legal services | - | - | - | - | - | - |
| Independent auditors and auditing firms | - | - | - | - | - | - |
| Independent accountants and accounting firms | - | - | - | - | - | - |

| | | | | | | |
|---|---|---|---|---|---|---|
| Dealers in precious metals | - | - | - | - | - | - |
| Dealers in precious stones | - | - | - | - | - | - |
| Dealers in artworks | - | - | - | - | - | - |
| Organizers of auctions | - | - | - | - | - | - |
| Persons and casinos organizing prize games | - | - | - | - | - | - |
| Persons organizing lotteries | - | - | 1 | - | - | - |
| Persons organizing internet prize games | - | - | - | - | - | - |
| Trust and company service providers | - | - | - | - | - | - |
| Credit bureaus | - | - | - | - | - | - |
| The Authorized Body responsible for maintaining the integrated state cadastre of real estate | - | - | 390 | - | 1546 | - |
| The state body performing registration of legal persons (the State Registry), | - | - | - | - | - | - |
| Charity organizations | 1 | - | 5 | - | 5 | - |
| **Total** | **53,408** | **27** | **77,730** | **27** | **93,357** | **37** |

327. The following tables show a breakdown of the cases analyzed by the FMC, referred to the law enforcement authorities and the criminal proceedings initiated by the latter (table 1) and a breakdown showing how many cases resulted from the analysis of STRs, transactions above threshold and other sources (table 2).

Table 1

| Status | 2005 | 2006 | 2007 | 2008 | 2009 (as of 15/02) |
|---|---|---|---|---|---|
| Cases/ episodes analyzed by the FMC | 6 | 6 | 35 | 46 | 12 |
| Cases referred to law enforcement authorities | 1 | 2 | 11 | 11 | 0 |
| Criminal proceedings initiated by law enforcement authorities | 5 | 4 | 3 | 6 | 4 |

328. Of 22 criminal cases instigated over the period of 2005-2009 (as of February 15, 2009), 7 cases have been instigated on the basis of FMC's referrals to designated LEA-s (in particular, in 2005- 1 case, in 2006-2 cases, in 2007-2 cases and in 2008-2 cases).

Table 2

| The breakdown of the cases/ episodes analyzed by the FMC | | | | | |
|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2008 | 2009 (as of 15/02) |
| Cases/ episodes analyzed by the FMC | 6 | 6 | 35 | 46 | 12 |
| Cases started on STRs | 0 | 5 | 9 | 18 | 1 |
| Cases started on self-initiatives using above threshold reports | 0 | 0 | 6 | 22 | 2 |
| Cases started on the requests or notification from other agencies and/or counterparts | 6 | 1 | 20 | 6 | 9 |

**Effectiveness**

329. The low number of the staff assigned to the FMC (particular to the Analysis division) compared to the number of information it receives and with regard with the various responsibilities assigned to the FMC by the law may affect the effectiveness of the FMC, especially if the number of STRs will increase once the implementation of the law by reporting entities will be fully operational. There are issues of effectiveness due to shortage of staff in regard to the analysis of TTRs, as also indicated by the low numbers of requests of information from FMC to other domestic agencies (notably nil in the case of the Registrar of legal persons and the State Cadastre).

### 2.5.2. Recommendations and Comments

- Amend the Statute of the FMC to reflect the new responsibilities envisaged by the new AML/CFT law.
- Increase the number of staff, particularly of the Analysis division.
- Consider establishing a unit (or a sub-unit in the Analysis division) to deal specifically with the analysis of TRs.

- Outreach to DNFBPs protected by professional secrecy (in particular lawyers, accountants and auditors) to clarify the ambit of application of Article 4, paragraph 3 of the AML law and, if needed, modify the text of the law to ensure that the reference to professional secrecy does not hamper ability of FMC to request additional information.

- Provide guidance to and issue reporting form for dealers in precious metals and stones (and dealers in artworks and organizers of auctions) all DNFBPs regarding the manner of reporting.

### 2.5.3. Compliance with Recommendation 26

| | Rating | Summary of factors relevant to s.2.5 underlying overall rating |
|---|---|---|
| **R.26** | **LC** | • Unclear relation between AML law and professional secrecy provisions (in the case of lawyers, accountants and auditors) may affect the power of the FMC to require additional information.<br>• Lack of guidance on the manner of reporting for dealers in precious metals and stones.<br>• The shortage of staff of the FMC affects the effectiveness of the FMC in fulfilling its responsibilities, particularly in the financial analysis, and may affect the operational independence of the FMC. |

## 2.6. Law Enforcement, Prosecution and other Competent Authorities—the Framework for the Investigation and Prosecution of Offenses, and for Confiscation and Freezing (R.27 & 28)

### 2.6.1. Description and Analysis

Legal Framework:

330. The Armenian CPC provides for three stages of investigating cases of money laundering and terrorism financing –the instigation of a case, the stage of inquest, and the investigation of a case (pre-trial level). Depending on what stage of the proceedings a case is in, different authorities are competent to conduct investigative measures. The relevant provisions are contained in the CPC as outlined below.

331. It is worth noting from the outset that investigative measures pursuant to the CPC as outlined below are only available after a case has been instigated.

332. Prior to the instigation of a criminal case, only operational-search activities pursuant to the Law on Operational and Search Activities (LOSA) as outlined below may be taken by competent authorities (Article 8 of the LOSA).

**Designation of Authorities ML/TF Investigations (c. 27.1):**

333. Pursuant to Article 56 CPC, the authorities competent to instigate a criminal case and thus to open an investigation for ML or TF include the police, the NSS and also other bodies, such as the tax and customs authorities, if the cases arises in combination with a predicate offense that falls within their competency. Once a decision to instigate has been taken, Article 190 CPC provides that the NSS is the competent authority to conduct investigations relating to money laundering or terrorism financing cases.

334. Once a case has been instigated, the prosecutor has supervisory powers over the investigating body.

335. The provisions of the CPC regulate the process as follows.

*Instigation of a Criminal Case.*

336. The first step of the investigating ML or TF cases is the instigation of criminal charges pursuant to Article 175 CPC, which has the effect of elevating a case to the pre-trial level. Pursuant to Article 175 CPC, a case may be instigated by the prosecutor, the investigating body or a competent law enforcement body if there are "reasons and grounds" for doing so.

337. Pursuant to Article 176 CPC, if the competent authority receives statements or mass media reports on or discovers information about crimes, there are "reasons" to instigate a criminal case. The law does not clarify the meaning of "grounds" to initiate criminal charges. However, the authorities stated that according to academic interpretations, the term would require that objective "grounds" for initiation of charges as listed in Article 176 CPC are supported by a subjective belief or perception by the relevant competent authority that a crime may indeed have been committed.

338. Once a competent authority has determined whether or not there are "grounds and reasons" to instigate a case, it has three options pursuant to Articles 57(3) and 181 CPC: either to instigate a criminal case and forward the case to the competent authority to investigate a crime, which in the case of ML and TF would be the NSS, to forward the case to the NSS through the prosecutor's office without making a decision as to whether or not a case should be instigated, or to dismiss the initiation of a criminal case.

339. Both in case of a dismissal of the case or a decision to instigate a case, Article 57(3) CPC requires that within 24 hours a copy of the decision is forwarded to the prosecutor, who in turn will check the decision on its legitimacy and conformity with Articles 175 & 182 CPC. In particular, the prosecutor will confirm that there are "reasons and grounds" for initiation of a criminal case and that the decision specifies the offense to be investigated. Therefore, while the decision as to whether or not to instigate a case lies with the relevant competent authority it is always subject to review by the prosecutor.

340. Where the prosecutor comes to the conclusion that a rejection is not warranted due to the existence of reasons and grounds for initiation of a case, he may instigate the case pursuant to Article 53(1) CPC. At the same time, in cases where instigation is not warranted, he may overrule the body of inquest's decision and dismiss the initiation of a criminal case.

341. The prosecutor's decision not to instigate a case may be appealed to the court by the physical person or legal entity which reported about a crime. Pursuant to Article 185(5) CPC the court then either eliminates the decision appealed against, or confirms its adequacy. The elimination of the decision appealed against makes the initiation of the case by the prosecutor mandatory.

342. A decision to instigate a case may be "on the occasion", which means no suspect has been identified, or based on identification of a suspect, whereby the term "suspect" is defined pursuant to Article 62 CPC as "the person detained upon the suspicion in committing a crime or with regard to whom a resolution on the selection of precautionary measure is adopted."

*The Stage of Inquest (Optional Stage)*

343. If a case has been instigated "on the occasion", the case may enter the second stage of pre-trial proceedings, the stage of inquest, which allows the competent authority 10 days to identify a suspect. Within those 10 days, the inquest is considered the initial phase of the investigation, therefore the powers

under the CPC, i.e. the seizing of assets and property, are available. Article 197 CPC provides that after expiration of the 10 days, at the latest, the inquest stage is considered to be over and the case has to be forwarded to the NSS, even in the absence of an identified suspect. If a suspect is identified before expiration of the 10 days, the case immediately has to be forwarded to the NSS for investigation.

344. Pursuant to Article 56 CPC, inquests relating to money laundering or terrorism financing may be carried out by the police, the NSS and also other bodies of inquests, such as the tax and customs authorities, if the cases arises in combination with a predicate offense that falls within their competency. All of these bodies have a specialized inquest department.

345. Article 57 CPC provides all bodies of inquest with the power to conduct measures according to the LOSA as well as measures provided for in the CPC.

*Investigation of a Criminal Case*

346. The third stage of the process is the formal pre-trial investigation. Once a case has entered the investigation phase, Article 190 CPC provides that the NSS has exclusive competency to investigate both money laundering and terrorism financing offenses. Prior to 2007 the Police was the designated investigative body for money laundering and terrorism financing offenses.

347. While the NSS is the body conducting the investigation, according to Article 53 CPC the prosecutor's office has to instruct and supervise the NSS in investigating money laundering and terrorism financing cases, including to prepare materials for the case, to conduct investigative measures including measures provided for in the LOSA, to compose the investigative team, to cancel any actions undertaken by the investigative officers, to dismiss investigators from further participation in the investigation, and to instruct the investigators to conduct additional investigative measures.

348. The power to file a case with the court rests exclusively with the prosecution.

349. In cases where multiple parallel investigations conducted by investigatory agencies are combined into one investigation, or the investigation of a specific crime turns out to belong to another authority's competence, the prosecutor has the power to determine which is the relevant competent authority for the case in question.

350. The authorities informed the assessors that a new CPC is in the draft stage, which will eliminate the distinction between "inquest" and "investigation" and provide the prosecutor with the sole power to instigate a case and therefore commence criminal prosecutions. Implementation of the new CPC is expected to take place at the end of 2009.

**Ability to Postpone / Waive Arrest of Suspects or Seizure of Property (c. 27.2):**

351. While there is no express provision in the CPC addressing the ability to postpone or waive the arrest of suspects or seizure of property, the law enforcement authorities stated that they would such powers under the general provisions of Articles 53, 55 & 57 CPC and in practice have done so many times.

**Additional Element—Ability to Use Special Investigative Techniques (c. 27.3); Additional Element—Use of Special Investigative Techniques for ML/TF Techniques (c. 27.4):**

352. A wide range of special investigative techniques are provided for through the LOSA. Certain measures provided for in Article 14 LOSA require a court order and are therefore subject to judicial supervision pursuant to Article 34 LOSA, whereas others may be taken based on the decision of the head of the operative subdivision of the body performing such activities in accordance with Article 36 LOSA.

Article 35 LOSA expressly provides that while the prosecutor may supervise the legitimacy of measures taken pursuant to the LOSA in accordance with the supervisory powers provided for in the CPC, he has no authority to supervise the organization and performance of such measures.

353. With respect to money laundering and terrorism financing cases, measures specified in the LOSA may be taken both prior to (Article 57 CPC) and after instigation of a criminal case (Article 55 CPC). However, not all measures are available to all bodies conducting inquests or investigations as outlined below.

354. The measures provided for in Article 14 LOSA and which may be taken also in the course of inquests or investigations for money laundering include:

- Operational inquiries, defined as the collection of information about prepared or committed crimes, including through asking natural and legal persons that do or may possess information relevant to the case questions and receive answers to the questions posed;
- Acquisition of operational information about persons and facts of operational interest;
- Controlled selling and purchase of gods and services to identify participants of crimes, including of such goods and services which are prohibited to be sold freely or unlimited;
- The observation of persons in open space or public places by means of technical devices or otherwise, as well as the recording of the observation on video, photo, electronic or other devices;
- The observation of persons in their apartments as well as the recording of observation findings on video, audio, photo, electronic or other devices. A court order pursuant to Article 34 LOSA is required for this measure;
- The identification of persons based on external signs, fingerprints and other traces;
- The external examination of buildings, facilities, vehicles, structures and other premises, the identification of their features and other information by means of special and other technical devices, and the recording of examination findings. The measure may not be taken by the tax and customs authorities;
- Wire tapping phone conversations, including internet conversations and other electronic communications, including the recording of conversations and identification of phone numbers and collection of data and information on the subscriber to the identified phone numbers. A court order pursuant to Article 34 LOSA is required for this measure. The measure may not be taken by the tax and customs authorities;
- Control over correspondence, mail, telegrams, faxes, and other communications as well as identification of the person having sent the correspondence. A court order pursuant to Article 34 LOSA is required for this measure. The measure may not be taken by the tax and customs authorities;
- Cover actions, defined as the secret introduction of staff members or persons secretly cooperating with bodies performing measures pursuant to the LOSA. Persons cooperating with the bodies performing measures pursuant to the LOSA are exempt from criminal liability for committing a crime pursuant to Article 13 LOSA;
- The power to acquire information from banks and other financial institutions about banking and other accounts, as well as the permanent surveillance over such transactions without knowledge

of the person involved in such transactions. A court order pursuant to Article 34 LOSA is required for this measure. The measure may not be taken by the tax and customs authorities. A detailed description and analysis of the relationship between Article 14 LOSA and Article 10 LBS, including the conflicting requirements under the two provisions, is provided for under Recommendations 3 and 4 of this report.

355. In discussions with the LEAs it was stated that several of these powers have been and are still being used in the context of money laundering cases.

356. Pursuant to Article 40 LOSA, findings acquired through measures taken pursuant to and in accordance with the LOSA are formal evidence.

**Additional Element—Specialized Investigation Groups & Conducting Multi-National Cooperative Investigations (c. 27.5):**

357. Armenia has set up a group within the NSS specialized in financial investigations. Members include financial investigators, general investigators, and intelligence officers. The work of this group is coordinated by the corresponding division of the General Prosecutor's Office.

358. LEAs the assessors met with stated that in the past, measures pursuant to the LOSA have been carried out in cooperation with LEAs of other countries, albeit not in the context of money laundering or terrorism financing cases.

**Additional Elements—Review of ML & TF Trends by Law Enforcement Authorities (c. 27.6):**

359. Methods, means and trends in combating ML and TF are periodically reviewed on the inter-governmental level through the Interagency Commission. The FMC as well as all bodies of inquest are consequently provided with the information obtained, any analyses thereof and other research results. All authorities the assessors met with confirmed receipt of information on typologies from the Interagency Commission. The identified typologies are also being discussed in the course of workshops conducted by the FMC.

**Ability to Compel Production of and Searches for Documents and Information (c. 28.1):**

*Compelled Production of documents and information*

360. Pursuant to Article 20 Law on Police, citizens and officials may be summoned to the police for interrogation purposes with respect to pending criminal cases. The summons may also specify materials that have to be brought to the police station. In the events of non-compliance or inadequate compliance with the summons, the persons and requested materials may be brought to the police by force.

361. In addition, a number of provisions in the CPC touch on the subject of compelling the production of documents. Most notably, Articles 59 (2.3.), 77 (6.3.) and 79 (5.4.) CPC provide that 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. These provisions do not, however, provide for the compelled production of documents and information held by other persons, including witnesses, that may be in possession of information relevant fo the case in question.

362. Absent a summons for appearance and short of a seizing order, the provisions in the CPC are not sufficiently wide to allow for law enforcement authorities or the courts to compel the production of documents and information in all cases.

*Search Persons and Premises for documents and information*

363. Article 225 CPC provides for the search of premises, places and persons based on sufficient grounds to suspect that there are items or documents which can be significant for the case and for the taking of such documents and items. The search of homes measure may only be conducted based on a court order. Searches pursuant to Article 225 CPC may only be carried out after a criminal case has been instigated.

*Seize and obtain documents and information:*

364. Article 226 CPC provides for the seizure of documents and other Articles significant for a case if it is known for sure where those Articles and documents can be found and in whose possession they are. Paragraph 3 of the provision states that no legal or natural person has the right to refuse to give the investigator the Articles or documents he demands or copies thereof. The decision to seize documents or items may be taken by the investigator. Neither a court order nor permission from the prosecutor has to be obtained. The measure may only be conducted after a criminal case has been instigated.

365. Additional powers are provided for in the Law on Police. Article 12 states that the police has the right to "enter [...] into the areas occupied for production and other entrepreneurial activities [...] and [...] perform inspection, including the vehicles, and confiscate [...] documents, samples of raw materials and production directly associated with the offence". Article 19 provides the police with the power to search hand-luggage and suitcases of train, air and sea passengers and to confiscate items of which the shipment is prohibited. Article 23 further allows for the inspection of places in which arms are being traded or kept and to confiscate and destroy the arms which are prohibited from circulation.

366. With respect to access to documents and information protected by banking secrecy, please refer to the discussion under Recommendation 4.

367. With respect to information subject to professional secrecy law enforcement authorities have two avenues for gaining access.

368. First, law enforcement authorities may request such information directly from the notary, accountant, advocate or auditor based on Article 172 CPC, which provides that "no person who is asked by [law enforcement authorities] which carry out criminal proceedings […] to report or disclose information constituting a secrecy protected by law [has] the right to refuse fulfillment of that requirement by reference to the necessity of preserving official, commercial and other secrecy protected by law." However, law enforcement authorities may only make such a request if the information sought is considered "necessary" for the criminal proceedings and the person requested to provide the information has a right to request clarification as to why there is a necessity of obtaining the requested information. The authorities clarified that the notion of "necessity" is not defined by law but that in the course of a criminal case the investigative body, based on "inner belief or moral certainty" decides whether the "necessity" requirement is met. With the exception of information covered by notarial secrecy, no court order is required.

369. Secondly, as already outlined under criterion 26.4. of this report, law enforcement authorities may request such information through the FMC. However, while the AML/CFT Law provides that the FMC has the right to obtain privileged information, the various laws regulating the professions covered by secrecy do not clarify to what extent and based on which conditions such access has to be granted.

**Power to Take Witnesses' Statement (c. 28.2):**

370. Article 55 CPC provides the investigating authority with the power to summon witnesses and interrogate the suspect, the accused, the injured, and any witnesses. In addition, Article 112 CPC provides that information given by the witness in written or oral form at the pre-trial legal or in court is called testimony of the witness. It can thus be inferred that even in the absence of an express provision to this effect**,** the investigative bodies, including the NSS, has the power to take witness statements.

371. In addition, Article 14(1) LOSA provides for the conduct of operational inquiries, defined as the collection of information about prepared or committed crimes, including through asking natural and legal persons that do or may possess information relevant to the case questions and receive answers to the questions posed. The measure is available both at the inquest stage and the investigative stage as well as prior to the initiation of a criminal case in the form of an operational-search activity.

**Adequacy of Resources to Law Enforcement and Other AML/CFT Investigative or Prosecutorial Agency (c. 30.1.):**

The Police

372. The structure and funding of the Police as well as the objectives, rights and obligations of police officers are set forth by the Law on Police.

373. In 2005, a special police division under the Department for Combating Organized Crime has been set up to investigate financial crimes, including ML and TF, has been established. The division consists of eight professional staff. The assessors have been provided with an organizational chart of the Police that reflect this structure.

374. The decision in 2007 to make the NSS the competent authority to investigate crimes of money laundering and terrorism financing did not lead to a downsizing of the division's staff, as the police still stayed and still remains very involved in the fight against these crimes. Representatives of the police stated that the cooperation with the NSS on investigating money laundering is very productive and good and that the police is always being involved in such investigations by NSS based on their strong expertise.

375. The division's budget comes out of the general police budget. Representatives of the police stated that they believe their human and technical resources to be sufficient to fully and efficiently conduct inquests and support investigations for money laundering and terrorism financing.

The Prosecution

376. The structure of the prosecution, the requirements for human, technical and financial resources are set forth by the Law on Prosecution.

377. A special department within the Prosecutor General's Office is responsible for supervising all cases investigated by NCS, including money laundering and terrorism financing. The department comprises of three prosecutors and three support staff. The assessors have been provided with an organizational chart of the General Prosecutor's Office that reflects this structure.

378. Representatives of the General Prosecutor's Office stated that while the workload of the department's prosecutors is rather heavy, the department would be equipped with sufficient technical and other resources. Additional human resources could be requested from the General Prosecutor at anytime and that the request would be granted. At the time of the onsite visit, the department supervised fifty investigations pending with the NSS, including on money laundering and terrorism financing.

379. The special department's budget comes out of the general budget of the General Prosecutor's Office. Representatives of the General Prosecutor's Office stated that if the number of money laundering investigations were to increase, the department would request the General Prosecutor to create a special unit dealing with AML/CFT cases only.

380. The General Prosecutor's Office as a whole comprised of 330 prosecutors in all of Armenia.

National Security Service

381. The structure of the Armenian National Security Service, the requirements for human, technical and financial resources are set forth by the Law on National Security Bodies and the Law on Service in National Security Bodies.

382. The NSS has two separate departments dealing with money laundering and terrorism financing cases, namely the inquests department and the investigation department. The inquest department comprises of 5 and the investigation department of 3 professional staff. Representatives of both departments stated that the human and technical resources were sufficient to implement their responsibilities with respect to AML/CFT. The budgets of both divisions come out of the NSS's general budget.

State Revenue Committee

383. Since June 2008, the State Tax Service and the Customs Service of Armenia are united under the State Revenue Committee.

384. Tax: The structure and funding of the State Tax Committee of the Republic of Armenia as well as the objectives, rights and obligations of tax officers are set forth by the Law on Tax Committee. As in the case of the NSS, the tax authorities have two departments having competences with respect to tax and customs offences involving money laundering and terrorism financing, namely the inquest department, comprising of 12 professional staff, and the investigatory department, which has 22 professional staff. The authorities were confident that all two departments were provided with sufficient computers and other necessary office equipment. The division's budget comes out of the general budget of the Tax Committee. However, the tax committee also set up a special development fund, which is used to fund operative-search and inquest activities.

385. Customs: The structure of the Customs Authority, the requirements for human, technical and financial resources are set forth by the Law on Customs Service. The customs authority has two separate divisions for conducting inquests on the one hand and investigations on the other. Whereas the department of inquest consists of 4 professional staff, the investigative department has 4 staff. The budget of both divisions comes out of the Customs' general budget. Representatives of the Customs authority stated that both departments had sufficient technical and human resources to implement their tasks with respect to AML/CFT.

**Integrity of Competent Authorities (c. 30.2.):**

The Prosecution

386. Article 32 specifies the general requirements for appointment to a position in the Office of the Prosecutor General. Citizens residing in Armenia may be appointed as a prosecutor, if he or she has obtained a legal education in Armenia or has obtained a similar degree in a foreign country, which has been recognized and confirmed through a procedure stipulated by law.

387. In addition to the educational requirements, applicants are subject to close scrutiny by a special committee, which ensures that the applicant has the necessary skills and qualifications to become a prosecutor. Once a person has been hired, he/she receives four to six months of training at the School for Prosecutors.

388. Background checks include police reports to ensure that no case is pending or judgment has been issued against that person. Armenian prosecutors are bound by a Code of conduct.

National Security Service

389. According to Law on Service in National Security Bodies and the provisions of the legal acts of the NSS, the employees conducting operative-investigatory activities, inquest and investigation for cases of ML/TF offences, must meet high standards of professionalism, and must have a higher education, knowledge of a foreign language, special physical training, training at the Educational Center of the National Security Service, skills for employing weapon and computer knowledge.

390. The NSS conducts thorough background checks before hiring new staff.

The Police

391. The requirements for the Police employees are set forth in the Law on Police Service. Article 11 of the Law stipulates, that a person under age of 30 years may be engaged in police service, if he/she has completed mandatory military service, masters Armenian language, is in capacity to perform the duty of the police serviceman in terms of his/her operational, personal, moral characteristics, education, health and physical training. Circumstances in which a person may not be engaged in service for the police system are also provided for.

392. Representatives of the police stated that in the course of hiring new staff, police checks, intelligence background checks and Interpol records on the person to be hired would be obtained and a number of personal interviews be conducted to ensure the person's integrity, skills and high standard of professionalism.

State Revenue Committee

393. Tax: According to Article 12 of the Law on Tax Service, a citizen may be appointed to a tax service position in the Tax Authority if he/she masters Armenian language, has graduated from a state-accredited higher education institution and has higher education in a specialization accredited by the state.

394. Limitations are set out for the activities of the tax servicemen by Article 13 of the Law, e.g. the tax serviceman may not hold another state position, except for scientific, pedagogical and creative activities, be involved in entrepreneurship. Besides, according to Article 20 of the Law, at least one-third of the tax servicemen are required to pass an attestation every year. According to Point 5, Article 39 of the Law, the responsibilities of the tax servicemen include maintaining the state, service and other confidentiality with law in a manner prescribed by the law, including when being out of service.

395. Tax servicemen are bound in the course of their services by a Code of Conduct holding all staff to a high standard of professionalism, skill and integrity.

396. Customs: In accordance with Article 8 of the Law on Customs Service, Armenian citizen may be appointed to a customs service position, if he/she has higher education, corresponds to the requirements of the job description for that position established by the supreme tax authority.

397. All customs officers are bound by a Code of Ethics, which requires that the officers' work ethics is based on moral standards, such as integrity, impartiality and fair treatment, law-adherence and

discipline, conscientiousness and patience and that officers carry out their work based on prudence and professionalism.

**Training for Competent Authorities (c. 30.3.):**

The Prosecution

398. The staff of the Prosecution is provided with regular training on AML/CFT through participation at seminars, tutorials and other international forums: In 2007, Armenian prosecutors have participated in the discussions on the cooperation program on "Fight Against Terrorism Financing and Other Expression of Extremism" in Minsk, at an International Workshop for the South Caucasus in Tbilisi on "Combating Terrorism Financing and Criminal Prosecution" and at a seminar on "Encouraging Co-operation on Issues Related to Combating Corruption, ML and Organized Crime" in Bucharest. In 2008, Armenian prosecutors participated at a workshop on AML/CFT typologies organized by the IMF in Syracuse, Italy.

399. In addition, lectures were given to the audience of the prosecutor's school on the following topics "Criminal-legal Characteristics of Terrorism and Terrorism Financing", "Laundering of Illicit Proceeds (money laundering), Criminal-legal Analysis of the Offences".

National Security Service

400. The staff of the inquest department has received some training by the FMC in 2008, specifically on AML/CFT in 2008. Members of the investigation department, however, have not received any training or attended any seminars or training courses, which is surprising given that the NSS has the exclusive authority to conduct money laundering and terrorism financing investigations.

The Police

401. All eight staff of the special investigative unit have law degrees and a strong background in the use of intelligence measures and techniques. Between 2005 and 2008, all eight officers completed a 40 day training course specifically on AML/CFT, which organized by Egyptian police training center. In addition, a number of officers have participated at a "Training of Trainers on AML/CFT" seminar organized by the UNODC and held in the UK in 2008. Between 2006 and 2008 the police also participated at a number of workshops conducted by the Armenian FMS. The general requirements for entering the service in the police are regulated through the Law on the Service in the Police.

State Revenue Committee

402. Tax: Most staff of the two departments has law degrees. Since 2007, tax officials have participated in two training courses on AM/CFT arranged by prosecutor's office. The FMC arranged two seminars on AML/CFT, both of which had participants from a number of domestic authorities, including tax. In addition, representatives of the tax authorities participated in the UNODC's "Training of Trainers on AML/CFT" seminar held in the UK in 2008. The educational requirements for entering the tax services are set out in the Law on Tax Services.

403. Customs: Inquest officers of the Customs Authority participated in AML/CFT training courses organized by FMC. The materials received in those courses were consequently distributed amongst all staff of the investigation and inquest departments. However, representatives of the customs authority stated that officers could use additional training on AML/CFT.

**Additional Element – Training and Education for Judges (c. 30.4.):**

404. The judges and the employees of the courts are provided with trainings in the School for Judges. Certain lectures are periodically held in this school on matters related to the characteristics of the

legislation on combating ML/TF and the implementation of the latter, as well as different actions specified by the Criminal Procedure Code, including seizure and confiscation of property. For example, in 2008, the curriculum of the School for Judges contained 10 academic hours on AML/CFT. In 2008, 25 judges attended the School of Judges for continuing training. Representatives of the courts stated that the aim was to eventually have judges specialized in AML/CFT.

405. In addition, representatives of the court participated in the UNODC's "Training of Trainers on AML/CFT" seminar held in the UK in 2008.

**Statistics (applying R 32):**

406. In the absence of complete and accurate statistics on the number of Ml cases forwarded to the NSS by all bodies competent to instigate such cases, it is difficult to assess the effective operation of the law enforcement authorities with respect to conducting ML investigations. The numbers provided for in the column "Inquests conducted by law enforcement authorities" below are estimates obtained through interviews with the various authorities.

| | Cases forwarded to NSS by FIU | Cases forwarded by law enforcement authorities competent to instigate ML cases. | Cases instigated |
|---|---|---|---|
| 2006 | 3 | 1 (Police) | 4 (100% of all forwarded cases) |
| 2007 | 11 | 1 (Police) | 3 (about 25% of all forwarded cases) |
| 2008 | 11 | 14 (12 NSS, 1 customs, 1 tax) | 6 (about 24% of all forwarded cases) |
| 2009 (as of 15/02) | 0 | | 4 |

**Effectiveness:**

407. In the absence of complete and accurate statistics on the number of ML cases forwarded to the NSS by all bodies competent to instigate such cases, it is difficult to assess the effective operation of the law enforcement authorities with respect to conducting ML investigations. With specific regard to the the NSS as the designated authoritity empowered to conduct ML and TF investigations, it should be noted that the lack of AML/CFT specific training for staff of the NSS's investigation department and the issues noted in regard to financial secrecy provisions have an impact on the effectiveness of ML and TF investigations.

### 2.6.2. Recommendations and Comments

- The CPC should be amended to provide for a general power of the law enforcement authorities or the courts to compel the production of documents and information in ML and TF cases, including also in cases where the information is requested from a witness or a person other than the injured, or the plaintiff, suspect or accused.

- Harmonize Articles 10 LBS with Article 29 LOSA and Articles 13.1 LBS with 13 AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities can effectively access and compel production of information, transaction records, account files and other documents or information that is covered by financial secrecy, especially in cases where a suspect has not yet been identified or where the information is sought with respect to persons other than the suspect.

- Staff of the NSS's investigative department as well as the custom's inquest and investigation departments should receive AML/CFT specific training to ensure effectiveness of the ML/TF investigations.

### 2.6.3. Compliance with Recommendations 27 & 28

| | Rating | Summary of factors relevant to s.2.6 underlying overall rating |
|---|---|---|
| **R.27** | **LC** | • Lack of AML/CFT specific training for officials of the NSS's investigation department as well as legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on the effectiveness of ML and TF investigations. |
| **R.28** | **PC** | • Legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' powers to obtain information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• Absent a summons for appearance and short of a seizing order, the provisions in the CPC are not sufficiently wide to allow for law enforcement authorities or the courts to compel the production of documents and information in all cases.<br>• In the absence of complete and accurate statistics on the number of ML cases forwarded to the NSS or instigated by law enforcement as well as the number of ML cases dismissed by law enforcement authorities it is difficult to gauge the effectiveness of the law enforcement authorities. |

## 2.7. Cross Border Declaration or Disclosure (SR.IX)

### 2.7.1. Description and Analysis

**Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1):**

408. The requirements for declaration of cross-border transportation of currency and currency valued instruments, is pursuant to the rules for "Transportation, Delivery, Import, Export and Declaration of Currency Values" (Currency Declaration Rules) a CBA Board Decision 386-N July 29, 2005.

409. The content of the declaration is pursuant to the Currency Declaration Rules wherein the declaration must include concise information about the currency or payable securities and means of transportation as well as other information required for the customs control and customs. Payable securities are defined in Article 153 of the Civil Code, which defines securities to include, amongst others, bank books and bank certificates of deposits, bonds, checks and appears to encompass the FATF term of bearer negotiable instruments. The Currency Declaration Rules set forth the threshold amounts for

currency and payable securities and declaration requirements pertaining to those threshold amounts and goods. Further, the requirements are set forth in the appendix, titled "Form" of the Rules for Application of Dual Channel System during Customs Control of Goods being escorted by Individuals arriving and leaving from the International Airports of the Republic of Armenia (Rules for Customs Control over Air Transportation of Goods) and the Rules for Application Dual Channel System during Customs Control of Goods being escorted by Individuals Arriving and Leaving the Custom Borders of the Republic of Armenia by vehicle transportation (Rules for Customs Control vehicle transportation).

410. Natural and legal persons can, with the exclusion of banks, credit organizations and secure and registered transportation service providers who specialize in this work, export currency or payable securities up to 5 million dram (USD13,000 at the time of assessment) and equivalent foreign currency represented by banknotes and coins, and payable securities (outbound physical cross-border transportation). Export of Armenian dram and currency amounts exceeding this threshold must be undertaken by way of non - cash methods (i.e. via a bank transfer) or, in the case of out bound physical transportation of payable securities, must be accompanied by a written customs declaration pursuant to Article 2.1 of the Currency Declaration Rules. However, the actual utilized customs declarations (Reference CD-1 of Armenian Customs Service, "Prohibitions and Restrictions") set forth that the exporting of cash in any currency in the sum not exceeding 5 million AMD is permitted though no mention of payable securities.

411. For importing (in bound physical cross-border physical transportation), the allowance for cash and payable securities is to equivalent up to Euro 15,000 without a declaration. Over this threshold, the import of cash and payable securities is subject to the completion of a customs declaration pursuant to Article 2.2 of the Currency Declaration Rules. Additionally, pursuant to the appendix "Form" in the Rules for Customs Control over Air Transportation of Goods and rules for Customs Control vehicle transportation, payable securities, cash banknotes and coins exceeding the equivalent of Euro15,000 must be declared. However, the data required for the 'Form' is not reflected in the actual utilized customs declarations (Reference CD-1 of Armenian Customs Service. "Prohibitions and Restrictions") which require a customs declaration when 'importing cash in any currency exceeding the sum equivalent to Euro 15,000'' and the utilized declaration does not make any reference to any type of payable securities.

412. The above mentioned requirements for inbound transportation of currency and other payable securities are also applicable in the case of import through post or cargo, although no such requirements exist if the case of out bound transportation through mail or cargo (Article 2.3(8) of the Currency Declaration Rules).

413. Authorities advised that for the current year, six declarations have been received for amounts above the threshold limits, with a total value of just over USD 148,000 with two declarations being 100 percent more than the declaration threshold. All of the declarations relate to importing and all were declared at one particular land crossing customs point and none at the international airport customs ports.

Breakdown of the declarations

| | | |
|---|---|---|
| 1. arrival | 21,000 USD | Meghri Custom-port |
| 2. arrival | 36,000 USD | Meghri Custom-port |
| 3. arrival | 34,000 USD | Meghri Custom-port |
| 4. arrival | 20,000 USD | Meghri Custom-port |
| 5. arrival | 20,000 USD | Meghri Custom-port |
| 6. arrival | 17,000 USD | Meghri Custom-port |
| | | **TOTAL 148,000 USD** |

414. No declarations were received in the previous year and the authorities opined that this was due to less public knowledge of the declaration requirements. The low number of declarations, and the fact of no declarations at the international air customs points, give concern to the quality of data collection, knowledge of the public to declare and the monitoring of required declarations by the authorities. Assessors were informed that Customs have started awareness raising initiatives (such as distribution of brochure) regarding declaration requirements.

**Request Information on Origin and Use of Currency (c. IX.2):**

415. The authority to request and obtain information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use upon discovery of a false declaration or a failure to declare is provided by Article 133 of the Customs Code. This provision sets the general power for the Customs authorities to request information which is subject to declaration (as in the case of in bound and out bound physical transportation of currency and payable securities in excess of the established thresholds) and establishes also that "Customs bodies have the right to demand other information and documents in cases defined by the present Code and other legal acts". In addition Customs have the general authority under the Law on Operation and Search Activities (LOSA) to perform "operational requests" and acquire operational information ("with the purpose of identify smuggling and other crimes", according to Articles 8 & 14 of the LOSA).

**Restraint of Currency (c. IX.3):**

416. Customs authorities do not have the power to stop or restrain currency where there is a suspicion of money laundering or terrorist financing (because for these crimes they do not have the legal authority of "body of inquest", which is only limited to smuggling). As a "body of inquest" for smuggling-related crimes such power would be granted in the case of a false declaration, pursuant to the provisions of the CPC.

**Retention of Information of Currency and Identification Data by Authorities when appropriate (c. IX.4):**

417. The obligation for registering passenger identification data and the amount of cash or payable securities exceeding the designated thresholds are pursuant to Article 2 of the Currency Declaration Rules. Such information includes, but is not limited to, the passenger's name, nationality, passport details, amount of currency or payable securities.

418. A Memorandum of Understanding (MoU) between the FMC and the State Revenue Committee establishes reporting of information and data to the FMC and such reporting requirements further require the capturing of data, including the identification data of the passenger/declarer on imports of currency or import and export of payable securities exceeding EURO/USD 15,000; violations of legal requirements for imports or exports of currency or payable securities or other currency values, on cases of imports or exports of currency that in the opinion of State Revenue Committee are suspicious in terms of ML or TF.

419. Authorities advised that information is retained in a central repository, both in hard copy and in an electronic data base, on all declarations which are provided for by Customs law, including those relating to currency and bearer negotiable instruments. Additionally, as set forth in the MoU, information pertaining to the detection of non-declaration of currency and bearer negotiable instruments above the reporting thresholds, false declarations and where there is a suspicion of ML or TF is also retained. The

information is retained for a minimum five year period pursuant to RA Government Decision dated March 09, 2006 on "sample list of documents subject to archiving with the terms of retention".

**Access of Information to FIU (c. IX.5):**

420. The information obtained by Customs is formally shared with the FMC under the reporting obligations set forth in the MoU. Pursuant to Article 5 of the MoU, Customs must report to the FMC on imports of currency or payable securities exceeding 15,000 Euro and the export of currency and payable securities exceeding 5 million drams on a quarterly basis; violations of legal requirements for imports or exports of currency or payable securities on a monthly basis and four days on cases of imports or exports of currency or payable securities that are suspicious in terms of ML or TF. The reports detail the full name of passenger or sender (if by post); citizenship; personal identification information; the type and amount of currency; transportation; whether it is import or export and the originating and destination countries and any other pertinent information. The authorities provided statistics only for the reports to the FMC of suspicious operations: for the period May 2008-March 2009 there were 4 reports of suspicious transactions (one of which resulted in a referral to the Prosecutor's office and the State Revenue Committee.

| **Date of Reporting on Suspicious imports/exports** | **Date of the feedback provided by the FMC** | **Subject matter** | **Measures undertaken** |
|---|---|---|---|
| May 22, 2008 | June 13, 2008 | Suspicion on ML | Hypothesis of ML case refuted in the result of analyses |
| September 25, 2008 | November 11, 2008 | Suspicion on ML | Hypothesis of ML case refuted in the result of analyses |
| April 14, 2009 | April 30, 2009 | Suspicion on ML | Hypothesis of ML case refuted in the result of analyses |
| March 13, 2009 | April 22, 2009 | Suspicion on ML | Referral sent to the Prosecutor's Office and State Revenue Committee |

**Domestic Cooperation between Customs, Immigration and Related Authorities (c. IX.6):**

421. A number of formal gateways are in place for domestic co-operation. The State Revenue Committee is a member of the Interagency Standing Commission Against Fraud and Forgery in Plastic Cards and Other Payment Methods and on Fight Against Money laundering and Terrorism Financing (Interagency Commission) and Customs is one of the representatives from the State Revenue Committee. The Interagency Committee is a multi-lateral intergovernmental platform and the Committee's mandate, as discussed in Recommendation 31 in this report, is amongst others to set policy, facilitate information sharing on trends and methodologies and effectiveness of the ML and TF regime between the members of the committee, which is comprised of representatives of the authorities.

422. Additionally, the bilateral MoU between the FMC and the State Revenue Committee sets forth the co-operative arrangements and information sharing. Areas of co-operation, as set forth by Article 2 of the MoU, include:

- exchange of required information on suspicious ML/TF transactions;
- joint discussions on suspicious ML/TF transactions;

- control in the area of transportation (import or export) of currency values;
- mutual assistance in drafting the rules, guides and other methodological materials on combating the ML/TF;
- joint actions on maintaining case statistics and development of typologies;
- Implementation of joint training, education and consulting programs on combating the ML/TF.

**International Cooperation between Competent Authorities relating to Cross-border Physical Transportation of Currency (c. IX.7):**

423. At the time of the assessment, there were 14 MoUs in place with counterparts in other jurisdictions being Turkmenistan, Ukraine, Tajikistan, Kazakhstan, Romania, Bulgaria, Lebanon, Greece, Latvia and Egypt, Islamic republic of Iran, Syria, Italy and Georgia.

424. The authorities further advised that where no MoU exists, co-operation is undertaken through requests received or made through the CIS Convention or diplomatic channels.

**Sanctions for Making False Declarations / Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8**

425. Pursuant to Article 2.4 of the Currency Declaration Rules, the exporting or importing of currency values exceeding the amount stipulated in Currency Declaration Rules without completing the customs declaration or providing incomplete or falsifying information will result in liability stipulated by the legislation of the Republic of Armenia. Civil sanctioning powers are set forth in Chapter 37 of the Customs Code, which sets forth any illegal actions or inactions of a person in contravention of customs controls and formalities shall be considered as a violation of customs regulations and subsequently incur liability.

426. Sanctions, pursuant to Chapter 37 of the Customs Code are applicable to any person for violating customs regulations deliberately or imprudently (Article 189, paragraph 2). The sanctions include but are not limited to:

- Failure to provide "declaration on goods and means of transportation" upon the Custom's demand, necessary documents related to the goods a fine of 50,000 dram (USD130) as set forth in Article 194 of the Customs Code;
- Failure to declare goods and means of transportation crossing the customs 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, carries a penalty in the amount of customs value of the given goods and means of transportation (Article 203 of the Customs code);
- Deliberate non-compliance with legitimate requirements of an Official of the Customs Authorities shall entail caution or penalty in the amount equal to 10,000 drams (USD26), per Article 190 of the Customs Code.

427. The term "goods" is defined in Article 2 of the Customs Code and includes "currency and currency values", as set forth in Article 3 of the RA Law on Currency Regulation and Currency Control types of property as currency value include foreign and domestic currencies and payable securities.

428. The authorities advised that five breaches of the declaration requirement have been detected by Customs which resulted in one administrative sanction being applied, three cases sent to the appropriate authorities for settlement and one breach which have resulted in the suspension of the administrative case procedure. Two of these breaches were detected at two land crossing customs ports and three at the international airport in the capital of Yerevan.

429. Most of the statutory sanctions are too low. In the absence of statistics it is not possible to determine whether sanction are effective, proportionate or dissuasive.

**Sanctions for Cross-border Physical Transportation of Currency for Purposes of ML or TF (applying c. 17.1-17.4 in R.17, c. IX.9):**

430. There are no specific sanctions, other than those detailed in IX.8, applicable for cross border physical transportation of currency or payable securities for the purposes of ML or TF. Criminal sanctions set forth in the CC, as discussed elsewhere in the report, are available to deal with natural persons that fail to comply with AML or CTF requirements.

**Confiscation of Currency Related to ML/TF (applying c. 3.1-3.6 in R.3, c. IX.10):**

431. Customs can only confiscate the cash which has not been declared or in the case of a false declaration, by virtue of Article 212, which envisages that "Goods being the direct object of customs regulations infringement….. shall be subject to confiscation". For currency or other bearer negotiable instruments that are related to ML or FT, Customs have no powers to seize or investigate and must apply to competent authorities for such measures and raise a suspicious transaction report to the FMC.

**Confiscation of Currency Pursuant to UN SCRs (applying c. III.1-III.10 in SR III, c. IX.11):**

432. The freezing requirements envisaged by SRIII and the UNSCRs are not available in the case of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instrument that are related to TF. In such instances the responsibilities to adopt the measures regulated by the CPC (and described under SRIII) is not of the Customs but of the NSS.

**Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12):**

433. In the event of discovering an unusual cross-border movement of gold, precious stones or precious metals, the notification of competent authorities of the originating or intended destination country, whilst Customs do not have any formal obligations contained in laws or rules, however, Customs advised the assessors that notification would go through the normal protocols of either through the channels available in an MoU or enquiry through the CIS Convention. In the event of suspicions, through the formal channels of the FMC after an STR has been lodged.

**Safeguards for Proper Use of Information (c. IX.13):**

434. The safe guards and protocols for saving and archiving customs documentation including declarations are set forth in Customs protocols including the archiving every 3 months with a period of storage of five years and declarations and supporting documentation retained in both electronic and documentary databases and Customs advised during meetings that access to such information and databases is conducted under stringent conditions including limited strict access to senior designated personnel only. The archiving and storage procedures are set forth in the Law on Archives.

**Additional Element—Implementation of SR.IX Best Practices (c. IX.15):**

435. In discussions with Customs, there was no awareness of the Best Practices Paper for SRIX however, some of the factors contained with the Best Practices Paper are in place including inspection of

a person, baggage or mode of transport, international and domestic co-operation and threshold limits for declarations. Elements of the Best Practice Paper are restricted in implementation as Customs do not have criminal authority to seize cash or payable securities (except in the case of failure to declare or false declarations).

**Additional Element—Computerization of Database and Accessible to Competent Authorities (c. IX.15):**

436. The information and documentation obtained in relation to cross border transportation of currency or payable securities is retained in both electronic and documentary databases and the information is available to the FMC pursuant to the reporting obligations of Customs as set forth in the MoU. Any trends or analysis undertaken on data may be shared with members of the Interagency Commission and Customs advised that a dedicated department has been established within Customs for analysis of captured data for statistical purposes such as customs duties or number of declarations.

**Effectiveness:**

437. The small number of declarations received by Customs reflects a low knowledge by the public of the declaration requirements combined with the monitoring of the declaration requirements by Customs at check points, including the main international airport in the capital of RA. The clarity of the utilized declaration may lead to non-declaration of, and lack of understanding of declaration requirements for, payable securities.

438. The low level of breaches indicates that a concentrated effort may need to be undertaken to ensure full compliance with the declaration rules. During the on-site meetings, assessors were advised by the authorities that data analysis has not focused on any analysis regarding ML or TF and due to the small number of declarations and breaches, the effectiveness of analysis is doubtful.

### 2.7.2. Recommendations and Comments

439. The authorities should consider:

- Extend the declaration requirements in the case of out bound transportation through mail or cargo;
- Provide Customs authorities with the power to stop or restrain currency where there is a suspicion of money laundering or terrorist financing;
- Increase the level of sanctions;
- Introduce freezing requirements envisaged by SRIII and the UNSCRs in the case of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instrument that are related to TF;
- Avenues to increase the public awareness of the need to declare imports and exports of cash and payable securities that exceed the specified threshold;
- Align the explanations of the requirements for declarations on imports and exports contained in the utilized declarations to clearly also cover payable securities;
- The effectiveness of the current level of fines to encourage declarations and to include in the sanctions regime specific penalties for ML or TF;

- The authority of Customs, in laws, rules or regulations, to request information on the origin of the currency or payable securities and their intended use;
- By way of law, rules or regulations, notification to other countries' competent authorities in relation to unusual cross-border movement of gold, precious metals or stones;
- Analyze the information collected under the declaration requirements to develop AML/CFT intelligence.

### 2.7.3. Compliance with Special Recommendation IX

| | Rating | Summary of factors relevant to s.2.7 underlying overall rating |
|---|---|---|
| **SR.IX** | **PC** | • No declaration requirements in the case of out bound transportation through mail or cargo.<br>• No power to stop or restrain the currency in the case of suspicions of ML or FT.<br>• Customs have limited confiscation and seizure powers.<br>• The freezing requirements envisaged by SRIII and the UNSCRs are not available in the case of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instrument that are related to TF.<br>• Most of the statutory sanctions are too low. In the absence of statistics it is not possible to determine whether sanction are effective, proportionate or dissuasive.<br>• Issues of effectiveness. |

## 3. PREVENTIVE MEASURES —FINANCIAL INSTITUTIONS

***Customer Due Diligence & Record Keeping***

### 3.1. Risk of Money Laundering or Terrorist Financing

440. The Armenian's legislative framework for financial institutions consists primarily of the "AML/CFT Law" and the "Regulation on Minimum Requirements Stipulated for the Financial Institutions in the Field of Combating Money Laundering and Terrorist Financing". Although both the law and the regulation impose clear and direct obligations on financial institutions with respect to prevention of money laundering and terrorist financing, the authorities have not yet conducted a systemic review or assessment of potential money laundering and terrorist financing risks affecting financial institutions that could serve as a basis for applying enhanced and/or reduced measures in the financial system. As such, the existing AML/CFT legal and supervisory frameworks have been developed without considering ML/TF risk levels,although the law allows financial institutions to apply risk sensitive approaches to compliance with customer due diligence obligations.

441. Meetings with Armenian authorities and officials from financial institutions visited during the assessment revealed that their perception of ML and TF risk is low. Nevertheless, authorities and officials were of the view that like neighboring countries, the main sources of risk facing their financial institutions are arising mostly from fraudulent activities (both internal and external), drug trafficking and other criminal activities (counterfeiting of currency and goods) generating illegal proceeds, which are then potentially introduced in the financial system or converted into assets.

442. Another important factor that potentially affects the AML/CFT regime in Armenia is the predominant cash based economy. Contributing to this cash based economy is a large diaspora of Armenian citizens (with a significant presence in Russia and the United States) that provides for hard currency inflows via formal and informal channels. Formal remittances come via transfers executed through licensed and regulated financial institutions (banks and money remitters); and informal remittances come through other systems (not licensed or regulated) in the form of cash. Some of these cash flows seem to be supporting a booming real estate construction sector, which is driven by Armenians abroad.

443. Terrorism financing is not considered to be a significant threat to financial institutions.

### 3.2. Customer Due Diligence, Including Enhanced or Reduced Measures (R.5 to 8)

#### 3.2.1. Description and Analysis

Legal Framework:

444. AML/CFT Law; Regulation on AML/CFT Related Minimal Requirements; and Guidance on Risk Based Approach.

445. The legal framework for AML/CFT preventive measures, including customer due diligence (CDD) requirements is constituted mainly by the AML/CFT law. The preventive measures regime set forth by the AML/CFT law is also complemented by "Normative acts and guidelines adopted by the Authorized Body", adopted by the CBA pursuant to Article 11 of the AML/CFT law and by the "internal legal acts of reporting entities", financial institutions (all) and DNFBPs with more than 10 employees are required to adopt for the prevention of ML and TF (Articles 21 & 3(6) of the AML/CFT law).

446. Article 11 of the AML/CFT law clearly establishes the responsibility of the Authorized Body — that is the Board of the CBA, according to Articles 1(11) & 10, paragraphs 1(7) & 2 of the AML/CFT law, in combination with Article 19, paragraph 1 of the Law on the Central Bank of the Republic of Armenia, hereinafter Law on CBA—to issue "normative legal acts" to establish, in addition to the requirements set forth directly in the AML/CFT law, "minimal requirements" in several areas related to AML/CFT[30], including for "customer identification, due diligence (including enhanced or simplified measures), recording, collecting, and updating of data" (Article 11, paragraph 1(2)). In addition to that the Authorized Body (Board of the CBA) is also empowered to "adopt and provide to reporting entities guidelines expounding the procedures for the implementation of this Law and the normative legal acts adopted on basis of this Law" and to "promulgate typologies" (Article 11, paragraph 2).

447. Furthermore, the responsibility for the CBA to issue "normative, internal and individual legal acts" and to "arrange and regulate combating legalization of criminal proceeds and financing of terrorism" are clearly vested in the CBA by the Law on CBA (Article 2 and Article 5, paragraph 1(d)).

448. Pursuant to Article 11 of the AML/CFT law the CBA has issued a "Regulation on Minimal Requirements Stipulated for the Financial Institutions in the Field of Combating ML and TF and Declaration Form about Presence (Absence) of a Beneficial Owner in the Transaction" (Decision September 9, 2008, No. 269 N, hereinafter "Regulation on Minimal Requirements") and a "Guidance for Financial Institutions on Adopting the Risk-Based Approach for Combating ML and FT" (hereinafter RBA Guidance).

449. For the purpose of this assessment the Regulation on Minimal Requirements are considered as "Regulations" under the FATF standard, as the power pursuant to which they have been adopted can be considered as "authorized by a legislative body" and they are subject to sanctions for non compliance. The RBA Guidance can be considered as "Other enforceable mean", because it is issued by a competent authority and sets out enforceable requirements, with sanctions also for non compliance.

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[30] Article 11, paragraph 1 The normative legal acts adopted by the Authorized Body shall establish:

1. Minimal requirements with regard to the functions of the management bodies of financial institutions, including the internal compliance unit, and to the rules for performing such functions in the field of combating money laundering and terrorism financing;
2. Minimal rules for customer identification, due diligence (including enhanced or simplified measures), recording, collecting, and updating of data;
3. Minimal rules for recording and maintaining of documents (data) by financial institutions in the field of combating money laundering and terrorism financing;
4. Rules for approving and amending the internal legal acts of financial institutions in the field of combating money laundering and terrorism financing; the minimal criteria with regard to such internal legal acts;
5. Minimal rules for the audit of financial institutions' activities in the field of combating money laundering and terrorism financing;
6. Rules for submission and the standard form of the declaration on beneficial owners filed to the state body performing registration of legal persons;
7. Criteria for high or low risk of money laundering and terrorism financing, and the rules for their determination;
8. Forms, timeframes, and rules for filing above-threshold and suspicious transactions (business relationships) reports to the Authorized Body by reporting entities;
9. Minimal rules for identifying suspicious transactions (business relationships) and for considering the relevance of reporting to the Authorized Body by financial institutions;
10. Minimal rules for the selection, training, and qualification of competent staff of financial institutions in the field of combating money laundering and terrorism financing;
11. Content, submission rules, forms, and timeframes for the collection of statistics maintained by state bodies; and
12. Other issues stipulated by this Law.

450. The Regulation on Minimal Requirements establishes rules and criteria for various AML/CFT aspects[31], including minimal rules for customer identification and CDD (including enhanced and simplified CDD).

451. Finally, Article 21 of the AML/CFT law requires reporting entities that are financial institutions (or DNFBPs with more than 10 employees) to adopt "internal acts" (defined as "policy, rule, procedure, instruction, or regulation") aimed at the prevention of ML and FT. These acts — that cover also CDD-related requirements[32] — are reviewed by the Authorized Body, which can also require reporting entities to change the submitted acts. The failure of the reporting entities to adopt these acts is subject to a sanction (stipulated by Article 27, paragraph 2). Also, the actual non-compliance to a requirement that is

[31] Chapter 1, paragraph 2: "this Regulation stipulates the requirements, rules and criteria in the field of money laundering and terrorism financing (hereinafter referred to as ML/TF) prevention:
a) Minimal requirements with regard to the functions of the management bodies of financial institutions, including the internal monitoring body, and to the rules for performing such functions in the field of combating money laundering and terrorism financing;
b) Rules for approving and amending the internal legal acts of financial institutions in the field of combating money laundering and terrorism financing; the minimal criteria with regard to such internal legal acts;
c) Criteria for high or low risk of money laundering and terrorism financing, and the rules for their determination;
d) Minimal rules for customer identification;
e) Minimal rules for customer due diligence (including enhanced and simplified);
f) Minimal rules for the recording, collecting and updating the documents (information) for the financial institutions in the field of ML/TF prevention;
g) Minimal rules for identifying suspicious transactions (business relationships) and for considering the relevance of reporting to the Authorized Body by financial institutions;
h) Minimal rules for the audit of financial institutions' activities the field of ML/TF prevention;
i) Minimal rules for the selection, training and qualification of the competent staff in the field of ML/TF prevention".

[32] Article 21 establishes that:
1) Reporting entities should have in place internal legal acts (policy, rule, procedure, instruction, or regulation) aimed at prevention of money laundering and terrorism financing. The internal legal acts stipulated by this Part should at least lay down:
   a. The internal procedures to be carried out with the view of conducting customer due diligence and record-keeping;
   b. The list of the documents and other information necessary for customer due diligence and enhanced due diligence;
   c. The manner and conditions for conducting internal audit of the compliance with the procedures and requirements of the internal legal acts, in cases when conduction of internal audit is required by law;
   d. The internal procedure for the operations of the internal compliance unit;
   e. The procedures for collating, recording and maintaining information on suspicious and other transactions (business relationships);
   f. The internal procedures for suspending (rejecting to carry out) transactions (business relationships), freezing funds of the persons linked to terrorism;
   g. The requirements for recruiting, training, and professional development of the staff of internal compliance unit or other employees charged with functions stipulated by this Law, with regard to the legislation on combating money laundering and terrorism financing, to other legal acts (especially in respect of the obligations of customer due diligence and of reporting suspicious business relationships or transactions), as well as with regard to the present risks and typologies of money laundering and terrorism financing;
   h. The criteria for recognizing a business relationship or transaction as suspicious;
   i. The internal procedure for reporting to the Authorized Body;
   j. The internal procedures for ensuring compliance with other requirements established by this Law and the normative legal acts of the Authorized Body.
2) Reporting entities shall provide a copy of each internal legal act specified in Part 1 of this Article to the Authorized Body within one week after their approval, as well as after making amendments and changes to them. By the request of the Authorized Body, reporting entities shall be obligated to make the respective changes and amendments to their internal legal acts".

stipulated by these internal act can be subject to a sanction: Article 27, paragraph 2, establishes that not only an infringement of the requirements of the AML/CFT law but also of requirements of "*legal acts adopted on the basis of this Law (i.e. the AML/CFT law) by financial institutions*" trigger a "sanction under the legislation regulating their activity, in the manner established by that legislation.

452. The internal legal acts established and adopted by financial institutions, for the purpose of this assessment, are not considered as "other enforceable means", since they are not issued by a competent authority.

Coverage of "Financial Institution"

453. Article 3, paragraph 4 of the AML/CFT Law covers a large number of financial institutions within the Armenian financial sector mostly in line with the list of financial institutions listed in the FATF Glossary. In the context of Armenia, financial leasing; financial guarantees and commitments; individual and collective portfolio management; trading in money market instruments; commodity futures trading; and safekeeping and administration of cash or liquid securities on behalf of other persons are considered as activities carried out by financial institutions (i.e., banks, credit organizations, investment companies, etc.).

**Prohibition of Anonymous Accounts (c. 5.1):**

454. Article 17, paragraph 1 of the AML/CFT Law explicitly prohibits the opening, servicing or provision of anonymous accounts or accounts in fictitious names, as well as other payment documents. The same prohibition applies to accounts solely expressed in numbers, letters or other conventional signs. However, prior to the 2008 AML/CFT Law the CBA sanctioned a financial institution for "opening and maintaining anonymous or fictitiously named accounts, as well as accounts expressed in digits, letters and other conventional signs" (the sanction was issued pursuant to Article 16, paragraph 2 of the former 2004 AML/CFT Law).

455. The authorities indicated that after discovering this fact, the Financial Supervision Department of the CBA initiated concerted actions to ensure that no such accounts exist elsewhere in the system. Among those actions, further examinations in most banks were conducted, including a respective check of software and documentation. The authorities maintain that, as a result of these concerted actions, there are no other anonymous accounts in the Armenian financial system. Between 2006 and 2008, 14 banks were inspected. Although the risk may be minimal, it cannot be entirely ruled out until the full completion of the inspection cycle that other banks may be servicing/maintaining anonymous or fictitious accounts.

456. It also has to be noted that financial instruments in bearer form, including bearer certificates of deposits and bearer "bank records" ("bank books" or "bank certificate of deposits", Article 148 of the Civil Code) are permitted and regulated by the Civil Code (Articles 153-161), as well as the AML/CFT Law. The bank book refers to the "bank deposit" (Article 902; this is different from a "bank account", which is regulated by Article 912 of the Civil Code). For the bank deposit, Article 911 stipulates that "Unless otherwise provided by the agreement of the parties, the concluding of a contract of bank deposit with a citizen and the deposit of monetary funds to its account on the deposit is evidenced by a bank book. *The contract of bank deposit may provide for the issuance of a bank book in a name* ***or a bearer***

***bank book***"[33]. Authorities mantain that such bank books are issued against an account number (that is, according to the Civil Code, a deposit account) whose holder must undergo CDD process.

457. In the case of the certificate of deposit (that is different from the bank record) it is not clear whether such certificate is linked to an account.

458. The authorities referred to the CBA Board decision No. 501 N, (into force on October 26, 2006[34]), which prescribes that the certificate of deposit/bank book should contain "The name of the owner of the bank (deposit) certificate, for a physical person [it should be] the information from the owner's identification document, for a legal person [it should be] name of the company, registration data". However this decision is only applicable in regard to certificates that are in nominative form (see point 3e of the decision "type of the bank deposit – nominal) and do not prescribe the indication of the bank account.

459. Finally, in addition to bearer bank books and certificates of deposit; there are also "checkbooks"[35] that can be in bearer form. These are checkbooks that are issued against a legal entity's bank account. Any holder of the check (duly signed by the authorized person of the legal entity on whose name the account is opened) can cash the check.

460. Under Article 17, paragraph 2 of the AML/CFT law, banks could offer these instruments/products to their customers, but the law requires financial institutions to consider these instruments/products as high risk and obliges financial institutions to conduct enhanced customer due diligence when dealing with them. Enhanced customer due diligence procedures are explained under c.5.8 below, and entail enhanced monitoring of transactions and regular review of business relationships.

461. The transferability and the negotiability of these instruments render them *de facto* legal tender, making it difficult for identification of the true beneficial owner (especially in the case in which these instruments are transferred several times before encashment) and, therefore, more susceptible and higher risk of being used for ML and FT, as in the case of anonymous accounts. As such, the anonymity and transferability regime pose a significant challenge for financial institutions to conduct ongoing due diligence throughout the life of the business relationship with the "customer".

**When is CDD required (c. 5.2):**

462. Article 15, paragraph 1 of the AML/CFT Law establishes the obligation on reporting entities for customer identification. It states that any "business relationship" with a "customer" may be established or an "occasional transaction" may be concluded only upon the receipt of the identification documents (information) by reporting entities and upon checking the veracity of the identification documents. Article 3(10) defines a business relationship as "recurrent services provided to the customer, which are not

[33] According to Article 911 of the Civil Code the following must be indicated in the bank book and confirmed by the bank: "The name and place of location of the bank and, if the deposit was made at a branch, also of its respective branch, number of the account for the deposit and also all sums of monetary funds deposited to the account, all sums of monetary funds withdrawn from the account, and the remainder of monetary funds on the account at the time of presentation of the bank book to the bank".

[34] "The List of Documents Required to Make a Bank Deposit; the Requisites of the Documents Required to Make a Bank Deposit, [the Requisites of] Bank Books [Checkbooks], Bank (Deposit) Certificate".

[35] Article 155 of the Civil Code defines a check as "commercial paper with an unconditional written instruction of the check drawer to the bank to pay the holder of the check the sum indicated in it."

limited to one or several occasional transactions". Paragraph 3(9) of the same Article defines an occasional transaction as "a transaction, which does not give rise to obligations between the customer and the reporting entity to provide recurrent services (no business relationship is established)"; paragraph 3(14) of the same Article defines customer as "a person establishing or involved in business relationships with the reporting entity, as well as a person, who offers the reporting entity to conclude an occasional transaction or to render other services aimed at carrying out the transaction". It is not clear if, pursuant to the above mentioned definition contracts or services offered by financial institutions which are usually not recurrent service (such as a safety box, for example) would be captured by those definitions.

463. Under paragraph 2 of Article 15, reporting entities should identify their customers and verify their identity, based on reliable documents or other information received from competent sources, when:

- Business relationships are being established;
- An occasional transaction is being carried out, including a domestic or cross-border wire transfer at a value above 400-fold of the minimal salary in drams or in foreign currency (this figure equates to approximately €1,000 as of the mission date, in line with the FATF standard), unless stricter provisions are stipulated by other legal acts;
- Suspicions arise with regard to the veracity or adequacy of previously obtained customer identification data; and
- Suspicions arise with regard to money laundering and (or) terrorism financing.

464. Therefore the circumstances that trigger the identification/verification requirements in the AML/CFT law coincide with those set forth by R.5, except that there is a single threshold for the case of occasional transactions that apply to both non-wire transactions and wire transactions.

**Identification measures and verification sources (c. 5.3):**

465. As mentioned above, paragraph 2 establishes the obligation to identify the customers and to verify their identity; this applies irrespective whether the customer is permanent or occasional and whether natural or legal persons. Paragraph 2 requires that this process be "based on reliable documents or other information received from competent sources, i.e. government sources. Paragraph 3 states that when identifying the customers and verifying their identity reporting entities should do the following:

- For natural persons: documentation should include an identification document or another valid official document with a photo (passport, military card, social security card) and issued by a respective authorized state body which should at a minimum include the first and last names of the person, the details of the identification document, the place of residence, the date and place of birth of the person, and for private entrepreneurs also the number of the state registration certificate and the taxpayer identification number, as well as other information stipulated by law; and
- For legal persons: documentation should include at least the name, the location, the number of the state registration certificate and the taxpayer identification number of the legal person, as well as other information stipulated by law.

**Identification of Legal Persons or Other Arrangements (c. 5.4):**

466. For customers that are legal persons, Article 15, paragraph 5 of the AML/CFT Law states that when an "authorized person" acts on behalf of the customer, the reporting entity is obliged to identify such a person and verify his/her identity and his/her authority to represent the customer using the measures described in paragraph 3 above. Article 3(16) of the AML/CFT Law defines an authorized person in quite broad terms —that cover the concept of "person purporting to act on behalf of the customer" referred to by criterion 5.4(a)—as "a person authorized to carry out a transaction or to undertake certain legal or factual actions in the course of business relationship upon the assignment and on behalf of the customer; including the person who conducts representation by a power of attorney or by any other legal authorization of the customer; as well as the person who actually acts on behalf or upon the assignment of the customer, or undertakes factual actions at the expense or for the benefit of the customer without a power of attorney". The verification of the status of the legal person is carried by as described earlier by requesting the state registration certificate, which establishes the existence of the legal person, address, names of directors, and names of authorized persons to act on behalf of the legal person.

467. There are no legal provisions specifically relating to trusts or similar legal arrangements in Armenia. However, this lack of provisions does not preclude the opening of an account/business relationship from a foreign trustee (foreign trust). Meeting with banks revealed that the opening of this type of business relationship would be handled as a natural person, with respect to identifying the trustee, and as a legal person, with respect to the trust or legal arrangement, which would require the identification of the beneficiaries or natural person exercising control. However, none of the financial institutions has ever encountered this situation.

**Identification of Beneficial Owners (c. 5.5; 5.5.1 & 5.5.2):**

468. Under Article 15, paragraph 4 of the AML/CFT Law, reporting entities are required to undertake the necessary measures to find out the existence of a beneficial owner and, if any, identify and verify his/her identity following the identification and verification requirements described in paragraph 3 above. Article 3(15) of the AML/CFT law defines the Beneficial owner as "a natural person who is not a party to the business relationship or transaction, and on whose behalf or for whose benefit the customer acts, and (or) who ultimately owns and (or) controls the customer or the person on whose behalf the transaction is being carried out. The beneficial owner of a legal person is the natural person, who exercises factual (real) control over the legal person or transaction (business relationship), and (or) for whose benefit the business relationship or transaction is being carried out". The definition goes on by giving some cases in which a natural person may be recognized as the beneficial owner of a legal person[36].

469. Chapter 7, Article 30 of the Regulation on Minimal Requirements further requires reporting entities that before establishing a business relationship with a customer or carrying out an occasional transaction, when there is a high risk, to check the existence of the beneficial owner using a declaration filed by the customer (Declaration about Existence (Absence) of a Beneficial Owner). By completing this declaration form the customer acknowledges the existence or absence of a beneficial owner. This form is

[36] This is when such natural person:
a. owns 20 percent or more of the voting stocks (equities, shares; hereinafter: stocks) of the given legal person; or, by force of his/her participation in or under the agreement concluded with the legal person, has the ability to predetermine its decisions;
b. is a member of the management and (or) governing body of the given legal person;
c. acts in agreement with given legal person, based on common economic interests.

also required for established relationships, if during the account relationship a beneficial owner appears or when there is a change in beneficiary.

470. Paragraph 31 of the same Chapter further requires that information obtained during the customer identification must be checked by the customer service division and if necessary by the internal monitoring body or by other divisions. Identification measures and verification procedures for beneficial owners, including natural and legal persons, are performed as described under criterion 5.3 and 5.4 above. The check may not include the whole identification information, but it should be sufficient to verify the real identity of the customer. For this purpose the financial institutions can use both paper-based and non-paper based methods of checking.

471. As mentioned earlier, paragraph 5 of Article 15 of the AML/CFT Law requires reporting entities to identify the person acting on behalf of the customer. Also, under Chapter 5 of the Regulations on Minimal Requirements, which describes the criteria for high risk and the rules for their determination, paragraph 24, states that when "the structure or management of a legal person is unreasonable complicated", this should be considered as high risk.

**Information on Purpose and Nature of Business Relationship (c. 5.6):**

472. The requirement for reporting entities to obtain information when establishing the account relationship on the purpose and intended nature of the business relationship is contained in the Regulations on Minimal Requirements under Chapter 5, paragraph 25, where the financial institution is required to compare the nature and purpose of the customer's occasional transaction. Although this requirement as intended only applies when dealing with high risk criteria during the customer due diligence process, Section 7, paragraph 4 under Chapter 1 of Part 2 of the Risk-Based Approach Guidance further requires financial institutions to obtain sufficient information to understand the customer's circumstances and business activities, including the expected nature and level of transactions.

**Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 & 5.7.2):**

473. Pursuant to Article 16, paragraph 1 of the AML/CFT Law, reporting entities are required to conduct ongoing customer due diligence throughout the course of a business relationship. In the course of the customer due diligence, reporting entities should conduct monitoring of the transactions with the customer in order to ensure the veracity of the information on the customer, his/her business and risk profile and, where necessary, the source of his/her income. However, meetings with financial institutions revealed that additional guidance/guidelines is needed to ensure that institutions understand the process for conducting ongoing due diligence and implementation is effective.

474. In addition, part 2, paragraph 7(4) of the Risk-based Approach Guidance, requires financial institutions to obtain sufficient information to understand the customer's circumstances and business activities, including the expected nature and level of transactions.

475. Under paragraph 2 of the same Article, reporting entities are required to update the data obtained for customer identification in the business relationship, with the frequency for updating such data to be determined by the own reporting entity. However, the requirement as established is considered too general with respect to the frequency for updating customer data.

**Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8) and Risk Based Application of CDD to be Consistent with Guidelines (c. 5.12):**

476. Article 15, paragraph 7 of the AML/CFT law states that in the case of the presence of "high risk criteria", reporting entities should take adequate measures to the risks of ML and TF. Then paragraph 8 of

the same Article states that in the presence of high risk criteria, financial institutions should perform enhanced due diligence. Article 3, paragraph 25 of the AML/CFT Law defines "high risk criterion" as "criteria established by the Law, by normative legal acts of the Authorized Body, as well as by internal legal acts of the reporting entities, which evidence the high likelihood of money laundering and terrorism financing, including the politically exposed persons and their affiliated persons, bearer securities, including bearer check books, and offshore territories". The details of the criteria for high risk and rules for their determination are substantiated by Chapter 5 of the Regulations on Minimal requirements. The criteria includes some of the following categories of customer, business relationship or transaction:

- the resident natural person or legal person customer registered (performing an activity) in an offshore country or territory;
- the relation of the customer's business relationship or occasional transaction to such countries (territories), where the international standards for combating ML/TF are not appropriately applied, as well as to the countries released by the UN, to which sanctions are applied;
- the residence (location) of the customer in the countries (territories) mentioned above;
- charity and non-profit organizations;
- bearer securities (including the bearer bank books and certificate of deposits), which are put into circulation during the business relationships or are subject of an occasional transaction;
- cases, when suspicions arise on the veracity and equivalence of the obtained identification data including the existence of real beneficiaries and veracity of data on them;
- cases, when it becomes clear that the establishment of business relationships with the customer or conclusion of the transaction has been rejected by another financial institution;
- cases, when there is a customer making a large scale cash circulation, business relationship or occasional transaction;
- customers, whose accounts are used for frequent and unexplainable moves of funds to various financial institutions;
- business relationships or occasional transactions with politically exposed persons, members of their families, as well as affiliated with them persons;
- private banking;
- establishment of non face-to-face business relationships or occasional transactions through electronic means or correspondence (non face-to-face relationships);
- business relationships or occasional transactions through such account or means, which have not been used for more than 6 months;
- corresponding banking; and

- allowing credit to the customer, when the credits allocated are ensured by the deposits at the same institution.

477. The RBA Guidance also provides, under Part 2, Article 8(3) that financial institutions should conduct enhanced due diligence in respect of higher risk customers, and under Article 9 it requires financial institutions to undertake appropriate measures and conduct oversight for mitigating the ML/TF risks of customers, who have been identified by relevant financial institutions to pose higher risk as a result of the implemented risk-based approach. These measures and oversight may include:

1) ensuring high level of awareness on higher risk customers and transactions of the financial institution;

2) applying increased level of Know Your Customer principle or enhanced due diligence;

3) enhanced monitoring of transactions;

4) increased level of on-going oversight and regular review of business relationships/continuous monitoring.

**Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9) and Risk Based Application of CDD to be Consistent with Guidelines (c. 5.12):**

478. Article 15, paragraph 6 of the AML/CFT Law provides the reporting entities with the option to perform simplified customer due diligence in the presence of low risk criteria, when identifying the customer or the beneficial owner, or when verifying their identity. A definition for "low risk criterion" is provided under Article 3, paragraph 26 of the same Law as follows: "criteria established by this Law or normative legal acts of the Authorized Body, which evidence the low likelihood of ML and TF, including the financial institutions efficiently supervised in terms of combating ML and TF, state bodies or state-owned organizations." Criteria for low risk are also addressed under Chapter 6 of the Regulation on Minimal Requirements where the following persons, events or objects are considered low risk:

- effectively controlled financial institutions from the viewpoint of combating ML/TF;
- public bodies;
- local self-governing bodies;
- organizations founded by the state;
- payments to the consolidated budget of the Republic of Armenia; and
- payments for public utilities.

479. However, the authorities have not issued guidance nor guidelines to assist financial institutions in making a determination as to how to evaluate whether a financial institution is effectively controlled with respect to AML/CFT.

480. Chapter 8, paragraph 37 of the Regulation on Minimal Requirements further provides that simplified customer due diligence for natural persons shall at least include the clarification and registration of the following information: name, surname, account number, if any; and data on ID. While paragraph 38 provides that the simplified customer due diligence for the legal persons shall at least include the clarification and registration of the following information: name of the legal person; serial

number of the state registration certificate; and identification data on the person entitled to manage the bank accounts of the customer.

481. The RBA Guidance further provides, under Part 2, Article 8(2) that the approaches for CDD conducted by financial institutions relevant to each customer, may be as follows:

a. a normal level of due diligence to be applied to all customers,

b. the normal level being reduced in recognized lower risk categories, such as:

- natural persons whose main source of funds is derived from salary, pension, social benefits from identified sources, where the features of the certain transaction are not materially different from regularly exercised transactions;

- customers, where the information on their identity and actual beneficial owners are publicly available and whose activities are subject to oversight by state authorities;

- certain transactions, where de minimis amounts for are required for execution (e.g. utility payments, insurance payments, etc.).

**Risk—Simplification/Reduction of CDD Measures relating to overseas residents (c. 5.10):**

482. The AML/CFT Law and Regulations set the requirements for simplified CDD based on low risk criteria. However, customers resident in another country are considered high risk and therefore subject to enhanced CDD measures. As such, simplified/reduced CDD measures are not applicable.

**Risk—Simplified/Reduced CDD Measures Not to Apply when Suspicions of ML/TF or other high risk scenarios exist (c. 5.11):**

483. As discussed above, simplified CDD measures are not permitted under the circumstances referred to by the criterion as these cases are considered high risk criteria, where enhanced CDD is required.

**Timing of Verification of Identity—General Rule (c. 5.13) and Timing of Verification of Identity—Treatment of Exceptional Circumstances (c.5.14 & 5.14.1):**

484. Article 15, paragraph 1 of the AML/CFT Law covers the timing for verification of the customer's identity where it states that any business relationship with a customer may be established or an occasional transaction may be concluded only upon the receipt of the identification documents (information) by reporting entities and upon checking their veracity. However, reporting entities may obtain the identification information and check their veracity also in the course of establishing a business relationship, or concluding an occasional transaction or thereafter within a reasonable timeframe, provided that the risk of money laundering or terrorism financing has been effectively prevented and that this is necessary in order not to impair the normal business relationships. While the legal requirement provides for a "reasonable timeframe", this is not entirely reflecting the FATF standard which permits financial institutions to complete verification of the identity following the establishment of the business relationship provided that this occurs "as soon as reasonably practicable." The authorities are adamant that in the Armenian legal practice the term "reasonable timeframe" (used also in other laws) is understood and applied "as soon as reasonably practicable."

485. There is no requirement for financial institutions to adopt risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to verification as required by this criterion.

**Failure to Complete CDD before commencing the Business Relationship (c. 5.15) and Failure to Complete CDD after commencing the Business Relationship (c. 5.16):**

486. When reporting entities are unable to comply with the required CDD measures, Article 24, paragraph 5 of the AML/CFT Law requires them to reject carrying out a business relationship or transaction, that is to refrain from endorsing or carrying a business relationship or from concluding a transaction, or if they are unable to perform customer identification. Paragraph 6 further requires that in case of rejecting to carry out a business relationship or transaction, reporting entities should consider the relevance of filing a suspicious transaction report to the Authorized Body.

**Existing Customers—CDD Requirements (c. 5.17):**

487. There is no requirement for financial institutions 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.

**Existing Anonymous-account Customers – CDD Requirements (c. 5.18):**

488. Although anonymous account or accounts in fictitious names are prohibited by Article 17, paragraph 1 of the AML/CFT Law (and originally under Article 16 of the former Law), there is evidence supported by sanctions imposed by the CBA that at least a financial institution was opening and maintaining these types of accounts. Although the risk may be minimal, it cannot be entirely ruled out until the full completion of the inspection cycle that other banks may be servicing/maintaining anonymous or fictitious accounts. Also, banks can offer bearer bank books or bank certificate of deposits. With respect to this issue, officials from banking institutions visited during the mission indicated that they have not opened, maintained, or seen anonymous accounts or bearer bank books/certificates of deposits.

**Analysis of effectiveness:**

489. In Armenia, CDD is conducted at the moment the business relationship is established. The AML/CFT Laws and Regulations on Minimal Requirements set out the customer identification requirements. In practice, financial institutions obtain sufficient identification, information and documentation from the prospective customers to adequately conduct the required due diligence. Once the documentation is obtained, the financial institutions proceed with verifying this identification information. Meetings with officials from these financial institutions revealed that most of them rely on original/official documents and/or documents properly certified, including passports, military cards, social security cards, state register certificate, charter/Articles of incorporation, tax identification number, and power of attorney for authorized persons. Very few banks were using independent sources, like World Check to verify documentation. Financial institutions also mentioned that the identity of the authorized signatories (a list if more than one) is also verified.

490. With respect to legal persons, in the existing practice, in addition to the documents mentioned above, these other documents are required and obtained before the business relationship is established: (i) registered corporate name and any trading names used; (ii) complete current registered address; country of residence (if foreign); (iii) telephone, fax number and email address; (iv) date and place of incorporation; (v) corporate registration number; (vi) fiscal residence; (vii) business activity; (viii) name and address of group, if applicable; (ix) information regarding the nature and level of the business to be

conducted; (x) information regarding the origin of the funds; (xi) information regarding the source of wealth or income; (xv) and list of shareholders.

491. Financial institutions are also required to identify beneficial owners. This is done through the completion of an Annex (standardized form), where the prospective customer declares the name of the beneficial owner (if there is one) or the lack thereof. This form is signed by the prospective customer and retained as part of the customer identification documentation package. With respect to a prospective customer acting on own behalf or on behalf of another person, the practice is for the financial institutions to ask the question and document the response.

492. Information related to the purpose and intended nature of the business relationship is also obtained and documented in the application during the interview process, including the origin of the funds and the source. Within the securities sector, the application also includes information to determine the acceptable level of risk and investment products to be offered to the prospective customer. With regard to ongoing due diligence on the business relationship, the current requirement is too general given that it allows each financial institution to determine its own frequency for updating customer data. The authorities indicated that at least once a year the financial institutions should be updating their customer data. This statement was validated by the majority of the financial institutions visited where officials indicated that their internal policies require customer data to be updated at least annually. Therefore, to ensure consistency and effectiveness by financial institutions, the authorities should consider providing additional guidance in the establishment of adequate timeframes for updating customer data. The area of enhanced due diligence for high risk criteria is extensively covered in both the law and regulations. This is done in both the law and regulations by way of examples. In the practice, however, the financial institutions refer to these examples and they become the trigger point for conducting enhanced due diligence instead of adopting a risk-based approach to the customer identification process.

493. The law also allows financial institutions to apply simplified/reduced measures and many institutions are implementing them. However, additional guidance/training is needed with respect to the application of these measures. In practice, financial institutions currently classify their customers into two groups of customers: 1) those considered high risk (using as a trigger point the criteria/examples provided under the Regulations for Minimal Requirements); and 2) those considered low risk, again also using the criteria/examples for low risk provided in the Regulations for Minimal Requirements, which the authorities indicated is an exhaustive list.

494. As mentioned earlier, the verification of the identity of the customer, including certification of the existence (absence) of beneficial owners, is conducted before establishing the business relationship or allowing the customer to execute any transactions. The AML/CFT provides for financial institutions to complete the verification of the identity of the customer and beneficial owners following the establishment of the business relationship, but none of the financial institutions visited had opted for this approach. The practice is to conduct the verification at the commencement of the relationship.

495. With respect to failure by financial institutions to complete the CDD process before establishing the business relationship, officials from financial institutions indicated that if the CDD is not completed the relationship is not established and they would consider completing a STR and forwarding it to the FMC. There are no specific requirements for financial institutions to apply the CDD requirements to existing customers. Meetings with bank officials revealed that in one bank, not all existing customers have undergone CDD in line with the requirements of the new Law, while another bank was in the process of sending letters to existing customers to update their information. As such there is no

consistency in ensuring that information is maintained on existing customers to comply with the new requirements of the 2008 AML/CFT.

496. Overall, the level of implementation of preventive measures by financial institutions to ensure compliance with the obligations of the AML/CFT Law and implementing regulations is called into question given the assessors' review of copies examination reports (excerpts) (for (1) bank, (1) credit organization, (1) insurance company, and (3) foreign exchange offices) provided by the authorities. A review of the excerpts for the bank, the credit organization, and the insurance company revealed that in those financial institutions visited and inspected by CBA supervisors numerous and significant shortcomings were identified including: lack of CDD measures when dealing with natural and legal foreign persons, and lack of adequate measures when dealing non face-to-face and new technologies. Based on these results, the assessors call into question the overall effectiveness of financial institutions adequately implementing the obligations established by the AML/CFT law and regulations (preventive measures).

**Foreign PEPs—Requirement to Identify (c. 6.1):**

497. Politically exposed person (PEP) is defined under Article 3, paragraph 20 of the AML/CFT Law as "an individual, who is or has been entrusted with prominent state, political, or public functions in a foreign country or territory, namely:

- heads of the state or government, ministers or deputy ministers;
- members of the parliament;
- members of supreme courts, constitutional courts or other high rank judiciary, whose decisions are not subject to appeal, except for special circumstances;
- members of audit courts or of the boards of central banks;
- ambassadors, charges d'affaires and high rank officers of the armed forces;
- outstanding members of political parties;
- members of administration, management, or supervisory bodies of state-owned organizations..

498. Article 15, paragraph 7 of the AML/CFT Law addresses customer identification requirements for reporting entities, for which purpose, PEPs are considered "high risk" and reporting entities are required to take adequate measures to address risks of ML and TF by having internal risk management processes embodied in their internal legal acts in place to determine whether the customer is a PEP or a member of his/her family or a person affiliated to him/her, or whether there are other high risk criteria. Article 3, paragraph 17 of the AML/CFT provides a definition for "affiliated person" by referring to the legislation regulating the activities of the given reporting person; whereas in the absence of such definition, it refers to the persons stipulated by Article 8 of the Law on Banks and Banking.

499. In addition, Chapter 5, Article 22, paragraph 10 of the "Regulation on Minimal Requirements for the Financial Institutions for AML/CFT" ("AML/CFT Regulation") establishes the "criteria for high risk and the rules for their determination", including "business relationships or occasional transactions with PEPs, members of their families, as well as persons affiliated with them". Paragraph 27 of the same

chapter, indicates that financial institutions can perform the following activities in order to determine the political influence of a person: i) conduct an inquiry of information from the possible customers or receipt of data about the customers and nature of activities of the persons affiliated with them; and ii) study of public information and use of private databases about PEPs (for example, World-Check).

**Foreign PEPs—Risk Management (c. 6.2; 6.2.1):**

500. Financial institutions are required, pursuant to Article 15, paragraph 8(1) of the AML/CFT Law to perform enhanced customer due diligence when dealing with high risk customers. This means that in addition to conducting customer identification and verification procedures as required under paragraph 3 of the same Article, when a PEP is involved financial institutions are required to obtain the approval of senior management: i) before establishing the business relationship; ii) for continuing the business relationship with a customer identified as a PEP; and iii) when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP.

**Foreign PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3):**

501. Article 15, paragraph 8(2) of the Law further requires financial institutions to take reasonable measures to establish the source of wealth and the source of funds of a customer or beneficial owner identified as a PEP.

**Foreign PEPs—Ongoing Monitoring (c. 6.4):**

502. In addition to the obligation to perform enhanced customer due diligence as described above, financial institutions are also required, pursuant to Article 15, paragraph 8(3) of the Law to conduct enhanced ongoing monitoring on the PEP relationship.

**Analysis of effectiveness:**

503. In practice, all reporting entities visited by the mission appeared to be knowledgeable of the concept of and the need to identify PEPs. Only one institution visited acknowledged having PEPs as customers and described the enhanced CDD undertaken in line with the obligations imposed by the AML/CFT Law. All of them also considered PEPs as high risk persons and made reference to the high risk criteria contained in the AML/CFT Law and the Regulations on Minimal Requirements. However, some banks, credit organizations, insurance companies, a securities firm, and money remitters were not aware of the enhanced ongoing monitoring procedures required by law when establishing a business relationship with a PEP. The meetings with these reporting entities also revealed that they also pay attention to business relationships with domestic PEPs, although the obligation is imposed with respect to foreign PEPs.

**Domestic PEPs—Requirements (Additional Element c. 6.5):**

504. The current requirements do not extend to PEPs who hold prominent public functions domestically.

**Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):**

505. Armenia signed and ratified the United Nations Convention against Corruption (Merida Convention) on May 19, 2005 and March 8, 2007, respectively. The Convention came into force on April 7, 2007.

**Cross Border Correspondent Accounts and Similar Relationships – introduction**

Legal framework: AML/CFT Law and Regulation on AML/CFT Related Minimal Requirements.

**Requirement to Obtain Information on Respondent Institution (c. 7.1): Assessment of AML/CFT Controls in Respondent Institution (c. 7.2): Approval of Establishing Correspondent Relationships (c. 7.3): Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4): Payable-Through Accounts (c. 7.5):**

506. There is a specific obligation under Article 15, paragraph 10 of the AML/CFT Law for financial institutions to establish through their internal legal acts rules for opening and maintaining correspondent accounts of foreign banks, as well as the specific procedures for the opening and maintaining their correspondent accounts with foreign banks in order to make sure that they have not established correspondent relationships with shell banks or with banks that allow shell banks to use their accounts.

507. The Article further requires that when establishing cross-border correspondent relationships, banks should:

- gather sufficient information, as specified in normative acts and by their internal legal acts, to understand fully the nature of respondent bank's business and, from publicly available and other reliable information specified in their internal legal acts, to determine the business reputation of the respondent bank and the quality of its supervision, including whether it has been subject to a money laundering or terrorism financing criminal investigation or any other proceeding;

- assess the respondent bank's internal procedures for combating ML and TF (in a manner established by their internal legal acts);

- obtain approval from senior management before establishing new correspondent relationships; and

- document the respective functions of each correspondent bank.

508. As indicated above, the law requires reporting entities to assess the respondent bank's internal procedures for combating ML and TF. The authorities indicated that although not clearly stated this obligation requires financial institutions to determine whether the internal procedures and controls are adequate and effective.

509. With respect to "payable through accounts", banks should make sure that the respondent bank (their customer) has disclosed the identity including conducting all CDD measures of the customers who have access to its accounts (the accounts of the correspondent) and continuously conducts their ongoing monitoring, and that upon request it (the respondent) is able to provide relevant customer information data to the correspondent bank.

510. Because correspondent banking activities are considered as "high risk" pursuant to Article 22, paragraph 14 of the Regulation on minimal requirements, these activities are also subject to the enhanced due diligence measures established under Chapter 8, paragraph 34 of the Regulation on Minimal Requirements. Under this paragraph, financial institutions are required to at least:

- perform more comprehensive and in-depth check of the veracity of the documents (information) necessary to establish business relationships with the customer, for example by requiring other justifying documents (information);

- require information about the customer's assets and their origin;

- examine the information about the customer, business relationships and transactions through the databases;

- make inquiries from other reporting or other bodies, including foreign partners, to check the information about the customer, business relationships with him/her and occasional transactions; and

- undertake other measures to have real and complete understanding about the customer, business relationships with him/her and occasional transactions.

**Analysis of effectiveness:**

511. In Armenia, correspondent relationships only apply to banks. Meetings with officials of banks visited revealed that they are mainly the respondent financial institution to institutions established abroad and that their relationships are governed by a signed contract reflecting their responsibilities and duties to each other. One of the officials (from a foreign bank with a global presence) indicated that correspondent banking relationships for his institution are established at the group level and in line with the Armenian requirements, the European Directives, and the USA Patriot Act requirements. Other officials also indicated that when establishing their respondent relationships many documents were requested and provided to the correspondent, while few documents where provided to them and that additional information was obtained from public sources like the internet, in order to comply with the requirements imposed.

**Misuse of New Technology for ML/TF (c. 8.1):**

512. Legal framework - AML/CFT Law and Regulation on AML/CFT Related Minimal Requirements

513. Under Article 8, paragraph 3 of the AML/CFT Law financial institutions are required to establish and apply through their internal legal acts (as described in R.5) relevant measures for counteracting ML or TF risks associated with new or developing technologies.

**Risk of Non-Face to Face Business Relationships (c. 8.2 & 8.2.1):**

514. Article 8, paragraph 3 also requires financial institutions to provide preventive measures to address all risks associated with non face-to-face business relationships or transactions when establishing business relations or conducting ongoing due diligence of their customers, in a way which is to be regulated by their internal legal acts (which include the policies supporting the preventive measures. Article 22, paragraph 12 of the AML/CFT Regulations requires financial institutions to consider as high risk criteria the establishment of non face-to-face business relationships or occasional transactions through electronic means or correspondence. As stated in Article 15, paragraph 8, in the presence of high risk criteria, financial institutions should perform enhanced CDD as described earlier.

515. Reporting entities are required to performed enhanced CDD measures when dealing high risk criteria. Because non face-to-face customers are considered high risk, they are subject to enhanced CDD measures. In addition to the enhanced CDD measures, Article 26 of the AML/CFT Regulations, requires reporting entities to also undertake, at a minimum, the following additional measures: conduct non cash transactions – except for the cash payments done through payment terminals and ATMs; and ask for additional documents, like contracts, payment receipts or other justifying documents.

**Analysis of effectiveness:**

516. Officials from financial institutions visited during the mission indicated that it is not possible to establish account relationships through the internet because all require a personal interview with the applicant. Although there is no obligation established by law or regulation for persons (applicants) to be present when establishing/opening accounts, all institutions visited, with the exception of one, indicated that as a general policy, the person needs to be physically present in order to sign the documents establishing the business relationship. In the case of legal persons, the authorized person needs to be present as well. Once the relationship is established, non face-to-face transactions like electronic banking are permitted through the use of a personal identification code and password. With respect to the use of other new technology like debit and credit cards, and prepaid cards, officials indicated that these also require the presence of the customer at the time of issuance.

517. Meetings with financial institutions visited revealed an instance where account business relationships were opened and established through a non face-to-face process, via email and facsimile and where customer verification was conducted by matching signatures on the documents provided. Most of these relationships were with non-residents (foreigners living abroad). Further conversation with officials of this institution revealed the lack of approved internal legal acts in place; use of cash when establishing business relationships; lack of adequate internal auditing coverage, training, employee screening procedures; and an overall low level of knowledge of the revised AML/CFT law and regulation. As such, this situation/institution may expose the system/sector to undue risk and the potential for misuse for ML and TF purposes.

### 3.2.2. Recommendations and Comments

The authorities are recommended to:

- Prohibit bearer bank books and certificates of deposits or other bearer securities, by way of repealing/changing articles of the Civil Code and any other regulations that make available these instruments in bearer form or regulate them;

- Provide additional guidance to financial institutions with respect to adequate timeframes for updating customer data to ensure consistent and effective implementation;

- Provide additional guidance to specify the reasonable timeframe that financial institutions should follow when obtaining identification information and checking the veracity of such information in the course of establishing a business relationship;

- Establish a direct requirement for financial institutions to adopt effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification;

- Establish a direct requirement for financial institutions 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;

- Ensure financial institutions are more effectively implementing the obligations imposed by the AML/CFT and implementing regulations with respect to CDD measures, by way of training or other types of outreach;

- Provide additional guidance/training to financial institutions in relation to the enhanced ongoing monitoring procedures required by law when establishing a business relationship with a PEP;

- Provide through regulation or guidance a physical presence requirement when establishing a business relationship. Also, review the Basel Committee on Banking Supervision Customer Due Diligence Paper, section 2.2.6 dealing with "Non Face-to-Face Customers, which provides additional measures for financial institutions to consider to mitigate risk when accepting business from non face-to-face customers, to complement the two additional measures in place.

### 3.2.3. Compliance with Recommendations 5 to 8

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.5** | **PC** | • Availability of financial instruments in bearer forms, in some instances similar to anonymous accounts.<br>• Lack of requirements for financial institutions to:<br>  • adopt effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification; and<br>  • 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.<br>• Low level of implementation/effectiveness of financial institutions (particularly for credit organizations and other non-bank financial institutions) with respect to the obligations established by the AML/CFT law and implementing regulations. |
| **R.6** | **LC** | • Insufficient knowledge by financial institutions (banks, credit organizations, insurance companies, securities firm, and money remitters) interviewed by the mission with respect to the CDD (enhanced) measures established by law and regulation dealing with PEPs when establishing a business relationship. |
| **R.7** | **C** | |
| **R.8** | **LC** | • Lack of measures in place, at a securities firm, for opening and establishing business relationships through a non face-to-face process. |

## 3.3. Third Parties And Introduced Business (R.9)

### 3.3.1. Description and Analysis

Legal Framework: AML/CFT Law

**Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1); Availability of Identification Data from Third Parties (c. 9.2); Regulation and Supervision of Third Party (applying R. 23, 24 & 29, c. 9.3); Adequacy of Application of FATF Recommendations (c. 9.4); Ultimate Responsibility for CDD (c. 9.5):**

518. The AML/CFT Law, under Article 15, paragraph 11, generically allows reporting entities to the use of data obtained in customer identification and verification process performed by other reporting entities, specialized intermediaries, or persons empowered to represent third parties, as "a basis", in the "course of customer identification and verification". However the possibility to rely on third parties to perform elements of the CDD is not further substantiated by the law or by any other regulations and guidance. The law defers to the FIs for the determination of the conditions/procedures for the reliance on third parties by stating that such can be done "only in cases and in the manner established by the internal legal acts of the reporting entities".

519. The reference in Article 15, paragraph 11 to "specialized intermediaries or persons empowered to represent third parties" is not defined by the AML/CFT law, and it is inconsistent with the FATF definition of subjects which can be relied upon for the purpose of CDD. The Armenian definition is too broad, in that it would encompass any person, as long as this person is empowered to represent the third party whereas the FATF definition of "intermediaries" and "third party" for the purpose of R.9 (see Glossary) requires that such subjects be financial institutions or DNFBPs that are supervised and that meet the Criteria 9.1 - 9.4 (definition of "third party"). Although the Glossary defines the notion of "intermediary" to include also "other reliable persons or businesses" it does require that such persons/businesses too meet the criteria 9.1 - 9.4.

520. The existing requirement also falls short in the following aspects:

1) there is no requirement for reporting entities in the AML/CFT law or in the Regulations to immediately obtain from the third party the necessary information concerning certain elements of the CDD process, as required by criterion 9.1;

2) there is no requirement for reporting entities to take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay, as required by criterion 9.2;

3) there is no requirement for reporting entities to satisfy themselves that the third party is regulated and supervised and has measures in place to comply with the CDD requirements as set out in R.5 and 10, as required by criterion 9.3;

4) there is no indication that the authorities have determined in which countries the third party that meets the condition can be based, as required by criterion 9.4;

5) there is no requirement to indicate that the ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party as required by criterion 9.5;

6) specialized intermediaries or persons empowered to represent third parties have not been defined by the Authorized Body. The requirement also delegates the responsibility for establishing the measures for dealing with specialized intermediaries or persons empowered to represent third parties to the reporting entities instead of requiring the supervisory competent authority to establish common criteria to ensure consistency and effective the implementation by reporting entities.

**Analysis of effectiveness:**

521. Financial institutions visited indicated that they are not relying or using intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business. All of them indicated performing their own CDD process.

### 3.3.2. Recommendations and Comments

- Amend the regulation on Minimal Requirements to establish the obligations for financial institutions relying on intermediaries or third parties to:
    - immediately obtain from the third party the necessary information concerning certain elements of the CDD process (Criteria 5.3. to 5.6);
    - take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay; and
    - satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24, and 29), and has measures in place to comply with, the CDD requirements set out in R.5 and R.10.
- Define the notion of "specialized intermediaries or persons empowered to represent third parties" in a manner that is consistent with the FATF standard, in particular to limit the requirement to "third parties" that are FIs or DNFBPs only and not to "persons empowered to represent third parties";
- In determining in what countries the third party which can be relied upon for the CDD process can be located, the authorities should take into account information available on whether those countries adequately apply the FATF Recommendations;
- Establish an obligation that the ultimate responsibility for customer identification and verification shoud remain with the financial institution relying on the third party.

### 3.3.3. Compliance with Recommendation 9

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.9** | **NC** | • Lack of requirements to:<br>• immediately obtain from the third party the necessary information concerning certain elements of the CDD process; |

| | | |
|---|---|---|
| | | • take adequate steps to ensure that that copies of identification data and other relevant documentation relating to CDD requirements are made available from the third party upon request without delay; and<br><br>• ensure that the third party is regulated and supervised and has measures in place to comply with the CDD requirements.<br><br>• Specialized intermediaries or persons empowered to represent third parties not defined;<br><br>• Lack of measures to determine whether the countries in which the third party is based adequately apply the FATF Recommendations; and lack of requirement to establish an obligation for financial institutions to remain ultimately responsibility for customer identification and verification when relying on third parties. |

### 3.4. Financial Institution Secrecy or Confidentiality (R.4)

#### 3.4.1. Description and Analysis

Legal Framework:

522. AML/CFT Law, Law on Banking Secrecy, Law on Insurance, Criminal Procedure Code, Law on Operation and Search Activities.

523. The Armenian legal framework regulating financial institution secrecy and the powers of competent authorities to access information required to perform AML/CFT functions is quite complex and fragmented. There is a specific law—the Law on Bank Secrecy No. AL-80, adopted on October 14, 1996 and amended several times (the last in February 2008; hereinafter: LBS)—that defines what is the information constituting "bank secrecy" and regulates the provision of information subject to bank secrecy to the criminal prosecution, the court and tax authorities (Articles 10, 11 & 13, respectively). It also contains a provision that deals with "bank secrecy circulation among banks" (Article 14) and a specific Article on "provision of information constituting bank secrecy in the framework of combating the legalization of proceeds of crime and financing of terrorism" (Article 13[1]).

524. The AML/CFT law has also several provisions that affect financial secrecy: Article 4, paragraph 2 establishes the obligation of the reporting entities, in the manner established by law and internal legal acts, to submit to the Authorized Body information on money laundering and terrorism financing as specified in this Law and other legal acts adopted on the basis of this Law, "including the information constituting secrecy as prescribed by law"; Article 10, vests the Authorized Body with a quite broad power to request information, also constituting banking secrecy, from the reporting entities (with the exception of information covered by professional secrecy, discussed under Recommendation 26) and from state bodies; Article 13.4 requires the Authorized Body, upon receiving a request from criminal investigation authorities to provide "available information, including the information constituting secrecy", subject to certain conditions (i.e. the request must contain "sufficient justification of a substantiated suspicion" or "case of ML or TF"). Article 14 enables the Authorized Body, upon its own initiative or in case of request and based on the principle of reciprocity, to exchange information

(including the information constituting secrecy as prescribed by law) with foreign financial intelligence units under certain conditions (ensure of adequate confidentiality of the information and use of the information only for the purposes of combating ML and TF).

525. In addition to these laws, specific provisions exist in regard to the powers of law enforcement authorities to get access to information that is protected by financial secrecy, in the criminal procedure code (CPC) and, in particular, in the Law on Operational and Search Activities No. HO-223, adopted on October 22, 2007 (hereinafter: "LOSA"). While it looks like that these laws provide for access by law enforcement authorities to information protected by financial secrecy with a court order, it is not clear whether this power is available also prior to the initiation of a criminal case and, moreover, what are the conditions for obtaining a court order, because of an apparent conflict between the CPC and the LOSA, on the one hand, and the LBS, on the other. These issues are discussed more in detail later on.

526. Finally, the legal framework is completed by Memoranda of Understandings (MOUs), signed by the FMC between the National Security Service (NSS), the General Prosecutor's Office (GPO), the Police and the State Revenue Service, which regulate the exchange of information, including for information covered by financial secrecy.

*Definition of "Information subject to Bank Secrecy" and "third party" in the LBS*

527. Article 4 of the LBS states that it is subject to bank secrecy the "information that becomes known to the bank in the course of its official activity with its customer, such as information on customer's accounts, transactions made by instruction or in favor of the customer, as well as the customer's trade secret, facts relating to any projects or plans of its activity, invention, sample products and any other information which the customer has intended to keep in secret and that the bank becomes aware or may have become aware of such intention". The notion of information subject to bank secrecy is therefore very broad, and it encompasses also documents or information that the bank has obtained in the course of performing CDD.

528. The notion of "information subject to bank secrecy" extends to the information on banks and their customers which is obtained by the CBA in the course of supervision activities; also for the purpose of the LBS banks are deemed as "customers of the Central Bank" (Article 4, paragraph 2 of the LBS).

529. According to Article 5 of the LBS "third parties shall be considered to be all other persons excepting the given bank and its customers", except the CBA, banks and credit organizations (as defined by the law "On Credit Organizations") and Deposit Guarantee Fund[37] as defined by the law "On Guarantee of Remuneration of Bank Deposits of Physical Entities".

**Inhibition of Implementation of FATF Recommendations (c. 4.1):**

Ability of competent authorities to access information: the CBA and the FMC

530. There are no impediments hindering the CBA's and the FMC's access to information for the effective implementation of the FATF recommendations, in particular for compliance with the AML/CFT obligations contained in the AML/CFT Law and regulations. The CBA, as the competent supervisory

[37] The Deposit Guarantee Fund ("The Fund") is defined under Article 17 of this law as a non-profit-driven legal entity whose founder is the CBA and responsible for protection of deposits.

authority for the financial sector has access to any documentation and information maintained by the financial institutions (reporting entities) listed under Article 4 of the AML/CFT Law.

531. In particular, financial secrecy does not constitute an obstacle for the effective implementation of the AML/CFT requirements envisaged by the AML/CFT law and does not affect the ability of the CBA or of the FMC to access information they require to properly perform their AML/CFT functions.

532. As mentioned above, the LBS clearly establishes that financial secrecy is not opposable to the CBA, which is not regarded as "third party" by the LBS. This is extended to the FMC, which is a structural unit of the CBA. For the purpose of AML/CFT, Article 4, paragraph 2 of the AML/CFT Law clearly establishes the obligation of reporting entities to submit to the Authorized Body (i.e. the FMC) information on money laundering and terrorism financing "including the information constituting secrecy as prescribed by law". Furthermore, by virtue of Article 10, paragraph 4 of the AML/CFT Law, the Authorized Body (i.e. the FMC) has the power to request other information from the reporting entities, including information constituting secrecy as prescribed by law.

533. With specific regard to the insurance secrecy, the Law on Insurance (LoI) clearly empowers the CBA to access this information: Article 117, paragraph 2 of the LoI states that in executing its oversight, the CBA shall be empowered to obtain and review information relating to customers of the insurers, reinsurers, and insurance intermediary, even if it would represent an insurance secret. In addition to this provision, Article 116 of the Law on Insurance establishes that: "Where the Central Bank reviews the information, as prescribed by the Armenian Law on Combating Legalization of Criminally Obtained Proceeds and Terrorism Funding, to find out that there has been a case for legalization of illicit proceeds or an attempt of terrorism funding, it shall directly report to the relevant criminal prosecution authority".

Ability of competent authorities to access information: Law Enforcement Authorities (LEAs)

534. The situation regarding the powers and ability of LEAs (i.e. Prosecutors, NSS, Police and Tax Authorities) to get access to financial information is more complex and not entirely clear. For LEAs two avenues are possible to gain access to financial information that is covered by financial secrecy: a) they can either get this information from the FMC, if it is related to ML/TF, or b) directly from the banks through the (apparently different) procedures envisaged by the LBS or the CPC and the LOSA subject to the different responsibilities LEAs have as inquest or investigative bodies (spelled out by Articles 56 "bodies of inquest" and Article 189 & 190 "Investigation Bodies" of the CPC). This second avenue envisages procedures and requirements that are not the same for all LEAs and seem contradictory or conflicting in certain instances, as outlined below.

535. Article 13, paragraph 4 of the AML/CFT laws obliges the FMC to submit, upon receiving a request from criminal investigation authorities (all LEAs referred to earlier) to provide "available information, including the information constituting secrecy", if the request contains "sufficient justification of a substantiated suspicion" or relates to a "case of ML or TF". This means that if in the course of an inquest or an investigation LEAs need access to information covered by financial secrecy they can request it to the FMC/CBA, provided that the request substantiates a suspicion or a case of ML/TF.

536. In comparison, Article 13.1 LBS states that the CBA "may" provide information "containing bank secrecy" either when disseminating the analyzed information it receives from the reporting entities (the recipient of these referrals is the NSS) or "on the basis of a request received from criminal investigation authorities" (these are all LEAs as per Article 189 CPC). Unlike the AML/CFT law, the LBS therefore (1) makes the provision of confidential information optional and not mandatory and (2)

does not require the requesting authorities to have a substantiated suspicion or a case of ML or TF. The information provided to the LEAs based on Article 13.1. LBS or Article 13 AML/CFT Law does not, however, constitute formal evidence and may therefore not be used in court.

537. The FMC has concluded MoUs with LEAs (GPO, NSS, Police and State Revenue Committee) which, inter alia, set rules for the providing by FMC of information covered by bank secrecy. These provisions seem to set a higher standard than the one envisaged by the AML/CFT law (which, in addition to "case of ML or TF" can also be "sufficient justification of a substantiated suspicion"), as they condition the providing of "information on someone's bank account, transaction and also information containing banking or other confidential information" on a request "originat[ing] from a **certain criminal case or material**" (GPO, NSS, Police). Interestingly, only for the case of the State Revenue Committee the conditions required are lower, as the providing of the information is conditioned to the request being "justified by the need to implement analysis of ML/TF offence". The reason for this double standard is not clear, and is not justified vis-à-vis the condition required in the MoU of the NSS, considering that pursuant to Article 190 CPC the NSS and not the State Revenue Service is the designated body responsible for investigating ML/TF offenses.

538. The LEAs interviewed by the mission, particularly the NSS, confirmed that cooperation with the FMC in this field is good and that they usually obtain from the FMC information which is covered by banking secrecy, although they note that the provision of such information by the FMC at the stage of investigation can be more difficult because the relevant information provided would be also accessible to the defense of the suspect/criminally charged persons (with a risk of lawsuits for breach of LBS confidentiality rules).

539. As mentioned earlier LEAs also have avenues to obtain information that is covered by banking secrecy directly from the banks based on Article 10 of the LBS and the procedures envisaged by the CPC in combination with Article 29 of the LOSA. These procedures pose some hindrances to the effective ability of LEAs to obtain information covered by bank secrecy; moreover they are conflicting in certain instances.

540. Article 10, paragraph 1 of the LBS provides that banks, based on a court order, shall grant prosecuting authorities with access to confidential information concerning a "**suspect**" (defined through Article 62 CPC as the person who is "detained upon the suspicion in committing a crime or with regard to whom a resolution on the selection of precautionary measure is adopted") or an "**accused**" (defined in Article 64 CPC as a person against whom criminal charges have been filed with the courts).

541. The powers under Article 10 of the LBS are therefore not available before a criminal case has been formally initiated. Due to the requirement to have at least an initiated case and an identified suspect, the existing Armenian legal framework does not allow for access to information concerning legal persons, as they cannot be subject to criminal responsibility under Armenian law nor can they be a suspect or a criminally charged person for the purpose of Article 10. Furthermore, this provision only allows for access to information on the "suspect" or "accused" only, and does not provide for access to information covered by secrecy which may be required for evidentiary reasons but concern a person other than the "suspect" or the "accused".

542. In the case of the State Revenue Service (=Tax authority), the powers granted under Article 13 of the LBS are broader, as the LBS states that the providing of information is subject to "a court decision taken under the CPP or CPC as well as on a lawful final judgment of a court effected for impounding customer bank accounts", but does not require an identified suspect or accused.

543. These procedures are not applicable for other LEAs. For the NSS and the Police, Article 14 of the LOSA on "Types of operational and intelligence (search) measures" (in combination with Articles 55 & 57 CPC), indicates that the NSS and the Police—both before initiation of a criminal case and during the stage of inquest—are entitled based on a court order (Article 14, paragraph 1(15) and paragraphs 2 & 3, in combination with Article 34 of the LOSA) to "ensuring access to financial data and covered surveillance on financial transactions"[38], Unlike Article 10 of the LBS, Article 29 of the LOSA does not seem to limit the access to information only to the case of a "suspect" or the "accused". Interestingly the State Revenue Service (=Tax authority) is explicitly excluded from the list of LEAs empowered to request such measures; which conflicts with Article 12 of the LBS as described above.

544. To complete the analysis of the legal framework it should be noted that the LOSA specifically provides, with respect of terrorism, that if a delay in taking a measure pursuant to Article 29 of the LOSA, including the access to confidential information, may lead to the commitment of terrorism or events or actions threatening the state, military of environmental security of Armenia, the measure may be taken even in the absence of a court order. However, in such situations the court, within 48 hours of taking the measure, has to either approve the action or order its termination and the destruction of all materials and information acquired.

545. While Article 29 of the LOSA seems to provide LEAs with powers beyond those provided for through Articles 10 of the LBS, namely to access such information already prior to the initiation of a criminal case, and, during the inquest stage, also with respect to persons other than the suspect or accused, the LEAs interviewed by the mission 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 the order, even if the request for the court order were to be submitted based on Article 29 of the LOSA.

546. This restrictive interpretation, due to an apparent conflict of the provisions of the LOSA and CPC with the LBS, basically makes it impossible for LEAs: (1) to directly obtain information covered by bank secrecy from financial institutions prior to the initiation of a criminal case; or (2) during the stage of inquest, when a "suspect" or "accused" has not yet been identified.

547. Once the inquest is over and the stage of investigation has been entered into, direct access to confidential information may only be provided based on Article 10 of the LBS. Thus, only information concerning the suspect or accused but not relating to any other person may be accessed.

548. The assessors are of the opinion that at all stages of criminal proceedings this seriously affects the ability to access information that is required to properly perform LEAs functions in combating ML or TF. LEAs interviewed by the mission confirmed that this had in the past posed a problem particularly with respect to ML cases, where such information was needed to further develop a case, or during the investigative stage where access to information concerning somebody other than the suspect or accused was sought or to "substantiate the suspicion" in order to obtain the information from the FMC, using the other "avenue", described earlier.

[38] This is defined by article 29 of the LOSA as follows: "ensuring the access to the financial data and surveillance over financial transactions is the receipt of information from banking and other financial organizations about banking and other accounts (deposits), as well as the permanent control over the financial transactions without the knowledge of the persons that those transactions are about".

549. It was stated that during the investigation stage, the courts had previously denied applications for a court order due to a lack of compliance with the conditions set out through Article 10 of the LBS. Prior to the intiation of a criminal case, the LEAs have never applied to the court for issuance of a court order based on Article 29 of the LOSA and therefore the relationship between Article 29 of the LOSA and Article 10 of the LBS at that stage of criminal proceedings has never been clarified. The authorities were adamant, however, that Article 29 of the LOSA would not confer additional powers on LEAs to access confidential information at any stage of criminal proceedings.

Sharing of information between competent authorities, domestically or internationally

550. As mentioned earlier Article 13 of the AML/CFT law enables the Authorized Body, upon receiving a request from criminal investigation authorities to provide "available information, including the information constituting secrecy", subject to certain conditions (i.e. the request must contain "sufficient justification of a substantiated suspicion" or "case of ML or TF"). Article 14 enables the Authorized Body, upon its own initiative or in case of request and based on the principle of reciprocity, to exchange information (including the information constituting secrecy as prescribed by law) with foreign financial intelligence units under certain conditions (ensure of adequate confidentiality of the information and use of the information only for the purposes of combating ML and TF).

551. The LBS also contain a specific provision, discussed earlier that states that the CBA "may" provide information "containing bank secrecy" either when disseminating the analyzed information it receives from the reporting entities (the recipient of these referrals is the NSS) or "on the basis of a request received from criminal investigation authorities". This provision also reinstates the power of the CBA (=Authorized Body=FMC) to provide information covered by banking secrecy to foreign FIUs, on the basis of the AML/CFT law.

*Sharing of information between financial institutions*

552. Article 14 of the BLS provides that banks may exchange or provide within each other or with credit organization information on their customer that is covered by secrecy, but only "with the aim to assure safety of their activities as well as ensure recoverability of loans and other investments thereof. However, this ability to share information between financial institutions is not relevant to information required under R.7, R.9, or SR. VII.

### 3.4.2. Recommendations and Comments:

- Harmonize Article 10 of the LBS with Article 29 of the LOSA and Article 13 of the AML/CFT Law with Aritlce 13.1 of the LBS so that they provide the same conditions with respect to access to information covered by financial secrecy;
- Ensure that access by law enforcement authorities (particularly the NSS) to information covered by financial secrecy is not conditioned on the identification of a "suspect" or "criminally charged" person, as this condition undermines the proper performance of the NSS as the competent authority to investigate ML/TF and prevents access to such information in cases relating to legal persons or regarding any person other than the "suspect" or the "accused";
- Amend the LBS to allow financial institutions to share information covered by financial secrecy where it is required by R.7, R.9 or SR.VII.

### 3.4.3. Compliance with Recommendation 4

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.4** | **PC** | • Legal and effectiveness issues impact on law enforcement agencies' ability to get access to information covered by financial secrecy, particularly prior to the identification of a suspect or where information is sought with respect to a person other than the suspect, and hence can inhibit effective implementation.<br>• Armenian financial secrecy laws do not allow the sharing of information among financial institutions where this is required by R7, R9 or SR.VII. |

## 3.5. Record Keeping and Wire Transfer Rules (R.10 & SR.VII)

### 3.5.1. Description and Analysis

Legal Framework: AML/CFT Law

553. Article 20 of the AML/CFT law deals with "maintaining records" requirements. According to this provision, reporting entities are required to maintain in a manner consistent with the established normative legal acts of the Authorized Body, at a minimum the following:

- Customer identification data, including account files and flows on account, as well as data on business correspondence – for at least 5 years following completion of the business relationship or, in cases prescribed by law, for a longer period;

- Data on the main conditions of the transaction (business relationship), which would permit reconstruction of the real nature of the transaction (business relationship) – for at least 5 years following completion of the transaction (termination of business relationship) or, in cases prescribed by law, for a longer period.

554. The "normative legal acts of the Authorized body" referred to by Article 20, are described under Article 11 of the AML Law, which, among many, establish also minimum requirements for recording and maintaining of documents (data) by financial institutions in the field of combating ML and TF ("Regulation on Minimal Requirements Stipulated for the Financial Institutions in the Field of Combating Money Laundering and Terrorist Financing and Declaration Form about Presence (Absence) of a Beneficial Owner in the Transaction", issued by the Board of the CBA on September 9, 2009, hereinafter "Regulation on Minimal Requirements).

555. The Regulation on Minimal Requirements reaffirms that financial institutions must register and keep "customer identification data as established by the law" and "data about the main conditions of the transaction (or business relationship)" (Article 44(1)(2)).

556. Customer identification data is described in Article 15, paragraph 3 of the AML/CFT Law and includes the following:

i) for natural persons: an identification document or another valid official document with a photo and issued by a respective authorized state body, to at least include the first and last names of the person, the details of the identification document, the place of residence, the date and place of

birth of the person, and for private entrepreneurs also the number of the state registration certificate and the taxpayer identification number, as well as other information stipulated by law; and

ii) for legal persons at least the name, the location, the number of the state registration certificate and the taxpayer identification number of the legal person, as well as other information stipulated by law.

557. Neither the AML/CFT law, nor the Regulations on Minimal requirements define what are the "main conditions of the transaction (business relationship)". The authorities explained that this term stems from the Civil Code, in particular from Article 448, which indicates the main elements which are needed to constitute a contract. It is not clear, though, how these elements could be relevant to identify the elements of a transaction for record keeping purposes in the case of transactions that are not contracts.

**Record-Keeping & Reconstruction of Transaction Records (c. 10.1 & 10.1.1):**

558. Paragraph 1(2) of Article 20 of the AML/CFT Law requires financial institutions to maintain records "on the main conditions of the transactions" for at least 5 years following completion of the transaction (business relationship) or for a longer period if this is so prescribed by the law. Although not explicitly stated in this Article, the authorities indicated that, in the absence of a specific reference, the requirement applies to all types of transactions, both domestic and international.

**Record-Keeping for Identification Data, Files and Correspondence (c. 10.2):**

559. Paragraph 1(1) of Article 20 of the AML/CFT Law requires financial institution to maintain records on customer identification data. This includes also account files and transaction history of the account, as well as data on business correspondence, for at least 5 years following completion of the business relationship or for a longer period if this is so prescribed by the law.

**Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):**

560. Article 20, paragraph 2 of the AML/CFT Law further states that the information required by the Law and maintained by reporting entities, including on transactions, should be sufficient to provide comprehensive information about transactions (or business relationships) in the case this is requested by the Authorized Body or by criminal investigative authorities. This obligation is substantiated by Article 39 of the Regulation on Minimal Requirements, that clarifies that the information subject to registration and keeping should be maintained in "a way which will ensure its use in the future as evidence". The authorities referred to norms of the Civil and Criminal Procedure Codes that establish what and in what form can be considered "evidence".

**Analysis of effectiveness:**

561. Financial institutions visited were knowledgeable of the recordkeeping obligations imposed by the AML/CFT Law and implementing regulation. In practice, officials (from banks, securities firms, credit organizations, and insurance companies) indicated that the documentation maintained includes copies of the documentation obtained during the customer identification process (for natural persons (resident & non-resident): account application, copies of passport, military card, social security card, documents evidencing place of residence, place of employment, utilities bills; and for legal persons (resident & non-resident): account application, by-laws, state register certificate, charter/articles of incorporation, notarized documents, authorized persons (with power of attorney); beneficiary(ies) information, CEO and directors with copies of their passports and social security cards), transaction history, correspondence to/from customers (including emails or faxes); type of currency transacted, and

contracts. Officials from money remitters and exchanges bureaus stated that in their case documentation maintained included only passports, military cards, and social security cards as they did not conduct any business with legal persons. Based on these meetings and responses received it appears that the financial institutions in Armenia maintain adequate records.

562. In addition, officials indicated that all financial and non-financial information is available to the CBA and that the CBA has unrestricted access to any information or staff (see discussion on access to financial information covered by the Law on Banking Secrecy under R.4). With respect to the FMC, if information is needed from financial institutions sometimes the request comes through the CBA Supervision Department. Any other competent authority but the CBA/FMC is required to obtain and present a court order to access information (however, as discussed under R.4 LEAs can get access to that information through the FMC based on the legal provisions and MoUs there described. Such information cannot be used as evidence in court).

**Special Recommendation VII**

Legal framework: AML/CFT Law

**Obtain Originator Information for Wire Transfers (applying c. 5.2 & 5.3 in R.5, c.VII.1):**

563. As discussed earlier in this Report, Article 15, paragraph of the AML/CFT Law establishes the obligation on reporting entities for customer identification, and it states that any business relationship with a customer may be established or an occasional transaction may be concluded only upon the receipt of the identification documents (information) by reporting entities and upon checking the veracity of the identification documents. Reporting entities may obtain identification information as specified in this Law and check the veracity of the identification documents also in the course of establishing a business relationship or concluding an occasional transaction or thereafter within a reasonable timeframe, provided that the risk of money laundering or terrorism financing has been effectively prevented and that this is necessary in order not to impair the normal business relationships.

564. Then, with respect to wire transfers, paragraph 2(2) of the same Article requires reporting entities to identify their customers and verify their identity, using reliable documents or other information received from competent sources when carrying out an occasional transaction, including a domestic or cross-border wire transfer at a value above 400-fold of the minimal salary in drams or in foreign currency, unless stricter provisions are stipulated by other legal acts. (This threshold was approximately the equivalent of €$1,000 as of the mission date). However, given the floating of the exchange rate, there may be instances where the established threshold could be inconsistent with the standard.

565. In addition, Article 18, paragraph 1 of the same Law further states that when carrying out wire transfers, financial institutions shall identify and verify the identity of the originators of such transfers in cases and the manner stipulated by Article 15 above. In order to identify and verify the identity, the following information about the originator should be requested and maintained: name and surname; account number (in its absence, the unique reference number accompanying the transfer); and details of the identification document.

**Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2); Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3); Maintenance of Originator Information (c.VII.4):**

566. Article 18, paragraph 2 of the AML/CFT law states that the information specified in paragraph 1 above (that is, the originator's name and surname; the account number, and details of the identification

document) should be included in the payment order accompanying the transfer. This is irrespective of whether the transfers is domestic or cross-border. The issue of batch transfers is not addressed in the law or regulation, although there are no exceptions to this requirement with respect to batch transfers. There are however exceptions, as listed under paragraph 5 of the same Article when: i) the transfers carried are carried out between financial institutions in their own name (that is, the financial institution is both the originator and beneficiary); and ii) for transactions carried out through the use of credit or debit card, provided that the terms of the transaction include information about the numbers of such cards. These exceptions are in line with the type of payments listed in the Methodology and for which SR.VII does not apply.

567. Paragraph 3 of the same Article requires financial institutions to maintain all information required by this Article and obtained for identification, as well as the data on the account (in its absence, the unique reference number accompanying the transfer) and the business correspondence, in the manner and for the timeframe defined by Article 20 of the AML/CFT (i.e. for at least 5 years following completion of the business relationship or in cases prescribed by law, for a longer period).

**Risk Based Procedures for Transfers Not Accompanied by Originator Information (c. VII.5):**

568. The AML/CFT law provides, under Article 18, paragraph 6 that reporting entities carrying out wire transfers should reject any request for transfer, if the information on the originator is missing; and also reject the receipt of a transfer, if the wire transfer does not contain the originator's information as described in paragraphs 1 & 2 of Article 18. For these situations, Article 18, paragraph 7 further requires the reporting entities to file a suspicious transaction report to the Authorized Body.

**Monitoring of Implementation (c. VII.6) and Application of Sanctions (c. VII.7: applying c.17.1 – 17.4):**

569. Compliance with the law and regulations implementing the requirements of this recommendation is monitored through the CBA's onsite inspections. Sanctions may be applied in line with the procedures described in R.17.

**Analysis of effectiveness:**

570. In Armenia, banks are the only financial institution licensed by the CBA to conduct wire transfers. Meetings with bank officials revealed that transfers are carried individually using the SWIFT system. Hence, the concept of batch files is not applicable in the Armenian context. Under the SWIFT system, banks are required to complete all mandatory fields including originator's information and payment instructions. Officials indicated that if fields are left blank or not properly completed in line with SWIFT instructions, the system is designed to detect the lack of information and rejects the transfer.

571. In practice, bank officials indicated that when a transfer is received without adequate originator information, the transfer is place on "hold status-pending receipt of additional information" (where the funds are not available to the recipient) for up to a month, and if information is not received within that timeframe, the transfer is rejected and sent back to the sending originating institution.

572. Conversations with officials from the CBA Bank Supervision Department also revealed that the wire transfer area is inspected during their prudential onsite visits and that no problems have been detected.

**Additional elements: elimination of thresholds (c. VII.8 and c. VII.9) (c. VII.8 and c. VII.9):**

573. NA – There is a threshold established.

### 3.5.2. Recommendations and Comments

- Clarify in the Regulation on Minimal Requirements or in other enforceable guidance the notion of "main conditions of the transaction (business relationship)" subject to the record keeping requirements, in the cases which such transactions are not contracts;

- Provide requirements by law or regulations for establishing the threshold for customer identification when a wire transfer is involved to the equivalent of €/$ 1,000. In this way**,** given the floating of the exchange rate, reporting entities can ensure that the threshold remains consistent with the standard.

### 3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.10** | **LC** | • Lack of guidance as to the notion of "main conditions of the transaction (business relationship)" subject to the recordkeeping requirements, in the cases which such transactions are not contracts. |
| **SR.VII** | **LC** | • Threshold established for wire transfers inconsistent with the standard (threshold affected by exchange rates). |

## 3.6. Monitoring of Transactions and Relationships (R.11 & 21)

### 3.6.1. Description and Analysis

Legal Framework: Republic of Armenia Law on Combating Money Laundering and Terrorism Financing.

**Special Attention to Complex, Unusual Large Transactions (c. 11.1):**

574. Article 8, paragraph 1 of the AML/CFT Law establishes the obligation for all reporting entities, including financial institutions to conduct additional scrutiny of all complex and unusually large transactions (business relationships), as well as transactions involving unusual patterns with no apparent economic or other legitimate purpose.

**Examination of Complex & Unusual Transactions (c. 11.2):**

575. Although not clearly and directly stated, the authorities indicated that by conducting additional scrutiny of all complex and unusually large transactions, as required under Article 8 above, financial institutions are indirectly examining as far as possible the background and purpose of such transactions. The requirement to set forth their findings in writing, as required by this criterion is addressed below.

**Record-Keeping of Findings of Examination (c. 11.3):**

576. Article 8, paragraph 2 of the AML/CFT Law obliges reporting entities, including financial institutions to maintain the data on all complex and unusually large transactions (business relationships), as well as transactions involving unusual patterns for at least five years after termination of the business relationship or execution of the transaction or, in cases prescribed by law, for a longer time period. Per the authorities, this requirement applies to the information and examination conducted during the scrutiny of the complex and unusually large transactions as explained above. Reporting entities are also required to submit such data to the Authorized Body when requested to do so, except for the cases where the

reporting of such data contradicts confidentiality requirements. However, there is no clear and direct requirement for financial institutions to keep the findings available for auditors for at least five years.

*Analysis of effectiveness:*

577. The law establishes the general obligation for reporting entities, including financial institutions to pay attention to complex, unusual large transactions, and all unusual patterns of transactions (business relationships), which have no apparent economic or visible lawful purpose. In practice however, most non-bank financial institutions concentrated their efforts mainly in monitoring large transactions to comply with the obligation to report all transactions exceeding the 20 million drams and 50 million drams established thresholds, and not for the purpose of complying with the requirements of this recommendation. Several officials made direct reference to the "requirements of the law and regulations" and to the "list of offshore countries" provided by the CBA, as the basis for addressing this requirement. With the exception of one bank, officials indicated that their respective internal acts addressed this requirement and the process undertaken by their institutions to ensure that these unusual transactions were properly identified, analyzed, and documented. There were several officials that also made reference to the "UN list of terrorists" as an additional tool for identifying these transactions. Based on this, it appears that most of the non-bank financial institutions visited need additional guidance and training to increase their knowledge in this area and strengthen their practices with respect to handling unusual transactions, as it seems that the process is mainly driven by the list of threshold requirements, list of offshore countries and UN list of terrorists, and not by the significance of the transactions relative to the relationship and the established customer risk profile.

**Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1):**

578. Article 19, paragraph 1 of the AML/CFT Law establishes the obligation for reporting entities, including financial institutions to conduct enhanced due diligence when establishing business relationships or carrying out transactions with persons, including financial institutions, located in foreign states or territories, where the international standards on combating money laundering and terrorism financing are not or are insufficiently applied.

579. Under Chapter 5 of the Regulation on Minimal Requirements, the business relationships and transactions with the persons identified under Article 19 above are considered as "high risk". As such, Article 22 of this Chapter defines the criteria for high risk and the rules for their determination and states that the following persons, events or objects are considered high risk: i) the resident natural person or legal person customer registered (performing an activity) in an offshore country or territory; ii) the relation of the customer's business relationship or occasional transaction to such countries (territories) (according to the lists stipulated by the Authorized body and respective international organizations) where the international standards for combating ML/TF are not appropriately applied, as well as to the countries released by the UN, to which sanctions are applied; and iii) the residence (location) of the customer in the countries (territories) mentioned above. Following the criteria described above and Article 15 of the AML/CFT Law, in the presence of high risk criteria, reporting entities should perform enhanced customer due diligence. Enhanced due diligence in addressed under Chapter 8, Article 34 of the Regulation on Minimal Requirements and described in detail under c.5.8 of Recommendation 5.

580. With respect to measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries, Article 19, paragraph 2 of the AML/CFT Law provides that the Authorized Body shall define and update the list of the states or territories specified in this Article. To ensure compliance with the obligation imposed by this Article, the FMC publishes and

makes available on their public domain (website) links to warnings issued by the FATF and to the list of individuals and entities associated with terrorism issued by the UNCTC. Many of the financial institutions visited indicated that through the FMC website, particularly under the link entitled "Help Organizations Directory", they also have access to the lists of offshore jurisdictions, as well as to links to other international organizations involved in prevention of ML/TF. These links alert financial institutions about present and potential concerns and weaknesses in the AML/CFT systems of other countries. The list of offshore jurisdictions has also been published and circulated among financial institutions.

581. The RBA Guidance for Financial Institutions on Adopting the Risk-Based Approach for Combating Money Laundering and Terrorism Financing (hereafter 'RBA Guidance') provides by way of examples four factors that may determine if a country should be considered high risk. These examples are, when a country is:

- subject to embargoes, sanctions or other similar measures issued by the UN;
- identified as lacking appropriate arrangement and implementation of AML/CFT laws, recommendations and regulations according to the information published by credible sources (e.g. FATF, IMF, World Bank and Egmont Group);
- identified as having significant level of corruption and criminal activity according to the information published by credible sources (e.g. Transparency International, GRECO, Doing business, EBRD-World Bank Environment and Enterprise Performance Survey (BEEPS), etc.); and
- identified as supporting the financing of terrorism, or having more frequent terrorist acts performed within them according to the information published by credible sources (e.g. national security services of different countries, publications in media).

582. The Guidance also outlines that every financial institution, based on its own experience and operational distinctions, is entitled to determined whether a country or territory poses higher risk.

**Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):**

583. There is a general obligation under Article 19 (1) of the AML/CFT Law for financial institutions to conduct enhanced due diligence when establishing business relationships or carrying out transactions with persons (including financial institutions) residing (located) in foreign states or territories, where the international standards on combating money laundering and terrorism financing are not or are insufficiently applied. In addition, Article 8(1) of the AML/CFT Law further requires financial institutions to conduct additional scrutiny on certain transactions, including those involving unusual patterns with no apparent economic value or other legitimate purpose. However, this requirement is directly related to complex and unusually large transactions with no apparent economic value or other legitimate purpose and not to transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. As such, the general obligation does not require financial institutions: i) to examine as far as possible the background and purpose of transactions from or in countries which do not or insufficiently apply the FATF Recommendations; ii) document the findings in writing; and iii) make the written findings available to assist competent authorities and auditors. Therefore, the law falls short in these respects.

**Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):**

584. The authorities have established counter measures to apply when a country does not apply or insufficiently applies the FATF recommendations, including recognizing customers as high risk, which obliges financial institutions to conduct enhanced due diligence on these customers and to scrutinize transactions from these countries; and issuing warning letters to financial institutions regarding countries identified by FATF as countries of concern with substantial deficiencies in their AML/CFT regime.

*Analysis of effectiveness:*

585. The legal and regulatory obligations require all financial institutions to conduct enhanced due diligence on persons, business relationships and transactions in or from countries that do not or insufficiently apply the FATF Recommendations. Meetings conducted with financial institutions revealed that in practice, these institutions are using the list of "offshore countries", the UN list of persons or countries involved in terrorist activities, the warning letters received from the FMC with respect to countries of concern (including those identified with weaknesses in their AML/CFT regime) as mentioned by the FATF as the identification tool and triggering point for conducting enhanced due diligence for potential matches.

### 3.6.2. Recommendations:

The authorities are recommended to:

R.11

- Establish a clear and direct requirement for financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions and all unusual patters of transactions which have no apparent economic or visible lawful purpose as required by this recommendation;
- Extend the requirement to keep the findings of the examination of complex and unusual large transactions also available to auditors for at least five years;
- Provide additional training, particularly to non-bank financial institutions to ensure that attention is given to all transactions that fall into the unusual, large, and complex categories, regardless of any offshore and UN lists.

R.21

- Establish a requirement for financial institutions to: i) examine as far as possible the background and purpose of transactions with persons from or in countries which do not apply or insufficiently apply the FATF Recommendations; ii) to document the findings; and iii) to make the written findings available to assist competent authorities and auditors.

### 3.6.3. Compliance with Recommendations 11 & 21

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.11** | **LC** | • Lack of clear and direct requirement for financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions and all unusual patters of transactions which have no apparent |

| | | |
|---|---|---|
| | | economic or visible lawful purpose. Lack of requirement to keep the findings of the examination of complex and unusual large transactions also available to auditors for at least five years. |
| **R.21** | **LC** | • Lack of requirements to examine as far as possible the background and purpose of transactions from or in countries which do not or insufficiently apply the FATF Recommendations, document the findings, and make findings available to competent authorities and auditors. |

### 3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 & SR.IV)

586. Legal Framework: The Republic of Armenia Law on Combating Money Laundering and Terrorism Financing; Guidance on the Criteria for Suspicious Transaction Criteria; Statute of the Financial Monitoring Centre of the Central Bank of the Republic of Armenia; and the Manual on Internal Procedures of the Financial Monitoring Centre of the Central Bank of the Republic of Armenia.

#### 3.7.1. Description and Analysis

587. The Law on Combating Money Laundering and Terrorism Financing (AML/CFT Law) obliges 'reporting entities', being professions and occupations including financial institutions, listed in Article 3(4) of the AML/CFT Law, to report suspicious transactions in relation to ML or TF and also for transactions that reach a monetary threshold regardless of whether the transaction was undertaken by cash or other means.

588. In addition to financial institutions, two state bodies are all deemed 'reporting entities' for transaction threshold and STR reporting being the State Registry of the Ministry of Justice, which undertakes registration of legal persons, and the Real Estate State Cadastre Committee of the Republic of Armenia.

589. The (TTR) requirement is above 20 million drams (equivalent to USD52,000 as of the date of the assessment), excluding real estate transactions, for which the threshold is 50 million drams (USD130,000).

590. Financial Institutions can lodge STRs and TTRs over a secured electronic platform that is enabled by a unique pass code supplied and maintained by the FMC. Based on data supplied by the authorities on STRs and TTRs since 2006, the vast majority of reports received by the FMC is TTRs; STRs have been lodged by banking institutions only and the number is considered marginal. Additionally, in light of the number of TTRs lodged vis-à-vis STRs, concerns exist that some of reporting entities may not delink the STR requirement and the TTR requirement.

**Requirement to Make STRs on ML and TF to FIU (c. 13.1 & IV.1):**

591. The definition of a suspicion transaction or relationship is set forth in Article 3(12) of the AML/CFT Law wherein "a transaction or business relationship when, in cases established by this Law, the guidelines established by the Authorized Body, and the internal legal acts of reporting entities, or in other cases, it is suspected or there are sufficient grounds to suspect that the assets involved in the transaction or business relationship proceed from crime, or that such assets are linked to terrorism financing, as well as when the funds or other assets are linked to or intended for use by terrorist organizations or individual terrorists for the purpose of terrorism".

592. In the manner established by law, by other legal acts adopted on the basis of the AML/CFT Law and by internal legal acts adopted by the reporting entities, financial institutions must take measures for identifying and preventing such suspicious relationships or transactions,or attempted transactions.

593. The obligation for financial institutions to report suspicious transactions is pursuant to Article 5, paragraph 1.3 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 ML and TF.

594. Article 6 of the AML/CFT law states that Guidelines established by the Authorized Body (these are the "Guidance on the Criteria for Suspicious Transaction Criteria") and the internal legal acts of the financial institution shall define the grounds and criteria for suspicious transactions pursuant to Article 6(1) of the AML/CFT Law.

595. In addition, Article 6(3) of the AML/CFT Law indicates directly examples of potential transactions that could be considered suspicious.

596. Furthermore, there is also a general obligation established by Article 6(4) of the AML/CFT Law for reporting entities to submit a report to the FMC on a suspicious transaction regardless of whether the grounds for suspicion are detailed in the AML/CFT Law, the Guidance on Suspicious Transaction Criteria or the reporting entities' own internal legal acts.

597. Article 6(2) of the AML/CFT Law states that if there is a suspicion that the business transaction or relationship involves funds or other assets, which are either linked to or for the intended use by terrorist organizations or individual terrorists, a suspicious transaction report is to be submitted.

598. As detailed in Recommendation 26 else in this report, the FMC serves as a national centre for receiving, analyzing and disseminating disclosures of STR and other relevant information concerning suspected ML or TF activities. Among the various functions performed by the FMC, Article 10 of the AML/CFT law specifically indicates the receipt of reports from reporting entities.

599. STRs and TTRs can be lodged electronically over a secure platform or in hard copy. The businesses interviewed advised that they have a unique pass code that allows access to the electronic lodgment platform. Supporting documentation that may be required is supplied in hard copy.

600. The rules on the submission of STRs as well as the mandatory content of an STRs, as discussed in Recommendation 26 of this report, are pursuant to Article 7 of the AML/CFT law Decision No. 231-N, dated July 31, 2008 issued the CBA Board has adopted the latest version of the form for reporting STR, TTR, or a suspensions of a transaction for use by financial institutions, which also includes "Guidelines for filling out and transmitting the forms" and the timeframe for the transmission. The AML/CFT law (Article 6(1)) establishes that, in case a suspicious transaction is detected a report should be "immediately" filed to the Authorized Body (=FMC). The Guidelines specified timeframe indicates that a TTR should be submitted to the FMC within three working days of concluding the transaction, whereas in the case of an STR should 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.

601. With regard to TF, the FMC has not issued any formal guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to Article 25 of the AML/CFT Law. The guidelines on suspicious transactions do not contain specific typologies related to TF.

602. The STRs received by the FMC are detailed in the table below. The numbers of STRs are considered low, especially in comparison to the number of reports received by the FMC for TTRs.

| Reporting entities | Reports filed to the FMC in 2006 | | Reports filed to the FMC in 2007 | | Reports filed to the FMC in 2008 | |
|---|---|---|---|---|---|---|
| | Above-threshold Transactions Reports | Suspicious transaction Reports | Above-threshold Transactions Reports | Suspicious transaction Reports | Above-threshold Transactions Reports | Suspicious transaction Reports |
| Banks | 52,006 | 27 | 74,090 | 27 | 89,588 | 36 |
| Credit organizations | 112 | - | 382 | - | 498 | - |
| Persons engaged in foreign currency trading | - | - | - | - | - | 1 |
| Persons engaged in dealer-broker foreign currency trading | 386 | - | 269 | - | 71 | |
| Licensed persons providing cash (money) transfers | - | - | - | - | - | - |
| Persons rendering investment services in accordance with the Republic of Armenia Law on Securities Market | 739 | - | 976 | - | 250 | - |
| Central depositary for regulated market securities in accordance with the Republic of Armenia Law on Securities Market | - | - | - | - | - | - |

| | | | | | | |
|---|---|---|---|---|---|---|
| Insurance (including reinsurance) companies | 16 | - | 69 | - | 167 | - |
| Insurance (including reinsurance) brokers | - | - | - | - | - | - |
| Pawnshop | - | - | 2 | - | - | - |
| Realtors (real estate agents) | - | - | - | - | - | - |
| Notaries | 148 | - | 1,546 | - | 1,232 | - |
| Attorneys, as well as independent lawyers and firms providing legal services | - | - | - | - | - | - |
| Independent auditors and auditing firms | - | - | - | - | - | - |
| Independent accountants and accounting firms | - | - | - | - | - | - |
| Dealers in precious metals | - | - | - | - | - | - |
| Dealers in precious stones | - | - | - | - | - | - |
| Dealers in artworks | - | - | - | - | - | - |
| Organizers of auctions | - | - | - | - | - | - |
| Persons and casinos organizing prize games | - | - | - | - | - | - |
| Persons organizing lotteries | - | - | 1 | - | - | - |
| Persons organizing internet prize games | - | - | - | - | - | - |
| Trust and company service providers | - | - | - | - | - | - |

| | | | | | | |
|---|---|---|---|---|---|---|
| Credit bureaus | - | - | - | - | - | - |
| The Authorized Body responsible for maintaining the integrated state cadastre of real estate | - | - | 390 | - | 1,546 | - |
| The state body performing registration of legal persons (the State Registry) | - | - | - | - | - | - |
| Charity organizations | 1 | - | 5 | - | 5 | - |
| **Total** | **53,408** | **27** | **77,730** | **27** | **93,357** | **37** |
| | | | | | | |

**STRs Related to Terrorism and its Financing (c. 13.2):**

603. The definition of a suspicion transaction or relationship, pursuant to Article 3(12) of the AML/CFT Law encompasses suspicions that the assets of the transaction or relationship, funds or other assets are linked to, or for the intended use, of terrorism financing. The obligations to submit a suspicious transaction report pursuant to Article 5(1.3) of the AML/CFT Law are not limited to ML and Article 6(2) of the same law further states that a business relationship or transaction should be recognized as suspicious, if it is suspected or there are sufficient grounds to suspect that the business relationship or transaction involved funds or other assets, which are linked to or intended for use by terrorist organizations or individual terrorists for the purpose of terrorism.

**No Reporting Threshold for STRs (c. 13.3):**

604. The obligation to report suspicious transactions regardless of the amount is pursuant to Article 5, paragraph 1.3 of the AML/CFT Law. Article 6(1) of the AML/CFT Law further clarifies that the suspicion is relevant to attempted business relationship or transactions as well.

605. The CBA has the power to release reporting entities from the obligations to report, pursuant to Article 5(5) of the AML/CFT Law; however the release of reporting obligations applies only to TTRs.

**Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):**

606. No reporting restrictions are contained within the Law and Regulations on the grounds that transactions might also involve tax matters. Tax evasion is included as a predicate offense for ML as discussed on section 2 of this report.

**Additional Element - Reporting of All Criminal Acts (c. 13.5):**

607. Financial institutions are required to report suspicions that the assets involved in transaction are proceeds of crime, pursuant to the definition of suspicious transactions or business relationships pursuant to Article 5(12) of the AML/CFT Law.

**Analysis of effectiveness**

608. Financial institutions in Armenia are subject to the obligations to report suspicious transactions to the FMC. Meetings with financial institutions visited during the mission revealed for the most part a good understanding of the obligation to report and of the criteria that constitutes a suspicious transaction, as provided in the law and regulations. The officials from these institutions also indicated that the FMC has provided training in this topic and typologies for further reference to identify potential suspicious transactions. In spite of this, the number of suspicious transactions report (STR) is very low (27 STRs were reported for 2007 and 37 STRs reported for 2008 – all reported by banks, compared to 77,730 and 93,357 transactions exceeding the established thresholds were reported for 2007 and 2008, respectively), considering that Armenia has predominantly a cash economy and based on the authorities comments, a "shadow economy". This low level of reporting could be attributed in part to the lack of frequent and going supervision by the CBA. With respect to reporting transactions linked to TF, without exception, the authorities referred to the UN list of individuals and entities associated by individuals, that is available through the FMC website. There were few institutions that did not have the list available and others where the list was dated. So far there has not been a single match with the lists of the UN Security Council Resolutions within the financial institutions. With the exception of banks, most institutions were not aware of the obligation to report all transactions, including attempted ones and those suspicious with respect to tax matters. Although training has been provided by the FMC, additional training is needed to ensure that all institutions are aware of and fully comply with the STR reporting obligations.

**Protection for Making STRs (c. 14.1):**

609. The legal provision for protection pursuant to Article 27 of the AML/CFT Law provides that reporting entities or their employees (including managers, directors and officers) shall not be subject to criminal, administrative, civil or other responsibility for duly performing their duties as stipulated in the law including the reporting suspicions and supplying information to the FMC under the obligations of the AML/CFT Law.

**Prohibition Against Tipping-Off (c. 14.2):**

610. The prohibition for tipping off is pursuant to Article 5, paragraph 4 of the AML/CFT Law where reporting entities, their employees, and representatives are prohibited from informing the person on whom a report or other information has been submitted to the FMC, as well as other persons, about the fact of submitting such report or information.

**Additional Element—Confidentiality of Reporting Staff (c. 14.3):**

611. Pursuant to Article 12 of the AML/CFT Law, the FMC is prohibited from disclosing, facilitating disclosure or otherwise providing any information of the person reporting, or someone who participated in the reporting, a suspicious transaction to the FMC.

**Analysis of effectiveness:**

612. Officials of financial institutions visited were aware of the obligations imposed by law with respect to confidentiality of the information and not disclosing to the customer if a STR had been prepared and submitted to the FMC, even those that so far have not yet reported were able to articulate a response. Officials were also aware of the protection that the law provides for such reporting. Bank officials indicated that to date, no names or personal details of their employees or compliance officers have been made public in relation to a STR. All institutions were also aware to the fact that the CBA could impose sanctions for disclosing STR information.

**Consideration of Reporting of Currency Transactions Above a Threshold (c. 19.1):**

613. In addition to the obligations for reporting suspicious transactions or relationship, there is a transaction threshold reporting requirement for reporting entities. The reporting obligation pursuant to Article 5(1) of the AML/CFT Law establishes that reporting entities are required to file a report with the FMC on any of the following transactions:

- Transactions above the threshold of 20 million drams (equivalent to USD52,000 as of the date of the assessment), excluding real estate transactions;, and

- Transactions related to real estate above the threshold of 50 million drams (equivalent to USD130,000).

614. Certain provisos apply in relation to transaction reporting wherein dealers in precious metals or stones, dealers in artworks, organizers of auctions, trust and company service providers, independent lawyers and accountants, accounting firms and firms providing legal services are not required to report transactions exceeding the thresholds until the establishment of the licensing requirements for these activities and professions are embedded in law, pursuant to Article 29 of the AML/CFT Law.

615. The Real Estate State Cadastre Committee undertakes the transaction threshold reporting requirements, in lieu of real estate agents, pursuant to Article 5, paragraph 5 of the AML/CFT Law which permits the FMC to release a reporting entity from the obligation to report threshold transactions. The release of threshold reporting obligations by real estate agents was by the Decision of the CBA Board on January 27, 2009 for the purposes of relieving double administration on the same transaction.

616. The transaction threshold reporting obligation does not differentiate between cash or non-cash transactions and assessors were advised by industry that they do not apply a differentiation and that the threshold reporting requirements apply regardless.

617. The information contained within the TTR and submitted to the FMC is captured within a central electronic database maintained by the FMC. However, from the statistics provided by the FMC it appears that very little, if none, of the information received on above-threshold transactions have generated a case which was then subsequently disseminated to law enforcement for investigation.

**Additional Element—Computerized Database for Currency Transactions Above a Threshold and Access by Competent Authorities (c. 19.2):**

618. Pursuant to Chapter 2 of the Statute of the FMC of the CBA, the FMC has established a centralized database for information inflow and outflow, related documents, requests and reports. Such database is to allow for the development of algorithms of information validation, trends analysis, identification of techniques and the study of typologies on ML and TF cases. Detailed guidance on the input, processing and analysis of such information is contained in the FMC Guidance on Internal Business Processes.

619. The Manual on Internal Procedures of the FMC of the CBA FMC Guidance on Internal Business Processes sets forth the extraction of collated information and includes the provision that the information may be disseminated to competent authorities such as law enforcement agencies regarding the results of analysis.

**Additional Element—Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):**

620. The centralized database referenced in criterion 19.2, as the central reciprocal storage facility for information on threshold transactions, is operated under strict conditions and safeguards as set forth in the (FMC Guidance on Internal Business Processes).

**Analysis of effectiveness:**

621. Financial institutions in Armenia comply with the reporting obligation with respect to all transactions that exceed the established thresholds as required by law. These reports are sent to the FMC. Meetings with officials from these institutions revealed a thorough understanding of the requirement and where to report. It is apparent that financial institutions concentrate their efforts in complying with this requirement, given that some have been sanctions for not reporting or for late reporting. Once again, within the financial sector, banks are the ones filing the most transaction reports, followed by credit organizations and securities firms. However, given the very low number of reports on suspicious transactions, it appears that financial institutions are overly focusing on the reporting of transactions above the threshold, which is detrimental to the detection of suspicious transactions and may hamper the effectiveness of the reporting obligation.

**Feedback and Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.2) [Note: guidelines with respect other aspects of compliance are analyzed in Section 3.10]:**

**Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2):**

622. In relation to feedback from the Authorized Body, pursuant to Article 10, paragraph 1(13) of the AML/CFT Law, the Authorized Body is obliged to regularly provide feedback to reporting entities on the reports filed by them. This is done verbally or in writing. In particular the FMC acknowledges the reception of the reports by sending an acknowledgment receipt to reporting entities.

623. The FMC has issued guidance on Risk-Based Approach for financial institutions, on Suspicious Transaction Criteria and on Typologies. Additionally, the CBA has issued guidance to financial institutions under Decision No. 1/886a of September 3, 2008 on the criteria for suspicious transactions and also under Decision No. 1/913a of September 11, 2008, where it provides guidance typologies of ML, but not specifically on TF. There are no typologies for DNFBPs. The FMC has not issued any formal guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to Article 25 AML/CFT Law or specific typologies for TF.

### 3.7.2. Recommendations and Comments

- The authorities are recommended to provide additional training to reporting entities to ensure that staff is knowledgeable about the obligations imposed by law. Training should specifically cover detection and reporting of suspicious transactions and should consider typologies and trends (differentiated along the types of activities, especially for DNFBPs);

- The authorities should provide guidance on the freezing obligations and on TF-related typologies.

### 3.7.3. Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.13** | **LC** | Low level of suspicious transaction reports by FIs |
| **R.14** | **C** | |
| **R.19** | **C** | |
| **R.25** | **C** | |
| **SR.IV** | **LC** | Lack of guidance hampers the effective implementation of the reporting obligation. |

***Internal controls and other measures***

## 3.8. Internal Controls, Compliance, Audit and Foreign Branches (R.15 & 22)

### 3.8.1. Description and Analysis

Legal Framework: AML/CFT Law and Regulation on AML/CFT Related Minimal Requirements.

624. The requirements for financial institutions to develop policies and controls, screening, training and audit are regulated by the AML/CFT Law (in particular Article 22, which establishes the obligation for reporting entities to have in place an internal compliance unit or an employee dealing with prevention of money laundering and terrorism financing, or assign this function to respective persons engaged in such professional activities (hereinafter: the internal compliance unit) and by "Regulation on Minimal Requirements Stipulated for the Financial Institutions in the Field of Combating Money Laundering and Terrorist Financing (in particular Chapter 3), issued by the Board of the CBA on September 9, 2009, (hereinafter "Regulation on Minimal Requirements"), which was adopted pursuant to Article 11 of the AML/CFT Law ("Normative Legal Acts and Guidelines Adopted by Authorized Body").

625. The provision of Article 11 above requires the Authorized Body - the CBA, to adopt normative legal acts and guidelines for reporting entities, in order to establish minimal requirements, inter alia, on:

- the functions of the management bodies of financial institutions, including the internal compliance unit, and the rules for performing such functions in the field of combating ML and TF;
- minimal rules for the audit of financial institutions' activities in the field of ML and TF; and
- minimal rules for the selection, training and qualification of competent staff of financial institutions in the field of ML and TF.

626. In addition to these minimal requirements, reporting entities, pursuant to Article 21, paragraph 1 of the AML/CFT Law, are required to have in place internal legal acts aimed at preventing ML and TF. These internal acts should lay down, inter alia:

- Internal audit; internal compliance unit; and recruiting, training, and professional development of the staff of the internal compliance unit or other employees charged with functions relevant to AML/CFT (such as CDD or reporting of suspicious transactions).

**Establish and Maintain Internal Controls to Prevent ML and TF (c. 15.1, 15.1.1 & 15.1.2):**

15.1

627. Furthermore, paragraph 2 of Article 21 of the AML/CFT Law requires reporting entities to provide a copy of each internal legal act to the Authorized Body within one week after their approval, as well as after making amendments and changes to them. The Authorized Body also has the power to require reporting entities to make the necessary changes and amendments to their internal legal acts.

628. As mentioned above, Article 21 of the AML/CFT law requires financial institutions to have in place legal acts (either in the form of policy, rule, procedure, instruction or regulation) aimed at the prevention of ML and TF. Article 4 of the Regulation on Minimal Requirements vests in the Board of a financial institution and in the executive body the responsibility to establish an effective internal system of ML/TF prevention, and ensure its current activities and supervision; Article 8(1) of the Regulation also states that the Board should, inter alia, "stipulate the policy of the financial institution to combat ML/TF", whereas Article 9(2) vests the executive body of the responsibility to "ensure the implementation of the policy of combating ML/TF. Although there is not a specific reference in these provisions that these procedures, policies and controls should cover CDD, record retention, the detection on unusual and suspicious transactions and the reporting obligation, these areas are specifically addressed by other provisions of the Regulation on Minimal Requirements and the AML/CFT law.

15.1.1

629. Reporting entities are required, under Article 22, paragraph 1 of the AML/CFT Law to establish an internal compliance unit or designate an employee to deal with the prevention of ML and TF, or assign this function to individuals engaged in such professional activities, which implies individuals that are not employees of a financial institution. The "internal compliance unit" is defined under Article 3, paragraph 22 of the law as "a division or employee of a financial institution, or a professional performing the function of preventing ML and TF." Article 22, paragraph 5 of the Law further requires reporting entities to designate the internal compliance unit at the senior management level and be independent. In the context of Armenia, only an employee of the financial institution could be designated at the senior management level.

15.1.2

630. With regard to timely access on minimal requirements of the AML/CFT compliance unit to customer identification data and other CDD information, transaction records, and other relevant information, Article 15 of the Regulation provides that the internal monitoring body ("internal compliance unit") should have direct access to all documents (including credit files, working documents, contracts, etc.) concerning the customer's accounts and transactions. Under this Article, the internal monitoring body is also entitled to require clarifications from any staff member or other sub-divisions on business relationships (transactions), customer, authorized bodies, as well as real beneficiaries. In practice, there are no legal restrictions on access to information and meetings with financial institutions visited confirmed that none exist. Although there are no explicit/direct provisions in the regulations addressing

the aspects of the timely access to all necessary CDD information, transactions records, and other relevant information, the authorities indicated that the concept of direct access includes the element of timeliness.

**Independent Audit of Internal Controls to Prevent ML and TF (c. 15.2):**

631. The obligation for financial institutions to maintain an adequately resourced and independent audit function to test compliance is partially addressed by Article 23, paragraph 1 of the AML/CFT Law. Under this Article, reporting entities are required to conduct internal audit in cases and at the frequency established by the normative legal acts of the Authorized Body in order to check the proper performance of the duties stipulated by the Law. Article 23 is complemented by Article 50, Chapter 11 of the Regulation on Minimal Requirements, which requires the internal audit to perform an audit at least once a year to make sure that the executive body and the internal compliance unit ensure the full compliance of the financial institution with the requirements stipulated by the Law, the regulation and other legal acts, as well as the internal legal acts.

632. This Article goes further to indicate that when the function of combating money laundering and terrorism financing (that is, the internal compliance unit) is assigned to the internal audit division or staff member, then the audit should be performed by the body (someone other that the internal auditor) and in the order established by the internal legal acts of the financial institution. Furthermore, the internal audit is also required, under Article 51 of the Regulation on Minimal Requirements to submit to the Board and executive body reports about its evaluations and disclosures, including its conclusions about relevance and efficiency of staff training in the field of combating ML/TF.

633. Article 23, paragraph 2 of the AML/CFT Law further requires reporting entities to order their external auditor to check the extent of implementation and effectiveness of legislation on combating ML and TF. Although not clearly stated, it seems to be implied that reporting entities maintain an audit function. The authorities indicated that the obligation for financial institutions to establish the internal audit function is contained in the Law on Banking, Article 21, paragraph 1(c), where the responsibility of the Board of the financial institution is to establish standards of internal control, including the internal audit function.

**Ongoing Employee Training on AML/CFT Matters (c. 15.3):**

634. Article 10, paragraph 7 of the AML/CFT Law establishes the responsibility on the Authorized Body to adopt legal acts, approve guidelines, and promulgate typologies, in cooperation with reporting entities, supervisory and other bodies and organizations. Article 11, paragraph 10 of the same law states that the normative legal act adopted by the Authorized Body should establish the minimal rules for training in the field of ML and TF. Then, the Internal legal acts, under Article 21, paragraph 1(7) of the AML/CFT Law, require reporting entities to establish requirements for recruiting, training, and professional development of the staff of the internal compliance unit or other employees charged with functions stipulated by this Law, legal acts, as well as with regard to the risks and typologies of ML and TF. Furthermore, Chapter 12, Article 78 of the AML/CFT Regulations on Minimal Requirements requires reporting entities to regularly organize trainings for all the staff dealing with AML/CFT. Also in the event of employing new personnel, a training on AML/CFT issues should be organized within the first three months of employment.

635. Article 80 of the same Regulations states that the financial institution should stipulate training for the Board members, executive body personnel, internal monitoring body personnel, customer service and audit department personnel. This training of those personnel should ensure that they have appropriate knowledge about the requirements and procedures for combating ML and TF, in particular: i) about high

and low risk criteria; criteria for suspicious transaction identification and reporting or business relationships, including the typologies of the suspicious transactions provided by the Authorized body guidelines; and ii) about the legislation of the Republic of Armenia, the provisions of this Regulation and internal legal acts (which include the requirements for customer identification and due diligence as required by Article 21 of the AML/CFT Law) on combating ML and TF. Lastly, Article 81 of the Regulation on Minimal Requirements requires that the training courses of the financial institutions, all of their materials, as well as the names and signatures of the persons that took part in them be registered separately and kept for at least 5 years.

**Employee Screening Procedures (c. 15.4):**

636. Article 22 of the AML/CFT Law addresses the internal compliance unit of reporting entities. Paragraph 2 of this Article states that "the staff of the internal compliance unit shall pass qualification in the manner and based on the professional relevance criteria established by the Authorized Body". In addition, Chapter 12 of the Regulation provides the minimal rules for the selection, training and qualification of the competent staff in the field of AML/CFT. However, the requirements established by Law and Regulations focus mainly on the staff of the internal compliance unit and on other staff that may be vested with AML/CFT responsibilities; it is not a general requirement to have screening procedures in place to ensure high standards when hiring/recruiting all employees. As such, the current requirements fall short with respect to this criterion.

**Analysis of effectiveness:**

637. Financial institutions are required, by their internal legal acts to establish and maintain internal policies, rules, procedures, instructions or regulations to prevent ML and TF. The same internal legal acts require the designation and appointment of an internal compliance unit or compliance officer at the management level; conduct internal audit at least once a year, and provide training to employees. There is also a direct requirement for financial institutions to order an independent external auditor to evaluate the institution's level of compliance with the law.

638. In practice, the internal legal acts developed and adopted by financial institutions are for the most part copies of the AML/CFT Law and the Regulation on Minimal Requirements and do not incorporate risk factors, the size of their institutions, the complexity of their operations, the clients, products/services, and geographical locations served. With respect to establishing appropriate compliance management arrangements, banks visited had established an internal compliance unit and/or appointed a compliance officer at the management level. However, in other financial institutions, like credit organizations, securities firms, insurance companies, money remitters, and exchange bureaus, due to their size and resources available, the compliance management arrangements and compliance officer positions were shared responsibilities for both, day-to-day operations and AML/CFT compliance. In some of these institutions, the head of the internal audit department, the Chief-Executive Officer, or the operations manager had been appointed as the compliance officer.

639. Based on visits conducted, financial institutions (mostly banks) with adequate resources both financial and human had established separate internal compliance and internal audit units. Resource constrained institutions applied the requirements of Article 50 of the Regulation on minimal requirments and assigned to the internal auditor the function of internal compliance unit. This compliance arrangement was confirmed in at least two non-bank financial institutions visited; however, none of these institutions had taken the necessary measures to ensure that the individual conducting the audit (in lieu of the internal auditor) to test compliance with the law, regulations, and internal legal acts remained independent, well resourced, qualified and had received adequate training to take over such auditing responsibilities.

640. In the area of training, banks visited had adopted and established formal training programs addressing AML/CFT matters. However, other financial institutions, again, because of their size and limited resources did not have in place formal, frequent nor ongoing training programs for employees. The majority of the training received by financial institutions was provided by the FMC in response to the new AML/CFT Law. Additional training is also needed in the area of identification and analysis of unusual transactions in line with the requirements of R.11.

641. Based on copies of examination reports provided by the authorities, the assessors determined that the CBA supervisors had identified numerous and significant shortcomings within banks, credit organizations, and insurance companies including: lack of or inadequate compliance management arrangements and inadequate internal control systems, including issues with lack of independence of compliance officer and internal audit. Based on these results, as documented in the examination reports, the assessors call into question the overall effectiveness of financial institutions adequately implementing the obligations established by the AML/CFT law and regulations related to the requirements of this recommendation.

642. Finally, there is no direct requirement for financial institutions to establish screening procedures to ensure high standards when hiring employees. In practice, some institutions conducted background checks on potential employees, but this practice was not consistent through the institutions visited.

**Additional Element—Independence of Compliance Officer (c. 15.5):**

643. The AML/CFT Law provides under Article 22, paragraph 5 that the internal compliance unit should be independent and should have a status of senior management of the reporting entity. Senior management is defined under Article 3, paragraph 13 of the Law as "a body or employee of the reporting entity entitled to make decisions on behalf of the reporting entity on issues related to preventing ML and TF, or to participate in making such decisions". Article 22 further provides that the internal compliance unit should be entitled to report directly to its senior management (for example in the case of banks – to the board of directors) about the problems taking place at the reporting entity with respect to AML/CFT.

**Application of AML/CFT Measures to Foreign Branches & Subsidiaries (c. 22.1, 22.1.1 & 22.1.2):**

644. Reporting entities are required, under Article 19, paragraph 3 of the AML/CFT Law, to instruct their branches and representative offices located in foreign states or territories (including in the states or territories where the international standard on AML/CFT are not or are insufficiently applied) to apply the requirements of the AML/CFT Law and other legal acts adopted on the basis of it if the requirements envisaged therein are stricter than the norms established by the host countries.

**Requirement to Inform Home Country Supervisor if Foreign Branches & Subsidiaries are Unable Implement AML/CFT Measures (c. 22.2):**

645. Also under Article 19, paragraph 3, the branch or representative office is required to notify the reporting entity, and the reporting entity is required to notify the Authorized Body (=CBA) when the laws and other legal acts of the country of location of a branch or representative office prohibit or do not make it possible to apply the requirements of the AML/CFT Law or other legal acts adopted on the basis of the Law.

**Analysis of effectiveness:**

646. As of the mission dates there were no branches or subsidiaries of Armenian financial institutions operating abroad.

**Additional Element—Consistency of CDD Measures at Group Level (c. 22.3):**

647. The authorities indicated that the Armenian legislation does not define the concept of financial groups.

### 3.8.2. Recommendations and Comments

648. The authorities are recommended to establish, in law or regulation, requirements for financial institutions to:

- Ensure that financial institutions establish and maintain internal procedures, policies, and controls having regard to the risk of ML and TF and the size of the business;
- Amend the regulations to introduce an explicit and direct provision highlighting the ability of the internal compliance unit/designated compliance officer to have access in a timely manner to all necessary CDD information, transactions records, and other relevant information;
- Put in place formal procedures to screen all staff by financial institutions, particularly for staff in areas that are relevant to AML/CFT. These formal procedures should be aimed at ensuring high standards when hiring/recruiting employees;
- Ensure financial institutions maintain and independent and adequately resourced internal audit function, particularly when audit is assigned/delegated to staff other that the internal auditor;
- Provide additional training to staff in all aspects of AML/CFT, and particularly with respect to the requirements of R.11;
- Ensure that financial institutions are effectively implementing the requirements of the AML/CFT and implementing regulations.

### 3.8.3. Compliance with Recommendations 15 & 22

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.15** | **PC** | • Internal legal acts (internal procedures, policies, and controls) are inadequate as they do not consider the risk of ML and TF and the size of the business.<br>• Lack of screening procedures for hiring employees, other than the staff of the internal compliance unit.<br>• Lack of measures in place for financial institutions to maintain an adequately resourced and independent audit function, particularly when the internal auditor is delegated/designated as the compliance officer/internal compliance unit.<br>• Insufficient training provided by financial institutions to staff hampers effectiveness of implementation and compliance with requirements.<br>• Low level of implementation of obligations of the AML/CFT Law and regulations by financial institutions. |
| **R.22** | **C** | |

### 3.9. Shell Banks (R.18)

#### 3.9.1. Description and Analysis

**Prohibition of Establishment Shell Banks (c. 18.1):**

649. Article 17, paragraph 3 of the AML/CFT Law explicitly prohibits the establishment of shell banks in the Republic of Armenia. Article 3(30) of the AML/CFT law defines a shell bank as "a bank which, while being registered in a state, does not have an actual place of presence and activity in the territory of that state and is unaffiliated with other operating financial institutions". However the reference to "unaffiliated operating financial institution" does not conform to the FATF requirement, which refers to "unaffiliated with a **regulated** financial services group that is subject to **effective consolidated supervision**". According to the Armenian definition, it would be therefore sufficient for a bank not to be considered as a shell bank, if affiliated outside a regulated services group or in the lack of effective consolidated supervision.

**Prohibition of Correspondent Banking with Shell Banks (c. 18.2) and Requirement to Satisfy Respondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c. 18.3):**

650. Article 15, paragraph 10 of the AML/CFT Law requires banks to establish through their internal legal acts rules for opening and maintaining correspondent accounts of foreign banks, including rules to ensure that banks do not establish correspondent relationships with shell banks or with banks that allow shell banks to use their accounts.

**Analysis of effectiveness:**

The banks, as well as the CBA supervision department indicated that there are no shell banks operating in Armenia.

#### 3.9.2. Recommendations and Comments

- Clarify the definition of "shell bank" in a way that is consistent with the FATF standard.

#### 3.9.3. Compliance with Recommendation 18

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.18** | **LC** | • The definition of "shell bank" in the Armenian legislation does not comply with the FATF standard. |

***Regulation, supervision, guidance, monitoring and sanctions***

### 3.10. The Supervisory and Oversight System—Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17 & 25)

#### 3.10.1. Description and Analysis

651. Legal Framework: AML/CFT Law; Law on Currency Control, Law on Remittance Systems, Law on Pawnshops, Law on Banking, Law on Credit Organizations, Law on Securities Market, Law on Insurance, Regulation 3/01, Regulation 4/01, Regulation 10, Regulation 12, Regulation 13.

**Regulation and Supervision of Financial Institutions (c. 23.1):**

652. Article 3, paragraph 4 of the AML/CFT covers all of the financial sector institutions listed in the FATF Recommendations Glossary. All of these institutions are subject to regulation and supervision by the CBA for both prudential and AML/CFT obligations. The legal and regulatory framework requires financial institutions to prevent, detect and report suspicious transactions. Under Article 10, paragraph 9, the CBA has statutory responsibility for the supervision over financial institutions. The CBA is also empowered under Article 5 of the CBA Law to arrange and regulate combating legalization of criminal proceeds and financing of terrorism.

653. The CBA is the sole competent supervisory authority for banks, credit organizations, insurance companies, securities firms, foreign exchange bureaus, money remitters, and pawnshops. As of the mission date, there were 446 financial institutions regulated and supervised by the CBA. Supervision of all these institutions is the responsibility of the Financial Supervision Department of the CBA.

**Designation of Competent Authority (c. 23.2):**

654. As indicated above, the CBA is the competent authority with delegated responsibility for ensuring that financial institutions adequately comply with the requirements to combat money laundering and terrorist financing. Article 5 of the CBA Law empowers the CBA to license banks, as well as other entities, and regulate and supervise their activities. Article 20 of the CBA Law also gives extensive powers to the Board of the Central Bank to among others adopt the normative acts of the CBA (paragraph e).

655. The CBA is responsible for the supervision of the following financial institutions (reporting entities).

| Financial Institution | Number |
|---|---|
| Banks | 22 |
| Credit Organizations | 25 |
| Dealers-brokers in foreign currency | 2 |
| Dealers in foreign currency (Exchange offices) | 288 |
| Money transfer services (money remitters) | 11 |
| Securities/Investment firms | 10 |
| Central Depository | 1 |
| Insurance & re-insurance companies | 11 |
| Insurance intermediaries | 5 |
| Pawnshops | 71 |
| Total: | 446 |

656. In the case of AML/CFT, these include the normative legal acts listed under Article 11 of the AML/CFT which establish the minimal legal requirements and rules. The CBA's inspection powers are described under Chapter 5, Article 39 of the CBA Law. These powers extend to conducting inspections of compliance of financial institutions with respect to the obligations imposed by the AML/CFT law and the

Regulation on Minimal Requirements. Subsections of Article 39 include some of the following components:

- Supervision and Inspections, carried out by the Central Bank;
- Terms of inspections;
- Obligations of the supervised entity;
- Responsibility of the Central Bank;
- Rights and liabilities of the inspection team;
- Scope of inspections and follow-up;
- Inspections of branches of the supervised Entity.

**Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 & 23.3.1):**

657. The sector specific laws provide the licensing requirements for their respective institutions as follows:

| **Sector Legislation** | **Prohibition to carryout activity with a license issued by the CBA** | **Licensing requirements** |
|---|---|---|
| Law on Banking | Article 4, paragraph 2 | Chapter 3:<br>Article 23. Banking License<br>Article 24. Stages of Licensing<br>Article 25. Documents to be Submitted for Preliminary Consent to Licensing<br>Article 26. Preliminary Consent to Licensing<br>Article 27. Registration of Banks and of Branches of Foreign Banks<br>Article 28. Registration of a Branch and of a Representation<br>Article 29. Essential Conditions for Licensing<br>Article 30. Payments Related to Registration and Licensing<br>Article 31. Registry of Banks<br>Article 32. Voiding the License, Legal Consequences<br>Article 33. Registration of Amendments<br>Article 34. Voiding of Registration |
| Regulation 41, Chapter 4 and Law on Insurance | Article 5 – CBA Law | Article 38. License to the insurance business<br>Article 39. Scope of activity license<br>Article 40. Company registration and licensing<br>Article 41. Decision on registration and licensing |

| | | |
|---|---|---|
| | | Article 42. Grounds for refusal to application for registration and licensing |
| Law on Credit Organizations | Article 5, paragraph 1 | Article 5. State Registration and Licensing of Credit Organizations; Registration of Legal Entities Engaged in Crediting Activities |
| Law on Securities Market | Article 33, paragraph 1 | Article 33 License for Provision of Investment Services<br>Article 34. Scope of the License<br>Article 35. Provision of Investment Services by the Banks and Credit Organizations<br>Article 36. Registration and Licensing of the Investment firm<br>Article 37. Decision on Registration and Licensing<br>Article 38. Bases for Rejecting the Registration and Licensing Application |
| Foreign Exchange - Regulation 10 | Chapter 1, paragraph 1 | Chapter 2. Licensing foreign exchange purchase and sale operations |

**"Fit and Proper" Requirements:**

Law on Banking

658. Article 22 of the Law on Banking addresses the requirements for managers of banks and their qualification assessment. The Article defines managers of the bank as: the chairman of the board of the bank, his (her) deputy and members of the board, executive director, his (her) deputies, chief accountant and his (her) deputy, head of internal audit, members of the internal audit, members of bank's directorate, as well as heads of territorial and structural subdivisions of the bank (heads of department, division, unit), as well as employees of the departments having in the well-reasoned opinion of the CBA direct link to the main activities of the bank, or operating under immediate supervision of its executive director, or having any influence on decision-making process in the managing bodies of the bank, when satisfying the criteria determined by the CBA.

659. The parties mentioned above cannot be bank managers if:

- they have criminal record for deliberately committed crime;
- are deprived by court of the right to hold positions in financial, banking, tax, customs, commercial, economic, law areas;
- are recognized as bankrupt and have outstanding (unforgiven) liabilities;
- their qualification and professional integrity do not comply with the criteria determined by the CBA;
- they committed actions in the past that according to the guidelines established by the CBA and in the opinion of the CBA give grounds to suspect that the given person as bank manager is not able

to direct the relevant field of banking activity, or his action may cause the bankruptcy of the bank, deterioration of the financial state or undermining business reputation of the bank;

- are engaged in a criminal case as suspect, defendant or accused.

660. The CBA also has the right to determine the procedure for assessing the qualification and the criteria of their professional integrity. If goes further to indicate that the chairman or the member of the board of the bank cannot be at the same time the member of the executive body of the given bank or other employee, as well as a member of board of another bank or credit organization, a member of executive body or other employee, except for the case when the given bank or other bank or credit organization are related parties.

661. Likewise, the executive director of the bank, the deputy director, the chief accountant, members of directorate, the head of internal audit and its members cannot be at the same time an executive director of another bank, his (her) deputy, a chief accountant, a member of directorate, head of internal audit or its member.

Law on Insurance

662. Article 18 of the Law on Insurance establishes that the Board of the CBA may reject the application for a prior consent for acquisition of a qualifying holding in the statutory capital of insurance company, if:

- a natural person acquiring a qualifying holding has been convicted of a deliberately committed crime which has not been quashed or expunged as stipulated by law;

- the party acquiring a qualifying holding has not proved the legitimacy of the proceeds invested for the acquisition of the holding;

- a natural person acquiring a qualifying holding has been declared as disabled or partially disabled in the order stipulated by law;

- a natural person acquiring a qualifying holding has been, by a court judgment entered into force, deprived of the right to assume an office in financial, insurance, banking, tax, customs, commercial, economic or legal areas;

- the party was declared bankrupt and has outstanding liabilities;

- the acquisition of a qualifying holding is aimed at, or leads to, or may lead to, restriction of free economic competition;

- the party acquiring a qualifying holding or the parties affiliated thereto have in the past acted in a way that, according to the opinion of the Board of the CBA, it gives grounds to believe that the actions of the mentioned party as a member with a right to vote during the decision making of the highest management body of the insurance company, may lead to the bankruptcy or deterioration of the financial situation or compromise the business and professional reputation of the insurance company;

- the shareholder acquiring a qualifying holding in the statutory capital of insurance company as a result of a transaction aimed at obtaining a qualifying holding or the party affiliated thereto, according to the opinion of the Board of the CBA, does not have a sound financial position, or the financial standing of the party acquiring a qualifying holding or the party affiliated thereto may result in the deterioration of the financial situation of the insurance company, or the operations of the party acquiring a qualifying holding in the statutory capital of the insurance company or the party affiliated thereto or the nature of his relations with the insurance company, according to the justified opinion of the Board of the CBA, may impede the exercise of efficient supervision by the CBA or does not allow to identify or efficiently manage the risks of the insurance company;

- the documents were submitted with violations of the requirements defined by prudential regulations of the CBA or the documents or information submitted contain false or inaccurate data, or the documents are incomplete.

663. Article 22 addresses the professional adequacy and qualification of managers. Under this Article the CBA establishes the criteria for the standards for qualification and professional adequacy of the managers of insurance and reinsurance companies as well as insurance intermediaries, except for the heads of structural subdivisions, as well as procedure for testing the professional adequacy and qualification. It also provides that the professional adequacy and qualification of managers of the Company may be examined at the CBA if such is provided for under prudential regulations of the CBA.

664. With respect to fit and proper criteria for managers, Article 23 provides that a position of a manager of a Company may be assumed by any competent person who:

1) meets the professional adequacy and qualification standards defined by the CBA;

2) has not been quashed or expunged of criminal record provided for by law;

3) has not been deprived of the right to assume an office in financial, insurance, banking, tax, customs, commercial, economic, legal areas by a court decision;

4) has not been recognized bankrupt and has not outstanding liabilities;

5) has not in the past acted in a way that, according to the opinion of the Board of the CBA, it gives grounds to believe that the given person, in his capacity of a manager of an insurance company, cannot duly manage the relevant field of the activities of the insurance company or his actions may lead to the bankruptcy or deterioration of the financial situation of the insurance company or compromise the professional and business reputation thereof;

6) is not engaged in a criminal case as a suspect, accused or defendant.

665. It further states that the chairman or a member of the board of company shall not simultaneously be a member of the executive body or hold any other position in the given insurance company, as well as be a chairman or member of the board, a member of the executive body or hold any other position in another insurance company, except for the cases when both are parent and subsidiary companies.

666. Similar to the Law on Banking, the Law on Insurance states that the executive director, deputy executive director, chief accountant, members of the management body, the head or the members of internal audit group of company shall not simultaneously hold the same or other position in the given company or another insurance company.

Law on Credit Organizations

667. Article 9 of the Law on Credit Organizations addresses the managers of Credit Organizations, competences and qualifications. Paragraph 1 states that credit organization managers shall be the chairman of the board of the credit organization (board of directors or observers board) and its deputy and board members, executive director and its deputy, managing director and its deputy and members, chief accountant, its deputy, audit committee chairman, its deputy and audit committee members. Paragraph 2 further states that credit organization managers shall not be:

a) persons who have been already convicted of an intended crime;

b) persons who have been deprived by law of a right to hold positions in financial, banking, tax and customs duty, commercial, economic and legal areas;

c) persons recognized as insolvent and have unpaid liabilities;

d) persons whose qualification or professional skills do not comply with professional competences or eligibility criteria stated by the CBA;

e) persons who are arraigned for a crime as a suspect, accused or defendant;

f) persons who are by the laws of the RA recognized as disabled or partially disabled.

668. Paragraph 3 covers qualification and professional eligibility criteria for credit organizations managers and procedures for testing, which should be established by the CBA.

Law on Securities

669. Article 58 addresses the requirements for managers. Under paragraph 1, managers of the investment firm are the chairman and the members of the board of directors (observers council), the executive director and the members of the executive body, the deputy executive director, the chief accountant and the deputy chief accountant, the head and members of the internal audit, as well as the managers of regional and structural divisions. Paragraph 2 indicated that the following persons shall not act as managers of investment firms:

1) Persons deemed incapacitated or partially capable in accordance with the procedure defined by the law;

2) Persons who do not have the relevant professional qualification as specified in Point 2 of Article 50 in this Law;

3) Persons who in pursuance of the court decision are deprived of the right to hold position in financial, economic and legal fields in cases when it is explicitly stated in the court decision;

4) Persons declared bankrupt or having outstanding (bad) debts;

5) Persons engaged in past deed (activity or inactivity), which in the opinion of the CBA based on the guidelines set forth by regulations of the Central bank, makes room to believe that the given person, as a manager of the investment firm, is incapable to adequately manage the corresponding field of the investment firm's activity or his/her actions may lead to bankruptcy of the investment firm or deterioration of its financial position or destroy its authority and business reputation.

Foreign Exchange Bureaus

670. Chapter 3 of Regulation 43 establishes the qualification criteria and assessment. It states that an officer of exchange office shall hold a certificate of professional qualification issued by the Central Bank, which will be obtained once the following criteria are met:

a) knowledge of the currency laws and regulations of the Republic of Armenia;

b) knowledge of currency operations he performs.

671. This chapter also covers the assessment for professional integrity of the eligible parties which shall be conducted by the Licensing and Supervision Committee of the CBA (hereinafter referred to as 'the Committee') by using a computerized test- based method. An examination in writing involves a document of questions which is designed by the CBA, and changes and amendments thereto shall be approved by Chairman of the CBA. For participation in an assessment for professional integrity, applicants shall present the following documents to the CBA:

a) an application for participation in assessment (Form 8);

b) a receipt of payment of state duty for participation in assessment;

c) information on the exchange officer (Form 4); and

d) the copy of passport.

**Application of Prudential Regulations to AML/CFT (c. 23.4):**

672. All financial institutions under the regulation and supervision of the CBA are also subject to prudential supervision. As such, these institutions must maintain adequate risk management systems, an effective internal control structure, adequate recordkeeping systems and practices, and an independent internal audit function to test compliance with the requirements imposed by sector specific laws, regulations, as well as those imposed by the AML/CFT and its implementing regulations. There is also a requirement for annual external audits. There are no financial groups operating in Armenia.

**Licensing or Registration of Value Transfer/Exchange Services (c. 23.5); Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6); Licensing and AML/CFT Supervision of other Financial Institutions (c. 23.7):**

673. Money remitters and foreign exchange bureaus are licensed, regulated, and supervised by the CBA. As such, they are subject to all legal and regulatory obligations imposed by the CBA, including the obligations contained in the AML/CFT Law and Regulation on Minimal Requirements. Additional information is provided under SR.VI with respect to money/value transfer services.

**Analysis of effectiveness:**

674. The sector specific laws provide the legal framework for licensing financial institutions, the qualification for persons holding a manager or higher position within the institutions, and the "fit and proper" criteria applicable. The requirements in place are very similar for each type of institution. The Licensing Division of the Legal Department of the CBA is responsible for receiving, processing and conducting an evaluation of the adequacy of the application information provided, determining the source of funds and source of wealth of the applicants, and reviewing business plans.

675. As mentioned earlier, the Armenian financial system is overseen by the CBA. The Licensing Division of the Legal Department of the CBA is responsible for obtaining, evaluating and recommending the granting of licenses to financial institutions, as well as control over ownership and investments in financial institutions.

676. All regulated financial institutions require authorization from the CBA to operate in Armenia. Under their sector specific laws (Article 18 of the Law on Banking; Article 17 and 18 of the Law on Insurance; Article 10 of the Law on Credit Organizations; Articles 54 and 55 of the Law on Securities

Market; and Article 7 of the Law on Currency Control), these entities are subject to strict licensing requirements including the vetting of owners, directors and compliance officers for technical competence, solvency, and integrity. Staff from the Licensing Division, indicated that rigorous and extensive checks are conducted, including banking and personal references, evidence of financial capacity and integrity, verification of qualifications, declaration of beneficial ownership, professional experience, and criminal background checks (both with domestic and international law enforcement agencies). These procedures/checks are conducted for all and any individual requesting submitting a license application for banking, credit organizations, securities, insurance, money remitters, and foreign exchange offices. The process is the same for resident and non-resident applicants, with the only variation that in the case of non-resident, the Licensing Division conducts inquiries also through internet and to foreign competent supervisory authorities.

677. In addition to the background checks, all potential owners, directors, managers, and other key personnel are required to complete a declaration form certifying, among other things, that they have: i) no criminal record for a deliberately committed crime; ii) not been deprived by judgement or court verdict of the right to hold positions in financial, banking, tax, customs, commercial, economic, or legal areas; iii) not been held liable for a criminal offence as provided for in the Criminal Code of the Republic of Armenia; and iv) not been held liable for a criminal offence as provided for in criminal laws of other countries.

678. The declaration form referred to above is completed and signed by the potential owners with the understanding that any misstatements of any documents or facts shall entail criminal, administrative and disciplinary liability under the law. By signing this declaration, the individuals are also committed to notify the CBA of any change in the information provided. Once all the application process is completed, the decision to grant a license or not, is the ultimate responsibility of the Board of the CBA.

679. The following information received from the Licensing Division of the CBA reflects the number of applications received (Table 1), granted (Table 2), withdrawn (Table 3), declined (Table 4), and the number of licenses revoked (Table 5) by the CBA for the period of 2006-2008.

Table 1.

| **Number of applications Received** | | | |
|---|---|---|---|
| Financial Institutions | 2006 | 2007 | 2008 |
| Banks | 0 | 1 | 2 |
| Credit Organizations | 8 | 5 | 5 |
| Insurance Companies | 0 | 1 | 13* |
| Insurance Brokers | 0 | 2 | 7 |
| Investment Companies | 5 | 5 | 10 |
| Money Remittance Services | 3 | 8 | 4 |
| Processing and Clearing Companies | 0 | 5 | 2 |
| Pawnshops | 23 | 11 | 12 |
| Foreign Exchange Dealers | 1 | 4 | 1 |

| | | | |
|---|---|---|---|
| Exchange Bureaus | 96 | 26 | 28 |

* Two companies have also applied for a reinsurance license.

Table 2.

| **Number of licenses Granted** | | | |
|---|---|---|---|
| Financial Institutions | 2006 | 2007 | 2008 |
| Banks | 0 | 1 | 0 |
| Credit Organizations | 7 | 4 | 4 |
| Insurance Companies | 0 | 1 | 8 companies relicensed, 5* - licensed |
| Insurance Brokers | 0 | 0 | 6 |
| Investment Companies | 5 | 5 | 9 companies licensed, 1 – licensed |
| Money Remittance Services | 2 | 5 | 3 |
| Processing and Clearing Companies | 0 | 3 | 2 |
| Pawnshops | 16 | 9 | 10 |
| Foreign Exchange Dealers | 0 | 2 | 1 |
| Exchange Bureaus | 65 | 21 | 25 |

Table 3.

| **Number of applications Withdrawn** | | | |
|---|---|---|---|
| Financial Institutions | 2006 | 2007 | 2008 |
| Banks | 0 | 0 | 0 |
| Credit Organizations | 0 | 0 | 1 |
| Insurance Companies | 0 | 0 | 0 |
| Insurance Brokers | 0 | 0 | 1 |
| Investment Companies | 0 | 0 | 0 |
| Money Remittance Services | 0 | 1 | 0 |
| Processing and Clearing Companies | 0 | 0 | 0 |
| Pawnshops | 0 | 0 | 0 |
| Foreign Exchange Dealers | 0 | 0 | 0 |

| | | | |
|---|---|---|---|
| Exchange Bureaus | 0 | 0 | 0 |

Table 4.

| **Number of applications Declined** | | | |
|---|---|---|---|
| Financial Institutions | 2006 | 2007 | 2008 |
| Banks | 0 | 0 | 0 |
| Credit Organizations | 1 | 1 | 0 |
| Insurance Companies | 0 | 0 | 0 |
| Insurance Brokers | 0 | 2 | 0 |
| Investment Companies | 0 | 0 | 0 |
| Money Remittance Services | 01 | 2 | 1 |
| Processing and Clearing Companies | 0 | 2 | 0 |
| Pawnshops | 7 | 2 | 2 |
| Foreign Exchange Dealers | 1 | 2 | 0 |
| Exchange Bureaus | 31 | 5 | 3 |

Table 5.

| **Number of licenses Revoked** | | | |
|---|---|---|---|
| Financial Institutions | 2006 | 2007 | 2008 |
| Banks | 0 | 0 | |
| Credit Organizations | 0 | 0 | |
| Insurance Companies | 12*[1] | 8*[2] | 1*[3] |
| Insurance Brokers | 1 | 1 | 2 |
| Investment Companies | 1 | 9 | 8 |
| Money Remittance Services | 0 | 1 | 0 |
| Processing and Clearing Companies | 0 | 0 | 0 |
| Pawnshops | 12 | 8 | 3 |
| Foreign Exchange Dealers | 0 | 4 | 4 |
| Exchange Bureaus | 118 | 31 | 23 |

*[1] Six licenses were revoked pursuant to the applications submitted by the companies.

*[2] Six licenses were revoked pursuant to the applications submitted by the companies.

*[3] One license was revoked pursuant to the applications submitted by the companies.

680. The CBA, through the Financial Supervision Department, has been conducting AML/CFT supervision of financial institutions as part of its prudential supervisory activities. In 2008, the CBA authorities adopted and implemented a methodology for conducting risk-based supervision of banks for prudential and AML/CFT matters. The risk-based approach is part of a "Bank Risk Assessment System – BRAS", which is a supervisory tool for both off-site and on-site activities. It is aimed to assess and rate bank risk levels through the analysis of risks and risk management quality and producing a composite rating of bank risks which considers bank-related net risks and the bank's ability to manage them. As such, the supervision of banks is organized along business lines and functional activities. With respect to AML/CFT, the authorities indicated that the approach focuses on the review of compliance with the various requirements established in the law, regulations and other measures.

681. The general process for complex inspections, including for AML/CFT matters, generally involves planning based on input from off-site process, on-site visits, report writing communicating the results of the visit, corrective actions, and sanctions when necessary. While the CBA has adopted and developed a risk-based approach to supervision, in practice the focus on onsite examinations largely remains on legal compliance (with main emphasis placed on reporting of suspicious transaction reports and submission of reports for transactions exceeding the established thresholds) given that the examination procedures currently in used have not yet been updated to incorporate the established risk-based approach and the requirements of the new (2008) AML/CFT Law.

682. The mission reviewed copies of examination reports (excerpts), for (1) bank, (1) credit organization, (1) insurance company, and (3) foreign exchange offices, provided by the authorities. A review of the excerpts for the bank, the credit organization, and the insurance company revealed that CBA supervisors had identified numerous and significant shortcomings within these institutions including: lack of CDD measures for dealing with natural and legal foreign persons, non face-to-face and new technologies; lack of or inadequate compliance management arrangements; and inadequate internal control systems, including issues with lack of independence of compliance officer and internal audit. The reports provided on the foreign exchange offices focused mainly on non-compliance with CBA regulations and resolutions related to "licensing and regulation of foreign exchange transactions" and "procedures for issuing foreign exchange buy or sell transaction confirmation by specialized entities". Based on these results, the assessors call into question the overall effectiveness of financial institutions adequately implementing the obligations established by the AML/CFT law and regulations (preventive measures). The reports did not provide sufficient information for the mission to confirm whether sanctions had been imposed on these institutions for non-compliance based on the findings. The results of these inspections, validated the mission's concerns related to meetings with financial institutions visited where in general a low level of knowledge and awareness with respect to preventive measures particularly in institutions like credit organizations, insurance, securities, foreign exchange offices and money remitters was noted.

683. It is also important to note that no copies of examination reports for securities/investment firms were provided to the mission. The authorities however indicated that a decision was made, by the CBA, not to conduct onsite examinations of this sector for the period of January 1, 2008 through January 6, 2009. This decision/justification was based on two main factors: 1) the Securities Market law (amended on October 11, 2007 and enacted on February 28, 2008) required companies delivering brokerage services in the securities market to be re-registered and re-licensed as investment companies by June 30, 2008; and 2) there was no examination manual in place (the development of such manual was included in the 2009

work plan of the Department for Financial System Policy and Financial Sustainability – the annual work plan of the department was approved by the CBA on January 13, 2009).

The mission also reviewed copies of the examination manuals, currently used by the supervision team of the FSD of the CBA and noted the following:

| Sector | Off-site Activities – Manual in place? | Off-site Activities include procedures for AML/CFT? | On-site Examination Procedures – Manual in place? | On-site Examination Procedures include for AML/CFT? |
|---|---|---|---|---|
| Banks | Yes | No | Yes | Yes. However, these procedures were in line with the 2004 AML law. Procedures were outdated. |
| Credit Organizations | Note: CBA authorities indicated that the manual for Banks is also used/applicable to this sector, | No | See Note. | See Note. |
| Insurance companies | Yes | No | Yes | No |
| Securities/investment companies | None provided by the authorities. | Unable to determine. | No. – Authorities provided a "Draft Manual" presented to the CBA Administration Board on July 7, 2009, approximately 5 months after the onsite visit. | Yes – "Draft Manual incorporates procedures addressing AML/CFT measures. However, given its recent presentation to the Administration Board, it is too early to test effective implementation. |
| Foreign exchange offices | None provided by the authorities. | Unable to determine. | Yes | No. Just a general statement to review transactions to assess compliance with the AML/CFT |

| | | | | |
|---|---|---|---|---|
| | | | | and provisions of the Guidance on STR, and other legal acts. |
| Money remitters | None provided by the authorities. | Unable to determine. | None provided by the authorities. | Unable to determine. |

684. Considering the information contained in the table above, it is difficult for the assessors to determine the level of effectiveness of the FSD of the CBA in conducting adequate and effective surveillance activities and on-site inspections related to AML/CFT. It is also evident that supervisory manuals for banks and insurance companies need immediate updating to include AML/CFT procedures in line with the requirements of the 2008 Law and implementing regulations. In other cases, like for credit organizations, securities firms, foreign exchange offices, and money remitters, supervisory manuals are needed.

**Guidelines for Financial Institutions (c. 25.1):**

685. Article 10, paragraph 1(7) of the AML/CFT Law obliges the Authorized Body – the CBA, to adopt legal acts, approve guidelines, and promulgate typologies in the field of AML/CFT, in cooperation with reporting entities, supervisory and other bodies and organizations. Under this obligation, the CBA issued the "Guidance for Financial Institutions on Adopting the Risk-Based Approach for Combating Money Laundering and Terrorism Financing". This guidance is comprised of two Parts, Part I contained four chapters addressing: 1) country/geographic risk; 2) customer risk; 3) product/service risk; and 4) variables that may impact the perceived risk level; while Part II contains two charters addressing: 1) customer due diligence; and 2) risk level analysis and oversight.

**Analysis of effectiveness:**

686. Financial institutions were knowledgeable of the guidance issued by the CBA. However, while assessing other recommendations it became evident that additional guidance/guidelines were needed by financial institutions, particularly in the following areas:

- Determining the appropriate timeframe for updating customer data or information (in line with R.5 (c.5.7);

- Performing CDD measures, by financial institutions when applying simplified or reduced CDD measures (in line with R.5 (c.5.12);

- Conducing ongoing CDD throughout the course of the business relationship for regular customers (in line with R. 5.7.1) and enhanced ongoing monitoring on a PEP business relationship (in line with R.6 (c.6.4).

**Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1):**

687. The CBA is the legal entity and sole regulatory authority[39] of financial institutions (banks, foreign bank branches, credit organizations, payment and settlement organizations, security market participants,

[39] The CBA is also responsible for the licensing, regulation, and supervision of pawnshops.

investment companies, pawnshops and any other licensed parties to carry out activities in the financial sector) in Armenia. The CBA powers are vested under Article 2 of the Law on CBA. Article 5 of the Law on CBA establishes the objectives of the CBA, where some of the objectives of the CBA are:

- to arrange and regulate combating legalization of criminal proceeds and financing of terrorism (Article 5, paragraph 1(d));
- to license banks, as well as other entities, and regulate and supervise their activities (Article 5, paragraph 2(c)); and
- to regulate and supervise activities of payment and settlement system, including those of non-bank organizations, which provide such services (Article 5, paragraph 2(e)).

688. The AML/CFT Law and Regulation on Minimal Requirements subject the financial institutions to comply with requirements to identify the customers; conduct ongoing and enhanced customer due diligence; report suspicious transactions to the FMC; report transactions exceeding the established thresholds; maintain records; develop, adopt, and implement internal legal acts; scrutinize transactions; handle wire transfers; and establish internal compliance units. The law and regulations also provide for sanctions for non-compliance with the requirements. In this respect, the CBA is responsible for monitoring and ensuring compliance with respect to the AML/CFT requirements.

689. In addition to the supervisory powers granted by the Law on CBA, the AML/CFT law provides under Article 10, paragraph 1(9) that the authorized body (defined in Article 3, paragraph 11 of this law as the Central Bank) has the authority to "contribute to the supervision over reporting entities". Overall, the regulatory legal framework in place provide the CBA with comprehensive powers for supervision of financial institutions.

**Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2):**

690. The specific provisions of Chapter 5 (of the Law on Central Bank) provide the authority and the framework for the CBA to conduct inspections, supervision, and examinations as follows:

| **Chapter 5 - Article 39:** | **Activity as defined in Article** | **Department responsible** |
|---|---|---|
| Article 39[1] | Supervision and Inspections, Carried out by the Central Bank | Inspection Department[40] |
| Article 39[2] | Terms of Inspections | Inspection Department |
| Article 39[3] | Obligations of the Supervised Entity – Responsibility of the CBA | Inspection Department |
| Article 39[4] | Rights and liabilities of the inspection team | Inspection Department |
| Article 39[5] | Scope of Inspections and Follow-up | Inspection Department |
| Article 39[6] | Inspections of Branches of the Supervised Entity | Inspection Department |

[40] Article 39[1], paragraph 3 states that inspections are carried out by an authorized department of the CBA (referred to as the inspection department).

691. Article 39[1] also empowers the CBA to implement daily off-site supervision of supervised entities based on statements, references, submitted to the CBA by supervised entities, and other documents or information, as required by law, normative regulations of the CBA and by the CBA Board, Chairman or inspection department, based on the CBA normative regulations.

692. Supervision of financial institutions is conducted by the Financial Supervision Department (FSD) of the CBA through the following divisions:

- FSD 1, 2, and 3 – responsible for Banks;
- FSD 4 and 5 – responsible for Insurance companies;
- FSD 6 – responsible for Securities/Investment firms and Central Depository;
- FSD – responsible for IT and Money transfer services;
- FSD – responsible for Credit Organizations and Pawnshops; and
- FSD – responsible for Foreign Exchange Offices.

693. The following table reflects the onsite inspections conducted by the CBA for the periods indicated.

| **Financial Institution** [41] | **Number** | **2006** | **2007** | **2008** |
|---|---|---|---|---|
| Banks | 22 | 5 | 3 | 6a |
| Credit Organizations | 25 | 4 | 4 | 5b |
| Dealers-brokers in foreign currency | 2 | 3 | 3 | 0 |
| Dealers in foreign currency (Exchange offices) | 288 | 529 | 399 | 191f |
| Money transfer services (money remitters) | 11 | 0 | 3 | 3 |
| Securities/Investment firms | 10 | 3 | 9 | 1d |
| Central Depository | 1 | 1 | 1 | 0 |
| Insurance & re-insurance companies | 11 | 3 | 3 | 3c |
| Insurance intermediaries | 5 | 2 | 2 | 0 |
| Pawnshops | 71 | 26 | 30 | 24e |
| Total: | 446 | | | |

a - Of which 5 were inspected under the 2004 Law, and 1 - under the 2008 Law
b - Of which 3 were inspected under the 2004 Law, and 2 - under the 2008 Law

[41] The Central Depository was inspected in 2006 and 2007; however during these inspections compliance with AML legislation was not examined, since the Central Depository was not a reporting person under the 2004 AML/CFT Law – it became a reporting person under the 2008 AML/CFT Law.

c - Of which 1 were inspected under the 2004 Law, and 2 - under the 2008 Law
d - The company was inspected under the 2008 Law
e - Of which 18 were inspected under the 2004 Law, and 6 - under the 2008 Law
f - Of which 64 were inspected under the 2004 Law, and 127 - under the 2008 Law

694. CBA authorities stated that in practice the annual inspection program included inspecting all institutions at least once a year (with foreign exchange offices receiving more frequent onsite visits). However, based on the table above, it seems that the number of institutions inspected annually is not in line with the practice indicated by the authorities. Based on this information, it would take the CBA approximately four years to inspect all banks, credit organizations, money remitters, and insurance companies and intermediaries. For the inspections conducted, the authorities indicated that on average four to six supervisors were assigned to bank inspections; three supervisors to credit organizations inspections; four to five supervisors to insurance companies; two supervisors to investment companies; two supervisors to pawnshops; and two supervisors to money remitters and foreign exchange offices.

**Power for Supervisors to Compel Production of Records (c. 29.3 & 29.3.1):**

695. The CBA, as the competent supervisory authority in AML/CFT matters, has adequate powers to compel production of or to obtain access to all books, records and other information relevant to monitoring compliance with the obligation imposed by the AML/CFT Law and implementing regulations. In addition, Article $39^{3}$ of the Law on CBA states that the supervised entity must observe lawful requirements of the head and members of the inspection team and must deliver explanations, information and clarifications, in writing or verbatim, to the head and members of the inspection team regarding the documents and information subject to inspection. Article $39^{4}$, empowers the inspection team to demand necessary documents from the supervised entity, its managers and relevant staff, even if such documents contain banking, commercial or other secrecy. As such, the CBA's inspection team access to information is not predicated on the need to require a court order.

**Powers of Enforcement & Sanction (c. 29.4):**

696. The powers of enforcement and sanction against financial institutions, and their directors or senior management for failure to comply with or properly implement requirements to combat ML and TF are granted under Article 27, paragraph 2 of the AML/CFT Law. Under this Article, the imposition of sanctions falls under the sector specific legislation governing the financial institutions' activities as follows:

| Financial Institutions | Legislation | Sanctions available |
|---|---|---|
| Banks, branches and representative offices of foreign banks. | Law on Banking – Articles 60 through 65 | -warnings and directives to eliminate infringements<br>-fines<br>-deprivation of the qualification certificate<br>-nullification of the license |
| Credit Organizations, including credit unions, savings unions, leasing and factoring organizations, and other credit organizations. | Law on Credit Organizations – Articles 18 & 19 | -warnings and remedial sanctions to liquidate the infractions<br>-fines<br>-disqualification and revocation |

| | | |
|---|---|---|
| | | of manager's certificate<br>-revocation of license |
| Entities performing currency transactions | Law on Currency Control – Article 10 | -warnings and directives to eliminate infringements<br>-fines<br>-revocation of activity license |
| Payment and settlement systems (PSS) and Payment and settlement organizations (PSO) | Law on Remittance Systems – Articles 26 & 27 | -warnings and assignments to remedy infringement<br>-fines towards PSO or its manager<br>-withdrawal of certificate of qualification for manager of PSO<br>-suspension of validity of license<br>-revocation of license |
| Persons who issue and invest in securities, regulated market of securities and the field of non-regulated trade, and the Central Depository | Law on Securities Market – Article 209 | -warnings to correct the violations<br>-fines<br>-revocation of license<br>-deprivation of the professional qualification |
| Insurance and re-insurance companies, insurance and re-insurance intermediaries and other relations associated with insurance | Law on Insurance – Article 145 | -warnings and instructions to remedy the violations<br>-fines<br>-depriving the manager or official of the qualification certificate<br>-revocation of the activity license |

**Analysis of effectiveness:**

697. The CBA is empowered to conduct AML/CFT supervision of financial institutions under its jurisdiction and to request and have access to information it considers necessary to perform its supervisory mandate. It is evident that since 2006, the CBA Financial Supervision Department has concentrated its efforts and resources in conducting more frequent onsite inspections of foreign exchange offices; however, the frequency of inspections with respect to banks, credit organizations, money transfers services (money remitters) and securities/investment firms, for the same period, calls into question the effectiveness of implementation.

698. The mission also reviewed copies of the inspection manual for banking activities and determined that the procedures in this manual dated back to 2007, which appear to be in line with the requirements of the former (2004) AML Law. The authorities indicated that the same manual was used when inspecting credit organizations. Examination manuals (in Armenian text) for the securities, money remitters, insurance, and foreign exchange offices were provided by the authorities. However, a closer review of these manuals revealed that except for the examination manual for banking activities (which is also used

for credit organizations) there were no examination procedures covering both off- and on-site AML/CFT activities for the insurance, securities, foreign exchange offices, and money remitters' sectors.

**Recommendation 17**

699. Legal framework: AML/CFT Law, Law on Central Bank, Law on Banking, Law on Credit Organizations, Law on Currency Control, Law on Remittance Systems, Law on Securities Market, Law on Insurance, and Administrative Offences Code.

**Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1) and Range of Sanctions—Scope and Proportionality (c. 17.4):**

700. Article 27 of the AML/CFT Law, establishes the administrative sanctioning regime applicable in the case of non compliance to the obligations set forth in the AML/CFT law or in the legal acts adopted on the basis of this law. This regime is differentiated on the type of reporting entity: if the reporting entity is a financial institution, the infringement of the requirements of the AML/CFT Law will be subject to the sanctions established under the legislation regulating their activity, in the manner established by the sector specific legislation (Article 27, paragraph 2); if the infringement is committed by a non financial institution that is a legal person (as defined by Article 6, paragraph 6 of the AML/CFT law), the relevant sanction is directly established by Article 27, paragraph 3. Finally, for non financial institutions or individuals that are natural persons will trigger the sanctions established by the Code of Administrative Violations.

701. Therefore, in the case of financial institutions, sanctions for noncompliance with respect to obligations set forth in the AML/CFT law are covered in the following legislations:

| Sector | Legislation | Sanctions |
|---|---|---|
| | Law on Central Bank – Article 39 | |
| Banks, branches and representative offices of foreign banks. | Law on Banking – Articles 60 – 65 | -warning and assignment to remedy the infringement<br>-fine imposed on the institution and/or the manager<br>-revocation of the qualification certificate of the manager<br>-revocation of the institution's license |
| Credit Organizations, including credit unions, savings unions, leasing and factoring organizations, and other credit organizations. | Law on Credit Organizations – Articles 18 & 19 | -warning and assignment to remedy the infringement<br>-fine imposed on the institution and/or manager<br>-revocation of the qualification certificate of the manager<br>-revocation of the institution's license |
| Entities performing currency transactions | Law on Currency Control – Article 10 | -warning and assignment to remedy the infringement<br>-fine imposed on the institution and/or manager |

| | | |
|---|---|---|
| | | -revocation of the institution's license |
| Payment and settlement systems (PSS) and Payment and settlement organizations (PSO) | Law on Remittance Systems – Articles 26 & 27 | -warning and assignment to remedy the infringement<br>-fine imposed on the institution and/or the manager<br>-revocation of the qualification certificate of the manager<br>-suspension of the institution's license<br>-revocation of the institution's license |
| Persons who issue and invest in securities, regulated market of securities and the field of non-regulated trade, and the Central Depository | Law on Securities Market – Article 209 | -warning and assignment to remedy the infringement<br>-fine imposed on the institution and/or the manager<br>-revocation of the institution's license<br>-revocation of the qualification certificate of the manager |
| Insurance and re-insurance companies, insurance and re-insurance intermediaries and other relations associated with insurance | Law on Insurance – Article 145 | -warning and assignment to remedy the infringement<br>-fine imposed on the institution and/or the manager<br>-revocation of the qualification certificate of the manager<br>-revocation of the institution's license |
| | | |

702. Article 27 of the AML/CFT Law addresses the responsibility for infringing the Law and legal acts adopted on the basis of the Law in the case of non financial institutions that are legal persons. Under paragraph 2 of this Article, legal persons (financial institutions) are subject to the following penalties for noncompliance with the obligations established by the AML/CFT Law and legal acts.

| Infringement of: | Sanction applicable: | Sanctioning Authority |
|---|---|---|
| Article 5 Part 1 (1 & 2) of the AML/CFT Law | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 500-fold amount of the minimal salary | CBA |
| Article 5 Part 1(3) | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 1000-fold amount of minimal salary | CBA |
| Article 5 Part 3 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 800-fold amount of the minimal salary | CBA |

| | | |
|---|---|---|
| Article 10 Part 1 (4 & 6) | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 500-fold of the minimal salary | CBA |
| Article 15 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 800-fold of the minimal salary | CBA |
| Article 16 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 800-fold of the minimal salary | CBA |
| Article 19 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 800-fold of the minimal salary | CBA |
| Article 20 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 600-fold of the minimal salary | CBA |
| Article 21 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 200-fold of the minimal salary | CBA |
| Article 22 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 800-fold of the minimal salary | CBA |
| Article 23 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 500-fold of the minimal salary | CBA |
| Article 24 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 700-fold of the minimal salary | CBA |
| Article 25 | -Warning and assignment to remedy the infringement; and/or<br>-Penalty of 2000-fold of the minimal salary | CBA |

703. Finally, the sanctions for non-financial institutions or individuals with a status of a natural person are stipulated by the Code on Administrative Violations. Article 165, paragraph 9 of the Code on Administrative Violations provides for the same sanctions for noncompliance as listed above.

704. The AML/CFT Law and the Code on Administrative Violations provide under Article 27, paragraph 8 and Article 165.9, paragraph 2, respectively, that infringements by government officials should carry a sanction in the form of a penalty at 200-fold amount of the minimal salary. The authorities stated that the minimal salary for the calculation of sanctions was established at 1,000 drams (equivalent to approximately US$3.25).

**Designation of Authority to Impose Sanctions (c. 17.2):**

705. Within the functions and authorities vested on the Authorized Body, Article 10, paragraph 1(11) of the AML/CFT Law and paragraph 3 empowers the board of the CBA to impose the sanctions, as established by Law, on financial institutions and legal persons, as well as file a petition for imposing sanctions on reporting entities in cases established by this Law.

706. Article 27, paragraph 5, establishes that in the case of "non financial institutions or individuals" the responsibility to apply the sanctions, as regulated by the Code of Administrative Violations, is vested in the authorities that have supervisory responsibilities over these subjects. The supervisory responsibility is defined with reference to the power of licensing or appointing these subjects. However "supervisory authorities" are defined in a broader way in the AML/CFT Law (Article 3, paragraph 1(7)).

707. If such non financial institutions or individuals are not subject to licensing or appointing requirements the responsibility to issue sanctions falls with the supreme management of the CBA (paragraph 6).

**Ability to Sanction Directors & Senior Management of Financial Institutions (c. 17.3):**

708. Sanctions are available to both legal and natural persons (including managers, directors, senior/executive management, and other officials of the reporting entity) under Article 27, paragraphs 3 & 4 of the AML/CFT Law, as well as under each of the sector specific legislations including: Article 39, paragraph 7 of the Law on CBA; Article 61, paragraph 3 of the Law on Banking; Article 19, paragraph 2 of the Law on Credit Organizations; Article 10 of Law on Currency Control; Article 27, paragraph 1 of the Law on Remittance Systems; Article 213 of the Law on Securities Market; and Article 145, paragraph 3 of the Law on Insurance.

**Analysis of implementation:**

709. The AML/CFT Law empowers the CBA with the obligation to sanction financial institutions, employees, managers, officers, and senior management for non-compliance with the requirements of the law and implementing regulations. The sanctions to be imposed are covered under sector specific legislations. The range of sanctions available to the CBA, as the sole competent authority, include warnings, fines, revocation of qualification certificate, and revocation of the license, which are considered proportionate. Although this range of sanctions appears somehow limited, in practice when the CBA addresses AML/CFT infringements, the CBA evaluates the infringement in relation to prudential matters and makes a determination on a case-by-case basis and based on the severity and recurrence of the AML/CFT Law infringement.

710. The CBA has exercised these sanctioning powers several times with respect to both prudential and AML/CFT non-compliance issues, including assessing fine for AML/CFT non-compliance range from 50,000 drams to 17,500,000 drams, which are considered also proportionate and dissuasive.

711. 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 CC, if the conduct amounts, for example, to aiding or abetting ML or TF (including attempt).

712. The table below reflects some of the numerous sanctions imposed by the CBA on financial institutions for non-compliance with AML/CFT preventive measures.

| Type of financial institutions sanctioned | Date | Measures undertaken | Amount of fine (AMD) |
|---|---|---|---|
| Insurance company | 12/30/08 | Warning with assignment to take measures aimed at prevention of such violations in the future | 0 |

| | | | |
|---|---|---|---|
| Credit organization | 11/10/08 | Fine and warning with assignment to take measures aimed at prevention of such violations in the future | 100,000 |
| Credit organization | 10/29/08 | Warning with assignment to take measures aimed at prevention of such violations in the future | 0 |
| Bank | 12/25/07 | Fine | 200,000 |
| Bank | 12/26/07 | Warning with assignment to take measures aimed at prevention of such violations in the future | 0 |
| Bank | 10/30/07 | Fine | 200,000 |
| Credit organization | 9/11/07 | Warning with assignment to take measures aimed at prevention of such violations in the future | 0 |
| Bank | 8/21/07 | Fine | 200,000 |

713. Based on information provided by the authorities, the CBA imposed the following sanctions on financial institutions:

| Type of financial institution sanctioned | Date | Measures undertaken | Total amount of fines (AMD) imposed |
|---|---|---|---|
| 13 Banks | 2008 | Warnings and Fines | 300,000 |
| 12 Banks | 2007 | Warnings and Fines | 650,000 |
| 1 Bank | 2006 | Fine | 18,500,000 |
| | | | |
| 2 Credit organizations | 2008 | Warnings and Fines | 100,000 |
| 1 Credit organization | 2007 | Warning | 0 |
| | | | |
| 3 Insurance companies | 2008 | Warnings | 0 |

### 3.10.2. Recommendations and Comments

- Strengthen AML/CFT supervision through the incorporation of risk elements to the overall supervisory cycle and in particular update the supervisory examination procedures to incorporate the; risk-based approach to supervision and the requirements of the new (2008) AML/CFT Law;

- Ensure that financial institutions, particularly, credit organizations, insurance, securities, foreign exchange offices and money remitters are adequately complying with the requirements to combat money laundering and terrorist financing;

- Conduct frequent and ongoing AML/CFT inspections of banks organizations, money transfers services (money remitters) and securities/investment firms;

- Update the AML/CFT examination procedures for all sectors in line with the requirements of the new AML/CFT Law (2008).

- Provide additional guidance/guidelines to financial institutions, particularly in the following areas:

- Determining the appropriate timeframe for updating customer data or information; and

- Conducing ongoing CDD throughout the course of the business relationship for regular customers and enhanced ongoing monitoring on a PEP business relationship.

### 3.10.3. Compliance with Recommendations 17, 23, 25 & 29

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.17** | **C** | |
| **R.23** | **LC** | • Low level of compliance and effectiveness of preventive measures by financial institutions in the system, particularly credit organizations, insurance, securities, foreign exchange offices and money remitters.<br>• Outdated examination procedures in place, for all sectors, do not reflect the requirements of the new (2008) AML/CFT Law. |
| **R.25** | **LC** | • No guidance issued to assist financial institutions in the effective implementation of obligations dealing with updating customer data/information; and conducting ongoing due diligence for regular customers and enhanced ongoing monitoring of PEP relationships.<br>• No specific guidance on typologies of FT, nor on freezing obligations. |
| **R.29** | **LC** | • Partial implementation of inspections for banks, credit organizations, money transfers services (money remitters) and securities/investment firms as provided by law.<br>• Lack of updated and effective supervisory inspections procedures in relation to the 2008 new AML/CFT Law. |

## 3.11. Money or Value Transfer Services (SR.VI)

### 3.11.1. Description and Analysis (summary)

Legal Framework: Law on Central Bank, Law on Remittance Systems, and Regulation 16

**Designation of Registration or Licensing Authority (c. VI.1); Application of FATF Recommendations (applying R.4-11, 13-15 & 21-23, & SRI-IX)(c. VI.2); and Sanctions (applying c. 17.1-17.4 in R.17)(c. VI.5):**

714. Under Article 5, paragraph 2(c) & 2(e) of the Central Bank Law, the CBA is responsible for the licensing, regulation and supervision (including for compliance with the licensing requirements) of

money or value transfer (MVT) service operators. In Armenia, these entities operate as money remitters. In addition, Chapter 2 of the CBA Resolution 16 addresses the licensing requirements of Money Transfer Organizations, which are described under R.23.

715. MVT/money remitters are listed under Article 3, paragraph 4(d) of the AML/CFT Law as reporting entities and subject to all obligations imposed by this law, including:

- Customer identification (Article 15);
- Ongoing and enhanced customer due diligence (Articles 16 & 19, respectively);
- Reporting suspicious transactions to the FMC (Article 5);
- Reporting transactions exceeding established thresholds (Article 5);
- Record keeping (Article 20);
- Internal legal acts (Article 21);
- Scrutiny of transactions (Article 8);
- Wire transfers (Article 18);
- Sanctions for infringements (Article 27);
- Internal compliance unit (Article 22); and
- Pay attention to complex and large transactions.

716. The Law on Remittance Systems - "Payment and Settlement Systems and Payment and Settlement Organizations" defines two types of entities: 1) payment and settlement systems (PSS); and 2) payment and settlement organizations (PSO). These two types of entities are defined in the following manner:

- PSS: a system entirety (generality) of payment instruments, of common rules, procedures and supportive technical and program facilities for implementation of clearing, transfer of funds and execution of final settlement, which is used to provide a payment to a beneficiary. Rules for PSS operation are considered a component of regulation of PSS activities, which are subject to approval by a management body of the PSS operator; and
- PSOs are, as described in Article 19 of this law, a legal entity having received a license as required under this law and CBA normative regulations to render payment and settlement services.

717. As of the mission date, there were eight licensed money remitters operating in Armenia. The list of licensed money remitters is maintained by the Licensing Division of the Legal Department of the CBA and by the Financial Supervision Department, which is responsible for its regulation and supervision. Anecdotal evidence revealed that a money remitter appears to be operating in Yerevan, Armenia without a license and not subject to the regulation and supervision of the CBA. CBA officials indicated that they are not aware of any such money remitter operating in Armenia.

**Monitoring of Value Transfer Service Operators (c. VI.3):**

718. As indicated above, the CBA is responsible for the supervision of these money remitters (which are included in the list of reporting entities under the Armenian regime) to ensure compliance with the obligations imposed by the AML/CFT Law and the Regulation on Minimal Requirements. In addition, Article 24 of the Law on Remittance Systems addresses oversight of PSO activities where it states that the CBA is exclusively authorized to exercise oversight of PSO in connection with rendering payment and settlement services. Article 24, paragraph 1 of the Law on Remittance System states that the CBA should exercise oversight as required by the Law on Central Bank and CBA normative regulations. It further states under paragraph 2 of the same Article that the CBA staff should carry out examinations and inspections in PSO pursuant to the Law on Central Bank and as per procedure, terms and conditions, event and frequency determined by CBA.

**List of Agents (c. VI.4):**

719. There is no requirement for money remitters to maintain a current list of their agents and that such list is made available to the designated competent authority (which, in this case, is the CBA). Nevertheless, because money remitters and agents are required to register with and obtain permission from the CBA to conduct their activities, a list is maintained by the CBA.

**Sanctions (applying c. 17.1-17.4 in R.17)(c. VI.5):**

720. As described under R.17, Article 27 of the AML/CFT Law establishes the sanction regime applicable to money remitters in the case of non-compliance with the obligations set forth in the law or in the legal acts adopted on the basis of the AML/CFT Law. Article 27, paragraph 2 states that if the reporting entity is a financial institution, the infringement of the requirements of the AML/CFT Law will be subject to the sanctions established under the legislation regulating their activity, in the case of money remitters the legislation regulating their activities is the Law on Remittance System. The table below shows the range of sanctions available, per the Law on Remittance System.

| | | |
|---|---|---|
| Payment and settlement systems (PSS) and Payment and settlement organizations (PSO) | Law on Remittance Systems – Articles 26 &27 | -warnings and assignments to remedy infringement<br>-fines towards PSO or its manager<br>-withdrawal of certificate of qualification for manager of PSO<br>-suspension of validity of license<br>-revocation of license |

721. Although the sanctions above are applicable to infringements related to prudential matters, infringements of the AML/CFT Law and Regulations on Minimal Requirements are sanctioned under Article 27 of the AML/CFT Law (refer to analysis of R.17 for a detailed description of the sanctioning regime).

722. Money remitters are subject to all the obligations imposed by the AML/CFT Law and implementing regulation. Because they are licensed by the CBA, they are also subject to regulation and supervision by the CBA Supervision Department. There is no requirement for money remitters to

maintain a current list of their agents and that such list is made available to the designated competent authority (which, in this case, is the CBA).

**Analysis of effectiveness:**

723. Money remitters are considered reporting entities and subject to all the provisions established by the AML/CFT Law and implementing regulation (Regulation on Minimal Requirements), including sanctions. The CBA maintains a list of the licensed money remitters operating in the system, including a list of the money remitters' agents and subagents. In practice, the money remitters visited, acting as sub-agents maintained a list of their agents, mostly two banks, which are also under the supervision and regulation of the CBA. With respect to their activities, money remitters activities are limited to conducting money remittance services to natural persons only. The CBA license does not allow them to transact with legal persons or to act as an exchange bureau, for this, a separate license is needed.

Additional Element—Applying Best Practices Paper for SR VI (c. VI.6):

724. The authorities have adopted a number of the measures addressed in the Best Practices paper for SR. VI, including:

- Extending all the obligations of the AML/CFT Law and Regulations on Minimal Requirements to money remitters, which are considered reporting entities;
- Money remitters are required to be licensed by the CBA and subject to regulation and supervision by the CBA;
- Money remitters are required to provide the CBA, during the licensing process of their business address;
- Money remitters are subject to sanctions for non-compliance with the AML/CFT Law and Regulations.

### 3.11.2. Recommendations and Comments

- It is recommended that the authorities follow up on the money remitter that appears to be informally operating in the financial system without CBA registration and approval.

### 3.11.3. Compliance with Special Recommendation VI

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **SR.VI** | **LC** | • Potential scope for abuse through the unauthorized money remitter informally operating in the financial system. |

## 4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

### 4.1. Customer Due Diligence and Record-keeping (R.12)

### 4.1.1. Description and analysis

725. All DNFBPs, by the FATF Glossary definition of designated non financial businesses and professions, are defined as "non-financial institutions or persons" and are 'reporting entities', pursuant to Article 3 of the AML/CFT Law and subject to the AML/CFT requirements envisaged thereof. The scope of application of the obligations and requirements established by the AML/CFT Law varies in accordance to the type of DNFBP.

726. Article 3, paragraph 4 (letters *i*-*s*) of the AML/CFT Law lists the following DNFBPs as "reporting entities":

- realtors (real estate agents);
- notaries;
- advocates (attorneys), as well as independent lawyers and firms providing legal services;
- independent accountants and accounting firms;
- independent auditors and auditing firms;
- dealers in precious metals;
- dealers in precious stones;
- persons and casinos organizing prize games and lotteries, including the persons organizing internet prize games;
- trust and company service providers.

727. Whilst for financial institutions additional regulations (the Regulation on Minimal Requirements) and guidance (the Risk Based Guidance) underpin the AML/CFT Law, these are not applicable in the case of DNFBPs. For DNFBPs with less than 10 employees, certain obligations of the AML/CFT Law are disapplied such as the requirement to have in place internal legal acts such as policies, rules, procedures, instructions, or regulations (Article 21) or to have an external audit to check the extent of implementation

and effectiveness of legislation on combating money laundering and terrorism financing (Article 23.2). Risks remain despite the number of employees, and no assessment by authorities has been undertaken in relation to risks or impact in this regard.

728. A number of DNFBP activities and professions have specific laws in relation to their professional licensing and operations though these laws do not contain any additional ML/TF obligations. Additionally, no SRO has issued requirements directly in relation to ML and TF other than the code of ethics that members are to abide by.

729. **Legal Framework:** Republic of Armenia Law on Combating Money Laundering and Terrorism Financing; Republic of Armenia Law on Prize Games and Casinos; Republic of Armenia Law on Audit Activities; Republic of Armenia Law on Accounting; Republic of Armenia Law on State Registration of Property Rights; Republic of Armenia Law on Notarial System; Republic of Armenia Law on Precious Metals; Republic of Armenia Law on State Registration of Legal Entities; Republic of Armenia Law on Licensing; Republic of Armenia Law on Advocacy.

**CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1):**

730. The requirement to undertake CDD measures by DNFBPs is set forth in Article 15, paragraph 12 of the AML/CFT Law and is differentiated by the type of DNFBP and type/size of a transaction, as follows:

- Real estate agents are required to apply CDD only with regard to the transactions related to buying and selling of real estate for their clients;

- Attorneys, persons providing legal services, notaries, independent auditors and auditing firms, independent accountants and accounting firms must undertake customer due diligence for transactions prepared or carried out for their clients only in the:

    - buying and selling of real estate;

    - managing of client money, securities or other assets;

    - managing of bank accounts;

    - provision of funds or other assets for establishment, operation, or management of legal persons;

    - the establishment, operation or management of legal persons as well as the acquisition or sales of stocks or shares, over 20 million drams (USD52,000 at the time of assessment) or 75 percent of authorized capital of a legal entity.

731. The requirements are not extended to the management of bank, savings or securities accounts.

732. For dealers in precious metals and stones (including dealers in artworks and organizers of auctions), the threshold for CDD is a cash transaction above 5million dram (USD13,000).

733. For casinos and operators of prize games, the CDD threshold is for transactions above 1 million drams (USD2,600) and transactions include the purchase of chips, making of stake and collection of winnings. No provisions apply for accumulative or aggregated transactions which may reach or exceed the monetary threshold; however Article 6, paragraph 3(5) of the AML/CFT Law alerts the reporting

entity to the event where the customer may keep the value of the transactions lower than the threshold to avoid being identified. The industry advised that transactions above 1 million drams are negligible though all were aware of the designated threshold and the requirements contained in the Law however with minimal understanding of the provisions contained in Article 6 and no application of accumulative or aggregated transactions.

734. For trust and company service providers when they act as a formation agent (of legal persons) in rendering company registration services; act or arrange for another person to act as a director of a company, a partner of a partnership, or perform similar functions of a legal person's management; provide accommodation (operational, correspondence or administrative address) to a legal person; act or arrange for another person to act as a trust manager of an express trust; act or arrange for another person to act as a nominee shareholder for another legal person.

**Prohibition of Anonymous Accounts (c. 5.1):**

735. No permissions exist in the laws, rules or regulations for DNFBP to open or maintain anonymous or fictitious accounts, or to open or operate accounts on behalf of customers, anonymous or otherwise. DFNBPs interviewed by the mission confirmed that they do not maintain such type of accounts.

**When is CDD required (c. 5.2):**

736. The analysis of CDD requirements for FIs set forth in the AML/CFT Law in Section 3 is applicable to DNFBPs including the obligation for customer identification.

**Identification measures and verification sources (c. 5.3):**

737. The obligations of DNFBPs in relation to identification measures and verification sources are pursuant to Article 15(2) of the AML/CFT Law to identify the customer and verify the identity, based on reliable documents, as detailed in Section 3.2. This is irrespective of whether the business relationship with the customer is established or an occasional transaction.

**Identification of Legal Persons or Other Arrangements (c. 5.4):**

738. The analysis in section 3.2 of this report applies equally to DNFBPs. For legal persons or other arrangements notaries and auditors utilize the state registration certificate issued by the State Register and in some instances, the taxpayer identification number for identification and verification. Notaries are required to verify the identity of the representative of the legal entity, pursuant to Article 40 of the Law on Notarial System. The documentation used to identity and verify a natural person are most commonly either the original of the passport, a military identification card, passport and residency visa for foreigners.

**Identification of Beneficial Owners (c. 5.5; 5.5.1 & 5.5.2):**

739. The identification of beneficial owners, pursuant to Article 15, paragraph 4 of the AML/CFT Law, discussed in Section 3.2 of this report, applies equally for DNFBPs. A number of auditors in practice identify beneficial owners before accepting a new client due to their internal client take-on procedures and the obligations stipulated by the Law on Audit which requires information in relation to the ownership structure.

**Information on Purpose and Nature of Business Relationship (c. 5.6):**

740. There is no requirement in the AML/CFT Law for reporting entities to obtain information on the purpose and intended nature of the business relationships. Further, regulations, rules or guidance have not been issued to DNFBPs in relation to this criterion and as such this criterion is not satisfied.

**Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 & 5.7.2):**

741. Article 16 of the AML/CFT Law requires DNFBPs to conduct ongoing due diligence throughout the course of the business relationship including the monitoring of transactions for the veracity of the information on the customer, the business and risk profile and where necessary, the source of income. Both of these provisions should be supplemented by guidance (as, for example, they do not outline any frequency requirements or any triggers for a review).

742. DNFBPs are required to update the data obtained for customer identification in the business relationship, with the frequency for updating such data to be determined by the reporting entity, pursuant to paragraph 2(16) of the AML/CFT Law. However, the requirement is too general with respect to the frequency for updating data. There are no additional laws, regulations or rules for DNFBPs to give further obligations to these requirements.

743. Auditors interviewed advised that they practice such ongoing due diligence due to their internal protocols and the requirements contained in the Law on Audit. No other DNFBP actively undertook ongoing due diligence or were aware of the obligations.

**Risk—Enhanced Due Diligence for Higher Risk Customers (c. 5.8):**

744. Article 15, paragraph 7 of the AML/CFT law states that in the case of the presence of "high risk criteria", reporting entities should take adequate measures to the risks of ML and TF. The remaining obligations in paragraph 7, applicable to financial institutions only, cover aspects of having in place internal legal acts (policies, procedures) to consider if the customer or family is a PEP or whether there are other high risk criteria. Then paragraph 8 of the same Article, states that in the presence of high risk criteria, "financial institutions" should perform enhanced due diligence. The provision is, therefore, not applicable to DNFBPs and the obligations for enhanced due diligence for DNFBPs are deficient.

745. DNFBPs undertook transactions with and from non-resident customers. Lawyers, accountants, auditors, notaries and real estate agents regularly undertook transactions with legal persons. However, the concept of enhanced due diligence was poorly understood by DNFBPs.

746. Further, there has been no additional criteria issued by the authorities by way of law, rules, regulations or guidance applicable to DNFBPs to apply enhanced due diligence and the requirement to apply enhanced due diligence for higher risk customers, business relationships or transactions, as required by the criterion, is not met.

**Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9):**

747. Article 15, paragraph 6 of the AML/CFT Law provides DNFBPs with the option to perform simplified customer due diligence in the presence of low risk criteria, as detailed in Section 3.2 of this report. No additional guidance/training is in place to assist DNFBPs to apply this approach.

748. The concept of reduced due diligence was not understood by DNFBPs who advised that they apply what is required by the law to all customers and transactions.

**Risk—Simplification / Reduction of CDD Measures relating to overseas residents (c. 5.10):**

749. The AML/CFT Law sets the requirements for simplified CDD based on low risk criteria, as described in Section 3.2. However, these provisions fall short of indicating whether reporting entities (including DNFBPs) located in Armenia, are permitted to apply simplified or reduced CDD measures to customers resident in another country, and if so, that practice be limited to countries where the original

country (Armenia) is satisfied are in compliance with and have effectively implemented the FATF Recommendations.

**Risk—Simplified/Reduced CDD Measures Not to Apply when Suspicions of ML/TF or other high risk scenarios exist (c. 5.11):**

750. The AML/CFT Law does not specifically address in the provisions of reduced CDD measures that such measures cannot be applied for high risk scenarios or when suspicions of ML/TF exist. Whilst elsewhere in the AML/CFT Law, in particular Article 15, paragraph 7 refers to requirements for reporting entities to 'take appropriate measures adequate to the risk of ML and TF' in the presence of high risk criteria, it is not explicit for DNFBPs that simplified or reduced CCD measure cannot apply in the event of high risk scenarios existing.

**Risk Based Application of CDD to be Consistent with Guidelines (c. 5.12):**

751. There are no guidelines issued by authorities for DNFBPs in relation to applying a risk based approach to CDD. Hence the criterion of 5.12 applicable to DNFBPs is not satisfied.

**Timing of Verification of Identity—General Rule (c. 5.13) and Timing of Verification of Identity—Treatment of Exceptional Circumstances (c.5.14 & 5.14.1):**

752. The analysis contained in Section 3.2 in relation to the provisions set forth in the AML/CFT Law covering the timing for verification of the customer's identity is equally applicable to DNFBPs. The Law, pursuant to Artcicle 15.1, falls short of determining what is considered a "reasonable timeframe" to follow when verifying the identity of the customer during the establishment of the business relationship. There is no guidance issued to DNFBPs on what may be considered a reasonable timeframe.

753. There is no requirement for DNFBPs to adopt risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to verification as required by this criterion.

**Failure to Complete CDD before commencing the Business Relationship (c. 5.15) and Failure to Complete CDD after commencing the Business Relationship (c. 5.16):**

754. When reporting entities (including DNFBPs) are unable to comply with the required CDD measures, Article 24, paragraph 5 of the AML/CFT Law requires them to reject carrying out a business relationship or transaction, that is to refrain from endorsing or carrying a business relationship or from concluding a transaction, or if they are unable to perform customer identification. Paragraph 6 further requires that in case of rejecting to carry out a business relationship or transaction, reporting entities should consider the relevance of filing a suspicious transaction report to the Authorized Body.

755. Interviews with DNFBPs did not elicit reports of business declined and existing relationships terminated resulting from existing clients' refusal to provide customer and beneficial owner information as required by the AML/CFT Law.

**Existing Customers—CDD Requirements (c. 5.17):**

756. There is no requirement for reporting entities (including DNFBPs) 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.

**Existing Anonymous-account Customers – CDD Requirements (c. 5.18):**

757. As discussed above, no permissions exist in the laws, rules or regulations for DNFBP to open or maintain anonymous accounts.

**Effectiveness:**

758. Whilst a basic legal framework is in place for CDD to be undertaken by DNFBPs as set forth in the AML/CFT Law, and the rudimentary requirements were understood by DNFBPs, there is no application of a risk based approach or the application of high or low risk criterion by DNFBPs. DNFBPs did not demonstrate any practice of ongoing due diligence nor in particular did casinos consider applying an aggregate for the CDD requirements to apply. DNFBPs interviewed reflected undertaking CDD as a requirement set forth by law and did not exhibit any understanding of the purpose behind the requirements.

759. Many DNFBPs are currently unlicensed, hence unsupervised, and therefore their understanding of the requirements is minimal due to lack of outreach. Further the DNFBPs that are supervised are not subject to a rigorous supervisory regime, on-site or otherwise, that focuses on AML or CFT and this may reflect the minimal knowledge of the DNFBPs on CDD obligations. Additionally no guidance or additional laws and rules have been issued by authorities for DNFBPs to underpin and expand on the obligations set forth in the AML/CFT Law in relation to CDD and no DNFBPs, except for one auditing firm which had international group-level internal standards that they must abide by, applied any other CDD measures other than those proscribed in the AML/CFT Law.

760. No dealer of precious metals or stones was available during the onsite assessment and the Ministry of Finance advised that limited understanding of the obligations of this DNFBP category would be in place due to the lack of outreach and licensing.

**CDD Measures for DNFBPs in Set Circumstances (Applying Criteria under R. 6 & 8-11 to DNFBP) (c.12.2):**

**Foreign PEPs—Requirement to Identify (c. 6.1), Risk Management (c. 6.2; 6.2.1), Requirement to Determine Source of Wealth and Funds (c. 6.3), Ongoing Monitoring (c. 6.4):**

761. The requirements concerning PEPs envisaged by the AML/CFT law are only applicable to financial institutions, and not to DNFBPs. There are no additional laws or regulations issued for DNFBPs on PEPs. Hence, no explicit obligation is in the AML/CFT Law for DNFBPs to identify PEPs and there are no further regulations or guidance issued by the authorities for DNFBPs specifically on ML or TF or on the identification and treatment of PEPs.

762. DNFBPS did not understand the concept of a PEP and treated all transactions and business relationships the same when it came to ML/TF risks.

**Misuse of New Technology for ML/TF (c. 8.1), Risk of Non-Face to Face Business Relationships (c. 8.2 & 8.2.1):**

763. The obligations pursuant to Article 8, paragraph 3 of the AML/CFT Law in relation to having relevant measures in place counteracting ML or TF associated with new or developing technologies is only applicable to financial institutions and is not extended to DNFBPs.

**Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1), Availability of Identification Data from Third Parties (c. 9.2), Regulation and Supervision of Third Party (applying R. 23, 24 & 29, c. 9.3), Adequacy of Application of FATF Recommendations (c. 9.4), Ultimate Responsibility for CDD (c. 9.5):**

764. The analysis and findings as detailed in R.9 apply equally to DNFBPs. The law defers to the reporting entities for the determination of the conditions/procedures for the reliance on third parties by stating that such can be done "only in cases and in the manner established by the internal legal acts of the reporting entities"; however, these internal legal acts are only required for DNFBPs employing more than 10 persons hence limited effectiveness.

765. **Effectiveness:** No DNFBP evidenced relying on a third party to undertake some of the CDD process though it would be expected that lawyers, accountants and auditors may have this process arise when dealing with, for example, non-resident legal persons as customers. The AML/CFT Law has included trust and company service providers and if the population of these sectors grows, or the business activities for other DNFBPs becomes complex, the requirements for the availability of information and documentation to be retrieved from a third party without delay and clarification of the terminology of what certain third party representatives is required. DNFBPs had a very low understanding of these matters.

**Record-Keeping & Reconstruction of Transaction Records (c. 10.1 & 10.1.1):**

766. As detailed in Section 3.2, Article 20 of the AML/CFT Law deals with the requirements of "maintaining records" with minimum requirements set forth. Additional maintenance consistent with the established normative legal acts of the Authorized Body, being the Regulation on Minimal Requirements, are not applicable to DNFBPs.

**Record-Keeping for Identification Data, Files and Correspondence (c. 10.2):**

767. Paragraph 1(2) of Article 20 of the AML/CFT Law requires DNFBPs to maintain records "on the main conditions of the transactions" for at least 5 years following completion of the transaction (business relationship) or for a longer period if this is so prescribed by the law.

**Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):**

768. Article 20, paragraph 2 of the AML/CFT Law further requires the information required by the Law and maintained by reporting entities, including on transactions, should be sufficient to provide comprehensive information about transactions (or business relationships) in the case this is requested by the Authorized Body or by criminal investigative authorities.

**Effectiveness**:

769. All DNFBPs reflected knowledge of the record keeping requirements though the record keeping practice was not demonstrated in a robust form by a number of small DNFBPs including casinos.

**Special Attention to Complex, Unusual Large Transactions (c. 11.1):**

770. Article 8, paragraph 1 of the AML/CFT Law establishes the obligation for DNFBPs to conduct additional scrutiny of all complex and unusually large transactions (business relationships), as well as transactions involving unusual patterns with no apparent economic or other legitimate purpose.

**Examination of Complex & Unusual Transactions (c. 11.2):**

771. DNFBPs are required to conduct additional scrutiny of all complex and unusually large transactions (business relationships), as well as of transactions involving unusual patterns with no apparent or other legitimate purpose as required under Article 8 of the AML/CFT Law and as discussed in R11. This provision indirectly requires DNFBPs to examine as far as possible the background and purpose of such transactions. Additionally, the Guidance on Suspicious Transaction Criteria (Ground 2) outlines that any unusual transaction is subject to additional scrutiny; however no DNFBP reflected knowledge of the Guidance on Suspicious Transaction Criteria. There is no stated requirement for DNFBPs to set forth the findings of such an examination in writing, as required by this criterion.

**Record-Keeping of Findings of Examination (c. 11.3):**

772. The critique contained in R.11 on the requirements set forth in the AML/CFT Law is applicable to DNFBPs and like other reporting entities, DNFBPs are also required to submit such data to the Authorized Body when requested to do so, except for the cases where the reporting of such data contradicts confidentiality requirements. The exception is applicable only to notaries, attorneys, persons providing legal services, independent auditors and auditing firms, and independent accountants and accounting firms. The laws that regulate these professions contain provisions concerning professional secrecy with a widely worded requirement to apply by all of the obligations set forth in the AML/CFT Law. Whilst no DNFBP concerned seemed to hold that professional secrecy was an obstacle, the matter has not arisen where authorities have required to retrieval of maintained records from such entities under the provisions of the AML/CFT Law.

773. **Effectiveness:** Whilst some of the requirements to meet the criterion are absent from the AML/CFT Law, DNFBPs had no appreciation for any complex or unusual transactions and applied one approach for all unless the transaction was considered large in their practice though the interest raised from a large transaction was not linked with the risks of ML and TF. Further, DNFBPs did not have any knowledge of evolving trends, the scale and complexity of the mechanisms used in ML or TF activities and the typologies published by the authorities did not reflect any specific areas for DNFBPs to be able to understand or apply any specific practices for complex or unusual transactions.

### 4.1.2. Recommendations and Comments

The authorities are recommended to:

- Remove the threshold that limits CDD in relation to the acquisition or sales of stocks or shares - for attorneys, persons providing legal services, notaries, independent auditors and auditing firms, independent accountants and accounting firms;

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- Provide guidance to casinos and prizing games operators to ensure that CDD requirements are undertaken for transactions that in the aggregate equal or exceeding the threshold;

- Establish a direct requirement for DNFBPs to obtain information on the purpose and intended nature of the business relationship regardless of whether the transaction is considered high risk or not;

- Develop guidance for DNFBPs to ensure that there is a consistent system for conducting ongoing due diligence taking into account the threats and vulnerabilities of the nature, scope and operation of the DNFBPs and establish the frequency for updating customer information;

- Establish requirements and guidance in relation to conducting enhanced due diligence for higher risk customers, business relationships or transactions and the application of simplified/reduced CDD measures for low risk customers, including for non-resident customers;

- Explicitly prohibit the application of reduced CDD measures when suspicions of ML/TF exist or in the event of high risk scenarios;

- Provide guidance to DNFBPs on the determination of what constitutes a "reasonable timeframe" to follow when verifying the identity of the customer during the establishment of the business relationship;

- Establish a direct requirement to adopt effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification;

- Establish a direct requirement 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;

- Provide through law, rules or other enforceable measures with respect to CDD requirements for PEPs at the establishment of the business relationship and during the course of such relationship;

- Set forth requirements to ensure that the findings of examinations of the background and purpose of transactions identified as complex, unusually large or transactions involving unusual patterns with no apparent or other legitimate purpose are detailed in writing and to ensure that outreach to the sector by published typologies or other measure on developing trends of ML and TF is effective and relevant;

- Establish a specific framework when DNFPBs may rely on third parties or intermediaries to perform CDD measures;

- Undertake an analysis on the risks and impact of the disapplication of Article 21 (internal legal acts) and external audit of systems and controls for compliance with the AML/CFT Law (Article 23.2) for DNFBPs with less than 10 employees;

- Bolster the record keeping requirements and practices of DNFBPs to ensure that it is effective and meaningful and practiced as to not hamper any investigations as given the importance of records related to business relationships and transactions, the standard and quality of record keeping needs to be considered by the authorities in line with the mitigation of risks and also have a tangible effect in providing law enforcement agencies and supervisory authorities with reliable data to be used in their AML/CFT investigations.

### 4.1.3. Compliance with Recommendation 12

| | Rating | Summary of factors relevant to s.4.1 underlying overall rating |
|---|---|---|
| **R.12** | **NC** | • For casinos and prizing games operators, CDD requirements do not take into consideration transactions that in the aggregate equal to or exceed the threshold.<br><br>• No implementing requirements in the law or other enforceable means, nor any type of guidance and training, for DNFBPs to:<br><br>• obtain information on the purpose and intended nature of the business relationship;<br><br>• conduct effective ongoing due diligence measures on business relationships, taking into account materiality and risk and to conduct due diligence on such existing relationships at appropriate times including establishing the frequency for updating customer information;<br><br>• conduct enhanced due diligence for higher risk customers, business relationships or transactions;<br><br>• apply simplified/reduced CDD measures for low risk customers, including for overseas residents;<br><br>• prohibit the application of reduced CDD measures when suspicions of ML/TF exist or in the event of high risk scenarios;<br><br>• apply CDD measures on a risk sensitive basis;<br><br>• adopt risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to verification;<br><br>• 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;<br><br>• apply CDD measures for PEPs at the beginning of the relationship and ongoing monitoring after the relationshiop is established;<br><br>• apply when relying on third parties or intermediaries to perform CDD measures;<br><br>• examine as far as possible the background and purpose of transactions identified as complex, unusually large or transactions involving unusual patterns with no apparent or other legitimate purpose. |

| | | |
|---|---|---|
| | | • Lack of Guidance to DNFBPs for determining the "reasonable timeframe" to follow when verifying the identity of the customer during the establishment of the business relationship.<br><br>• There is a threshold that unduly limits CDD in relation to the acquisition or sales of stocks or shares where business transactions falling under the threshold are exempt from the CDD requirements.<br><br>• Weaknesses in the actual record keeping practices.<br><br>• There is no measurement of risks for the disapplication of internal legal acts or external audit requirements for DNFBPs with less than 10 employees.<br><br>• Issues of effective implementation and practices. |

## 4.2. Suspicious Transaction Reporting (R.16)

Suspicious Transaction Reporting (R.16)

### 4.2.1. Description and Analysis

774. The AML/CFT Law obliges 'reporting entities' to report suspicious transactions (ST) in relation to ML or TF and also for transactions that reach a monetary threshold regardless of whether the transaction was undertaken by cash or other means.

775. The obligation to report ST, as well as the obligation to report TR as detailed in R.19, is differentiated along the different types of DNFBPs. A number of DNFBPs being independent lawyers, firms providing legal services, independent accountants and accounting firms, dealers in precious metals, dealers in precious stones, trust and company service providers have no obligations for TR reporting.

**Requirement to Make STRs on ML and TF to FIU (applying c. 13.1 & IV.1 to DNFBPs):**

776. As discussed earlier in this report the definition of a suspicion transaction or relationship is set forth in Article 3, paragraph 12 of the AML/CFT Law wherein there is a suspicion that the assets involved in the transaction or relationship are from the proceeds of crime or that the assets of the transaction or relationship, funds or other assets are linked to, or for the intended use, of terrorism financing. Therefore the obligation to report applies both in cases of ML and FT.

777. The obligation for reporting entities to report suspicious transactions of ML and TF is pursuant to Article 5, paragraph 1(3) of the AML/CFT Law wherein reporting entities are required to submit to the FMC any suspicious transactions or business relationships regardless of the amount.

778. Article 5, paragraph 2, (2)-(4) & (6) differentiates the reporting requirements (both for STs and TRs) along the different types of DNFBPs:

- Persons organizing prize games and lotteries, casinos, as well as real estate agents must report in all instances: STs, regardless of any thresholds;

- Notaries, attorneys, as well as for persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms are obliged to report all STs but only with regard to the following transactions prepared or carried out for their clients:
    - buying and selling of real estate;
    - managing of client money, securities, or other assets;
    - management of bank and securities accounts;
    - provision of funds or other assets for establishment, operation, or management of legal persons;
    - performing functions of establishment, operation, or management of legal persons, as well as alienation (acquisition) of contributions, shares and the like in the authorized capital (equity capital and the like) of legal persons, or alienation (acquisition) of stocks (equities, shares) of legal persons at a nominal or market value.

779. There are provisions regarding legal privilege for lawyers, notaries and other legal professions (discussed later on in this section), which may affect the reporting obligation of STs.

780. Dealers in precious metals, dealers in precious stones are obliged to report STs only with regard to cash transactions with their clients.

781. Trust and company service providers (although such businesses are not currently available in Armenia) are subject to reporting STs with regard to transactions, when they:

- act as a formation agent (representative) of legal persons in rendering company registration services;
- act (arrange for another person to act) as a director (executive body) of a company, a partner of a partnership, or perform similar functions of a legal person's management;
- provide accommodation (operational, correspondence or administrative address) to a legal person;
- act (arrange for another person to act) as a trust manager of an express trust;
- act (arrange for another person to act) as a nominee shareholder for another legal person.

782. A number of CBA Decisions[42] have been entered into force between September 2008 and March 2009 in relation to the approval of the ST reporting form and guidelines for the completion and

[42] CB Decisions approve the reporting forms for Mandatory Reporting and Suspicious Transactions or Business Relationships, Rules and guidelines for completion and submission:
(a) organizers of prize games and lotteries, including the persons organizing internet prize games entered into force on September 6, 2008;
(b) Notaries entered into force on October 10, 2008;
(c) Attorneys, Independent Lawyers and Firms Providing Legal Services, Real Estate Agents, Independent Accountants and Accounting Firms, Independent Auditors and Auditing Firms came into force March 12, 2009.

submission of the reporting forms. Moreover, the CBA Decisions have been issued for notaries, attorneys, independent lawyers and firms providing legal services, real estate agents, the State Registry, independent accountants and accounting firms, independent auditors and auditing firms and casinos. Dealers in precious metals or stones do not have any approved reporting form or related guidelines.

Legal privilege

783. For the analysis of professional secrecy provisions concerning access to competent authorities to information covered by financial secrecy, please refer to Recommendation 4 and to the issues noted therein. For the analysis of the provisions concerning access to information which is protected by professional secrecy please refer to Recommendation 26 (criterion 26.4) and Recommendation 28 and to the issues noted therein.

**STRs Related to Terrorism and its Financing (applying c. 13.2 to DNFBPs):**

784. As noted above, the definition of a suspicion transaction or relationship extends to "assets of the transaction or relationship, funds or other assets are linked to, or for the intended use, of terrorism financing".

785. Article 6, paragraph 2 of the AML/CFT Law further states that a business relationship or transaction should be recognized as suspicious, if it is suspected or there are sufficient grounds to suspect that the business relationship or transaction involved funds or other assets, which are linked to or intended for use by terrorist organizations or individual terrorists for the purpose of terrorism. This applies also for DNFBPs.

**No Reporting Threshold for STRs (applying c. 13.3 & IV.2 to DNFBPs):**

786. The obligation to report suspicious transactions regardless of the amount is pursuant to Article 5, paragraph 1.3 of the AML/CFT Law. Article 6(1) of the AML/CFT Law further clarifies that the suspicion is also relevant to attempted transactions or relationship.

**Making of ML and TF STRs Regardless of Possible Involvement of Fiscal Matters (applying c. 13.4 and c. IV.2 to DNFBPs):**

787. The requirement to report suspicious transactions, including for DNFBPs applies regardless whether transactions are thought to involve tax evasion. Tax evasion is included as a predicate offense for ML as discussed on section 2 of this report.

**Implementation and Effectiveness:**

788. Serious issues can be raised about the effectiveness of the suspicious reporting requirements for DNFBPs. Although for certain DNFBPs these requirements were also provided by the first AML/CFT law (entered into force in 2005) no ST report has ever been lodged by a DNFBPs.

789. Part of this may be due to some contradictions and shortcomings in the AML/CFT law. The CBA Decisions in relation to the STR/TR forms and associated guidelines have only been recently implemented for notaries and casinos (the remainder being effective March 12 2009) and the current effectiveness is considered minimal as neither type of DNFBP reported knowledge of such a decision or related guidance. The CBA Decisions do not include dealers in precious metals or stones and as such these professions do not have any approved reporting form or related guidelines.

790. The FMC has issued "Guidance on Suspicious Transaction Criteria" though their relevance to DNFBPs is marginal and further. DNFBPs did not portray any knowledge of such guidance or their ability to access such guidance and reporting forms from the FMC website.

791. There is concern that independent lawyers, firms providing legal services, independent accountants, accounting firms, and dealers in precious metals or stones may not be fully versed on their obligations in relation to the reporting of suspicious transactions due to no current licensing or supervisory provisions in place to embed such understanding and their knowledge and understanding of obligations is questionable. Such provisions are also not in place for trust and company service providers, however, there are no such operations in Armenia at the time of the assessment.

792. A number of DNFBPs interviewed were well aware of the reporting requirements related to TRs however were not as well versed in a no-threshold approach for suspicious transactions. Concerns also exist that some of reporting entities cannot delink the STR requirement and the above-threshold transaction requirement.

793. All DNFBPs interviewed had some level of awareness of the UN list of individual and entities associated by individuals, though to varying degrees of knowledge in relation to its accessibility and where it may be located (that is available through the FMC website), application of the list and the need to ensure the list used is the current version.

794. The majority of DNFBPs were not aware of the obligation to report all transactions, including attempted ones and those suspicious with respect to tax matters.

795. DNFBPs interviewed indicated that the FMC has provided training, by way of a seminar, in this topic and typologies for further reference to identify potential suspicious transactions. Additional training and outreach is needed to ensure that all DNFBPs are aware of and fully comply with the STR reporting obligations.

796. No DNFBP raised issues with the confidentiality requirements and the ability to waive such requirements under the relevant laws for the purposes of the AML/CFT law. All DNFBPs interpret this provision that confidentiality is waived for the reporting obligations and other obligations under the AML/CFT Law. However, no DNFBP has filed an STR so the matter of confidentiality has not been tested. All DNFBPs interviewed during the cause of the onsite mission understood that the provisions allowed for the waiver of privilege in the event of information needing to be supplied with the competent authority, the meaning of it all and the purpose, however the weaknesses in the regime highlighted elsewhere in the report apply.

**Protection for Making STRs (applying c. 14.1 to DNFBPs):**

797. Protection is afforded by way that 'reporting entities or their employees (managers) shall not be subject to criminal, administrative, civil or other responsibility for duly performing their duties' as set forth in Article 27 of the AML/CFT Law. This applies also to DNFBPs.

**Prohibition Against Tipping-Off (applying c. 14.2 to DNFBPs):**

798. The provisions discussed in Section 3 addressing tipping-off apply equally to DNFBPs. The wording is broad and covers 'reporting entities, their employees, and representatives, as well as other persons' are prohibited from tipping off.

**Effectiveness:**

799. DNFBPs interviewed were aware of the obligations with respect to confidentiality of the information and not disclosing to the customer if a STR had been prepared and submitted to the FMC though there was limited awareness in relation to the protection afforded by the law for such reporting.

**Establish and Maintain Internal Controls to Prevent ML and TF (applying c. 15.1, 15.1.1 & 15.1.2 to DNFBPs):**

800. The analysis and findings in Recommendation 15 in relation to the provisions set forth in the AML/CFT Law apply equally to DNFBPs. The obligations set forth in Article 22 of the AML/CFT Law require a compliance function to be in place however the provisions do not cover the ability for the AML/CFT compliance officer to have timely and unrestrained access to CDD or transaction records and information. Further, no risk management practices were demonstrated for the separation of duties or management of conflicts of interests of the compliance function and an operational function with the DNFBP.

801. The requirement to establish and maintain internal procedures, policies and control to prevent ML and TF though internal legal acts are not required by DNFBPs with less than 10 employees pursuant to Article 3(6) of the AML/CFT Law. In the instances where DNFBPs have more than 10 employees, Article 21 of the AML/CFT Law applies and sets forth the requirements to have 'internal legal acts' covering such matters as CDD, record retention, the detection and reporting of suspicious transactions and the related reporting obligation.

802. There is a concern in relation to the 'internal legal acts' that in some instances the acts may only mirror the requirements of the provisions of the law and not the functionality for the business application.

**Independent Audit of Internal Controls to Prevent ML and TF (applying c. 15.2 to DNFBPs):**

803. As discussed in R.15, reporting entities with more than 10 employees, under their own initiative or at the request of the Authorized Body, are to engage an external audit that will check the extent of implementation and effectiveness of legislation on AML and CFT. No further regulations or guidelines for DNFBPs exist that give clarity to any frequency of such an audit and the authorities advised that no external audits have been requested to be undertaken such examinations of DNFBPs.

**Ongoing Employee Training on AML/CFT Matters (applying c. 15.3 to DNFBPs):**

804. The analysis and findings detailed in R15 regarding the provisions set forth in Article 21 of the AML/CFT Law are equally applicable to DNFBPs who have more than 10 employees. The Internal Legal Acts require reporting entities to establish requirements for recruiting, training, and professional development of the staff of the internal compliance unit or other employees charged with functions stipulated by this Law, legal acts, as well as with regard to the risks and typologies of ML and TF. No further regulations or guidelines are in place for DNFBPs that give granularity on timing, frequency, the scope of training for all personnel, trends, methodologies or the like.

**Employee Screening Procedures (applying c. 15.4 to DNFBPs):**

805. The analysis and findings of R.15 in relation to the AML/CFT Law obligations for employee screening procedures apply equally to DNFBPs wherein Article 22, paragraph 2 states that "the staff of the internal compliance unit shall pass qualification in the manner and based on the professional relevance criteria established by the Authorized Body." However, the requirements focus mainly on the staff of the internal compliance unit and on other staff that may be vested with AML/CFT responsibilities and there is no general requirement to have screening procedures in place to ensure high standards when hiring/recruiting all employees.

**Effectiveness:**

806. Only a limited number of DNFBPs are required, by their internal legal acts to establish and maintain internal policies, rules, procedures, instructions or regulations to prevent ML and TF due to the threshold of 10 employees or more. Additionally, the internal legal acts used by these DNFBPs are for the most part copies of the AML/CFT Law and do not reflect the operational aspects of the business including the application of risks for nature, size, scope and profession. No DNFBP met advised the outsourcing of the compliance function to a dedicated external service. The training provided for, and undertaken by the DNFBPs, was limited to a seminar held by CBA and there is doubt that the relevant compliance officer attended the seminar in all instances as a number of DNFBPs advised that another member of staff, who did not have an AML/CFT dedicated function, attended. There are no formal training programs in place either initially or on an on-going basis and there were no background checks undertaken on employees in relation to ML and TF risks. No SRO currently offers training and certification in ML and TF. No fitness and propriety, or screening checks, were undertaken by DNFBPs for the purposes of ensuring high standards when hiring employees, including key functions such as compliance or senior management.

807. Ambiguity exists in relation to the commercial and professional secrecy provisions for lawyers, accountants, auditors, and attorneys as set forth in each related law and the provisions set forth in the AML/CFT Law. As no DNFBP has reported an STR, the uncertainty in the relevant laws has not been tested.

**Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 & 21.1.1):**

808. The analysis and findings contained in R.21 of this report in relation to the obligations set forth in the AML/CFT Law apply equally to DNFBPs. The FMC publishes and makes available on their public domain the lists in relation to offshore jurisdictions and also FATF, MONEYVAL statements and other relevant matters pertaining to weakness of jurisdictional AML/CFT systems. However, no DNFBP had knowledge of such lists or other published documentation and the availability of such on the FMC website.

**Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):**

809. The analysis and shortcomings detailed in R.21 of this report apply equally to DNFBPs. The requirement to conduct additional scrutiny on certain transactions, including those involving unusual patterns with no apparent economic value or other legitimate purpose applies (Article 8(1) of the AML/CFT Law) however, it is not extend to transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. In addition, there are no requirements established by law: i) to examine as far as possible the background and purpose of transactions from or in countries which do not or insufficiently apply the FATF Recommendations; ii) document the findings in writing; and iii) make the written findings available to assist competent authorities and auditors. Therefore, the requirement falls short in these respects.

**Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):**

810. The analysis and findings of R21.3 in Section 3 of this report is equally applicable to DNFBPs; however, unlike the warning letters issued to financial institutions, such warnings regarding countries

identified by FATF as countries of concern with substantial deficiencies in their AML/CFT regime are not extended to DNFBPs.

### 4.2.2. Recommendations and Comments

811. The authorities should consider:

- Clarifying the ambiguities of the confidentiality and privilege regime for notaries, advocates, persons providing legal services, independent auditors and auditing firms and accountants to remove any possibility of arbitrage as noted elsewhere in this report, particularly to the obligation to provide additional information and introduce measures that could provide for systemic checking in order to put at rest the concerns stemming from the uncertainty in the relevant laws;
- Implementing requirement for screening of personnel such as fitness and proprietary requirements;
- Issue guidelines on the manner of reporting for dealers in precious stones or precious metals and relevant typologies of STs for DNFBPs;
- Instigating outreach by way of supervision, training or other means to ensure that a clear differentiation is in place between TR and ST reporting obligations including no thresholds for STR obligations, ST for attempted transactions and those suspicious with respect to tax matters;
- Facilitating training for DNFBPs, including compliance personnel, through channels such as direct or through certified courses held by service providers including SROs and ensure ongoing training requirements are embodied in law, rules or regulations;
- Implementing risk management controls to ensure that the compliance function is properly staffed and any conflict that may arise by the compliance function holding a compliance role and an operational role are managed;
- Raising awareness of DNFBPs in relation to the current published list of offshore jurisdictions and further, develop measures to advise DNFBPs of concerns about weaknesses in the AML/CFT systems of other countries;
- Establishing requirements for DNFBPs to ensure that the internal legal acts are relevant to compliance systems and controls and not a reproduction of the AML/CFT Law;
- Establishing a direct requirement for DNFBPs to examine, as far as possible, the background and purpose of transactions with persons from or in countries which do not apply or insufficiently apply the FATF Recommendations and to document the findings; and to make the written findings available to assist competent authorities and auditors.

### 4.2.3. Compliance with Recommendation 16

| | Rating | Summary of factors relevant to s.4.2 underlying overall rating |
|---|---|---|
| **R.16** | **PC** | • No STRs reported by any category of DNFBP.<br>• The overall awareness of reporting obligations in relation to STRs is low in particular to the lack of understanding differentiating an STR and a TTR; and the requirement for STRs to be raised for attempted suspicious |

| | | |
|---|---|---|
| | | transactions and in relation to tax matters.<br>• Internal legal acts mainly reflect the content of the AML/CFT Law and do not address the risks nor the nature, size or scope of the DNFBP operation.<br>• The compliance function is mainly undertaken by personnel involved in operations and no separation of duties, management of conflicts or a deep understanding of compliance was demonstrated.<br>• No requirement for ongoing training is in place nor are there any training avenues by way of service providers or courses.<br>• A lack of direct requirement to examine, and document findings on the background and purpose of complex, unusual large transactions and all unusual patters of transactions which have no apparent economic or visible lawful purpose.<br>• No effective measures to advise DNFBPs in relation to weaknesses in the AML/CFT systems of other countries.<br>• No requirement to examine as far as possible the background and purpose of transactions, document the findings, and make findings available to competent authorities.<br>• No appropriate counter-measures to apply when a country does not apply or insufficiently applies the FATF Recommendations.<br>• Concerns on the robustness of confidentiality and privilege for notaries, advocates, persons providing legal services, independent auditors and auditing firms and accountants.<br>• Issues with the effectiveness of the regime. |

### 4.3.Regulation, Supervision, and Monitoring (R.24-25)

#### 4.3.1. Description and Analysis

812. The table below outlines the category of DNFBPs by profession or business and the supervisory body. A supervisory body is defined in the AML/CFT Law pursuant to Article 7 as an authorized body "issuing licenses to (appointing, conferring a qualification, or otherwise permitting the activities, and supervising) reporting entities."

| DNFBP | Number of licensed entities | Supervisory Body |
|---|---|---|
| Notaries | 70 | Republic of Armenia Ministry of Justice |
| Attorneys (Advocates) | 855 | The Chamber of Advocates of the Republic of Armenia |
| Independent auditors and auditing firms | 29[43] | Republic of Armenia Ministry of |

[43] 24 being legal entities and 5 natural persons.

| | | |
|---|---|---|
| | | Finance |
| Persons and casinos organizing prize games and lotteries, including the persons organizing internet prize games | 131[44] | Republic of Armenia Ministry of Finance |
| Real estate agents | 215[45] | State Committee of Real Property Cadastre of the Government of the Republic of Armenia |
| Independent lawyers and firms providing legal services | Unknown | Nil |
| Dealers in precious metals or dealers in precious stones | Unknown | Nil |
| Independent accountants and accounting firms | Unknown | Nil |
| Trust service providers | Nil | Nil |
| Company service providers | Nil | Nil |

813. DNFBPs have varying degrees of supervision and a number of DNFBPs, being independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals; dealers in precious stones; have no supervision due to the absence of licensing provisions being in place.

814. DNFBPs with more than ten employees are required to have in place internal legal acts (policies, rules, procedures, instructions or regulations) pursuant to Article 3, paragraph 6 of the AML/CFT Law. Authorities advised that in practice, the internal legal acts have only recently started to be submitted and reviewed by the FMC and if required, the FMC will share the content of the internal legal acts with the relevant supervisory bodies.

815. DNFBPs are subject to a sanctions regime for breaches of the obligations set forth in the AML/CFT Law and imposed in the manner established by the Code of Administrative Sanctions for non-financial institutions or individuals with the status of a natural person, pursuant to Article 27, paragraph 4 of the AML/CFT Law. The sanctions applicable under the Code of Administrative Sanctions are the same as the sanctions set forth in Article 27 of the AML/CFT Law and as detailed in R17. No sanctions have been applied to any DNFBP in relation to ML/TF.

**Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 & 24.1.3):**

816. Persons and casinos organizing prize games (herein 'casinos') are licensed and supervised by the competent authority, the Ministry of Finance (MoF) pursuant to Government Decree 1164-N of July 29 2004. The authorities advised that there were, at the time of assessment, no internet casinos or internet prize gaming currently in operation, nor had an application been received. The licensing of casinos is undertaken pursuant to the obligations sets forth in the Law on Licensing (Law on Licensing) and the Law on Prize Games and Casinos (Law on Gambling) which covers such aspects as the principals, aims, validity of the license, process of application including supporting documentation, alterations and

[44] 14 terrestrial casinos and 117 terrestrial operators of prize gaming.

[45] As at April 2009.

cancellations of the license, rejection of an application for a license and remedies for rejection. The Law on Licensing does not have any specific ML or TF focus though the Law on Gambling, pursuant to Article 6, requires casinos to abide by the requirements under the AML/CFT Law.

817. Article 26, paragraph 1 of the AML/CFT Law sets forth that supervision of compliance with the obligations contained in the AML/CFT Law shall be exercised by the supervisory body (i.e. MOF) and 'upon request of the Authorized Body" (i.e. CBA), the MOF shall conduct on-site examinations based on the information on ML and TF. The provisions for supervision of casinos, including the requirements for off-site and on-site supervision, are pursuant to Article 9 of the Law on Gambling though with no specific processes or protocols for ML and TF.

818. The licensing and supervision department of the MOF responsible for casinos is staffed by three employees, who also have the responsibility for rule amendments and revisions.

819. Onsite supervision is undertaken in accordance with the provisions set forth in the Law On Organizing and Conducting Control in the Republic of Armenia (Law on Inspections) and Article 2 lists the 'public authorities performing controls' including the MoF. The procedures for on-site supervision are detailed Article 7 of the Law on Inspection include, amongst others, unhindered access to the premises in the company of a representative of the supervised entity, the request of documents and other information including statements, determination of timeframes to remedy of violations which do not give rise to criminal or administrative liability, recommend to the 'managing body' of the MoF corrective measures in relation to abuses and other violations subject to administrative and criminal liability, and for the purpose of verifying the accuracy of cash operations conducted by the entity and the formation of reports and calculations, conduct cross-examinations on the other side of the transaction only in terms of the lawfulness of the transaction in question.

820. The cycle for on-site assessments is each casino once a year unless issues arise that may require more attention to an entity, with the average timeframe onsite of two days for casinos and one day of prize games. Further, the assessors were advised that the MoF employees have undertaken training provided by the CBA on casino supervision.

821. Article 27, paragraph 5 of the AML/CFT Law sets forth that in the case of "non financial institutions or individuals" the responsibility to apply the sanctions, as regulated by the Code of Administrative Offences (Code of Administrative Sanctions) is vested in the authorities that have supervisory responsibilities over the entities pursuant to Article 244.12 of the Administrative Offences Code. In the case of administrative sanctions for infringements of the obligations contained in the AML/CFT Law by casinos, this is the MoF.

822. Article 27 of the AML/CFT Law details the administrative sanctions for non compliance to the obligations set forth in the AML/CFT Law. The sanctions are determined by the type of reporting entity and include, amongst others, that if the infringement is committed by a non financial institution that is a legal person (as defined by Article 6, paragraph 6 of the AML/CFT law), the relevant sanction is detailed as detailed in R.17 and undertaken by the MOF as the sanctioning authority.

823. No sanctions have been applied for breach or non-conformance with the obligations set forth in the AML/CFT Law and all sanction issued to date have been on such matters not related to ML and TF such as a casino having more gaming machines than the license permitted or that the serial numbers of the machines did not match the detail held by the MoF.

824. There are no fit and proper checks in place for management, owners or beneficial owners of casinos. Nor are there requirements in the AML/CFT Law, Law on Licensing or Law on Gambling that

would prevent 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. No casino interviewed undertook such fitness and propriety or background checks on owners or controllers.

**Monitoring Systems for Other DNFBPs (c. 24.2 & 24.2.1):**

Attorneys

825. Advocates (attorneys) are registered with the Chamber of Advocates of the Republic of Armenia (Chamber of Advocates), pursuant to the Law on Advocacy. An advocate is defined, pursuant to Article 17 of the Law on Advocacy as a person "who has obtained an advocates license in the manner prescribed by this law, who is a member of the advocate's chamber, who took an oath. An advocate is an independent consultant on legal issues". Articles 28 and 29 of the Law of Advocacy set forth the requirements for receiving an advocate's license from the Chamber of Advocates and the procedure for issuing the advocate's license by the Chamber of Advocates respectively.

826. However no provisions or powers are conferred to the Chamber of Advocates for the supervision of advocates in relation to the obligations set forth in the AML/CFT Law and officials of the Chamber of Advocates advised that no systems, protocols or dedicated and experienced staff are in place by the Chamber for such supervision of compliance. Additionally, the Law on Inspections does not cover SROs as one of the 'public authorities performing controls'.

827. Sanctions shall be imposed by the Authorized Body, the FMC, pursuant to Article 28 of the AML/CFT Law as the Chamber has no mandated powers.

Notaries

828. Notaries are reporting entities pursuant to Article 3(j) of the AML/CFT Law and are licensed and sanctioned by the Ministry of Justice (MoJ), pursuant to the power vested in the Ministry of Justice under Government Decree 274. Article 19 of the Law on Notarial System (Law on Notarial System) sets forth the provisions of supervision of notaries and on-site assessments are conducted in accordance with the Law on Inspections and the MoJ is included in the list of 'public authorities performing controls' as per Article 2 of the Law on Inspections. The authorities have undertaken seven inspections in 2007, one in 2008 and 12 inspections are planned for 2009. The MoJ has a schedule in place since 2008 to inspect every notary every 4-to-5 year cycle.

829. The Notarial department, who is responsible for the licensing and supervision of notaries and of which there are 3 employees, attended two seminars in 2008 held by the CBA.

Real Estate Agents

830. Real Estate Agents are licensed, supervised, and sanctioned by the State Committee of the Real Property Cadastre of the Government of the Republic of Armenia (Cadastre), pursuant to Government Decree 895, which also empowers the Cadastre to issue licenses for appraisers, valuers, land surveying and topographic mapping. On-site assessments are conducted in accordance with the Law on Inspections and the Cadastre is included in the list of 'public authorities performing controls' implicitly as Article 2 refers to, amongst other state bodies explicitly mentioned, as 'state bodies granting licenses'. Authorities advised that there have been no specific ML or TF inspections though approximately 20 to 24 general inspections have been undertaken, which were undertaken by a dedicated committee comprising of nine members.

Audit profession

831. Independent auditors and auditing firms (herein known as 'auditors') are licensed and supervised by the MoF. Such licensing requirements and the designation of licensing duties to the Ministry of Finance are pursuant to the Law on Licensing Article 24.

832. On-site assessments are conducted in accordance with the Law on Inspections as the MoF is included in the list of 'public authorities performing controls' as per Article 2 of the Law on Inspections. Further provisions in relation to inspections are set forth in Article 30 of the Law on Audit Activities (Law on Audit) wherein the MoF as the authorized body can organize and implement inspections of auditors to verify the normative legal acts and Code of Ethics applying to auditors.

833. The dedicated department of the MoF in charge of licensing and supervising auditors comprises of 5 staff who have further duties such as developing and amending laws, certification practices and procedures in relation to auditors.

Trust and company service providers

834. Currently, no trust or company service provider operates in the Republic of Armenia and there is also no licensing or supervisory framework in place.

Independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals; dealers in precious stones.

835. No licensing requirements are in place in any law and hence, no supervisory activities are undertaken.

**Effectiveness:**

836. DNFBPs have varying degrees of supervision though none of the supervisory activities are focused on the DNFBPs' obligations pursuant the AML/CFT Law nor any particular ML/TF risk per occupation or activity. There is no supervisory framework or practice in place for advocates and a number of DNFBPs, being independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals; and dealers in precious stones have no supervision due to the absence of licensing provisions being in place. In all cases, the authorities interviewed noted the shortage of technical resources (staff numbers and expertise) as an obstacle to implementing effective on-site supervision specifically in relation to AML and CFT.

837. Of particular concern is no fitness an propriety requirements are in place for management, owners or beneficial owners of casinos and no prevention of 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.

**Guidelines for DNFBPs (applying c. 25.1):**

838. Other than guidelines issued in relation to completion and submission of STR forms for certain DNFBPs[46] and associated Suspicious Transaction Criteria, no guidelines have been issued by any

[46] As sighted in R16, CB Decisions have been issued in relation to the approval of the ST form, and guidelines for completion and submission of the forms. The Decisions and guidelines have not been issued for dealers in precious stones or metals.

supervisory body or SRO specifically for DNFBPs to implement and comply with their respective AML/CFT requirements.

**Feedback (applying .25.2):**

839. As noted in the analysis of R.25.2 in Section 3, the Authorized Body is obliged to regularly provide feedback to reporting entities on the reports filed by them, pursuant to Article 10, paragraph 1(13) of the AML/CFT Law and further the FMC acknowledges the reception of the reports by sending an acknowledgment receipt to reporting entities. Such feedback has not been activated as no STR has been lodged by a DNFBP.

840. The Guidance on Money Laundering and Terrorism Financing Typologies issued by the FMC have marginal application to DNFBPs and no DNFBP demonstrated any knowledge of the issuance or location of the typologies.

### 4.3.2. Recommendations and Comments

841. The authorities are recommended to consider:

- Designating competent authorities or SROs for monitoring and ensuring compliance with the AML/CFT obligations for independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals; and dealers in precious stones for effective monitoring and compliance on a risk sensitive basis;
- Implementing a supervisory regime for advocates (attorneys);
- Introducing for casinos and operators of prize games fitness and propriety requirements for managers, owners, and beneficial owners including fit and proper checks for management, owners or beneficial owners. Further, implementing, by way of law, rules or regulations, requirements that would prevent 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 or operator of a prize game;
- Staffing levels and technical abilities focused on ML and TF of the supervisory bodies;
- Issuing guidelines for DNFBPs to assist with the full implementation and compliance of the applicable obligation set forth in the AML/CFT Law;
- Developing relevant feedback processes on number of disclosures and results, current techniques, methods and trends, or money laundering cases that have been sanitized relevant to DNFBPs.

### 4.3.3. Compliance with Recommendations 24 & 25 (criteria 25.1, DNFBP)

| | Rating | Summary of factors relevant to s.4.3 underlying overall rating |
|---|---|---|
| **R.24** | **NC** | • Lack of competent authorities for monitoring and ensuring compliance with the AML/CFT obligations for independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals and dealers in precious stones.<br>• Absence of a supervisory regime for advocates (attorneys). |

| | | |
|---|---|---|
| | | • No fitness and propriety requirements for managers, owners, and beneficial owners of casinos.<br>• 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 functions in, or being an operator of a casino.<br>• Insufficient staffing numbers, and in some instances, specific skill sets, to implement and practice effective supervision in relation to AML and CFT.<br>• There are no effective systems in place for supervising compliance. |
| **R.25** | **PC** | • Minimal guidelines in place for DNFBPs to ensure the full implementation and compliance of the applicable obligations set forth in the AML/CFT Law.<br>• No outreach to DNFBPs on relevant techniques, vulnerabilities of the sector, methods or trends. |

## 4.4. Other Non-Financial Businesses and Professions—Modern-Secure Transaction Techniques (R.20)

### 4.4.1. Description and Analysis

842. The Armenian authorities have applied certain provisions of the AML/CFT Law to a variety of additional businesses and professions as reporting entities including persons organizing lotteries, dealers in artworks, and organizers of auctions. Pawnshops and investment advisers are licensed, regulated and supervised by the CBA and are included under the "Preventive Measures for Financial Institutions" – Section 3 of this report.

843. No provisions are in place for dealers in high value and luxury goods other than dealers in artworks, organizers of auctions and dealers in precious metals and stones, which are discussed elsewhere in this report.

844. The obligations set forth in the AML/CFT Law for organizers of lotteries, organizers of auctions and dealers in artworks are the same as those obligations for DNFBPs and the analysis and findings in Section 4 are equally applicable to these reporting entities.

| Other businesses and professions | Reporting Entity under the AML/CFT Law [47] | Competent Authority |
|---|---|---|
| Investment Advisors | Yes | CBA |
| Pawnshops | Yes | CBA |
| Organizers of Auctions | Yes | Nil |

[47] Article 3 of the AML/CFT Law.

| | | |
|---|---|---|
| Dealers in Artworks | Yes | Nil |
| Persons organizing lotteries | Yes | Ministry of Finance |
| Other dealers in high value and luxury goods | No | Nil |

**Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 &21 c. 20.1):**

845. For other vulnerable non-financial businesses and professions like organizers of lotteries, dealers in artworks and organizers of auctions, the AML/CFT Law sets forth the similar obligations to those described for DNFBPs under Recommendation 12, Section 4 of this report.

846. These other businesses and professions are subject to the following requirements under the AML/CFT Law: suspicious transaction reporting (Article 5); protection for STR reporting/tipping off (Article 12); requirement to have in place internal legal acts (Article 21); requirement to have in place an internal compliance unit (Article 22); sanctions for infringements (Article 27); and enhanced due diligence for transactions with persons located in foreign states or territories when the international standards on ML and TF are not sufficiently applied (Article 19). The obligations to maintain 'policies, rules, procedures, instructions, or regulations' (internal legal acts) as set forth in Article 21, are applicable to non-financial businesses and professions with 10 employees or more pursuant to Article 3(6) of the AML/CFT Law.

847. With respect to Recommendation 5, the analysis and findings of the obligations set forth in the AML/CFT Law in R5 (Section 3) and R12 (Section 4) of this report apply to other business and professions. The requirement to undertake CDD measures apply when undertaking cash transactions with clients above 5 million dram (USD 13,000 at the time of assessment) and for organizers of lotteries, when the transaction is above 1 million dram (USD 2,600). There is no requirement in the AML/CFT Law for these reporting entities to obtain information on the purpose and intended nature of the business relationships.

848. The description and analysis of effectiveness for recommendations pertaining to DNFBPs, as detailed previously in section 4, are equally applicable to organizers of lotteries, dealers in artworks and organizers of auctions.

**Modernization of Conduct of Financial Transactions (c. 20.2):**

849. Armenia is predominantly a cash based society and a draft law is pending to address cash transactions within the domestic economy. This has not been considered in the assessment. The Mission was informed that most, if not all, transactions with lotteries, and pawn brokers were cash transactions.

850. **Effectiveness:** There is no outreach program to raise awareness for dealers in artworks, organizers of auctions or organizers of lotteries; hence the level of their understanding in relation to the obligations set forth in the AML/CFT Law may be considered marginal. Some of the criterion has limited application to lotteries, dealers in artworks, organizers of auctions including undertaking transactions with customers in other jurisdictions including jurisdictions that may not apply or insufficiently apply FATF recommendations.

### 4.4.2. Recommendations and Comments

The authorities are recommended to consider:

- Undertaking a risk assessment in order to determine if other NFBPs are at risk of being misused for ML or TF.

- Take measures to reduce the use of cash and encourage more activity within the formal sector.

### 4.4.3. Compliance with Recommendation 20

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.20** | **PC** | • No measurement of the risks to other NFBPs from ML or TF.<br>• Lack of outreach to other NFBPs who have obligations under the AML/CFT Law.<br>• No measures in place to develop and utilize modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. |

## 5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS

### 5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33)

#### 5.1.1. Description and Analysis

Legal Framework:

851. The legal framework for legal entities, including their registration, is set out in the Civil Code, the Law on Foundations, the Law on State Registration of Legal Entities the Law on Stock Companies, the Law on Limited Liability Companies, and the Law on Political Parties.

**Measures to Prevent Unlawful Use of Legal Persons (c. 33.1):**

852. Armenia's State Registry is operating as a separate agency of the MoJ and is financed through the MoJ's general budget. The State Registry has 49 regional offices, which are mainly responsible for registering commercial entities at the location where they operate, and one central office, which is responsible for registering all foundations.

853. All information collected at the regional offices is provided to the central office within 10 days of receipt. The information is provided in hardcopy form and is then manually fed into an electronic database maintained at the central office. The regional offices are not linked through nor have direct access to this database. Any requests for information, including from the regional office, therefore have to be made through the central office.

854. Articles 52(4) & 56(3) Civil Code as well as Article 3 Law on Foundations in connection with Article 3 Law on State Registration of Legal Entities provide that the legal capacity of a legal person is obtained on the date of its registration with the State Register. For foundations Article 16 Law on Foundations requires that registration has to take place within 2 months after the decision to establish the foundation has been taken.

855. The main measure in place to ensure that information on beneficial ownership of legal entities established under Armenian law is Article 23.2. Law on State Registration. According to the provision, any legal entity upon registration or upon changing the statute capital has to submit a declaration of its beneficial owners to the State Registry. A copy of the declaration has to be provided to the Central Bank upon request.

856. Article 23.2. does not define the term "beneficial owner." However, the CBA through Board Decision 20-N of January 27, 2009 approved a template that has to be filled out by registering entities for the purpose of ensuring compliance with Article 23.2. and that provides that "a beneficial owner in connection with a legal person is a natural person who has actual (real) control over the legal person or its transactions (business relationships), or one who benefits from those." The definition therefore touches upon but does not entirely match the definition of "beneficial owner" as contained in the FATF standard, which covers not only persons who have control over a legal entity and the beneficiaries but also "the natural person(s) who ultimately owns a customer and/or the person on whose behalf a transaction is being conducted." However, other provisions of the Law on State Registry as outlined below ensure that information on the owners is provided to the State Registry.

857. In addition to the template, the CBA through the above mentioned Board Decision issued "Procedures and Deadlines for Filing Declaration of Beneficial Owners by Legal Persons at the Legal Person's State Register" which require that legal persons submit the template on beneficial owners within 2 business days of submission of an application for state registration or from the day of any change in statutory capital, founders, participants, members, stakeholders or shareholders.

858. Article 23.2. Law on State Registration of Legal Entities only came into effect in May 2008 and the template and the Procedures and Deadlines were only issued by the CBA in January 2009. The assessors could therefore not establish that the provision is implemented effectively.

859. Even prior to May 2008, however, the Law on State Registration of Legal Entities contained a number of provisions which would ensure that information on beneficial owners of legal entities is provided to the State Registry.

860. Article 21 Law on State Registration of Legal Entities requires that an application of the person authorized by the founders, records of the founder' meeting, or the decision of the sole founder or the written agreement of joint founders, or the will of the founder of a foundation establishing the legal entity, and at least two copies of the legal person's charter have to be submitted as well as confirmation of the payment of state duties.

861. Article 55 Civil Code applies to all legal entities and sets out the information that has to be contained in the founding document. Pursuant to the provision, the charter has to indicate the name of the legal entity, its place of location defined as the place of its permanently acting body, the procedure for managing its activity, and in the case of a noncommercial entity, the subject and purpose of its activity. The provisions dealing with each form of legal entity require the charter to contain additional information as outlined below.

862. Article 20 Law on State Registration of Legal Entities further requires that information regarding the head of the legal entity or the acting chief executive of the legal entity, including name, surname, passport data, place of residence and means of communication, is provided to the State Registry. Information on the management of all legal entities is therefore maintained by the State Registry.

863. For commercial companies Articles 78, 91, 97 and 110 provide that the Charter has to state the amount and composition of the contributed or charter capital, the amount of ownership interests of each partner or participant and the procedure for changing ownership interests in the contributed capital as well as the liability of the participants for violating duties to make contributions. Ownership interests for legal entities other than joint stock companies are therefore maintained by the State Register and the validity of any transfer dependent on the registration of the new owner. In addition, the Charter for joint-stock companies has to provide the conditions on the categories of shares of stock, their stated value and the number of capital share stocks issued.

864. For foundations, the Charter also has to contain the names, passport information and place of residence of natural person founders and the name, date of state registration, location and name of director or the representative of legal person founders. Furthermore, the value of the foundation property and categories of beneficiaries of the foundation have to be provided. Information on the foundation bodies, the number of staff and its powers, and the decision making procedures have to be provided as well. Beneficiaries have to be indicated in a descriptive manner, but it is not required that the names or other information on individual beneficiaries is provided. Since 2008, however, Article 23.2 of Law on State Registration of Legal Entities requires disclosure of the beneficiaries of foundations.

865. Articles 12 & 22 Law on State Registration of Legal Entities sets out a general obligation for legal entities to provide the State Registry with any updates to registered information. While the provision does not provide for a timeframe within which information has to be updated, provisions in the various laws on legal entities (i.e. Article 10 Law on Limited Liabilities Companies, Article 17 Law on Joint-Stock Companies) stipulate that with respect to third party, any changes to the Charter only come into force after registration of such information with the State Registry.

866. In summary, the State Register maintains information on the owners of legal persons other than joint stock companies, the founders of foundations as well as information on the managers of all legal entities. For about 25% of all joint stock companies registered in Armenia, the Central Depository retains the names of nominee and actual shareholders. For the outstanding 75%, a register has to be maintained at the company level.

867. Joint Stock Companies are the only form of legal entity that may issue stocks. While Article 39 Law on Joint Stock Companies requires that stock certificates are issued on name of the shareholder, therefore effectively prohibiting the issuance of bearer shares, Article 157 Civil Code provides that stocks "may be bearer or nominal, freely circulating or with a limited range of circulation and common or preferred." However, as outlineder under R 33.3. the authorities stated that there is no conflict because of the principles established for succession of laws.

868. Both the Law on Securities (Article 3) as well as the Law on Joint Stock Companies (Article 52) allow for the use of nominee shareholders, meaning that not the actual owner of the share but a nominee, defined in Article 3 Law on Securities Market as "the person on whose nominal securities owned by other persons are registered without the transfer of ownership rights," may be indicated on and registered with the shareholder registry. To avoid any abuse of the concept of "nominee shareholders" for money laundering or terrorism financing purposes, the Board of the CBA through Decision 33-N of February 6, 2007 regulates that only investment service provider companies, who in turn are obliged under the AML/CFT law to obtain, verify and maintain beneficial ownership information, may act as a nominees of securities.

869. Article 51 Law on Joint Stock Companies requires all Armenian Joint Stock Companies to keep shareholder registers. In addition, pursuant to Article 195 Law on Securities Market shares have to be registered with the Central Depository. However, due to the fact that there are not sanctions for non-compliance with Article 195, in practice only about 1200 of the 4139 Joint Stock Companies incorporated under Armenian law have registered their shares with the Central Depository.

**Access to Information on Beneficial Owners of Legal Persons (c. 33.2):**

870. All documents held by the State Register are publicly accessible (Article 56 Civil Code and Article 12 Law on State Registration of Legal Entities).

871. The government, through a decision issued on July 25, 2001 (N 674) further regulated access to information held at the State Registry. According to the decision, information held at the State Registry is open for public knowledge, can be used by state and municipal bodies, legal entities and natural persons, and be obtained either directly from the central office of the State Registry or by post.

872. However, the process applied to obtain requested information seems to be rather time consuming. To obtain information, a written application has to be filed with the central office or the regional office, indicating the list of information required. The information must be provided in written form and within 5 days. The authorities stated that in practice, requests from the FMC and law enforcement authorities would be responded within 2-3 days.

**Prevention of Misuse of Bearer Shares (c. 33.3):**

873. As outlined above, Joint Stock Companies are the only form of legal entity that may issue stocks. While Article 39 Law on Joint Stock Companies requires that stock certificates are issued on the full name of the shareholder, therefore effectively prohibiting the issuance of bearer shares. Article 157 Civil

Code provides that stocks "may be bearer or nominal, freely circulating or with a limited range of circulation and common or preferred."

874. Authorities stated that there is no conflict because of the principles established for succession of laws, although this was not entirely clear because the Law on Joint Stock Companies was replaced by a new version.

875. In addition it was pointed out that the Law on Joint Stock Companies would require the maintainance of a shareholder register, that any transfer of or change in the name of the shareholder would have to be registered and that a new share on the name of he new owner would have to be issued.

876. While bearer shares do not seem to be allowed based on the provisions of the Law on Legal Acts and according to the authorities would also not exist in practice, the assessors would still consider it important to eliminate the reference to bearer shares in Article 157 Civil Code.

**Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions)(c. 33.4):**

877. All information held at the State Registry is publicly accessible, including by financial institutions.

### 5.1.2. Recommendations and Comments

- Ensure that Article 23.2. Law on State Registration of Legal Entities is implemented effectively.
- Amend Article 157 Civil Code to eliminate any reference to bearer shares.
- The authorities should consider putting in place an electronic live-time database linking all regional offices of the State Registry and thus providing the public as well as financial institutions and law enforcement authorities with quick access to all information maintained at the Registry.

### 5.1.3. Compliance with Recommendations 33

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.33** | **LC** | • Due to its recent enforcement, assessors could not determine that Article 23.2. Law on State Registration of Legal Entities is implemented effectively.<br>• Access to registered information may be time consuming given that the regional and central State Registries are not linked or and are not searchable in electronic form. |

## 5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

### 5.2.1. Description and Analysis

Legal Framework:

878. Armenian law does not recognize trusts or any other forms of legal arrangements. Armenia is also not a signatory to the Hague Convention on Laws Applicable to Trusts and on their Recognition. In discussions with the private sector it was confirmed that the setting up and management of trusts is not a service provided by members of the Armenian legal profession.

879. The Recommendation is therefore not applicable in the context of Armenia.

**Measures to Prevent Unlawful Use of Legal Arrangements (c. 34.1):**

880. Criterion is not applicable in the context of Armenia.

**Access to Information on Beneficial Owners of Legal Arrangements (c. 34.2):**

881. Criterion is not applicable in the context of Armenia.

**Additional Element—Access to Information on Beneficial Owners of Legal Arrangements by Financial Institutions)(c. 34.3):**

882. Criterion is not applicable in the context of Armenia.

### 5.2.2. Recommendations and Comments

883. N/A

### 5.2.3. Compliance with Recommendations 34

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.34** | **NA** | • Recommendation is not applicable in the context of Armenia. |

## 5.3. Non-Profit Organisations (SR.VIII)

### 5.3.1. Description and Analysis

884. The Civil Code describes what is considered a not-for-profit organization (NPO). A Social Organization is defined in Article 122 of the Civil Code as 'voluntary organizations of citizens who have joined in the manner provided by a law on the basis of communality of their interests to satisfy spiritual or other non-material needs.' Whereas a Foundation pursuant to Article 123 of the Civil Code is 'an organization not having membership, founded by citizens and/or legal entities on the basis of voluntary property contributions, pursuing social, charitable, cultural, educational, and other socially-useful purposes'. The Civil Code sets forth that a NPO must be a legal entity and prescribes that all legal entities must be registered with the relevant State Register, being the Legal Persons State Register of the Ministry of Justice (State Register), pursuant to Article 56 of the Code.

885. NPOs must register with the State Register pursuant to Article 3, paragraph 2 of the Law on State Registration of Legal Entities and the Ministry of Justice (MoJ), through its dedicated state registration office, being the State Register, is the competent authority for the registration of NPOs. NPOs, depending on their activity, are subject to the provisions of the Law on Non-Governmental Organizations; Law on Foundations; Law on Charity which cover, amongst others, requirements in relation to formation, the charter and by-laws and reporting requirements though these laws do not contain any specific provisions for ML and TF.

886. The AML/CFT Law also (Article 26) contains some provisions concerning NPOs: they should maintain for at least 5 years identification data of managers (in the same manner prescribed by Article 15, discussed earlier in criterion 5 and elsewhere in this report); foundation documents and decisions of management bodies as well as documents related to financial and economic operations.

887. Upon request of the Authorized Body, the MoJ through its operational arm, the State Register, as the supervisory body of NPOs, shall undertake measures to prevent involvement or misuse of NPOs in TF as set forth in Article 26 of the AML/CFT Law.

888. The authorities advised that at the time of the assessment, there were over 5,500 NPO's registered with the State Registrar consisting of 5287 non-government organizations, 464 Charitable organizations and 273 foundations and that NPO's consisted of such organizations as charities and foundations with the majority of non-government organizations being the funding raising activities of schools and kindergartens; organizations established to promote sports clubs and associations; hobby clubs; youth club and the like. Other entities that are registered with the State Register which do not fall within the category of charities or foundations comprise of political parties; employee and employer unions and a chamber of commerce.

**Review of Adequacy of Laws & Regulations of NPOs (c. VIII.1):**

889. A review of the laws applicable to NPOs was undertaken in 2007 with the resulting changes reflected in the AML/CFT Law, effective in 2008. The review was undertaken within the ambit of the Interagency Commission of which the MoJ is a member. The Interagency Commission's mandate, amongst others, is policy formation and direction, the evaluation of the effectiveness of strategies and regulations, information sharing on trends and methodologies and educational programs in relation to ML and FT. Going forward, no set review schedule on the vulnerability of the NPO sector to TF is planned and no framework is in place to consider a review based on new information of potential vulnerabilities or the activities, size and features of NPOs.

890. The State Register has access to information obtained on the activities, size and other relevant features of the NPOs for the purpose of identifying the features and types of NPOs through the formal registration process however there is no demonstration that this information available at registration stage is used for supervision of NPOs specifically in relation to TF. Every NPO must 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 and the details in Article 15 of the Law on State registration of Legal Entities which includes, but is not limited to, the objectives, nature, scope and purpose of activities, and voting rights. Further, if any charter or by-law is amended, such proposed amendments must be lodged with, and approved by, the State Register. Additional information is sourced through the annual reports issued by NPOs which must cover the income and expense report and in addition for foundation NPOs, a report on its activities including sources of funding and for charity NPOs, the process of implementation of charitable programs.

891. Other available sources of information come through the Interagency Commission in relation to information sharing on trends and methodologies, of which the MoJ is a member.

**Outreach to the NPO Sector to Protect it from Terrorist Financing Abuse (c. VIII.2):**

892. There is no comprehensive outreach to the NPO sector, nor any discussion forums on the scope and methods of abuse of NPOs, emerging trends in TF and protective measures, any best practices or advisory papers or other such resource. Additionally, no guidance notes have been issued specifically addressing TF vulnerabilities and risks of NPOs.

**Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3):**

893. Enabling provisions for the monitoring and supervision are pursuant to Article 18 of the Law on Charities which contains the monitoring and supervision of compliance of the laws by the NPOs by the Authorized Body and Article 38 of the Law of Foundation sets forth the MoJ's supervision of compliance 'and in cases envisaged by the law, also by other competent state bodies, according to the procedures for their authorities, inspections and examinations stipulate by the law'. Additionally, pursuant to Article 26 of the AML/CFT Law, upon request of the Authorized Body, the MoJ as the supervisory body of NPOs, shall undertake measures to prevent involvement or misuse of NPOs in TF.

894. No onsite monitoring is undertaken by the State Register, as the MoJ department responsible for registering NPOs undertake such inspection by the granting of a ministerial decree to undertake an inspection after a complaint was received. The State Registry does undertake a desk-top review of NPOs' by-laws and objectives when applying for registration to ensure they comply with all Armenia Law provisions for NPOs though as advised by the authorities, with no focus on TF. Branches and representative offices of foreign NPOs must file the by-laws and registration of the parent NPO and further lodge the by-laws, approved by the parent, relevant to the RA operation. The branch by-laws must be compliant with RA Law and are reviewed by the State Register, though as with domestic NPOs, with no specific focus on TF.

895. As discussed above, NPOs are required to issue an annual public report, published in the mass media, detailing the income and expense report. For NPOs who are foundations, the annual report must be published no later than six months after the end of financial year and report on its activities including sources of funding and a copy of the published report must be lodged with the State Register pursuant to Article 39 on the Law on Foundations. Charities must publish the annual report no later than three months after the end of financial year and disclose the process of implementation of charitable programs pursuant to Article 18 of the Law on Charities.

896. Audit requirements for foundations with financial activities of 10 million dram or more (USD26,000 at the time of assessment) apply, pursuant to Article 39 of the Law on Foundations. The Audit requirement relates to the conclusions of the annual financial report however, the audit is not specifically focused on elements of TF and no audit requirements apply to other NPOs. The publication of the annual reports is the avenue available for the State Register to capture data on NPOs which account for a significant portion of the financial resources under control of the sector however the authorities advised that no data analysis is undertaken from an aspect of TF vulnerabilities or activities.

897. There are no procedures in place that differentiate the NPOs for supervision or monitoring based on financial resources or substantial shares of the sector's international activities and the authorities advised that due to the number of staff vis-à-vis the number of NPOs, there are no plans going forward to undertake any on-site monitoring or structural changes to the approach of desk-top review.

**Information maintained by NPOs and availability to the public thereof (c. VIII.3.1):**

898. As discussed above, NPOs are required to issue an annual public report which includes the financial activities, source of funding, programs implemented or accomplished. Further, every NPO must 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 and the details in Article 15 of the Law on State registration of Legal Entities which includes, but is not limited to, the objectives, voting rights and the like. Laws directly relevant to the NPOs' activities, such as the

Law on Charities and the Law on Foundations, contain further detail in relation to, but not limited to, the requirement for and the contents of the charter; the obligations and responsibilities of the members of the governing body (Article 18.3 of the Law on Charities) and, as stipulated by the Law on Foundations (Article 21) the Board of Trustee members or a member of another body of the foundation and the Manager or Executive Director of the foundation (Article 21) who is in the position of directing the current activities of the Foundation (Article 27). Assessment on the accuracy of the information published is not reviewed by the MOJO.

899. As mentioned earlier, Article 26 of the AML/CFT Law requires NPOs to maintain for at least 5 years identification data of members of their management bodies, foundation documents such as charters and by-laws, and decisions of management bodies and financial-economic documentation.

900. Certain information is publicly available through the information contained in the General State Register Book, held and maintained by the State Register pursuant to Article 17 paragraph 4 of the Law on State Registration of Legal Entities. The General State Register Book (Register Book) contains data on all the legal entities and sole proprietors registered throughout Armenia and the Register is updated no later than once every 10 days. Pursuant to Article 20 (Chapter III) of the Law on State Registration of Legal Entities the Register Book includes, but is not limited to, the type of foundation, date of foundation, the domicile of the legal entity, the 'composition of the founders (participants, members, partners, shareholders) and other data relating to them'. Further Article 20 states that the Register Book, when it comes to legal entities of which NPOs are, will reflect data available in the registration certificate however Article 18 of the Law on State Registration of Legal Entities, which describes what is contained in the registration certificate, does not disclose the ultimate controllers, directors or the like. Additionally to the information available through the Register Book, Foundations must publicly disclose annually, pursuant to Article 29 of the Law on Foundations, the full names of members of the board of trustees and the manager and other persons of the Foundation's staff if they have utilized the foundation's 'means and services within the accounting year'. Additionally, the state registration certificate contains information on the management of the NPO, pursuant to Article 18 of the Law on Registration.

**Measures in place to sanction violations of oversight rules by NPOs (c. VIII.3.2):**

901. As discussed in Section 2 of this report, Armenian law does not provide for criminal liability of legal persons but administrative sanctions are available. The administrative sanctions detailed in Article 28 of the AML/CFT Law relate to sanctions applied to legal persons for the involvement of ML and FT. Further, paragraphs 1 and 3 specifically apply to the involvement of a legal person who is not a reporting entity under the AML/CFT Law. The sanctions include the imposition of a penalty to the value of the received assets of crime, as specified by Part 4 Article 55 of the CC, but not less than approximately USD5,200 (at the time of assessment) for the involvement in money laundering. For the involvement in terrorism financing, the sanctions include the imposition of a penalty at the value of the assets used for FT, as specified by Part 5 Article 55 of the CC, but not less than approximately USD26,000 (at the time of assessment). Both sanctions include an action to be filed to the court requesting liquidation of the legal person. The sanctions are imposed by the MoJ as the respective supervisory body pursuant to Article 28, paragraph 6 of the AML/CFT Law.

902. Additionally, the State Register has administrative remedies available through written notices of violations of the laws relating to each NPO and the right to appeal to court to remedy, if no remedy has

been undertaken following the issuance of a written notice, or liquidate the NPO.[48] 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.

903. All actions undertaken by the Authorities in relation to non-compliance do not relate to TF and relate only to the late or absent publication of financial performance and other obligations for publication, lodgment of returns, failure to submit a proposed amendment to a charter or by-law.

**Licensing or registration of NPOs and availability of this information (c. VIII.3.3):**

904. As discussed in VIII 3.1, NPOs are required to be registered with the State Register which is the public registry, pursuant to the Law on Registration of Legal Entities. In addition to the registration with the State Registry, registration of NPOs must be with the State Revenue Service as the taxation authority and that such information supplied is the same as the information required for the registration with the State Register as an NPO including charters, by-laws, members of governing bodies, purpose and intention and in addition to the details of specific projects for the purpose of taxation exemption.

905. Such information is available to the FMC pursuant to Article 9(1) of the AML/CFT Law, upon request from the State Registry.

**Maintenance of records by NPOs, and availability to appropriate authorities (c. VIII. 3.4):**

906. The maintenance of records is set out in the provisions of Article 26 of the AML/CFT Law wherein NPOs must maintain records for at least five years on the identification data of members of their management bodies; foundation documents and decisions by management bodies and documents related to financial and economic operations.

907. Sharing of information between the appropriate and competent authorities has been undertaken for taxation related matters.

**Measures to ensure effective investigation and gathering of information (c. VIII.4):**

908. As discussed in Section 2 of this report, legal entities are precluded from criminal liability of legal persons and investigations into the NPO legal entity itself would encounter the same inhibitors as other legal entities. However, if the investigation was involving a natural person involved in some form with the NPO, investigative powers contained in the CPC are applicable.

909. Taking into account the aforementioned inhibitors, Article 26, paragraph 4 of the AML/CFT Law sets forth that the Authorized Body (i.e. the FMC) and in cases stipulated by law also other bodies may

[48] Article 34 of the Law of Foundations permit the relevant authority, being the Ministry of Justice, to apply to the court for the liquidation of the foundation for such infringements, including but not limited to the foundation 'committing numerous or gross violations of the law or it has regularly carried out activities contradicting its statutory goals' or if the founder, whilst establishing the foundation, 'has committed gross violations of the law or falsifications'. Further, Article 38 of the Law of Foundation permits the State register to issue a notice to remedy for any violations of the provisions contained in the Law of Foundations, such as if the annual financial report is not published within six months of the end of the financial year, and the State Register can further appeal to the court for liquidation for non-rectification. The Law on NGOs, pursuant to Article 16 paragraph 3 states that the 'organization and its officials are liable for unlawful activities they engage in as provided under the law'. Article 19 of the Law on Charity is permitted to issue a written notice for any activities carried out by the charity that contradict the goals stipulated by the law on Charity and further can invalidate the state 'qualification and registration of the charitable program' in the event that the implementation of the program contained significant violations of law.

request information related to ML and TF from NPOs and from their supervisory bodies, which in the event of NPOs includes the Legal Persons State Register of the MoJ.

**Domestic cooperation, coordination and information sharing on NPOs (c. VIII.4.1):**

910. A number of gateways exist to allow co-operation and the sharing of information including through the Interagency Commission, an intergovernmental commission against money laundering and terrorism financing of which the Ministry of Justice is a member, whose mandate includes conducting corresponding operations by state and non-state authorities, information sharing on trends and vulnerabilities and policy setting.

911. Additionally, a bi-lateral Memorandum of Understanding is in place between the FMC and the State Revenue Committee and the application in relation to NPOs correlates with the requirements for NPOs to be registered with the tax authorities.

912. Further, Article 13 of the AML/CFT Law enables the Authorized Body, being the FMC, to co-operate for the purposes of AML and CFT with other state bodies including such co-operation with supervisory and criminal investigation authorities, with or without bilateral agreements.

**Access to information on administration and management of NPOs during investigations (c. VIII.4.2):**

913. The analysis contained in Section 2 of this report and criterion 4 above on investigative measures wherein the limitation of investigating legal entities, and access to information, applies equally to NPOs. Article 26, paragraph 4 of the AML/CFT Law provides for the FMC to request information related to money laundering and terrorism financing from NPOs and from the supervisory bodies. Further, Article 18.4 of the Law on Charities states that no information on the structure, income, property, expenditures, staffing and relative remuneration and involvement of volunteers shall be considered a commercial secret.

**Sharing of information, preventative actions and investigative expertise and capability, with respect NPOs suspected of being exploited for terrorist financing purposes (c. VIII.4.3):**

914. In addition to the gateways in VIII 4.1, Article 26, paragraph 4 of the AML/CFT Law provides for the FMC to request information related to money laundering and terrorism financing from NPOs and from the supervisory bodies. Investigative expertise and capability would rest with the LEAs as discussed in Section 2 of this report.

**Responding to international requests regarding NPOs - points of contacts and procedures (c. VIII.5):**

915. Formal requests for assistance are through the FMC pursuant to Article 14 of the AML/CFT Law and as discussed in Section 2 of this report.

Effectiveness:

916. Authorities acknowledged that there is no outreach to the NPO sector and further that there are no dedicated staff to the on-going supervision of NPOs and any related supervision or monitoring is only undertaken when an application to establish is received or for requests for amendments to charters, by-laws and the like. There are no procedures in place that differentiate the NPOs for supervision or monitoring based on financial resources or substantial shares of the sector's international activities. The number of staff vis-à-vis the number of NPOs is an inhibitor to undertaking effective risk analysis of the sector.

917. However, in line with the FATF objectives and general principles applicable to NPOs, NPOs are required to maintain information on the purposes and objectives of their stated activities and the identity of the governing body, all of which is publicly available. A registration system for all NPOs, domestic and foreign, is in place which requires publication of annual financial statements and that the funds are dispensed in a manner consistent with the NPO's stated activities. The obligations of record keeping are set forth including the requirement to document the financial operations however the requirement does not directly related to the verification of whether the funds have been dispersed in a manner consistent with the charters, by-laws and objectives.

### 5.3.2. Recommendations and Comments

Authorities should consider:

- Ensuring that periodic assessments are undertaken by reviewing new information on the sector's potential vulnerabilities to terrorist activities;
- Establishing outreach to NPOs in relation to the risks of TF abuse and available measures to protect against TF abuse;
- Applying appropriate resources and technical capacity to the NPO sector with a focus on TF risks.

### 5.3.3. Compliance with Special Recommendation VIII

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **SR.VIII** | **PC** | • The frequency for periodic assessments, either through the Interagency Commission or other means, is not mandated or scheduled nor are any trigger events for an assessment, by way of additional or new information on trends or methodologies.<br>• Currently, there is no outreach program in place by the authorities to the NPO sector.<br>• Limited resources and technical skills to address any risks of TF within the NPO sector and no current focus on the risks. |

# 6. NATIONAL AND INTERNATIONAL CO-OPERATION

## 6.1. National Co-Operation and Coordination (R.31)

918. Legal Framework: 1) Order on Establishment of the Interagency Standing Commission Against Fraud and Forgery in Plastic Cards and Other Payment Methods and on Fight Against Money laundering and Terrorism Financing; 2) Work Regulation of the Interagency Standing Commission Against Fraud and Forgery in Plastic Cards and Other Payment Methods and on Fight Against Money laundering and Terrorism Financing; 3) Memorandum of Understanding between the Financial Monitoring Centre of the Central Bank of the Republic of Armenia and the Prosecutor's Office of the Republic of Armenia; 4) Memorandum of Understanding between the Financial Monitoring Centre of the Central Bank of the Republic of Armenia and the Police of the Republic of Armenia; 5) Memorandum of Understanding between the Financial Monitoring Centre of the Central Bank of the Republic of Armenia and the National Security Service under the Republic of Armenia; 6) Memorandum of Understanding between the Financial Monitoring Centre of the Central Bank of the Republic of Armenia and the State revenue Service of the Republic of Armenia.

### 6.1.1. Description and Analysis

919. Mechanisms for co-operation and coordination are available by way of the interagency commission which was established for the prevention of financial crime including but not limited to money laundering and terrorism financing. Additionally, a number of domestic bi-lateral memorandums of understanding are in place and signed by the FMC with government bodies, namely the law enforcement; National Security Service; Prosecutor's Office and the State Revenue Service.

**Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):**

920. The Interagency Standing Commission Against Fraud and Forgery in Plastic Cards and Other Payment Methods and on Fight Against Money laundering and Terrorism Financing (Interagency Commission) was established following the issuance of the President Decree No.NK-1075 of March 2002 and consists of senior representatives from the Central Bank, General Prosecutor's office, Ministry of Finance, Foreign Affairs Ministry; Ministry of Finance; National Security Service; State Revenue Committee with a representative from both tax and customs; National Central Bureau of Interpol in Armenia; Association of Banks of Armenia; Criminal Chamber of the Court of Cassation; Financial Monitoring Center and the assistant to the President of Armenia. Some bodies, such as SROs, that should play a key role are not represented at The Interagency Commission's mandate includes but is not limited to the oversight of the effectiveness of implemented policies and programs on AML/CFT and the evaluation of the effectiveness, information sharing on trends and methodologies and educational programs.

921. The Interagency Commission is mandated to meet at least bi-annually, pursuant to Article 4(11) of the Work Regulation of the Interagency Commission and the reports from the meetings are to the RA President. In practice the Interagency Committee meets on an average of 2 to 3 times a year and is supported by working groups.

922. Any agency or authority represented at the Interagency Commission may propose an issue to be discussed at a forthcoming meeting. The agenda and materials for the meetings are arranged by the Secretariat of the Commission, which is conducted by the FMC. The FMC also acts as the secretariat and a quasi-control mechanism for the implementation of the decisions taken by the Commission such that it

composes and disseminates through member institutions the minutes of the meeting, sends relevant letters to the management of member institutions informing them about their proposed actions pursuant to the agreed decisions, and where appropriate the secretariat requests feedback from institutions on the conducted actions. The Head of the FMC in the capacity of the Secretary of the Commission informs the Commission about the status of pending or outstanding issues.

923. The Interagency Commission has undertaken a number of activities, some emanating in policy decisions, in recent years such as:

- Developing an AML/CFT training policy (2006);
- Conclusion of MoUs between the FMC and national stakeholders (2006-2008);
- Compliance enhancing procedure to MONEYVAL requirements (2006);
- Seeking Armenia's observer status to Eurasian Group and FMC's membership to Egmont Group (2006-2007);
- Reforming Armenia's AML/CFT legal framework (2007-2008);
- Reviewing efficiency of AML/CFT relating TA projects conducted in designated institutions (2007-2008);
- Determining status and effectiveness of FMC's case referrals for the law enforcement action (2008);
- Considering annual outcomes of FMC's and other institutions activities in AML/CFT (2007-2008);
- Considering Armenia's compliance status and further actions with regard to various FATF requirements: e.g. SR VIII, IX, R 30 (2007-2008);
- Reviewing ML trends and typologies and coordinated actions towards their deterrence (2007-2008);
- Reviewing the pre-arrangements for the Armenia's 3rd round assessment of its AML/CFT framework (2008-2009).

924. The FMC has entered into four bi-lateral Memorandums of Understanding (MoUs) as mentioned above, with the National Security Service, the Police, State Revenue Service and the Prosecutor's Office, first signed in 2006 and re-executed in 2008. The MoU's are specific to ML and TF and all have the same parameters for co-operation in relation to the exchange of information on suspicious ML/TF transactions; joint discussions on suspicious ML/TF transactions; mutual assistance in drafting the rules, guides and other methodological materials on combating ML/TF; joint activities on maintaining case statistics and development of typologies; and the implementation of joint training, education and consulting programs on combating ML/TF.

925. The number of requests made under the umbrella of the MoUs and the exchange of the requested information is as follows:

| *Agencies* | *2007* | | *2008* | | *2009 (as of 01.04.2009)* | |
|---|---|---|---|---|---|---|
| | Outgoing from FMC | Incoming to FMC | Outgoing from FMC | Incoming to FMC | Outgoing from FMC | Incoming to FMC |
| General Prosecutor's Office | 5 | 5 | 4 | 5 | 0 | 2 |
| National Security Service | 1 | 3 | 9 | 12 | 2 | 6 |
| Police | 2 | 3 | 6 | 2 | 1 | 1 |
| State Revenue Committee | 4 | 2 | 4 | 2 | 1 | 1 |

926. The current mechanisms for co-operation and coordination seem adequate however effective implementation and improvements emanating from work undertaken needs to be measured. Additionally consultation and outreach with regulated institutions and SROs can be further developed. The Interagency Commission could benefit from undertaking ongoing analysis of the risk of ML/TF in Armenia (to determine vulnerabilities, sectors at risk, types of predicate offences committed in Armenia, that could generate proceeds) which should serve as a basis for streamlining its AML/CFT strategy and further develop the work already undertaken.

**Additional Element - Mechanisms for Consultation Between Competent Authorities and Regulated Institutions (c. 31.2):**

927. Whilst dialogue between the authorities and the Association of Banks of Armenia exists through the mechanisms of the Interagency Commission, no other formal structures are in place for consultation with financial and non-financial institutions.

**Statistics (applying R.32)**:

### 6.1.2. Recommendations and Comments

The authorities should consider:

- Undertaking ongoing analysis of the risk of ML/TF to streamline its AML/CFT strategy;
- additional or alternative outreach mechanisms for consultation with regulated entities either by way of the existing arrangements or by other means;
- Follow up on the effectiveness of decisions made and the full implementation of policies emanating from these decisions.

### 6.1.3. Compliance with Recommendation 31

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.31** | **LC** | • Insufficient risk assessment of the varying sectors in relation to ML or TF risk.<br>• Mechanisms for consultation with regulated institutions are limited with only the Association of Banks of Armenia being a member of the Interagency Commission. |

## 6.2. The Conventions and UN Special Resolutions (R.35 & SR.I)

### 6.2.1. Description and Analysis

**Ratification of AML Related UN Conventions (c. 35.1):**

928. Armenia has ratified the United Nations Convention against Transnational Organized Crime (the Palermo Convention) on July 1, 2003 and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) on September 13, 1993.

**Ratification of CFT Related UN Conventions (c. I.1):**

929. Armenia has ratified the International Convention for the Suppression of the Financing of Terrorism on March 16, 2004 and has ratified 12 of the other 15 international conventions and protocols on terrorism. Armenia has not signed the Amendments to the Convention on the Physical Protection of Nuclear Material, the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and the Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

**Implementation of Vienna Convention (Articles 3-11, 15, 17 & 19, c. 35.1):**

930. Armenian law has implemented most provisions of the Vienna Convention.

931. Confiscation measures are available for all offenses as defined in the Vienna Convention. Seizing powers are available but do not extend to legitimate property intermingled with proceeds of crime or instrumentalities used or intended for use in crime. Furthermore, the legal and effectiveness issued noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' ability to effectively identify and trace property that is or may become subject to confiscation, especially prior to the identification of a suspect or where the information sought relates to a person other than the suspect. Absent a summons for appearance and short of a seizing order, Armenian law allows for law enforcement authorities or the courts to compel the production of financial records only from the injured in a criminal case or the legal representatives of the injured, the plaintiff, the suspect or the accused.

932. Armenia may provide a wide range of mutual legal assistance with respect to drug-related ML offenses and the assessors have not identified any unreasonable or unduly restrictive conditions on the provision of such assistance. Armenian law provides that requests for mutual legal assistance are to be fulfilled based on Chapters 1- 53 of the CPC, thereby allowing the Armenian authorities to take any powers provided for in the CPC on behalf of another country that could be taken with respect to a

domestic investigation or prosecution. However, this entails that the shortcomings identified with respect to domestic tracing and seizing powers also apply with respect to MLA requests for such measures. Drug related ML is an extraditable offense under Armenian law.

933. Armenia's declaration system for the physical cross border transportation of currency and bearer negotiable instruments by way of mail or cargo only applies to incoming but not outgoing cross border transportation by way of mail or cargo.

934. Armenia's LOSA provides for a wide range of special investigative techniques, including controlled delivery. While most law enforcement authorities have attended training seminars and courses on investigation and prosecuting ML, Members of the National Security Service's investigation department have not received any training specifically on AML/CFT, which is surprising given that the NSS has the exclusive authority to conduct money laundering investigations.

**Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1):**

935. Armenian law has implemented most provisions of the Palermo Convention. However, Armenian law does not provide for criminal liability of legal entities and it remains unclear whether to prove that property is proceeds of crime a conviction for a predicate offense is required.

936. Confiscation measures are available for some but not all offenses as defined in the Palermo Convention. General seizing powers are available for all offenses but the measure does not extend to legitimate property intermingled with proceeds of crime or instrumentalities used or intended for use in crime. Furthermore, the legal and effectiveness issued noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' ability to effectively identify and trace property that is or may become subject to confiscation, especially prior to the identification of a suspect or where the information sought relates to a person other than the suspect. Absent a summons for appearance and short of a seizing order, Armenian law allows for law enforcement authorities or the courts to compel the production of financial records only from the injured in a criminal case or the legal representatives of the injured, the plaintiff, the suspect and the accused.

937. Armenia may provide a wide range of mutual legal assistance and the assessors have not identified any unreasonable or unduly restrictive conditions on the provision of such assistance. Armenian Law provides that requests for mutual legal assistance are to be fulfilled based on Chapters 1- 53 of the CPC, thereby allowing the Armenian authorities to take any powers provided for in the CPC on behalf of another country that could be taken with respect to a domestic investigation or prosecution. However, this entails that the shortcomings identified with respect to domestic seizing and confiscation powers also apply with respect to MLA requests for such measures. ML is an extraditable offense under Armenian law.

938. Armenia's LOSA provides for a wide range of special investigative techniques, including controlled delivery. While most law enforcement authorities have attended training seminars and courses on investigation and prosecuting ML. Members of the National Security Service's investigation department have not received any training specifically on AML/CFT, which is surprising given that the NSS has the exclusive authority to conduct money laundering investigations.

**Implementation of SFT Convention (Articles 2-18, c. 35.1 & c. I.1):**

939. Armenia has criminalized terrorism financing broadly in line with the SFT Convention. However, some deficiencies as outlined under SR II have been identified. Most notably, due to the purposive element required by Article 217, the TF provision is not applicable to most terrorism offenses stipulated

in the nine Conventions and Protocols listed in the Annex to the TF Convention and the definition of "terrorism" referred to by the TF provision does not contain a reference to "international organizations", as required by the SFT Convention. Due to the inconsistent use ot terminology in paragraph 1 "("financial means") and paragraph 3 ("objects of terrorist financing") of Article 217.1. CC, it is unclear whether the terrorism financing offense encompasses the notion of "funds' as defined by the Convention. Furthermore, legal persons may not be subject to criminal liability under Armenian law.

940. For the issues noted in regard to the confiscation and seizing provisions regime in place for TF see, these may be found under the analysis under of R.3 and SRIII and the issues noted therein.

941. Armenia may provide a wide range of mutual legal assistance and the assessors have not identified any unreasonable or unduly restrictive conditions on the provision of such assistance. TF is an extraditable offense under Armenian law.

**Implementation of UN SCRs relating to Prevention and Suppression of TF (c. I.2)**

As outlined in great detail under SR III, Armenia's response to UNSCR 1267 is inadequate and many of the requirements of UNSCR 1373 are not fully addressed. Armenia relies on the domestic criminal provisions to implement UNSCR 1267 and UNSCR 1373 and does not have any measures in place to immediately freeze assets in all instances regardless of whether it is possible to instigate an investigation or prosecution for a terrorist offence.

**Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2):**

942. Armenia has ratified the UN Convention against Corruption (Merida Convention) on March 8, 2007 and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg Convention) on October 8, 2003 and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention) on June 2, 2008.

943. Armenia has also ratified the European Convention on the Suppression of Terrorism, the Criminal and Civil Law Conventions on Corruption and the Commonwealth of Independent States (CIS) Agreement on Countermeasures against Money Laundering and Terrorism Financing.

### 6.2.2. Recommendations and Comments

- Provide for criminal liability of legal persons;
- Put in place confiscation measures for all offenses as defined in the Palermo Convention;
- Provide for the seizing of legitimate property intermingled with proceeds from or instrumentalities used or intended for use in the commission of crimes as defined in the Vienna and Palermo Conventions;
- Provide law enforcement authorities or the courts with a general power to compel the production of financial records, including in cases where the information is requested from a witness or a person other than the injured, the plaintiff, the suspect or accused;
- Harmonize Articles 10 LBS with Article 29 LOSA and Articles 13.1 LBS with 13 AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial

secrecy and to ensure that law enforcement authorities can effectively access and compel production of information, transaction records, account files and other documents or information that is covered by financial secrecy, especially in cases where a suspect has not yet been identified or where the information is sought with respect to persons other than the suspect;

- Apply the declaration system for the physical cross border transportation of currency and bearer negotiable instruments also to outgoing transportation by way of mail or cargo;
- Officials of the National Security Service's investigation department should receive more specific AML/CFT training;
- Define the TF offense in line with the definition; of the offense in the SFT Convention;
- Put in place adequate measures to fully address the requirements under UNSCR 1267 and 1373.

### 6.2.3. Compliance with Recommendation 35 and Special Recommendation I

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.35** | **PC** | • Armenian law does not provide for criminal liability of legal persons.<br>• Confiscation measures do not extend to all offenses as defined in the Palermo Convention.<br>• It is not possible to seize legitimate property intermingled with proceeds from or instrumentalities used or intended for use in the commission of crimes as defined in the Vienna and Palermo Conventions.<br>• Absent a summons for appearance and short of a seizing order, the provisions in the CPC are not sufficiently wide to allow for law enforcement authorities or the courts to compel the production of documents and information in all cases.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' power to obtain information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The declaration system for the physical cross border transportation of currency and bearer negotiable instruments does not cover outgoing transportation by way of mail or cargo.<br>• Lack of the specific AML/CFT training for officials of the National Security Service's investigation department. |
| **SR.I** | **PC** | • FT is not defined in line with the definition of the offense stipulated in the SFT Convention.<br>• Armenia's responses to UNSCR 1267 and 1373 are inadequate. |

## 6.3. Mutual Legal Assistance (R.36-38, SR.V)

### 6.3.1. Description and Analysis

Legal Framework:

944. Armenia's Criminal Procedure Code allows for the provision of mutual legal assistance in criminal cases both on the basis of a bilateral or international agreement and on an ad hoc basis through application of the principle of mutuality. All ad hoc requests have to be submitted through the MOFA.

945. Armenia has entered into bilateral agreements relevant for the provision of mutual legal assistance in criminal matters with ten countries, namely Bulgaria, Romania, Ukraine, Iran, Georgia, Greece, UAE, Lithuania, Egypt and Lebanon. Armenia has also joined a number of international agreements relevant for the provision of mutual support in criminal cases, including the Vienna and Palermo Conventions, the Terrorism Financing Convention, the Merida Convention, and the Strasbourg and Warsaw Conventions as outlined above. Requests based on a bilateral or multilateral treaty may be directly submitted to the relevant authority in Armenia, if provided for in the treaty.

946. Article 474 CPC stipulates that unless the terms of a specific request for assistance are determined by a corresponding international agreement, the request will be carried out in accordance with the CPC. Accordingly, in this section of the report there will be no distinction made between the procedures applicable to carry out mutual legal assistance requests based on international agreements and those carries out based on the principle of mutuality.

947. The relevant provisions in the CPC are set out in Articles 474-499 CPC. All provisions relating to the provision of mutual legal assistance, including extradition, apply equally to all criminal offenses, including money laundering or terrorist financing.

**Widest Possible Range of Mutual Assistance (c. 36.1):**

948. Pursuant to Article 482 (4), requests received from foreign countries are processed by the Prosecutor General's Office (GPO) if the request relates to a case in the pre-trial phase and by the Ministry of Justice (MoJ) if the request relates to a case being tried before the courts of a foreign country.

949. Mutuality is required in all cases. The decision as to whether mutuality is provided is made by the MoJ and the GPO, respectively, and based on previous dealings with the requesting country. If Armenia has had no previous relationship with the requesting country, the authorities would provide mutual legal assistance based on good will. Once it has been established that a country will afford reciprocity to Armenia in providing mutual legal assistance, assistance may be provided to that country for as long as the arrangement has not been eliminated or replaced by an applicable bilateral or international agreement.

950. The MoJ or the GPO, respectively, has to provide the requesting country with a translation of the Article 482 CPC. In general, a request for MLA has to provide information on the crime involved, the type of assistance requested, an excerpt of the requesting country's criminal code, and if the request relates to a court order, a copy thereof. Formal requirements are checked by the GPO and the MoJ, respectively.

951. Article 484 provides that mutual legal assistance requests are to be fulfilled based on Chapters1-53 of the CPC, thereby allowing the Armenian authorities to take any powers provided for in the CPC on behalf of another country that could be taken with respect to a domestic investigation or prosecution. However, this entails that the shortcomings identified with respect to domestic seizing and confiscation

powers as outlined under Recommendation 3 also apply with respect to MLA requests for such measures. In addition, based on the practical application of dual criminality, the shortcomings identified with respect to the TF and ML offenses may limit Armenia's ability to provide assistance, for example in situations where criminal proceedings involve a legal entity or where a request relates to an act of terrorism financing not covered by the Armenian TF provision.

952. By way of reference (Article 53(4) CPC)) the measures provided for in the LOSA may also be taken upon request by a foreign country. In particular, the following forms of mutual legal assistance may be provided.

**Production, search and seizure of information, documents or evidence (incl. financial records) from financing institutions, or other natural or legal persons:**

953. Articles 225 & 226 CPC allow for the search of premises and the seizure of documents, evidence and other property as outlined in great detail under Recommendation 28.

954. With regard to access to information covered by banking secrecy, domestic law enforcement authorities have direct access to such information based on a court order pursuant to Article 29 LOSA. However, as outlined in great detail under Recommendation 4, the courts seem to apply the more restrictive requirements of Article 10 Law on Banking Secrecy in all cases, and therefore also in situations where court order is sought based on a request for mutual legal assistance from a foreign countries. It would therefore appear that such access will be granted only if: (1) a suspect has been identified; and (2) only with respect to information relating to the suspect but not any other person. In practice, this situation has never occurred as no country has ever requested Armenia to provide information that is subject to banking secrecy. As outlinder under Recommendation 4, information covered by financial secrecy may also be obtained through the FMC but inconsistencies in the legal provisions regulating such indirect access have an impact on law enforcement authorities' ability to effectively use those powers, including in cases where the information is sought based on a request for MLA.

955. For the discussion of powers to access information covered by professional secrecy, please see the analysis under Recommendations 26 and 28 and the issues noted therein.

956. While the provision of mutual legal assistance is not subject to dual criminality, the authorities stated that in practice requests would not be granted if dual criminality is not met. It is therefore doubtful that requests for information relating to procedures against legal persons would be granted, as Armenian law does not provide for criminal liability of legal persons.

957. The authorities stated that in practice, no requests for access to confidential information or information held by a legal person have been received.

**Taking of evidence or statements from persons; facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country:**

958. Article 14(1) LOSA provides for the conduct of operational inquiries, defined as the collection of information about prepared or committed crimes, including through asking natural and legal persons that do or may possess information relevant to the case questions and receive answers to the questions posed. The measure is available both before and after initiation of criminal proceedings. The authorities stated that in practice, witness statement have been taken many times based on a request by foreign countries, albeit not with respect to ML/TF cases.

**Providing originals or copies of relevant documents and records as well as any other information and evidentiary items to requesting country:**

959. While there are no specific provisions in the CPC regulating the submission of documents, evidence and records to foreign countries, both representatives of the GPO and the MoJ stated that in practice they would and in the past always have provided the requesting country with the originals or copies of the requested documents and items.

**Effecting service of judicial documents**

960. While there are no specific provisions in the CPC regarding the servicing of foreign judicial documents, representatives of the MoJ and the GPO stated that in the past this type of assistance has been provided many times in cases other than ML or TF. Upon receipt of a foreign judicial document, the authorities would take the document to the requested party, obtain a signature and send the signed document back to the requesting state.

**Identifying, freezing, seizing and confiscating assets laundered or intended to be laundered, the proceeds of ML and assets used for or intended for use for FT, as well as instrumentalities of such offences and assets of corresponding value:**

961. Based on the confiscation provisions of Articles 55 CC, and as outlined in great detail under Recommendation 3, all assets as outlined above may be confiscated based on a conviction for money laundering or terrorism financing. The authorities stated that confiscation orders from countries which recognize civil forfeiture would not be implemented in Armenia.

962. Seizing measures pursuant to Articles 232 & 233 CPC may also be taken based on a request by a foreign country. A court order is not required for these measures. However, the scope of Article 233 CPC does not extend to legitimate assets equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML or TF offenses.

963. The authorities stated that seizing or confiscation measures have never been taken based on the request of another country and that Armenia has never been requested to do so.

**Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1):**

964. The CPC does not provide for clear timeframes in which MLA requests have to be handled. In the absence of any requests received for ML and TF, it is also not possible to determine how long it would generally take to respond to such requests.

965. Representatives of the GPO stated with respect to MLA requests received in other cases, on average it would take about one month to respond to requests, depending on the scope of the request. However, there are no formal timeframes in place. Representatives of the GPO stated that upon instructing another authority to take action to implement a request, they would normally ask for a response within 15 to 20 days. After receipt of the response from the domestic authorities, the GPO would send a notification to the requesting country, informing them about the measures taken and the results obtained.

966. Representatives of the MoJ stated with respect to MLA requests received in other cases, on average it would take about two months to respond to requests, depending on the complexity of the request. It was further stated that requests for MLA would be dealt with by a special unit within the MoJ, comprising of two professional staff. Requests would be checked on compliance with form requirements and then be forwarded to the relevant agency competent with a request to submit a response within one

month, whereby the timeframe is not obligatory. Upon receiving a response from the competent authority, the MoJ would validate the responses and send the results to the requesting country either through the MoFA or directly, in case of an applicable treaty.

967. Both representatives of the GPO and the MoJ stated that requests not meeting the form requirements would be sent back to the requesting country with a request to provide the additional information or heal the mistake.

**No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2):**

968. Article 484 CPC provides that a request for MLA may be denied if granting it may damage the independence, constitutional order, government or security of Armenia or would conflict with the laws of Armenia. In such cases, the documents sent by the requesting country do not have to be returned.

969. While not required by law, the authorities stated that in practice, MLA would not be provided in the absence of dual criminality. In addition, assistance may be refused if requested by a country that does not afford reciprocal privileges to Armenia. In all other cases other than those specified in Article 484 CPC, documents provided by the requesting country have to be returned together with a statement as to why the request was denied.

970. The decision as to whether or not a request should be denied based on these grounds rests with the MoJ and the GPO, respectively.

971. No requests relating to ML or TF have ever been received by Armenia, therefore none of the reasons outlined above ever gave rise to rejection of a request.

972. Overall, Armenia's laws do not seem to unduly or unreasonably restrict the provision of mutual legal assistance.

**Efficiency of Processes (c. 36.3):**

973. Neither the GPO nor the MoJ have formalized timeframes in place for the execution of MLA requests in a timely way and without undue delay. However, based on the discussions with the authorities it seems that in practice, requests are being dealt with within a reasonable time frame of one to two months. No statistics have been provided to support the authorities' claim.

**Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4):**

974. The CPC does not indicate that a request may be refused on the sole ground that the offense is also considered to involve fiscal matters. The authorities stated that requests would not and in the past have never been refused on the sole ground that the relevant offence involves fiscal matters.

**Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5):**

975. For access to information covered by banking and professional secrecy see analysis under criterion 36.1. above and Recommendations 4, 26 and 28.

**Availability of Powers of Competent Authorities (applying R.28, c. 36.6):**

976. As outlined above, through Article 484 CPC, all measures provided for in the LOSA and the CPC, including the powers of law enforcement authorities under these provisions, are also available with respect to the implementation of requests for MLA.

**Avoiding Conflicts of Jurisdiction (c. 36.7):**

977. Armenia has never faced a situation where coordination with other countries was required to determine the best venue for prosecution of the defendant in cases where both Armenia and the other country resume jurisdiction over a case. However, the authorities stated that such coordination could be done based on a MoU with the other country.

**Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8):**

978. Direct requests for MLA can be channeled through Interpol or based on bilateral agreements with the counterpart in the foreign jurisdiction. The powers available in such cases are based on the specific terms of the treaty.

**International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1):**

979. The provisions outlined under Recommendation 36 apply to any category of crime, including offences of terrorism financing.

**Additional Element under SR V (applying c. 36.7 & 36.8 in R.36, c. V.6):**

980. The provisions outlined under Recommendation 36 apply to any category of crime, including offences of terrorism financing.

**Dual Criminality and Mutual Assistance (c. 37.1 & 37.2); International Cooperation under SR V (applying c. 37.1-37.2 in R. 37, c. V.2):**

981. Pursuant to Article 482 CPC, mutual legal assistance may be granted with respect to all criminal offenses and regardless of the crime involved. The only measure which explicitly requires dual criminality is Article 499.9 CPC, which allows for the rejection of criminal judgments issued by foreign courts in the absence of dual criminality. For all other forms of assistance, Armenian law does not require dual criminality when providing mutual legal assistance. However, in comprehensive discussions with both representatives of the GPO and the MoJ, it was stated that in practice no request would be granted in the absence of dual criminality, regardless of the measure requested.

982. The authorities further stated that dual criminality would be met if all the elements of the offence are present and the conduct underlying the offence for which the request was received satisfies the requirements of the relevant Armenian provision. Technical differences would not be taken into account.

983. In the absence of any requests received for ML and TF offenses, however, it could not be determined whether and to what extent the practical application of the dual criminality principle may negatively impact Armenia's ability to provide mutual legal assistance.

**Timeliness to Requests for Provisional Measures including Confiscation (c. 38.1); Property of Corresponding Value (c. 38.2):**

984. As already stated above, based on the practical application of dual criminality, the shortcomings identified with respect to the TF and ML offenses may limit Armenia's ability to provide assistance, for example in situations where criminal proceedings involve a legal entity or where a request relates to an act of terrorism financing not covered by the Armenian TF provision.

*Enforcement of foreign confiscation or restraining orders in Armenia:*

985. Article 499.8 CPC provides that outside of applicable treaty frameworks, foreign judgments, including foreign seizing orders, may be directly implemented in Armenia if they have been recognized

by the Armenian Court of First Instance. Once a judgment has been recognized it may be executed in accordance with the CPC. Article 499.9 further provides that recognition of a foreign court order may be denied if the action for which the person has been condemned is not a penal action or the punishment provided by the sentence is the death penalty.

986. As already outlined under Recommendation 3, Armenia's CPC allows for the confiscation of proceeds from, instrumentalities used for or intended for use in the commission of the money laundering or terrorism financing offense as well as to any legitimate property equivalent in value to such property. However, Armenia's confiscation provisions do not cover all FATF designated predicate offenses.

987. The authorities confirmed that foreign confiscation orders may be implemented in Armenia only if they are based on a conviction. Civil forfeiture orders would therefore not be recognized.

*Freezing or seizing orders based on a request by a foreign country:*

988. As already stated earlier, the Armenian authorities may take any measures on behalf of another country that could be taken in the course of domestic proceedings. Accordingly, countries may request that Armenian authorities take provisional measures pursuant to Articles 13 or 233 CPC with respect to property that was derived or obtained, directly or indirectly through the commission of those ML, TF or predicate offenses, including income or other benefits, instruments used or intended to be used in the commission of any such crime. Seizure is available both with respect to property held or owned by the defendant or a third party. However, as already outlined under Recommendation 3, Article 233 CPC does not provide for seizure of property equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML, TF or predicate offenses.

989. If there are grounds to suspect that the property will not be surrendered based on the seizing order, the prosecutor may apply to the court for a search warrant to facilitate enforcement of the seizing order.

**Coordination of Seizure and Confiscation Actions (c. 38.3):**

990. No formal arrangements are in place to coordinate seizing and confiscation actions with other countries. However, the authorities stated that such arrangements could be made on an ad hoc basis, should the need arise.

**International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3):**

991. The provisions outlined under Recommendation 38 apply to any category of crime, including offences of terrorism financing.

**Asset Forfeiture Fund (c. 38.4):**

992. Armenia's Interagency Commission has considered establishing an asset forfeiture fund for confiscated property. However, a decision was reached to refrain from such an initiative given the characteristics of the financial-fiscal and criminal-legal systems. Confiscated property is being transferred to the RA Budget and afterwards is used based on necessity.

**Sharing of Confiscated Assets (c. 38.5):**

993. The Interagency Commission considered authorizing the sharing confiscated assets with other countries. It was decided that the question would be further discussed should any request for the sharing of assets be received from a foreign country.

**Additional Element (R 38) – Recognition of Foreign Orders for: a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (applying c. 3.7 in R.3, c. 38.6):**

994. Armenian law does not provide for the recognition and implementation of foreign civil forfeiture orders. There are no provisions that would allow for the confiscation of property from organizations principally criminal in nature or confiscation of property with a reverse burden of proof to show the lawfulness of the property in question.

**Additional Element under SR V (applying c. 38.4-38.6 in R. 38, c V.7):**

995. The provisions outlined under Recommendation 38 apply to any category of crime, including offences of terrorism financing.

**Statistics (applying R.32):**

996. Statistics on mutual legal assistance are maintained by the Office of the Prosecutor (requests relating to pre-trial investigations) and the Ministry of Justice (requests relating to cases on trial), respectively. However, since 2004, no mutual legal assistance requests relating to ML or TF have been received or made by the Office of the Prosecutor.

### 6.3.2. Recommendations and Comments

- The shortcomings identified with respect to the provisional and confiscation measures available under Armenian law should be remedied as they may limit Armenia's ability to take such measures based on foreign requests. For example, the authorities should be able to confiscate proceeds of, instrumentalities used or intended to be used for the commission of all predicate offenses and to seize property equivalent in value to proceeds of or instrumentalities relating to the commission of ML, TF or predicate offenses;
- Harmonize Article 10 LBS with Article 29 LOSA and Article 13.1 LBS with Article 13 AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that request for assistance in gaining access to such information can be fully complied with;
- Clarify whether dual criminality is required for the provision of mutual legal assistance to determine whether the deficiencies identified with respect to the ML and TF offenses as outlined under Recommendations 1, 2 and Special Recommendation II may limit Armenia's ability to provide assistance in certain situations, and in particular the ability to provide mutual legal assistance for proceedings against legal persons.

### 6.3.3. Compliance with Recommendations 36 - 38 & Special Recommendation V

| | Rating | Summary of factors relevant to s.6.3 underlying overall rating |
|---|---|---|
| **R.36** | **PC** | • The shortcomings identified with respect to the provisional and confiscation measures available under Armenian law may also limit Armenia's ability to conduct such measures based on foreign requests.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on Armenia's ability to |

| | | |
|---|---|---|
| | | provide assistance in obtaining information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The practical application of dual criminality may limit Armenia's ability to provide assistance due to the shortcomings identified with respect to the ML offenses where a request relates to a criminal proceeding involving a legal person. |
| **R.37** | **LC** | • While not required by law, in practice all forms of MLA may be rendered only under dual criminality.<br>(Composite Rating) |
| **R.38** | **PC** | • The shortcomings identified with respect to the provisional and confiscation measures available under Armenian law may also limit Armenia's ability to conduct such measures based on foreign requests.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on Armenia's ability to provide assistance in obtaining information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The practical application of dual criminality may limit Armenia's ability to provide assistance due to the shortcomings identified with respect to the ML offenses where a request relates to a criminal proceeding involving a legal person. |
| **SR.V** | **PC** | • The shortcomings identified with respect to the provisional measures available under Armenian law may also limit Armenia's ability to conduct such measures based on foreign requests.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law Armenia's ability to provide assistance in obtaining information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The practical application of dual criminality may limit Armenia's ability to provide assistance due to the shortcomings identified with respect to the TF offenses.<br>(Composite Rating) |

## 6.4. Extradition (R.37, 39, SR.V)

### 6.4.1. Description and Analysis

Legal Framework:

997. Armenian law provides for extradition based on bilateral or multilateral agreements as well as on an ad hoc basis, whereby the latter is discretionary.

998. The extradition process is regulated through Articles 479, 487-499 CPC and Article 16 CC. All provisions relating to extradition apply equally to all criminal offenses, including money laundering or terrorist financing.

**Dual Criminality and Extradition (c. 37.1 & 37.2)**

999. Article 487 Criminal Procedures Code provides for the extradition of persons for any acts that constitute criminal offenses both under Armenian law and the law of the requesting state and that are punishable with imprisonment for at least one year. In cases where a person has already been convicted and extradition is sought purely for the purposes of serving a sentence in the requesting state, dual criminality is still required but the petition may be granted if the statute of limitation under the law of the requesting country runs for a duration of six months or more.

1000. Dual criminality is therefore required for the purposes of extradition. To enable the authorities to determine whether dual criminality is met, Article 489 Criminal Procedures Code requires that the requesting country submits a description of the factual circumstances of the conduct in question as well as the original text of the law on the basis of which the act is considered a crime. A statement by the requesting country, confirming that the statute of limitation has not expired for the required time has to be provided as well.

1001. As in the case of other requests for MLA, extradition requests are forwarded by the MoFA to the MoJ if the request relates to the extradition of a person which is on trial or has already been convicted or to the GPO if extradition is sought for a person prosecuted in the requesting jurisdiction. In both cases, the decision taken may be appealed against to the Armenian Appellate Court.

1002. Both representatives of the MoJ and the GPO stated that in determining whether dual criminality is met, consideration is given to the elements of the crime. However, technical differences in the denomination/categorization of the offense between law of the requesting state and Armenia would not pose an impediment to extradition.

**Money Laundering as Extraditable Offence (c. 39.1):**

1003. Article 487 Criminal Procedures Code does not discriminate between different categories of offenses. Subject to dual criminality, all criminal offenses constitute extraditable offenses, including money laundering and terrorism financing.

1004. Pursuant to Article 488 CPC, extradition requests have to be denied if, at the time of receipt of the request:

- Criminal prosecution may not be instigated or the judgment may not be executed in the requesting country due to the expiration of the statute of limitations;

- The request is for extradition of an Armenian citizen. The authorities stated that in the past, this has been the main reason for denying any request for extradition;

- The person to be extradited may be subject to the death penalty in the requesting state and the requesting state has not provided sufficient assurances that the penalty will not be imposed; or that the death penalty will be imposed by the requesting state.

1005. Furthermore, Armenia has discretion to reject extradition if the requested person has been granted political asylum in Armenia, is subject to prosecution in the requesting country based on political, racial or religious grounds, or for committing a war crime at the time of peace, or has committed the crime in question in Armenia.

1006. Article 16 CC reemphasizes some of the provisions of Article 488 CPC, stating that Armenian citizens may not be extradited to foreign countries and that no person may be extradited if there are serious reasons to believe that he/she may be subject to torture or that the death penalty will be imposed by the requesting state.

1007. Article 490 CPC specifies the information that has to be contained in an extradition request, including the name, citizenship, and address of the person for whom extradition is sought, the factual circumstances of the conduct for which extradition is sought, a confirmed copy of the arrest warrant issued by the court of the requesting state, and the damage caused by the crime. Formal shortcomings of the request may be healed. Requests are reviewed for compliance with the formal requirements by the MoJ and the GPO, respectively.

1008. Once a decision on a specific extradition request has been made, Article 495 CPC requires that the competent authority in the requesting state is informed about the time and place of the extradition. If the requesting state does not accept the extradited person within 15 days of the time specified in the notification, the person is to be released from custody.

1009. Pursuant to Articles 16 CC and 490 CPC, if an extradition request is denied, the person for whom prosecution is sought is to be prosecuted for the crime committed abroad in accordance with the Armenian law.

1010. The CPC allows for the arrest of persons for extradition purposes based on an arrest warrant issued by the competent court in the requesting country (Article 491) and, in limited circumstances, even in the absence of such a warrant (Article 492). Furthermore, the Code contains provisions relating to competing requests from several states (Article 494), to repeated extradition (Article 495) as well as to delayed and temporary extradition (Article 493).

**Extradition of Nationals (c. 39.2):**

1011. Both Article 16 CC and Article 488 CPC prohibit the extradition of Armenian citizens to foreign countries.

1012. As in all other cases, where an extradition is denied based on the Armenian citizenship of the person for whom the request is made, Article 16 CC and Article 498 CPC require that the person for whom extradition was sought is prosecuted for the crime committed abroad in accordance with Armenian law. Representatives of the MoJ stated that when they rejected requests for extradition based on nationality in the past, the authorities always expressed their willingness to prosecute the person domestically. In many cases, the requesting country then provided the authorities with the relevant case files and prosecutions were instituted in Armenia.

**Cooperation for Prosecution of Nationals (applying c. 39.2(b), c. 39.3):**

1013. The authorities stated that whenever a case has been referred to Armenia based on Armenia's rejection of an extradition requests as outlined above, Armenia has requested MLA from the referring country to ensure support the domestic prosecution.

**Efficiency of Extradition Process (c. 39.4):**

1014. There are no formal procedures in place to ensure the efficient and timely processing of incoming extradition requests. However, the authorities stated that in practice, extradition requests would be dealt with within one month from the day of receipt of the request.

**Additional Element (R.39)—Existence of Simplified Procedures relating to Extradition (c. 39.5); Additional Element under SR V (applying c. 39.5 in R. 39, c V.8)**

1015. No simplified procedures are in place to allow direct transmission of extradition requests between appropriate ministries or for extradition of persons consenting to the extradition and formally waiving the formal extradition proceedings. It is not possible under Armenian law to extradite a person based on warrants of arrests or judgments only.

**Effectiveness:**

1016. Armenia has not received or made any extradition requests relating to ML or TF.

### 6.4.2. Recommendations and Comments

1017. Remedy the deficiencies in the TF offenses to ensure that the dual criminality requirement does not limit Armenia's ability to extradite persons in TF cases.

### 6.4.3. Compliance with Recommendations 37 & 39, and Special Recommendation V

| | Rating | Summary of factors relevant to s.6.4 underlying overall rating |
|---|---|---|
| **R.39** | **C** | |
| **R.37** | **LC** | (Composite Rating) |
| **SR.V** | **PC** | • Based on the dual criminality requirement for extradition, the deficiencies identified with respect to the TF offense as outlined under Special Recommendations II may limit Armenia's ability to extradite persons in certain situations.<br>(Composite Rating) |

### 6.5. Other Forms of International Co-Operation (R.40 & SR.V)

**Widest Range of International Cooperation (c. 40.1)**

#### 6.5.1. Description and Analysis

**Legal Framework:**

1018. Article 14, paragraph 1 of the AML/CFT Law states that the Authorized Body (FMC) and state bodies shall cooperate with international organizations and respective bodies of foreign states (including foreign financial intelligence units) involved in combating ML and TF within the framework of international treaties and, in the absence of international treaties, in accordance with international practice.

**Widest Range of International Cooperation (c. 40.1); Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1); Clear and Effective Gateways for Exchange of Information (c. 40.2):**

FMC

1019. The FMC co-operates with foreign FIU as an active member of the Egmont Group. In spite of the fact that the existence of agreements on co-operation based on Article 14 of the AML/CFT Law is not a pre-condition for the co-operation of the FMC and foreign FIUs, the FMC has initiated the process of arranging such agreements since 2008. During the first 10 months of year 2008 such agreements were signed with the FIUs of the Russian Federation, Ukraine, Belarus and Georgia. In 2008, with a Decree of the RA Government the FMC was appointed as the central body foreseen by the Council of Europe Convention on Laundering, search, seizure, and confiscation of the proceeds from crime and on the financing of terrorism (Warsaw Convention), which is responsible, according to Article 33 of the Convention, for receiving and making requests within the framework of the Convention.

1020. After becoming a member of the Egmont Group (May 2007) the exchange of information between the FMC and foreign FIU-s has increase. The table below details statistics on the exchange of information:

| | Number of Requests Received | Number of Requests Responded | Number of Requests Rendered |
|---|---|---|---|
| 2007 | 18[49] | 18 | 17[50] |
| 2008 (first 10 months) | 18[51] | 18 | 15[52] |

[49] The requests were received from Ukraine, the Russian Federation, Luxembourg, Venezuela, Lebanon, Libya, Croatia, Macedonia, Guatemala, Lithuania.
[50] The requests were received from Georgia, the Russian Federation, Hungary, the USA, Guatemala, Albania, Macedonia, France, Serbia, Qatar, and Thailand.
[51] The requests were rendered to the Russian Federation, the USA, Luxembourg, Canada, Estonia, and Lithuania.
[52] The requests were rendered to Lithuania, Estonia, the USA, Belarus, Ukraine, Hungary, Thailand, Denmark, Germany, Belgium, British Virgin Islands, Republic of South Africa, and Australia.

1021. The authorities indicated that requests of information were responded in a three-day time in average, if the response to the request did not require additional inquiries with the instate or other authorities. A one-month period in average was required for the aforementioned additional requests. A sample check on the documentation on file at the FMC confirmed it.

Supervisory authorities

1022. The CBA, as the sole financial sector supervisor is able to provide the widest range of international cooperation to its foreign counterparts within the framework of memorandums and agreements where these have been executed.

1023. Within the CBA Law, Article 5 describes one of the objectives of the CBA as "to collect, coordinate and analyze information concerning legalization of criminal proceeds and financing of terrorism, exchange and analyze information to intra-governmental competent authorities and international organizations, and competent authorities of other countries, if stipulated by international agreements of Armenia." Also under Article 8 of the CBA Law, the CBA is empowered to represent the interests of the Republic of Armenia in international financial organizations, international and foreign overseas banks, as well as in relations with the central and other banks of other countries, and shall conclude and execute international agreements as required by law.

1024. The same Article further states that the CBA shall have the right to cooperate with foreign regulators of the securities market. The cooperation shall include finding and exchange of information concerning the subject of regulation, contributing in receiving such information. The CBA shall have the right to transfer the lawfully possessed information to other bodies provided that the transfer shall not contravene the law, the regime of confidentiality as set forth by the law shall not be violated, and the information shall be used exclusively for the purpose of prevention of law violations or prosecution. For the purpose of such cooperation the CBA shall have the right to establish information exchange systems or to participate in such on its behalf, in particular, to sign memorandums and agreements which set forth the composition of information, procedures and conditions of its exchange.

1025. CBA authorities indicated that they have signed Memoranda of Cooperation with the following central banks:

| Central Bank | Memoranda of Cooperation signed | Memoranda includes cooperation in AML/CFT matters | Memoranda includes cooperation in Banking activities | Memoranda includes cooperation in Securities activities* | Memoranda includes cooperation in Insurance activities |
|---|---|---|---|---|---|
| Egypt | Oct. 2002 | - | √ | - | - |
| Lebanon | Dec. 2002 | - | √ | - | - |
| Russia | 2003 | | √ | - | |
| Georgia | Sept. 2004 | √ | √ | - | - |
| Ukraine | 2004 | - | √ | - | - |
| Cyprus | Apr. 2006 | - | √ | - | - |
| Iran | Aug. 2008 & April 2009 | √ | √ | √ | √ |

* The authorities indicated that in 2004, the Securities Commission of the Republic of Armenia became the Ordinary member of IOSCO. Thereafter, in accordance with the Law "On establishment of an Unified Financial Regulation and Supervision Framework" simultaneously with the delegation of the Securities Commission functions of stock market and supervision to the

CBA the latter was considered legal successor of the Securities Commission. Consequently, the CBA now is the member of IOSCO with Ordinary status.

1026. A review of copies of the MoUs provided by the authorities revealed that the majority of these memorandums were drafted in general terms and focused on exchanging information and promoting cooperation among counterparts mostly with respect to banking activities, including licensing, supervision, and establishment of correspondent accounts. Only the MoUs signed with the Central Banks of Georgia and Iran explicitly addressed the exchange of supervisory information related to AML/CFT. However, in the case of Georgia, "supervisory information" did not include information on customer transactions, accounts and deposits, and other information related to public or bank secrecy. In the case of Iran, exchange of supervisory information related to AML/CFT was linked to the activities of cross-border establishments. However, CBA officials provided statistics (see table below) of a number of cases where the CBA had responded to requests for assistance from foreign competent authorities (although the actual details of the information provided to the foreign counterparts were not shared with the assessors).

1027. During 2006, 2007, and 2008, the CBA received various requests for information from different countries according to the following tables:

| Year | No. of requests received | Sector (Banking, Securities, Insurance, Other) | Type of request/information | Action taken |
|---|---|---|---|---|
| 2008 | 3 | Banks | Customer information | No information available on action taken. |
| 2007 | 2 | Banks | Information concerning certain customer information | No information available on action taken. |
| 2006 | 3 | Banks | Cross-check of correspondent account balances, interbank lending activity | No information available on action taken. |

Law enforcement authorities

*State Revenue Service*

1028. Customs: Outside the framework of formal mutual legal assistance, the Armenian customs authorities may cooperate with their counterparts in other jurisdictions on the basis of MoUs. At the time of the onsite visit, 13 bilateral MoUs with foreign counterparts had been signed, all of which allowed for a direct exchange of information.

1029. Tax: The Armenian tax authority has signed double taxation treaties with 30 countries, based on which a direct exchange of information may take place. In addition, the tax authority has entered into a number of bilateral MoUs with other jurisdictions to facilitate the exchange of information during the performance of intelligence operations or investigations pertaining to crimes within its competency.

*Police*

1030. Besides the formal framework of mutual legal assistance, the Armenian police uses the international communication network of Interpol to directly request and provide information to its foreign counterparts. The authorities stated that in the past, the network has been used to directly exchange information with respect to money laundering cases.

1031. The following are statistics of exchange of information of Interpol Armenia. Responses were provided on an average of 10 days (1 in urgent cases).

| | Number of Requests Received | Number of Requests Responded | Number of Requests Rendered |
|---|---|---|---|
| **2005** | **0** | **0** | **2** |
| **2006** | **5** | **5** | **4** |
| **2007** | **3** | **3** | **0** |
| **2008 (first 10 months)** | **1** | **1** | **0** |

**Spontaneous Exchange of Information (c. 40.3):**

FMC

1032. According to Article 14, paragraph 2 of the AML/CFT Law, the Authorized Body (FMC) exchanges information upon request or own initiative, based on reciprocity, in regard to ML/TF suspicious cases as well as in regard to the predicate offences.

Supervisory authorities

1033. Officials indicated that the CBA has the power to exchange information spontaneously and upon request. There do not appear to be any significant impediments/challenges to the exchange of information with foreign counterparts. Based on statistics provided, several cooperative efforts have taken place since 2006, although the CBA authorities indicated that matters dealing with ML/TF usually were channeled through the FMC and addressed by the Financial Supervision Department if documentation was required from financial institutions in the system.

Law enforcement authorities

1034. Both the police, customs and tax authorities have the ability to spontaneously provide information to their counterparts.

**Making Inquiries on Behalf of Foreign Counterparts (c. 40.4); FIU Authorized to Make Inquiries on Behalf of Foreign Counterparts (c. 40.4.1)**;

1035. Although there is no specific provision to expressly vest the FMC with the power of making inquiries on behalf of foreign counterpart, such responsibility is encompassed in Article 14, of the AML/CFT Law, which sets forth the FMC's responsibilities for exchanging information with foreign counterpart, including information that is covered by secrecy. The FMC can search its own database pursuant to a request of a foreign counterpart and also the databases to which it has access (described under the analysis of Recommendation 26).

1036. Article 5 of the CBA Law (which can be extended to the FMC (which is part of the CBA) empowers the CBA to conduct inquiries on behalf of foreign counterparts.

**Conducting of Investigations on Behalf of Foreign Counterparts (c. 40.5):**

1037. Police-to-police requests through Interpol channels allow for the communication of information or intelligence but not for the taking of investigative action or coercive action. Any such measure may be taken on the basis of a MLA request only.

1038. According to Article 474 of the CPC, upon the instruction or the request of the courts, prosecutors, investigators and inquest bodies, the conduction of interrogation, examination, confiscation, search, expert examination and other criminal prosecution measures in the territory of a foreign country as prescribed by the CPC, as well as the conduction of criminal prosecution measures upon the request of competent authorities and political persons of foreign countries in the territory of the Armenia as prescribed by the CPC, take place in accordance with the RA International Treaties in a manner prescribed by such treaties and the Code. According to Article 11 of the Law on Operative Investigation, the authorities carrying out operative-investigatory operations, shall co-operate with international law enforcement organizations, law enforcement bodies of foreign countries and special services in a manner prescribed by the RA International Treaties.

**No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6):**

Exchange of information, as regulated by the law (Article 14 of the AML/CFT Law for the FMC; Article 8 of the Law on the Central Bank and Article 18 on the Law on National Securities Bodies for the NSS) is not made subject to disproportionate or unduly restrictive conditions.

**Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):**

1039. Armenian legislation does not exclude or prohibit the submission of information in the case of tax matters. The described forms of assistance can be and in the past have been granted by the Armenian authorities even in cases involving fiscal matters.

**Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):**

1040. According to Part 2, Article 14 of the AML/CFT Law the FMC can also provide information which is subject to secrecy, based on reciprocity. However, the shortcomings noted in regard to the information covered by professional privilege may limit the possibility of the FMC to provide such information. Also the shortcomings noted (under recommendations 3 and 28) in regard to access of law enforcement authorities to information covered by financial secrecy, can also hamper the possibility of law enforcement authorities to provide such information.

**Safeguards in Use of Exchanged Information (c. 40.9):**

1041. According to Article 14 of the AML/CFT Law, the Authorized Body (the FMC) is not authorized 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.

1042. Law enforcement authorities are also subject to strict confidentiality requirements in the handling of information.

**Additional Element—Exchange of Information with Non-Counterparts (c. 40.10 & c. 40.10.1):**

**Additional Element—Provision of Information to FIU by Other Competent Authorities pursuant to request from Foreign FIU (c. 40.11)**

1043. Article 10 of the AML/CFT Law authorizes the FMC to request information from state bodies, including supervisory and criminal investigation authorities, including information constituting secrecy as prescribed by law. Such authority can be utilized for obtaining relevant information pursuant to a request by a foreign counterpart FIU.

**Additional Element under SR V (applying c. 40.10-40.11 in R. 40, c. V.9):**

1044. The legal provisions and responsibilities described above are also applicable in the case of TF.

### 6.5.2. Recommendations and Comments

1045. Authorities are recommended to:

- Clarify the provisions of professional secrecy, which may hamper FMC's ability to have access/compel information;

- Harmonize Articles 10 LBS with Article 29 LOSA and Articles 13.1 LBS with 13 AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities can effectively access and compel production of information, transaction records, account files and other documents or information that is covered by financial secrecy, especially in cases where a suspect has not yet been identified or where the information is sought with respect to persons other than the suspect.

### 6.5.3. Compliance with Recommendation 40 and Special Recommendation V

| | Rating | Summary of factors relative to s.6.5 underlying overall rating |
|---|---|---|
| **R.40** | **LC** | • Financial secrecy provisions hamper law enforcement authority to provide information.<br>• Professional secrecy provisions could undermine FMC's ability to provide information. |
| **SR.V** | **PC** | • Legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' powers to obtain information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• Professional secrecy provisions could undermine FMC's ability to provide information.<br>(Composite Rating) |

# 7. OTHER ISSUES

## 7.1. Resources and Statistics

1046. Factors and composite ratings for Recommendations 30 and 32 are as follows.

### 7.1.1 Descriptions and Analysis

**Resources**

1047. For the analysis of resources of FIU, see analysis under recommendation 26.

Law enforcement authorities

1048. As outlined in section 1.12. of this report, all LEAs involved in investigating and prosecuting money laundering and terrorism financing cases (Police, State Revenue Committee, National Security Service, Prosecutor's Office) seem to have been provided with sufficient human and technical resources to fully and effectively fulfill their mandate with respect to AML/CFT. Officers of all LEAs are held to a high level of integrity and most LEAs have received AML/CFT specific training, including training provided by international organizations. Members of the National Security Service's investigation department, however, have not received any training or attended any seminars or training courses specifically on AML/CFT, which is surprising given that the NSS has the exclusive authority to conduct money laundering and terrorism financing investigations. Furthermore, members of the customs' inquest and investigation department are in need of AML/CFT specific training.

1049. The Customs resources are considered adequate however the knowledge of, and practice in, monitoring and detecting cross-border transportation of currency and payable securities is considered minimal as reflected in the number of declarations and actions taken for violations of the rules. Further, the analytical department of Customs may need knowledge improvement for meaningful analysis of captured data in relation to ML and TF.

Financial supervisors:

1050. The CBA – Financial Supervision Department currently has a total staff of 75 examiners, including 2 information technology examiners. All supervisors have attended in-house training in AML, which is provided by the FMC and some have also participated in other seminars and workshops sponsored by IFIs, the USA Embassy and FATF-FSRBs. All CBA staff is subject to confidentiality standards embedded within both the law and their individual contractual arrangements.

1051. The table below reflects the number of supervisors within the Supervision Department of the CBA and the respective financial institutions under their responsibility:

| Type of financial institution | No. of Supervisors |
|---|---|
| Banks | 37 |
| Securities firms | 9 |
| Insurance companies | 8 |
| Credit organizations | 12 |
| Pawnshops | 0 |

| | |
|---|---|
| Foreign exchange offices | 6 |
| Money remitters | 3 |
| Total | 75 |

Note: The FSD-CBA is also responsible for the supervision of pawnshops.

1052. Considering the number of financial institutions under the responsibility of the CBA's Supervision Department, it appears that additional human resources are needed, particularly with respect to the number of supervisors responsible for credit organizations, foreign exchange offices, money remitters, and insurance companies.

DNFBPs supervisors.

1053. The resources of the competent authorities who license and supervise DNFBPs are considered inadequate. The staffing level is low and in some instances, skill sets may need bolstering in relation to technical competence or skills for ML and TF matters. Attorneys are registered with the Chamber of Advocates however no provisions or powers are conferred to the Chamber of Advocates for the supervision of advocates in relation to the obligations set forth in the AML/CFT Law and no systems, protocols or dedicated and experienced staff are in place by the Chamber for such supervision of compliance.

**Statistics**

1054. The FMC maintains comprehensive statistics on STR and TTRs received, broken down per financial institutions and DNFBPs; on STR analyzed and disseminated.

1055. There is an overall lack of comprehensive and meaningful statistics in the financial sector on matters relevant to the effectiveness and efficiency of systems for AML/CFT. In particular, statistics on the number of AML/CFT examinations and the results obtained, especially by the CBA – Supervision Department. Some of these statistics were compiled at the request of the assessors, particularly with respect to the number of inspections conducted.

1056. The authorities do not keep complete and accurate statistics on the number of ML cases forwarded to the NSS by all bodies competent to instigate such cases, thus making it difficult to assess the effective operation of the law enforcement authorities with respect to conducting ML investigations. However, the Information Center of the Police keeps accurate and complete statistics on the number of ML cases investigated, prosecuted and adjudicated. Comprehensive statistics relating to seizures and confiscations are maintained by the Service for Compulsory Enforcement of Court Decrees. Customs maintain detailed statistics and have an automated system integrating all customs ports throughout RA. Further, Customs have a recently established dedicated department to analyze captured data however no statistical analysis is focused on in relation to ML and TF or the effectiveness and efficiency of the systems and controls in place.

1057. The component authorities supervising the DNFBP sector keep minimal statistical information and seem to rely more on the FMC to capture data, however this information from the FMC would only be limited to TRs and STRs. No knowledge was reflected by the authorities interviewed on ML or TF investigations, prosecutions or convictions, on seized or confiscated property nor were any international requests for co-operation known of. Due to the fact that most of the DNFBP sector is either unlicensed or not supervised, no statistical information is available on the remaining sector.

### 7.1.2. Recommendations and Comments

The authorities are recommended to:

- Identify and recruit additional resources to provide for an adequate level of AML/CFT supervision for both off-site surveillance activities and on-site inspections;
- Consider additional resources for the FMC;
- Provide AML/CFT specific training for officials of the NSS's investigative department and the custom's inquest and investigation departments;
- Maintain accurate statistics.

### 7.1.3. Compliance with Recommendations 30 and 32

| | Rating | Summary of factors underlying rating |
|---|---|---|
| **R.30** | **PC** | • Additional human resources (supervisors) needed particularly with respect to credit organizations, foreign exchange offices, money remitters, and insurance companies to provide for an adequate level of AML/CFT supervision.<br>• The staff of the FMC is insufficient.<br>• Lack of specific AML/CFT training for officials of the NSS's investigative department and the custom's inquest and investigation departments. |
| **R.32** | **NC** | • Lack of complete and accurate statistics on the number of money laundering cases forwarded to the NSS or instigated by law enforcement as well as the number of ML cases dismissed by law enforcement authorities.<br>• Lack of comprehensive and meaningful statistics in the financial sector on matters relevant to the effectiveness and efficiency of systems for AML/CFT. |

**Table 1. Ratings of Compliance with FATF Recommendations**

| Forty Recommendations | Rating | Summary of factors underlying rating[53] |
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| **Legal systems** | | |
| 1. ML offense | **LC** | • It remains unclear whether to prove that property is proceeds of crime a conviction for a predicate offense is required.<br>• The low number of ML criminal investigations compared to the number of criminal investigations for proceeds-generating crimes, as well as the high standard of proof applied by the courts to establish that assets originate from crime, indicate an issue of effectiveness in the implementation of the ML criminal provision. |
| 2. ML offense—mental element and corporate liability | **LC** | • There is no criminal liability of corporate entities.<br>• Because of the limited number of convictions, the assessors could not determine whether the sanctions are applied effectively. |
| 3. Confiscation and provisional measures | **PC** | • The confiscation provisions cover some but not all FATF designated predicate offenses.<br>• Article 55(3) CC does not allow for the confiscation of property that is held or owned by the defendant or a third party.<br>• Article 233(1.1.) CPC does not provide for seizure of property equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML, TF or predicate offenses.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy hamper law enforcement agencies' ability to effectively identify and trace property that is or may become subject to confiscation, especially prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• Confiscation provisions and provisional measures with respect to property that may become subject to confiscation do not seem to be implemented effectively. |
| **Preventive measures** | | |

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

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| 4. Secrecy laws consistent with the Recommendations | **PC** | • Legal and effectiveness issues impact on law enforcement agencies' ability to get access to information covered by financial secrecy, particularly prior to the identification of a suspect or where information is sought with respect to a person other than the suspect, and hence can inhibit effective implementation.<br>• Armenian financial secrecy laws do not allow the sharing of information among financial institutions where this is required by R7, R9 or SRVII. |
| 5. Customer due diligence | **PC** | • Availability of financial instruments in bearer forms, in some instances similar to anonymous accounts.<br>• Lack of requirements for financial institutions to:<br>  • adopt effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification; and<br>  • 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.<br>• Low level of implementation/effectiveness of financial institutions (particularly for credit organizations and other non-bank financial institutions) with respect to the obligations established by the AML/CFT law and implementing regulations. |
| 6. Politically exposed persons | **LC** | • Insufficient knowledge by financial institutions (banks, credit organizations, insurance companies, securities firm, and money remitters) interviewed by the mission with respect to the CDD (enhanced) measures established by law and regulation dealing with PEPs when establishing a business relationship. |
| 7. Correspondent banking | **C** | |
| 8. New technologies & non face-to-face business | **LC** | • Lack of measures in place, at a securities firm, for opening and establishing business relationships through a non face-to-face process. |
| 9. Third parties and introducers | **NC** | • Lack of requirements to:<br>  • immediately obtain from the third party the necessary information concerning certain elements of the CDD process;<br>  • take adequate steps to ensure that that copies of identification data and other relevant documentation relating to CDD requirements |

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| | | are made available from the third party upon request without delay; and<br>• ensure that the third party is regulated and supervised and has measures in place to comply with the CDD requirements.<br>• Specialized intermediaries or persons empowered to represent third parties not defined;<br>• Lack of measures to determine whether the countries in which the third party is based adequately apply the FATF Recommendations; and lack of requirement to establish an obligation for financial institutions to remain ultimately responsibility for customer identification and verification when relying on third parties. |
| 10. Record-keeping | **LC** | • Lack of guidance as to the notion of "main conditions of the transaction (business relationship)" subject to the recordkeeping requirements, in the cases which such transactions are not contracts. |
| 11. Unusual transactions | **LC** | • Lack of clear and direct requirement for financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions and all unusual patters of transactions which have no apparent economic or visible lawful purpose. Lack of requirement to keep the findings of the examination of complex and unusual large transactions also available to auditors for at least five years. |
| 12. DNFBP–R.5, 6, 8–11 | **NC** | • For casinos and prizing games operators, CDD requirements do not take into consideration transactions that in the aggregate equal to or exceed the threshold.<br>• No implementing requirements in the law or other enforceable means, nor any type of guidance and training, for DNFBPs to:<br>• obtain information on the purpose and intended nature of the business relationship;<br>• conduct effective ongoing due diligence measures on business relationships, taking into account materiality and risk and to conduct due diligence on such existing relationships at appropriate times including establishing the frequency for updating customer information;<br>• conduct enhanced due diligence for higher risk customers, business relationships or transactions;<br>• apply simplified/reduced CDD measures |

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| | | for low risk customers, including for overseas residents;<br>• prohibit the application of reduced CDD measures when suspicions of ML/TF exist or in the event of high risk scenarios;<br>• apply CDD measures on a risk sensitive basis;<br>• adopt risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to verification;<br>• 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;<br>• apply CDD measures for PEPs at the beginning of the relationship and ongoing monitoring after the relationship is established;<br>• apply when relying on third parties or intermediaries to perform CDD measures;<br>• examine as far as possible the background and purpose of transactions identified as complex, unusually large or transactions involving unusual patterns with no apparent or other legitimate purpose.<br>• Lack of Guidance to DNFBPs for determining the "reasonable timeframe" to follow when verifying the identity of the customer during the establishment of the business relationship.<br>• There is a threshold that unduly limits CDD in relation to the acquisition or sales of stocks or shares where business transactions falling under the threshold are exempt from the CDD requirements.<br>• Weaknesses in the actual record keeping practices.<br>• There is no measurement of risks for the disapplication of internal legal acts or external audit requirements for DNFBPs with less than 10 employees.<br>• Issues of effective implementation and practices. |
| 13. Suspicious transaction reporting | **LC** | • Low level of suspicious transaction reports by FIs. |
| 14. Protection & no tipping-off | **C** | |

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| 15. Internal controls, compliance & audit | **PC** | • Internal legal acts (internal procedures, policies, and controls) are inadequate as they do not consider the risk of ML and TF and the size of the business.<br>• Lack of screening procedures for hiring employees, other than the staff of the internal compliance unit.<br>• Lack of measures in place for financial institutions to maintain an adequately resourced and independent audit function, particularly when the internal auditor is delegated/designated as the compliance officer/internal compliance unit.<br>• Insufficient training provided by financial institutions to staff hampers effectiveness of implementation and compliance with requirements.<br>• Low level of implementation of obligations of the AML/CFT Law and regulations by financial institutions. |
| 16. DNFBP–R.13–15 & 21 | **PC** | • No STRs reported by any category of DNFBP.<br>• The overall awareness of reporting obligations in relation to STRs is low in particular to the lack of understanding differentiating an STR and a TTR; and the requirement for STRs to be raised for attempted suspicious transactions and in relation to tax matters.<br>• Internal legal acts mainly reflect the content of the AML/CFT Law and do not address the risks nor the nature, size or scope of the DNFBP operation.<br>• The compliance function is mainly undertaken by personnel involved in operations and no separation of duties, management of conflicts or a deep understanding of compliance was demonstrated.<br>• No requirement for ongoing training is in place nor are there any training avenues by way of service providers or courses.<br>• A lack of direct requirement to examine, and document findings on the background and purpose of complex, unusual large transactions and all unusual patters of transactions which have no apparent economic or visible lawful purpose.<br>• No effective measures to advise DNFBPs in relation to weaknesses in the AML/CFT systems of other countries.<br>• No requirement to examine as far as possible the background and purpose of transactions, |

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| | | document the findings, and make findings available to competent authorities.<br>• No appropriate counter-measures to apply when a country does not apply or insufficiently applies the FATF Recommendations.<br>• Concerns on the robustness of confidentiality and privilege for notaries, advocates, persons providing legal services, independent auditors and auditing firms and accountants.<br>• Issues with the effectiveness of the regime. |
| 17. Sanctions | **C** | |
| 18. Shell banks | **LC** | • The definition of "shell bank" in the Armenian legislation does not comply with the FATF standard. |
| 19. Other forms of reporting | **C** | |
| 20. Other NFBP & secure transaction techniques | **PC** | • No measurement of the risks to other DNFBPs from ML or TF.<br>• Lack of outreach to other DNFBPs who have obligations under the AML/CFT Law.<br>• No measures in place to develop and utilize modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. |
| 21. Special attention for higher risk countries | **LC** | • Lack of requirements to examine as far as possible the background and purpose of transactions from or in countries which do not or insufficiently apply the FATF Recommendations, document the findings, and make findings available to competent authorities and auditors. |
| 22. Foreign branches & subsidiaries | **C** | |
| 23. Regulation, supervision and monitoring | **LC** | • Low level of compliance and effectiveness of preventive measures by financial institutions in the system, particularly credit organizations, insurance, securities, foreign exchange offices and money remitters.<br>• Outdated examination procedures in place, for all sectors, do not reflect the requirements of the new (2008) AML/CFT Law. |
| 24. DNFBP—regulation, supervision and monitoring | **NC** | • Lack of competent authorities for monitoring and ensuring compliance with the AML/CFT obligations for independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals and dealers in precious stones.<br>• Absence of a supervisory regime for advocates (attorneys). |

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| | | • No fitness and propriety requirements for managers, owners, and beneficial owners of casinos.<br><br>• 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 functions in, or being an operator of a casino.<br><br>• Insufficient staffing numbers, and in some instances, specific skill sets, to implement and practice effective supervision in relation to AML and CFT.<br><br>• There are no effective systems in place for supervising compliance. |
| 25. Guidelines & Feedback | **PC** | • No guidance issued to assist financial institutions in the effective implementation of obligations dealing with updating customer data/information; and conducting due diligence for regular customers and enhanced ongoing monitoring of PEP relationships.<br>• No specific guidance on typologies of FT, nor on freezing obligations.<br>• Minimal guidelines in place for DNFBPs to ensure the full implementation and compliance of the applicable obligations set forth in the AML/CFT Law.<br>• No outreach to DNFBPs on relevant techniques, vulnerabilities of the sector, methods or trends. |
| **Institutional and other measures** | | |
| 26. The FIU | **LC** | • Unclear relation between AML law and professional secrecy provisions (in the case of lawyers, accountants and auditors) may affect the power of the FMC to require additional information.<br>• Lack of guidance on the manner of reporting for dealers in precious metals and stones.<br>• The shortage of staff of the FMC affects the effectiveness of the FMC in fulfilling its responsibilities, particularly in the financial analysis, and may affect the operational independence of the FMC. |
| 27. Law enforcement authorities | **LC** | • Lack of AML/CFT specific training for officials of the NSS's investigation department as well as legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on the effectiveness of |

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| | | ML and TF investigations. |
| 28. Powers of competent authorities | **PC** | • The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' power to obtain information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• Absent a summons for appearance based on Article 20 Law on Police and short of a seizing order, the provisions in the CPC are not sufficiently wide to allow for law enforcement authorities or the courts to compel the production of documents and information in all cases.<br>• In the absence of complete and accurate statistics on the number of ML cases forwarded to the NSS or instigated by law enforcement as well as the number of ML cases dismissed by law enforcement authorities it is difficult to gauge the effectiveness of the law enforcement authorities. |
| 29. Supervisors | **LC** | • Partial implementation of inspections for banks, credit organizations, money transfers services (money remitters) and securities/investment firms as provided by law.<br>• Lack of updated and effective supervisory inspections procedures in relation to the 2008 new AML/CFT Law. |
| 30. Resources, integrity, and training | **PC** | • Additional human resources (supervisors) needed particularly with respect to credit organizations, foreign exchange offices, money remitters, and insurance companies to provide for an adequate level of AML/CFT supervision.<br>• The staff of the FMC is insufficient.<br>• Lack of specific AML/CFT training for officials of the NSS's investigative department and the custom's inquest and investigation departments. |
| 31. National co-operation | **LC** | • Insufficient risk assessment of the varying sectors in relation to ML or TF risk.<br>• Mechanisms for consultation with regulated institutions are limited with only the Association of Banks of Armenia being a member of the Interagency Commission. |
| 32. Statistics | **NC** | • Lack of complete and accurate statistics on the number of money laundering cases forwarded to the NSS or instigated by law enforcement as well as the number of ML cases dismissed by law enforcement authorities.<br>• Lack of comprehensive and meaningful statistics in the financial sector on matters relevant to the |

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| | | effectiveness and efficiency of systems for AML/CFT. |
| 33. Legal persons–beneficial owners | **LC** | • Due to its recent enforcement, assessors could not determine that Article 23.2. Law on State Registration of Legal Entities is implemented effectively.<br>• Access to registered information may be time consuming given that the regional and central State Registries are not linked or and are not searchable in electronic form. |
| 34. Legal arrangements – beneficial owners | **NA** | • Recommendation is not applicable in the context of Armenia. |
| **International Cooperation** | | |
| 35. Conventions | **PC** | • Armenian law does not provide for criminal liability of legal persons.<br>• Confiscation measures do not extend to all offenses as defined in the Palermo Convention.<br>• It is not possible to seize legitimate property intermingled with proceeds from or instrumentalities used or intended for use in the commission of crimes as defined in the Vienna and Palermo Conventions.<br>• Absent a summons for appearance and short of a seizing order, the provisions in the CPC are not sufficiently wide to allow for law enforcement authorities or the courts to compel the production of documents and information in all cases.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on law enforcement agencies' power to obtain information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The declaration system for the physical cross border transportation of currency and bearer negotiable instruments does not cover outgoing transportation by way of mail or cargo.<br>• Lack of AML/CFT specific training for officials of the National Security Service's investigation department. |
| 36. Mutual legal assistance (MLA) | **PC** | • The shortcomings identified with respect to the provisional and confiscation measures available under Armenian law may also limit Armenia's ability to conduct such measures based on foreign requests.<br>• The legal and effectiveness issues noted in |

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| | | regard to access to information covered by financial secrecy have an impact on Armenia's ability to provide assistance in obtaining information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The practical application of dual criminality may limit Armenia's ability to provide assistance due to the shortcomings identified with respect to the ML offenses where a request relates to a criminal proceeding involving a legal person. |
| 37. Dual criminality | **LC** | • While not required by law, in practice all forms of MLA may be rendered only under dual criminality. |
| 38. MLA on confiscation and freezing | **PC** | • The shortcomings identified with respect to the provisional and confiscation measures available under Armenian law may also limit Armenia's ability to conduct such measures based on foreign requests.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on Armenia's ability to provide assistance in obtaining information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The practical application of dual criminality may limit Armenia's ability to provide assistance due to the shortcomings identified with respect to the ML offenses where a request relates to a criminal proceeding involving a legal person. |
| 39. Extradition | **C** | |
| 40. Other forms of co-operation | **LC** | • Financial secrecy provisions hampers law enforcement authority to provide information.<br>• Professional secrecy provisions could undermine FMC's ability to provide information. |
| **Nine Special Recommendations** | | |
| SR.I Implement UN instruments | **PC** | • FT is not defined in line with the definition of the offense contained stipulated in the SFT Convention.<br>• Armenia's responses to UNSCR 1267 and 1373 are inadequate. |
| SR.II Criminalize terrorist financing | **PC** | • Article 217.1. CC does not criminalize the financing of terrorist or terrorist organizations in situations where the property or funds are provided or collected without the intention or |

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| | | | knowledge that the funds or property will be used in the commission a specific act of terrorism, as required under SR II.<br>• Due to the different use ot terminology in paragraph 1 ("financial means") and paragraph 3 ("objects of terrorist financing"), it is unclear whether Article 217.1. applies to all "funds" as provided in the TF Convention.<br>• The definition of "terrorism" referred to by the TF provision does not contain a reference to "international organizations", as required by the TF Convention.<br>• The purposive element required by Article 217 (terrorism) unduly restricts the application of the TF provision to most of the terrorism offenses stipulated in the nine Conventions and Protocols listed in the Annex to the TF Convention.<br>• There is no criminal liability of corporate entities. |
| SR.III | Freeze and confiscate terrorist assets | **NC** | • The freezing mechanisms envisaged by Article 25 AML/CFT Law are not in line with the freezing obligations stemming from UNSCR 1267 and 1373 and are not consistent with SRIII, as such measures are dependent of the institution of domestic proceedings and in the absence of a conviction are therefore merely of a temporary nature.<br>• Beyond an initial period of 15 days, Armenia does not have a mechanism in place to give effect to freezing actions initiated under the freezing mechanisms of other jurisdictions.<br>• In the absence of legal criminal liability for legal entities, funds and other assets of legal entities cannot remain frozen after expiration of the initial 15 days.<br>• The freezing measures do not apply to financial assets and property other than funds.<br>• The freezing measures are not in all instances available for property owned jointly by a designated person or entity as well as with respect to funds merely controlled but not legally owned by designated entities or individuals.<br>• Lack of guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to UNSCR 1373 and Article 25 AML/CFT Law.<br>• No guidance or procedures have been issued on how entities or persons listed by the CBA could challenge this decision and apply for delisting, |

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| | | | should the situation arise.<br>• Article 25 AML/CFT Law does not provide for the protection of bona fide third parties caught in the initial freezing process. |
| SR.IV | Suspicious transaction reporting | **LC** | • Lack of guidance hampers the effective implementation of the reporting obligation. |
| SR.V | International cooperation | **PC** | • The shortcomings identified with respect to the provisional measures available under Armenian law may also limit Armenia's ability to conduct such measures based on foreign requests.<br>• The legal and effectiveness issues noted in regard to access to information covered by financial secrecy have an impact on Armenia's ability to provide assistance in obtaining information and documents covered by financial secrecy, particularly prior to the identification of a suspect or where the information sought relates to a person other than the suspect.<br>• The practical application of dual criminality in the area of mutual legal assistance and the legal dual criminality requirement for extradition may limit Armenia's ability to provide assistance or extradite persons in certain situations due to the shortcomings identified with respect to the TF offense as outlined under Special Recommendation II.<br>• Professional secrecy provisions could undermine FMC's ability to provide information. |
| SR.VI | AML/CFT requirements for money/value transfer services | **LC** | • Potential scope for abuse through the unauthorized money remitter informally operating in the financial system. |
| SR.VII | Wire transfer rules | **LC** | • Threshold established for wire transfers inconsistent with the standard (threshold affected by exchange rates). |
| SR.VIII | Nonprofit organizations | **PC** | • The frequency for periodic assessments, either through the Interagency Commission or other means, is not mandated or scheduled nor are any trigger events for an assessment, by way of additional or new information on trends or methodologies.<br>• Currently, there is no outreach program in place by the authorities to the NPO sector.<br>• Limited resources and technical skills to address any risks of TF within the NPO sector and no current focus on the risks. |
| SR.IX | Cross-Border Declaration & Disclosure | **PC** | • No declaration requirements in the case of out bound transportation through mail or cargo.<br>• No power to stop or restrain the currency in the case of suspicions of ML or TF. |

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| | | • Customs have limited confiscation and seizure powers.<br>• The freezing requirements envisaged by SRIII and the UNSCRs are not available in the case of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instrument that are related to TF.<br>• Most of the statutory sanctions are too low. In the absence of statistics it is not possible to determine whether sanction are effective, proportionate or dissuasive.<br>• Issues of effectiveness. |

**Table 2. Recommended Action Plan to Improve the AML/CFT System**

| FATF 40+9 Recommendations | Recommended Action (in order of priority within each section) |
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| **1. General** | |
| **2. Legal System and Related Institutional Measures** | |
| **2.1 Criminalization of Money Laundering (R.1 & 2)** | • Undertake appropriate initiatives (such as outreach or training, for example) to all authorities involved in investigating, prosecuting and adjudicating money laundering (ML) cases to: (1) assess what barriers exists for prosecuting ML, for example whether and to what extent the level of proof applied to show that property stems from the commission of a specific predicate offence poses an obstacle to obtaining convictions for stand-alone money laundering; and (2) to further raise the awareness on the statutory requirements of the ML provisions;<br>• Amend the law to provide for criminal liability of corporate entities. |
| **2.2 Criminalization of Terrorist Financing (SR.II)** | • Amend the definition of "terrorism" pursuant to Article 217 CC (1) to cover all terrorism offenses as defined in the nine Conventions and Protocols listed in the Annex to the TF Convention and (2) to include a reference to "international organizations", as required by Article 2 of the TF Convention;<br>• Amend Article 217.1. CC to cover situations in which the property or funds are provided or collected generally for use by an individual terrorist or a terrorist organization when there is no intention or knowledge that the funds or property will be used in the commission a specific act of terrorism;<br>• Harmonize the terms used in paragraph 1 ("financial means") and paragraph 3 ("objects of terrorism finacing") to clarify that Article 217.1. CC applies to all "funds" as provided for in the TF Convention;<br>• Amend the law to provide for criminal liability of corporate |

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| | entities. |
| **2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)** | • With respect to all predicate offenses not covered by Articles 55(3) CC, measures should be put in place to allow for the confiscation of proceeds from and instrumentalities used or intended to be used for the commission of the offenses as well as of legitimate assets equivalent in value to such property;<br>• Article 55(3) CC should be amended to allow for the confiscation of property regardless of whether it is held or owned by the defendant or a third party;<br>• Put in place measures to allow for the seizing of legitimate assets equivalent in value to proceeds from or instrumentalities used or intended for use in the commission of ML, TF or predicate offenses;<br>• Harmonize Article 10 of the LBS with Article 20 of the LOSA and Article 13.1 of the LBS with Article 13 of the AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities may effectively identify and trace property that is/may become subject to confiscation or is suspected of being the proceeds of crime, including in cases where a "suspect" has not yet been identified;<br>• The law enforcement authorities should ensure that provisional measures with respect to property that may become subject to confiscation are implemented effectively in the context of inquests/investigations/pre-trials for ML and TF;<br>• Armenian authorities should reconsider their approach to confiscation with a view to increasing the number of confiscation actions and to encourage a more frequent use of the confiscation provisions;<br>• The authorities should consider assessing the criminal law framework to determine whether it would be appropriate to introduce civil forfeiture, or confiscation of property with a reverse burden of proof or the confiscation of assets of criminal organizations other than those directly related to an offense for which a conviction has been obtained. |
| **2.4 Freezing of funds used for terrorist financing (SR.III)** | • Armenia should review the freezing mechanisms set forth in Article 25 AML/CFT law that are meant to implement obligations under UNSCR 1267, UNSCR 1373 and SRIII. In particular, Armenian law should provide for meeting the designation and freezing responsibilities set forth in the UN Resolution in all instances regardless of whether it is possible to instigate an investigation or prosecution of a terrorist offence. It should provide an indefinite freezing mechanism that is available regardless of the initiation or outcome of a domestic criminal proceeding and does not allow for any discretion in implementing a freeze in case of a match with the UN Security Council lists;<br>• Put in place a mechanism to give effect to freezing actions |

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| | initiated under the freezing mechanisms of other jurisdictions beyond the 10 days which are currently provided by the law. The freezing measures should be available in all instances for property owned jointly by a designated person or entity as well as with respect to funds merely controlled but not legally owned by designated entities or individuals;<br>• The freezing measures should apply not only to funds but also to any financial assets and property of every kind, as defined in the FATF standard and the Interpretative Note to Special Recommendation III;<br>• The FMC should issue formal guidance to reporting entities and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking freezing actions pursuant to UNSCR 1373 and Article 25 AML/CFT Law;<br>• The FMC should issue guidance or procedures on how entities or persons listed by the Central Bank could challenge this decision and apply for delisting, should the situation arise;<br>• Article 25 AML/CFT Law should make provision for the protection of bona fide third parties caught in the initial freezing process. |
| **2.5 The Financial Intelligence Unit and its functions (R.26)** | • Amend the Statute of the FMC to reflect the new responsibilities envisaged by the new AML/CFT law;<br>• Increase the number of staff, particularly of the Analysis division;<br>• Consider establishing a unit (or a sub-unit in the Analysis division) to deal specifically with the analysis of TRs;<br>• Outreach to DNFBPs protected by professional secrecy (in particular lawyers, accountants and auditors) to clarify the ambit of application of Article 4, paragraph 3 of the AML law and, if needed, modify the text of the law to ensure that the reference to professional secrecy does not hamper ability of FMC to request additional information;<br>• Provide guidance to and issue reporting form for dealers in precious metals and stones (and dealers in artworks and organizers of auctions) all DNFBPs regarding the manner of reporting. |
| **2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)** | • The CPC should be amended to provide for a general power of the law enforcement authorities or the courts to compel the production of documents and information in ML and TF cases, including also in cases where the information is requested from a witness or a person other than the injured, or the plaintiff, suspect or accused.<br>• Harmonize Articles 10 of the LBS with Article 29 of the LOSA and Articles 13.1 of the LBS with 13 of the AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities have adequate powers to access and compel production of information, transaction records, account files and other documents or information that |

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| | is covered by financial secrecy, especially in cases where a suspect has not yet been identified or where the information is sought with respect to persons other than the suspect;<br>• Staff of the NSS' investigative department as well as the custom's inquest and investigation departments should receive AML/CFT specific training to ensure effectiveness of ML and TF investigations. |
| **2.7 Cross-Border Declaration & Disclosure (SR IX)** | • Extend the declaration requirements in the case of out bound transportation through mail or cargo;<br>• Provide Customs authorities with the power to stop or restrain currency where there is a suspicion of money laundering or terrorist financing;<br>• Increase the level of sanctions;<br>• Introduce freezing requirements envisaged by SRIII and the UNSCRs in the case of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instrument that are related to TF;<br>• Avenues to increase the public awareness of the need to declare imports and exports of cash and payable securities that exceed the specified threshold;<br>• Align the explanations of the requirements for declarations on imports and exports contained in the utilized declarations to clearly also cover payable securities;<br>• The effectiveness of the current level of fines to encourage declarations and to include in the sanctions regime specific penalties for ML or TF;<br>• The authority of Customs, in laws, rules or regulations, to request information on the origin of the currency or payable securities and their intended use;<br>• By way of law, rules or regulations, notification to other countries' competent authorities in relation to unusual cross-border movement of gold, precious metals or stones;<br>• Analyze the information collected under the declaration requirements to develop AML/CFT intelligence. |
| **3. Preventive Measures– Financial Institutions** | |
| **3.1 Risk of money laundering or terrorist financing** | |
| **3.2 Customer due diligence, including enhanced or reduced measures (R.5–8)** | • Prohibit bearer bank books and certificates of deposit or other bearer securities, by way of repealing/changing articles of the Civil Code and any other regulations that make available these instruments in bearer form or regulate them;<br>• Provide additional guidance to financial institutions with respect to adequate timeframes for updating customer data to ensure consistent and effective implementation;<br>• Provide additional guidance to specify a reasonable timeframe that financial institutions should follow when obtaining identification information and checking the veracity of such information in the course of establishing a business |

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| | relationship;<br>• Establish a direct requirement for financial institutions to adopt effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification;<br>• Establish a direct requirement for financial institutions 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;<br>• Ensure financial institutions are implementing more effectively the obligations imposed by the AML/CFT and implementing regulations with respect to CDD measures, by way of training or other types of outreach;<br>• Provide additional guidance/training to financial institutions in relation to the enhanced ongoing monitoring procedures required by law when establishing a business relationship with a PEP;<br>• Provide through regulation or guidance a physical presence requirement when establishing a business relationship. Also, review the Basel Committee on Banking Supervision Customer Due Diligence Paper, section 2.2.6 dealing with "Non Face-to-Face Customers, which provides additional measures for financial institutions to consider to mitigate risk when accepting business from non face-to-face customers, to complement the two additional measures in place. |
| **3.3 Third parties and introduced business (R.9)** | • Amend the regulation on Minimal Requirements to establish the obligations for financial institutions relying on intermediaries or third parties to:<br>  • immediately obtain from the third party the necessary information concerning certain elements of the CDD process (Criteria 5.3. to 5.6);<br>  • take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay; and<br>  • satisfy themselves that the third party is regulated and supervised (in accordance with Recommendation 23, 24, and 29), and has measures in place to comply with, the CDD requirements set out in R.5 and R.10.<br>• Define the notion of "specialized intermediaries or persons empowered to represent third parties" in a manner that is consistent with the FATF standard, in particular to limit the requirement to "third parties" that are FIs or DNFBPs only and not to "persons empowered to represent third parties";<br>• The authorities are also recommended to take into account information available on whether the countries in which the third party that meets the conditions can be based adequately apply the FATF Recommendations; and to establish an obligation that the ultimate responsibility for customer identification and verification should remain with the |

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| | financial institution relying on the third party. |
| **3.4 Financial institution secrecy or confidentiality (R.4)** | • Harmonize Article 10 of the LBS with Article 29 of the LOSA and Article 13 of the AML/CFT Law with Article 13.1. of the LBS so that they provide the same conditions with respect to access to information covered by financial secrecy;<br>• Ensure that access by law enforcement authorities (particularly the NSS) to information covered by financial secrecy is not conditioned on the identification of a "suspect" or "criminally charged" person, as this condition undermines the proper performance of the NSS as the competent authority to investigate ML/TF and prevents access to such information in cases relating to legal persons or regarding any person other than the "suspect" or the "accused";<br>• Amend the LBS to allow financial institutions to share information covered by financial secrecy where it is required by R.7, R.9 or SR.VII. |
| **3.5 Record keeping and wire transfer rules (R.10 & SR.VII)** | • Clarify in the Regulation on Minimal Requirements or in other enforceable guidance the notion of "main conditions of the transaction (business relationship)" subject to the record keeping requirements, in the cases which such transactions are not contracts;<br>• Provide requirements by law or regulations for establishing the threshold for customer identification when a wire transfer is involved to the equivalent of €/$ 1,000. In this way**,** given the floating of the exchange rate, reporting entities can ensure that the threshold remains consistent with the standard. |
| **3.6 Monitoring of transactions and relationships (R.11 & 21)** | • Establish a clear and direct requirement for financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions and all unusual patters of transactions which have no apparent economic or visible lawful purpose as required by this recommendation;<br>• Extend the requirement to keep the findings of the examination of complex and unusual large transactions also available to auditors for at least five years;<br>• Provide additional training, particularly to non-bank financial institutions to ensure that attention is given to all transactions that fall into the unusual, large, and complex categories, regardless of any offshore and UN lists;<br>• Establish a requirement for financial institutions to: i) examine as far as possible the background and purpose of transactions with persons from or in countries which do not apply or insufficiently apply the FATF Recommendations; ii) to document the findings; and iii) to make the written findings available to assist competent authorities and auditors. |
| **3.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)** | • Provide additional training to reporting entities to ensure that staff is knowledgeable about the obligations imposed by law. Training should specifically cover detection and reporting of suspicious transactions and should consider typologies and trends (differentiated along the types of activities, especially |

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| | for DNFBPs);<br>• The authorities should provide guidance on the freezing obligations and on TF-related typologies. |
| **3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)** | • Ensure that financial institutions establish and maintain internal procedures, policies, and controls having regard to the risk of ML and TF and the size of the business;<br>• Amend the regulations to introduce an explicit and direct provision highlighting the ability of the internal compliance unit/designated compliance officer to have access in a timely manner to all necessary CDD information, transactions records, and other relevant information;<br>• Put in place formal procedures to screen all staff by financial institutions, particularly for staff in areas that are relevant to AML/CFT. These formal procedures should be aimed at ensuring high standards when hiring/recruiting employees;<br>• Ensure financial institutions maintain and independent and adequately resourced internal audit function, particularly when audit is assigned/delegated to staff other that the internal auditor;<br>• Provide additional training to staff in all aspects of AML/CFT, and particularly with respect to the requirements of R.11;<br>• Ensure that financial institutions are effectively implementing the requirements of the AML/CFT and implementing regulations. |
| **3.9 Shell banks (R.18)** | • Clarify the definition of "shell bank" in a way that is consistent with the FATF standard. |
| **3.10 The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) R.23, 29, 17 & 25)** | • Strengthen AML/CFT supervision through the incorporation of risk elements to the overall supervisory cycle and in particular update the supervisory examination procedures to incorporate the; risk-based approach to supervision and the requirements of the new (2008) AML/CFT Law;<br>• Ensure that financial institutions, particularly, credit organizations, insurance, securities, foreign exchange offices and money remitters are adequately complying with the requirements to combat money laundering and terrorist financing;<br>• Conduct frequent and ongoing AML/CFT inspections of banks organizations, money transfers services (money remitters) and securities/investment firms;<br>• Update the AML/CFT examination procedures for all sectors in line with the requirements of the new AML/CFT Law (2008);<br>• Provide additional guidance/guidelines to financial institutions, particularly in the following areas:<br>  • Determining the appropriate timeframe for updating customer data or information; and<br>  • Conducting ongoing CDD throughout the course of the business relationship for regular customers and enhanced ongoing monitoring on a PEP business relationship. |

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| **3.11 Money value transfer services (SR.VI)** | • Follow up on the money remitter that appears to be informally operating in the financial system without CBA registration and approval. |
| **4. Preventive Measures–Non financial Businesses and Professions** | |
| **4.1 Customer due diligence and record-keeping (R.12)** | • Remove the threshold that limits CDD in relation to the acquisition or sales of stocks or shares - for attorneys, persons providing legal services, notaries, independent auditors and auditing firms, independent accountants and accounting firms;<br><br>• Provide guidance to casinos and prizing games operators to ensure that CDD requirements are undertaken for transactions that in the aggregate equal or exceeding the threshold;<br>• Establish a direct requirement for DNFBPs to obtain information on the purpose and intended nature of the business relationship regardless of whether the transaction is considered high risk or not;<br>• Develop guidance for DNFBPs to ensure that there is a consistent system for conducting ongoing due diligence taking into account the threats and vulnerabilities of the nature, scope and operation of the DNFBPs and establish the frequency for updating customer information;<br>• Establish requirements and guidance in relation to conducting enhanced due diligence for higher risk customers, business relationships or transactions and the application of simplified/reduced CDD measures for low risk customers, including for non-resident customers;<br>• Explicitly prohibit the application of reduced CDD measures when suspicions of ML/TF exist or in the event of high risk scenarios;<br>• Provide guidance to DNFBPs on the determination of what constitutes a "reasonable timeframe" to follow when verifying the identity of the customer during the establishment of the business relationship;<br>• Establish a direct requirement to adopt effective risk management procedures concerning conditions under which a customer is permitted to utilize the business relationship prior to CDD verification;<br>• Establish a direct requirement 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;<br>• Provide through law, rules or other enforceable measures with respect to CDD requirements for PEPs at the establishment of the business relationship and during the course of such relationship;<br>• Set forth requirements to ensure that the findings of examinations of the background and purpose of transactions |

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| | identified as complex, unusually large or transactions involving unusual patterns with no apparent or other legitimate purpose are detailed in writing and to ensure that outreach to the sector by published typologies or other measure on developing trends of ML and TF is effective and relevant;<br>• Establish a specific framework when DNFBPs may rely on third parties or intermediaries to perform CDD measures;<br>• Undertake an analysis on the risks and impact of the disapplication of Article 21 (internal legal acts) and external audit of systems and controls for compliance with the AML/CFT Law (Article 23.2) for DNFBPs with less than 10 employees;<br>• Bolster the record keeping requirements and practices of DNFBPs to ensure that it is effective and meaningful and practiced as to not hamper any investigations as given the importance of records relate to business relationships and transactions, the standard and quality of record keeping needs to be considered by the authorities inline with the mitigation of risks and also have a tangible effect in providing law enforcement agencies and supervisory authorities with reliable data to be used in their AML/CFT investigations. |
| **4.2 Suspicious transaction reporting (R.16)** | • Clarifying the ambiguities of the confidentiality and privilege regime for notaries, advocates, persons providing legal services, independent auditors and auditing firms and accountants to remove any possibility of arbitrage as noted elsewhere in this report, particularly to the obligation to provide additional information and introduce measures that could provide for systemic checking in order to put at rest the concerns stemming from the uncertainty in the relevant laws;<br>• Implementing requirement for screening of personnel such as fitness and proprietary requirements;<br>• Issuing guidelines on the manner of reporting for dealers in precious stones or precious metals and relevant typologies of STs for DNFBPs;<br>• Instigating outreach by way of supervision, training or other means to ensure that a clear differentiation is in place between TR and ST reporting obligations including no thresholds for STR obligations, ST for attempted transactions and those suspicious with respect to tax matters;<br>• Facilitating training for DNFBPs, including compliance personnel, through channels such as direct or through certified courses held by service providers including SROs and ensure ongoing training requirements are embodied in law, rules or regulations;<br>• Implementing risk management controls to ensure that the compliance function is properly staffed and any conflict that may arise by the compliance function holding a compliance role and an operational role are managed;<br>• Raising awareness of DNFBPs in relation to the current |

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| | published list of offshore jurisdictions and further, develop measures to advise DNFBPs of concerns about weaknesses in the AML/CFT systems of other countries;<br>• Establishing requirements for DNFBPs to ensure that the internal legal acts are relevant to compliance systems and controls and not a reproduction of the AML/CFT Law;<br>• Establishing a direct requirement for DNFBPs to examine, as far as possible, the background and purpose of transactions with persons from or in countries which do not apply or insufficiently apply the FATF Recommendations and to document the findings; and to make the written findings available to assist competent authorities and auditors. |
| **4.3 Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)** | • Designating competent authorities or SROs monitoring and ensuring compliance with the AML/CFT obligations for independent lawyers and firms providing legal services, independent accountants and accounting firms; dealers in precious metals; and dealers in precious stones for effective monitoring and compliance on a risk sensitive basis;<br>• Implementing a supervisory regime for advocates (attorneys);<br>• Introducing for casinos and operators of prize games fitness and propriety requirements for managers, owners, and beneficial owners including fit and proper checks for management, owners or beneficial owners. Further, implementing, by way of law, rules or regulations, requirements that would prevent 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 or operator of a prize game;<br>• Staffing levels and technical abilities focused on ML and TF of the supervisory bodies;<br>• Issuing guidelines for DNFBPs to assist with the full implementation and compliance of the applicable obligation set forth in the AML/CFT Law;<br>• Developing relevant feedback processes on number of disclosures and results, current techniques, methods and trends, or money laundering cases that have been sanitized relevant to DNFBPs. |
| **4.4 Other designated non-financial businesses and professions (R.20)** | • Undertaking a risk assessment in order to determine if other NFBPs are at risk of being misused for ML or TF;<br>• Take measures to reduce the use of cash and encourage more activity within the formal sector. |
| **5. Legal Persons and Arrangements & Nonprofit Organizations** | |
| **5.1 Legal Persons–Access to beneficial ownership and control information (R.33)** | • Ensure that Article 23.2. Law on State Registration of Legal Entities is implemented effectively;<br>• Amend Article 157 Civil Code to eliminate any reference to bearer shares;<br>• The authorities should consider putting in place an electronic |

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| | live-time database linking all regional offices of the State Registry and thus providing the public as well as financial institutions and law enforcement authorities with quick access to all information maintained at the Registry. |
| **5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)** | ***NA*** |
| **5.3 Nonprofit organizations (SR.VIII)** | • Ensuring that periodic assessments are undertaken by reviewing new information on the sector's potential vulnerabilities to terrorist activities;<br>• Establishing outreach to NPOs in relation to the risks of TF abuse and available measures to protect against TF abuse;<br>• Applying appropriate resources and technical capacity to the NPO sector with a focus on TF risks. |
| **6. National and International Cooperation** | |
| **6.1 National cooperation and coordination (R.31)** | • Undertaking ongoing analysis of the risk of ML/TF to streamline its AML/CFT strategy;<br>• Additional or alternative outreach mechanisms for consultation with regulated entities either by way of the existing arrangements or by other means;<br>• Follow up on the effectiveness of decisions made and the full implementation of policies emanating from these decisions. |
| **6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)** | • Provide for criminal liability of legal persons;<br>• Put in place confiscation measures for all offenses as defined in the Palermo Convention;<br>• Provide for the seizing of legitimate property intermingled with proceeds from or instrumentalities used or intended for use in the commission of crimes as defined in the Vienna and Palermo Conventions;<br>• Provide law enforcement authorities or the courts with a general power to compel the production of financial records, including in cases where the information is requested from a witness or a person other than the injured, the plaintiff, suspect or accused;<br>• Harmonize Articles 10 of the LBS with Article 29 of the LOSA and Articles 13.1 of the LBS with 13 of the AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities can effectively access and compel production of information, transaction records, account files and other documents or information that is covered by financial secrecy, especially in cases where a suspect has not yet been identified or where the information is sought with respect to persons other than the suspect.<br>• Apply the declaration system for the physical cross border transportation of currency and bearer negotiable instruments |

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| | also to outgoing transportation by way of mail or cargo;<br>• Officials of the National Security Service's investigation department should receive more specific AML/CFT training specifically on AML/CFT;<br>• Define the TF offense in line with the definition of the offense in the SFT Convention;<br>• Put in place adequate measures to fully address the requirements under UNSCR 1267 and 1373. |
| **6.3 Mutual Legal Assistance (R.36, 37, 38 & SR.V)** | • The shortcomings identified with respect to the provisional and confiscation measures available under Armenian law should be remedied as they may limit Armenia's ability to take such measures based on foreign requests. For example, the authorities should be able to confiscate proceeds of, instrumentalities used or intended to be used for the commission of all predicate offenses and to seize property equivalent in value to proceeds of or instrumentalities relating to the commission of ML, TF or predicate offenses;<br>• Harmonize Article 10 of the LBS with Article 29 of the LOSA and Article 13.1 of the LBS with Article 13 of AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that request for assistance in gaining access to such information can be fully complied with;<br>• Clarify whether dual criminality is required for the provision of mutual legal assistance to determine whether the deficiencies identified with respect to the ML and TF offenses as outlined under Recommendations 1, 2 and Special Recommendation II may limit Armenia's ability to provide assistance in certain situations, and in particular the ability to provide mutual legal assistance for proceedings against legal persons. |
| **6.4 Extradition (R. 39, 37 & SR.V)** | • Remedy the deficiencies in the TF offenses to ensure that the dual criminality requirement does not limit Armenia's ability to extradite persons in TF cases. |
| **6.5 Other Forms of Cooperation (R. 40 & SR.V)** | • Clarify the provisions of professional secrecy, which may hamper FMC's ability to have access/compel information;<br>• Harmonize Articles 10 of the LBS with Article 29 of the LOSA and Articles 13.1 of the LBS with Article 13 of the AML/CFT Law so that they provide the same conditions with respect to access to information covered by financial secrecy and to ensure that law enforcement authorities can effectively access and compel production of information, transaction records, account files and other documents or information that is covered by financial secrecy, especially in cases where a suspect has not yet been identified or where the information sought with respect to persons other than the suspect. |
| **7. Other Issues** | |
| **7.1 Resources and statistics (R. 30 & 32)** | • Identify and recruit additional resources to provide for an adequate level of AML/CFT supervision for both off-site |

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| | surveillance activities and on-site inspections;<br>• Consider additional resources for the FMC;<br>• Provide AML/CFT specific training for officials of the NSS's investigative department and the custom's inquest and investigation departments;<br>• Maintain accurate statistics. |
| **7.2 Other relevant AML/CFT measures or issues** | |
| **7.3 General framework – structural issues** | |

## Annex 1. Authorities' Response to the Assessment

No response to the assessment provided by the authorities.

Annex 2. **Details of All Bodies Met During the On-Site Visit**

List of Ministries, other government authorities or bodies, private sector representatives and others.

- Ministry of Finance and Staff
- Ministry of Justice and Staff
- Ministry of Foreign Affairs and Staff
- Financial Monitoring Center
- Central Bank of Armenia – Financial Supervision Departments: for banks, credit organizations, insurance companies, securities firms, foreign exchange offices, and money remitters
- Central Bank of Armenia – Licensing and Registration Division of the Legal Department
- Interagency Commission and Working Group on Fight Against Counterfeiting Currency, Plastic Cards and Other Payment Instruments
- General Prosecutor's Office of the Republic of Armenia and Staff
- Judiciary – Judges from Cassation Court and Court of Appeals in Criminal Cases
- Chamber of Advocates and Staff
- Chamber of Notaries and Staff
- National Security Services of the Republic of Armenia
- Police and the National Bureau of Interpol (within the Police) of the Republic of Armenia
- State Agency of Registration of Legal Entities
- State Cadastre of Registration of Rights on Immovable Property
- State Revenue Committee
- Customs Authority
- Central Depository and Staff
- Representatives from commercial banks
- Representatives from Bank's Union of Armenia
- Representatives from credit organizations

- Representatives from insurance companies
- Representatives from Insurance Association
- Representatives from brokers and securities companies
- Representatives from money remittance companies
- Representatives from real estate agencies
- Representatives from Audit/Accounting firms
- Representatives from Accountants and Auditors' Association
- Representatives from the Judicial Department
- Representatives from notaries
- Representatives from casinos
- Representatives from pawnshops

## Annex 3. List of All Laws, Regulations, and Other Material Received

*Constitution*

Constitution of the Republic of Armenia, (adopted 05.07.1995, amended 27.11.2005)

*Laws*

Republic of Armenia Law on Combating Money Laundering and Terrorism Financing, 26.05.2008, HO-80-N

Republic of Armenia Law Against Legalization of Illicit Proceeds and Terrorism Financing (14.12.2004 HO-13-N)

Republic of Armenian Law on the Fight against Terrorism (22.03.2005)

Republic of Armenia Criminal Code (18.04.2003 HO-528-N)

Republic of Armenia Code of Criminal Procedures (01.07.1998 HO-248)

Republic of Armenia Code of Administrative Offences (06.12.1985)

Republic of Armenia Law on Accounting (26.12.2002 HO-515-N)

Republic of Armenia Law on Advocacy (14.12.2004 HO-29-N)

Republic of Armenia Law on Audit Activities (26.12.2002 HO-512-N)

Republic of Armenia Law on Prize Games and Casinos (13.12.2003 HO-1-N)

Republic of Armenia Law on Lotteries (17.12.2003 HO-3-N)

Republic of Armenia Law on Pawnshops and Pawnshop Activity (03.12.2003 HO-43-N)

Republic of Armenia Law on State Registration of Property Rights (14.04.1999 HO-295)

Republic of Armenia Law on the Central Bank of the Republic of Armenia (30.06.1996 HO-69)

Republic of Armenia Law on Bank Secrecy (07.10.1996 HO-80)

Republic of Armenia Law on Insurance and Insurance Activities (09.04.2007 HO-177-N)

Republic of Armenia Law on Notarial System (04.12.2001 HO-274)

Republic of Armenia Law on Precious Metals (23.05.2006 HO-83-N)

Republic of Armenia Law on State Registration of Legal Entities (03.04.2001 HO-169)

Republic of Armenia Civil Code (05.05.1998 HO-239)

Republic of Armenia Customs Code (06.07.2000 HO-83)

Republic of Armenia Law on Banks and Banking (30.06.1996 HO-68)

Republic of Armenia Law on Credit Organizations (29.05.2002 HO-359-N)

Republic of Armenia Law on Payment and Settlement Systems and Payment and Settlement Organizations (24.11.2004 HO-150-N)

Republic of Armenia Law on Currency Regulation and Currency Control (24.11.2004 HO-135-N)

Republic of Armenia Law on Securities Market (24.11.2004 HO-135-N)

Republic of Armenia Law on Foundations (26.12.2002 HO-516-N)

Republic of Armenia Law on Charity (08.10.2002 HO-424-N)

Republic of Armenia Law on Non-Governmental Organizations (04.12.2001 HO-268)

Republic of Armenia Law on Police (16.04.2001 HO-177)

Republic of Armenia Law on Service in Police (03.07.2002 HO-401-N

Republic of Armenia Law on Prosecution (22.02.2007 HO-126-N)

Republic of Armenia Law on National Security Bodies (28.12.2001 HO-294)

Republic of Armenia Law on Service in National Security Bodies (11.04.2003 HO-532-N)

Republic of Armenia Law on Tax Service (03.07.2002 HO-407-N)

Republic of Armenia Law on Customs Service (03.07.2002 HO-402-N)

Republic of Armenia Law on Operational and Search Activities (22.10.2007 HO-223-N)

Republic of Armenia Law on Joint-Stock Companies (27.10.2001 HO-232) (Excerpts)

Republic of Armenia Law on Ensuring Traffic Security (Excepts)

Republic of Armenia Law on Licensing (30.05.2001 HO-193)

Republic of Armenia Law on Political Parties (03.07.2002 HO-410-N)

*Regulations*

Regulation on Minimal Requirements for the Financial Institutions in the Field of Combating Money Laundering and Terrorism Financing (09.09.2008 N 269-N)

Regulation 1 on "Registration and Licensing of Banks, Branches of Foreign Banks; Registration of Branches and Representations; Qualification and Registration of Management of Banks and Branches of Foreign Banks" (12.04.2005 145-N)

Regulation 3/01 on "Licensing of Insurance Activities and Insurance Intermediary Activities; Obtaining the Preliminary Consent to Qualifying Holding in Statutory Capital of Insurance Company; Insurance Company's Business Plan Submission, Procedure and Date; Testing of Qualification of Candidates for Officials and Responsible Persons of Insurance Company and Insurance Intermediary;
Themes of Qualification Test for Officials of Insurance Company and Responsible Persons of Insurance Intermediary" (30.10.2007 344-N)

Regulation 4/01 on "Registration and Licensing of Investment Companies, Registration of Branches of Investment Companies and Foreign Investment Companies; Rules for Obtaining Preliminary Consent on Acquiring a Significant Share in the Statutory Capital of Investment Companies; Rules, Form, and Timeframe for Submission of Business Plan Presented by Them" (15.01.2008 15-N)

Regulation 10 on "Licensing and Regulation of Foreign Currency Trading (Purchase and Sale) Operations" (15.05.2007 138-N)

Regulation 12 on "Licensing and Regulation of Foreign Currency Dealer-Broker Trading Activities" (04.05.2007 135-N)

Regulation 13 on "Credit Organization Registration and Licensing Procedure, Credit Organization Branch and Representative Office Recording Procedure; Procedures of Authorizing the Acquisition of a Significant Share in the Statutory Capital of Credit Organizations; Credit Organization Managers Qualification Procedure; Rules of Credit Organization Operation; and Requirements on the Place of Operation and Technical Capacity of Credit Organizations" (23.12.2005 578-N)

Regulation 16 on "Licensing of Money Transfer Organizations; Registration of Branches; Manager Qualification" (27.05.2005 240-N)

Regulation 5 on "Safeguarding Banks and Credit Organizations from Circulation of Criminally Obtained Funds; Preventing Funding for Terrorism" (17.12.2002 442-N)

Regulation 18 on "Granting Permission to Establish and Operate Armenian Payment and Settlement System:" (08.06.2005 295-N)

Regulation 19 on "Permission on Participation in Foreign Payment Systems" (08.07.2005 296-N)

Regulation on Minimal Requirements for Internal Control in Banks (11.03.2008 71-N)

*Manuals*

Manual on Internal Procedures of the Financial Monitoring Center of the Central Bank of the Republic of Armenia (14.03.2008 1/225È)

Manual on the Actions Taken by the Financial Monitoring Center of the Central Bank of the Republic of Armenia in the Course and as a Result of Analysis of Suspicious Transactions Cases (04.12.2007 1/38COH L)

Manual on On-site Inspections of Banks

Manual on Off-site Inspections of Banks

Manual on On-site Inspections of Insurance Companies

Manual on Off-site Inspections of Insurance Companies

Manual on On-site Inspections of Securities Firms

Manual on On-site Inspections of Foreign Exchanges Offices

Manual on Cooperation Between the Financial Monitoring Center and the Financial Supervision Department of the Central Bank of the Republic of Armenia (09.07.2007 1/869A)

*Guidance*

Guidance on the Criteria for Suspicious Transactions (03.09.2008 1/886A)

Guidance for Financial Institutions on Adopting the Risk-Based Approach for Combating Money Laundering and Terroristm Financing

*Decisions*

Decision on Approving the Guidance on Money Laundering and Terrorism Financing Typologies (11.09.2008 N 1/913 A)

Decision of the Government of the Republic of Armenia on the Approval of the Order of the Usage of Data of the Integrated State Registry of Legal Persons and State Registries (23.07.2001 N 674)

Decision of the Government of the Republic of Armenia on Approval of the Rules of Conduct of a Tax Servant (10.10.2002 N 1624)

Decision by the Central Bank of the Republic of Armenia on Custodial Activities of Securities (33-N February 6, 2007)

Decision by the Central Bank of the Republic of Armenia on the Approval of the Template Form of Declaration of Beneficial Owners Filed by Legal Persons' State Register and the Filing Procedure and Deadlines (20-N January, 27, 2009)

Decision by the Central Bank of the Republic of Armenia Approving the Regulation for Making Decision to Suspend Suspicious Transaction or Business Relationship of or Freeze Terrorist Funds (302-N 04.11.2008)

*Rules*

Rule on Cases of Conflicts of Interests within the Financial Monitoring Center of the Central Bank of the Republic of Armenia (11.08.2008 N 1/802)

Rules for Making Decision on Suspending a Suspicious Transaction or Business Relationship or Freezing Funds Linked to Terrorism (04.11.2008 N 302-N and N 164 COH A)

Rules for Transportation, Delivery, Import, Export and Declaration of Currency Values (29.07.2005 386-N)

Rules for Application of Dual Channel System During Customs Control of Goods Being Escorted by Individuals Arriving and Leaving from International Airports of the Republic of Armenia (21.11.2003 1927-N)

*Others*

Statute of the Financial Monitoring Center of the Central Bank of the Republic of Armenia (03.03.2005 97-A)

The Financial Monitoring Center Employees' Code of Conduct (07.02.2007 36A)

The Triennial Strategy of the Financial Monitoring Center of the Central Bank of the Republic of Armenia (11.03.2005)

Template Form on Declaration of Beneficial Owners Filed by Legal Persons at Legal Persons' State Register

Procedure and Deadlines for Filing Declaration of Beneficial Owners by Legal Persons at Legal Persons' State Register

Order on Establshment of the Interagency Commission Against Fraud and Forgery in Plastic Cards and Other Payment Instruments and on Fight Against Money Laundering and Terrorism Financing (21.03.2002, NK-1075)

Work Regulation of the Interagency Standing Commission Against Fraud and Forgery in Plastic Cards and Other Payment Instruments and on Fight Against Money Laundering and Terrorism Financing (21.03.2002 NK-1075)

Memoranda of Understanding between the Financial Monitoring Center of the Central Bank of the Republic of Armenia and the Prosecutor's General Office of the Republic of Armenia; Police of the Republic of Armenia; the National Security Service under the Government of the Republic of Armenia; State Revenue Service of the Republic of Armenia; (14.04.2008, 21.04.2008, 18.04.2008, 02.09.2008)

Order of the Prosecutor General of the Republic of Armenia on Improvement of Prosecutorial Control over Pre-investigation and Investigation of Money Laundering Cases (08.02.2005 N 2/1-1-05)

## Annex 4. Copies of Key Laws, Regulations, and Other Measures

*List of Key Laws, Regulations and Other Measures*

Republic of Armenia Law on Combating Money Laundering and Terrorism Financing

Republic of Armenia Criminal Code

Republic of Armenia Code of Criminal Procedures (excerpts)

Republic of Armenia Law on Advocacy (excerpts)

Republic of Armenia Law on Prize Games and Casinos (excerpts)

Republic of Armenia Law on Notaries (excerpts)

Republic of Armenia Law on Precious Metals (excerpts)

Republic of Armenia Law on Audit Activities (excerpts)

Republic of Armenia Law on Accounting (excerpts)

Statute – Financial Monitoring Center of the Central Bank of the Republic of Armenia

Board of the Central Bank of the Republic of Armenia - Regulation on the Minimal Requirements Stipulated for the Financial Institutions in the Field of Combating Money Laundering and Terrorist Financing

*Copies of Key Laws, Regulations and Other Measures*

**REPUBLIC OF ARMENIA LAW**

**ON COMBATING MONEY LAUNDERING AND TERRORISM FINANCING**

## CHAPTER 1
## GENERAL PROVISIONS

The purpose of this Law shall be protecting the rights, freedoms, and legitimate interests of the society and the State through the establishment of legal structures for countering money laundering and terrorism financing, as well as providing legal mechanisms for ensuring stability of the economic system of the Republic of Armenia.

### ARTICLE 1: SUBJECT OF LAW

This Law shall regulate the relationships pertaining to combating money laundering and terrorism financing, define the system of bodies engaged in combating money laundering and terrorism financing, the procedures and conditions for cooperation between these bodies, as well as the issues related to the supervision and to the imposition of sanctions in activities against money laundering and terrorism financing.

### ARTICLE 2: LEGAL REGULATION OF COMBATING MONEY LAUNDERING AND TERRORISM FINANCING

The fight against money laundering and terrorism financing shall be regulated by the international treaties of the Republic of Armenia, by this Law and other laws of the Republic of Armenia, as well as, in cases prescribed by this Law, by other legal acts.

### ARTICLE 3: MAIN CONCEPTS USED IN LAW

The main concepts used in this Law shall be the following:

1. Proceeds of crime – assets specified in Part 5, Article 190 of the Criminal Code of the Republic of Armenia;
2. Money laundering (legalization of proceeds of crime) – deed specified in Article 190 of the Criminal Code of the Republic of Armenia;
3. Terrorism financing – deed specified in Article 217.1 of the Criminal Code of the Republic of Armenia committed by natural or legal persons;
4. Reporting entities:
    a. banks;
    b. credit organizations;
    c. persons engaged in dealer-broker foreign currency trading, foreign currency trading;
    d. licensed persons providing cash (money) transfers;
    e. persons rendering investment services in accordance with the Republic of Armenia Law on Securities Market ;
    f. central depositary for regulated market securities in accordance with the Republic of Armenia Law on Securities Market;
    g. insurance (including reinsurance) companies and insurance (including reinsurance) brokers;
    h. pawnshops;
    i. realtors (real estate agents);
    j. notaries;
    k. attorneys, as well as independent lawyers and firms providing legal services;
    l. independent accountants and accounting firms;
    m. independent auditors and auditing firms;
    n. dealers in precious metals;

o. dealers in precious stones;
p. dealers in artworks;
q. organizers of auctions;
r. persons and casinos organizing prize games and lotteries, including the persons organizing internet prize games;
s. trust and company service providers;
t. credit bureaus, to which this Law shall apply only in relation to the obligation to submit suspicious transaction reports prescribed by Part 1 (3) of Article 5 of the Law;
u. the Authorized Body responsible for maintaining the integrated state cadastre of real estate, to which this Law shall apply only in relation to the obligation to submit the reports prescribed by Articles 5-7 in the manner established by Part 2 of Article 5, as well as in relation to the obligation prescribed by Part 6 of Article 27 of the Law;
v. the state body performing registration of legal persons (the State Registry), to which this Law shall apply only in relation to the obligation to submit reports prescribed by Articles 5-7 in the manner established by Part 2 of Article 5, as well as in relation to Article 9, and the to the obligation prescribed by Part 6 of Article 27 of the Law;

5. Financial institutions – reporting entities specified in Clause 4 (a-h) of this Part;
6. Non-financial institutions or persons – reporting entities specified in Clause 4 (i-s) of this Part; at that, only Articles 4-8 in the manner established by Part 2 of Article 5; Part 1 (4, 6, and 8) of Article 10; Articles 12, 15, and 16 in the manner established by Part 12 of Article 15; as well as Articles 19, 20, 22, and 24-28 of this Law shall apply to non-financial institutions or persons. Article 21 and Part 2 of Article 23 of this Law shall apply to non-financial institutions and persons only if they have more than 10 employees;
7. Supervisory bodies – authorized bodies issuing licenses to (appointing, conferring a qualification, or otherwise permitting the activities, and supervising) reporting entities;
8. Transaction – a transaction concluded between a reporting entity and a customer or an authorized person, as well as between a customer or an authorized person and other persons through the reporting entity. Any action giving rise to rights and obligations based on or resulting from a certain deed may also be deemed as a transaction;
9. Occasional transaction – a transaction, which does not give rise to obligations between the customer and the reporting entity to provide recurrent services (no business relationship is established);
10. Business relationship – recurrent services provided to the customer, which are not limited to one or several occasional transactions. Business relationship with the reporting entity does not include those activities with the reporting entity, within which the reporting entity for its own needs carries out operations different from the ones legally designated for that particular type of reporting entities;
11. Authorized Body – the Central Bank of the Republic of Armenia;
12. Suspicious transaction or business relationship – a transaction or business relationship when, in cases established by this Law, the guidelines established by the Authorized Body, and the internal legal acts of reporting entities, or in other cases, it is suspected or there are sufficient grounds to suspect that the assets involved in the transaction or business relationship proceed from crime, or that such assets are linked to terrorism financing, as well as when the funds or other assets are linked to or intended for use by terrorist organizations or individual terrorists for the purpose of terrorism;
13. Senior management – a body or employee of the reporting entity entitled to make decisions on behalf of the reporting entity on issues related to preventing money laundering and terrorism financing, or to participate in making such decisions;
14. Customer – a person establishing or involved in business relationships with the reporting entity, as well as a person, who offers the reporting entity to conclude an occasional transaction or to render other services aimed at carrying out the transaction;
15. Beneficial owner – a natural person who is not a party to the business relationship or transaction, and on whose behalf or for whose benefit the customer acts, and (or) who ultimately owns and (or) controls the customer or the person on whose behalf the transaction is being carried out. The beneficial owner of a legal person is the natural person, who exercises factual (real) control over the legal person or transaction (business relationship), and (or) for whose benefit the business relationship or transaction is being carried out. A natural person may be recognized as the beneficial owner of a legal person, if such natural person:
    a. owns 20 percent or more of the voting stocks (equities, shares; hereinafter: stocks) of the given legal person; or, by force of his/her participation in or under the agreement concluded with the legal person, has the ability to predetermine its decisions;

b. is a member of the management and (or) governing body of the given legal person;
c. acts in agreement with given legal person, based on common economic interests;

16. Authorized person – a person authorized to carry out a transaction or to undertake certain legal or factual actions in the course of business relationship upon the assignment and on behalf of the customer; including the person, who conducts representation by a power of attorney or by any other legal authorization of the customer; as well as the person who actually acts on behalf or upon the assignment of the customer, or undertakes factual actions at the expense or for the benefit of the customer without a power of attorney;
17. Affiliated person – an affiliated person as defined by the legislation regulating activities of the given reporting entity; whereas, in the absence of such a definition, the persons stipulated by Article 8 of the Republic of Armenia Law on Banks and Banking;
18. Business profile of a customer – a complete set of data (understanding) of the reporting entity about the sources of income, profile, influence and significance of the customer; the presence and expected dynamics, scope, and areas of relevant business relationships and occasional transactions; the presence, identity, and nature of affiliation of authorized persons and beneficial owners;
19. Other party to the transaction – other participant of the transaction being carried out by the customer, who provides (transfers) the cash or other assets proceeding from the transaction, or to whom such cash or assets are addressed;
20. Politically exposed person – an individual, who is or has been entrusted with prominent state, political, or public functions in a foreign country or territory, namely:
    c. heads of the state or government, ministers or deputy ministers;
    d. members of the parliament;
    e. members of supreme courts, constitutional courts or other high rank judiciary, whose decisions are not subject to appeal, except for special circumstances;
    f. members of audit courts or of the boards of central banks;
    g. ambassadors, charges d'affaires and high rank officers of the armed forces;
    h. outstanding members of political parties;
    i. members of administration, management, or supervisory bodies of state-owned organizations;
21. Center of vital interest – the location, where the family or economic interests of an individual are concentrated. The location of family or economic interests is the place, where the house (apartment) of the individual is located, where the individual and his/her family reside and his/her (family's) main personal and family assets is maintained, or the place of performance of core economic (professional) activity;
22. Internal compliance unit – a division or employee of a financial institution, or a professional performing the function of preventing money laundering and terrorism financing;
23. Terrorism-related person – any individual or organization included in the list of individuals and organizations published by the UN Security Council or designated by the Authorized Body, as well as persons suspected, accused, or convicted for terrorism;
24. Typology – possible schemes of money laundering and terrorism financing;
25. High risk criterion – criteria established by this Law, by normative legal acts of the Authorized Body, as well as by internal legal acts of the reporting entities, which evidence the high likelihood of money laundering and terrorism financing, including the politically exposed persons and their affiliated persons, bearer securities, including bearer check books, and offshore territories;
26. Low risk criterion – criteria established by this Law or normative legal acts of the Authorized Body, which evidence the low likelihood of money laundering and terrorism financing, including the financial institutions efficiently supervised in terms of combating money laundering and terrorism financing, state bodies or state-owned organizations;
27. Suspension of business relationship or transaction – blocking for a certain time period, in the manner established by this Law, of the factual and legal movement of funds or other assets, which are the subject of a suspicious business relationship or transaction;
28. Rejection of business relationship or transaction – non-implementation of actions, in the manner established by this Law and by other laws, intended for carrying out a suspicious business relationship or transaction;
29. Freezing of funds – blocking for a certain time period, in the manner established by this Law, of the factual and legal movement of funds of the persons linked to terrorism;
30. Shell bank – a bank which, while being registered in a state, does not have an actual place of presence and activity in the territory of that state and is unaffiliated with other operating financial institutions.

## CHAPTER 2
## PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING
## ARTICLE 4: OBLIGATION OF REPORTING ENTITY TO RECOGNIZE AND PREVENT SUSPICIOUS BUSINESS RELATIONSHIP OR TRANSACTION

1. Reporting entities shall be obligated, in the manner established by law and internal legal acts, to undertake measures for identifying and preventing any suspicious business relationships and transactions carried out by their customer, as well as to perform other obligations prescribed by this Law.
2. Reporting entities shall be obligated, in the manner established by law and internal legal acts, to submit to the Authorized Body information on money laundering and terrorism financing as specified in this Law and other legal acts adopted on basis of this Law, including the information constituting secrecy as prescribed by law.
3. Notaries, attorneys, persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms shall submit to the Authorized Body the information specified in this Law only in cases not contradicting to the confidentiality requirements established under the legislation regulating their activities. Legally defined confidentiality requirements for non-financial institutions or persons shall be applicable only to the information disclosed to the aforementioned organizations or person in performing their legally provided authorities.

## ARTICLE 5: TRANSACTIONS OR BUSINESS RELATIONSHIPS SUBJECT TO REPORTING

1. Reporting entities shall file a report to the Authorized Body on any of the following transactions:
   1) Transactions above the threshold of 20 million drams, excluding the transactions stipulated by Clause 2 of this Part;
   2) Transactions related to real estate above the threshold of 50 million drams;
   3) Suspicious transactions or business relationships, regardless of the amount stipulated by this Part.
   2. For reporting entities, the obligation of submitting reports stipulated by Part 1 of this Article shall arise:
   1) For financial institutions – in the manner established by normative legal acts of the Authorized Body;
   2) For persons organizing prize games and lotteries, for casinos, as well as for realtors – in cases stipulated by Part 1 of this Article;
   3) For notaries, attorneys, as well as for persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms, and the authorized body responsible for maintaining the integrated state cadastre of real estate – only with regard to the following transactions prepared or carried out for their clients:
      a. buying and selling of real estate;
      b. managing of client money, securities, or other assets;
      c. management of bank and securities accounts;
      d. provision of funds or other assets for establishment, operation, or management of legal persons;
      e. performing functions of establishment, operation, or management of legal persons, as well as alienation (acquisition) of contributions, shares and the like in the authorized capital (equity capital and the like) of legal persons, or alienation (acquisition) of stocks (equities, shares) of legal persons at a nominal or market value;
   4) For dealers in precious metals, dealers in precious stones; dealers in artworks, and organizers of auctions – only with regard to cash transactions with their clients;
   5) For credit bureaus – only with regard to suspicious transactions;
   6) For trust and company service providers – with regard to transactions, when they:
      a. act as a formation agent (representative) of legal persons in rendering company registration services;
      b. act (arrange for another person to act) as a director (executive body) of a company, a partner of a partnership, or perform similar functions of a legal person's management;
      c. provide accommodation (operational, correspondence or administrative address) to a legal person;
      d. act (arrange for another person to act) as a trust manager of an express trust;
      e. act (arrange for another person to act) as a nominee shareholder for another legal person;
   7) For the state body performing registration of legal persons (the State Registry) – only with regard to the state registration of alienation (acquisition) of stocks (contributions, shares and the like) in the authorized

capital (equity capital and the like) of commercial entities, or registration of formation of or changes in the authorized capital (equity capital and the like) thereof.

3. Attorneys, as well as for persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms shall submit reports on the transactions stipulated by Part 2 (3) of this Article only in the presence of suspicious transactions or business relationships.
4. A reporting entity, its employees, and representatives shall be prohibited to inform the person on whom a report or other information has been submitted to the Authorized Body, as well as other persons, about the fact of submitting such report or information.
5. The Authorized Body shall define the cases of releasing from the obligation to submit a report on transactions stipulated by Part 1 (1 and 2) of this Article.

## ARTICLE 6: SUSPICIOUS BUSINESS RELATIONSHIP OR TRANSACTION

1. In case of disclosing the grounds and criteria for suspicious transactions or business relationships, the given transaction or business relationship, including the attempted ones, should be recognized as suspicious by the reporting entity, and a respective report stipulated by Part 1 (3) of Article 5 of this Law should be immediately filed to the Authorized Body. This Law, the guidelines established by the Authorized Body, and the internal legal acts of reporting entities shall define the grounds and criteria for suspicious transactions or business relationships.
2. Irrespective of Part 1 of this Article, a business relationship or transaction should be recognized as suspicious, if it is suspected or there are sufficient grounds to suspect that the business relationship or transaction involves funds or other assets, which are linked to or intended for use by terrorist organizations or individual terrorists for the purpose of terrorism.
3. A business relationship or transaction may be recognized as suspicious if:
    1) A customer offers the reporting entity to conclude (endorse) or concludes (endorses) a transaction (business relationship) which, although complying with the requirements of laws and other legal acts, fail to enable the reporting entity to verify the identity of the customer or to obtain the information that the reporting entity is legally required to have for concluding or carrying out the given transaction (business relationship);
    2) Conditions of the transaction (business relationship) fail to comply with the business profile of the customer, with the conditions of similar transactions (business relationships) usually concluded in that particular area of business activity, or with the business practice;
    3) It becomes obvious for the reporting entity, that the proposed or concluded transaction (business relationship) apparently does not pursue any economic or lawful objective;
    4) According to the logic and flows (dynamics) of its execution, the transaction (business relationship) appears to be conforming with the typologies set forth pursuant to the international best practice and the guidelines established by the Authorized Body;
    5) It becomes obvious for the reporting entity, that the value of the proposed or concluded transaction(s) does not exceed the threshold for reporting as stipulated by Part 1 (1 and 2) of Article 5 and for identification as stipulated by Article 15 of this Law solely for the reason that the customer seeks to avoid being reported or identified by the reporting entity in relation to such transaction(s);
    6) For financial institutions – a natural person affiliated with a legal person transfers (provides) funds to another legal person on his behalf obviously for the purpose of performing contractual obligations between those legal persons, or with the aim of otherwise carrying out entrepreneurial activities between those legal persons.
4. A reporting entity may submit a report to the Authorized Body on a suspicious transaction or business relationship also in cases, when the suspicion about such transaction or business relationship does not derive from the grounds and criteria for suspicious transactions stipulated by this Law, the guidelines established by the Authorized Body, and the internal legal acts of the reporting entity, but the logic and flows (dynamics) of its execution give the grounds to assume that it is being carried out for money laundering and terrorism financing purposes.
5. Guidelines established by the Authorized Body may set forth grounds for recognizing a transaction or business relationship as suspicious other than those specified in Part 4 of this Article, as well as other criteria for identifying such grounds for suspicious transactions.

6. Reporting entities may establish the grounds for a suspicious transaction or business relationship and the criteria for their identification in their internal legal acts.
7. The transactions (business relationships) specified in Part 1 of Article 8 of this Law may be recognized as suspicious by reporting entities and reported to the Authorized Body.

## ARTICLE 7: CONTENT OF REPORT AND RULED FOR ITS SUBMISSION

1. A report shall contain:
   1) Data on the customer, the authorized person, the other party to the transaction and, in case of a suspicious transaction, also data on the beneficial owner, including:
      a. for natural persons and private entrepreneurs – first and last names, place of residence, year, month and date of birth, citizenship, serial and successive number of the identification document, year, month and date of its issuance; whereas for private entrepreneurs – also number of the state registration certificate and taxpayer identification number;
      b. for legal persons – name, location, number of the state registration certificate and, in case of reporting by the financial institution, also taxpayer identification number;
      c. In case of reporting by financial institutions – also the number of the customer's bank account;
   2) Description of the subject of transaction;
   3) Price (value) of the transaction;
   4) Date of concluding the transaction.
2. The report on a suspicious business relationship or transaction shall also contain the ground, the criterion for recognizing the business relationship or transaction as suspicious, its description, as well as an indication on suspending, rejecting the transaction or business relationship, or freezing proceeds of the persons linked to terrorism.
3. The reports stipulated by this Article should be submitted with an indication of their successive number, the signature of the responsible employee of the reporting entity (for hard copies, also sealed, if any). The report shall contain an indication of the reporting entity's registration number at the Authorized Body.
4. Where a government body or a local self-governance body acts as a customer, an authorized person, another party to a business relationship or transaction, the report shall indicate only the name of such body.
5. Reports may be submitted in hard copy, while in cases stipulated by normative acts of the Authorized Body also (or) in electronic form.
6. Normative legal acts of the Authorized Body shall establish the rules, timeframes, and forms for filing reports.

## ARTICLE 8: ADDITIONAL SCRUTINY OF TRANSACTIONS (BUSINESS RELATIONSHIPS), INCLUDING IN CASES OF APPLYING NEW OR DEVELOPING TECHNOLOGIES

1. Reporting entities shall be obligated to conduct additional scrutiny of all complex and unusually large transactions (business relationships), as well as of the ones involving unusual patterns with no apparent economic or other legitimate purpose.
2. Reporting entities should maintain the data on transactions (business relationships) stipulated by Part 1 of this Law for at least 5 years after termination of the business relationship or execution of the transaction or, in cases prescribed by law, for a longer time period; they shall submit such data to the Authorized Body as requested by it, except for the cases stipulated by Part 3 of Article 4 of this Law.
3. In their internal legal acts, financial institutions should provide for and apply relevant measures for counteracting money laundering or terrorism financing risks associated with new or developing technologies. When establishing business relations or conducting ongoing due diligence of their customers, financial institutions should, in the manner established by their internal legal acts, provide for preventive mechanisms to address all risks associated with non face-to-face business relationships or transactions.

## ARTICLE 9: PROCEDURES DURING REGISTRATION OF LEGAL PERSONS AND LICENSING OF FINANCIAL INSTITUTIONS

1. In case of registering legal persons, making changes in the authorized capital (equity capital and the like) or in composition of the founders, participants, members, shareholders, or stockholders of a legal person, the

founders (participants, members, shareholders, stockholders and the like) shall be obligated to file a declaration on the beneficial owners of the legal person to the state body performing registration of legal persons in the manner, and form and within the timeframes established by normative legal acts of the Authorized Body. Upon request, the state body performing registration of legal persons shall provide the Authorized Body with a copy of the mentioned declaration.

2. Legal persons shall bear legally defined responsibility for the failure to submit the data stipulated by Part 1 of this Article on beneficial owners, for incorrect (including false or inaccurate) or incomplete submission of such data.
3. In the course of licensing (appointment, issuance of permission) of a financial institution, the licensing body shall be obligated to request information stipulated by normative legal acts of the Authorized Body and to check their veracity.
4. Within 15 days after licensing (appointment, issuance of permission) or termination of license (appointment, issuance of permission) of a reporting entity, the licensing body shall be obligated to notify the Authorized Body on that. Within one month after licensing (appointment, issuance of permission), the reporting entity shall be obligated to get registered at the Authorized Body in the manner established by the Authorized Body.

## CHAPTER 3
## AUTHORIZED BODY

### ARTICLE 10: AUTHORIZED BODY FOR COMBATING MONEY LAUNDERING AND TERRORISM FINANCING

1. The Authorized Body shall have the following functions and authorities:
   1) Receive reports from reporting entities and information from state bodies and organizations;
   2) Analyze the received reports and information;
   3) Send a statement to criminal investigation authorities in cases stipulated by Article 13 of this Law;
   4) For the purposes of this Law, request other information from reporting entities, including information constituting secrecy as prescribed by law, except for the cases stipulated by Part 3 of Article 4 of this Law;
   5) For the purposes of this Law, request other information from state bodies, including supervisory and criminal investigation authorities, including information constituting secrecy as prescribed by law;
   6) When reporting entities submit inaccurate or incomplete reports, or fail to submit such reports in cases established by this Law, as well as when deficiencies are found in the internal legal acts of reporting entities, issue assignments for rectifying them;
   7) In the field of combating money laundering and terrorism financing, adopt legal acts, approve guidelines, and promulgate typologies as stipulated by this Law, in cooperation with reporting entities, supervisory and other bodies and organizations, where necessary;
   8) Provide reporting entities with data necessary for identification of persons or with typologies, based on which reporting entities shall be obligated to suspend the business relationships or transactions matching with such names (titles) or typologies, or to reject their execution;
   9) Contribute to the supervision over reporting entities in the manner and cases established by this Law;
   10) Define the cases and frequency for conduction of internal audit by financial institutions in the field of combating money laundering and terrorism financing; require conduction of external audit;
   11) Impose sanctions established by this Law for financial institutions and legal persons, as well as file a petition for imposing sanctions on reporting entities in cases established by this Law;
   12) Decide on suspending a suspicious transaction or business relationship, or freezing funds linked to terrorism;
   13) In the manner established by normative legal acts of the Authorized Body, regularly provide reporting entities with information (feedback) on the reports filed by them;
   14) Organize trainings in the field of combating money laundering and terrorism financing and coordinate the trainings organized by other bodies, as well as confer qualification on the staff of the internal compliance units of financial institutions based on Part 2 of Article 22;
   15) In the manner established by its legal acts, publicize annual reports on its activities stipulated by this Law;
   16) Raise public awareness on combating money laundering and terrorism financing;

17) Conclude agreements of cooperation with international organizations and foreign financial intelligence units in the manner established by Article 14 of this Law; exchange information (including information constituting secrecy as prescribed by law);
18) Perform other authorities and functions stipulated by this Law.

2. For the purposes of this Law, a responsible structural unit – the Financial Monitoring Center – shall operate within the Authorized Body which, based on its Charter approved by the supreme management body of the Authorized Body and on other legal acts, shall perform the functions and authorities stipulated for the Authorized Body by Part 1 of this Article, except for those conferred on the supreme management body of the Authorized Body.
3. The supreme management body of the Authorized Body shall approve the strategy, the annual program, and the budget of the Financial Monitoring Center, as well as, through its competent divisions, shall perform the functions and authorities stipulated by Part 1 (7, 9-11) of this Article.
4. Authorities stipulated by Part 1 (12) of this Article shall be performed in the manner established by the supreme management body of the Authorized Body.
5. The supreme management body of the Authorized Body shall appoint the head and the staff of the Financial Monitoring Center.
6. The Financial Monitoring Center shall present reports on its activities to the supreme management body of the Authorized Body at the frequency and in the manner established by that body.
7. In the course of the Financial Monitoring Center's receiving and analyzing information for the purposes of this Law, only the staff of the Financial Monitoring Center shall have access to such information.
8. The employees of the Financial Monitoring Center having access to the received and stored information shall maintain confidentiality of the information constituting secrecy as prescribed by law and by the legal acts of the Authorized Body, both in the course of performing their duties and after termination thereof, as well as shall bear legally defined responsibility for its unlawful disclosure. Such information can be used only for the purposes of this Law.

## ARTICLE 11: NORMATIVE LEGAL ACTS AND GUIDELINES ADOPTED BY AUTHORIZED BODY

1. The normative legal acts adopted by the Authorized Body shall establish:
   1) Minimal requirements with regard to the functions of the management bodies of financial institutions, including the internal compliance unit, and to the rules for performing such functions in the field of combating money laundering and terrorism financing;
   2) Minimal rules for customer identification, due diligence (including enhanced or simplified measures), recording, collecting, and updating of data;
   3) Minimal rules for recording and maintaining of documents (data) by financial institutions in the field of combating money laundering and terrorism financing;
   4) Rules for approving and amending the internal legal acts of financial institutions in the field of combating money laundering and terrorism financing; the minimal criteria with regard to such internal legal acts;
   5) Minimal rules for the audit of financial institutions' activities in the field of combating money laundering and terrorism financing;
   6) Rules for submission and the standard form of the declaration on beneficial owners filed to the state body performing registration of legal persons;
   7) Criteria for high or low risk of money laundering and terrorism financing, and the rules for their determination;
   8) Forms, timeframes, and rules for filing above-threshold and suspicious transactions (business relationships) reports to the Authorized Body by reporting entities;
   9) Minimal rules for identifying suspicious transactions (business relationships) and for considering the relevance of reporting to the Authorized Body by financial institutions;
   10) Minimal rules for the selection, training, and qualification of competent staff of financial institutions in the field of combating money laundering and terrorism financing;
   11) Content, submission rules, forms, and timeframes for the collection of statistics maintained by state bodies; and
   12) Other issues stipulated by this Law.

2. The Authorized Body shall also adopt and provide to reporting entities guidelines expounding the procedures for the implementation of this Law and the normative legal acts adopted on basis of this Law. The Authorized Body shall promulgate typologies, as well.

### ARTICLE 12: PROTECTION OF INFORMATION RELATED TO SUSPICIOUS TRANSACTIONS

1. The Authorized Body shall be prohibited to publicize or otherwise provide any information (except for the information provided to criminal investigation or other authorities in the manner established by law) disclosing or facilitating disclosure of any person having reported on a suspicious transaction (business relationship) and (or) having participated in its reporting to the Authorized Body or in sending a statement to criminal investigation authorities by the Authorized Body.

## CHAPTER 4
## COOPERATION FOR PURPOSES OF THIS LAW

### ARTICLE 13: INTERRELATIONS BETWEEN AUTHORIZED BODY AND OTHER AUTHORITIES

1. For the purpose of effectively combating money laundering and terrorism financing, the Authorized Body shall cooperate with other state bodies in the manner and within the frameworks established by this Law, including cooperation with supervisory and criminal investigation authorities, by means of or without concluding bilateral agreements.
2. The Authorized Body shall cooperate with supervisory bodies in the manner established by Article 26 of this Law, for the purpose of ensuring compliance of reporting entities with the requirements of this Law and the legal acts adopted on basis of this Law.
3. The Authorized Body shall send a statement to criminal investigation authorities, when it has reasonable suspicions of money laundering and terrorism financing based on the analysis of a report filed by a reporting entity in the manner established by this Law, or of other information. Along with the statement or later on, in addition to the statement, other materials evidencing the circumstances laid down in the statement may be presented to criminal investigation authority. The statement or the materials sent in addition to it may contain information constituting secrecy as prescribed by law.
4. Upon the request of criminal investigation authorities, the Authorized Body shall provide the available information, including the information constituting secrecy as prescribed by law, provided that the request contains sufficient justification of a substantiated suspicion or case of money laundering or terrorism financing. Such information shall be provided within a 10-day period, unless a different timeframe is specified in the request or, in the substantiated opinion of the Authorized Body, a longer period is necessary for answering the request.
5. Where the information stipulated by Part 1 (4 and 5) of Article 10 of this Law is requested, reporting entities, state bodies, including supervisory and law enforcement authorities, should provide such information to the Authorized Body within a 10-day period, unless a different timeframe is specified in the request or, in the substantiated opinion of the state body, a longer period is necessary for answering the request.
6. Criminal investigation authorities shall notify the Authorized Body about the decisions taken as a result of considering the statement stipulated by Part 3 of this Article, as well as about the decisions taken as a result of preliminary investigation whenever a criminal case is initiated, within a 10-day period after taking such decisions.
7. State bodies shall maintain and occasionally submit to the Authorized Body statistics in the field of combating money laundering and terrorism financing, in the manner, format, and timeframes established by the Authorized Body. Such statistics shall include:
    1) The number and description of the initiated cases of money laundering and terrorism financing, as well as those of other related crimes;
    2) The value of the assets arrested in the course of investigation of the initiated cases of money laundering and terrorism financing, on case-by-case basis;
    3) The number of the initiated cases of money laundering and terrorism financing, the criminal investigation of which has been terminated, as well as the grounds for such termination;

4) The number and description of the cases of money laundering and terrorism financing, which are under judicial proceedings;
5) The number of judgments (convictions and acquittals) on cases of money laundering and terrorism financing, including those on related crimes, executed punishments, as well as the value of confiscated assets;
6) Sanctions imposed on reporting entities not licensed by the Authorized Body, for infringing the legislation on combating money laundering and terrorism financing.

## ARTICLE 14: INTERNATIONAL COOPERATION

1. The Authorized Body and state bodies shall cooperate with international organizations and respective bodies of foreign states (including foreign financial intelligence units) involved in combating money laundering and terrorism financing within the framework of international treaties and, in the absence of international treaties, in accordance with international practice.
2. Upon its own initiative or in case of request, the Authorized Body shall, based on the principle of reciprocity, exchange information (including the information constituting secrecy as prescribed by law) with foreign financial intelligence units, which ensure adequate confidentiality of information under the obligations deriving from bilateral agreements or from membership in international structures, and shall use such information only for the purposes of combating money laundering and terrorism financing.
3. The Authorized Body shall not be empowered to disclose the received information to any third party, as well as to use it for criminal prosecution, administrative, or judicial purposes without the prior consent of the foreign agency having provided the information.
4. For the purposes of this Law, the Authorized Body shall be empowered to sign agreements of cooperation with foreign financial intelligence units.

# CHAPTER 5
# CUSTOMER DUE DILIGENCE

## ARTICLE 15: CUSTOMER IDENTIFICATION

1. Any business relationship with a customer may be established or an occasional transaction may be concluded only upon the receipt of the identification documents (information) by reporting entities as specified in Part 3 of this Article and upon checking their veracity. Reporting entities may obtain the identification information specified in this Law and check their veracity also in the course of establishing a business relationship or concluding an occasional transaction or thereafter within a reasonable timeframe, provided that the risk of money laundering or terrorism financing has been effectively prevented and that this is necessary in order not to impair the normal business relationships.
2. Reporting entities should identify their customers and verify their identity, based on reliable documents or other information received from competent sources, when:
   1) Business relationships are being established;
   2) Occasional transaction is being carried out, including a domestic or cross-border wire transfer at a value above 400-fold of the minimal salary in drams or in foreign currency, unless stricter provisions are stipulated by other legal acts;
   3) Suspicions arise with regard to the veracity or adequacy of previously obtained customer identification data;
   4) Suspicions arise with regard to money laundering and (or) terrorism financing.
3. When identifying the customers and verifying their identity:
   1) The information required for natural persons based on an identification document or another valid official document exceptionally with a photo and issued by a respective authorized state body shall at least include the first and last names of the person, the details of the identification document, the place of residence, the date and place of birth of the person, and for private entrepreneurs also the number of the state registration certificate and the taxpayer identification number, as well as other information stipulated by law;

2) The information required for legal persons shall at least include the name, the location, the number of the state registration certificate and the taxpayer identification number of the legal person, as well as other information stipulated by law.

4. Reporting entities shall undertake necessary measures to find out the existence of a beneficial owner and, if any, identify and verify his/ her identity pursuant to Part 3 of this Article.
5. Where an authorized person acts on behalf of the customer, the reporting entity shall be obligated to identify such a person and verify his/her identity and his/her authority to represent the customer pursuant to Part 3 of this Article.
6. In case of the presence of low risk criteria, reporting entities may perform simplified customer due diligence, when identifying the customer or the beneficial owner, or when verifying their identity.
7. In case of the presence of high risk criteria, reporting entities should take measures adequate to the risks of money laundering and terrorism financing. Financial institutions should have risk management procedures laid down in its internal legal acts in order to determine whether the customer is a politically exposed person or a member of his/her family or a person affiliated to him/her, or whether there are other high risk criteria.
8. In the presence of high risk criteria, financial institutions should perform enhanced customer due diligence. Where a politically exposed person is involved, the financial institution should also:
   1) Obtain the approval of senior management before establishing business relationships with a customer, for continuing business relationships with a customer; as well as in cases, when the customer or the beneficial owner is subsequently found to be or subsequently becomes a politically exposed person;
   2) Take reasonable measures to establish the source of income (wealth) and the source of funds of a customer or beneficial owner identified as a politically exposed person;
   3) Conduct enhanced ongoing monitoring on that relationship.
9. If the customer or the other party to the transaction is a foreign legal person or a foreign natural person or an entity without the status of a legal person under foreign legislation, then financial institutions shall be obligated to identify and document also the center of these persons' vital interests and the sources of income in the manner established by their internal legal acts.
10. Through their internal legal acts, banks should establish the rules for opening and maintaining correspondent accounts of foreign banks, as well as the peculiarities of opening and maintaining their correspondent accounts with foreign banks in order to make sure that they have not established correspondent relationships with shell banks or with banks allowing shell banks to use their accounts. In case of cross-border correspondent relationships, banks should:
    1) Gather sufficient information, as specified in normative acts and by their internal legal acts, so as to understand fully the nature of respondent bank's business and, from publicly available and other reliable information specified in their internal legal acts, to determine the business reputation of the respondent bank and the quality of its supervision, including whether it has been subject to a money laundering or terrorism financing criminal investigation or any other proceeding;
    2) In the manner established by their internal legal acts, assess the respondent bank's internal procedures for combating money laundering and terrorism financing;
    3) Obtain approval from senior management before establishing new correspondent relationships;
    4) Document the respective functions of each correspondent bank;
    5) With respect to "payable-through accounts", make sure that the respondent bank has verified the identify of the customers who have access to its accounts and continuously conducts their ongoing monitoring, and that upon request it is able to provide relevant customer identification data to the correspondent bank.
11. The data obtained as a result of customer identification and verification by other reporting entities, specialized intermediaries, or persons empowered to represent third parties may serve as a basis for reporting entities in the course of customer identification and verification only in cases and in the manner established by internal legal acts of reporting entities.
12. Customer due diligence rules stipulated by this Chapter shall apply to the following reporting entities in the cases stated below:
    1) For realtors (real estate agents) – only with regard to the transactions related to buying and selling of real estate for their clients;
    2) For notaries, attorneys, as well as for persons providing legal services, independent auditors and auditing firms, independent accountants and accounting firms, investment companies – only with regard to the following transactions prepared or carried out for their clients:
        a. buying and selling of real estate;
        b. managing of client money, securities, or other assets;

c. management of bank accounts;
d. provision of funds or other assets for establishment, operation, or management of legal persons;
e. performing functions of establishment, operation, or management of legal persons, as well as buying and selling of more than 75 percent of the stocks (contribution, shares and the like) in the authorized capital (equity capital and the like) of legal persons, or buying and selling of stocks (equities, shares) of legal persons at a nominal or market value above 20 million drams;

3) For dealers in precious metals, dealers in precious stones; dealers in artworks, and organizers of auctions – only with regard to cash transactions with their clients above 5 million drams;
4) For persons and casinos organizing prize games and lotteries– only with regard to the transactions carried out by their clients (purchasing of chips, making stakes, or winnings) above 1 million drams;
5) For trust and company service providers – with regard to transactions, when they:
   a. act as a formation agent (representative) of legal persons in rendering company registration services;
   b. act (arrange for another person to act) as a director (executive body) of a company, a partner of a partnership, or perform similar functions of a legal person's management;
   c. provide accommodation (operational, correspondence or administrative address) to a legal person;
   d. act (arrange for another person to act) as a trust manager of an express trust;
   e. act (arrange for another person to act) as a nominee shareholder for another legal person.

## ARTICLE 16: ONGOING CUSTOMER DUE DILIGENCE IN BUSINESS RELATIONSHIPS

1. Reporting entities should conduct ongoing customer due diligent throughout the course of a business relationship. In the course of customer due diligence, reporting entities shall conduct monitoring of the transactions with the customer in order to ensure veracity of the information on the customer, his/her business and risk profile and, where necessary, of the source of his/her income.
2. At a frequency determined by their own, reporting entities should update the data obtained due to customer identification in the business relationship.

## ARTICLE 17: RESTRICTIONS ON ESTABLISHING BUSINESS RELATIONSHIPS OR CARRYING OUT OCCASIONAL TRANSACTIONS, PROHIBITION OF SHELL BANKING

1. It shall be prohibited to open, service, or provide:
   1) Anonymous accounts or accounts in fictitious names, as well as other payment documents;
   2) Accounts solely expressed in numbers, letters or other conventional signs.
2. Bearer securities, including bearer check books, shall be recognized as high risk criteria.
3. It shall be prohibited to establish shell banks in the Republic of Armenia.

## ARTICLE 18: OBLIGATIONS RELATED TO WIRE TRANSFERS

1. When carrying out wire transfers, regardless of the fact of opening an account, financial institutions shall identify and verify the identity of the originators of such transfers in cases and the manner stipulated by Article 15 of this Law. In order to identify and verify the identity, the following information about the originator shall be requested and maintained:
   1) The name and surname;
   2) The account number (in its absence, the unique reference number accompanying the transfer);
   3) The details of the identification document.
2. The information specified in Part 1 of this Article, including the account number of the originator (in its absence, the unique reference number accompanying the transfer) should be included in the payment order accompanying the transfer.
3. Financial institutions should maintain the information specified in this Article and obtained due to identification, as well as the data on the account (in its absence, the unique reference number accompanying the transfer) and the business correspondence, in the manner and for the timeframe defined by Article 20 of this Law.
4. Data related to customer identification and to the transaction (business relationship) should be provided to the Authorized Body upon its request.
5. The obligations stipulated by this Article shall not apply to:

1) Transfers carried out between financial institutions in their own name;
2) Transactions carried out through the use of credit or debit cards, provided that when the terms of the transaction include information about the numbers of such cards.

6. Reporting entities carrying out wire transfers should reject:
   1) Any request for a transfer, if the information specified in this Article is missing;
   2) The receipt of a transfer, if the wire transfer does not contain the information specified in Part 1 (1 and 2) of this Article.
7. In cases specified in Part 6 of this Article, reporting entities may file a suspicious transaction report to the Authorized Body stipulated by Article 6 of this Law.

## ARTICLE 19: CONDUCTION OF ENHANCED DUE DILIGENCE BY REPORTING ENTITIES, REQUIREMENTS FOR REPORTING ENTITIES' BRANCHES AND REPRESENTATION OFFICES OPERATING IN FOREIGN STATES AND TERRITORIES

1. Reporting entities should conduct enhanced due diligence when establishing business relationships or carrying out transactions with persons (including financial institutions) residing (located) in foreign states or territories, where the international standards on combating money laundering and terrorism financing are not or are insufficiently applied.
2. In agreement with the body authorized in the area of foreign affairs of the Republic of Armenia and based on the data publicized by international organizations engaged in combating money laundering and terrorism financing, the Authorized Body shall define and update the list of the states or territories specified in Part 1 of this Article.
3. Reporting entities shall be obligated to instruct their branches and representative offices located in foreign states or territories (including in the states or territories specified in Part 1 of this Article) to apply the requirements of this Law and other legal acts adopted on basis of this Law, if the norms established by them are stricter than those established by the laws and other legal acts applicable in the country of location of such branches or representative offices. Where the laws and other legal acts of the country of location of a branch or representative office prohibit or do not make it possible to apply the requirements of this Law and other legal acts adopted on basis of this Law, the branch or representative office shall notify the reporting entity, and the reporting entity shall accordingly inform the Authorized Body.

## ARTICLE 20: MAINTAINING RECORDS

1. Reporting entities shall maintain records of at least the following information specified in this Law in the manner established by the normative legal acts of the Authorized Body:
   1) Customer identification data, including account files and flows on account, as well as data on business correspondence – for at least 5 years following completion of the business relationship or, in cases prescribed by law, for a longer period;
   2) Data on the main conditions of the transaction (business relationship), which would permit reconstruction of the real nature of the transaction (business relationship) – for at least 5 years following completion of the transaction (termination of business relationship) or, in cases prescribed by law, for a longer period.
2. The information required by this Law and maintained by reporting entities should be sufficient for provision of comprehensive information about transactions (business relationships) requested by the Authorized Body or, in cases prescribed by law, by criminal investigation authorities.

# CHAPTER 6
# INTERNAL LEGAL ACTS OF FINANCIAL INSTITUTIONS AND INTERNAL COMPLIANCE UNIT

## ARTICLE 21: INTERNAL LEGAL ACTS OF REPORTING ENTITIES

1. Reporting entities should have in place internal legal acts (policy, rule, procedure, instruction, or regulation) aimed at prevention of money laundering and terrorism financing. The internal legal acts stipulated by this Part should at least lay down:
   1) The internal procedures to be carried out with the view of conducting customer due diligence and record-keeping;
   2) The list of the documents and other information necessary for customer due diligence and enhanced due diligence;
   3) The manner and conditions for conducting internal audit of the compliance with the procedures and requirements of the internal legal acts, in cases when conduction of internal audit is required by law;
   4) The internal procedure for the operations of the internal compliance unit;
   5) The procedures for collating, recording and maintaining information on suspicious and other transactions (business relationships);
   6) The internal procedures for suspending (rejecting to carry out) transactions (business relationships), freezing funds of the persons linked to terrorism;
   7) The requirements for recruiting, training, and professional development of the staff of internal compliance unit or other employees charged with functions stipulated by this Law, with regard to the legislation on combating money laundering and terrorism financing, to other legal acts (especially in respect of the obligations of customer due diligence and of reporting suspicious business relationships or transactions), as well as with regard to the present risks and typologies of money laundering and terrorism financing;
   8) The criteria for recognizing a business relationship or transaction as suspicious;
   9) The internal procedure for reporting to the Authorized Body;
   10) The internal procedures for ensuring compliance with other requirements established by this Law and the normative legal acts of the Authorized Body.
2. Reporting entities shall provide a copy of each internal legal act specified in Part 1 of this Article to the Authorized Body within one week after their approval, as well as after making amendments and changes to them. By the request of the Authorized Body, reporting entities shall be obligated to make the respective changes and amendments to their internal legal acts.

## ARTICLE 22: INTERNAL COMPLIANCE UNIT OF REPORTING ENTITIES

1. Reporting entities shall be obligated to have in place an internal compliance unit or an employee dealing with prevention of money laundering and terrorism financing, or assign this function to respective persons engaged in such professional activities (hereinafter: the internal compliance unit).
2. The staff of the internal compliance unit shall pass qualification in the manner and based on the professional relevance criteria established by the Authorized Body.
3. The internal compliance unit shall ensure the submission of reports to the Authorized Body by the reporting entity in the manner established by this Law, as well as the performance of the reporting entity of other duties established by this Law.
4. In the manner and at the frequency established by the internal legal acts of the reporting entity, but no less than once in every six months, the internal compliance unit shall review the compliance of transactions (business relationships) carried out by the reporting entity, as well as of actions of the structural and territorial divisions and employees with this Law, with other normative legal acts adopted on basis of this Law, and with the internal legal acts. The internal compliance unit shall report to the supreme management body of the reporting entity (for banks - to the board) about the findings of the review and about other issues raised by the Authorized Body.
5. When performing the functions stipulated by this Law and the normative legal acts adopted on basis of this Law, the internal compliance unit shall be independent and should have a status of senior management of the reporting entity. The internal compliance unit shall be entitled to report directly to its supreme management (for banks - to the board) about the problems occurred by the reporting entity in preventing money laundering and terrorism financing.

## ARTICLE 23: CONDUCTING AUDIT BY REPORTING ENTITIES

Reporting entities should conduct internal audit in cases and at the frequency established by the normative legal acts of the Authorized Body in order to check the proper performance of the duties stipulated by this Law.

1. In the manner established by the Authorized Body, upon the request of the Authorized Body or by their own initiative, reporting entities shall order external audit to check the extent of implementation and effectiveness of legislation on combating money laundering and terrorism financing.

## CHAPTER 7
## SUSPENSION, REJECTION OF SUSPICIOUS BUSINESS RELATIONSHIPS OR TRANSACTIONS AND FREEZING OF PROCEEDS LINKED TO TERRORISM

### ARTICLE 24: SUSPENSION, REJECTION OF SUSPICIOUS BUSINESS RELATIONSHIP OR TRANSACTION

1. Financial institutions shall be entitled to suspend a business relationship or transaction for a period of up to 5 days, if there are any suspicions of money laundering, and shall be obligated to suspend for 5 days the business relationship or transaction in cases stipulated by Part 1 (8) of Article 10 of this Law or if there are any suspicions of terrorism financing, promptly filing a report on the suspicious transaction (business relationship) to the Authorized Body as specified in Articles 5-7 of this Law.
2. A business relationship or transaction may be suspended for a period of up to 5 days upon the decision of the Authorized Body, based on the analysis of the reports filed to the Authorized Body, and (or) of information presented by supervisory bodies, and (or) of other information. The financial institution should promptly enforce the decision of the Authorized Body on suspending a transaction or business relationship upon its receipt.
3. Within 5 days after receiving the notification from the financial institution about suspension of a transaction or business relationship, or after suspension of a transaction or business relationship by the Authorized Body, the Authorized Body shall decide on sending a statement to criminal investigation authorities in cases stipulated by Article 13 of this Law, or on prolonging the suspension for 5 days (in exceptional cases, for 10 days) in order to determine the grounds for sending a statement to criminal investigation authorities, or on revoking the decision on suspension. In case of failure to provide the decision of the Authorized Body to the financial institution within the timeframe specified in this Part, the decision on suspension shall be recognized as revoked.
4. The decision of a financial institution or the Authorized Body on suspending a business relationship or transaction may be revoked prior to the completion of the suspension term only by the Authorized Body upon its own initiative or upon the request of the financial institution, if it has been determined that the suspicion of money laundering or terrorism financing is unjustified.
5. Reporting entities shall be obligated to reject carrying out a business relationship or transaction, that is to refrain from endorsing or carrying not a business relationship or from concluding a transaction, or to terminate execution of a business relationship or transaction based on the decision of the Authorized Body or if they are unable to perform customer identification as a result of the actions undertaken pursuant to Article 15 of this Law, except for the cases prescribed by Part 1 of Article 15.
6. In case of rejecting to carry out a business relationship or transaction, reporting entities should consider the relevance of filing a suspicious transaction report to the Authorized Body as stipulated by Article 6 of this Law.
7. In the presence of any suspicions of money laundering, non-financial institutions may reject carrying out a business relationship or transaction, whereas in cases provided for by Part 8 (1) of Article 10 of this Law or in the presence of any suspicions of terrorism financing they shall be obligated to reject carrying out a business relationship or transaction and promptly file a suspicious transaction (business relationship) report to the Authorized Body as stipulated by Article 6 of this Law.

### ARTICLE 25: FREEZING OF FUNDS OF PERSONS LINKED TO TERRORISM

1. With the view of adhering to the resolutions of the UN Security Council and international treaties of the Republic of Armenia, the Authorized Body shall release the lists of the persons linked to terrorism and ensure immediate freezing of funds of the persons included in such lists, as well as of other persons linked to terrorism financing.
2. In the context of this Law and of Article 217.1 of the Criminal Code of the Republic of Armenia, the organizations included in the lists of the persons linked to terrorism shall be deemed as terrorist organizations.

3. The decision on freezing the funds of the persons linked to terrorism shall be taken by the reporting entity or the Authorized Body for a period of 5 days. Where the decision on freezing is taken by the reporting entity, a suspicious transaction (business relationship) report shall be promptly filed to the Authorized Body as stipulated by Articles 5-7 of this Law.
4. The decision on freezing funds taken by the reporting entity may be revoked prior to the completion of its term only by the Authorized Body upon its own initiative or upon the request of the reporting entity.
5. Within 5 days after receiving the notification about freezing, the Authorized Body shall decide on sending a statement to criminal investigation authorities in cases stipulated by Article 13 of this Law, or on revoking the decision on freezing. In case of the Authorized Body's failure to take a decision within the specified timeframe, the decision on freezing shall be recognized as revoked.
6. The term of freezing shall be deemed as prolonged for 10 days upon the receipt of the statement by criminal investigation authorities, and shall be deemed as revoked upon the completion of the prolonged term of freezing, if no actions have been taken to maintain the freezing in the manner established by law.
7. A person shall be entitled to judicially claim from the Authorized Body that payments are made at the cost of his/ her frozen funds for his/her family, medical and other personal needs. A court decision on making such payments shall be issued in the manner established by the resolutions of the UN Security Council, if the name of the given person is included in the lists defined by the UN.

## CHAPTER 8
## SUPERVISION OF COMPLIANCE WITH REQUIREMENTS OF THIS LAW AND SANCTIONS IMPOSED FOR INFRINGING THE LEGISLATION

### ARTICLE 26: SUPERVISION OF REPORTING ENTITIES AND NON-COMMERCIAL ORGANIZATIONS

1. The supervision of the compliance of reporting entities with the requirements of this Law and other legal acts adopted on basis of this Law shall be exercised by supervisory bodies. Upon the request of the Authorized Body, supervisory bodies shall conduct on-site examinations of reporting entities based on the information on money laundering and terrorism financing.
2. In the manner established by the Authorized Body, supervisory bodies shall inform the Authorized Body about the findings of examinations conducted in the field of combating money laundering and terrorism financing, as well as about the imposed sanctions.
3. Upon the request of the Authorized Body, supervisory bodies designated under the legislation regulating the operations of non-commercial organizations shall undertake measures to prevent involvement or misuse of non-commercial organizations in terrorism financing. For this purpose, non-commercial organizations shall be obligated to maintain the following information for at least 5 years:
   1) Identification data of members of their management bodies pursuant to Article 15 of this Law;
   2) Foundation documents and decisions of management bodies;
   3) Documents related to financial-economic operations.
4. The Authorized Body and, in cases stipulated by law, also other bodies may request information related to money laundering and terrorism financing from non-commercial organizations and from their supervisory bodies.

### ARTICLE 27: RESPONSIBILITY FOR INFRINGING THIS LAW AND LEGAL ACTS ADOPTED ON BASIS OF THIS LAW

1. Reporting entities or their employees (managers) may not be subject to criminal, administrative, civil or other responsibility for duly performing their duties stipulated by this Law.
2. Infringement of the requirements of this Law and legal acts adopted on basis of this Law by financial institutions shall give rise to imposition of a sanction under the legislation regulating their activity, in the manner established by that legislation.
3. Infringement of the requirements of this Law and legal acts adopted on basis of this Law by non-financial institutions, which are legal persons, shall give rise to imposition of the following sanctions:

1) Failure to submit or late submission of the reports specified in Part 1 (1 and 2) of Article 5 of this Law, as well as entering inaccurate (including false or unreliable) data or incomplete completion of the reports specified in Paragraphs (a) - (c), making structural changes in the established format of the report shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 500-fold amount of the minimal salary;
2) Failure to submit or late submission of the reports specified in Part 1 (3) of Article 5 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 1000-fold amount of the minimal salary;
3) Failure to perform the duty specified in Part 3 of Article 5 of this Law shall give rise to imposition of a sanction in the form of a warning and (or) a penalty at 800-fold amount of the minimal salary;
4) Failure to perform or improper performance of the duty specified in Part 1 (4 and 6) of Article 10 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 500-fold amount of the minimal salary;
5) Failure to perform or improper performance of the duty specified in Article 15 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 800-fold amount of the minimal salary;
6) Failure to perform or improper performance of the duty specified in Article 16 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 800-fold amount of the minimal salary;
7) Failure to perform or improper performance of the duty specified in Article 19 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 800-fold amount of the minimal salary;
8) Failure to perform or improper performance of the duty specified in Article 20 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 600-fold amount of the minimal salary;
9) Failure to perform or improper performance of the duty specified in Article 21 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 200-fold amount of the minimal salary;
10) Failure to perform or improper performance of the duty specified in Article 22 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 800-fold amount of the minimal salary;
11) Failure to perform or improper performance of the duty specified in Article 23 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 500-fold amount of the minimal salary;
12) Failure to perform or improper performance of duty specified in Article 24 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 700-fold amount of the minimal salary;
13) Failure to perform or improper performance of the duty specified in Article 25 of this Law shall give rise to imposition of a sanction in the form of a warning and instruction to eliminate the violation and (or) a penalty at 2000-fold amount of the minimal salary.

4. Infringement of the requirements of this Law and legal acts adopted on basis of this Law by non-financial institutions or individuals with a status of a natural person shall give rise to responsibility stipulated by the Code of Administrative Violations of the Republic of Armenia.
5. Sanctions shall be imposed in the manner established by the Code of Administrative Violations of the Republic of Armenia on non-financial institutions or individuals by their supervisory body, which licenses (appoints) them, as long as it does not contradict the requirements of this Law.
6. Sanctions shall be imposed in the manner established by the Code of Administrative Legal Violations of the Republic of Armenia on non-financial institutions or individuals by the Authorized Body, if such institutions or individuals are not licensed (appointed) by any supervisory body, as long as it does not contradict the requirements of this Law.
7. Unlawful disclosure by employees of the Authorized Body of confidential information submitted to the Authorized Body pursuant this Law and legal acts adopted on basis of this Law, as well as unlawful disclosure of information constituting commercial or official secrecy shall give rise to responsibility established by law.
8. Infringement of the requirements of this Law and legal acts adopted on basis of this Law by government officials shall give rise to responsibility established by the Code of Administrative Legal Violations of the Republic of Armenia.

## ARTICLE 28: SANCTIONS APPLIED TO LEGAL PERSONS FOR INVOLVEMENT IN MONEY LAUNDERING AND TERRORISM FINANCING

1. Involvement of a legal person (except for reporting entities) in money laundering shall give rise to imposition of penalty at the value of the received assets of crime as specified in Part 4, Article 55 of the Criminal Code of the Republic of Armenia, but not less than 2000-fold amount of the minimal salary, as well as an action may be filed to the court requesting liquidation of the legal person in the manner established by law.
2. Involvement of a legal person, which is a reporting entity, in money laundering shall give rise to imposition of penalty at the value of the received assets of crime as specified in Part 4, Article 55 of the Criminal Code of the Republic of Armenia, but not less than 5000-fold amount of the minimal salary, as well as the license of such person may be revoked or suspended or terminated, or otherwise the activity of the reporting entity may be banned in the manner established by law.
3. Involvement of a legal persons (except for reporting entities) in terrorism financing shall give rise to imposition of penalty at the value of the assets used for financing terrorism as specified in Part 5, Article 55 of the Criminal Code of the Republic of Armenia, but not less than 10000-fold amount of the minimal salary, as well as an action shall be filed to the court requesting liquidation of the legal person in the manner established by law.
4. Involvement of a legal person, which is a reporting entity, in terrorism financing shall give rise to imposition of penalty at the value of the assets used for financing terrorism as specified in Part 5, Article 55 of the Criminal Code of the Republic of Armenia, but not less than 20000-fold amount of the minimal salary, as well as the license of such person shall be revoked, or otherwise the activity of the reporting entity shall be banned in the manner established by law.
5. The sanctions stipulated by this Article shall be imposed on financial institutions by the Authorized Body in the manner established by the legislation regulating the activities of financial institutions.
6. The sanctions stipulated by this Article for non-financial institutions or individuals and for legal persons shall be imposed by the respective supervisory body and, in the absence of such body, by the Authorized Body in the manner established by the Code of Administrative Violations, as long as it does not contradict the requirements of this Law.

# CHAPTER 9
# TRANSITIONAL PROVISIONS

## ARTICLE 29: ENTERING INTO FORCE

1. This Law shall enter into force from the 60th day of its official promulgation.
2. With regard to independent lawyers and firms providing legal services, independent accountants and accounting firms, dealers in precious metals, dealers in precious stones, dealers in artworks, organizers of auctions, and trust and company service providers, the obligation to submit reports stipulated by Part 1 (1 and 2) of Article 5 of this Law shall rise only after establishing the requirements for their licensing (appointment, qualification, or otherwise permission and supervision of activities) in the manner established by law.
3. The Republic of Armenia Law on Combating the Legalization of Proceeds of Crime and Terrorism Financing, dated December 14, 2004 shall be annulled upon this Law's entry into force.

REPUBLIC OF ARMENIA
CRIMINAL CODE

## General Part Section 1. Criminal legislation

### Chapter 1. Principles and objectives of criminal legislation

#### Article 1. Criminal legislation of the Republic of Armenia

The Criminal legislation of the Republic of Armenia consists of this Code. New laws which envisage criminal liability are incorporated into the Criminal Code of the Republic of Armenia.

2. The Criminal Code is based on the Constitution of the Republic of Armenia and international principles and norms.

#### Article 2. The objectives of the Criminal Code

1. The objectives of the Criminal Code are as follows: to protect the rights and the freedom of the human and citizens from criminal infringements, the rights of legal entities, property, the environment, public order and security, constitutional order, as well as to prevent the crime.

2. To implement these objectives, the Criminal Code stipulates the grounds for criminal liability and the principles of criminal legislation, and determines which dangerous acts are considered as criminal offences for the society and establishes the types of punishment and other penal and legal measures for committing these acts.

#### Article 3. The grounds for criminal liability

The only ground for the criminal liability is crime, i.e., committing an act which incorporates all elements of crime, envisaged by the criminal law.

#### Article 4. Principles of criminal legislation

The Criminal Code of the Republic of Armenia is based on the principles of legitimacy, equality before the law, inevitable liability, personal liability, liability in accordance with the offence, personalized liability, and the principles of humanism

#### Article 5. Principle of legitimacy

1. The criminal essence of the deed and the liability to the punishment, as well as other criminal and legal consequences are decided solely by the criminal law.

2. The application of criminal law by analogy is prohibited.

#### Article 6. Principle of equality before the law

The persons who committed a crime are equal before the law and are subject to criminal liability regardless of sex, race, color, language, religion, political or other beliefs, national or social origin, ethnic minority identity, birth, property, or other statuses.

#### Article 7. Principle of inevitability of liability

11. Each person who committed a crime is subject to the punishment envisaged by the Criminal law of RA or other legal and penal measures.

2. Exemption from criminal liability and punishment is possible only in the event of the grounds and conditions envisaged in the Criminal Code.

**Article 8. Principle of personal liability**

The individual is subject to criminal liability only for the offence committed personally.

**Article 9. Principle of liability in accordance with the offence**

1. The person is subject to criminal liability only for the socially dangerous action or inaction and its socially dangerous consequences, of which he was found guilty by a competent court.

2. Objective incrimination, i.e., criminal liability for infliction of damage without guilt, is prohibited.

**Article 10. Principle of individuality of justice and liability**

1. The punishment and other legal and penal measures applied to the person who committed an offence must be fair, appropriate to the gravity of the crime, to the circumstances in which it was committed, to the personality of the criminal; they must be necessary and sufficient to correct the criminal and to prevent new offences.

2. The repeated conviction of the person for the committal of the same crime is prohibited.

**Article 11. Humanitarian principle**

1. The Criminal Code serves to provide the physical, mental, financial, ecological, etc. security of man.

2. No one shall be subjected to torture or cruel, inhuman or humiliating treatment or punishment.

## Chapter 2.

## Operation of the criminal law in time and space

**Article 12. Operation of the criminal law in time**

1. Each person who committed a crime is subject to the punishment envisaged by the Criminal law of RA or other legal and penal measures.

2. Exemption from criminal liability and punishment is possible only in the event of the grounds and conditions envisaged in the Criminal Code.

**Article 13. Retroactive effect of criminal law**

1. The law eliminating the criminality of the act, mitigating the punishment or improving the status of the criminal in any way, has retroactive effect, i.e., this law is extended to the persons who committed this act before this law had taken effect, including those persons who are serving the punishment or served the punishment, but have a record of conviction.

2. The law stipulating the criminality of the act, making the punishment more severe or worsening the status of the criminal in any other way, has no retroactive effect.

3. The law partially mitigating the punishment and, in the meantime, partially making the punishment more severe has retroactive effect only in respect to the part which mitigates the punishment.

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

1. The person who committed a crime in the territory of the Republic of Armenia is subject to liability under the Criminal Code of the Republic of Armenia.

2. The crime is considered committed in the territory of the Republic of Armenia when:

1) it started, continued or finished in the territory of the Republic of Armenia;

2) it was committed in complicity with the persons who committed crimes in other countries.

3. In case of crimes committed in the territory of the Republic of Armenia and other states, the person's liability arises under the Criminal Code of the Republic of Armenia, if the person was subjected to criminal liability in the territory of the Republic of Armenia and unless an international treaty of the Republic of Armenia prescribes otherwise.

4. The person who committed a crime on board of a ship or flying aircraft bearing the flag or the identification of the Republic of Armenia is subject to criminal liability, regardless of their whereabouts, under the Criminal Code of the Republic of Armenia, unless otherwise stipulated in an international treaty of the Republic of Armenia. Also subject to liability under the Criminal Code of the Republic of Armenia, is the person who committed a crime on board of a military ship or aircraft of the Republic of Armenia, regardless of their location

5. The issue of the criminal liability of foreign diplomatic representatives and other persons enjoying diplomatic immunity, in the case of committal of crime by the latter in the territory of the Republic of Armenia, is resolved in accordance with the norms of international law.

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

1. The citizens of the Republic of Armenia who committed crime outside the territory of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, are subject to criminal liability under the Criminal Code of the Republic of Armenia, if the act committed by them is recognized as a crime in the legislation of the state where the crime was committed, and if they were not convicted in another state. When convicting the above mentioned persons, the punishment cannot exceed the upper limit for punishment in the state where the crime was committed.

2. The citizens of the Republic of Armenia who committed crime outside the territory of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, are subject to criminal liability under Articles 384, 386-391, 393-397 of this Criminal Code, regardless whether the act is considered or not considered a crime in the state where the crime was committed.

3. Foreign citizens and stateless persons not permanently residing in the Republic of Armenia, who committed a crime outside the territory of the Republic of Armenia, are subject to criminal liability under the Criminal Code of the Republic of Armenia, if they committed:

1) such crimes which are provided in an international treaty of the Republic of Armenia;

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

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

**Article 16. Extradition of persons who committed a crime**

1. The citizens of the Republic of Armenia who committed a crime in another state are not extradited to that state.

2. In accordance with an international treaty of the Republic of Armenia, the foreign citizens and the stateless persons who committed a crime outside the territory of the Republic of Armenia and who find themselves in the Republic of Armenia, can be extradited to a foreign state, for criminal liability or to serve the punishment.

3. The persons specified in part 2 of this Article are not extradited to foreign states if there are serious reasons to believe that they can be subjected to torture there.

4. If the legislation of the country seeking extradition of persons who committed a crime envisages death penalty for the given crime, then the extradition of persons who committed a crime can be turned down, unless the party seeking extradition presents satisfying assurances to this country that the death penalty will not be executed.

5. In case of refusal to extradite the person who committed a crime, the prosecution for the crime committed in the territory of a foreign country is done in accordance with the legislation of the Republic of Armenia.

**Article 17. Legal significance of a person's conviction outside the RA**

1. The court ruling in a foreign country can be taken into account, provided the RA citizen, foreign citizen or a stateless person was convicted for a crime committed outside the RA, and committed a repeated crime in the RA.

2. In accordance with part 1 of this article, recidivism, unserved punishment or other legal consequences of a foreign court ruling are taken into account when qualifying the new crime, assigning punishment, and exempting from criminal liability or punishment.

## Section 2.

## Crime.

## Chapter 3.

## The notion and types of crime

**Article 18. The notion of crime**

1. The willful committal of a socially dangerous act envisaged in this Code is considered a crime.

2. The act or inaction which may formally contain the features of an act envisaged in this Code, but which, however, does not present public danger because of its little significance, i.e. it did not cause or could not have caused significant damage to an individual or a legal entity, to the society or the state, is not considered a crime.

**Article 19. Types of crime**

1. Crimes are categorized, by nature and degree of social danger, as not very grave, medium gravity, grave and particularly grave.

2. The willful acts, for the committal of which this Code envisages maximal imprisonment of two years, or for which a punishment not related to imprisonment is envisaged, as well as acts committed through negligence, for which this Code envisages a punishment not exceeding three years of imprisonment, are considered not very grave crimes.

3. Medium-gravity crimes are those willful acts for which this Code envisages a maximal punishment not exceeding five years of imprisonment, and the acts committed through negligence, for which this Code envisages a maximal punishment not exceeding ten years of imprisonment.

4. Grave crimes are those willful acts for which this Code envisages a maximal punishment not exceeding ten years of imprisonment.

5. Particularly grave crimes are those willful acts for which this Code envisages a maximal imprisonment for more than ten years or for life.

**Article 20. Aggregate of crimes**

1. The following is considered an aggregate of crimes:

1) committal of two or more crimes stipulated by different articles or different sections of the same article of this Code, for none of which the person has been convicted;

2) a single act (inaction) which incorporates the features of crimes envisaged in two or more articles of this Code.

2. In case of aggregate of crimes, the person is liable for each crime, under the relevant article of this Code, or part of the article.

**Article 21. Repeated crime**

1. The committal of two or more offenses under the same article of the Special Part of this Code or part of the article is considered repeated crimes.

2. The repeatedness envisaged in part 1 of this Article is absent in the on-going crime which consists of two or more acts united by one general criminal intent.

3. The committal of a crime envisaged by two or more articles of this Code is considered repeated only for cases specified in the Special Part of this Code.

4. There is no repeatedness if the person was legally exempted from criminal liability for a past crime or the record of conviction for this crime was expunged.

**Article 22. Recidivism**

1. The committal of a willful crime by the person who had a criminal record in the past for a willful crime, is considered recidivism.

2. Recidivism is considered dangerous:

1) in the case of a willfully committed crime, if the person had been previously sentenced to imprisonment for willful crime no less than twice;

2) in the case of committal of a grave crime, if the person had been previously sentenced to imprisonment for the committal of a grave or particularly grave crime.

3. Repeated crime is considered particularly dangerous:

1) in the case of committal of such a crime for which he is sentenced to imprisonment, if, in the past, the person had been sentenced to imprisonment no less than thrice, in any sequence, for willful medium-gravity crimes, for grave or particularly grave crimes;

2) in the case of committal of a grave crime for which he is sentenced to imprisonment, if in the past the person had been sentenced to imprisonment twice for grave or particularly grave crimes.

3) in the case of committal of a particularly grave crime by the person, if in the past the person had been convicted for a grave or particularly grave crime.

4. The crime for which the criminal record has been quashed by procedure established in this Code, as well as the crime committed before the age of 18, is not taken into account when determining recidivism.

## Chapter 4.

## Persons subject to criminal liability

### Article 23. General conditions of criminal liability

Only a sane physical person who at the time of crime committal has reached the age established in this Code is subject to criminal liability.

### Article 24. The age at which a person is subject to criminal liability

1. The person who reached the age of 16 before the committal of the crime is subject to criminal liability.

2. The persons who reached the age of 14 before the committal of the crime are subject to criminal liability for murder (Articles 104-109), for inflicting willful severe or medium damage to health (Articles 112-116), for kidnapping people (Article 131), for rape (Article 138), for violent sexual actions (Article 139), for banditry (Article 179), for theft (Article 177), for robbery (Article 176), for extortion (Article 182), getting hold of a car or other means of transportation without the intention of appropriation (Article 183), for destruction or damage of property in aggravating circumstances (Article 185, parts 2 and 3), for theft or extortion of weapons, ammunition or explosives (Article 238), for theft or extortion of narcotic drugs or psychotropic substances (Article 269), for damaging the means of transportation or communication lines (Article 246), for hooliganism (Article 258).

3. If the person has reached the age envisaged in parts 1 or 2 of this Article, but due to retarded mental development was not able to understand the nature and significance of one's actions or to control one's actions, then he is not subject to criminal liability.

### Article 25. Insanity

1. The person who was in the state of insanity when committing a socially dangerous crime is not liable to criminal liability, i.e., the person could not understand the dangerous nature of one's actions (inaction) or control one's actions as a result of chronic mental illness, temporary mental disorder, mental retardation or other mental disease.

2. Forced medical measures can be imposed by the court with respect to the person who committed socially dangerous actions in an insane state.

3. Also not subject to punishment, is the person who committed a crime in the state of insanity, however, had fallen mentally ill before sentencing by the court, which deprived him of the capability of understanding the actual nature and significance of his actions (inaction) or controlling them. Forced medical measures can be imposed by the court with respect to such a person, and after recovery this person can be subjected to punishment.

**Article 26. Limited sanity**

1. A sane person who, due to mental disorder, when committing the crime could not entirely understand the actual nature of one's action (inaction) and its social danger, or control one's actions, is subject to criminal liability.

2. Limited sanity is taken into account as a mitigating circumstance when imposing the punishment and can become the ground for the enforcement of medical measures, parallel to the punishment.

**Article 27. Criminal liability of persons who committed crime in the state of intoxication**

1. The person who committed a crime as a result of alcoholic, narcotic or other intoxication is not exempted from criminal liability.

2. When sentencing an alcoholic, a drug or poison addict, the court can also impose forced medical treatment, provided there is danger of the committal of a new crime due to this addiction.

## Chapter 5

## Guilt

**Article 28. Types of guilt**

1. The guilt is manifested willfully or through negligence.

2. An action committed through negligence is a crime if it is particularly envisaged in the Special Part of this Code.

**Article 29. Committal of willful crime**

1. A willful crime can be manifested in direct or indirect willfulness.

2. A crime is considered directly willful if the person understood the danger of his action (inaction) for the society, had foreseen the dangerous consequences for the society and desired the emergence of these consequences.

3. A crime is considered indirectly willful if the person understood the danger of his action (inaction) for the society, had foreseen the dangerous consequences for the society, did not desire the emergence of these consequences but knowingly allowed them to take place.

4. If the law does not link the criminal liability for the accomplished criminal act to the emergence of certain consequences, the crime is considered willfully committed, if the person who committed it understood the danger of his actions for the society and was willing to commit it.

5. For the aggravating circumstances of the willful crime, the person is subject to criminal liability, if the latter understood these circumstances.

**Article 30. Committal of negligent crime**

1. A crime committed through negligence can be manifested through self-confidence or carelessness.

2. A crime is considered committed through self-confidence, if the person had foreseen the possible dangerous nature of one's action (inaction) for the society, but without sufficient grounds self-confidently hoped that these consequences will be prevented.

3. A crime is considered committed through carelessness, if the person had not foreseen the possible dangerous nature of one's action (inaction) for the society, although in the given circumstances he was obliged and was able to foresee them.

**Article 31. Inflicting damage without guilt**

1. An act is considered to have been committed without guilt, if the person did not understand and, in the given circumstances, could not understand the social danger of one's actions (inaction) or did not foresee the possible socially dangerous consequences thereof, and in the given circumstances was not obliged and could not foresee them.

2. Also, an act is considered to have been committed without guilt, if the person had foreseen the possible socially dangerous consequences of one's action (inaction), did not wish the emergence thereof, but due to the incompatibility of one's psychological and physiological properties with the extreme conditions or nervous and mental load, failed to prevent the emergence of these consequences.

**Article 32. Liability for crimes with two types of guilt**

If the law envisages a more strict liability for a willful crime which caused severe consequences through negligence, then the person is liable for these consequences only when one had foreseen the possible social danger of one's action (inaction), however, without good reason, self-confidently hoped that these consequences will be prevented, or had not foreseen the possible consequences of his socially dangerous action (inaction), although in the given circumstances one was obliged to and could foresee them. Such a crime must be considered willfully committed.

## Chapter 6.

## Completed and unfinished crime

**Article 33. Completed and unfinished crime**

1. A crime is considered completed, if the action incorporates all the elements of crime envisaged in this Code.

2. Attempts to commit a crime and the preparation for grave and particularly grave crimes are considered an unfinished crime.

3. The liability for attempts to commit a crime and the preparation for crime is under the same article of the Special Part of this Code as for complete crimes, referring to Articles 34 or 35 of this Code.

**Article 34. Attempt to commit a crime**

Attempt at a crime is the action (inaction) committed through direct willfulness immediately aimed at the committal of crime, if the crime was not finished for reasons beyond the person's control.

**Article 35. Preparation of crime**

Preparation of a crime is the procurement of means or tools or their adaptation for committal of a direct willful crime, as well as willful creation of other conditions for committal of crime, if the crime was not finished for reasons beyond the person's control.

**Article 36. Voluntary refusal from a crime**

1. Voluntary refusal is the termination by the person of preparation or termination of action (inaction) directly aimed at the committal of crime, when the person realized the possibility of completion of the crime.

2. The person who refused to complete the crime is not subject to criminal liability, unless his actually committed act contains other elements of crime.

3. If the organizer of the crime, the abettor or helper refuses voluntarily, they are not subject to criminal liability, provided this person informed the state bodies or through other means and prevented the completion of the crime by the perpetrator.

4. If the actions mentioned in part 3 of this Article did not prevent the committal of the crime by the perpetrator, then, when sentencing, these actions can serve as circumstances mitigating the liability and the sentence.

## Chapter 7

## Complicity

**Article 37. The notion of complicity**

Willful joint participation of two or more persons in a willful crime is considered complicity.

**Article 38. Types of accomplices**

1. The organizer, the abettor and the helper are considered the accomplices to the perpetrator.

2. The perpetrator is the person who immediately committed the crime or immediately participated in its committal with other persons (accomplices), as well as the one who committed the crime through the use of persons not subject to a criminal liability lawfully or the persons who committed a crime through negligence.

3. The organizer is the person who arranged or directed the committal of the crime, as well as, the one who created, organized or directed a group or a criminal association for committal of the crime.

4. The abettor is the person who abetted another person for the committal of a crime through persuasion, financial incentive, threat or other means.

5. The helper is the person who assisted to the crime through pieces of advice, instructions, information or provided means, tools, or eliminated obstacles, as well as, the person who had previously promised to harbor the criminal, to hide the means and tools of a crime, the traces of the crime or the items acquired through crime, as well as, also, the person who had previously promised to acquire or sell such items.

**Article 39. The liability of accomplices**

1. The co-perpetrators are subject to liability for the crime under the same article of the Special Part of this Code.

2. The organizer, the abettor and the perpetrator are subject to liability under the article which envisages the committed crime, referring to Article 38 of this Code, except for those cases when they were at the same time the co-perpetrators of the crime.

3. The person who is not a special subject of the crime in the article of the Special Part of this Code, who participated in the committal of the crime envisaged in this Article, can be liable for this crime only as an organizer, an abettor or helper.

4. In the case when the crime was not completed for reasons beyond control of the perpetrator, the other accomplices are liable for the preparation of the crime or for complicity in the attempt at the crime.

5. If the organizer, the abettor or the helper fail in their actions for reasons beyond their control, then these persons are liable for the preparation of the respective crime.

6. The accomplices are subject to liability only for those aggravating circumstances of the crime of which they were aware.

7. When subjecting the accomplices to liability, the nature and the degree of participation of each of them in the crime are taken into account.

(Article 38 amended 09.06 04 HO- 97-N law)

**Article 40. Excess of performer**

1. Excess of performer is committal of such a crime by a person that exceeds the willfulness of other accomplices.

2. Other accomplices are not liable for the excess of performer.

**Article 41. Committal of crime by a group of individuals, by an organized group or by an organized crime**

1. A crime is considered committed by a group of individuals without prior agreement, if the co-perpetrators who participated in the crime did not previously agree to commit the crime jointly.

2. A crime is considered committed by a group of individuals with prior agreement, if the co-perpetrators who participated in the crime, prior to the commencement of the crime, agreed to commit the crime jointly.

3. A crime is considered committed by an organized group, if it was committed by a stable group of persons who previously united to commit one or more crimes.

4. A crime is considered committed by an organized crime, if it was committed by an organized and consolidated group created to commit grave or particularly grave crimes, or by uniting to an organized group for the same purposes, as well as if it was committed by a member (members) of the organized crime to achieve its criminal purposes, as well as, committal of a crime by a person instructed by and not considered a member of the organized crime,

5. The person who created or directed an organized group, an organized crime, is subject to liability in cases envisaged in the appropriate articles of this Code: for the creation or direction of an organized group or an organized crime, as well as, for all crimes committed by them, if they were involved by his willfulness. Other persons involved in the organized crime are subject to liability for participation in this organization and for those crimes which they committed or prepared.

6. The persons mentioned in this Article incur liability without referral to Article 38 of the Special Part of this Code.

## Chapter 8

## Circumstances excluding the criminality of the act

**Article 42. Necessary defense**

1. The action committed in the state of necessary defense, is not considered a crime, i.e., when defending the life, health and the rights of the defender or other person, or defending the state interests from socially dangerous inclination, or from a real threat thereof, defending oneself by inflicting damage to the perpetrator of the inclination, provided the necessary defense was not exceeded.

2. When defending a person's life from dangerous violence or real threat thereof, any damage can be inflicted, including death.

3. The person is entitled to the rights of necessary defense, regardless of the possibility to avoid the inclination or to appeal to other persons or state bodies, as well as, regardless of the person's special training or official position.

4. Deliberate actions which obviously are inadequate with the nature and extent of the danger of the inclination for the self-defender are considered acts of excessive defense.

5. Use of weapon or any other means or objects for the purpose of defense from assault of an armed person or assault of a group of persons, as well as for the purpose of prevention of illegal and forced intrusion into an apartment or other building, is not considered an act of excessive defense, irrespective of the degree of damage incurred by the offender.

**Article 43. Inflicting damage when capturing the perpetrator**

1. The actions whereby damage was inflicted to the perpetrator when capturing him, in order to hand him over to the authorized bodies or to prevent him from committing new socially dangerous actions, are not considered a crime, provided the necessary measures have not been exceeded.

2. The measures necessary to capture the perpetrator are considered excessive, if there is an obvious imbalance between the capturing measures and the danger of the action and the perpetrator, as well as, the circumstances of capture, as a result of which damage which was not determined by the necessity of capturing was willfully inflicted on the person.

3. The act of excessive damage inflicted when capturing the perpetrator is a crime, if this is particularly envisaged in the Special Part of this Code.

4. Except for specially authorized parsons, the aggrieved person and other citizens also are entitled to capture the perpetrator of the crime.

**Article 44. Urgent necessity**

1. Inflicting damage to the interests protected by the criminal law in the state of urgent necessity, is not considered a crime, i.e., to eliminate the imminent danger to the life, health, rights and legal interests of the given person or persons, to the interests of the society or the state, if this danger could not be eliminated by other means and no limits of urgent necessity have been exceeded.

2. Willfully inflicted damage obviously disproportionate to the imminent danger, its degree and the considerations of elimination of the danger, when the legally protected interests suffered equal or greater damage compared to the prevented damage, is considered exceeding of urgent necessity.

**Article 45. Physical or psychiatric enforcement**

1. Inflicting damage to the interests protected by the criminal law by means of physical or psychiatric enforcement, is not considered a crime, if as a result of this enforcement the person could not control his actions (inaction).

2. The issue of criminal liability, when damage is inflicted to legally protected interests by means of physical or psychiatric enforcement, which do not deprive the person of the capability of controlling one's actions, is resolved taking into account the propositions of Article 46 of this Code.

**Article 46. Justified risk**

1. Inflicting damage to the interests protected by criminal law is not considered a crime, when undertaking justified risk to achieve socially useful goals.

2. Risk is considered justified, if the mentioned goal could not be achieved without an action (or inaction) of risk, and when the risking person takes measures to prevent the danger to the interests protected by criminal law.

3. Risk is considered unjustified, if it obviously involves the death of third persons, or the threat of an ecological or public disaster.

**Article 47. Execution of an order or instruction**

1. Inflicting damage to the interests protected by criminal law, by the person who acted pursuant to compulsory, appropriately given order or instruction, is not considered a crime. The person who gave such illegal order or instruction is liable for that.

2. The person who committed a willful crime by obviously illegal order or instruction is liable on common grounds.

3. Refusal to execute an obviously illegal order or instruction is an exemption from criminal liability.

## Section 3. Punishment

## Chapter 9

## Notion of punishment, its purposes and types

**Article 48. The notion of punishment and its purposes**

1. Punishment is a means of state enforcement assigned by court sentence on behalf of the state to the person who has been found guilty of the crime, and is expressed in deprivation or restriction of one's rights and freedom, as envisaged by the law.

2. The purpose of punishment is applied to restore social justice, to correct the punished person, and to prevent crimes.

**Article 49. Types of punishment**

The types of punishment are:

1) a fine;

2) extinctions to hold certain posts or practice certain professions;

3) public works;

4) deprivation of special titles or military ranks, categories, degrees or qualification class;

5) forfeit of property;

6) (the 6th point lost the effect as of 01.06.06 HO-119-N law);

7) arrest;

8) service in disciplinary battalion;

9) imprisonment for a certain term;

10) life sentence.

**Article 50. Basic and supplementary punishments**

1. Public works, public work, arrest, service in disciplinary battalion, imprisonment for a certain term and life sentence are used only as basic punishments.

2. Fines and extinction to hold certain posts or practice certain professions are imposed both as basic and supplementary punishments.

3. Deprivation of special titles or military ranks, categories, degrees or qualification class, as well as confiscation of property is applied only as supplementary punishments.

4. Only one basic punishment can be assigned for one crime. One or more supplementary punishment can be added to the basic punishment in cases envisaged in the Special Part of this Code.

5. Fines, confiscation of property and extinction to hold certain posts or practice certain professions, as a supplementary punishment, can be assigned only in cases envisaged in the Special Part of this Code.

**Article 51. Fines**

1. A fine is a financial punishment imposed for trivial and average gravity crimes in the cases and within the limits foreseen by the Special Part of this Code, in the amount of 30 to 1000 minimal salaries (hereby minimal salary) as established by the law of the Republic of Armenia at the moment of fining.

2. The court determines the amount of the fine, taking into account the nature and gravity of the crime, as well as, the property status of the convicted person.

3. If the convicted person, due to a personal or financial situation, is incapable of immediately paying the fine in full, the court establishes a payment deadline, up to 1 year, or allows paying the fine on installments within the same period. This privilege is null and void, if the convicted person fails to pay the portions of the mentioned amount on time.

4. In case of impossibility to pay the fine, the court can substitute the fine or an unpaid part thereof with public works counting 5 hours of public works against minimal salary. If the fine or an unpaid part thereof is less than 270 hours, then 270 hours is applied and if it exceeds 2200 hours, then 2200 hours is applied.

(51st Article amended on 01.06.06 HO-119-N law)

**Article 52. Deprivation of the right to hold certain posts or practice certain professions**

1. Deprivation of the right to hold certain posts is extinction to hold certain positions in state and local self-government bodies, organizations, and the deprivation of practicing certain professions is extinction to hold certain occupations related to the nature of the crime.

2. Prohibition to hold certain posts or practice certain professions, as a basic punishment is established for the term of 2 to 7 years for willful crimes, and from 1 to 5 years, for crimes through negligence, and as a supplementary punishment, from 1 to 3 years.

3. Deprivation of the right to hold certain posts or to practice certain professions can be applied in cases when based on the nature of the crime committed by the offender during the period of his/her holding the post or practicing certain profession, the court does not find it possible to retain his/her right to hold certain posts or to practice certain professions.

4. Deprivation of the right to hold certain posts or to practice certain professions as a supplementary punishment to servicing in disciplinary battalion, arrest or imprisonment for a certain term, the term of the supplementary punishment is extended over the entire period of the basic punishment where the term of the supplementary punishment is counted after completion of the basic punishment. For the rest of the cases the term of the supplementary punishment is counted from the date when the court decision takes effect legally.

**Article 53. Deprivation of special titles or military ranks, categories, degrees or qualification class**

When convicting a person for the committal of grave or particularly grave crimes, the court, taking into account the features characteristic of the perpetrator, can deprive the latter from special titles or military ranks, categories, degrees or qualification class.

**Article 54. Public works**

1. Public work is an unpaid, socially useful, work assigned by the court and performed by the convict in the places decided by the authorized entity.

2. Public work can be assigned to persons committed trivial or average gravity crime and imprisoned for the term of maximum 2 years. The duration of assigned public works shall amount from 270 to 2200 hours.

3. Public work is assigned as an alternative punishment to imprisonment within 40 days after receiving an instruction to enforce the decision of the court, in cases of written application submitted by the convict, as well as in cases foreseen in the 4th part of 51th article of this Code. The court shall reject the application if the procedure of submitting the latter has not been followed.

4. Public work is not assigned to first or second degree disabled, persons under 16 at the time of sentencing, pension-age persons, pregnant women and drafted servicemen.

5. In case of ill-faith evasion from performing public work, the court replaces the unperformed part of the public work by arrest or imprisonment of a certain period, at the rate of one day of imprisonment for three hours of public work.

(54th article amended on 09.06.04. HO-97-N; 01.06.06 **HO**-119-N laws)

**Article 55. Confiscation of property**

1. Confiscation of property is the compelled and ultimate deprivation of the property or its part found to be owned by the defendant and its conversion into the state's ownership.

2. The amount of property due to confiscation should be determined by the court, with regard to the damage caused by the offence and the size of criminally obtained property. The size of confiscation cannot exceed the size of the damage caused by the offence and/or the size of illicit proceeds.
3. Confiscation of property can be applied to grave or particularly grave offences committed with mercenary motives in cases stipulated by the Special Part of this Code, except cases defined by parts 4 and 5 of this article.
4. Confiscation is mandatory with regard to illicit property, i.e. the property derived or obtained, directly or indirectly, from legalization of illicit proceeds and commission of offences defined by article 190 of this Code, including income or other benefits from the use of that property, the instruments used or intended for use in the commission of those offences, and, if the illicit property has not been discovered, other property of corresponding value. The property should be confiscated regardless of whether it is owned or held by a defendant or by a third party.
5. Confiscation is mandatory with regard to property linked to terrorist financing, i.e. the property used or intended to be used for financing the actions defined by article 217 of this Code, including income or other benefits from the use of that property, the instruments used or intended for use in the commission of those offences, and, if the property linked to terrorist financing has not been discovered, other property of corresponding value. The property should be confiscated regardless of whether it is owned or held by a defendant or by a third party.
6. Confiscation shall not apply to the property needed by the defendant or his/her dependants, as defined by law, and also to the property of bona fide third parties as defined by parts 4 and 5 of this article.
7. For the purpose of this article, a bona fide third person shall mean a person who, at the moment of transfer of the property to other persons, did not know or could not know that it will be used or is intended to be used for illicit purposes, as well as a person who, at the moment of acquisition of the property, did not know or could not know that it will be used or is intended to be used for illicit purposes.

**(55th Article amended on 28.11.06** HO-**206- N law)**

**Article 56. Correctional labor**

**(66th article has lost its effect on 01.06.06. HO-119-** N **law)**

**Article 57. Arrest**

1. Arrest is keeping the convict in a correctional institution in custody in strict isolation from the society. Arrest can be applied for trivial and medium gravity crimes in cases envisaged in the Special Part of this Code for the term form15 days to 3 months and only in those cases in which arrest was not selected as a measure of restraint.

2. Persons under 16 years of age at the time of sentencing, pregnant women and persons caring for children less than 8 years of age are not put under arrest.

3. Servicemen serve their arrest in military houses of arrest.

(57th article amended on 01.06.06. HO -119-N law)

**Article 58. Keeping in the disciplinary battalion**

1. Keeping a conscripted serviceman in the disciplinary battalion, from 3 months to 3 years, can be assigned in cases of trivial and medium gravity crimes envisaged in the Special Part of this Code, as well as in those cases when the court taking into account the circumstances of the case and the personality of the convict, finds it expedient to replace a maximum of three-year imprisonment with the disciplinary battalion for the same term.

2. Replacement of imprisonment with the disciplinary battalion cannot be assigned in relation to persons who had been sentenced to imprisonment in the past.

(58th article amended on 01.06.06. **HO**-119- N, 28.11.07 **HO**-275-N laws)

**Article 59. Imprisonment for a certain term**

1. Imprisonment is isolation from the society in the form of keeping the convict in a correctional institution, in custody.

2. Imprisonment can last from 3 months to 15 years.

3. Imprisonment for a crime through negligence cannot exceed 10 years.

4. When assigning punishment by aggregate of crimes, in case of complete or partial summation of imprisonment terms, the maximal term cannot exceed 15 years, and by aggregate of sentences, 20 years.

**Article 60. Life sentence**

1. Life sentence is an isolation of the convict in a form of keeping him imprisoned in a corrective institution without time-limit, which in cases envisaged in this Code can be assigned for particularly grave crimes.

2. Persons under 18 years of age at the time of committal of the crime, and women pregnant at the time of committal of the crime or sentencing cannot be sentenced to life sentence.

## Chapter 10.

## Assignment of punishment

**Article 61. General principles of assigning punishment**

1. A fair punishment is assigned in relation to the person found guilty in the committal of a crime which is determined within the limits of the appropriate article in the Special Part of this Code, taking into account the propositions of the General Part of this Code.

2. The type and degree of punishment is determined by the extent of social danger of the crime and its nature, by the characteristic features of the offender, including circumstances mitigating or aggravating the liability or the punishment.

3. The strictest punishment for the crime is assigned only when the less strict type cannot serve for the purposes of the punishment.

**Article 62. Circumstances mitigating liability and punishment**

1. Circumstances mitigating liability and punishment are as follows:

1) committal of a trivial and medium-gravity crime, for the first time, by coincidental circumstances;

2) being under age at the moment of committal of the crime;

3) being pregnant when committing the crime or when assigning the punishment;

4) caring for a child under 14 years of age by the convict at the moment of assigning the punishment;

5) committal of crime as a consequence of result of hard living conditions or out of compassion;

6) committal of crime in result of breach of proportionality of necessary defense, capturing a perpetrator, urgent necessity, justified risk or carrying out orders or instructions;

7) illegal or immoral behavior of the aggrieved which determined the crime;

8) committal of the crime under threat or enforcement, or under financial, service or other dependence;

9) surrender, assistance in solving the crime, exposing other participants of the crime, in searching the illegally acquired property;

10) offering medical or other assistance to the aggrieved immediately after the crime, voluntary compensation for the property and moral damage inflicted by the crime, or other actions aimed at the mitigation of the damage inflicted to the aggrieved.

2. When assigning a punishment, other circumstances, not mentioned in part 1 of this Article can be taken into account as mitigating ones.

3. If a circumstance mentioned in part 1 of this Article, is envisaged in the appropriate article of the Special Part of this Code as an element of a crime, then it cannot be repeatedly taken into account as a circumstance mitigating the liability and the punishment.

**Article 63. Circumstances aggravating the liability and punishment**

1. Circumstances aggravating the liability and punishment are as follows:

1) repeated committal of crime; committing crime as a trade, occupation;

2) causing severe consequences by the crime;

3) committal of crime in a group of individuals, in an organized group or as a part of criminal association;

4) particularly active role in the crime;

5) involvement into the committal of the crime of persons who obviously suffer from mental disorder or who are intoxicated, as well as involvement of persons who are still under age for criminal liability;

6) committal of crime by ethnic, racial or religious motives, for religious fanaticism, as revenge for other people's legitimate actions;

7) committal of crime to conceal another crime or in order to facilitate this crime;

8) committal of crime against an obviously pregnant woman, against children, other insecure and helpless persons, or against persons dependent from the perpetrator;

9) committal of crime against a person or one's spouse, or close relative, which is related to the implementation of service or public duty by this person;

10) committal of crime by a person whereby breaching the military or professional oath;

11) committal of crime with particular cruelty, treating the aggrieved with humiliation or torture;

12) committal of crime in a way that is dangerous for the society;

13) committal of crime under martial law or emergency situation, in conditions of a natural or other civil disaster, as well as during mass disorder and turmoil;

14) committal of crime under the influence of alcohol, narcotic drugs or other intoxicating substances;

2. Based on the nature of the crime, the court may consider the circumstances mentioned in points 10 and 14 of part 1 of this Article not aggravating.

3. When assigning the punishment the court cannot take into account other circumstances not mentioned in part 1 of this Article.

4. If the circumstance mentioned in part 1 of this Article, is envisaged in the appropriate article of the Special Part of this Code as an element of a crime, then it cannot be repeatedly taken into account as a circumstance aggravating the liability and the punishment.

**Article 64. Assignment of a milder punishment than envisaged by law**

1. If there are exceptional circumstances concerned with the motives of the crime and its purpose, the role of the perpetrator, and his behavior when committing the crime and thereafter, which essentially reduce the extent of a danger of the crime for the society, as well as, if a member of the group crime actively assists in solving the crime, a softer punishment can be assigned than the minimal envisaged punishment in the appropriate article of the Special Part of this Code, or a softer type of punishment, than envisaged in that article, or a compulsory supplementary punishment might be not applied.

2. Individual mitigating circumstances as well as a combination of such circumstances can be considered exceptional.

**Article 65. Assignment of punishment for an unfinished crime**

1. When assigning punishment for an unfinished crime, the nature of actions committed by the criminal and the degree of danger to the society, the degree of implementation of criminal intent and those circumstances as a result of which the crime was not finished, are taken into account.

2. The imprisonment for the preparation of a crime cannot exceed half of the maximal imprisonment term envisaged in the relevant article of the Special Part, or part thereof.

3. The imprisonment for the attempt at a crime cannot exceed three quarters of the maximal imprisonment term envisaged in the relevant article of the Special Part, or part thereof.

4. Life sentence is not assigned for the preparation of a crime or for the attempt to commit crime.

**Article 66. Assignment of punishment by accumulation of crimes**

1. When assigning cumulative punishment (basic and supplementary), separately for each crime, the court determines the final punishment by absorption of the less severe punishment by a more severe punishment, or by adding the assigned punishments in full or partially.

2. If the aggregate of crimes involves only minor gravity crimes, then the final punishment is assigned by absorbing the less severe punishment by a more severe punishment, or by complete or partial adding of punishments. Particularly, the added up final punishment cannot exceed the maximal punishment envisaged for the gravest committed crime.

3. If the aggregate of crimes involves only medium-gravity or trivial and medium-gravity crimes, then the final punishment is assigned by complete or partial summation of punishments. Particularly, the final punishment cannot exceed 10 years of imprisonment.

4. If the aggregate of crimes involves grave and particularly grave crimes, then the final punishment is assigned by complete or partial summation of punishments. The final punishment cannot exceed 15 years of imprisonment. If one of the accomplices is sentenced to life, then the final basic punishment is decided by absorption.

5. Under cumulative punishment, a supplementary punishment can be added to the assigned basic punishment for the aggregate of crimes. When summing up the supplementary punishments completely or partially, the final supplementary punishment cannot exceed the maximal term or degree established for this type of crime in the General Part of this Code.

6. The punishment is assigned under the provisions of this Article, if after sentencing it turns out that the convict is also guilty of another crime, committed before the first sentence. In this case the term of the final punishment is offset by the served part of the first sentence.

**Article 67. Assignment of punishment by accumulation of sentences**

1. If the convict commits another crime after sentencing, but before the expiry of the term of the sentence, the court adds the unserved part of the previously assigned punishment to the newly assigned punishment, in full or partially.

2. The final punishment by accumulation of sentences, provided it does not involve imprisonment, cannot exceed the maximal punishment of this type envisaged in the General Part of this Code.

3. The final imprisonment by accumulation of sentences cannot exceed 20 years.

4. The final punishment by accumulation of sentences must be greater than both the punishment for the newly committed crime, and the unserved part of the punishment assigned by the previous sentence.

5. When assigning a punishment by accumulation of sentences, the addition of supplementary punishments is done as prescribed in Article 66 of this Code.

6. If a new crime is committed by a life-server, the newly assigned punishment is absorbed by the life sentence.

**Article 68. Determining the terms of punishment by summing them up**

1. When adding up punishments and sentences under the cumulative system, in full or partially, one day of imprisonment is equal to:

1) one day of arrest or keeping in the disciplinary battalion;

2) (1st and 2nd p. of 68th article lost their effect on 01.06.06 HO -119- N law);

3) 3 hours of public work.

2. Such punishments as fine, prohibition to hold certain posts and practice certain professions, deprivation of special titles or military ranks, categories, degrees, qualification class, confiscation of property, when added to the imprisonment, the disciplinary battalion and arrest, are executed separately.

(68th article amended on 01.06.06 HO -119- N law)

**Article 69. Calculation of the punishment terms and offsetting punishment**

1. The terms of such punishments as prohibition to hold certain posts and practice certain professions, correctional labor, keeping in the disciplinary battalion and imprisonment are calculated in months and years. The term of public work is counted in hours. The arrest term is counted in days and months.

2. When replacing or adding the punishments mentioned in part 1 of this Article, as well as offsetting the punishment, the terms can be calculated in days.

3. Before the sentence comes into legal force, the term served under arrest is offset from the assigned punishment in the form of imprisonment, arrest, the disciplinary battalion, counting 1 day as 1 day; and1 day as 6 hours in the case of public work,

4. Before the sentence comes into legal force, the term served under arrest or when serving the imprisonment assigned for the committal of crime in another country, based on Article 16 of this Code, in case of extradition of the person, 1 day is equal to 1 day.

5. When assigning a fine, a prohibition to hold certain posts and practice certain professions, the court mitigates the assigned punishment or exempts from punishment entirely, taking into account the time spent under arrest by the person who had been under arrest prior the proceedings.

6. The period of enforced medical treatment of the person who developed a mental disease after the committal of crime is offset from the term of the punishment.

(69th article amended 09.06.04 HO-97-N, 1.06.06 HO L-119-N laws)

**Article 70. Conditional punishment**

1. When assigning a punishment in the form of public work, arrest, imprisonment or keeping in the disciplinary battalion, the court comes to the conclusion that the correction of the convict is possible without serving the sentence, the court can decide not to apply this punishment conditionally.

2. When not applying the punishment conditionally, the court takes into account the features characterizing the personality of the perpetrator, liability, mitigating and aggravating circumstances.

3. When not applying the punishment conditionally, the court establishes a probation period, from 1 to 5 years.

4. When not applying imprisonment conditionally, supplementary punishments can be applied, except confiscation of property.

5. When deciding not to apply the punishment conditionally, the court can oblige the convict to carry out certain duties: not to change the place of permanent residence without notification of the body in charge of his supervision, to take a treatment course against alcohol, narcotic drugs, VD or toxic addiction, to support the family financially. By motion of a competent body supervising the convict's behavior, or without, the court can also impose other duties on the convict which will promote his correction.

6. If during the probation period the convict willfully evades the implementation of the duties imposed by the court, by motion of the body in charge of supervision of his behavior, as well as, in case of committal of a negligent or trivial crime, the court resolves the issue of annulling the conditional punishment.

7. In the case of committal of a medium-gravity, grave or particularly grave crime by the convict during the probation period, the court can cancel the decision not to apply the punishment conditionally, and assign a

punishment under the provisions of Article 67. The same rules are applied when assigning a punishment for a new negligent or medium-gravity crime, if the court cancels the decision not to apply the punishment conditionally.

(70th article amended on 09.06.04 HO-97-N, 01.06.06 HO-119-N, 15.11.06 HO-180-N laws)

**Article 71. Procedure and conditions of punishment implementation**

Procedure and conditions of punishment implementation are established by the law.

## Section 4. Exemption from criminal liability and punishment

## Chapter 11

## Exemption from criminal liability

**Article 72. Exemption from criminal liability in case of repentance**

1. The person who committed a trivial or medium-gravity crime for the first time can be exempted from the criminal liability, if he, after the committal of the crime, surrendered, assisted in solving the crime of his own accord, compensated or mitigated the inflicted damage in some other way.

2. The person who committed another type of crime, in case of the circumstances mentioned in the first part of this Article, can be exempted from criminal liability only in cases especially envisaged in the article of the Special Part of this Code.

**Article 73. Exemption from criminal liability in case of reconciliation with the aggrieved**

The person who committed a trivial crime can be exempted from criminal liability, if he reconciles with the aggrieved, mitigates or compensates the inflicted damage in some other way.

**Article 74. Exemption from criminal liability due to change of situation**

The person who committed a trivial or medium-gravity crime for the first time can be exempted from the criminal liability, if it turns out that as a result of the change of the situation this person or the committed deed is no longer dangerous for the society.

**Article 75. Exemption from criminal liability as a result of expiry of the statute of limitation**

1. The person is exempted from the criminal liability, if the following periods of time have elapsed after the committal of the crime:

1) 2 years, since the day of committal of a trivial crime;

2) 5 years, since the day of committal of a medium-gravity crime;

3) 10 years, since the day of committal of grave crime;

4) 15 years, since the day of committal of particularly grave crime.

2. The prescription period is calculated from the day of committal to the moment when the sentence comes into legal force.

3. The prescription period is disrupted, if prior to the expiry of this period, the person commits a new medium gravity crime, grave crime or particularly grave crime. In this case the calculation of the prescription period begins from the moment of committal of the new crime.

4. The prescription period is suspended, if the person avoids investigation or trial. In this case the prescription period resumes from the moment of arrest or surrender. Particularly, the person cannot be subjected to criminal liability, if 10 years have elapsed since the day of committal of a trivial or medium-gravity crime, and 20 years have elapsed, since the grave or particularly grave crime, and the prescription period was not disrupted with new crimes.

5. The court decides the issue of application of the prescription period to a person who committed a crime punishable by a life sentence. If the court does not seem possible to exempt the person from criminal liability due to the expiry of the prescription period, the life sentence is not applied.

6. The concept of the prescription period is not applicable to persons who committed crimes against peace and human security envisaged in Articles 384, 386-391, 393-397 of this Code. Prescription periods are not applied to the persons, who committed crimes envisaged in the RA international agreements, provided the latter prohibit the application of the prescription period.

(75th article amended on 01.06.06 HO-103-Nlaw)

## Chapter 12

## Exemption from punishment

### Article 76. Exemption from punishment on parole

1. The person sentenced to public work, correctional labor, imprisonment or disciplinary battalion can be released on parole with his consent, if the court finds that for his correction there is no need to serve the remaining part of the punishment. Also, the person can be completely or partially exempted from the supplementary punishment. When exempting from the punishment on parole, the court also takes into account the fact of mitigation of damage to the aggrieved by the convict.

2. When applying exemption from punishment on parole, the court can impose on the person the obligations envisaged in part 5 of Article 70 of this Code, which the person will carry out during the unserved part of the punishment.

3. Exemption from punishment on parole can be applied only if the convict has actually served:

1) no less than one third of the punishment for a trivial or medium-gravity crime;

2) no less than half of the punishment for a grave crime;

3) no less than two thirds of the punishment for a particularly grave crime, except for the crimes envisaged in the 4th point of this part, also, of the punishment assigned to the person previously released on parole (if the parole was canceled on the grounds envisaged in part 6 of this Article).

4) no less than three thirds of the punishment for the crimes envisaged by the third part of Article 138, by the third part of Article 139, by the third part of Article 175, by the second and third parts of Article 217, by the third part of Article 178, by the second and third parts of Article 221, by the first part of Article 222, by the third part of Article 266, by the third part of Article 269, by the first part of Article 299, by Article 305, by the second part of Article 384, by the second part of Article 387, by the second part of Article 388, by Article 389, by the first and third parts of Article 390, by the third part of Article 391 and by Articles 392, 393, 394,

4. The actual term of serving imprisonment and disciplinary battalion cannot be less than 3 months.

5. A life-server can be released on parole, if the court finds that the person does not need to serve the punishment any longer and has in fact served no less than 20 years of imprisonment.

6. If during the unserved period of the punishment:

1) the convict willfully evades the obligations imposed on him by court when releasing him on parole, then, by motion made by the supervisory body; the court decides to terminate the release on parole and to implement the unserved part of the punishment.

2) the convict commits a crime through negligence, and then the court decides the issue of retaining or cancelling the parole.

3) the convict commits a willful crime, and then the court assigns a punishment based on the rules envisaged in Article 67 of this Code. If a crime through negligence has been committed, the same rules are used to assign punishment and the court cancels the parole.

7. If a life-server deliberately commits a new crime, which is punishable by imprisonment, the period mentioned in part 5 of this Article is suspended until the expiry of the term for the new punishment.

(76th Article amended on 05.11.03 HO-26-N, 09.06.04 HO-97-N, 01.06.06 HO-119-N, 25.05.06 HO-68 N, 28.11.07 HO-275-N laws)

**Article 77. Replacement of the unserved part of the punishment with a softer punishment**

1. The court can replace the unserved part of the imprisonment for a trivial or medium-gravity crime with a softer punishment, taking into account the behavior during the punishment and the mitigation of the inflicted damage. Also, the person can be completely or partially exempted from the supplementary punishment.

2. The unserved part of the punishment can be replaced with a softer punishment, after no less than one third of the punishment has been served by the convict.

3. When replacing the unserved part of the punishment with a softer punishment, the court can choose any softer punishment from the punishments mentioned in Article 48, within the limits envisaged for each punishment in this Code.

**Article 78. Postponement or exemption from punishment of pregnant women or women with children under 3 years of age**

1. Pregnant women or women with children under 3 years of age, except women imprisoned for grave and particularly grave crimes for more than 5 years, can be exempted from punishment or the punishment can be postponed by the court for the period when the woman is exempted from work, due to pregnancy, child-birth and child care until the child reaches the age of 3.

2. If in cases envisaged in part 1 of this article the convicted person rejects the child or sends the child to an orphanage or evades child-care and rearing, for which she received a written warning from the supervising body, then the court by motion of this body, can send the convict to serve the punishment assigned in the sentence.

3. When the child has turned 3 years old or in the event of death of the latter, the court, taking into account the convict's behavior, can exempt her from punishment, or replace the punishment with a softer punishment, or send the convict to serve the unserved part of the punishment. In this case the court can deduct, completely or partially, the unserved part of the punishment from the total term.

4. If a new crime was committed by the convict within the period of exemption from punishment, then the court assigns a punishment to her by the rules envisaged in Article 67 of this Code.

**Article 79. Exemption from punishment as a result of severe illness**

1. If the person develops a mental disease during the period of serving the sentence, which deprived him from the ability to realize the nature and significance of his actions (inaction) or from governing his actions, then the court exempts him from serving punishment. The court can assign an enforced medical treatment of such a person, and when the person has recovered, he can be subjected to the punishment.

2. If the person develops another severe disease after committing the crime or after the issuance of the sentence, which prevents him from serving the sentence, the court can exempt him from serving the sentence, taking into account the gravity of the committed crime, the personality of the convict, the nature of the disease and other circumstances.

3. Persons defined by part one or part two of this article can be subject to criminal liability or punishment in case of recovery, if expiry dates set forth in articles 75 and 81 of this Code have not passed.

4. A serviceman is exempted from serving the punishment in the disciplinary battalion in the case of an illness as a result of which he is considered not eligible for military service.

**Article 80. Exemption from punishment as result of extraordinary circumstances**

A person convicted for trivial or medium-gravity crime can be exempted from punishment, if the further serving of the punishment can cause severe consequences for the convict or his family, as a result of fire, technological or natural disaster, the severe illness or death of the only capable member of the family, or other extraordinary circumstances.

(80th Article amended on 09.06.04 HO-97-N law)

**Article 81. Exemption from punishment due to expiry of the accusatory court sentence**

1. The person convicted for crime is exempted from serving the punishment, if after coming into legal force; the accusatory court sentence has not been carried out within the following deadlines:

1) 2 years, in case of being convicted for trivial crime;

2) 5 years, in case of being convicted for medium-gravity crime;

3) 10 years, in case of being convicted for grave crime;

4) 15 years, in case of being convicted for particularly grave crime.

2. The expiry period is terminated if prior to the expiry of this period, the person commits a new willful crime. In this case the calculation of the expiry period begins from the committal of a new crime.

3. The expiry period is terminated, if the convict evades from serving the punishment. In this case the expiry period is renewed from the moment of capturing of the person or his surrender. Also, an accusatory sentence cannot be implemented, if 10 years have elapsed since the sentence for the committal of the trivial or medium-gravity crime was adopted, and in the case of grave and particularly grave crime, 20 years have elapsed since the sentence, and the expiry period was not disrupted with a new crime.

4. The court decides the issue of application of the expiry date to the person who was convicted as a life-server. If the court does not find possible to apply the expiry date, then this punishment is replaced with an imprisonment for a certain term.

5. The expiry date is not applicable to the persons who committed crimes against peace and human security, envisaged in Articles 384, 386-391, 393-397 of this Code.

## Chapter 13

## Amnesty, pardon, criminal record

### Article 82. Amnesty

The person who committed a crime can be exempted from criminal liability by an act of amnesty adopted by the legislature, and the convict can be completely or partially exempted from the basic, as well as, from the supplementary punishment, and the convict's unserved part of the punishment can be replaced with a softer punishment, or the criminal record can be expunged.

### Article 83. Pardon

The act of pardon can completely or partially exempt the convict from the basic, as well as, from the supplementary punishment, or the convict's unserved part of the punishment can be replaced with a softer punishment, or the criminal record can be expunged.

### Article 84. Criminal record

1. The person is regarded as one with a criminal record from the day when an accusatory sentence came into legal force until the day of quashing or expunging the criminal record.

2. According to this Code, the criminal record is taken into account in the case of recidivism or when assigning a punishment.

3. The persons who were convicted by court sentence without assigning a punishment or were exempted from serving the punishment by court sentence, or served the punishment for the deed criminality and punishability of which have been eliminated by the law, are considered as not having a criminal record.

4. The criminal record is quashed:

1) In case of conditional punishment, after the expiry of the probation period after parole;

2) in relation to persons sentenced to a punishment softer than imprisonment, 1 year after having served the assigned punishment;

3) in relation to persons sentenced to imprisonment for trivial or medium-gravity crimes, 3 years after having served the assigned punishment;

4) in relation to persons sentenced to imprisonment for grave crimes, 5 years after having served the assigned punishment;

5) in relation to persons sentenced to imprisonment for particularly grave crimes, 8 years after having served the assigned punishment.

5. If the person has been exempted from serving the punishment on parole or the unserved part of the sentence was replaced with a softer punishment, then the quashing of the criminal record is counted from the moment of exempting from the basic and supplementary punishment.

6. If after having served the sentence the person has manifested an impeccable behavior, then at his request the court can quash the criminal record before the deadline term of quashing the criminal record, but not sooner than after half of that term has elapsed.

7. If the person commits a new crime before the quashing of the criminal record, then the deadline for criminal record quashing is disrupted. The deadline of criminal record quashing for the first crime is counted anew, after the actual serving of (basic and supplementary) punishment. In this case, the person is deemed convicted for both crimes before the expiry of the criminal record for the more grave crime.

8. Quashing the criminal record eliminates all legal consequences concerned with the criminal record. This norm does not impede preserving legal limitations for occupying the positions of judge, prosecutor, special investigation clerk, police, criminal execution, national security officer.

(84th Article amended on 09.06.04 HO-97-N, 28.11.07 HO-256-N laws)

## Section 5

## Peculiarities of criminal liability and punishment for minors

## Chapter 14

## Peculiarities of criminal liability and punishment for minors

### Article 85. Criminal liability and punishment of minors

1. Minors are subject to criminal liability and punishment assigned to them in accordance with the propositions of this Code, taking into account the rules envisaged in this Section.

2. A punishment or enforced disciplinary measures can be assigned in relation to a minor who committed a crime.

### Article 86. Types of punishment

The types of punishment assigned in relation to the minors are as follows:

1) fine;

2) public work;

3) arrest;

4) imprisonment for a certain period.

### Article 87. Fine

1. Fines are used if the minor has individual income or in the case of such property, to which confiscation can be extended.

2. Fines are assigned in the amount from 10 to 500 minimal salaries established in the Republic of Armenia by the law, at the time of assigning the punishment.

**Article 88. Arrest**

Arrest, for the term from 15 days to 2 months, is assigned in relation to a minor who has reached the age of 16 years at the moment of sentence.

**Article 89. Imprisonment.**

1. (1st part of 89th Article lost its effect on 24.12.04 HO -67-N law)

2. Imprisonment in relation to minors is assigned:

1) for a trivial crime, a term of maximum of 1 year; for a medium-gravity crime, a term up to 3 years;

2) for a grave or particularly grave crime, committed less than 16 years of age, a term up to 7 years;

3) for a grave or particularly grave crime, committed at the age of 16 to 18 years, a term up to 10 years.

(89th Article amended on 24.12.04 HO-67-N law)

**Article 90. Assigning the punishment**

1. When assigning the punishment to a minor, his living and rearing conditions are taken into account, the degree of psychological development, health, other features of personality, as well as the influence of other persons.

2. Imprisonment by accumulation of crimes in relation to persons less than 16 years of age who committed medium-gravity, grave or particularly grave crimes cannot exceed 7 years.

3. Imprisonment by accumulation of crimes in relation to persons from 16 to 18 years of age who committed medium-gravity, grave or particularly grave crimes cannot exceed 10 years.

4. The final punishment assigned in the form of imprisonment by accumulation of sentences cannot exceed 12 years.

**Article 91. Exemption from criminal liability by application of enforced disciplinary measures**

1. The minor who committed for the first time a trivial or medium-gravity crime can be exempted from criminal liability by the court, if the court finds that his correction is possible by application of enforced disciplinary measures.

2. The court can assign the following enforced disciplinary measures in relation to the minor:

1) warning;

2) handing over the supervision to the parents, persons replacing the parents, local self-government bodies, or competent bodies supervising the convict's behavior for up to 6 months;

3) imposing the obligation to mitigate the inflicted damage, within a deadline established by the court;

4) restriction of leisure time and establishment of special requirements to the behavior, for up to 6 months.

3. By motion of competent bodies supervising the convict's behavior, the court can apply other forced disciplinary measures to the minor.

4. Several enforced disciplinary measures can be assigned in relation to the minor simultaneously.

5. If the minor regularly evades from the enforced disciplinary measures, by motion of the local body of self-government or competent bodies supervising the convict's behavior, the documents are forwarded to the court, to resolve the issue of cancellation of the enforced disciplinary measure and subjecting the minor to a criminal liability.

6. When committing a new crime, the minor is not subject to a criminal liability for the previous crimes for which he was sentenced to enforced disciplinary measures.

**Article 92. The essence of enforced disciplinary measures**

1. Warning is an explanation to the minor about the damage inflicted by his act and about the consequences of repeated committal of crimes envisaged in this Code.

2. Handing over the supervision to the parents, persons replacing the parents, competent bodies supervising the convict's behavior or local bodies of self-government is imposing the duty to exert disciplinary influence and monitor the minor's behavior.

3. The duty to mitigate the inflicted damage is imposed taking into account the property status of the minor and the existence of appropriate working capacities.

4. Restriction of leisure time and establishment of special requirements to the behavior can envisage a prohibition of visiting certain places, and certain types of leisure, including the ban to drive mechanical means of transportation, staying out of home at certain time of the day, traveling without authorization of the local body of self-government. The minors can be also required to return to an educational institution or to be employed by motion of the local self-government body.

**Article 93. Exemption from punishment by placement in special educational and disciplinary or medical and disciplinary institution**

1. A minor who committed a trivial or medium-gravity crime can be exempted from punishment, if the court finds that the purpose of the punishment can be achieved by placing the minor in a specialized educational and disciplinary or medical and disciplinary institution.

2. Assignment to specialized educational and disciplinary or medical and disciplinary institution is done for the term of up to three years, but not more than needed to become major.

3. Staying in the institutions described in the first or the second part of this article can be terminated ahead of time, if by motion of the head of the specialized educational and disciplinary or medical and disciplinary institution, the court finds that the minor does not need any longer the application of this measure.

**Article 94. Exemption from punishment on parole**

Exemption from punishment on parole in relation to a minor who committed a crime and was sentenced to imprisonment for a crime committed at a minor age can be applied, if the convict actually has served:

1) no less than one quarter of the punishment assigned for a trivial or medium-gravity crime;

2) no less than one third of the punishment assigned for a grave crime;

3) no less than half of the punishment assigned for a particularly grave crime.

(94th Article amended on 09.06.04 HO-97-N, 24.12.04 HO-67-N laws)

**Article 95. Exemption from criminal liability or punishment due to expiry of the prescription period**

When exempting a person who committed a crime less than 18 years of age from criminal liability or punishment due to expiry of prescription period, the prescription periods envisaged in Articles 75 and 81 of this Code are reduced by half respectively.

**Article 96. Quashing the criminal record**

1. After having served a punishment not related to imprisonment, the criminal record of the person is considered quashed.

2. For persons under 18 who committed crime, the deadlines of criminal record quashing specified in Article 84 of this Code, are reduced, and are respectively equal to:

1) 1 year, after having served an imprisonment for medium-gravity crime;

2) 3 years, after having served an imprisonment for grave crime;

3) 5 years, after having served an imprisonment for particularly grave crime.

## Section 6

## Measures of medical enforcement

## Chapter 15

## Measures of medical enforcement

**Article 97. Grounds for application of medical enforcement measures**

1. The court can apply medical enforcement measures in relation to the person who:

1) committed the act envisaged in the article of the Special Part of this Code in an insane state.

2) Who after the committal of the crime develops such a mental disorder which makes assignment or implementation of the punishment impossible.

3) Who committed a crime in the state of limited sanity.

4) Who committed a crime and has been recognized as one in need of treatment against alcohol or drug addiction.

2. Medical enforcement measures in relation to persons mentioned in part 1 of this Article are assigned only when the mental disorder is related to the danger of inflicting other essential damage or to the danger for other persons or themselves.

3. The procedure of application of medical enforcement measures is established in the Criminal executive Code of the Republic of Armenia and other laws.

4. The court can submit necessary documents to health-care bodies in relation to the persons mentioned in part 1 of this Article whose mental state is not dangerous, to solve the issue of treatment of these people or sending them to neurological institutions.

**Article 98. Types of medical enforcement measures**

1. The types of medical enforcement measures are:

1) outpatient supervision by psychiatrist and enforced treatment;

2) enforced treatment in general psychiatry hospitals;

3) enforced treatment in special psychiatry hospitals;

2. In addition to the punishment the court can assign an outpatient supervision by psychiatrist and enforced treatment for those convicts who committed a crime in the state of mental disorder, not ruling out sanity, but who need treatment against alcohol, drugs or mental disorder, not ruling out sanity.

**Article 99. Outpatient supervision by psychiatrist and enforced treatment**

Outpatient supervision by psychiatrist and enforced treatment can be assigned if the person in his mental state does not need to be admitted to a psychiatry hospital.

**Article 100. Enforced treatment in psychiatry hospital**

1. Enforced treatment in psychiatry hospital can be assigned, if the state of mental disorder of the person requires treatment, care and such conditions of keeping and supervision, which can be implemented only in a psychiatry hospital.

2. Enforced treatment in general psychiatry hospitals can be assigned in relation to the person who, due to his mental state needs hospital treatment and supervision.

3. Enforced treatment in special psychiatry hospitals can be assigned in relation to the person whose mental state is dangerous for his own self and other persons, or requires permanent supervision.

**Article 101. Assignment, change and termination of enforced medical measures**

1. When assigning enforced medical measures, the court takes into account the mental disorder of the person, the nature of committed deed and the degree of danger for the society.

2. In case of the person’s recovery or change of his illness when there is no need in enforced medical measure, the court, based on the conclusion of the medical institution, makes a decision to terminate the application of these measures.

3. Based on the conclusion of the medical institution, the court can decide also to change the type of the enforced medical measure.

**Article 102. Offsetting the period of application of enforced medical measures**

In the case of treatment of a person whose mental disorder occurred after committing the crime, when assigning or restoring the serving of the punishment, the period of application of enforced medical measures in the psychiatry hospital is deducted from the term of punishment, counting one day in the psychiatry hospital as equal to one day of imprisonment.

**Article 103. Enforced medical measures added to execution of punishment**

1. In cases envisaged in part 2 of Article 98 of this Code, enforced medical measures are applied at the place of imprisonment, and in relation to convicts sentenced to other types of punishment, in outpatient psychiatry institutions.

2. Termination of application of enforced medical measures along with execution of punishment is done by the court, by motion of the body executing the punishment, based on the conclusion of a commission of psychiatrists.

## Special Part

## Section 7

## Crimes against man

## Chapter 16

## Crimes against life and health

**Article 104. Murder**

1. Murder is illegal willful deprivation of one's life punished with imprisonment for 6 to 12 years.

2. Murder:

1) of 2 or more persons,

2) of the person of close relative of the latter, due to service and public duty of the person;

3) combined with kidnapping or taking hostage;

4) an obviously pregnant woman;

5) with particular cruelty;

6) committed in a way dangerous for the life of many people;

7) by a group of people or by an organized crime;

8) out of mercenary motives and combined with extortion and banditry;

9) combined with terrorism;

10) out of hooliganism;

11) to conceal another crime or to facilitate committing of the latter;

12) combined with rape or violent sexual actions;

13) out of motives of national, race or religious hate or fanaticism;

14) for the purpose of utilization of the parts of the body or tissues of the victim;

15) by a person who previously committed a murder, except for the deeds envisaged in Articles 105-108 of this Code,

is punished with 8-15 years of imprisonment or for life.

**Article 112. Infliction of willful heavy damage to health**

1. Infliction of willful bodily damage to others, which is dangerous for life or caused loss of eye-sight, speech, hearing or any organ, loss of functions of the organ, or was manifested in irreversible ugliness on face, as well as caused other damage dangerous for life or caused disorder, accompanied with the stable loss of no less than one third of the capacity for work, or with complete loss of the professional capacity for work obvious for the perpetrator, or caused disruption of pregnancy, mental illness, drug or toxic addiction, is punished with imprisonment for the term of 3 to 7 years.

2. The same act, committed:

1) against two or more persons;

2) against the person or his relatives, concerned with this person in the line of duty or carrying out one's social duty;

3) against a kidnapped person or a hostage; (3rd point of 2nd part of Article 112 lost its effect on 09.06.04 HO-97-N law)

4) with particular cruelty;

5) by a means dangerous for other people's life;

6) by a group of persons, by an organized crime;

7) with mercenary motives, as well as accompanied with extortion;

8) accompanied with terrorism;

9) with hooligan motives;

10) to conceal another crime or facilitate its committal;

11) accompanied with rape or violent sexual acts;

12) with motives of national, racial or religious hatred or religious fanaticism;

13) with the purpose of using the parts of the body or tissues of the aggrieved,

14) if caused the death of the aggrieved by negligence,

is punished with imprisonment for the term of 5 to 10 years.

(112th Article amended on 09.06.04 HO-97- N law)

**Article 113. Infliction of willful medium-gravity damage to health**

1. Infliction of willful bodily injure or any other damage to health which is dangerous for life and did not cause consequences envisaged in Article 112 of this Code, but caused protracted health disorder or significant stable loss of no less than one third of the capacity to work, is punished with arrest for the term of 3 to 6 months or imprisonment for the term of up to 3 years.

2. The same act, if committed:

1) in relation to 2 or more persons;

2) in relation to the person or his relatives, concerned with this person in the line of duty or carrying out one's social duty;

3) by a group of persons or by an organized group;

4) for mercenary purposes;

5) with particular cruelty;

6) with hooligan motives;

7) with motives of national, racial or religious hatred or religious fanaticism,

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

**Article 117. Infliction of willful light damage to health**

Infliction of a willful bodily injury or other damage to health which caused short-term health disorder or insignificant stable loss of the capacity to work is punished with a fine in the amount of 50 to 100 minimal salaries, or with arrest for up to 2 months.

(117th Article amended on 09.06.04 HO-97-N, 01.06.06 HO-119-N laws)

**Article 122. Performing illegal abortion**

1. Performing illegal abortion by a person with an appropriate higher medical education is punished with a fine in the amount of up to 100 minimal salaries or with arrest for the term of up to 1 month, or with deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years.

2. Performing illegal abortion by a person without an appropriate higher medical education is punished with a fine in the amount of up to 200 minimal salaries or with arrest for the term of 1 to 3 months, or with imprisonment for the term of up to 2 years.

3. Actions envisaged in part 1 or 2 of this article, if they caused the death of the aggrieved or grave damage to the health by negligence, or were performed by a person previously convicted for illegal abortion, are punished with imprisonment for the term of up to 5 years, deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years.

(122nd Article amended on 01.06.06 HO-119- N law)

## Chapter 17

## Crimes against human freedom, dignity and honor

### Article 131. Kidnapping

1. Explicit or hidden kidnapping by means of deception, abuses of confidence, threat or use of force are subject to imprisonment for the term of 2 to 5 years if crime characteristics envisaged by Article 218 of this Code are not manifested.

2. The same action committed:

1) by a group of persons with prior agreement;

2) by using violence dangerous for life or health or threat of using violence;

3) by using weapons or items used as weapons;

4) against a minor;

5) against an obviously pregnant woman;

6) against two or more persons;

7) with mercenary motives,

8) by a person previously convicted for kidnapping,

is punished with imprisonment for the term of 4 to 8 years.

3. The deed envisaged in part 1 or 2 of this Article, if:

1) performed by an organized group;

2) by negligence caused the death of the aggrieved or other grave consequences, or inflicted grave damage to the health of the latter,

is punished with imprisonment for the term of 7 to 10 years.

### Article 132. Recruitment, transportation, transfer, harboring, or receipt of persons for the purpose of exploitation

1. Recruitment, transportation, transfer, harboring, or receipt of persons for the purpose of exploitation, by means of the threat or use of force not dangerous for the life or health, or by other means of compulsion, kidnapping, using the vulnerability of the situation, or accessing the consent of the person holding control over the situation by means of providing or accepting payments or goods, are punished with imprisonment from 3 to 6 years.

2. Recruitment, transportation, transfer, harboring, or receipt of persons for the purpose of exploitation, which was commixed:

1) against a person under the age of 18 years

2) against a person who in a state of mental disorder is devoid of possibility to fully or partially recognize or control the nature and the meaning of own deeds, is punished with imprisonment for 7 to 10 years.

3. Action envisaged in parts 1 or 2 of this Article, which was performed:

1) against two or more persons;

2) by a group of individuals by prior agreement;

3) through an abuse of position

4) by threat of violence dangerous for the life or health or by its fulfillment

is punished with imprisonment for 7 to 10 years.

4. Action envisaged in parts 1 or 2 of this Article,

1) was performed by an organized group

2) negligently caused the death or the grave consequences of the aggrieved,

Is punished with imprisonment for 10 to 15 years.

5. According to this Article, retraction of other people into prostitution or other forms of sexual exploitation, compulsory labor or services, slavery or practices similar to slavery, servitude or the removal of human organs or plexuses, is manifested an exploitation of a human.

(132nd Article amended on 09.06.04 HO-97-N, 01.06.06 HO-103-N, 01.06.06 HO-119-N laws)

Article 132.1 Retraction of other people into prostitution or other forms of sexual exploitation, compulsory labor or services, forcing or keeping them in slavery or practices similar to slavery.

1.Retraction of other people into prostitution or other forms of sexual exploitation, compulsory labor or services, forcing or keeping them in slavery or practices similar to slavery with violence not dangerous for the life and health, or by threatening to apply such a violence, or by other means of compulsion, kidnapping, swindling, using the vulnerability of the situation, or accessing the consent of the person holding control over the situation by means of providing or accepting payments or goods, are punished with imprisonment from 5 to 10 years.

2. Same deed performed;

1) against the minor;

2) against a person who in a state of mental disorder is devoid of possibility to fully or partially recognize or control the nature and the meaning of own deeds;

3) against two or more persons;

4) by a group with a prior agreement;

5) abuse of official position;

6) with violence dangerous for the life or health or by threatening to apply such a violence,

is punished with imprisonment for the term of 7 to 12 years.

3. Action envisaged in parts 1 or 2 of this Article,

1) was performed by an organized group

2) negligently caused the death or the grave consequences of the aggrieved,

Is punished with imprisonment for the term of 12 to 15 years.

(132.1st Article supplemented on 01.06.06 HO-103- N law)

**Article 133. Illegal deprivation of freedom**

1. Illegal deprivation of freedom not concerned with kidnapping is punished with a fine from 100 to 200 minimal salaries, or with an arrest for the term of 1 to 3 months, or with imprisonment for up to 2 years.

2. The same action committed:

1) by a group with prior agreement;

2) by threat of violence dangerous for the life or health or by its fulfillment,

1) by using weapons or items used as weapons;

2) against a minor;

3) against an obviously pregnant woman;

4) against two or more persons;

5) with mercenary motives,

is punished with imprisonment for 3 to 5 years.

3. Actions envisaged in parts 1 or 2 of this Article, if:

3) done by an organized group;

4) negligently caused the death or other grave consequences of the aggrieved

is punished with imprisonment for 4 to 8 years.

(133rd Article amended on 01.06.06 HO-119-N law)

**Article 134. Illegal placing or keeping in a psychiatry hospital**

1. Illegal placing or keeping a person in a psychiatry hospital is punished with imprisonment for up to 3 years.

2. The same action:

1) committed for mercenary motives;

2) committed by abuse of one's official position;

3) the death of the aggrieved was caused by negligence or other grave consequences, is punished with imprisonment for 4 to 7 years, with deprivation of the right to hold certain posts and practice certain activities for the term of up to 3 years, or without that.

**Article 166. Involving a child into antisocial activity**

1. Involvement, by a person who reached 18 years, of a child into regular use of alcoholic drinks, strong or other narcotic drugs not for medical purposes, into prostitution, vagrancy or beggary, into preparation or dissemination of pornography or pornographic materials, is punished with correctional labor for up to 1 year, or with arrest for the term of 1-2 months, or with imprisonment for the term of 5 years.

2. The same action which was committed by a parent, teacher or other person in charge of rearing the child, is punished with a fee fro 100 to 200 minimal salaries, or arrest for up to 2 months, or imprisonment for the term of up to 5 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or without that.

3. Actions envisaged in parts 1 and 2 of this Article, which:

1) were committed against 2 or more persons;

2) were accompanied with violence or threat of violence, are punished with imprisonment for the term of up to 6 years.

(166$^{th}$ Article amended on 01.06.06 HO-119-N law)

**Article 168. Child trafficking**

1.Child trafficking, if criminal characteristics envisaged in Articles 132 and 132.1 are absent, is punished with imprisonment for the term of 2 to 7 years.

2. Same deed committed:

1) by the organized group;

2) against two or more children;

3) by a group with prior agreement;

4) abuse of official position;

5) by fake tutorship,

is punished with imprisonment for the term of 4 to 8 years.

(168th Article amended on 05.12.06 HO-256-N law)

**Article 175. Banditry**

1. Banditry, i.e. an assault for the purpose of capturing someone's property, committed with violence dangerous for life or health, or with a threat to commit such violence, is punished with imprisonment for the term of 3 to 6 years, with or without confiscation of property.

2. Banditry committed:

1) by a group with prior agreement;

2) with a purpose to possess assets in large amount;

3) by illegal entering an apartment, warehouse or facility;

4) by using a weapon or other item as weapon,

5) repeatedly, is punished with imprisonment for the term of 4 to 8 years, with confiscation of property.

3. Banditry committed

1) in particularly large amount with the purpose of theft;

2) by an organized group;

3) inflicting grave damage to health,

4) Action committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 6 to 10 years, with confiscation of property.

4. In this chapter, by petty amount is meant the amount (value) not exceeding 5 minimal salaries established at the moment of committing the crime.

In this chapter, by significant amount is meant the amount (value) not exceeding 5 to 500 minimal salaries established at the moment of committing of the crime.

In this chapter and in Article 216 of this Code, by large amount is meant the amount (value) not exceeding 500 to 3000 minimal salaries established at the moment of committing the crime.

In this chapter and in Article 216 of this Code, by particularly large amount is meant the amount (value) exceeding 3000 minimal salaries established at the moment of committal of the crime in the Republic of Armenia.

In this chapter, in envisaged cases, embezzlement is considered repeated, if it was committed by a person who committed a crime under Articles 175-182, 234, 238, 269 of this Code.

(175th Article amended on 09.06.04 HO-97-N, 14.12.04 HO-58-N laws)

**Article 176. Robbery**

1. Robbery, i.e. overt theft of somebody's property, is punished with fine from 200 to 600 minimal salaries, or arrest for the term of 2 months, or with imprisonment for the term of up to 3 years.

2. Robbery committed:

1) by a group with prior agreement;

2) in large amount;

3) by illegal entering an apartment, warehouse or facility,

4) was accompanied by threat of violence dangerous for the life or health or by its fulfillment

5) repeatedly

is punished with imprisonment for the term of 3 to 6 years.

3. Robbery committed

1) in particularly large amount;

2) by an organized group;

3) (3rd point of 3rd part of 176rd Article lost its effect on 09.06.04 HO-97-N law)

4) committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 4 to 8 years, with or without confiscation of property.

(176th Article amended on 09.06.04 HO-97-N, 01.06.06 HO-119- N laws)

**Article 177. Theft**

1. Theft, i.e. concealed stealing of somebody's property in significant amounts, is punished with a fine in the amount of 100 to 400 minimal salaries, or arrest for the term of 1 to 2 months, or with imprisonment for the term of up to 2 years.

2. Theft committed:

1) by a group with prior agreement;

2) in large amounts,

3) by illegal entering into an apartment, warehouse or facility,

4) repeatedly,

5) (5th point of 2nd part of 177th Article lost its effect on 09.06.04 HO-97- N law)

is punished or with imprisonment for the term of 2 to 6.

3. Theft committed:

1) in particularly large amount;

2) by an organized group;

3) committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 4 to 8 years, with or without confiscation of property.

4. Petty theft from the person's clothes, bag or other handbags, is punished with a fine in the amount of 200 minimal salary, or with arrest for the term of up to 2 months.

(177th Article amended on 01.06.06 HO-119- N law)

**Article 178. Swindling**

1. Swindling, i.e. theft in significant amount or appropriation of somebody's property rights by cheating or abuse of confidence, is punished with a fine in the amount of 300 to 500 minimal salaries, or with arrest for the term of up to 2 months, or with imprisonment for the term of up to 2 years.

2. The same action committed

1) by a group with prior agreement,

2) in large amounts;

3) repeatedly,

4) (4th point of 2nd part of 178th Article lost its effect on 09.06.04 HO-97-N law)

5) with the purpose of receiving bribe

Is punished with imprisonment for the term of 2 to 6 years.

3. Swindling committed:

1) in particularly large amount;

2) by an organized group,

3) committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 4 to 8 years, with or without property confiscation.

(178th Article amended on 01.06.06 HO-119-N, 30.04.08 HO-49-N laws)

**Article 179. Squandering or embezzlement**

1. Squandering or embezzlement is theft of somebody's property entrusted to the person in significant amount, punished with a fine in the amount of 300 to 500 minimal salaries, or with arrest for the term of up to 2 months, or with imprisonment for the term of up to 2 years.

2. The same deed convicted:

1) with abuse of official position;

2) committed by a group with prior agreement;

3) in large amount;

4) repeatedly;

5) (5th point of 2nd part of 179th Article lost its effect on 09.06.04 HO-97-N, law)

is punished with a fine in the amount of 400 to 700 minimal salaries, or imprisonment for 2-4 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. Action envisaged in part 1 or 2 of this Article, committed:

1) in particularly large amount;

2) by an organized group,

3) committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 4 to 8 years, with or without property confiscation.

(179th Article amended on 24.12.04. **HO**-67-N, 01.06.06. **HO**-119-N laws)

**Article 180. Theft of particularly valuable items**

1. Theft of items of particularly historical, artistic or cultural value or documents is punished with imprisonment for the term of 3 to 5 years,

2. The same deed committed:

1) with prior agreement by a group;

2) that negligently caused destruction, spoilage or loss of items or documents mentioned in part 1 of this Article;

3) repeatedly

is punished with imprisonment for the term of 5 to 8 years, with or without confiscation of property.

3. Acts envisaged in parts 1 or 2 of this Article,

1) committed by banditry or extortion;

2) by an organized group,

is punished with imprisonment for 7-12 years with confiscation of property.

(180th Article amended on 09.06.04 HO-97-N law)

**Article 181. Theft committed by means of computer**

1. Theft of somebody's property in significant amount committed with the use of computer, is punished with a fine in the amount 100 to 300 minimal salaries, or with arrest for up to 2 months, or with imprisonment for up to 2 years and with or without a fine in the amount of up to 50 minimal salaries.

2. Same act committed:

1) by a group with prior agreement,

2) in large amount,

is punished with imprisonment for the term of 2-6 years.

3. The act envisaged in part 1 or 2 of this Article, committed:

1) in particularly large amount;

2) by an organized group,

is punished with imprisonment for the term of 4 to 8 years, with or without property confiscation.

(181st Article amended on 01.06.06 HO-119-N law)

**Article 182. Extortion**

1. Extortion, i.e. the threat to publicize defamatory information or information inflicting significant damage to the person's or his relatives' rights or legal interests, the threat to use violence against the person or his relatives, or to destroy (damage) the property owned or managed by the person, his relatives or other persons, with a demand to surrender the property rights, or other actions involving property, is punished with a fine of 100 to 200 minimal salaries,, or with arrest for the term of up to 3 months, or with imprisonment for the term of up to 4 years.

2. Extortion:

1) committed against the person or his relatives with violence;

2) by a group with prior agreement;

3) committed repeatedly,

is punished with imprisonment for the term of 3 to 7 years, with or without property confiscation.

3. Extortion committed

1) negligently causing death, or other grave consequences;

2) in order to acquire a particularly large amount of property,

3) by an organized group;

4) by causing grave damage to one's health,

5) committed by a person with two or more convictions for crimes envisaged in Articles 175-182, 222, 234, 238, 269 of this Code,

is punished with imprisonment for the term of 6 to 10 years, with property confiscation.

(182nd Article amended on 09.06.04 HO-97-N, 01.06.06 HO-119-N laws)

**Article 183. Illegal appropriation of a car or other means of transportation without the intention of theft**

1. Illegal appropriation of a car or other means of transportation without the intention of theft, is punished with a fine of 100 to 200 minimal salaries, or with arrest for the term of 1 to 3 months, or with imprisonment for up to 1 year.

2. The same action:

1) That caused large damage;

2) by a group with prior agreement;

3) with violence not dangerous for life or health, or with a threat of violence, is punished with imprisonment for the term of up to 5 years.

3. Actions envisaged in parts 1 or 2 of this Article, committed:

1) That caused large damage;

2) by an organized group;

3) with violence dangerous for life or health, or with a threat of violence, is punished with imprisonment for the term of 5 to 8 years.

(183rd Article amended on 24.12.04 HO-67-N, 01.06.06 HO-119-N laws)

**Article 184. Infliction of damage to property by deception or abuse of confidence**

1. Infliction of large damage to the owner or other managers of property by deception or abuse of confidence, in the absence of elements of theft, is punished with a fine in the amount of 200 to 400 minimal salaries, or arrest for the term of up to 2 months, or with imprisonment for the term of up to 2 years.

2. The same action, which:

1) inflicted particularly great damage;

2) was committed by a group with prior agreement;

3) was committed by abuse of official position, is punished with imprisonment for the term of up to 3 years.

3. Actions envisaged in parts 1 or 2 of this Article, committed by an organized group, are punished with imprisonment for the term of 2-5 years.

(184th Article amended on 01.06.06 HO-119- N law)

**Article 185. Willful destruction or spoilage of property**

1. Willful destruction or spoilage of somebody's property, which caused significant damage, is punished with a fine in the amount of 50 to 100 minimal salaries, or with arrest for the term of up to 2 months, or with imprisonment for the term of up to 2 years.

2. Same action which:

1) was committed by an arson, explosion or other publicly dangerous method;

2) inflicted large damage;

3) was committed, in relation to the person's official or public duty, or, on the same grounds, was related to his close relative,

4) was committed for motives of national, racial or religious hatred or religious fanaticism, is punished with imprisonment for the term of up to 4 years.

3. Actions envisaged in parts 1 or 2 of this Article, which:

1) caused particularly large damage;

2) negligently caused human death;

3) caused destruction of items of historical, scientific or cultural value, is punished with imprisonment for the term of 2 to 6 years.

(185th Article amended on 01.06.06 HO-119- N law)

**Article 186. Destruction or damage inflicted to property by negligence**

1. Destruction or damage inflicted to somebody's property by negligence, which caused a large loss, is punished with a fine in the amount of up to 200 minimal salaries, or correctional labor for up to 1 year.

2. The same action committed as a result of negligent handling of fire or other source of great danger, or caused particularly large damage, is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for the term of up to 2 years.

3. (3rd part of 186th Article lost its effect on 24.12.04 HO- 67- N law)

(186th Article amended on 01.06.06 HO-119-N law)

**Chapter 22**

## Crimes against economic activities

### Article 187. Hindrance to legal entrepreneurial and other economic activity

1. Obviously ungrounded refusal or evasion from the registration or re-registration of an individual entrepreneur, commercial or non-commercial organization, or obviously ungrounded refusal or evasion from the issuance of a special permit (license) for the implementation of certain activities, obviously illegal restriction of legitimate rights and interests of an individual entrepreneur or legal entity, as well as, other obvious illegal interference into such activities, done by an official by abuse of official position, is punished with a fine in the amount of 200 to 500 minimal salaries, or deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. Illegal inspection assigned or conducted by an official, provided large loss was caused,

is punished with a fine in the amount of 300-500 minimal salaries, or deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The action envisaged in part 1 or 2 of this Article, which caused a large damage, is punished with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of 2 to 3 months, or with imprisonment for the term of up to 1 year.

4. By large amount this Article means the amount or value exceeding 3000 minimal salaries established at the moment of committing the crime, and particularly large amount, 4000 minimal salaries established at the moment of committing the crime.

(187$^{th}$ Article amended on 01.06.06 HO-119-N law)

### Article 188. Illegal entrepreneurial activity

1. Entrepreneurial activities without state registration or without special permit (license), when such a special permit (license) is mandatory, accompanied with infliction of a large damage to the citizens, commercial organizations or to the state, is punished with a fine in the amount of 200 to 400 minimal salaries, or with an arrest for the term of 2 to 3 months.

2. The same act accompanied with infliction of a large damage to the citizens, commercial organizations or to the state:

is punished with a fine for the amount of 300 to 500 minimal salaries, or deprivation of the right to hold certain posts or practice certain activities for up to 3 years.or with imprisonment for the term of up to 2 years.

3. The same act accompanied with:

1) infliction of a particularly large damage to the citizens, commercial organizations or to the state,

2) committed by an organized group,

is punished with a fine in the amount of 800-1000 minimal salaries, or deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with imprisonment for the term of up to 3 years.

4. By significant loss, this Article means the amount of 500 to 1000 minimal salaries established at the moment the of committing the crime by large loss, 1000-2000 minimal salaries established at the moment committing the crime, by particularly large loss, over 2000 minimal salaries established at the moment of committing the crime.

(188th Article amended on 01.06.06 HO-119-N law)

Article 188.1. Exchange of foreign currency without license

1. Exchange of foreign currency without a license performed in the amount of 200,000 ADM is punished with a fine of 600 to 800 minimal salaries or with an arrest fro 2 to 3 months.
2. The same action performed by the group with prior agreement, or by the organized group, is punished with a fine of 800 to 1000 of minimal salaries, or with deprivation of the rights to hold certain positions or perform certain activities for up to 5 years, or with imprisonment for up to 3 years.

(188.1st Article supplemented on 25.12.06 HO-40-N law)

**Article 189. False entrepreneurial activity**

1. Establishment of a commercial enterprise without intention to conduct entrepreneurial or banking activity, aimed at obtaining loans, evading from taxes, obtaining other property benefits or hiding prohibited activities, which inflicted a large damage to the citizens, commercial enterprises or to the state,

is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up to 4 years.

2 Submission of false documents without supplying goods or without providing services, compilation and submission of false documents on expenses or income, which caused large damage, is punished with a fine in the amount of 400-500 minimal salaries, or imprisonment for up to 3 years.

3. The act envisaged in part 2 of this Article, causing particularly large loss is punished with a fine in the amount of 500-1000 minimal salaries, or imprisonment from 2 to 5 years.

4. By large loss, in part 1 of this Article, is meant an amount (value) exceeding 200 minimal salaries established at the moment of committing the crime.

By large loss, in part 2 of this Article, is meant an amount (value) exceeding 500 minimal salaries established at the moment of commiting the crime.

By particularly large loss, in part 3 of this Article, is meant an amount (value) exceeding 1000 minimal salaries established at the moment of commiting the crime.

5. In case of committing the deeds, envisaged by Articles 189,193, 194, 205 and 206 of this Code for the first time, the person committed the latter is released of criminal liability if he reimburses the damage cased by the crime and fines and penalties thereof.

(189th Article amended on 01.06.06 HO-119-N, 15.06.06 HO-145-N laws)

**Article 190. Legalization of illicit proceeds (money laundering)**

1. The conversion or transfer of property, knowing that such property is proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions; or the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds of crime; or the acquisition, possession, use or disposition of property, knowing, at the time of receipt, that such property was proceeds of crime

is punishable with imprisonment for a maximum period of four years, plus confiscation of property defined by part 4, article 55 of this Code.

2. The same offence which:
   a. involves large amounts;
   b. is committed with a prior agreement between a group of people

is punishable with a four to eight years' imprisonment, plus confiscation of property defined by part 4, article 55 of this Code.

3. The same offence under part 1 or 2 of this article which:
   a. involves significantly large amounts;
   b. is committed by an organized group of people;
   c. is committed with the abuse of official functions

is punishable with a six to twelve years' imprisonment, plus confiscation of property defined by part 4, article 55 of this Code.

4. For the purpose of this article "large amount" shall mean the amount (value) exceeding 5000-fold minimal salary set at the time when the offence was committed, and "significantly large amount" shall mean the amount (value) exceeding 10000-fold of the minimal salary set at the time when the offence was committed.

For the purpose of this article "illicit property" shall mean any type of property, including assets, securities and property rights, and, in cases stipulated by international treaties of the Republic of Armenia, other objects of civil rights derived or obtained, directly or indirectly, through commission of offences defined by articles 104, 112-113, 117, 122, 131-134, 166, 168, 175-224, 233-235, 238, 261-262, 266-270, 281, 284, 286-289, 291-292, 295, 297-298, 308-313, 329, 352, 375, 383, 388 and 389 of this Code.

(190th Article amended on 14.12.04 HO-16-N, 01.06.06 HO-119-N, 28.11.06 HO-206-N laws)

**Article 191. Not purposeful spending of a loan**

1. Not purposeful spending of a targeted loan provided by the state or international organization or under an international agreement, if this act caused large loss to persons, organizations or the state, is punished with a fine in the amount of 300 to 500 minimal salaries, or imprisonment for the term of 2 to 5 years.

2. For the purposes of this Article, by large loss is meant the amount (value) of damage to individuals exceeding 500 minimal salaries established at the moment of committing the crime, in case of damage done to persons, and the large amount of damage to organizations or the state, exceeding 2000 minimal salaries established at the moment of committing the crime.

(191st Article amended on 09.06.04 HO -97-N law)

**Article 192. Illegal actions in bankruptcy**

1. Concealing property or property rights, their amounts, information about their locations or information about property, handing the property to another person for management without legitimate reason, destruction of property or its alienation under obviously unfavorable conditions, as well as concealing, destruction, forging accounting and other settlement documentation concerning economic activities of the debtor, if this activity was committed by the head of the debtor organization or by its founders (participants) or by other persons who had the opportunity to give compulsory instructions or predetermine its decisions or by a debtor individual entrepreneur during bankruptcy or in anticipation of bankruptcy, if this caused a large damage,

is punished with a fine in the amount of 50-200 minimal salaries, or with imprisonment for the term of up to 1 year.

2. Paying off property debt to certain creditors by the head of the debtor organization or by its founders (participants) or by other persons who had the opportunity to give compulsory instructions or to predetermine the organization's decisions, or by a debtor individual entrepreneur, who knew about de facto insolvency of the debtor, if it was done by obviously damaging other creditors' interests, as well as the creditor's accepting such paying off, if the latter was aware of the prevalence given to him by the debtor in disfavor of other creditors, and if the debtor or the creditors incurred damage in a large amount,

is punished with a fine in the amount of 200-500 minimal salaries, or with imprisonment for the term of up to 2 year.

3. For the purpose of Articles 192, 193, 196, 197, 198 and 199 of this Code, by large loss is meant the amount (value) exceeding 200 minimal salaries established at the moment of committing the crime.

(192nd Article amended on 09.06.04 HO-97-N law)

**Article 193. Deliberate bankruptcy**

Deliberate bankruptcy, i.e. deliberate creation of insolvency features or increasing the extent of such features by the founders (participants) of the debtor organization or by other persons who had the opportunity to give compulsory instructions or to predetermine its decisions, including the head of the debtor, or by an individual entrepreneur, in favor of one's own interests or the interests of other persons, which caused large damage to the debtor or the creditors:

is punished with a fine in the amount of 500 to 1000 minimal salaries, or with imprisonment for the term of up to 3 years.

(193rd Article amended on 15.06.06 HO-145-N law)

**Article 194. Fictitious bankruptcy**

Fictitious bankruptcy, i.e. filing a statement of claim recognizing its own bankruptcy in the condition of absence of features of bankruptcy made by the founders (participants) of the debtor organization or by other persons who had the opportunity to give compulsory instructions or to predetermine its decisions, including the head of the debtor, or by an individual entrepreneur, in order to mislead the creditors and to get postponement, change of deadline, reduction, freezing or moratorium for satisfying their claims, as well as, for the purpose of not paying the debts, if this caused large damage to the debtor or the creditor,

is punished with a fine in the amount of 500 to 1000 minimal salaries, or with arrest from 1 to 3 months.

(194th Article amended on 15.06.06 HO-145-N law)

**Article 195. Illegal anti-competition activity**

1. Establishment and maintaining of illegal artificially high or low monopolistic prices, as well as, restriction of competition by prior agreement or by coordinated actions, in order to divide the market by territorial principle, to restrict the penetration into the market, to force other economic subjects out of the market, to establish and maintain discriminative prices, is punished with a fine in the amount of 300 to 500 minimal salaries, or with arrest for the term of 2 to 3 months, or with imprisonment for the term of up to 2 years.

2. The same action committed:

1) by violence or threat of violence;

2) by damaging or destruction of somebody's property, or by threat of damaging;

3) by abuse of official position,

4) by an organized group,

is punished with imprisonment for the term of 3 to 8 years, with or without property confiscation.

(195th Article amended on 01.06.06 HO-119-N law)

**Article 196. Willful breach of procedure for public tenders**

Willful breach of the procedure for public tenders which caused large damage to the owner of property, to the organizer of the sale or auction, to the buyer or other economic subject,

is punished with a fine in the amount of 300 to 500 minimal salaries, or with arrest for the term of 1 to 2 months, or with imprisonment for the term of up to 3 years.

(196th Article amended on 01.06.06 HO-119-N law)

**Article 197. Illegal use of trade mark**

Illegal use of somebody's trade mark, service mark, name of firm, if this caused large damage, is punished with a fine in the amount of 300 to 500 minimal salaries, or correctional labor for up to 2 years, or with arrest for the term of up to 2 months.

(197th Article amended on 01.06.06 HO-119-N law)

**Article 198. Fictitious advertising**

1. Deliberate confusion of advertisement consumers by the advertiser, advertising producer or advertisement carrier, is punished with a fine in the amount of 200 to 400 minimal salaries or with an arrest for the term of up to 2 months.

2. The same action which:

1) was committed by use of mass media;

2) caused large damage, is punished with a fine in the amount of 300 to 500 minimal salaries, or with arrest for the term of 1 to 2 months, or with imprisonment for the term of up to 2 years.

**Article 199. Illegal collection or divulging of commercial, insurance or banking secrets**

1. Collection of commercial, insurance or banking secrets by means of theft of documents, bribing or threatening the persons, or their relatives, who know commercial or banking secrets, interception of means of communication, illegal penetration into a computer network or software system, by means of special equipment, as well as, by other illegal methods, for the purpose of their publicizing or use, is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up to 3 years.

2. Illegal publicizing or use of insurance, commercial or banking secrets without the consent of the owner by the one who knows these secrets due to professional or official activity, done for mercenary or other personal motives which

caused large damage to the commercial organization or individual entrepreneur, is punished with a fine in the amount of 400 to 600 minimal salaries, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or with imprisonment for the term of up to 3 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(199th Article amended on 01.06.06 HO-119-N, 09.04.07 HO-180-N law)

**Article 200. Commercial bribe**

1. Provision of bribes to the administrative employee, arbiter of commercial or other organization including arbiters, auditors or lawyers performing in accordance with the law on arbitrate of foreign states, i.e. illegal promises, offers or provision of cash, rights on property, securities and any other favors to them or to other persons through them, ,made in person or through an intermediary to act (not act) in favor of the briber, is punished with a fine in the amount of 200 to 400 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 2 years, or correctional labor for up 2 year.

2. The same actions committed by a group with prior agreement or by an organized group, are punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of 4 years.

3. Accepting illegally in person or through intermediary for one's self or for other persons cash, property, rights on property, securities and any other favors by the administrative employee, arbiter of commercial or other organization including arbiters, auditors or lawyers performing in accordance with the law on arbitrate of foreign states, in order to act (not act) in favor of the briber, is punished with a fine in the amount of 200 to 400 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or with imprisonment for the term of 3 years.

4. The action envisaged in part 3 of this Article, committed by extortion, is punished with a fine in the amount of 300 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with imprisonment for the term of 5 years.

5. The employee of a commercial or other organization, according to this Article, is a person who permanently, temporarily or with special authorization, performs managerial functions at the commercial organization, regardless of the form of ownership, as well as, in non-commercial organizations which are not state or local self-government bodies, state or local self-government institutions.

Persons guilty of crimes envisaged in this Article are exempted from punishment, if they voluntarily informed the body entitled to initiate a criminal case about the committed crime, and at the same time returned what they received or compensated its value.

(200th Article amended on 20.05.05 HO-119-N, 01.06.06 HO-119-N, 05.12.06 HO-256- N, 25.12.06- HO- 59-N laws)

**Article 201. Bribing the participants and organizers of professional and commercial sports competitions or shows**

1. Bribing the athletes, referees, coaches, team managers and other participants and organizers of professional competitions, as well as, the organizers and members of award commissions of commercial competitions or shows i.e. illegal promises, offers or provision of cash, property, rights on property, securities and any other favors, made to them in person or through an intermediary with the purpose of exerting influence on the results of these competitions, is punished with a fine in the amount of 200 to 500 minimal salaries, or correctional labor for 6 months to 1 year, or with arrest for the term of up to 2 months.

2. The same actions committed by a group with prior agreement or an organized group, are punished with imprisonment for the term of up to 5 years.

3. Illegal acceptance of funds or use of property rights by the athletes, referees, coaches, managers of teams and other participants and organizers of professional competitions, as well as, the organizers and members of award commissions of commercial competitions or shows, i.e. accepting illegally, in person or through intermediary for one's self or for other persons cash, property, rights on property, securities and any other favors, is punished with a fine in the amount of 300 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or with arrest for the term of 2 to 3 months, or with imprisonment for the term of 2 years.

(201st Article amended on 09.06.04 HO-97-N, 01.06.06 HO-119-N, 05.12.06 HO-256-N, laws)

**Article 202. Manufacture, sale or storing counterfeited money or securities**

1. Manufacturing, storing, or seling forged money or securities for the purpose of sale, is punished with imprisonment for the term of 3 to 8 years, with or without confiscation of property.

2. The same action committed:

1) in large amounts;

2) by a group with prior agreement, is punished with imprisonment for the term of 6 to 10 years, with or without property confiscation.

3. The action envisaged in part 1 or 2 of this Article, committed

1) by an organized group,

2) in particularly large amounts,

is punished with imprisonment for the term of 8 to 12 years, with or without property confiscation.

4. In this Article, large amount means the amount (value) exceeding 1000 minimal salaries established at the moment of committing the crime, particularly large amount means the amount (value) exceeding 3000 minimal salaries established at the moment of committing the crime.

**Article 203. Manufacture and sale of forged payment documents**

1. Manufacture for the purpose of sale or sale of payment documents or, documents which are not considered to be currency or securities, but serve as evidence of, establishing or granting property rights, is punished with imprisonment for the term of 2 to 5 years.

2. The same actions committed:

1) in large amounts;

2) by a group with prior agreement, is punished with imprisonment for the term of 3 to 6 years, with or without property confiscation.

3. The actions envisaged in parts 1 or 2 of this Article committed:

1) in particularly large amounts;

2) by an organized group, are punished with imprisonment for the term of 4 to 9 years, with or without property confiscation.

4. In this Article, large amount means the amount (value) exceeding 3000 minimal salaries established at the moment of committing the crime, particularly large amount means the amount (value) exceeding 5000 minimal salaries established at the moment of committing the crime.

(203rd Article amended on 09.06.04 HO-97- N, 01.06.06 HO-119- N law)

**Article 204. Abuse of securities emission**

1. Emission of securities without proper registration procedure and public dissemination of these securities, or the use of obviously false documents for the registration of securities, is punished with a fine in the amount of 200 to 400 minimal salaries.

2. Inclusion of obviously incorrect information into the announcement about the emission of securities, as well as, the approval of the emission announcement containing obviously incorrect information or of obviously incorrect results of emission, if this caused large damage, is punished with a fine in the amount of 300 to 500 minimal salaries, or correctional labor for up to 1 year, or with imprisonment for the term of up to 1 year.

3. In this Article, large amount means the amount (value) exceeding 1000 minimal salaries at the moment of committing the crime.

(204th Article amended on, 01.06.06 HO-119-N law)

**Article 205. Evasion from taxes, duties or other mandatory payments**

1. Evasion from taxes, duties or other mandatory payments, failing to submit the reports required by the law, by means of entering obviously false data into ledgers or taxation documentation, in large amount, is punished with a fine in the amount of 500 to 1000 minimal salaries, or with imprisonment of up to 2 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 5 years.

2. The same act performed in particularly large amount is punished by imprisonment from 3 to 6 years with or without property confiscation.

By a large amount, this Article means the amounts not exceeding from 2000 to 15000 minimal salaries established at the moment of committing the crime, and by particularly large amount, the amount exceeding 15000 minimal salaries established at themoment of committing the crime.

(205th Article amended on 15.06.06 HO-145-N N law)

**Article 206. Evasion from taxes by a citizen**

1. Failure to submit a property and income declaration by a citizen, when mandatory, as well as, entering obviously distorted data on incomes and expenses into the declaration, which caused large loss of taxes, is punished with a fine in the amount of 100 to 500 minimal salaries, or with arrest for the term of up to 2 months.

2. In this Article, large amount means the amount (value) exceeding 200 minimal salaries.

(206th Article amended on 09.06.04 HO-97-N law)

**Article 207. Manufacture and sale of fake wine, fake vodka or other fake alcohol beverages**

1. Manufacture and sale of fake wine, fake vodka or other fake alcohol beverages, is punished with a fine in the amount of 500-1000 minimal salaries.

2. Same act, committed in large amounts, is punished with a fine in the amount of 700-1000 minimal salaries.

3. By a large amount, this Article means the value or income exceeding 2000 minimal salaries.

**Article 208. Forgery and sale of excise stamps**

1. Forgery and sale of excise stamps, is punished with a fine in the amount of 300-500 minimal salaries, or imprisonment for 1-3 years.

2. The same act committed in large amounts, is punished with a fine in the amount of 500-1000 minimal salaries, or imprisonment for 2-5 years.

3. By large amount this Article means the forgery or sale of over 500 excise stamps.

**Article 209. Alienation of excise stamps or marking goods with illegally procured excise stamps**

1. Alienation of properly acquired excise stamps or used excise stamps, if their number is 500-1000 pieces, is punished with a fine in the amount of 600-800 minimal salaries.

2. Same act, if the number of alienated excise stamps is over 1000, is punished with a fine in the amount of 800-1000 minimal salaries.

3. Marking goods with illegally procured excise stamps, if the total value of goods indicated with the seller is 200,000-500,000 AMD, if not indicated, then determined in prices established by law, is punished with a fine in the amount of 600-800 minimal salaries.

4. The same act, if the total value of goods indicated with the seller is over 500,000 AMD, if not indicated, then determined in prices established by law, is punished with a fine in the amount of 800-1000 minimal salaries.

**Article 210. Selling goods subject to marking with excise stamps unmarked or not re-marked**

1. Selling goods subject to marking with excise stamps unmarked or not re-marked, if the total value of these goods indicated with the seller is over 200,000-500,000 AMD, if not indicated, then determined in prices established by law, is punished with a fine in the amount of 600-800 minimal salaries.

2. The same act, if the total value goods indicated with the seller is over 500,000 AMD, if not indicated, then determined in prices established by law, is punished with a fine in the amount of 800-1000 minimal salaries.

**Article 211. Breach of rules for marking with excise stamps**

1. Sale of goods marked with previously used excise stamps or marked with excise stamps marked other than the ones required for this type of commodity, as well as marking vessels (boxes) with excise stamps envisaged for vessels of other volume, if the total value of these goods indicated with the seller is 200,000-500,000 AMD (if not indicated, then determined in prices established by law), is punished with a fine in the amount of 500-700 minimal salaries.

2. Same act, if the total value of these goods indicated with the seller is over 500,000 AMD (if not indicated, then determined in prices established by law), is punished with a fine in the amount of 600-800 minimal salaries.

**Article 212. Deception of consumers**

1. Cheating on weights, measures and in calculations, misleading consumers about the consumer properties or the quality of the commodity (service), or any other deception of the consumer, in organizations selling goods or services to the population or by individual entrepreneurs in the sphere of trade, which was committed in significant amount, is punished with a fine in the amount of 100 to 500 minimal salaries.

2. The same action committed:

1) in large amounts;

2) by a group with prior agreement, is punished with a fine in the amount of 300 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or with arrest for the term of up to 2 months.

3. The actions envisaged in parts 1 or 2 of this Article which were committed by an organized group, are punished with imprisonment for the term of up to 2 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

4. In this Article, a significant amount means the amount (value) exceeding 50% to 50 minimal salaries established at the moment of committing the crime, a large amount means the amount (value) exceeding 50 minimal salaries established at the moment of committing the crime.

(212nd Article amended on 01.06.06 HO-119-N law)

**Article 213. Usury**

1. Usury is loaning money or property at an interest rate more than twice exceeding the one of the Central Bank of the Republic of Armenia, as well as making deals with individuals on extremely unfavorable conditions of which the other party took advantage, is punished with a fine in the amount of 300-500 minimal salaries or with imprisonment for up to 2 years.

2. The same act,

1) as a result of which the aggrieved found oneself in a dire financial situation,

2) committed as profession,

3) committed using the minor age of the aggrieved or retarded mental development,

is punished with a fine in the amount of 400-600 minimal salaries, or with imprisonment for up to 4 years.

**Article 214. Abuse of authority by the employees of commercial or other organizations**

1. Abuse of administrative authority the by the employees of commercial or other organizations against the interests of their organization and in favor of themselves or other persons, if this inflicted damage to citizens or the rights and legal interests of the organization or the state, is punished with a fine in the amount of 200 to 400 minimal salaries, or correctional labor for 1-2 years, or with arrest for the term of 1-3 months, or with imprisonment for the term of up to 2 years.

2. The same action which caused grave consequences, is punished with a fine in the amount of 300 to 500 minimal salaries, or with arrest for the term of 2-3 months, or with imprisonment for the term of up to 4 years.

**Article 215. Contraband**

1. Contraband is 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, except goods and items envisaged in part 2 of this Article, is punished with imprisonment for the term of up to 6 years with property confiscation.

2. Contraband of narcotic drugs, neurological, strong, poisonous, poisoning, radioactive or explosive materials, weapons, explosive devices, ammunition, fire-arms (except smoothbore long barrel hunting guns and cartridges thereof), nuclear, chemical, biological or other mass destruction weapons, or dual-use materials, devices, or technologies which can also be used for the creation or use of mass destruction weapons or missile delivery systems thereof, strategic raw materials or cultural values for the transportation of which special rules are established, is punished with imprisonment for the term of 4 to 8 years, with property confiscation.

3. Actions envisaged in parts 1 or 2 of this Article committed:

1) by an official abusing one's official position;

2) by a person exempted from certain types of customs control, or by a person authorized to transport certain goods or means of transportation, exempted from customs control,

3) by using violence against a person in charge of customs control, is punished with imprisonment for the term of 6 to 10 years, with property confiscation.

4. Actions envisaged in parts 1 or 2 or 3 of this Article, which were committed by an organized group, is punished with imprisonment for the term of 8 to 12 years with property confiscation.

5. The action envisaged in part 1 of this Article is considered to be committed in large amount, if the value of transported goods or items exceeds the 1000 of minimal salaries established at the moment of committing the crime, except for the cases of transporting goods subject to marking or re-marking with excise stamps, without such stamps where by large amount is meant an amount exceeding 200 minimal salaries established at the moment of committing the crime.

6. For the purpose of this Article property means contraband items.

(215$^{th}$ Article amended on 0812.05 HO-4-N, 01.06.06 HO-119-N, 26.05.08 HO-6-N laws)

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

1. Acquisition or sale of property obtained in an obviously criminal way, if this had not been previously promised, is punished with a fine in the amount of 200 to 400 minimal salaries, or with arrest for the term of up to 3 months.

2. The same action committed:

1) in large amount;

2) by a group with prior agreement, is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up 2 years.

3. Action envisaged in parts 1 or 2 of this Article committed:

1) in a particularly large amount;

2) by an organized group,

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

(216th Article amended on 01.06.06 HO-119-N law)

## Section 9

## Crimes against public security, computer data security, public order and morality, and public health

## Chapter 23

## Crimes against public security

### Article 217. Terrorism

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

2. The same action committed

1) by a several persons with prior agreement,

2) using firearms, is punished with imprisonment for the term of 8 to 12 years.

3. Actions envisaged in parts 1 or 2 of this Article, if they were committed:

1) by an organized group;

2) were accompanied with use of mass destruction weapon, radioactive materials or with a threat to use other means causing mass losses,

3) caused death by negligence or other grave consequences, is punished with imprisonment for the term of 10 years to 15 years.

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

### Article 217.1. Terrorist financing

1. Terrorist financing, i.e. directly or indirectly provision or collection of funds with an unlawful intention that they should be used or in the knowledge that they are to be used, in full or in part for the commitment of a terrorist act, by a terrorist organization, or an individual terrorist is punishable with three to eight years' imprisonment, plus confiscation of property defined by part 5, article 55 of this Code.

2. The same offence, if committed with a prior agreement between a group of people or by an organized group, is punishable with eight to twelve years' imprisonment, plus confiscation of property defined by part 5, article 55 of this Code.

3. For the purpose of this article, terrorist financing funds shall mean property linked to terrorist financing, i.e. the property used or intended for use in financing the actions defined by article 217 of this Code; the instrumentalities intended for the commission of terrorist acts and owned by the defendant; and, if the property linked to terrorist financing has not been discovered, other property of corresponding value.

(217.1th Article amended on 14.12.04 HO-16-N, 28.11.06 HO-206-N, 26.05.08 HO-81-N laws)

**Article 218. Taking hostages**

1. Taking hostage or keeping a hostage, which was committed for the purpose of forcing the state, an organization or a citizen to perform certain action or not to perform certain action on the condition of setting the hostage free, is punished with imprisonment for the term of 5 to 8 years.

2. The same action committed:

1) by several persons with prior agreement;

2) using violence dangerous for life or health;

3) by using a weapon or some other item as a weapon;

4) against an obvious minor;

5) against an obviously pregnant woman;

6) against an obviously helpless person;

7) against two or more persons, is punished by imprisonment for the term of 6 to 10 years.

3. Actions envisaged in parts 1 or 2 of this Article, if they were committed:

1) by an organized group;

2) negligently caused death or damage to health, or other grave consequences for one's health, is punished imprisonment for the term of 8 years to 15 years.

4. The person who refused from one's demands and set the hostage free voluntarily is exempted from criminal liability, if his actions do not contain other elements of crime.

**Article 219. Occupation of buildings, facilities, means of transportation or communication**

1. Occupation of buildings, facilities, means of transportation and communication, other communication lines, or keeping them, accompanied with a threat of their destruction or damage, which was committed to force the state, an organization or a citizen to perform or not to perform certain action on condition of vacating the occupied property, is punished with imprisonment for the term of up to 5 years.

2. The same action which is committed:

1) By a group with prior agreement;

2) by threatening violence dangerous for life or health;

3) by using weapons or other items as weapons, is punished with imprisonment for the term of 4 to 10 years.

3. Actions envisaged in parts 1 or 2 of this Article, if they were committed:

1) by an organized group;

2) negligently caused death or damage to health, is punished imprisonment for the term of 6 years to 12 years.

4. The person who refused from one's demands who vacated voluntarily the occupied property is exempted from criminal liability, if his actions do not contain other elements of crime.

**Article 220. Piracy**

1. Assaulting a sea or river ship in order to capture somebody's property, which was committed by violence or threat of violence, is punished with imprisonment for the term of 5 to 10 years.

2. The same action committed by an organized group or which negligently caused human death or grave consequences, is punished imprisonment for the term of 8 to 15 years with or without property confiscation.

**Article 221. Hijacking or capture of an aircraft, ship or train**

1. Capture of an aircraft, ship or train for the purpose of hijacking or occupation, is punished with imprisonment for the term of 4 to 8 years.

2. The same action when committed:

1) by several persons with prior agreement;

2) by applying violence dangerous for life or health, or by threatening to apply such violence,

3) by using weapons or items used as a weapon, is punished imprisonment for the term of 7 years to 12 years.

3. Action envisaged in parts 1 or 2 of this Article, if it was committed:

1) by an organized group;

2) caused death by negligence or other grave consequences, is punished imprisonment for the term of 8 to 15 years.

**Article 222. Banditry**

1. Creation of an organized armed group (band) with the purpose of assaulting citizens or organizations, leading such a group, or participation in the actions of the band, is punished with imprisonment for the term of 10 to 15 years, with or without property confiscation.

2. Participation in a band, is punished with imprisonment for the term of 6 to 10 years, with or without property confiscation.

**Article 223. Creation of criminal associations or participation in criminal association**

1. Creation of criminal associations or leading a criminal association, is punished with imprisonment for 8-12 years, with or without property confiscation.

2. Participation in a criminal association, is punished with imprisonment for 6-10 years, with or without property confiscation.

3. The acts envisaged in part 1 or 2 of this Article with abuse of official position, are punished with imprisonment for 10-15 years, or deprivation of the right to hold certain posts or practice certain activities for up to 3 years, with or without property confiscation.

4. The person who informed the state bodies about the creation of a criminal association by oneself, or about the participation in the criminal association, and who contributed to the prevention of its activity, is exempted from criminal liability, if there are no other criminal elements in his actions.

**Article 224. Creation of armed formations not stipulated by law or participation therein**

1. Creation of armed formations not envisaged by law or commanding such formations, if there are no elements of crime under Article 222 of this Code, are punished with imprisonment of 2-7 years.

2. Participation in armed formations not envisaged by law is punished with a fine of 200 to 600 of minimal salaries, or arrest for up to 3 months, or imprisonment for up to 5 years.

3. Acts envisaged in part 1 or 2 of this Article with abuse of official position, are punished with imprisonment for 6-10 years, with deprivation of the right to hold certain posts or practice certain activities up to 3 years.

(224$^{th}$ Article amended on 09.06.04 HO-97-N, 01.06.06 HO-119-N laws)

**Article 233. Illegal turnover of radioactive materials**

1. Illegal procurement, storing, use, transportation, transfer, sale, destruction or damage of radioactive materials, is punished with a fine of 50 to 100 minimal salaries, or arrest for the term of up to 2 months, or with imprisonment for the term of up to 2 years.

2. The same action which negligently caused grave or medium-gravity damage to health, is punished with a fine of 100 to 200 of minimal salary, or with imprisonment for the term of up to 5 years.

3. The action envisaged in part 1 of this Article which negligently caused human death or other grave consequences is punished with imprisonment for 4-10 years.

**Article 234. Theft or extortion of radioactive materials**

1. Theft or extortion of radioactive materials, is punished with imprisonment for 3-5 years.

2. The same act committed by:

1) by several persons with prior agreement;

2) by abuse of official position;

3) with violence not dangerous for life or health, or with threat of such violence, is punished with imprisonment for the term of 4 to 7 years.

3. Actions envisaged in parts 1 or 2 of this Article, committed:

1) by an organized group;

2) with violence dangerous for life or health, or with threat of such violence, is punished with imprisonment for the term of 5 to 12 years, with or without property confiscation.

**Article 235. Illegal procurement, transportation or carrying of weapons, ammunition, explosives or explosive devices**

1. Illegal procurement, transportation, keeping or carrying of weapons, explosives or explosive devices, except smoothbore long-barrel hunting guns and the cartridges thereof, ammunition, is punished with arrest for the term of up to 3 months, or with imprisonment for the term of up to 3 years.

2. The actions envisaged in part 1 of this Article which were committed by a group with prior agreement, are punished with imprisonment for the term of 2 to 6 years.

3. The actions envisaged in part 1 of this Article which were committed by an organized group, are punished with imprisonment for the term of 3 to 8 years.

4. Illegally carrying of gas weapons, cold steel, or throwing weapons, is punished with a fine in the amount of 200 to 600 minimal salaries, or with arrest for the term of 1-3 months, or with imprisonment for the term of up to 2 years.

5. The person who voluntarily surrendered the items mentioned in this Article is exempted from criminal liability, if there are no other elements of crime in his actions.

(235$^{th}$ Article amended on 01.06.06 HO-119-N law)

**Article 238. Theft or extortion of weapons, ammunition, explosives and explosive devices**

1. Theft or extortion of fire-arms, fire-arm components, ammunition, explosives and explosive devices, is punished with imprisonment for the term of 3 to 5 years.

2. Theft or extortion of nuclear, chemical, biological or other mass destruction weapons, or materials or equipment used in the creation of mass destruction weapons, is punished with imprisonment for the term of 4 to 7 years.

3. Actions envisaged in parts 1 or 2 of this Article, if they were committed:

1) by a group of persons with prior agreement;

2) by abuse of official position;

3) by use of violence not dangerous for life or health, or with a threat of using such violence;

4) in large amounts,

is punished with imprisonment for the term of 6 to 10 years, with or without property confiscation.

4. Actions envisaged in parts 1, 2 or 3 of this Article, if they were committed:

1) by an organized group;

2) by use of violence dangerous for life or health, or with a threat of using such violence;

3) in particularly large amounts, is punished with imprisonment for the term of 8 to 12 years, with or without property confiscation.

**Article 261. Involvement into prostitution**

1. Involvement into prostitution of other person mercenarily, in case of absence of criminal characteristics envisaged in Articles 132 or 132.1 of this Code, is punished with a fine in the amount of 200 to 300 of minimal salary, or with imprisonment from 1 to 3 years.

2. The same actions committed

1) by a group with prior agreement

2) by abuse official position, is punished with imprisonment of 2 to 6 years.

3. Action envisaged in parts 1 or 2 of this Article, if it was committed:

1) against the minor

2) against a person who in a state of mental disorder is devoid of possibility to fully or partially recognize or control the nature and the meaning of own deeds;

3) by an organized group, is punished with imprisonment for the term of 3 to 8 years.

(261st Article amended on 09.06.04 HO-97-N, 01.06.06 HO-103- N, 01.06.06 HO-119-N laws)

**Article 262. Promoting prostitution**

1. Establishing, managing or sustaining places for prostitution, or using public places for prostitution, or periodically providing an apartment or other venues for prostitution, or enjoying property excess by promoting prostitution in a different way, if criminal characteristics envisaged by Articles 132 or 132.1 of this Code are absent, is punished with a fine at the amount of 300 to 500 of minimal salaries, or with imprisonment for the term of 1 to 4years.

2. The same action committed;

1) by a group with prior agreement;

2) with abuse of official position,

is punished with imprisonment for the term of 2 to 6 years

3. Action envisaged by 1st and 2nd parts of this Article, committed:

1) against a person under age of 18;

2) against a person who in a state of mental disorder is devoid of possibility to fully or partially recognize or control the nature and the meaning of own deeds;

3) by an organized group,

is punished with imprisonment for the term of 3 to 10 years

(262nd Article amended on 09.06.04 HO-97-N, 01.06.06 HO-103-N, 01.06.06 HO-119- N laws)

Crimes directed against health of population

**Article 266. Illegal turnover of narcotic drugs or psychotropic substances with the purpose of sale**

1. Illegal manufacture, processing, procurement, storing, transpoting or supplying the narcotic drugs or psychotropic substances with the purpose of sale, is punished with imprisonment for the term of 3 to 7 years.

2. The same action committed:

1) by a group of persons;

2) in large amount;

2.1) repeatedly

3) at the place of imprisonment or arrest;

4) in disciplinary/educational institution,

is punished with imprisonment for the term of 5 to 10 years with or without property confiscation.

3. Actions envisaged in parts 1 or 2 of this Article, if they were committed:

1) by an organized group;

2) in particularly large amount,

is punished with imprisonment for the term of 7 to 15 years with or without property confiscation.

4. Illegal preparation, recycling, acquisition, storing, transporting, supplying or illegally selling the pre-courses for preparation of narcotics or psychotropic substances is punished with a fine in the amount of up to 200 minimal salaries, or with arresr\t of up to 3 months.

5. To establish the large and particularly large amounts of narcotic drugs or psychotropic substances stated in this Article with the annex attached to this Code.

6. A person voluntarily submitting narcotic drugs or psychotropic substances will be relieved of criminal responsibility for illegal manufacture, processing, procurement, keeping, trafficking or supplying of narcotic drugs or psychotropic substances.

(266$^{th}$ Article amended on 09.06.04 HO-97-N, 26.05.08 HO-76-N laws)

**Article 267. Breach of regulations for manufacture, procurement, keeping, accounting, dispensing, transportation or supply of narcotic drugs or psychotropic substances**

1. Breach of regulations for manufacture, procurement, storing, accounting, issuing, transportation or supply of narcotic drugs or psychotropic substances by the person who is in charge of their observance, if it resulted in theft or illegal turnover of afore-mentioned substances, is punished with a fine in the amount of 200 to 500 minimal salaries, or with imprisonment for the term of up to 3 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. The action envisaged in the first part of this article, if it was committed in large amounts, is punished with a fine in the amount of 500 to 800 minimal salaries, or with imprisonment for the term of 2 to 4 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The action envisaged in the first part of this article, if it was committed in particularly large amounts, is punished with imprisonment for the term of 3 to 5 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(267th Article amended on 09.06.04 HO-97-N, 26.05.08 HO-76-N laws)

**Article 268. Illegal turnover of narcotic drugs or psychotropic substances without the purpose of sale**

1. Illegal manufacture, processing, procurement, keeping, delivery or supply of narcotic drugs or psychotropic substances without the purpose of sale, is punished with arrest for the term of up to 2 months or with imprisonment for the term of up to 1 year.

2. The same action committed

1) repeatedly,

2),in large amount;

is punished with imprisonment for the term of up to 3 years.

3. The same action committed in particularly large amount:

is punished with imprisonment for the term of 2 to 6 years.

(268th Article amended on.26.05.08 HO-76-N law)

**Article 269. Theft or extortion of narcotic drugs or psychotropic substances**

1. Theft or extortion of narcotic drugs or psychotropic substances, is punished with imprisonment for the term of 3 to 7 years.

2. The same action committed:

1) by a group of persons with prior agreement;

2) by abuse of official position;

3) with violence not dangerous for life or health, or with threat of such violence,

4) in large amount,

is punished with imprisonment for the term of 6 to 10 years with or without property confiscation.

3. The action envisaged in part 1 or 2 of this Article which was committed:

1) by an organized group;

2) in particularly large amount;

3) with violence dangerous for life or health, or with threat of such violence,

is punished with imprisonment for the term of 8 to 15 years with or without property confiscation.

(269th Article amended on 26.05.08 04 HO-76-N law)

**Article 269.1. Illegal preparation, use, forgery or sales of documents authorizing receipt of narcotics or psychometric substances or pre-courses thereof**

1. Illegal preparation, use, forgery or sales of documents authorizing receipt of narcotics or psychometric substances or pre-courses thereof is punished with a fine at the amount of 300 to 600 minimal salaries or with arrest for the term of 1 to 3 months, or with imprisonment for the term of up to 2 years.

2. The same action committed:

1) repeatedly;

2) by a group with prior agreement,

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

(269.1st Article supplemented on 26.05.08 04 HO-76-N law)

**Article 270. Illegal provision of recipes or other documents entitling the acquisition of narcotic drugs or psychotropic substances**

1. Illegal provision of recipes or other documents entitling the acquisition of narcotic drugs or psychotropic substances, by an authorized person is punished with imprisonment for the term of up to 2 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. The same action if committed repeatedly is punished with imprisonment for the term from 2 to 5 years with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(270th Article amended on 24.12.04 HO-67-N, 26.05.08 HO-76-N laws)

## Crimes directed against environmental safety

## Part 27

## Crimes directed against environmental safety

**Article 281. Breach of environmental safety rules when implementing work**

The breach of ecological safety rules by the person who is in charge of compliance with these rules, during design, location, construction, commissioning and operation of industrial, agricultural, scientific and other facilities, if this action negligently caused a significant change in the radioactive, chemical, and biological pollution of the environment, human death, mass diseases in people, mass death of animals or other grave consequences,

is punished with imprisonment for the term of up to 5 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

**Article 284. Breach of safety rules when handling dangerous chemical and biological materials and waste**

1. Production of prohibited dangerous chemical and biological materials or waste, breach of rules for their using, storage, transportation, destruction or other rules, if this created significant danger to human health or the environment, is punished with a fine in the amount of 200 to 500 minimal salaries, or correctional labor for the term of up to 2 years, or with imprisonment for the term of up to 2 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. The same action which:

1) negligently caused pollution, poisoning or contamination of the environment, mass death of animals, damage to human health,

2) was committed in an ecological disaster zone or in the emergency ecological situation, is punished with imprisonment for the term of up to 5 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The action envisaged in part 1 or 2 of this Article which negligently caused mass diseases in people or human death, is punished with imprisonment for the term of 3 to 7 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

4. The acts envisaged in this Article which willfully caused consequences envisaged in parts 1, 2 or 3 of this Article, are punished with imprisonment for 6-12 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(284$^{th}$ Article amended on 01.06.06 HO-119-N law)

**Article 286. Breach of established veterinary rules or rules for struggle against plant diseases and vermin**

1. Breach of veterinary rules which negligently caused human or animal epidemics or other grave consequences, is punished with a fine at the amount of 100 to 200 minimal salaries, or with imprisonment for the term of up to 3 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. Breach of established rules for struggle against plant diseases and vermin which negligently caused grave consequences, is punished with a fee at the amount of 50 to 150 minimal salaries, or with imprisonment for the term of up to 2 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The acts envisaged in this Article which caused willful consequences envisaged in part 1 or 2 of this Article, are punished with imprisonment for up to 5 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(286$^{th}$ Article amended on 01.06.06 HO-119-N law)

**Article 287. Pollution of water**

1. Pollution of surface or ground waters, pollution, obstruction, exhaustion of water-supply sources, or changing their natural properties or qualitative composition, if these actions, willfully or negligently, caused significant damage to flora or fauna, fish stocks, forests or agriculture,

is punished with a fine in the amount of 500-800 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of up to 2 months.

2. The same action actions which:

1) negligently damaged human health;

2) caused mass destruction of animals;

3) was committed in special nature protection zones, or in a zone of ecological disaster, or in a zone of ecological emergency, is punished with a fine in the amount of 600 to 1000 minimal salaries, or with imprisonment for the term of up to 3 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The action envisaged in part 1 or 2 of this Article which negligently caused human death, is punished with imprisonment for the term of 2 to 5 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

4. The acts envisaged in this Article which willfully caused the consequences envisaged in parts 1, 2 or 3 of this Article, are punished with imprisonment for 6-12 years with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(287th Article amended on 01.06.06 HO-119-N law)

**Article 288. Pollution of marine environment**

1. Pollution of marine environment from land sources, means of transportation, or from artificial facilities built in the sea or as a result of breach of rules for disposal or dumping of raw materials dangerous for human health or natural sea stocks, or for legitimate use of marine environment, which willfully or negligently, caused significant damage to the fauna, fish stocks, the environment or other interests protected by law, is punished with a fine in the amount of 200 to 500 minimal salaries, or with or without deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of up to 2 months.

2. The same actions which negligently damaged human health, are punished with imprisonment for the term of up to 3 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The action envisaged in part 1 or 2 of this Article which negligently caused human death, is punished with imprisonment for the term of 2 to 5 years.

(288th Article amended on 01.06.06 HO-119-N law)

**Article 289. Pollution of ambient air**

1. Pollution of air or changing its natural properties, committed by breach of the established norms, rules of equipment operation, facilities or other constructions, if this action caused significant damage, willfully or negligently, to the agricultural fields, constructions, cultural values, the flora and the fauna, the soil of the waters, is

punished with a fine in the amount of 500 to 700 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 5 years.

2. The same actions which negligently damaged human health, are punished with a fine in the amount of 600 to 1000 minimal salaries, or with imprisonment for the term of up to 3 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The action envisaged in part 1 or 2 of this Article which negligently caused human death, is punished with imprisonment for the term of 2 to 5 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

(289th Article amended on 01.06.06 HO-119-N law)

**Article 291. Breach of rules for protection and use of the lithosphere**

1. Breach of rules of design, location, construction, commissioning and operation of mining enterprises or underground facilities not related to mining, breach of rules for protection and use of the lithosphere, as well as, unauthorized construction on the surface of mines, if this, negligently, caused significant damage, is punished with a fine in the amount of 200 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. Use of the lithosphere with breach of rules for protection and use of the lithosphere, or with deviating from such projects, or without a contract, which caused significant damage to human health, to the environment, to mineral resources, constructions and buildings contained in the lithosphere,

is punished with a fine in the amount of 700 to 1000 minimal salaries, or with imprisonment for up to 1 year, with or without deprivation of the right to hold certain posts or practice certain activities for up to 5 years.

(291st Article amended on 01.06.06 HO-119-N law)

**Article 292. Illegal harvesting of aquatic flora and fauna**

1. Illegal fishing or harvesting of aquatic fauna, or flora, if these actions:

1) inflicted large damage;

2) were committed by using mass destruction methods;

3) were committed at the spawning beds or on a migration route to the spawning beds, or during spawning, is punished with a fine in the amount of 500 to 700 minimal salaries, or with arrest for the term of 2-3 months.

2. The actions envisaged in parts 1 or 2 which were committed by:

1) abuse of official position;

2) by a group of persons with prior agreement, are punished with a fine in the amount of 600 to 1000 minimal salaries, or with imprisonment for the term of up to 2 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. For the purpose of Articles 292, 294, 297 of this Code by large damage is meant and amount (value) exceeding 200 minimal salaries established at the moment of committing the crime.

(292nd Article amended on 09.06.04 HO-97-N, 24.12.04 HO-67-N, 01.06.06 HO-119-N laws)

**Article 295. Obliteration of habitat of rare and endangered species registered in the Red Book of Rare and Endangered Species of the Republic of Armenia**

Obliteration of habitat of rare and endangered species registered in the Red Book of the Republic of Armenia which willfully or negligently caused the obliteration (death) of the entire population of these species is punished with a fine at the amount of 200 to 600 of minimal salaries, or with imprisonment for the term of up to 3 years.

(295th Article amended on 01.06.06 HO-119-N law)

**Article 297. Obliteration or damage of forest**

1. Obliteration or damage of forest, as well as, trees which are not part of the forest stock, committed as a result of negligent handling of fire, explosives or other source of great danger, and if this caused great damage, is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up to 2 years.

2. Obliteration or damage of forest, as well as, trees which are not part of the forest stock, committed as a result of arson or other publicly dangerous means, is punished with imprisonment for the term of 3 to 8 years.

(297th Article amended on 01.06.06 HO-119-N law)

**Article 298. Breach of regime of specially protected nature zones**

Breach of regime of reserves, specially protected zones, national parks, and natural objects specially protected by the state, which willfully or negligently caused significant damage,

is punished with a fine in the amount of 200 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 3 years..

(298th Article amended on 01.06.06 HO-119-N law)

## Chapter 29

## Crimes directed against State Services

**Article 308. Abuse of official authority**

1. Abuse of official authority or duties by a state official against the interests of the position and failure to carry out the duties for mercenary interests, personal, other interests or group interests, which caused essential damage to the legal interests of citizens, organizations, public or state rights (in case of property loss, the amount (value) exceeding 500 minimal salaries established at the moment of committing the crime), is punished with a fine in the amount of 200 to 300 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of 2-3 months, or imprisonment for the term of up to 4 years.

2. The same action which negligently caused grave consequences,

is punished with imprisonment for 2-6 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The following public servants are considered state officials in this Chapter:

1) persons performing the functions of a representative of the authorities, permanently, temporarily or by special authorization;

2) persons, permanently, temporarily or by special authorization, performing organizational, disciplinary and administrative functions in state bodies, local self-government bodies, organizations thereof, as well as, in the army of the Republic of Armenia, or other forces of the Republic of Armenia.

4. State officials are also the following persons, envisaged in Articles 311,312 and 313 of this Code

1) persons performing activities of state officials under the interstate rights of the foreign state, as well as members of any representation of legislative body or a body performing administrative functions of the foreign state;

2) officials of international or transnational organization or body, or persons performing under the service agreements envisaged by the regulations of such organization or body, or other persons performing duties relevant to the duties of the latters;

3) members of supreme board of international or transnational organizations or other entities performing similar activities;

4) members or officials of international court recognized by the Republic of Armenia and performing juridical functions;

5) country of the courts of foreign states.

(308th Article amended on 20.05.05 HO-119-N, 28.11.06 HO-206-N laws)

**Article 309. Exceeding official authorities**

1. Actions willfully committed by an official which obviously exceed his authorities and caused essential damage to the rights of citizens, organizations, state or legal interests (in case of property loss, the amount (value) exceeding 500 minimal salaries established at the moment of committing the crime), are punished with a fine in the amount of 300 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of 2-3 months, or with imprisonment for the term of up to 4 years.

2. Same actions committed with violence, weapons, or special measures, are punished with imprisonment for the term of 2 to 6 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The same act which negligently caused grave consequences, is punished with imprisonment for the term of 6 to 10 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

**Article 310. Illégal participation in entrepreneurial activité**

Participation of a state official, despite the legal ban, in the founding, management of an entrepreneurial organization, personally or through proxy, when these actions involve granting this organization privileges and advantages, is punished with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of 1-3 months, or with imprisonment for the term of up to 2 years.

(310th Article amended on 01.06.06 HO-119-N law)

**Article 311. Taking bribes**

1. Taking bribes by a state official, in person or through an intermediary, for one's self or for another person, in the form of money, property, rights on the property, securities or other favors, for performing or not performing any deed within his authority, in favor of the briber or briber's representative or, by using official position, to facilitate performing or not performing of such deed or service favoring or connivance, is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up to 5 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. Taking bribes by an official for performing or not performing or not performing of an obviously illegal actions within his authority, in favor of the briber or briber's representative, is punished with imprisonment for 3-7 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The same action committed:

1) by extortion;

2) by a group of officials with prior agreement;

3) in large amount,

4) repeatedly,

is punished with imprisonment for the term of 4 to 10 years, with or without property confiscation.

4. Action envisaged in parts 1, 2 or 3 of this Article

1) by an organized group;

2) in particularly large amount,

3) by a judge,

is punished with imprisonment for the term of 7 to 12 years, with or without property confiscation.

5. For the purpose of this Chapter by large amount is meant an amount (value) not exceeding 200 to 1000 minimal salaries.

For the purpose of this Chapter by particularly large amount is meant an amount (value) exceeding 1000 minimal salaries.

(311$^{th}$ Article amended on 05.12.06 HO-256-N law)

**Article 311.1 Taking illegal payment by a public servant which is not an official person**

1.Taking illegal payment by a public servant which is not an official person, i.e. receiving in person or through an intermediary, for one's self or for another person, in the form of money, property, rights on the property, securities or other favors, for performing or not performing any deed within the authority of the public servant, in favor of the briber or briber's representative or, by using official position, to facilitate performing or not performing of such deed or service favoring or connivance, is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for the term of up to 3 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

2. Taking illegal payment by a public servant which is not an official person, for performing or not performing an obviously illegal actions within his authority, in favor of the briber or briber's representative, is punished with imprisonment for 3-5 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The same action committed:

1) by extortion;

2) in large amount;

3) by a group with prior agreement;

4) repeatedly,

is punished with imprisonment for the term of 4 to 7 years.

4. Action envisaged in parts 1, 2 or 3 of this Article

1) by an organized group;

2) in particularly large amount,

is punished with imprisonment for the term of 5 to 10 years, with or without property confiscation.

5. For the purpose of this Article public servants are persons performing public services in accordance with Article 1 of the RA law on "Civil Services".

(311th Article supplemented on 30.04.08 HO-49-N law)

**Article 311.2 Using real or implied influence for mercenary purposes**

1. Using real or implied influence for mercenary purposes i.e. receiving in person or through an intermediary, money, property, rights on the property, securities or other favors, for performing or not performing any deed within the authority of an official person, or the public servant which is not an official person, in favor of the any legal entity or any person or, by using official position, to facilitate performing or not performing of such deed or service favoring or connivance,

is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for the term of up to 3 years.

2. The same action committed performing or not performing an obviously illegal actions is punished with imprisonment for 3-5 years.

3. The same action committed:

1) by extortion;

2) in large amount;

3) by a group with prior agreement;

4) repeatedly,

is punished with imprisonment for the term of 4 to 7 years.

4. Action envisaged in parts 1, 2 or 3 of this Article

1) by an organized group;

2) in particularly large amount,

is punished with imprisonment for the term of 5 to 10 years, with or without property confiscation.

(311.2nd Article supplemented on 30.04.08 HO-49-N law)

**Article 312. Giving a bribe**

1. 1. Giving a bribe, i.e. in person or through an intermediary, promising, offering or providing to a state official, for ones' self or for another person, money, property, rights on the property, securities or other favors, for performing or not performing a deed within his authority in favor of the briber or the briber's representatives, or, by using official position, to facilitate performing or not performing of such deed or service favoring or connivance, is punished with a fine in the amount of 100 to 200 minimal salaries, or correctional labor for 1-2 years, or with arrest for the term of 1-3 months, or with imprisonment for the term of up to 3 years.

2. Giving a bribe in a large amount,

is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for the term of up to 5 years.

3. Giving a bribe,

1) in a particularly large amount;

2) by an organized group,

is punished with imprisonment for the term of 3-7 years.

1. The person who gave a bribe is exempted from the criminal liability, if he was subjected to extortion, or if this person voluntarily informed the law enforcement bodies about giving the bribe.

(312th Article amended on 01.06.06 HO-119-N, 05.12.06 HO-256-N laws)

**Article 312.1 Illegal payment to a public servant which is not an official person**

1.Illegal payment to a public servant which is not an official person, i.e. providing in person or through an intermediary, for one's self or for another person, in the form of money, property, rights on the property, securities or other favors, for performing or not performing any deed within the authority of the public servant, in favor of the briber or briber's representative or, by using official position, to facilitate performing or not performing of such deed or service favoring or connivance, is punished with a fine in the amount of 100 to 200 minimal salaries, or with an arrest for the term of up to 2 month, or with imprisonment for the term of up to 2 years.

2. Illegal payment in a large amount,

is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for the term of up to 4 years.

3. Illegal payment, performed:

1) in a particularly large amount;

2) by an organized group,

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

2. The person making an illegal payment is exempted from the criminal liability, if he was subjected to extortion, or if this person voluntarily informed the law enforcement bodies about making an illegal payment.

(311.2nd Article supplemented on 30.04.08 HO-49-N law)

**Article 313. Bribery mediation**

1. Bribery mediation, i.e. promotion of the agreement between the briber and bribe taker or implementation of previously reached agreement, is punished with a fine in the amount of 100-200 minimal salaries or with arrest for up to 2 months or imprisonment for up to 3 years.

2. The same act envisaged in part 1 of this Article, committed

1) repeatedly,

2) by abuse of official position,

is punished with a fine in the amount of 200-400 minimal salaries, or arrest for 1-3 months, or imprisonment for 2-5 years.

**Article 329. Illegal state border crossing**

1. Crossing the guarded state border of the Republic of Armenia without relevant documents or permits, is punished with a fine in the amount of 100-200 minimal salaries or imprisonment for up to 3 years.

2. The same act committed by a group with prior agreement or by an organized group or with violence or threat thereof, is punished with imprisonment for 3-7 years.

3. This Article is not extended to cases when a foreign citizen or stateless person enters the Republic of Armenia without relevant permits to enjoy the right for political asylum stipulated by the Constitution of the Republic of Armenia.

(329th Article amended on 09.06.04. HO-97-N law)

**Article 352. Adoption of an obviously unjust court sentence, verdict or other court act**

1. Adoption of an obviously unjust court sentence, verdict or other court act by the judge for mercenary purposes or for other personal motives, is punished with a fine in the amount of 300 to 500 minimal salaries, with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with imprisonment for the term of up to 3 years.

2. The same action which negligently caused grave consequences, is punished with imprisonment for the term of 2 to 4 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The same action which willfully caused grave consequences, is punished with imprisonment for the term of 3 to 7 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

**Article 375. Abuse of power, transgression of authority or administrative dereliction**

1. Abuse of power or official position, transgression of authority or administrative dereliction, if these acts were committed for mercenary or group-interest motives, by a commander or official, and if these inflicted essential damage, is punished with imprisonment for 2-5 years.

2. The same acts which negligently caused grave consequences, are punished with imprisonment for 3-8 years.

3. The acts envisaged in parts 1 or 2 of this Article, committed under martial law, during war or military actions, is punished with imprisonment for 7 to 13 years.

(375th Article amended on 09.06.04 HO-97-N law)

**Article 383. Plunder**

Theft of items from the dead and wounded in the battlefield is punished with imprisonment for the term of 2 to 8 years.

**Article 388. Terrorism against the representative of a foreign country or international organization**

1. Assault on the representative of foreign states or international organizations, or kidnapping, or deprivation of freedom, if these actions were committed with the purpose of provoking war, or complication of international relations, is punished with imprisonment for the term of 5 to 12 years.

2. The murder of the representative of foreign states or international organizations, if this action was committed with the purpose of provoking war, or complication of international relations, is punished with imprisonment for the term of 10 to 15 years or for life.

**Article 389. International terrorism**

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

**Article 17. Fair Trial**

1. Everyone has the right to a fair trial with observance of all requirements of fairness, by an independent and impartial court, of any criminal case affecting one's interests.
2. The judge, the prosecutor, the investigator, the officers of the agency for inquest cannot participate in the proceedings of a criminal case, if they are directly or indirectly interested in its outcome.
3. The body of criminal charge is obligated to undertake all measures prescribed by this Code for a comprehensive, full and objective investigation of the case circumstances, to reveal all the circumstances both convicting and absolving the suspect or accused, and also the circumstances reducing and aggravating his responsibility.
4. All statements of the suspect, the accused, and their defense attorney about their innocence, on the availability of evidence absolving the suspect or the accused or reducing their responsibility, all appeals on violation of the law in the course of criminal proceedings shall be thoroughly examined by the body conducting the criminal proceedings.

## CHAPTER 7. PARTY OF CRIMINAL CHARGE

**Article 52. The Prosecutor**

1. The prosecutor is a state official, who conducts, within the limits of his/her competence, at all stages of the criminal procedure, the criminal charge, supervises the legitimacy of the investigation and inquest, supports the prosecution in court, appeals against the court verdicts and other decisions. The prosecuting attorney supporting the prosecution in court is called the prosecutor.
2. The prosecutor is entitled to lodge to the accused or to a person, who bears proprietary responsibility for the actions of the latter, a claim [suit] in protection of the interests of the state.
3. During the exercise of his/her powers at the proceedings of criminal case the prosecutor is independent and submits only to law. He/she shall execute the legitimate instructions of the superior prosecutor. If the subordinate prosecutor considers the instruction illegitimate, he/she appeals it to a superior prosecutor without executing it.
4. The subordinate prosecutor is obliged to execute all written instructions of the superior prosecutor with an exception of the case indicated by part five of the given article as well as the case when the prosecutor considers the instruction illegitimate. In case if the instruction given by the superior prosecutor is considered illegitimate the subordinate prosecutor should and in case of the instruction is considered ungrounded can appeal it to the superior of the prosecutor who gave the instruction.
5. In the process of controlling the legitimacy of the pro and post investigation the prosecutor is obliged to execute the instruction given by the superior prosecutor excluding the cases if the instruction is recognized as ungrounded or illegitimate. In such cases the controlling prosecutor should refuse the further execution of the instruction and immediately inform in a written form the superior prosecutor who has a right to overtake the control or instruct other prosecutor to continue the further execution of the case.

***(additions in article 52 dated on 01.06.06 HO-121-N, 13.06.06 HO-67-N, edited with additions 22.02.07 HO-129-N)***

**Article 53. The Powers of the Prosecutor at the Pre-trial Proceedings of the Criminal Case**

1. The prosecutor is authorized to conduct the following during the pre-trial proceedings:
1) to institute and carry out criminal charge and to start proceedings of cases instituted by the body of inquest, the investigator, to cancel the decision of the body of inquest and the investigator on suspension of a case, to institute a criminal case based on court motion, to cancel the decision of the body of inquest and the investigator rejecting the institution of a criminal case and to institute a criminal case.
2) To investigate personally the criminal case in its full volume, passing necessary decisions during the investigation and implementing investigatory and other procedural actions in accordance with provisions of this Code;
3) In case of a crime, instructs the body of inquest and the investigator to prepare the materials for the institution of a criminal case.
4) To instruct the body of inquest and the investigator to conduct urgent investigatory measures or conduct them personally;

5) To participate in the inquest;
6) To carry out prosecutorial management of the inquest and the investigation.
2. During the implementation of the procedure of prosecutorial management of the inquest and the investigation, the prosecutor is exclusively entitled to the following:
1) to check the implementation by the body of inquest the requirements of law on receiving, registration of and follow up on the reports on committed or prepared crimes, on other accidents;
2) to request from the investigator and the body of inquest for examination of criminal cases, materials and documents and to get acquainted with the data on the course of investigation at the place of their location;
3) to withdraw from the inquirer and to transfer to the investigator or subordinate prosecutor any criminal case, to transfer the criminal case from the investigator to the subordinate prosecutor or vice versa, to transfer the criminal case from one body of inquest to another, or from one investigator and subordinate prosecutor to another, or to accept the criminal case for his/her proceedings: in order to ensure the comprehensive, full and objective investigation;
4) to instruct an investigating team to undertake a criminal case, to establish the composition of the team, to appoint the team leader or to lead the team personally;
5) to resolve issues regarding challenges (rejections) declared to subordinate prosecutor, investigator, or the officer of the body of inquest, and also their self-rejections;
6) to give written instructions to subordinate prosecutor, investigator, and the body of inquest on the decisions passed and on implementation of investigatory and other procedure actions;
7) to resolve objections, prescribed by this Code, brought by the body of inquest and its employee, the investigator, who disagree with the instructions of inferior prosecutor, conducting the procedure management of the investigation;
8) to cancel illegitimate and ungrounded resolutions of the inferior prosecutor, the investigator, the body of inquest, and its officer and also the instructions of the inferior prosecutor;
9) to resolve the appeals against the decisions and actions of the subordinate prosecutor, investigator and the body of inquest, with the exception of appeals the consideration of which is in the competence of the court;
10) to dismiss inferior prosecutor, the investigator, and the officer of the body of inquest from further participation in the implementation of criminal proceedings on that case, if they have violated the law during the investigation of the case;
11) to apply to the appropriate bodies for deprivation from immunity for criminal charge of persons, possessing that immunity, if these persons are subject to involvement in the criminal case as accused;
12) to return criminal cases to the investigator and the body of inquest with his/her obligatory instruction on implementation of additional investigation;
13) to cancel the decision of the body of inquest or the investigator to suspend the case, and other decisions, in cases envisaged in this Code;
14) to approve the criminal information, and for the criminal cases with respect to the persons, committed crimes in the state of insanity or became insane, the final decision [act].
15) To forward the case to the court for investigation.
3. The prosecutor, during administration of the procedural management, is also entitled to:
1) pass separate necessary decisions personally and to conduct separate investigatory and other procedure decisions, and also the consideration of the cases in their full volume;
2) to receive from the body of inquest data on the conduct of operative-investigatory activity and the undertaken measures on the disclosure of crimes, on revealing of disappeared persons and lost property;
3) to demand documents and materials, which might contain data on accidents and the persons involved in it;
4) to give to the body of inquest written instructions, obligatory for them, on the implementation of operative-investigatory measures in connection with the criminal case proceedings;
5) to apply to the court in order to select arrest as a measure securing the appearance and to extend arrest, to impose arrest upon the arrest of communications, telephone conversations, postal, telegraph and other messages, and for warrants for wire-tapping the telephone conversations, searching apartments;
6) to refuse from the criminal charge of the accused, to suspend the criminal proceedings or to terminate the criminal charge;
7) to assign the body of inquest the execution of the resolutions on detention, bringing to court, arrest, the implementation of other procedure actions, and also to receive immediate assistance upon from the body of inquest, for implementation of investigatory and other procedural actions;
8) to undertake measures for the protection of the injured, the witness, and other persons participating in the criminal proceedings;
9) to address the court with motions, prescribed by this Code;

10) to release the persons, imprisoned without legitimate bases or without necessity;
11) to cancel the arrest of communications, telephone conversations, postal, telegraph and other messages when the necessity for such arrest terminates.
. The prosecutor, during the pre-trial proceeding of the criminal case, exercises also other powers, prescribed by this Code.
***(amendments and additions in article 53 dated 25.05.06 HO-91-N, amendments and additions 22.02.07 HO-129-N)***

**Article 54. Powers of the Prosecutor During Consideration of the Criminal Case or Materials in the Court**
1. During consideration of the criminal case by the court, the prosecutor:
1) declares challenges;
2) brings motions;
3) expresses opinion regarding the motions of other participants of the trial;
4) ensures the presentation to the court of the evidences; gives to the body of inquest mandatory assignments for the submission of the evidence to court;
5) participates in the examination of case materials;
6) objects against unlawful actions of other party;
7) objects against unlawful, groundless actions of the presiding person;
8) requests the inclusion into the protocol of court session of records regarding circumstances mentioned by him;
9) exercises the right to dismiss criminal charge against the accused;
10) announces the indictment in the court, makes the opening and closing speeches and a remarks in the court of first instance and the appellate court, and be present at the session of the Cassation Court;
11) appeals the verdict and other court decisions in cases prescribed by this Code;
12) exercises other powers, prescribed by this Code.
2. The prosecutor, participating in the court session is obligated to:
1) To obey to the order in the court session and observe the legitimate instructions of the presiding person;
2) Exercise other powers, prescribed by this Code.
3. Participation of the prosecutor in court is mandatory during consideration of criminal cases.
(additions in article 54 dated 13.06.06 HO-67-N)

**Article 55. The Investigator**
1. Investigator is a state official, who is authorized to conduct investigation of the criminal case within the limits of his/her competence.
2. The investigator is authorized to prepare materials on the event of the crime and in accordance with the rules of subordination established by this Code, the investigator accepts the case for his/her proceedings or forwards it to other investigator or the body of inquest; the investigator can institute a criminal case during his proceedings, if an event of a new crime by another person has been discovered. The investigator is also entitled, in accordance with the provisions of this Code, to reject the institution of the proceedings of the criminal case.
3. After accepting the criminal case for his/her proceeding, the investigator, for the purpose of comprehensive, full and objective investigation shall independently lead the course of investigation, make necessary decisions, conduct investigatory and other procedural actions in accordance with the provisions of this Code with the exception of cases, when criminal procedure law stipulates to receive warrants from the prosecutor. The investigator bears responsibility for the lawful and timely implementation of investigatory and other procedural actions.
4. The investigator, in particular, is authorized to conduct the following:
1) Prior to the institution of the criminal case, to conduct the examination of the site and to appoint expert inquiry;
2) To interrogate the suspect, the accused, the injured, the witness, appoint expert examination, conduct observations, searches, seizures, and other investigatory actions;
3) Undertake measures for the compensation of the damage caused to the injured;
4) Request documents and materials of the case, which may contain data on accidents and the persons involved in it;
5) Request the conduct of revision, inventory, institutional expert examination, other check up actions;
6) Receive from the body of inquest, in connection with the prepared materials and the case under investigation, data on the implementation of operative-investigatory actions and the measures undertaken for disclosure of the crime, finding disappeared persons and lost property;
7) Give to the body inquest mandatory written assignments on implementation of operative-investigatory measures in connection with prepared materials and proceedings of the criminal case;

8) Assign to the body of inquest the fulfillment of resolutions on detention, bringing to court, arrest, conducting of other procedural actions, and also receive without delay from the body of inquest facilitation at the execution of investigatory and other procedure actions;
9) When receiving a report from the body of inquest about a committed crime, to go to the site of the crime and to get involved in the investigation of the case by means of institution of a criminal case or undertaking the instituted case in one's proceedings.
10) Assign the body of inquest the execution of separate investigatory actions;
11) Summon persons as witnesses;
12) Draw in for the participation [in the actions] the witnesses to the search, interpreters, translators, specialists and experts;
13) Detain the person suspected in crime commitment;
14) Pass resolution on impleading the person to the case as the accused, put forward charges and to inform the prosecutor within 24 hours;
15) Recognize respective persons as the injured, civil plaintiff, civil defendant;
16) Ensure the appointment of lawyers in the capacity of defense attorneys and to permit the persons to participate in the capacity of defense attorneys and the representatives;
17) Dismiss defense attorneys and representatives from the participation in proceedings of the criminal case, if circumstances are revealed which exclude their participation in the criminal proceedings, as mentioned in article 93 this Code;
18) Exempt respective persons from the payment for the legal counsel;
19) Resolve challenges declared to the witness to the search, the translator and the interpreter, the specialist, the expert;
20) Resolve motions of persons participating in criminal proceedings, and also applications and requests submitted by other persons;
21) Resolve the complaints of the persons participating in criminal proceedings, within the limits of his/her competence;
22) Pass resolutions on the selection, alteration, cancellation of the precautionary measures and on implementation of other measures of procedural compulsion, with the exception of arrest; release upon his/her resolution the suspect and the accused kept in detention after expiration of the prescribed period;
23) Pass resolution on the suspension of criminal proceedings;
24) Appeal to the court with motions: on selection of arrest with respect to the accused as a precaution measure and on prolongation of the period of his/her detention; on imposing arrest on telephone conversations, postal, telegraph and other communications wire-tapping, with motion on the permission for search of the apartment;
25) Cancel the arrest on telephone conversations, postal, telegraph and other communications and wire-tapping, in case the necessity for such action ceases to exist;
26) Appeal any illegitimate instruction of the prosecutor, without suspending its execution;
27) Appeal instructions of the prosecutor to a superior prosecutor without executing it in case of disagreement with the instructions on calling the person as accused, on qualifying the action and on the volume of indictment, on sending the case for taking the accused to court or on abating the case;
28) Pass resolution on abatement of the criminal proceedings and on termination of criminal charge;
29) Prepare and present for the approval of the prosecutor the indictment, and as for criminal cases with respect to persons, committed actions forbidden by criminal law in the state of insanity or who has fallen into such state after the accomplishment of the action, the final act.
5. The investigator is obligated the legitimate instructions of the prosecutor.
5.1 The decision of the investigator during the pre-trial criminal case proceeding made within the scope of his authorities should be mandatory executed by all organizations, authorities and citizens.
6. The investigator also carries out other authorities envisaged in this Code.
***(amendments and additions in article 55 dated on 5.05.06 HO-91-N, amendments 21.02.07 HO-93-N)***

**Article 56. Bodies of Inquest**
The following are the bodies of inquest:
1) the police;
2) the commanders of military units, the heads of military institutions, regarding the cases of military crimes, and also regarding the cases of the deeds, committed on the territory of military units or incriminated to the conscripts;
2.1 The military police: regarding the cases within their competencies
3) The bodies of state fire control: regarding the cases on fires;

4) The state tax bodies: regarding the tax crimes ;
5) The custom's bodies: regarding the cases on smuggling;
6) The national security bodies: regarding the cases within their competence.
7) The agencies of criminal execution: regarding the criminal offence implemented within the territory of the agency
8) The aircraft commander: regarding the criminal offence implemented in the craft during the flight
***(additions in article 56 dated on 07.03.00 HO-39, 25.05.06 HO-91-N, 21.12.06 HO-15-N, 22.02.07 HO-86-N, edited on 09.04.07 HO-144-N)***

**Article 57. Powers of the Body of Inquest**
1. The head of the body of inquest personally, and also with the assistance of the officer of the body of inquest ensures the exercise of the powers of the body of inquest.
2. The body of inquest executes the following:
1) Undertakes the necessary operative-investigatory and criminal procedure measures for detection of the crime and the persons, who conducted it, for prevention and the suppression of the crime;
2) Implements examination of the crime site based on prepared materials and appoints expert inquiry prior to institution of the criminal case,.
3) Institutes a criminal case, undertakes the proceeding of the case or sends it by subordination, or rejects the institution of the criminal case, as envisaged in this Code, the copy of the decision to institute or reject the case is forwarded to the prosecutor within 24 hours.
4) Immediately informs the prosecutor or the investigator about the revealed crime and the initiated inquest;
5) After having instituted the criminal case, to discover the criminal, the traces of the crime, implements urgent actions, examination, searches, monitoring of correspondence, mail, telegrams, etc., wire-tapping, seizures, investigation, arrest of the suspect and interrogation, and questioning of the injured and the witness, cross-examination, appoints expert inure;
6) Within 10 days after the institution of the criminal case, and in the case of the discovery of the criminal and impleading, the case is forwarded to the investigator;
7) The instructions of the prosecutor are carried out based on the cases under consideration of the investigator;
8) Registers statements made about committed crimes;
9) Brings to the investigation the persons suspected in the crime, examines and searches them, and sets free the persons detained without sufficient grounds;
10) Allows the prosecutor to inspect the activities of inquest body;
11) Provides the prosecutor and the investigator within their authority, necessary information demanded by them;
12) Takes measures to compensate the damages inflicted by the crime;
13) Interviews the witnesses of the case, familiarizes himself with the circumstances of the case, and the documents and cases which can contain information on the incident and persons related to it;
14) Demands contain information on the incident and persons related to it.
15) Demands to conduct checks, inventorizations, etc.
16) Suspends the proceedings of the criminal case, and the copy of the decision forwards to the prosecution within 24 hours.
17) Organizes the implementation of the legitimate instructions of the court.
18) Carries out other actions to which he is authorized by this Code.
3. Only the head of the body of inquest can use the authorities of the body of inquest, institute the criminal case, reject institution of criminal case, suspend the criminal case proceedings, arrest the suspect, or apply means of securing the presence of the suspect, to eliminate or change these means, to apply to the court with a motion to implement operative-investigatory measures.
4. The head of the body of inquest is entitled to instruct the officer of the inquest body to conduct inquest of the case, to give him mandatory written instruction for implementation of certain investigatory actions, to transfer the case from one officer to another, to instruct several officers to investigate the case, to participate in the inquest, and to conduct inquest personally.
5. The instructions of the prosecutor on the criminal cases, given pursuant to the rules, established by this Code are obligatory for the head of the body of inquest.
6. The body of inquest implements other authorities envisaged in this law.
***(amendments and edits in article 57 dated on 25.05.06 HO-91-N, additions dated on 21.02.07 HO-93-N)***

**Article 58. The Injured**

1. The person is recognized as the injured, in respect to whom bases are available to suppose, that a moral, physical or proprietary damage has been caused to him/her directly by a deed forbidden by Criminal Code. A person also is recognized as aggrieved, to whom moral or physical damage might be directly caused, if the deed, forbidden by the Criminal Code would have been finished.
2. The decision on recognition as an injured is passed by the body of inquest, the investigator, the prosecutor or by the court.

**Article 59. The Rights and Obligations of the Injured**
1. The injured has the right, in the manner prescribed by this Code:
1) to know the essence of the indictment;
2) to give evidences;
3) to give explanations;
4) to present materials for the inclusion into the criminal case and examination;
5) to declare challenges;
6) to declare motions;
7) to object against the actions of the bodies of criminal charge and to demand on inclusion of his/her objections into the protocol of the investigatory or other procedure action;
8) to get acquainted with the protocols of the investigatory and other procedure actions, in which he/she participated, and to submits remarks on the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory or other procedure action, the inclusion into the protocol of the mentioned action or the court session the records on the circumstances, which, upon his/her opinion, have to be mentioned; to get acquainted with the protocol of the court session and to bring remarks on it;
9) to get acquainted with all materials of the case, from the moment of accomplishment of the investigation, make copies from them and to write out from the case any data in any volume;
10) to participate in the sessions of the court of first instance and review court;
11) to receive upon his/her request, free of charge copies of the decisions on the abatement of criminal proceedings, on inclusion into case as an accused, the copy of the indictment or final act, and also the copy of verdict or other final decision of the court;
12) appeals the actions and decisions of the body of inquest, the investigator, prosecutor, the court, including the appeal of the verdict and other final court decision, as established in this Code;
13) reconciles with the suspect and the accused in cases, prescribed by this Code;
14) objects to the appeals of other participants of the trial regarding the verdict or other final court decision;
15) receives the compensation, stipulated by law, of the damage caused by unlawful actions;
16) receives the compensation of expenses incurred during the criminal proceedings back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the documents, belonging to him/her; receives back the property belonging to him/her seized from the person, conducted a deed forbidden by the criminal law;
17) get back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the documents, belonging to him/her;
18) to have a representative and to terminate the powers of representative.
2. The injured has the following obligations:
1)To arrive upon the call of the body, conducting criminal proceedings;
2) To give evidences upon the demand of the body, conducting criminal proceedings;
3) To present the items, documents and also samples under his/her discretion for the comparative study upon the demand of the body, conducting criminal proceedings;
4) To be subjected to examination upon demand of the body, conducting criminal proceedings on the crime supposedly committed with respect to him/her;
5) To be subjected, upon the demand of the body conducting criminal proceedings, to the medical investigation in order to check the ability to perceive and to reproduce correctly the circumstances, subject to discovery in criminal case, if forcible arguments are available to suspect the lack of such abilities;
6) To obey the legitimate instructions of the prosecutor, the investigator, the body of inquest, obeys the legitimate instructions of the presiding person;
7) To observe the order at the court session.
3. The injured has also other rights and bears other obligations, prescribed by this Code.
4. The aggrieved enjoys the rights belonging to him/her and executes the obligations imposed on him/her personally or, if it is corresponding to the nature of respective rights and obligations, through a representative. The rights of the

juvenile or incapable aggrieved are exercised instead of them, by their legitimate representative, in the manner, prescribed by this Code.
5. A legal entity, to which moral or material damage was caused by the crime, can be recognized as the inured party. In this case the rights and obligations of the aggrieved party are exercised by the representative of the legal entity.
***(amendments in article 59 dated on 18.02.04 HO-34-N, 25.05.06 HO-91-N)***

**Article 60. Civil Plaintiff**
1. A physical or legal entity, which prosecutes a claim during the proceedings of the criminal case, with respect to which sufficient bases are available to assume, that a material damage, subject to compensation in the manner of criminal proceedings, was caused to the latter upon a deed forbidden by Criminal Code, is recognized as civil plaintiff.
2. The decision on recognizing as civil plaintiff is passed by the body of inquest, the investigator, the prosecutor or the court.

**Article 61. The Rights and Obligations of Civil Plaintiff**
1. The civil plaintiff, with a purpose of the support of the claim prosecuted by him/her, has the following rights in the manner prescribed by this Code:
1) to know the essence of the indictment;
2) to give explanations on the claim submitted by him/her;
3) to present materials for the inclusion in the criminal case and examination;
4) to declare challenges;
5) to declare motions;
6) to object against the actions of the bodies of criminal charge and to demand on inclusion of his/her objections into the protocol of the investigatory or other procedure action;
7) to get acquainted with the protocols of the investigatory and other procedure actions, in which he/she participated, and to submits remarks on the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory or other procedure action, the inclusion into the protocol of the mentioned action or the court session the records on the circumstances, which, upon his/her opinion, have to be mentioned; to get acquainted with the protocol of the court session and to bring remarks on it;
8) to get acquainted with all materials of the case, from the moment of accomplishment of the investigation, make copies from them and to write out from the case any data in any volume;
9) to participate in the sessions of the court of first instance and appellate court;
10) to address the court with a speech and a remark;
11) to receive upon his/her request, free of charge copies of the indictment or final act, and also the copy of verdict or other final decision of the court;
12) to appeal the actions and decisions of the body of inquest, the investigator, prosecutor, the court, including the appeal of the verdict and other final court decision;
13) to recall any objection given by him/her or his/her representative;
14) to issue objections, in the part regarding the claim submitted by him/her, on the appeals of other participants of the trial on verdict or other final decision of the court;
15) to express at the court session opinions regarding the motions and proposals of other participants of the trial;
16) to protest against illegitimate actions of other parties;
17) to object against the actions of the presiding person;
18) to have a representative and terminate the powers of representative.
2. The civil plaintiff has also a right in the manner, prescribed by this Code:
1) to refuse from the claim at any moment of the conduct of criminal proceedings;
2) to receive the compensation of the expenses, incurred during the proceedings of the criminal case;
3) to receive back the property, seized by the body, conducting criminal proceedings as a material evidence or on other bases, the originals of the official documents, belonging to him/her.
3. The civil plaintiff has the following obligations:
1) to arrive upon the call of the body, conducting criminal proceedings;
2) to ensure the presentation to the court of copies of the claim equal to the number of civil defendants;
3) to present the items, documents and also samples under his/her discretion for the comparative study upon the demand of the body, conducting criminal proceedings;
4) to obey the legitimate instructions of the prosecutor, the investigator, the body of inquest, to obey the legitimate instructions of the presiding person;

5) to observe the order at the court session.
4. The civil plaintiff can be summoned on as a witness.
5. The civil plaintiff has also other rights and bears other obligations, prescribed by this Code.
6. The civil plaintiff enjoys the rights belonging to him/her and executes the obligations imposed on him/her personally or, if it is corresponding to the nature of respective rights and obligations, through a representative. The rights of the juvenile or incapable aggrieved are exercised instead of them, by their legitimate representative, in the manner, prescribed by this Code.

## CHAPTER 14. CONCEPT, PURPOSE AND USE OF EVIDENCE

**Article 104. Concept of evidence**
1. In criminal cases any facts are evidences, based on which, and as provided by law, the inquest body, the investigator, the prosecutor and the court can determine whether or not crime has been committed, whether or not the crime has been committed by the accused, or whether or not the accused is guilty or innocent as well as other circumstances relevant to the case.
2. The following can be considered as evidence in criminal proceedings:
1) testimony of the suspect
2) testimony of the accused
3) testimony of the injured
4) testimony of witness
$4^{1}$) ttestimony of the accused or suspect related to the guild of the given case
5) testimony of convict's
6) expert's report
7) material/demonstrative evidence
8) records of court and investigative proceedings
9) other documents
3. Only facts and evidentiary materials obtained according to the requirements and in the manner prescribed by this Code are to be heard at criminal proceedings.
***(additions in article 104 dated on 25.05.06 HO-91-N)***

**Article 105. Facts inadmissible as evidence**
1. In criminal procedure it is illegal to use as evidence or as basis for an accusation facts obtained:
1)by force, threat, fraud, violation of dignity, as well with the use of other illegal actions;
2) by violation of the rights of the suspect and accused to defense and that of the additional guaranties prescribed by this Code to persons unable to use the language of the court proceeding;
$2^{1}$) by violation of the rights of the witness foreseen by part 5 of article 86 of the given Code
3)by person not entitled to conduct a given criminal case or carry out an investigation or any other legal actions;
4) from a person who is subject to exclusion from the criminal proceeding when he was or had to be aware of the existence of the circumstances for such an exclusion;
5) by violation of the investigatory or other essential court proceedings;
6) from any person who is unable to recognize a document or object, confirm its truth, and provide information about the circumstances of its origin and source;
7)seizure or from any source unannounced at the court hearing;
8) as a result of applying methods unacceptable for the principles of modern science.
2. Any violation of the constitutional rights, freedom of a person and citizen, or of any requirements of this Code in the form of a restriction or elimination of the rights guaranteed by law to the persons involved in the case, that influenced or could have influenced the reliability of the facts, shall be considered an essential violation in the process of obtaining evidence.
3. If the evidentiary importance of any material is lost due to the violation of the requirements of the Criminal Code by the prosecution, it shall be considered evidence if the defense so petitions. This evidence is to be considered relevant exclusively to the case of a given suspect or accused.
***(additions in article 105 dated on 23.05.06 HO-104-N)***

**Article 106. Establishment of the evidence inadmissibility**

1. The inadmissibility of facts as evidence as well as their restricted use in the proceeding shall be established by either the body which conducts the proceeding or one of the sides.
2. The acceptability of the evidence shall be substantiated by the side which obtained the evidence. If the evidence was obtained in accordance with the requirements/regulations of the present Code, the grounds for the inadmissibility of the evidence are to be presented by the side which argues its acceptability.

**Article 107. Circumstances which are subject to Proof**
The following shall be determined during the proceeding solely on the basis of the evidence:
1) The facts and circumstances of the incident (the time when committed, the venue, method, etc.);
2) Involvement of the suspect and accused in the incident;
3) Features of crime provided by the Criminal law;
4) The guilt of a person alleged to have committed an action forbidden by Criminal law;
5) Mitigating or aggravating circumstances provided by the Criminal law;
6) Circumstances on the basis of which a person involved in a case or any other person involved in a criminal proceeding lays his claims if not provided otherwise by law
***(amendments in article 107 dated on 25.05.06 HO-91-N)***

**Article 108. Circumstances determined in case of availability of certain evidence**
In criminal procedure, the following circumstances are to be determined only upon availability and preliminary examination of the following evidence:
1) Cause of death and nature of health damage - report of the expert in forensic medicine is to be presented;
2) Incapability of the accused to control and realize the nature and importance of his actions (inaction), their being dangerous at the time of the incident as a result of mental disease, temporary mental depression, other mental incompetence or mental alienation - report of the experts in forensic psychiatry and psychology is to be presented;
3) Incapability of the witness or injured to perceive and reconstruct the circumstances to be determined at the criminal proceeding as a result of mental disease, temporary mental depression, other mental incompetence or mental alienation - report of the experts in forensic psychiatry is to be presented;
4) Information on the injured, suspect, accused of reaching a certain age if it is relevant to the case, the document asserting the age is to be presented, if it is not available, a report of the experts in forensic medicine and psychology is to be presented;
5) Availability of the previous conviction(s) and sentence(s) of the suspect and the accused - corresponding document and if possible a copy of the court decision must be submitted.
***(amendments in article 108 dated on 25.05.06 HO-91-N)***

## CHAPTER 15. TYPES OF EVIDENCE

**Article 109. Testimony of the Suspect**
1. Testimony given by the suspect in written or oral form at the pre-trial proceeding conducted in the manner prescribed by this Code is the information provided by him.
2. The suspect is entitled to testify about suspicions against him as well as about circumstances and evidence known to him, relevant to the case.

**Article 110. Testimony of the Accused**
1. Testimony given by the accused in written or oral form at the pre-trial proceeding as well as in court conducted in the manner prescribed by this Code is the information of the accused.
2. The accused is entitled to testify about the accusation brought against him as well as about circumstances and evidence known to him, relevant to the case.

**Article 111. Testimony of the Injured**
1. Information given by the injured in written or oral form at the pre-trial proceeding as well as in court conducted in the manner prescribed by this Code is the testimony of the injured.
2. The injured may be interrogated about any circumstances which need to be proved for the case as well as about his relations to the suspect and the accused. If the injured is unable to indicate the source of his information, such information shall not be considered.

**Article 112. Testimony of the Witness**

1. Information given by the witness in written or oral form at the pre-trial proceeding as well as in court conducted in the manner prescribed by this Code is called testimony of the witness.
2. The witness may be interrogated about any circumstances relevant to the case including his relations with the accused, the injured and other witnesses. If the witness is unable to indicate the source of his information, such can not serve as a source.

**Article 113. Convict's testimony**
1. The convict's testimony in the pre-trial proceedings as well as in court, as established in this Code, during the interrogation in the written or oral form are the information provided by the latter.
2. The convict is entitled to testify about those circumstances of the case which are proved through his passed court verdict which came into force.

**Article 131.1. Testimony of suspect, or accused or offender in other criminal case**
1. The suspect's or accused or offendants's testimony in other criminal case during a pre-trial proceedings as well as in court as established in this Code, during the interrogation in the written or oral form are the information provided by the latter.

2. The suspect or accused or offendant in other criminal case can be examined as for the given or other criminal case within the frame of his guilt about any circumstances for which he has been involved in the
3. The examination of the suspect or accused or offendant in other criminal case should take place by the regulations defined by the code for the suspect or accused or offendant
***(additions in article 113[1] dated 25.05.06 HO-91-N)***

**Article 114. Expert's Report**
1. The expert's report shall consist of grounded conclusions about issues through the examination of the materials of the case, and shall be written form, based on the knowledge of the expert in the sphere of science, technology, crafts or art, in his competence.
2. The expert can be interrogated for the purpose of explanation of his conclusions.
3. The protocol of the expert's interrogation can not replace the expert's conclusions.

**Article 115. Material Evidence**
1. Objects which served as the crime instruments or have preserved traces of the crime or were objects of criminal actions as well as money, valuables and other objects and documents which can serve as means to discover a crime, determine factual circumstances, expose the guilty person, prove a person's innocence or mitigate responsibility are acknowledged to be material evidence.
2. An object shall be acknowledged as material evidence upon the decision of the body which carries out the criminal proceeding.
3. The court shall acknowledge an object as evidentiary material only if the possibility of its substitution or any change of the indications and qualities of the traces found on it, are eliminated upon receiving, fully describing, sealing and carrying out similar procedure, or in case the object is identified by the suspect, accused, injured or witness before being examined in the court.

**Article 116. Safe-keeping of material evidence and other objects**
1. Material evidence shall be kept with the criminal case, except for evidence which is unusually large in size which may be forwarded to enterprises, organizations or individuals to be maintained under their direct responsibility.
2. Precious stones and metals, foreign currency, money, checks, and securities confiscated while carrying out a criminal proceeding which may be considered material evidence for the corresponding criminal case may be, immediately upon being examined, are sent to enterprises of the State bank for maintenance as long as their individual characteristics have no evidentiary value.
3. Material evidence and other confiscated items, except perishable objects, are to be kept by the body which carries out the criminal case until the final verdict about its ultimate disposition rendered by the court or the body which carries out the criminal proceeding comes into legal force or the case is dismissed. In cases provided by this Code the decision about the material evidence may be carried out before the end of the criminal case.
4. If the argument about the rights for an object attached as material evidence is a subject to civil litigation, such an object shall be kept until the decision of the civil proceeding is final.

**Article 117. Ensuring safety of objects during the criminal proceedings**
1. While keeping or removing objects every measure shall be taken to prevent them from being lost, damaged, destroyed, touched or mixed with other objects.
2. While forwarding the case all the objects submitted for the case and those forwarded with the case as well as the disposition of material evidence not attached to the case shall be inventoried in the supplementary letter and in the document attached to the indictment. Material evidence is sent to the court in packaged and sealed form.
3. The received objects shall be compared with the information provided in the supplementary letter or the document attached to the indictment. Should a discrepancy be found, a protocol is to be created to that effect. Packaged and sealed materials are opened and examined only during criminal trial.

**Article 118. Decisions about material evidence made before the end of the criminal proceeding**
1. Before the end of the criminal proceeding the body which carries out the criminal proceeding shall return the following to the owner or legal possessor:
1) Perishable objects;
2) Objects needed in everyday life/daily use, on which confiscation is not extended by law;
3) Cattle and poultry; automobile or other means of transportation, if they are not subject to seizure on civil process or possible property recovery/confiscation, and court fees.
2. In cases when the owner or legal possessor of the objects enumerated in the first part of the present article is unknown or the return of the objects is impossible due to other reasons, the objects shall be submitted to corresponding organizations for realization, maintenance or care.

**Article 119. Decisions about material evidence made after the end of the criminal proceeding**
1. In the sentence of the court or the decision of the body which carries out the criminal proceeding about the dismissal of the case, the issue of material evidence shall be solved in accordance with the following rules:
1) Crime instruments which belong to the accused as well as objects which are subject to withdrawal from circulation shall be confiscated and forwarded to the corresponding institutions. Those which have no value shall be destroyed.
2) Items which have no value shall be destroyed, as established by law and if the interested parties petition to have the items returned to them.
3) Money and other valuables which cannot be legally possessed due to committing a crime or any other action prohibited by law shall be returned to the owners, possessors or their successors.
4) Money, items and other valuables obtained in an illegal way shall be used to cover the court expenses and damages of the crime, and if the person who suffered the damages is unknown, the money shall be forwarded to the state budget.
5) Documents which are considered material evidence shall be kept with the case or forwarded to the interested organization and citizens.

**Article 120. Consequences of the damage, destruction or loss of items**
1. The cost of an object damaged, destroyed or lost while conducting examination or other legal actions is included into court expenses.
2. Upon a verdict of acquittal or dismissal of the case, according to article 35, part 1, paragraphs 1-3, and part 2, the cost of the objects damaged or lost while conducting examination or other legal actions shall be reimbursed from the state budget.

**Article 121. Records of investigations and court proceedings**
1. Documents which contain information about circumstances relevant to the case made by the body which carries out the criminal proceeding in written form and in the manner provided by this Code are called records of proceedings.
2. The records of the following investigative and court proceedings conducted by the body of the criminal persecution, in accordance with the requirements of the present Code may be used as evidence:
1) Examination
2) Investigation
3) Identification
4) Exhuming
5) Confiscation

6) Search
7) Seizure of property
8) Interception of written, telephone, mail, telegraphic and other communication
9) Wire-tapping
10) Obtaining samples
11) Expert Investigation of samples
3. Records made while accepting a verbal statement about a crime, surrender, a confession of guilt, or while detaining or explaining to persons their rights and responsibilities may also be used as evidence.
4. If the record of the investigation is not complete, it cannot be completed by the testimony of the officer of the inquest body, investigator, or prosecutor, witness to the search, to serve as basis for accusation.

**Article 122. Other documents**
1. Any record registered on a paper, electronic or other media made in verbal, digital, graphic or other sign/symbol form which can provide information relevant to the criminal case is a document.
2. Documents which possess qualities mentioned in the first part of Article 115 of the present Code may also serve as material evidence.
3. Other documents are considered documents by decision of the body in charge of proceedings.

**Article 123. Attachment, maintenance and return of the documents**
1. The documents shall be attached to the materials of the criminal case by the body which carries out the criminal proceeding and kept with the case throughout the proceedings.
2. If the legal owner needs the documents confiscated or attached to the case for accounting, registration or other legal purposes, he shall be given the opportunity to use them temporarily or to make copies of them.
3. Six months after either the sentence of the court has come into legal force or the dismissal of the case by the body which carries out the criminal proceeding, the originals of the documents attached to the case shall be returned to their legal owners upon their request. However, a copy of the document the authenticity of which is certified by the investigator, prosecutor.

## CHAPTER 16. PROOF

**Article 124. Proof**
1. Proof includes collection, examination, evaluation of the evidence with the purpose of determining the circumstances necessary for a legal, grounded and fair resolution of the case.
2. The bodies of the criminal persecution shall be responsible for proving the existence of evidence aggravating the criminal responsibility and guilt of the accused.

**Article 125. Collection of evidence**
1. Evidence shall be collected in the process of inquest, investigation and court proceeding by carrying out investigatory and trial proceedings provided by this Code.

**Article 126. Verification of evidence**
1. Evidence collected for the case shall be subject to a thorough and objective examination. Examination consists of analyzing the obtained evidence, comparing it with other evidence, collecting new evidence, checking the sources of the obtained evidence.

**Article 127. Evaluation of evidence**
1. All evidences are subject to scrutiny concerning its admissibility, and the totality of the evidence obtained is a subject to scrutiny concerning its sufficiency for the determination of the case.
2. The officer of the inquest body, investigator, prosecutor or judge, governed by law, shall carry out a detailed, thorough and impartial evaluation of the totality of the evidence, based on their internal conviction.

## CHAPTER 25. INITIATION OF CRIMINAL CHARGE

**Article 175. The duty for initiation of criminal charge**
The prosecutor, the investigator, the inquest body must institute criminal charge, within their authority, provided there are reasons and grounds for the initiation of criminal charge envisaged in this Code.

**Article 176. The reasons for initiation of criminal charge**

1. The reasons for initiation of criminal charge are:

1) statements about crimes sent to the inquest body, investigator, prosecutor by physical persons and legal entities;

2) mass media reports about crimes;

3) the discovery of information about crime, material traces of crime and consequences of crime by the inquest body, the investigator, the prosecutor, the court and the judge in their line of duty.

**Article 177. The statements of physical persons about crimes**

1. The statements of physical persons about crimes can be written or oral.

2. The oral statement made about a crime during investigation or court trial is registered in the protocol of the investigation or the court session, respectively. In other cases separate protocols are written. The protocol must indicate the surname and the first name of the applicant, date of birth, home and work address, the relation to the crime and the source of information, as well as data about personal documents submitted by him. If the applicant has not submitted personal documents, other measures must be taken to check the information about the identity of the person.

3. If the applicant is 16 years old, he is warned about the responsibility for fraudulent representation which is confirmed by the signature of the latter.

4. The statement in the protocol is narrated in the first person.

5. The protocol is signed by the applicant and the recipient official.

6. Rules specified in paragraphs 1, 2, 4 and 5 of this Article are also extended to the statement made by the applicant about crime committed, in case of surrender.

7. A letter, a statement or other anonymous message about crime, unsigned or with false signature or written on behalf of fictitious person, cannot be a reason for initiation of criminal charge.

***(amendments in article 177 dated 25.05.06 HO-91-N)***

**Article 178. Statements by legal entities**

A statement by a legal entity must be in the form of an official letter, or confirmed telegram, telephone or radio message, e-mail, or other accepted form of communication. Enclosed to the message can be documents confirming the crime.

**Article 179. Mass media reports**

1. Reports on committed or prepared crimes, in press, on the radio, on TV, in documentary films, as well as reports forwarded to mass media and unpublicized, are considered mass media reports.

2. Mass media which publicized reports about crimes or sent to the media, as well as the authors of these reports must, at the request of the head of the investigating body, investigator, prosecutor, submit the materials in their possession confirming the report about the crime.

**Article 180. The examination procedure of reports about crimes**

1. Reports about crimes must be considered and resolved without delay, and when necessary to check the legitimacy of the reason for the initiation of criminal charge and the sufficiency of the grounds, no less than in 10 days after their receipt.

2. Within this period additional documents can be requested, explanations and other materials, as well as the examination of the locus criminis and expert examination.

**Article 181. Decisions made as a result of examination of statements about crimes**

In each case of the receipt of information about a crime, one of the following decisions is made:

1. on initiation of criminal charge;

2. on the dismissal of initiation of criminal charge;

3. on the transfer of the statement by subordination.

**Article 182. Procedure of initiation of criminal charge**

1. In case of availability of reasons and grounds for initiation of criminal charge, the prosecutor, the investigator, and the investigating body make a decision on initiation of criminal charge.

2. The decision must indicate: the reason and grounds for criminal charge, the article of the penal code by the elements of which the criminal charge is initiated, and the further progress of the case after initiation.
3. If at that moment the person injured by the crime is known, simultaneously with the initiation of the criminal charge this person is recognized as the injured party, and if a civil claim has been submitted at the same time with the statement about crime, that person is recognized as civil claimant, by the same decision.
4. The prosecutor sends a copy of the decision to initiate criminal charge to the physical person or the legal entity which reported about the crime.
5. At the same time, with the initiation of criminal charge, measures must be taken to prevent the crime, as well as to keep and preserve the traces of the crime, objects and documents, which can be significant for the case.

**Article 183. Initiation of a criminal case based on the complaint of the injured person**
1. Based on circumstances envisaged in part 1 of article 113, part 1 of article 114, part 1 of article 115, part 1 of article 116, article 117,; article 118, part 1 of article 119; part 1 and 2 of article 120; part 1 and 2 of article 121; part 1 of article 124; part 1 of article 128; part 1 and 2 of article 135; part 1 and 2 of article 136; part 1 of article 137 part 1 of article 158; article 174, part 1 and 4 of article 177; part 1 of article 178; part 1 of article 179; part 1 of article 181; part 1 of article 183; part 1 of article 184; part 1 of article 185; part 1 and 2 of article 186; article 197; part 1of article 213; part 1of article 242 of the Criminal Code of the Republic of Armenia, the case is initiated only based on the complaints of the injured, and in case of his reconciliation with the suspect or the accused, the case is subject to termination. Reconciliation is allowed until the court's retreat to the conference room to adopt a verdict.
2. ***(part 2 void of force as of 21.02.07 HO-93-N)***
3. The deviations from part 1 of the given article can be defined by International Agreements of the Republic of Armenia
***(article 183 edited on 14.12.04 HO-57-N, edited and amended on 21.02.07 HO-93-N)***

**Article 184. Initiation of new case based on the materials of a criminal case**
1. The inquest body, the investigator, the prosecutor make a decision to initiate a new case based on the materials of a criminal case under his examination and to separate it in separate proceedings, and the court appeals for such a decision to the prosecutor, provided another crime, not related to the crimes incriminated to the defendant has been revealed which was committed not by the defendant but by some other person, without the participation of the defendant.
2. The decision must indicate: the grounds for initiation of case and separation, episodes and persons against whom the new case was initiated and separated, the article in the penal code by which the case was initiated and separated in separate proceedings, the decision to send the separated case for further pretrial examination or to undertake the case in one's own proceedings.
3. The list of separated materials, in the originals or copies, is included or attached to the decision: decisions, protocols, documents, real evidence.
4. The first copy of the decision and the attached list of the separated materials are included in the initial case and the second copy in the separated case.
5. The defendant, his legal representative and lawyer, as well as the injured party, civil claimant, civil defendant and their representatives who participated in the initial proceedings, are informed about the separation of the new case and its further progress.
***(additions in article 184 dated on 25.05.06 HO-91-N)***

**Article 185. Dismissal of initiation of criminal charge**
1. In case if illegitimacy of the reason or lack of grounds for initiation of criminal charge, the prosecutor, the investigator, the inquest body make a decision to dismiss the initiation of criminal charge.
2. The copy of the decision is sent to the physical person or legal entity which reported about the crime.
3. The decision dismissing the initiation of criminal charge can be appealed to higher prosecutor or in the court of appeal.
4. Based on the complaint concerning the dismissal of initiation of criminal charge, the higher prosecutor eliminates the decision appealed against, initiates criminal charge and sends it for preliminary examination to the investigator or takes the case under his own consideration or confirms the legitimacy of dismissal of the initiation of the criminal charge.

5. Based on the complaint concerning the dismissal of initiation of criminal charge, the court of appeal eliminates the decision appealed against, or confirms its adequacy. The elimination of the decision appealed against makes the initiation of the case by the prosecutor mandatory.
***(additions, amendments and edits in article 185 dated on 25.05.06 HO-91-N, additions dated on 21.02.07 HO-93-N, amendments dated on 22.02.07 HO-129-N)***

**Article 186. Transfer of statements about crime by subordination**
The official authorized to initiate a criminal case is entitled to transfer the statement about crime, without initiation of case, by subordination only in case when the crime was committed outside the given district, when inspection activities are necessary in the locus criminis to make a decision on the initiation of criminal charge.
***(article 186 edited on 25.05.06 HO-91-N)***

**Article 187. The progress of the criminal case after initiation of the criminal case.**
After initiation of the criminal case:
1. The prosecutor sends the case for investigation to the investigator or takes it under his own consideration.
2. The investigator performs investigation, immediately advising the prosecutor.
3. The head of the inquest body instructs the officer of the inquest body to perform immediate investigation activities or performs them personally, the decision on initiation of criminal case is immediately sent to the prosecutor for confirmation.
4. ***(amendments in article 187 dated on 22.02.07 HO-129-N)***

## CHAPTER 26. GENERAL CONDITIONS FOR INVESTIGATION

**Article 188. Mandatory nature of investigation**
1. Investigation is mandatory for all cases.
2. Inquest can be considered the initial phase of criminal proceedings within 10 days after initiation of the criminal case.
***(article 188 edited on 25.05.06 HO-91-N)***

**Article 188.1. General conditions of investigation**
1. It is forbidden to conduct investigation at night times with an exception of emergency cases
2. It is forbidden to apply violence, threat or any illegal activity as well as promoting a life and health threatening conditions towards the participants of the investigation during the investigation proceedings
3. While involving the accused, suspect, witness, injured, civil petitioners, their representatives or any other person forseen by articles 81, 83-86 of the given code the investigator should identify their state of being,, explain their rights and responsibilities as well as the general terms of investigation process. If the injured, witness, expert or translator are participating in the investigation proceedings the investigator should then inform them correspondingly on the criminal liabilities foreseen by articles 338 and 339 of the Criminal Law of the Republic of Armenia.
4. The investigator has a right to involve authorities from operative investigation structures for implementing investigation proceedings. This should be noted in relevant investigation protocol
***(additions in article 188[2] dated on 23.05.06 HO-104-N)***

**Article 189. Investigation bodies**
Investigators of the Special Investigatory Service, Police investigators, investigators of the Ministry of Defense, National Security bodies, Tax and Customs bodies conduct investigation of criminal cases.
***(amendments in article 189 dated 25.05.06 HO-91-N, 22.02.07 HO-129-N, 02.11.07 HO-248-N, 28.11.07 HO 270-N)***

**Article 190. Investigative subordination**
1. Police investigators conduct investigation concerning the crimes specified in articles 104-164, 166-187, 191, 192, 195-201, 204, 212-214, 218, 222, 223, 225, 225.1, 227-232, 235-249, 251-298, 300, 308-328, 331-332.2, 336, 341, 343-345.1, 347-355112-121; 123-124; 128; 135-137; 166-167; 170-171; 173-187; 190-192; 195-199; 202; 204; 212-

214; 233-239; 242-247; 251-276; 292; 294-298; 321-326; 354-355 of the Criminal Code of the Republic of Armenia.

2. Police or tax investigators conduct investigation concerning the crimes specified in Articles 188, 189, 193, 194, 202, 203, 205-211 of the Criminal Code of the Republic of Armenia.

3. Investigators of national security bodies conduct investigation concerning the crimes specified in Articles 188-189; 193-194; 203; 205-211 of the Criminal Code of the Republic of Armenia.

4. Investigators of national security bodies or customs bodies conduct investigation of criminal cases specified in Article 215 of the Criminal Code of the Republic of Armenia.

5. Investigators of the Ministry of Defense conduct investigation of crimes directed against the military service code as well as crime committed in military unit or towards military contractor services.

6. Investigators of the Special Investigatory Service conduct investigation of crimes committed by managerial officials of the legislative, executive or judiciary authorities, officials of special state authorities in the course of their official duties, as well as crimes specified in Articles 149, 150, 154.1, 154.2 of the Criminal Code of the Republic of Armenia.

Whenever necessary, the General Prosecutor of the Republic of Armenia can withdraw certain cases from other investigatory agencies and transfer them to the Special Investigatory Service, if such cases are connected with the crimes committed solely or in complicity by the officials specified by this part or if such officials have been recognized as injured.

7. Investigators who institute criminal case, conduct investigation thereof in respect of cases specified by parts 2 and 4 of this Article, except for cases when the prosecutor transfers the investigation of that case to other investigatory bodies.

8. Investigators of those investigatory agencies, which have disclosed such crimes in the course of their investigatory competencies conduct investigation of criminal cases specified in Articles 128, 165, 200, 208, 209, 216, 308-310, 314, 315, 333-335, 337-340, 342, 345 and 346 of the Criminal Code of the Republic of Armenia.

9. Investigators of national security bodies and customs bodies conduct investigation concerning the crimes specified in Articles 188, 189, 205, 206, 235, 263, 266, 268, 271, 272, 275 and 325 188-189; 193-194; 203; 205-211 of the Criminal Code of the Republic of Armenia if such crimes have been disclosed in the course of their investigatory competencies, except for cases when the prosecutor transfers the investigation of that case to other investigatory bodies. .

10. When investigation of cases conducted by different investigatory agencies is combined into one proceeding, or the investigation of disclosed crime belongs to other investigator's competency, which is not foreseen by the part 8 of this Article, the investigation competency is decided by the prosecutor.

The Special Investigatory Service can not investigate any case belonging to the competency of other investigators, except for the cases specified by part 6 of this Article.

***(amendments in article 190 dated on 19.03.99 HO-287, additions dated on 11.09.01 HO-215, amendments dated on 01.06.06 HO-61-N, edited on 25.05.06 HO-91-N, edited and amended on 22.02.07 HO-129-N)***

**Article 191. The place of investigation**

1. The investigation is conducted at the place where the crime was committed.

2. For reasons of fast and complete investigation, it can be conducted at the place where the crime was discovered, as well as at the place where most of the suspects, accused or witnesses are located.

3. When necessary to conduct investigation at another place, the investigator is entitled to conduct this activity personally or to delegate it to the investigator of the given locale or to the inquest body.

**Article 192. Beginning the investigation**

1. Investigation is conducted only when the decision to initiate criminal case has been made.

2. After the initiation of criminal case the investigator and the officer of the inquest body immediately start the investigation of the case.

3. If the investigator or inquest body initiated the criminal case, and the case was taken over by them, a joint decision is made on the initiation of criminal case. These proceedings document should immediately be forwarded to the prosecutor, not later than 24 hours.

**Article 193. The authority of the chief of investigation department**

1. The chief of investigation department:

1) instructs the investigator to conduct investigation, transfers the case from one investigator to another;

2) supervises the timeliness of actions of investigators concerning criminal cases they are in charge, the observance of investigation deadlines and detention periods, the execution of the prosecutor's instructions, as well as the instructions of other investigators.
3) instructs on the implementation of individual investigative activities;
4) delegates investigation to several investigators;
2. The chief of investigation department is entitled to participate in the investigation of cases taken over by an investigator, using the authorities of the investigator in this case.
3. The instructions given by the chief of investigation department on the criminal case can not restrict the initiative of the investigator and the rights specified in this Code. The instructions to the investigator are given in the written form and are mandatory for execution, however, they can be appealed to the prosecutor, except cases envisaged in part 4 of article 55, paragraph 27.
4. The instructions of the prosecutor are mandatory for the chief of investigation department.
In case of emergency the prosecutors's instructions can be given orally however the latter ones should be formulated in a written way not later than in 24 hours
***(article 193 edited on 25.05.06 HO-91-N)***

**Article 194. The investigation conducted by investigation group**
In case of complexity or large size of the case, the investigation can be delegated to several investigators, which is indicated in the decision to initiate criminal charge or a separate decision is made. The prosecutor or chief of investigation department is entitled to make such decision. The decision must indicate all investigators who have been instructed to conduct the investigation, including the head investigator of the group who takes over the case and supervises the activities of other investigators. The suspect, the accused, the injured person, the civil claimant and their representatives must be familiarized with the decision on conducting the investigation by a group of investigators and they are advised that they are entitled to challenge any investigator in the group.
***(amendments in article 194 dated on 22.02.07 HO-129-N)***

**Article 195. The authority of the head of the investigation group**
1. The head of the investigation group takes over the case, organizes the work of the investigation group, supervises the activities of other investigators.
2. Decisions concerning the joinder or disjoinder of criminal cases, the termination, suspension or resumption of proceedings, as well as the extension of investigation period, choosing arrest as measure to secure appearance of the defendant and the extension of its term are taken only by the head of the investigation group.
3. The decision to transfer a case to the court to discuss the indictment or enforcement of medical measures is made by the head of investigation group.
4. The head of investigation group is entitled to participate in the investigation activities conducted by other investigators, to conduct investigative activities in the case and to make decisions.
5. ***(additions in article 195 dated on 25.05.06 HO-91-N)***

**Article 196. The end of investigation**
1. The investigation is concluded with a decision to transfer the case to the court for indictment, enforcement of medical measures or termination of the criminal case.
2. After the inquest, the chief of the inquest body forwards the case to the investigator, about which an appropriate decision is made. Inquest is over when:
1) the inquest deadline is over;
2) the person who committed the crime appears before the expiration of the inquest deadline;
3) the prosecutor transfers the case under consideration of the investigating body to conduct investigation, or the investigator is involved into the investigation.

**Article 197. Investigation deadlines**
1. Inquest is over within 10 days after initiation of the criminal case.
2. Investigation of a criminal case must be over no later than in two months. This deadline is calculated from the day of initiation of the criminal case and is over when decision is made on forwarding the case to the court or dismissal of the case.

3. The time of familiarization with the materials by the defendant or his lawyer is not included into the case investigation deadline. If the defendant and his lawyer delay the familiarization with the criminal case on purpose and without good motives, the investigator can limit the familiarization deadline by his own decision.
4. The time when the investigation was suspended on the grounds specified in this Code, is not calculated in the investigation period.
5. The investigation period specified in this Code can be extended by the prosecutor, based on the argumented decision of the investigator.
6. The investigator must submit the argumented decision on extension of the investigation period to the prosecutor, at least 3 days before the expiration of the investigation deadline.
7. In case of restarting the investigation of the criminal case, conducting additional investigation as well as restarting the terminated case the investigation should be completed in one month accordingly starting the day after the final decision made on restarting the investigation of the criminal case, conducting additional investigation as well as restarting the terminated case the expansion of this deadline can be done in accordance with the procedure foreseen in part 5 of the given article
***(additions in article 197 dated on 25.05.06 HO-91-N)***

**Article 198. Mandatory elucidation and ensuring of rights for participants of the proceedings**
The prosecutor, the investigator, inquest body officer is obliged to elucidate the rights and duties to the suspect, the accused, the injured person, civil defendant, civil plaintiff and their representatives and other persons participating in the investigation activities, as well as the consequences for failure to carry out their duties.

**Article 199. Consideration and resolutions of petitions**
1. The prosecutor, the investigator, the investigating body is obliged to consider all petitions initiated by the participants of the investigation.
2. Written and oral petitions must be considered and resolved within five days. The investigator or investigating body officer must make an argumented decision on the complete or partial dismissal of the petition.

**Article 200. The obligation to reveal and eliminate the circumstances conductive to committed crime**
1. The prosecutor, the investigator, the investigating body, during the investigation are obliged to reveal the circumstances conductive to the committed crime and, when necessary, to submit a legal appeal to the appropriate legal entity or official on the elimination of these circumstances.
2. The appeals are liable to mandatory consideration, and within a month the body which forwarded these appeals must be informed about the results.

**Article 201. Prohibition to publicize the investigation data**
1. The investigation data is liable to publication only by permission of the body in charge of case proceedings.
2. When necessary, the investigator, the investigating body warns in written form the witness, the injured person, the civil plaintiff and civil defendant, their representatives, specialists, experts, translators, witnesses to the search, lawyers and other persons related to the case about their responsibility not to publicize investigation data without the permission.

## CHAPTER 31. SEARCH AND SEIZURE

**Article 225. Grounds for conducting search**
1. The investigator, having sufficient ground to suspect that in some premises or in some other place or in possession of some person, there are instruments of crime, articles and valuables acquired by criminal way, as well as other items or documents, which can be significant for the case, conducts a search in order to find and take the latter.
2. The search can also be conducted to find searched-for persons and corpses.
3. The search is conducted only by a court decision.
***(additions in article 225 dated on 25.05.06 HO-91-N)***

**Article 226. Grounds for seizure**

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

**Article 227. Persons present at search and seizure**

1. Search and seizure is done in the presence of attesting witnesses.
2. When necessary, an interpreter and an expert take part in the search and seizure.
3. When performing search and seizure, one must provide the presence of the person or the full-age members of his family where the search or seizure is conducted. If their presence is impossible, the representative of the apartment maintenance office or local administration is invited.
4. Search and seizure at the premises owned by enterprises, institution, organizations and military units is done in the presence of their representative.
5. The persons whose premises are searched and whose items are seized, as well as the attesting witnesses, experts, interpreters, representatives, lawyers are entitled to be present during all actions of the investigator, make statements which must be recorded in the protocol.

**Article 228. Procedure of search and seizure**

1. Based on search or seizure warrant, the investigator is entitled to enter apartments or other buildings.
2. Prior to the search or seizure the investigator must familiarize the searched person or the one from whom seizure is done, with the warrant about which a signature is taken from the latter.
3. When conducting a search the investigator or the expert can use technical devices about which a record is made in the search protocol.
4. The investigator is obliged to take measures not to publicize the fact of the search and seizure, as well as their results and the facts of the private life of the searched person.
5. The investigator is entitled to prohibit the persons present at the search or seizure site to leave the site, as well as prohibit communication between each other until the investigatory actions are over.
6. When conducting a seizure, after presenting and announcing the warrant, the investigator proposes to hand over the articles and documents subject to seizure of one's own accord, in case of refusal, compulsory seizure is done. If the searched-for articles (none official copy) are not discovered at the place indicated in the warrant, by discretion of the investigator and by court decision, a search can be conducted.
7. When conducting a search, after presenting and announcing the decision, the investigator proposes to hand over the articles and documents or the hiding person subject to seizure. If the latter are handed over of one's own accord, this is recorded in the protocol. If the searched for items and documents are not handed over or are handed over partially, or the hidden person does not surrender, a search is conducted.
8. All taken items and documents are presented to the participants of investigatory actions, are described in detail in the protocol and when necessary, are sealed with the investigator's seal.
9. When conducting a search and seizure the investigator is entitled to open closed premises and warehouses, if their owner refuses to open the latter of his own accord. One must avoid from damaging locks, doors and other objects without necessity.
10. ***(additions in article 228 dated 14.12.04 HO-28-N, 25.05.06 HO-91-N)***

**Article 229. Personal search**

1. When conducting searches in the premises, in case of sufficient grounds, the investigator is entitled to conduct personal search and take items and documents possessed by the person at whose premises the investigatory actions are conducted, found in his personal effects, clothes or on the body which can have probatory value.
2. Personal search can be conducted without warrant in the following cases:
1) when arresting the suspect, and bringing him to the police or other law enforcement institution;
2) when using arrest as a measure to secure the appearance of the suspect or the accused;
3) when there are sufficient grounds to suspect that the person in the given premises where the search is made, may conceal documents or other items which have probatory value for the case.

3. Personal search can be conducted by the investigator, with the expert and attesting witness, provided they are of the same sex as the searched person.
***(article 229 edited on 25.05.06 HO-91-N)***

**Article 230. Search and seizure protocol**

1. When the search and seizure are over, the investigator writes an appropriate protocol which must indicate the place where investigatory actions were conducted, the time, the considerations, whether the searched for items and persons were surrendered of one's own accord, the name, surname, position of the person who conducted the search, the names, surnames and addresses of attesting witnesses, as well as the surnames, position and the legal status of other participants of the search.
2. All the seized articles must be indicated in the protocol of investigatory activities, mentioning their quantity, size, weight, individual features and other peculiarities.
3. If attempts were made to eliminate or hide the revealed articles or documents during investigatory actions, this fact is indicated in the protocol.
4. The investigator is obliged to familiarize all participants of investigatory actions with the protocol and they are entitled to demand for their comments to be incorporated in the protocol.

**Article 231. The mandatory presentation of the copy of the search and seizure protocol**

1. The copy of the search and seizure protocol with a signature is presented to the person in whose premises the investigatory actions had been conducted or to the full-age members of his family, and in case of their absence, to the representative of the apartment maintenance office in whose area the investigatory actions were conducted.

2. If the seizure or search took place in the territory of enterprise, entity, military unit or organization the copy of the protocol should be submitted to the respective representatives.

## CHAPTER 32. SEIZURE OF PROPERTY

**Article 232. Seizure of property**

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

**Article 233. Grounds for seizure of property**

Seizure of property can be applied by the bodies conducting criminal proceedings only in the case when the materials collected for the case provide sufficient ground to suspect that the suspect, the accused or other person who has the property, can hide, spoil or consume the property, which is liable to seizure.

1.1 During the investigation of criminal case on the basis of articles 104, 112-113, 117, 122, 131-134, 166, 168, 175-224, 233-235, 238, 261-262, 266-270, 281, 284, 286-289, 291-292, 295, 297-298, 308-313, 329, 352, 375, 383 and 389 of the Criminal Code of the Republic of Armenia, the prosecuting body shall impose seizure on the property derived or obtained, directly or indirectly, through commission of those offences, including income or other benefits, instruments used or intended to be used in the commission of those offences, immediately after their disclosure. Seizure on that property will be imposed regardless of whether it is owned or held by a defendant or a third party.

2. Seizure of property is carried out based on the decision of the investigating body, the investigator or the prosecutor.
3. The decision on the seizure of property must indicate the property subject to seizure, the value of the property based on which it sufficient to impose seizure to secure the civil claim and court expenses.

4. When necessary, if there is a grounded suspicion, that the property will not be surrendered for seizure of one's own accord, the prosecutor appeals to the court for a search permission, as established in this Code.
***(additions in article 233 dated on 28.11.06 HO-207-N)***

**Article 234. Valuation of the property to be seized**

1. The value of property to be seized is determined at market prices.
2. The value of the property which is seized as provision for civil claim or court expenses initiated by the prosecutor or civil plaintiff must be adequate to the amount of the claim.
3. When determining the portion of property to be seized from a number of accused or persons responsible for the actions of the latter, the degree of participation in the crime is taken into account however to provide a civil claim, the property of one of the relevant persons can be seized in full amount.

**Article 235. Procedure of implementation of the decision for property seizure**

1. The inquest body, the investigator or the prosecutor hand over the property seizure decision to the property owner or the manager and demands the submission of property. When the demand is rejected, an enforced seizure is done.
2. After the end investigation, by court ruling, the marshal of the court implements the seizure of property.
3. When imposing property seizure, when possible, an expert in commodity is involved who determines its approximate value.
4. The owner or the manager of the property is entitled to decide which articles or valuable items should be seized first to provide for the amount indicated in the property seizure decision.
5. The investigating body, the investigator or the prosecutor write a protocol on property seizure and the court marshal compiles other documents envisaged in law. The protocol (document) enumerates the whole seized property, accurately indicating the name, quantity, means, weight, degree of wear and tear, other individual features and when possible its value; it indicates what property was seized and what property was left for keeping, the seized property is described, the statements of present persons about the ownership of other people.
6. The copy of the appropriate protocol (document) with a signature is handed over to the owner or manager of the seized property, and in case of their absence, to the full-age members of their family, to the apartment maintenance office or local self-government representative. When seizing the property of an enterprise, institution or organization, the copy of the appropriate protocol (document) with signature is given to the administration representative.

**Article 236. The preservation of seized property**

1. Except real estate and large-sized items, other seized property as a rule is taken away.
2. Precious metals and stones, diamonds, foreign currency, cheques, securities and lottery tickets are handed for safe keeping to the Treasury of the Republic of Armenia, cash is paid to the deposit account of the court which has jurisdiction over this case, other taken items are sealed and kept at the body which made a decision to seize the property or is given for safe keeping to the apartment maintenance office or local self-government representative.
3. The seized property that has not been taken away is sealed and kept with the owner or manager of the property or his full-age members of his family who are advised as to their legal responsibility for spoiling or alienation of this property, for which they undersign.

**Article 237. Appeals against seizure of property**

The property seizure decision can be appealed against to the prosecutor however the submitted complaint does not prevent the execution of the decision.

**Article 238. Release of property from seizure by criminal proceedings**

1. The property is released from seizure by criminal proceedings ruling if as a result of recalling of the civil action, the qualification of the criminal act incriminated to the suspect or the accused has changed, and the necessity to seize property disappeared.
2. By petition of the civil plaintiff or other interested party, who are inclined to claim the property through civil proceedings, the court is entitled to preserve the imposed property seizure also after the end of criminal proceedings, within a month.

## CHAPTER 54. MUTUAL LEGAL ASSISTANCE ON CRIMINAL CASES ACCORDING TO INTERNATIONAL AGREEMENTS

### Article 474. Mutual legal assistance procedure on criminal cases at international relations

1. The execution of interrogation, inspection, confiscation, search, examination and other court operations provided by present code in the territory of a foreign state on the instructions or at the instance (hereinafter on demand) of courts, public persecutors, investigator, investigating bodies of the Republic of Armenia, as well as the execution of court operations provided by present code in the territory of the Republic of Armenia on demand of foreign state's authorized bodies and official persons (hereinafter - authorized bodies) is carried out as provided by international agreements of the Republic of Armenia in accordance with procedure established by that agreements and present code.

2. Executing judicial operations provided by present code in the territory of the Republic of Armenia on demand of foreign state's authorized bodies the court, public prosecutor, the investigator, investigating body of the Republic of Armenia apply norms of the present code – with the exceptions provided by corresponding international agreements.

Executing judicial operations in the territory of the Republic of Armenia on demand of foreign state's authorized bodies the court, public prosecutor, the investigator, investigating body of the Republic of Armenia may apply legislative norms of criminal legal procedure of corresponding foreign state, if it is provided by international agreement with participation of the Republic of Armenia and given foreign state.

The demands of foreign states' authorized bodies are fulfilled in terms provided by present code, if another term is not determined by corresponding international agreement.

### Article 475. Bodies carrying out communication on the matter of legal assistance

1. The communication on the matter of legal assistance on criminal cases by international agreements of the Republic of Armenia is carried out:

a) in connection with executing interrogations concerning executing legal proceeding operations by the cases being in pre-trial investigation – through Prosecutor General Office of the Republic of Armenia;

b) in connection with executing interrogations concerning executing legal proceeding operations by the cases being in court proceedings – through the Ministry of Justice of the Republic of Armenia.

In case of being provided by international agreements of the Republic of Armenia, the communication can be carried out through diplomatic channels as well – through diplomatic representatives and consular institutions of the Republic of Armenia in foreign states, which receiving corresponding demands immediately submit them to authorized body – to submit to execution.

2. If a court, a public prosecutor, an investigator, investigating body of the Republic of Armenia gives the demand of execution court operations, they submit demands worked out in accordance with international agreements of the Republic of Armenia to corresponding authorized bodies determined by the first part of present article – to deliver it to foreign state's authorized body with the purpose of its execution.

After authorized bodies of foreign states interrogate the court, the public prosecutor, the investigator, investigating body and submit to the authorized body provided by the first part of present article, the latter immediately provide the interrogation to the court, the public prosecutor, the investigator, investigating body of the Republic of Armenia worked out the demand.

3. If the demand to conduct legal proceedings operations was given by authorized bodies of foreign state and it was submitted to authorized body by the first part of the present article in accordance with international agreements of the Republic of Armenia, the latter submits the demand for execution to that court, public prosecutor, investigator, investigating body of the Republic of Armenia, which is authorized to execute given demand in accordance with present code.

The court, the public persecutor, the investigator, investigating body after to performing commission submit it to corresponding authorized bodies provided by the first part of present article, which immediately pass execution to an authorized body of foreign state.

4. In cases provided by international agreements of the Republic of Armenia giving demand, delivery demand concerning execution of court proceedings operations and transmission of the results of its execution may be carried out thought direct communication between corresponding authorized body of foreign state and corresponding court, public prosecutor, investigator, investigating body.

At that, if the execution of the demand received from authorized body of foreign state through immediate communication is not included in the authorities of the court, public prosecutor, the investigator, investigating body of the Republic of Armenia, immediately readdress the demand to authorized the court, public prosecutor, the investigator, investigating body of the Republic of Armenia, informing about it corresponding authorized body of the foreign state given demand.

Authorized court, public prosecutor, investigator, investigating body of the Republic of Armenia received the demand by readdressing executes the demand and dispatches it to the authorized body of foreign state as provided by the present part, at the same time informing corresponding body of the Republic of Armenia provided by the first part of present article about demand and its execution.

In cases provided by this part corresponding court, public prosecutor, investigator, investigating body of the Republic of Armenia informs through direct communication corresponding bodies mentioned in the first part of the present article about each demand, its receiving and execution – briefly pointed the demand, name of given body (name and position of the official person), content of demand, executing body or official person, content of execution, terms of demand's giving and execution.

5. When the execution of demand received from foreign state's authorized body corresponding to international agreements of the Republic of Armenia is impossible or does not arise from given international agreement, corresponding body of international state in accordance with procedure established by present article informs about impossibility of demand's execution and the reasons of that.

**Article 476. Carrying out demands provided by more than one international agreements**

1. If the responsibility of carrying out demands concerning court legal proceedings operations by the foreign state's authorized body arises from more than one international agreements signed by the Republic of Armenia with this state, the following orders will be applied:

a) if it is mentioned in the agreement, based on which international agreement exactly it has been worked out and submitted, the court, public prosecutor, investigator, investigating body of the Republic of Armenia executing the demand follow that international agreement;

b) if there are more than one international agreement acting between given foreign state and the Republic of Armenia mentioned in the demand, the court, public prosecutor, investigator, investigating body of the Republic of Armenia executing the demand follow the international agreement mentioned in the demand that gives most complete solution to the problems concerned with demand's execution, at the same time applying the statements of other agreement (agreements), which are not provided by the international agreement giving most complete solution, but give possibilities to execute the demand fuller and more quickly.

c) if there is no mention in demand concerning with any international agreement acting between given state and the Republic of Armenia, the court, public prosecutor, investigator, investigating body of the Republic of Armenia executing the demand follow the international agreement that gives most complete solution to the problems concerned with demand's full execution, at which the applying of statements of other agreements between given state and the Republic of Armenia that complete the agreement, which is followed by the court, public prosecutor, investigator, investigating body, is not impossible.

2. In the event that multilateral international agreement acts between the Republic of Armenia and given foreign state, which at the issues of betrayal gives privilege to that agreement with respect to other international agreements acting between the sides and regulating the issues of betrayal, the court, public prosecutor, investigator, investigating body of the Republic of Armenia follow this multilateral international agreement.

**Article 477. To reject the execution of demand arising from international agreements**

The execution of demands concerned with court legal proceedings submitted by foreign state's authorized bodies based on international agreements of the Republic of Armenia may be rejected on the grounds provided by other agreements.

At that, if the demand has been submitted by authorized body of the state, with which the Republic of Armenia is connected with more than one corresponding international agreements, the execution of the demand may be rejected only if the circumstance (the reason) appearing the ground is provided by all international agreements - irrespective of the fact that whether the demand has been worked out and submitted in accordance with the agreement providing the circumstance (the reason) appearing the ground for rejection or in accordance with another international agreement, or if the execution of demand may cause damage to constitutional order, self-government, national security of the Republic of Armenia and the possibility of rejection of the execution the demand based on these grounds is provided by at least one international agreement acting with the participation of given foreign state and the Republic of Armenia.

**Article 478. Betrayal crime perpetrate persons to foreign state**

1. Citizens of foreign states, as well as persons without citizenship found permanent residence in the territory of a foreign state perpetrated crime in the territory of the Republic of Armenia – with the purpose of beginning criminal case against them in the corresponding state or continue the case began in the territory of the Republic of Armenia in accordance with present code, may be betrayed to that state only in cases, provided by international agreements acting with participation of that state and the Republic of Armenia.

In accordance with procedure established by corresponding international agreement all documents and other materials concerning with the crime perpetrated by betrayed person be at the case of the court, public prosecutor, the investigator, investigating body of the Republic of Armenia.

In the event that the order of documents' and other materials' dispatch is not provided or determined by international agreements, their dispatch may be carried out in accordance with agreement reached with central bodies of the Republic of Armenia and of foreign state or with authorized bodies of the court, public prosecutor, the investigator, investigating body having immediate and foreign state that have direct communication.

Dispatched documents in one copy are to be kept at the court, public prosecutor, the investigator, investigating body of the Republic of Armenia worked out or submitted the documents.

2. The betrayal of persons provided by the first part of present article to a foreign state with purposes provided by that part may be carried out at the period since their perpetration criminal act or in connection with it instituting criminal legal proceedings in the territory of the Republic of Armenia till the moment of pronouncement of sentence concerning that person or in other period provided by corresponding international agreement of the Republic of Armenia.

**Article 479. Body authorized to make a resolve of extradition**

1. If it is provided by international agreement of the Republic of Armenia to extradite a person perpetrated a crime to foreign state considered a member of this agreement and if different is not provided by that agreement, the decision of extradition of a person being in the territory of the Republic of Armenia may be made by:

1) the court of the Republic of Armenia, in the territory of which's authority was instituted criminal proceedings concerning with person liable to extradition and the case is at pre-trial phase - through the mediation of public prosecutor of corresponding territory;

2) the court of the Republic of Armenia, in case which is the court legal proceedings of the criminal case instituted against given person liable to extradition;

3) Court of Cassation of the Republic of Armenia, if person liable to extradition based on court sentence holds punishment at criminal-executive institution or is put on probation - through the mediation of Ministry of Justice of the Republic of Armenia.

2. If in accordance with international agreement a citizen of the Republic of Armenia must be extradited or can be extradited to a foreign state, the allowance to make resolve of extradition has the court of the Republic of Armenia, in the administrative territory of which this person is registered, and if a citizen of the Republic of Armenia must be extradited or can be extradited to a international court acting with participation of the Republic of Armenia, the resolve of extradition makes Court of Cassation of the Republic of Armenia.

In cases provided by present part General Public prosecutor of the Republic of Armenia submits petition to corresponding court, if the case concerning with this person is at pre-trial case or Minister of Justice of the

Republic of Armenia – if the case concerning this person is at the court proceeding phase or if the demand on his extradition was received from an international court.

3. When the extradition of a person, including – of citizen of the Republic of Armenia, to foreign state or international court is rejected, perhaps, if there are satisfied ground provided by present code to institute criminal charge against him concerning the action, for which he has sent petition of extradition from the foreign state or international court, the body made resolve of rejection must begin criminal charge concerning that person, and in cases provided by international agreements of the Republic of Armenia and in accordance with procedure established by it to take off the case concerning corresponding criminal charge from the case of foreign state's court or of international court and to receive the case concerning that person instituted by authorized body of foreign state – executing corresponding criminal charge in accordance with the procedure established by present code.

**Article 480. Extradition crime perpetrate person to the Republic of Armenia by a foreign state**

1. In cases provided by international agreements of the Republic of Armenia and in accordance with procedure established by them persons perpetrated crimes in the territory of the Republic of Armenia and being in foreign countries – can be extradited to the Republic of Armenia by foreign states – with the purpose of instituting criminal case against them for crimes perpetrated in the territory of the Republic of Armenia.

In cases provided by international agreements of the Republic of Armenia and in accordance with procedure established by them with the same purpose foreign states can extradite to the Republic of Armenia the persons perpetrated the crime in the territory of given foreign state.

2. Executing criminal legal proceedings against persons provided by the first part of present article the rules of present codes are applied – with the exceptions provided by corresponding international agreements.

3. If a foreign state rejects the extradition of demanded person to the Republic of Armenia, in cases provided by given international agreements and in accordance with procedure established by them the court, public prosecutor, the investigator, investigating bodies dispatch their case to authorized body of corresponding foreign state – for the purpose of execution criminal charge concerning that person.

**Article 481. Subpoena in the Republic of Armenia as a witness, civil plaintiff, their representatives, an expert, specialist and carrying out court legal proceeding operations**

Persons appearing as a witness, civil plaintiff, their representatives, an expert, specialist by criminal case carrying out in the territory of the Republic of Armenia, who are out of the Republic of Armenia, in accordance with procedure and terms established by international agreements of the Republic of Armenia may be summoned to the Republic of Armenia – by the court, public prosecutor, the investigator, investigating body carrying out corresponding criminal case to execute necessary investigating or court operations with their participation.

During execution of necessary investigating or court operations with participation of that persons the rules of the present code are applied – with except provided by corresponding international agreements.

**Article 111. To complete the code with new chapter $54^{1}$- including in it 482-$499^{th}$ articles of the code in new edition as well as to complete with articles $499^{1}$, $499^{2}$, $499^{3}$, $499^{4}$ and $499^{5}$ with following content:**

## CHAPTER $54^{1}$. MUTUAL LEGAL ASSISTANCE ON CRIMINAL CASES IN CASE OF ABSENCE OF INTERNATIONAL AGREEMENTS

**Article 482. Terms of legal assistance on criminal cases in case of absence of international agreements**

1. In case of absence of international agreements concerning legal proceedings operations on criminal cases between foreign state and the Republic of Armenia, based on mutuality of authorized bodies and official persons (hereinafter – authorized bodies of given state) and the court, public prosecutor, the investigator, investigating bodies of the Republic of Armenia legal assistance can be shown at exceptional cases – in accordance with understanding reached through diplomatic channels based on the on mutuality of foreign state and the Republic of Armenia and about providing mutual aid, which must be previously coordinated:

a) the Ministry of Justice of the Republic of Armenia – concerning execution of legal proceeding operations being at court proceeding;

b) with Prosecutor General Office of the Republic of Armenia – concerning execution of legal proceeding operations being at pre-trial proceeding;

2. The communication and mutual assistance providing between authorized bodies of given foreign state and the court, public prosecutor, the investigator, investigating body of the Republic of Armenia between given state and the Republic of Armenia in accordance with procedure provided by the first part of given article continue until signing international agreement (agreements) on corresponding issue (issues) or until reciprocal participating of the Republic of Armenia and given foreign state to a valid multilateral international agreement of providing mutual assistance on criminal cases, if until that through diplomatic channels the Republic of Armenia or corresponding state in unilateral way or by bilateral agreement have not eliminate reached understanding concerning providing legal assistance on the basis of mutuality.

3. Providing legal assistance based on mutuality in accordance with procedure established by the first part of present article, with other bodies of the foreign state the court, public prosecutor, investigator, investigating body of the Republic of Armenia communicate through Ministry of Justice of the Republic of Armenia or through Prosecutor General Office of the Republic of Armenia correspondingly – in accordance with the rules of the 475$^{th}$ article of present code.

4. Ministry of Justice of the Republic of Armenia through Ministry of Foreign Affairs of the Republic of Armenia provides to the authorized central body of corresponding foreign state the text of present chapter translated into language acceptable for that state – to use providing legal assistance in the course of mutuality – accepting from this state its corresponding law.

**Article 483. The content of petition about legal assistance in the course of mutuality**

1. The petition of executing separate legal proceeding actions addressed to foreign state's authorized body must be worked out in written, be signed by sending official person and confirmed with official stamp of the court, Prosecutor General Office, investigating body of the Republic of Armenia.

2. The petition concerning legal assistance in execution legal proceeding operation must contain:

1) the name of the court, public prosecutor, investigator, investigating body sending petition;

2) the name of foreign state, to which the petition is sent;

3) the name of the case and the character of the petition;

4) information about the persons, concerning which the petition is sent: name and surname, year, month, date, place (address) of birth, citizenship, line of work, place of residence or location, for juridical persons – name and location (address);

5) statement of circumstances subject to disclosure, as well as the list of documents, exhibits and other proofs that is expected to receive from performer of the petition;

6) information of factual circumstances of perpetrated crime, its qualification, in case of need – of nature and value of the damage caused by this crime, as well as other information being at the sender of petition that can suggest to effective fulfill of the petition.

**Article 484. Fulfillment the petition concerning legal proceeding operations**

1. The court, public prosecutor, the investigator, investigating body of the Republic of Armenia fulfill the petition submitted by foreign state concerning providing legal assistance based on mutuality by general rules of present code (chapters 1-53);

2. If petition cannot be fulfilled the checked documents returned to authorized body of international state sent the petition – mentioning the reasons hindering its fulfillment.

Petition is not fulfilled and is not a subject to return if its fulfillment can damage independence, constitutional order, government or security of the Republic of Armenia or conflicts with legislation of the Republic of Armenia.

**Article 485. Sending case materials to foreign country to begin or to continue criminal charge**

In case of crime perpetration by a citizen of foreign state or by a person without citizenship resident of foreign state in the territory of the Republic of Armenia and his leaving the Republic of Armenia all materials of instituted or investigated or liable to institution – the body executing the criminal case through corresponding authorized body provided by the first part of the 475th article of present code is sent to the corresponding body of given state – with petition to begin or to continue the criminal case concerning mentioned persons in accordance with legislation of this state.

The copies of all documents of the case provided by present article are kept at the court, public prosecutor, the investigator, investigating body of the Republic of Armenia executing the case – joined the list of material evidence that have been also sent to authorized body of corresponding foreign state.

**Article 486. Fulfillment the petition concerning continue of criminal charge received from foreign states**

1. The petition of foreign state's authorized body concerned criminal charge execution with respect to the citizen of the Republic of Armenia perpetrated crime in the territory of foreign state and returned to the Republic of Armenia is dispatched:

a) to authorized research or investigating body of the Republic of Armenia – to institute criminal case and to investigate the case based on the materials attached to the petition;

b) to authorized public prosecutor or court of the Republic of Armenia – to continue preliminary investigation and legal proceedings of the criminal case already instituted against citizen of the Republic of Armenia in the territory of foreign state.

2. In case of beginning or continue criminal proceeding at the territory of the Republic of Armenia the proofs reached in the territory of foreign country by the investigation on case in accordance with procedure established by laws of that state have equal legal power with all other proofs received in the territory of the Republic of Armenia.

During fulfillment the investigation in the territory of the Republic of Armenia additional proofs submitted by foreign state's authorized body are joined to other proofs in the case.

3. The authorized body of the given state sent petition is informed about setting the petition of foreign state's authorized body to begin criminal legal proceedings or to continue legal proceedings in the territory of the Republic of Armenia in accordance with procedure established by the first part of present article going.

**Article 487. Extradition**

1. In case of receiving petition from foreign state's authorized body about extradition of crime perpetrated person, the court, public prosecutor, the investigator, investigating body of the Republic of Armenia take appropriate measures having for the purpose to receive extradition permit or to carry out the sentence concerning to him and in direction of extradition this person to foreign state in accordance with procedure established by pointed 1-3 of the first part of the 479th article of the code.

2. Extradition regarding bringing in criminal responsibility is carried out for such kind of acts, which considered punishable by the laws of the state sent the petition and of the Republic of Armenia and for perpetration of which the penalty in the form of deprivation of liberty is provided – at least for period of one year.

3. Extradition regarding serving of a sentence is carried out for such kind of acts, which considered punishable by the laws of the state sent the petition and of the Republic of Armenia and for perpetration of which the penalty in the form of deprivation of liberty is provided – at least for period of six months.

**Article 488. Rejection the extradition**

The fulfillment of the petition of foreign state's authorized body is rejected, if

1) at the moment of receiving the petition concerning with extradition by authorized body of the Republic of Armenia (first part of 475th article of present code) the criminal charge corresponding to the law of foreign state cannot be instituted, or the sentence cannot be executed because of being overdue or by other legal reason;

2) court sentence or decision of cessation of case proceeding and stoppage of criminal legal proceeding came into effect have been already proclaimed;

3) the petition concerns the extradition of a citizen of the Republic of Armenia;

4) in case of extradition in accordance with laws of given foreign country the death penalty may be settled and this state does not give satisfactory guaranties that in case of extradition such kind of penalty will not be settled and will not be executed;

2. The petition of person's extradition may be rejected, if the person, whose extradition is demanded:

1) has got the right to political asylum in the Republic of Armenia in accordance with established procedure;

2) is persecuted in political, racial or religion motives;

3) is persecuted for military crime perpetration at peaceful period;

4) perpetrated the crime in the territory of the Republic of Armenia.

The extradition also can be rejected, if given foreign country does not provide mutuality in the area of legal assistance on criminal cases.

**Article 489. Content of extradition petition**

1. The petition of person's extradition of foreign state's authorized body in the framework of legal assistance in the course of mutuality must contain:

1) name of the addressee of petition;

2) description of factual circumstances of the act and original text of the law of foreign state submitting petition, on the base of which this act is considered a crime;

3) name and surname of the person, whose extradition is asked, his citizenship, place of residence of location (address) and if possible other information about him;

4) note concerning the value of damage caused by the crime and about its compensation at the moment of sending petition.

2. A confirmed copy of the decision of foreign country's authorized body about arrest of the person must be attached to the petition of extradition.

3. A confirmed copy of the court sentence of foreign state's authorized court – with the not of its entrance into effect and the article of criminal code of foreign state, according to which given person has been condemned must be attached to the petition for execution court sentence or of holding the non-held part of penalty in the territory of the Republic of Armenia.

**Article 490. Additional information**

1. If the request of extradition does not content all necessary information, the court, public prosecutor, the investigator, investigating body of the Republic of Armenia received the petition may request additional information and in case of need, to determine for it term lasting less than one month.

2. If foreign state's authorized body submitted petition in the term provided by the first part of the present article does not submit additional information, the court, public prosecutor, the investigator, investigating body of the Republic of Armenia received the petition have to set free the person liable to extradition if he was arrested in accordance with decision of foreign state's authorized body and based on the decision of authorized court of the Republic of Armenia.

**Article 491. Arresting for extradition**

1. In case of presence of a copy of the decision of foreign state's authorized body attached to petition concerning his extradition, public prosecutor, the investigator, investigating body of the Republic of Armenia received the petition takes measures to arrest the persons liable for extradition in accordance with procedure establish by present code, if he considers impossible to fulfill the petition without it.

2. In the cases provided by the first part of present article the decision of authorized court of the Republic of Armenia must be taken with the presence of person liable to extradition.

If the decision of authorized court of the Republic of Armenia has been taken without the presence of person liable to extradition, because of his absence or of other reason, before fulfillment the extradition of this person, he must have possibility to appeal the decision of court to higher court.

The rules of present article are not applied for the person liable to extradition, which before receiving the petition of extradition, was arrested and carried a punishment in court-executive institution of the Republic of Armenia in accordance with procedure established by this code.

**Article 492. Arresting or commitment before reception of the petition of extradition**

1. Through the mediation of foreign state's authorized body the person may be arrested in the Republic of Armenia before reception of the petition of extradition as well. The mediation must contain references to the decision or court sentence came into effect of foreign state's authorized body – with notice that the petition of extradition of this person will be additionally provided. Before submission the petition of extradition the mediation about person's arrest may be passed by post, telegram or fax, as well as through International Criminal Police (Interpol) or through another organization executing person's search, to which the Republic of Armenia participates.

2. In accordance with procedure established by present code a person may be arrested without mediation or petition of extradition of foreign state's authorized bodies, if there are ground provided by present code to assume that he has perpetrated the crime in the territory of a foreign state, with which the Republic of Armenia is connected with agreement of providing legal assistance on reciprocal basis. In case of submission a petition of extradition by this country, the arrested person is liable for extradition.

3. In cases provided by the first part of present article the rules of the third part of the 491st article of present code are applied at person's arresting and if arresting the persons in cases provided by the second part, general rules determined by present code are applied.

4. In the cases provided by the first and the second part of present article foreign state's authorized body is immediately informed about applying of corresponding preventive punishment concerning arrested or taken into custody person.

5. A person arrested in accordance with procedure established by the first part of present article must be set free, if the petition of his extradition has not been received in 30 days after taking him under custody.

A person arrested in accordance with procedure established by the third part of present article must be set free, if at the moment of completing the term provided for arrest a petition of extradition or before sending petition – the mediation of his arrest would not be submitted by foreign state's authorized body.

In case of reception the petition of extradition or before sending petition – the mediation of his arrest, the rules of the 491st article or of the first part of present article of present code are applied.

**Article 493. Extradition delay, temporary extradition**

1. If criminal charge is incited against the person, whose extradition is demanded that person was condemned for other crime in the Republic of Armenia, his extradition can be delayed until the completion of the criminal charge, execution the sentence of the court or discharge of punishment in accordance with procedure established by the present code.

2. If the extradition of person provided by the first part of present article can lead to the lapse of statute of limitation of criminal charge determined by the law of foreign state against the petition of extradition or can cause damage to investigation carried out in that country, that person can be extradited temporary.

Temporary extradited person must be returned by the foreign state after execution of the court legal proceedings on the execution of criminal case, for which he has been extradited, but at least in three months since the day of extradition. In case of well-founded petition of foreign state's authorized body or official person and concordance it with the court, public prosecutor of the Republic of Armenia, that term may be prolonged, but at least for one month.

3. The period of temporary extradited person's being in foreign state is added to the term of imprisonment before trial or carrying punishment in the Republic of Armenia.

**Article 494. Order of satisfaction of some demands or petitions about extradition**

If there were received petitions about extradition of the same person from several states, public prosecutor or court of the Republic of Armenia by himself (by itself), which of these petitions he (it) should satisfy in the first place.

At that, considering the issue of satisfying in the first place one of the petitions, it is necessary to take into consideration all circumstances, especially the weight of crime and the place of perpetration, year, month and day of corresponding inquiries, the citizenship of plaintiff and that state's further possibility of inquest.

**Article 495. Executing extradition**

1. After making decision of person's extradition, the authorized body of corresponding state, which petition of execution has been satisfied, is informed about actual time and place of person's extradition.

2. If foreign state's authorized body, to which the notification provided by the first part of present article has been sent, does not accept the person liable to extradition in 15 days after the term provided by notification, this person, if he was arrested previously, is released from custody.

**Article 496. Repeated extradition**

If a person avoids of criminal charge executed against him or of carrying penalty in given foreign state and returned to the territory of the Republic of Armenia, by new petition of the same foreign state he extradite without submitting information and data provided by articles 489-490 of present code, if the grounds to reject extradition provided by the 488$^{th}$ article of present code had not been aroused.

**Article 497. Giving allowance for transit extradition**

1. Through written mediation of authorized body of a foreign state providing legal assistance with the Republic of Armenia on the basis of mutuality Prosecutor General of the Republic of Armenia decided the issue of giving allowance concerning the extradition through the territory of the Republic of Armenia of the person, the consent of the extradition of which was given by any third person.

The mediation concerning allowance of transit extradition is investigated in accordance with the same procedure that the petition of extradition.

2. In case of giving allowance of transit extradition, Persecutor General of the Republic of Armenia at the same time determines the way of extradition, which he finds most expedient (for example, by railway or automobile transport).

In case of stop in the territory of the Republic of Armenia during transit transportation, the extradited person is not allowed to leave corresponding carrier, and in case of need of leaving it may be done only under control of operative group and in term provided by General Executor of the Republic of Armenia.

3. the Republic of Armenia can reject allowance for transit transportation, if:

a) the action, for which the extradition of the person is requested is not considered a crime according to the law of the Republic of Armenia;

b) the person liable to extradition is not a citizen of the Republic of Armenia.

The transit is not allowed through the territory, where the person liable for extradition may be threatened by the danger of torture, brutal or inhuman treatment because of national or racial identity, religion, civil or political viewpoints.

**Article 498. Obligation of criminal charge**

1. In accordance with present code, public prosecutor, a court of the Republic of Armenia by the request submitted by foreign state's authorized body in accordance with procedure established by present chapter, executes criminal charge concerning citizens of the Republic of Armenia, as well as foreign citizens and persons without citizenship, whose extradition has been rejected and who are suspected of perpetration a crime in the territory of the foreign state submitted the request.

2. If the crime, on which the criminal charge is instituted, arouses civil-legal requests of persons suffered damage of the crime, in case of presence of their petition about compensation of the damage, corresponding requests are investigating at the legal proceedings on present case - in accordance with present code.

**Article 499. Limits of extradited person's criminal charge**

1. If in accordance with procedure established by the norms of present chapter a person was extradited to the jurisdiction of a court, public prosecutor, an investigator, investigating body of the Republic of Armenia for the beginning or the continue of criminal charge against him or for court sentence execution, thus without consent of authorized body of corresponding foreign state that person cannot be exposed to criminal responsibility or penalty until his extradition for the crime, by which he has not been extradited.

2. The person extradited without consent of authorized body of the foreign state allowed the extradition may not be extradited to a third state as well.

3. The consent of authorized body of the foreign state allowed the extradition is not requested, if the extradited person being citizen of foreign state or person without citizenship, in 30 days after completion of corresponding legal proceedings against him at the territory of the Republic of Armenia and in case of his conviction after carrying the punishment or after pre-schedule discharge according to other grounds provided by law does not leave the territory of the Republic of Armenia or if after leaving he returns there of his own free will. In the mentioned term is not included the time, during which the extradited person cannot leave the Republic of Armenia due to circumstances beyond his control.

**Article 499[1]. Petition of execution legal proceedings on criminal charge**

1. The petition about execution of legal proceedings on criminal case in the Republic of Armenia by foreign state's authorized body concerned with the Republic of Armenia in the course of mutuality must contain:

1) name of authorized body of the foreign state submitting the petition;
2) action description, in connection with which the petition about execution of legal proceedings is sent;
3) as far as possible exact notes about time and place of action execution;
4) the copy of the original text of the law of foreign state submitting petition, which consider present action as a crime, as well as the copies of the texts of that legislative norms, which have vital importance of legal proceedings on case:
5) name and surname, citizenship of the suspect, as well as other information known about him;
6) about the value of damage caused by the crime and situation with its compensation at the moment of sending petition.

2. The proofs and other materials existing at the authorized body of foreign state submitting petition must be attached to the petition.

All documents available at the test must be signed by corresponding official person – mentioned his position and confirmed with seal with imprint of the emblem of the official body of foreign state sent the petition.

**Article 499[2]. Informing about results of legal proceedings on criminal case**

The court, public prosecutor, the investigator, investigating body of the Republic of Armenia received the petition about execution of criminal charge informs the authorized body of the foreign state sent the petition about the final decision made on given criminal case – sending its confirmed copy.

**Article 499[3]. Objects' extradition**

1. The court, public prosecutor, the investigator, investigating body of the Republic of Armenia received the petition of providing legal assistance in the course of mutuality through the mediation of authorized body of the state sent the petition – without damaging the investigation of criminal case proceeded by it, extradites to it the subjects, which:

1) were used perpetrating the crime, including crime tools, subjects, obtained in criminal way, or the offender have received compensation instead of subjects, obtained in criminal way;

2) may have conclusive significance by the criminal case proceeded in foreign country. These subjects are handed in when the offender cannot be extradited because of his death, escape or other reasons.

3. The tools, subjects mentioned in present article may be extradited to foreign state's authorized body on the term that after completion of legal proceedings on criminal case proceeding in foreign state, it will be returned to the court, public prosecutor, investigator, investigating body of the Republic of Armenia extradited it.

4. The rights of third persons concerning tools, subjects extradited to foreign state's authorized bodies remain valid.

**Article 499[4]. The order of applying to foreign state's authorized body on the matters of legal assistance based on mutuality and of using materials acquired with its concern**

1. Working out petition concerning providing legal assistance on the base of mutuality, the court, public prosecutor, investigator, investigating body of the Republic of Armenia maintains the requests provided by the law of given foreign state concerning the form of petition and its submission, and in case of absence of foreign law – the petition is worked out and sent to foreign state's authorized body in accordance with form and procedure established by the 483rd and 489th articles of present code.

2. During execution the petition of the court, public prosecutor, investigator, investigating body of the Republic of Armenia by authorized body of given foreign state, submission of additional documents, materials, including proofs, subjects by the court, public prosecutor, investigator, investigating body of the Republic of Armenia is realized in accordance with agreements achieved by foreign state's corresponding body and the statements of present chapter.

3. The documents, subjects, materials, including proofs, received by foreign state's authorized body in connection with petition fulfillment the court, public prosecutor, investigator, investigating body of the Republic of Armenia use in accordance with present code.

If foreign state's authorized body requested to return documents, materials or subjects provided by them, it is implemented in accordance with the agreements reached with it.

4. If as a result of legal assistance based on mutuality the extradition of a person perpetrated a crime to the Republic of Armenia took place, authorized court, public prosecutor, investigator, investigating body of the Republic of Armenia begins criminal legal proceedings or continues legal proceedings opened in foreign state, implementing concerning that person corresponding legal proceedings aroused from present code.

If his returning to the territory of foreign state causes the extradition of person by that state's authorized body, it is realized in accordance with mutual agreement.

At that, if the extradition is caused by person's being under arrest, in accordance with procedure established by the present code of the Republic of Armenia he may be detained for the term, during which that person is liable to return to the territory of given state.

5. Providing necessary information, extraditing persons, transferring tools or subjects of crime on criminal case executed by him by the petition of foreign state's authorized body, the court, public prosecutor, investigator, investigating body of the Republic of Armenia have to attract attention of foreign state's authorized body concerning their execution of corresponding actions, on corresponding rules of present chapter.

**Article 499[5]. Person's apparition to the Republic of Armenia**

1. In accordance with agreements about providing legal assistance on criminal cases based on mutuality, based on demand or petition the persons speaking as a witness, a victim, civil respondent, civil plaintiff, their representatives, experts, specialists (hereinafter – other persons) on the case being in legal proceeding of the court, public prosecutor, investigator, investigating body of the Republic of Armenia, who being out of the borders of the Republic of Armenia, is known that they are in the territory of that foreign state, to the authorized bodies of which the corresponding petition is sent, may be called in the Republic of Armenia.

2. If other persons arrive to the Republic of Armenia by their consent and will, the court, public prosecutor, investigator, investigating body executing legal proceeding on corresponding criminal case fulfill correspondent court operations with his presence in accordance with procedure established by present code – with following reservations: if arrived other person is a citizen of foreign state of a person without citizenship having residence in its territory in accordance with the laws of that state, the execution of legal procedure operations of arrest, fine, as well as of expose to criminal responsibility for rejecting or avoiding of testifying or perjuring himself, deliberately giving false conclusions is forbidden.

3. Other persons may be called and arrived to the Republic of Armenia with expression of their free will in case of absence of agreements about mutuality between the state of their residence and the Republic of Armenia as well.

The rules provided by the second part of present article are applied concerning the persons arrived in the Republic of Armenia provided by present part as well.

**Article 112. To complete the code with chapters $54^2$, $54^3$ and $54^4$ with following content:**

## CHAPTER $54^2$. RELATIONS WITH INTERNATIONAL BODIES ON THE MATTERS OF MUTUAL LEGAL ASSISTANCE

### Article $499^6$. Basis of communication with international bodies

1. In the sense of present code as international bodies are considered created by and intergovernmental or interdepartmental international agreements the courts and other such kind of bodies, which authorities include execution of several legal proceedings on criminal cases and assistance, contribution, supporting to state's efforts in the matter of struggle against criminality, as well as setting criminal penalties and their submission to execution.

2. The court, public prosecutor, the investigator, investigating body of the Republic of Armenia accomplish the relations with international bodies in accordance with international agreements the foundation (creation) of that bodies, determining their authorities, the participant of which is the Republic of Armenia.

If the Republic of Armenia is not a participant of international agreements of foundation of international body and of agreements arising from it, that regulate the issues of relations on criminal cases, the court, public prosecutor, the investigator, investigating body of the Republic of Armenia communicates with that bodies in accordance with international agreement of cooperation or support in legal area signed by given international body and the Republic of Armenia.

3. If the Republic of Armenia participates not to all of several international agreements of creation of given international body or limiting its authorities, the statements of other agreement (agreements), to which the Republic of Armenia does not participate, can be applied by the court, public prosecutor, the investigator, investigating body of the Republic of Armenia executing corresponding court legal proceedings, if they do not conflict with requests of present code and other laws containing the norms of court legal proceedings.

### Article $499^7$. Order of communication with international bodies and providing legal assistance on criminal cases

1. The court, public prosecutor, the investigator, investigating body of the Republic of Armenia with questions aroused from authority of international body and with demands of providing legal assistance or support apply to them and receive legal assistance or support in accordance with procedure established by agreements provided by article $499^6$ of present code and according to that agreements.

At that, submitting corresponding demand to given international body, the courts of the Republic of Armenia realize it through Ministry of Justice of the Republic of Armenia, and public prosecutor, the investigator, investigating body – through Prosecutor General of the Republic of Armenia, if other procedure of legal assistance of support by corresponding international agreement is not established.

2. In case of possibility of participation of the court, public prosecutor, the investigator, investigating body (its representative) of the Republic of Armenia to providing legal assistance or support on criminal cases by international body, the court, public prosecutor, the investigator, investigating body (its representative) of the Republic of Armenia must during their stay at given body to discharge their obligations arising from present code and other laws.

3. The court, public prosecutor, the investigator, investigating body of the Republic of Armenia fulfill the demands of international body in accordance with rules provided by present code – with exceptions arising from international agreements.

If according to demands of international body authorized official person arise to the Republic of Armenia to participate to court legal proceedings take place in the Republic of Armenia, the procedure and terms of communication with him in the Republic of Armenia are decided by the international agreement concerning

with authorities of that body, and if the procedure and terms are not determined by this agreement, the following rules are applied:

1) in connection with court legal proceedings concern courts in the Republic of Armenia, the official person of international body submits to Minister of Justice of the Republic of Armenia that case and the frame of issues concerning with it, which are liable to interpretation or solution in courts of the Republic of Armenia or by them;

2) in connection with criminal case at pre-trial investigation the official person of international body submits to Prosecutor General of the Republic of Armenia that case and the frame of issues concerning with it, which are liable to interpretation or solution by investigating or preliminary investigation bodies of the Republic of Armenia.

Prosecutor General of the Republic of Armenia decides investigating or inquest body or bodies of the Republic of Armenia liable to involve in interpretation or solution the issues submitted by official person of international body – in accordance with requests of present code.

After completion of corresponding court legal proceedings and at least in three days, the court, public prosecutor, the investigator, investigating body of the Republic of Armenia –correspondingly inform in written Minister of Justice or Prosecutor General of the Republic of Armenia of fulfilled court legal operations.

Minister of Justice of the Republic of Armenia, Prosecutor General of the Republic of Armenia – in the framework of their authorities systematize the operations of bodies and official persons of the Republic of Armenia involved in execution of corresponding court legal operations, in case of need involves to them other official persons.

## CHAPTER 54[3]. RECOGNITION OF COURT SENTENCES OF FOREIGN STATES' COURTS AND INTERNATIONAL COURTS IN THE TERRITORY OF THE REPUBLIC OF ARMENIA AND ITS LEGAL CONSEQUENCES

### Article 499[8]. Recognition of court sentences of foreign states in the Republic of Armenia

1. In the cases provided by international agreements of the Republic of Armenia the court sentences of foreign states' courts are liable to recognition in the Republic of Armenia.

2. The grounds of recognition of court sentences of foreign states' courts in the Republic of Armenia, the types of court sentences (decisions) liable to recognition are determined by international agreement of the Republic of Armenia signed with given state and acting with its participation.

3. The court sentence of foreign state's court is recognized in the Republic of Armenia:

1) Chamber of Criminal and Military Cases of Court of Cassation of the Republic of Armenia, if the court sentence liable to recognition has been passed by the highest judicial body;

2) Court of Appeal of Criminal and Military Cases of the Republic of Armenia, if the court sentence liable to recognition has been passed by foreign authorized Court of Appeal;

3) Court of first instance of the Republic of Armenia – in accordance with jurisdiction established by present code, if the court sentence liable to recognition has been passed by foreign court of first instance.

4. The court of the Republic of Armenia authorized by the third part of present code concerning recognition of court sentence of foreign state's court takes a decision. Court sentence of foreign state's court recognized in the Republic of Armenia is executed in accordance with criminal-executive legislation of the Republic of Armenia, and as regards reparation of damages and other expropriations – in accordance with legislation of forced execution of court acts – with excepts provided by international agreements.

### Article 499[9]. The terms of recognition of court sentence of foreign state's court and the grounds of rejection

1. Making decision concerning the recognition of court sentence of foreign state's court, the courts of the Republic of Armenia authorized by the third part of the 499[8] article clarify, how much are kept the terms

provided by corresponding international agreement, which appear as ground for making decision concerning recognition.

The observance of that terms, as well as the absence of grounds for rejection the recognition and execution of court sentence by given international agreement are the ground for making decision of recognition and submission to execution the court sentence of foreign state's court in the Republic of Armenia.

2. The recognition of foreign state's court's court sentence may be rejected by the grounds provided by international agreements of the Republic of Armenia, as well as, if:

a) the action, for which the person has been condemned, is not considered as penal action;

b) as punishment the court sentence provided the death penalty.

**Article 499[10]. Recognition and rejection of court sentence of international court**

1. The court sentence of international court acting with membership (participation) of the Republic of Armenia is a subject to recognition, if it is provided by another international agreement (agreements) of that court's foundation or determining its authority.

The decision concerning recognition of court sentence of international court in the Republic of Armenia is to be made by Chamber of Criminal and Military Cases of Court of Cassation of the Republic of Armenia in accordance with procedure established by international agreement determining the authority of the international court.

2. The decision of international court in the Republic of Armenia is recognized in accordance with procedure established by international agreements determining the authority of that court and the recognition may be rejected on the grounds provided by that agreement as well as in the events provided by points *a* and *b* of the second part of article 499[9] of present code.

3. International court considered the intergovernmental body acting with membership (participation) of the Republic of Armenia, which in accordance with international agreement (agreements) of its foundation or with other international agreement (agreements) determining its authorities is authorized to investigate criminal cases and to make resolved with regard to them.

4. The execution of court sentences of international court in the Republic of Armenia is fulfilled in accordance with criminal-executive legislation of the Republic of Armenia, and with regards to reparation of damages and other expropriations – in accordance with legislation of the Republic of Armenia of forced execution of court acts – with excepts provided by international agreements of the Republic of Armenia.

**Article 499[11]. Legal consequences of recognition of court sentence of foreign state's court and international court**

The recognition of court sentence of foreign state's court and international court in the territory of the Republic of Armenia arise the same legal consequences that would be arisen by valid court sentence of a court of the Republic of Armenia.

**Article 499[12]. Serving of a sentence of international court without recognition**

1. If the constituent agreement (agreements) of international court or other agreement (agreements) determining its authority provides serving of a sentence or that court without recognition, this sentence – in accordance with procedures established by given international agreement on receiving in Ministry of Justice of the Republic of Armenia, is sent to serving – in corresponding criminal-executive institution.

2. If it is not provided by the order given international agreement the responsibility of execution in the form of immediate serving or recognition of the sentence, thus based on that sentence in accordance with articles 408[1] and 410[1] of given code, the proceedings of case reconsideration is raised.

**Article 499[13]. Legal grounds and order of execution of international court's sentence**

1. International court's sentence may be served in the territory of the Republic of Armenia in case of participation of the Republic of Armenia to international agreements concerning given court.

2. International court's sentence also may be served in the territory of the Republic of Armenia when without taking such kind of international responsibility upon himself, in the framework of given court's authority the written agreement of solving the sentence of that court in the Republic of Armenia has been achieved.

3. In the territory of the Republic of Armenia international court's sentence is submitted to serving in accordance with international responsibilities of the Republic of Armenia and without decision-making concerning recognition the sentence by authorized court of the Republic of Armenia, if there is the different is not provided by mentioned responsibilities.

4. With the purpose of solving international court's sentence in the territory of the Republic of Armenia, Minister of Justice of the Republic of Armenia – in accordance with international responsibilities of the Republic of Armenia, decides the criminal-executive institution, where condemned person must bear the punishment provided by court sentence.

5. The regime of criminal-executive law of the Republic of Armenia acts with respect to person bearing the punishment provided by international court's sentence in the territory of the Republic of Armenia – with expects provided by international agreements.

**Article 499[14]. Legal consequences of solving a sentence of foreign state's court or of international court**

1. The regime of criminal-executive law of the Republic of Armenia acts with respect to solving a sentence of foreign state's court or of international court.

Concerning the person bearing punishment it arouses the same legal consequences as would be aroused, if given person was condemned in the territory of the Republic of Armenia and by valid court sentence solved by its authorized court.

2. The person completely or by non-suffered part bearing punishment condemned by sentence of foreign state's court or international court in the territory of the Republic of Armenia enjoys the right of pre-schedule liberation from punishment, which proceeds from corresponding international agreements of the Republic of Armenia, including rights of pardon and amnesty.

3. After complete or partial bearing the punishment or after pre-schedule discharge on basis provided by the third part of present article, the person may be situated in the territory of the Republic of Armenia in accordance with his status and legislation of the Republic of Armenia (as a citizen of the Republic of Armenia, as foreign state's citizen, person without citizenship etc.).

At that, if the completed the punishment preschedule discharged from the punishment is not a citizen of the Republic of Armenia and in accordance with international agreement of the Republic of Armenia he may be delivered to any foreign state that must accept him, that person by his approbation is delivered to given state.

4. If during solving the sentence of foreign state's court or international court in the territory of the Republic of Armenia is reviewed by foreign state's court or international court that have this authority, the solving stops or continues – in accordance with court sentence made as a result of review and with procedures and terms established by international agreement of the Republic of Armenia.

5. The court sentence of foreign state's court or international court may be reviewed by authorized court of the Republic of Armenia exceptionally in cases provided by international agreement of the Republic of Armenia.

## CHAPTER 54[4]. APPEAL TO INTERNATIONAL COURT

**Article 499[15]. Right to appeal to international court**

1. Every person, who finds that by final court sentence made on criminal case in accordance with procedure established by present code with respect to him the rights provided by international agreements of the Republic of Armenia have been broken, has right to appeal to international court acting with participation of the Republic of Armenia – in accordance with procedure established by international agreements of foundation of that court or determining his authorities (hereinafter – court regulations).

2. For the purposes of present chapter final judgement is considered the decision made by Chamber of Criminal and Military Cases of Court of Cassation of the Republic of Armenia in accordance with procedures established by present code and came into effect in accordance with procedure established by 424$^{th}$ article.

3. The right to appeal to international court arises after final judgment's attachment – since the moment provided by corresponding international court's regulations. Person looses this right in cases and in accordance with procedure established by international court's regulations.

4. The framework of persons obtains rights to appeal to international court is limited by regulations of given international court.

**Article 499[16]. Order of appeal to international court**

1. The order of appeal to international court is defined by regulations of corresponding international court.

2. The person intends to take advantage of the right of appeal to international court, as well as his legal representative or representatives, is allowed in accordance with procedure established by present code to get documents concerning given case, their copies, photocopies from Court of Cassation of the Republic of Armenia, as well as from other courts of the Republic of Armenia made court sentence on given case, to do extracts of them.

3. The expenses concerning appeal to international court carries the applicant, if other is not provided by regulations of that court.

**Article 499[14]. Duty of assistance to international court**

1. Court of Cassation of the Republic of Armenia replies to requests sent by international court concerning with clarification of conditions concerned with case in proceedings of international court or of submission additional proofs, documents and other materials and submits necessary materials and documents in 15 days since receiving corresponding request, if other term is not provided by regulations of international court.

2. Court of Cassation of the Republic of Armenia provides assistance for clarification of all conditions on given case interesting for international court – starting from necessity of clarification judicial error accepted by courts of the Republic of Armenia during investigation of given case and keeping the interest of justice until the end.

## THE REPUBLIC OF ARMENIA

## LAW ON ADVOCACY

**Article 19. Principal Obligations of an Advocate**

An advocate (attorney) shall:

1) Conscientiously and honestly protect the interests of a client by all means not prohibited by laws of the Republic of Armenia;
2) follow the requirements of this law, the code of advocate's conduct and charter of the Chamber of Advocates;
3) not reveal advocate's secret, except for cases provided by the law;
4) continually improve his/her knowledge;
5) pay membership fees;
6) not to take any action conflicting with the interests of a client, not to take any line without agreeing with the client, except for cases when the advocate is sure of false self- incrimination by the defendant, not to admit the client's crime and connection with the crime conflicting with the client's position;
7) Perform obligations set forth by the Republic of Armenia Law "On Combating Money Laundering and Terrorism Financing".

## LAW ON PRIZE GAMES AND CASINOS

**ARTICLE 6. REQUIREMENTS IMPOSED ON THE OPERATION OF PRIZE GAMING AND CASINO ACTIVITIES**

1. In the proceeds, gained by way of exploitation of a gaming machine, the minimum amount of programmed share of total winnings shall equal 86 percent.

2. The operator shall:
a) Organize the casino and prize gaming activities only on premises (the address) specified under the license;
b) Prevent the casino hall to be visible from the outside;
c) Ensure the safety of the casino premises by means of security and fire alarm systems;
d) Prohibit persons under twenty-one years of age from entering the casino hall;
e) When organizing non-chance prize games, inform in advance and give an explanation to the players;
f) Provide the winning upon the player's first request;
g) ensure the purchase and cashing of tokens (chips) only for cash in Armenian currency, by bank card, or other payment instruments accepted in banking practice;
h) For each following year pay the annual state duty in accordance with the schedule prescribed by the Republic of Armenia Law on State Duty;
i) Put the rules of organized games on display in the casino hall (except gaming machines that have the wining options on them);
j) Organize and operate the prize games in compliance with the statutory regulations approved by the designated body;
k) Ensures the observation of the requirements under the Republic of Armenia Law on Combating Money Laundering and Terrorist Financing.
3. Casinos or prize games, as well as mediated (by means of a casino hall) internet prize games shall be organized outside the administrative boundaries of town communities.
(Article 6 as amended by HO-26-N Law of 14.12.04, HO-22-N Law of 25.12.06)

**ARTICLE 8. LICENSING OF PRIZE GAMES AND CASINOS**

1. The licensing of prize games and casinos shall be carried out in accordance with the procedure stipulated by the Republic of Armenia Law on Licensing, this Law, and other legal acts.
2. An application to be licensed shall be rejected, if:
   a. The documents attached to the application do not correspond to the requirements of laws and other legal acts or contain false information;
   b. The applicant for the license has overdue liabilities in respect of taxes and other payments required by law;
   c. The regulation on organizing and holding the prize game contradicts the Republic of Armenia laws or other legal acts or contain provisions that may undermine the players' interests or contradict the requirements of Article 7(1) hereof or the rules established on the basis of Article 7(5) hereof; or
   d. In other cases stipulated by law.
3. If it is decided to grant the application for a license, the license shall be issued to the applicant no later than within a one-month period of making the first annual payment of the stamp duty established by law, but only after a document confirming the payment has been presented.
4. If the organizer presents to the Authorized Body (i) the information on eliminating the shortcomings mentioned in a decision to issue a license, which was made with a reservation, or (ii) the receipt of the first annual payment of the stamp duty to receive a license after the end of the one-month period, then the Authorized Body shall demand from the applicant, as a precondition for issuing the license, a declaration that, during such time period, the documents attached to the license application have not lost their legal force in terms of their conformity to the requirements of this Law and other legal acts.
5. If the aforementioned declaration is not presented, or if the applicant informs that any of the documents attached to the application has lost its legal force and fails to present another document replacing such document, the Authorized Body shall decide to reject the license application.
6. A license to organize prize game does not permit to organize a casino. A casino license permits organizing any prize game in line with the requirements of this Law in the same gaming hall.
7. The organization of Internet prize games shall be subject to licensing under a simple procedure in accordance with the Republic of Armenia Law on Licensing. The organization of Internet prize games shall not be subject to the requirements of this Law (with the exception of the Article 6(3) requirement hereof in respect of the organization of Internet prize games directly (through gambling halls)). The stamp duty for organizing Internet prize games shall be collected (paid) in the amount and procedure stipulated by the Republic of Armenia Law on Stamp Duties.

(Article 8 was amended by Law HO-22-N dated December 25, 2006)

**ARTICLE 9. SUPERVISION OF THE ACTIVITIES OF PRIZE GAMES AND OF CASINOS**

1. Supervision of the activities of prize games and of casinos shall be performed by the Authorized Body through onsite or offsite supervision and, based on its results, in the event of finding the violations prescribed by this Law, shall apply the sanctions stipulated by Article 11 of this Law.
2. Audits of the activities of prize games and of casinos shall be implemented in accordance with the procedure stipulated by law.
3. Offsite supervision shall be performed by means of studying the information (reports) on the activities of the organizers submitted by them to the Authorized Body under Article 10 of this Law.

## LAW ON NOTARIES

**ARTICLE 5. THE SECRECY OF NOTARIAL ACTS**

1. The notary shall preserve the confidentiality of the information he obtains knowledge of through the authenticated or certified documents. The termination of employment shall not be construed to affect this responsibility, with the exceptions as provided for by the Republic of Armenia Law on Combating Money Laundering and Terrorist Financing.
2. The entity, the notarial acts have been performed with the consent of or in connection with, as well as the assignee or representative thereof, shall have the authority to relieve notary the obligation to preserve the secrecy of notarial acts.
After the death of mentioned entities, given the absence of or the impossibility to communicate with the assignees thereof, the notary may be relieved the obligation to preserve the secrecy of notarial acts by a court order.
The court may also relieve the notary the obligation to preserve the secrecy of notarial acts on other reasonable grounds.
3. The notary shall provide references regarding notarial acts only to individuals, as well as legal entities, governmental or local self-governance bodies (henceforth referred to as organization) or their representatives, upon the request and with the consent of the client.
4. Upon a written request from the prosecutor or a court, or an inspector, or an investigative body, as provided for by the law, the notary shall provide references regarding its notarial and other acts, extracts from the notarial work, copies and originals only in connection with criminal or civil court proceedings (preliminary or final).
The judge, the prosecutor, the inspector, the investigative body or the attorney shall be prohibited to provide information regarding notarial acts to other entities, including mass media, or to publicize this information in their communications before the court order enters into legal force.
Additionally, supervisory bodies or the officials thereof, entitled to supervise the notarial acts, shall have the right to obtain information regarding notarial acts within the scope of their authority, in compliance with rules and provisions of the law.
5. Notary shall have the right to provide information regarding a will or the content thereof, as prescribed by this law, only after the death of the testator.
6. The rules of preserving the confidentiality of notarial acts under this law, shall apply to entities (witness, translator etc.) involved in notarial acts, as prescribed by the law, as well as entities, that obtained knowledge of such information in connection with the performance of their job related and official duties.
7. Notaries shall protect the information and documents involving state or official secrecy, as provided by law.
8. Under the circumstances specified in the first paragraph of part 4 of this Article, the notary shall have the right to notify the entities involved in notarial acts regarding submitted references, extracts, copies or originals in connection with notarial acts, within 3 days following said submission, unless otherwise prescribed by law.
9. Under the circumstances and in compliance with rules prescribed by the Republic of Armenia Law on Combating Money Laundering and Terrorist Financing the notary shall provide information to the Central Bank of the Republic of Armenia.

**ARTICLE 23. RESPONSIBILITIES OF THE NOTARY**

1. The notary shall have the responsibility:
1) To be impartial and to observe the norms of notary ethics when performing notarial acts;
2) to preserve the confidentiality of the information obtained in connection with its activities, as prescribed by this law, with the exceptions as provided for by the Republic of Armenia Law on Combating Money Laundering and Terrorist Financing;
3) To refuse to conduct notarial acts, when it conflicts with the laws, or other legal acts, or international agreements of the Republic of Armenia;
4) to notify the Ministry of Justice and the Notary Chamber, when he/she fails to appear at the office because of sickness or other good reason for more than 5 days; and
5) to provide at least a five days prior notice to the Ministry of Justice and the Notary Chamber regarding a change in the address of the notary office;
6) To ensure the observance of the provisions of the Republic of Armenia Law on Combating Money Laundering and Terrorist Financing.
2. The notary shall also have the responsibility, upon the request of entities having paid the service fee;
1) while performing notarial acts, to provide assistance - to clarify their rights and obligations, for them to exercise their rights and realize their legal interests; to warn them of possible consequences of notarial acts, to avoid a situation, where their unawareness of the law is employed against them;
2) To clarify the parties the meaning and the purpose of draft transactions they presented and to verify the consistency of the content thereof with actual intentions of the parties;
In case the entities refuse to accept advise provided under this paragraph, the notary does not bear any future responsibility for resulting losses or other consequences of realized notarial acts; with regard to this the notary enters a note.
3. If foreign law is applied in the documents presented for notarial authentication or certification, or if the notary has concerns regarding the application of foreign law, the notary shall notify the requesting parties, and shall enter an appropriate note in the letter of authentication. In this case, for the parts involving foreign law, the notary is not required to perform obligations under paragraph 3 of part 1 and of part 2 of this Article, and shall not bear any responsibility for the resulting damage to the parties, including third parties.
4. The notary shall not be required to check the veracity of statements or other documents presented, as prescribed by laws or other legal acts, by or within the scope of the authority of organizations and by individuals, and shall not bear any responsibility for the resulting damage to the parties, including third parties, with the exceptions as provided for by the law, or where established, that the notary was in the knowledge or should have been in the knowledge of the fraud.
Notary shall not be required to verify the genuineness of the documents to be certified or transactions to be authenticated, the information and the facts about the parties or indicated by them, or the intentions thereof, and shall not bear any responsibility for the resulting damage to the parties, including third parties, with the exceptions as provided for by the law, or when established that the notary was in the knowledge or should have been in the knowledge of the fraud.
The notary shall not be required to verify the compliance of the content of the documents subject to authentication, certification or other notarial acts with the requirements of laws or other legal acts, and shall not bear any responsibility for the resulting damage to the parties, including third parties, in connection with the notarial acts specified under paragraphs 6-7, 11-12 and14 of part 1 of Article 36 of this law.
5. Notary and notary office shall not be subject to requirements, other than those provided for by this law.
(Article 23 as amended by HO-21-N Law of 14.12.04)

**ARTICLE 40. IDENTIFICATION AND DETERMINATION OF LEGAL CAPACITY AND CAPABILITY TO ACT OF A PERSON THAT HAS APPLIED TO PERFORM A NOTARIAL ACTION**

1. When performing a notarial action, the notary must check the identity and legal capacity of individuals, representatives of individuals, or representatives of organizations that have applied to perform a notarial action, and an organization’s legal capacity and capability, with the exception of delivering providing counseling or other

notarial services not deemed notarial actions and with the exception of cases of applying to perform the notarial actions stipulated by sub-paragraphs 5-7 of Article 36(1) of this Law.

When performing notarial actions based on a power-of-attorney, the notary must check the powers of the authorized persons.

2. The identity and legal capacity of a natural person shall be determined on the basis of the personal identification documents.

An organization's legal capacity and capability to act shall be determined on the basis of the requirements of the Armenian legislation and the legal entity's by-laws.

The legal capacity and capability to act of state or community bodies acting on behalf of the state or a community shall e determined on the basis of the requirements of the Republic of Armenia legislation and the by-laws of entities or institutions acting on behalf of the state or the respective community.

## REPUBLIC OF ARMENIA LAW

## ON PRECIOUS METALS

### ARTICLE 2. PRINCIPAL TERMS

Terms used in this Law shall mean as follows:

a) "precious metals" – gold, silver, platinum and platinum group metals (palladium, iridium, rhodium, ruthenium, osmium) in any form and condition (unrefined, refined, bar, ore, alloy, semi-finished, semi-fabricated, chemical substance, coin, scrap, by-products, etc.), other than articles made thereof;

b) "Precious stones" – natural, either unrefined or refined diamond, emerald, ruby, sapphire, alexandrite, and natural pearls;

c) "articles made of precious metals" – finished articles, manufactured for a specific purpose and use, made of precious metals or of alloys thereof with other metals, that may have elements of non-precious metals;

d) "Manufacturing of articles made of precious metals" – the process of manufacturing articles made of precious metals;

e) "refining ("affinage") of precious metals" – metallurgical process of smelting and purification of precious metals from ores and alloys;

f) "refined precious metals" - bars of any size, grains, powder of precious metals refined to or beyond 99.5% purity, manufactured by refining companies in compliance with international and Armenian (Republic of Armenia) standards;

g) "Retail dealing in precious metals, articles made of precious metals" – buying and selling of precious metals, articles made of precious metals designated for personal, household, or other use;

h) "Bank gold" – "gold" as defined under the Republic of Armenia Law on Currency Control;

i) "standardized ingot" – an ingot of precious metal of any size and standard, as prescribed by this law, manufactured by a refining company;

j) "Standard" - measure indicating the weight of the precious metal in the 1/1000 weight unit of an alloy;

k) "Assaying" – determination, with diverse techniques, of the content of precious metals in substances and articles;

l) "Hallmark" – stamp, that certifies the content of precious metal in the 1/1000 weight unit (standard) of the article made of precious metals;

m) "Hallmarking" – the technological process of impressing/stamping the respective standard on the metal surface of an article made of precious metals;

n) "Distinguishing mark" – stamp, that indicates the assayer and/or the hallmark maker of articles made of precious metals;

o) "Name mark" – mark, that certifies the manufacturer of the article made of precious metal;

p) "Troy ounce" – unit of weight used for precious metals that equals 31.1034807 grams;

q) "Refining Company" – a company licensed, as provided by the law, to refine precious metals, to manufacture bank gold and standardized ingots.

**ARTICLE 8. RETAIL DEALING IN PRECIOUS METALS AND IN ARTICLES MADE THEREOF**

1. The retail dealing in precious metals and in articles made thereof may be regulated, if necessary, by rules established by the Government.
2. The retail dealing in precious metals and in articles made thereof, with the exception of the articles specified under paragraphs “a”, “b”, “c”, “d”, “e” of part 7 of Article 6 of this law, may be carried out on condition, that said articles bear a hallmark and a distinguishing mark thereon, as provided by the law.
3. Where the existing hallmark and distinguishing mark of the precious metals and articles made thereof, subject to assaying and hallmarking under this law, conflict with the requirements thereof, the responsibility for assaying and hallmarking shall be borne by the retail dealer.
4. Articles made of precious metals involved in the retail dealing shall bear a hallmark and a weight tag; where there are precious stones thereon, a tag shall also include the weight and quality of stones.
5. The Government shall set the rules for retail dealing in scraps of precious metals and in semi-finished articles made of precious metals, with regard to the assaying and hallmarking.
6. The responsibility for the observance of the requirements under this Law with respect to the retail dealing shall be borne by the retail dealer.

**REPUBLIC OF ARMENIA**

**LAW ON AUDIT ACTIVITIES**

**ARTICLE 11. AUDITING STANDARDS**

Auditing standards are the normative legal acts regulating methods and order of carrying out auditing and relating services correspondent with international standards.
The auditor selects the methods and techniques of working basing on the requirements of normative legal acts on auditing.
The Government of the Republic of Armenia establishes auditing standards, as well as requirements for auditor’s ethics basing on international standards and code of conduct.
(Was revised in 08.06.04 HO-93-N law)

**ARTICLE 13. DOCUMENTATION OF AUDIT AND ASSOCIATED SERVICES**

1. Auditor shall document the conducted audit and the associated services in conformity with the established auditing standards.
2. Audit documentation shall involve formulation of audit opinion based on the audit work papers and audit results. Additionally, where specifically required under an agreement or upon the auditor’s own motion an audit report shall be produced (a letter addressed to the management of the audit client).
3. Audit work papers include documents prepared or obtained and maintained by the auditor with the purpose of carrying out an audit. Audit work papers contain confidential information (commercial secret).
4. Audit opinions, audit reports, audit work papers and other related documents shall be protected under the laws of the Republic of Armenia for at least 5 years following the conduct of an audit.

**ARTICLE 18. AUTHORITY AND THE RESPONSIBILITIES OF THE AUDITOR**

1. The auditor shall have the authority:
a) To fully examine the documents associated with the financial and economic activities of the audit client, as well as to verify the existence of the property as accounted;
b) to obtain oral, written explanations regarding the questions arising in the course of carrying out the audit services and other necessary information from the audit client, as well as to request such information from a third party;
c) To request in writing and obtain necessary information or confirmation from a third party upon a prior notice to the audit client;

d) To engage other auditors, experts (also on the contractual basis), as well as other commercial organizations in carrying out the audit services. The rules of the engagement of the mentioned entities in carrying out the audit services are defined by the auditing standards;
e) To refuse to conduct an audit or to present an audit opinion, if the audit client refuses to reveal information necessary to produce an audit opinion;
f) To exercise other rights not prohibited under the laws of the Republic of Armenia.
2. The auditor shall have the responsibility:
a) To observe the requirements of the laws of the Republic of Armenia in the course of implementing audit actions;
b) To ensure the observance of the requirements under part 4 of Article 12 of this law by its staff and the entities set down in paragraph "d" of part 1 of this Article;
c) To decline to carry out an audit in case of the absence of the license or under the circumstances specified under part 4 of Article 12 or in paragraphs "a" and "b" of part 2 of Article 19 of this law;
d) To ensure the preservation of confidentiality of the documents and the information involving commercial, organizational or bank secrecy, received and prepared in the course of carrying out the audit activities. The list of confidential information is set forth by the law, by an audit agreement and shall not be publicized, with the exception of the cases defined by a law or an agreement, as well as with a written consent of the legal entity, organization or private entrepreneur being audited. This list does not include the information, which shall not be considered as involving organizational, commercial or bank secrecy under the laws of the Republic of Armenia;
e) To report in writing any violation of the provisions of part 1 of Article 26 of this law to the authorized body within 30 days following said violation;
f) to submit quarterly reports on the audit activities to designated body, required exercise control over the fulfillment of requirements under the regulatory legal acts, as enacted by the Government of the Republic of Armenia, within 30 days following the current quarter; as well as, to submit yearly results' reports before April 15th of the year following current year;
g) To keep the records of its agreements, as prescribed by the Government of the Republic of Armenia;
h) Perform responsibilities provided by the Law of the Republic of Armenia "On combating money laundering and terrorist financing" and by other laws.
(Article 18 as amended by HO-93-N Law of 08.06.04, HO-86-N Law of 26.05.08)

**ARTICLE 31. RESPONSIBILITY FOR INFRINGING REQUIREMENTS OF THIS LAW**

The auditors, persons conducting audit and persons being audited are subject to responsibility provided by law in cases of infringing requirements of this law.

**ARTICLE 31.1. RESPONSIBILITY OF THE PERSON CONDUCTING AUDIT FOR INFRINGING REQUIREMENTS OF THIS LAW**

The Authorized Body applies the following measures of responsibility, except for suspending or revoking the license:
a) Warning and instruction to eliminate the violation.
b) Fine:
(Article 31.1 was amended by the Law HO-25-N, 16.12.05)

**ARTICLE 31.2. WARNING AND INSTRUCTION TO ELIMINATE THE VIOLATION**

1. The Authorized Body determines the violation and warns the person conducting audit on the basis of inspections or reviewing quarter and annual reports of persons conducting audit submitted by Subparagraph "f", Part 2, Article 18 of this Law.
2. Warning constitutes instruction on elimination of violation in the timeframe prescribed by the Authorized Body or on conducting future measures for prevention of similar violations and informing in written to the Authorized Body on that:
3. As a measure of responsibility, warning is imposed if the person conducting audit `

a) infringed the timeframes stipulated by Subparagraph “f”, Part 2, Article 18 of this Law in respect of submitting quarter or annual reports;
b) Infringed the requirements stipulated by Subparagraph “f”, Part 2, Article 18 of this Law in respect of submitting quarter or annual reports.
(Article 31.2 was added by the Law HO-25-N, 16.12.05)

**ARTICLE 31.3. FINE**

1. The fine is imposed and calculated according to the decision of the Authorized body in the order stipulated by the legislation of the Republic of Armenia. If the person conducting audit does not agree with the decision on imposing a fine, then the Authorized body applies to the court with a suit to enforce payment of the fine.
2. As a measure of sanction the fine should apply, if the person conducting audit:
a) Infringed the requirement of conducting audit services at least by 1 person, as prescribed by Point 4 of Article 6 of this Law, which gives rise to a fine of 300000 AMD for each case of infringement;
b) Infringed the requirement prescribed by Point 4 of Article 13 of this Law, which gives rise to a fine of 150000 AMD for each case of infringement;
c) Infringed the requirement prescribed by Subparagraph 2, Point 2 of Article 14 of this Law, which gives rise to a fine of 100000 AMD for each case of infringement;
d) Infringed the requirements prescribed by Subparagraph “c”, Point 2 of Article 18 of this Law, which gives rise to a fine of 200000 AMD for each case of infringement;
e) Infringed the requirements prescribed by Subparagraph “g”, Point 2 of Article 18 of this Law, which gives rise to a fine of 200000 AMD;
f) In case of issuing a warn on the basis of Part 2, Article 31.2 of this Law, if the infringement is repeated during one year a fine is raised of 100000 AMD for each case of infringement.
g) Infringed the requirement prescribed by Part 1, Article 13 of this Law, but according to the RA legislation, the infringement was considered non substantial and not affected the form and the content of the audit statement, which gives rise to a fine of 100000 AMD;
h) The infringement of the requirement prescribed by Part 2, Article 31.2 of this Law was not eliminated in the period set out by the Authorized body or the Authorized body was not notified about that, which gives rise to a fine of 100000 AMD for each case of infringement;
3. In the period of 2 years after application of a fine according to Point 2 of this Article, in case the infringement, which was subject to the fine is continued or a similar new infringement occurs, the fine is increased for 500000 AMD.
4. Statements composed with the infringement of Points “a”, “c”, “d” of this Article are not considered as due audit statements.
(31.3-ñ¹ was added by the Law HO-25-N, 16.12.05)

## LAW ON ACCOUNTING

**ARTICLE 5. ACCOUNTING**

Accounting is a system for the collection, registration and summary of information in monetary expression concerning the state and flow of the assets, equity, liabilities of an enterprise through comprehensive and continual documented accounting of all economic operations.

**ARTICLE 18. CONFIDENTIALITY OF ACCOUNTING INFORMATION**

1. The information in the initial accounting documents, account books, as well as in the reports for internal use is considered to be a commercial secrecy and can be accessed upon the permission of the organization’s chief executive in cases and by the procedure provided for by the founding documents of the organization and the legislation.

2. The persons and organizations that have received information comprising commercial secrecy must preserve the secrecy thereof. In case of the publication of such information they bear responsibility pursuant to the legislation.

## STATUTE[54]

## FINANCIAL MONITORING CENTER OF THE CENTRAL BANK OF THE REPUBLIC OF ARMENIA

Chapter 1. General Provisions

1. The Financial Monitoring Center (hereinafter referred to as FMC) of the Central Bank of the Republic of Armenia (hereinafter referred to as Central Bank) is a special structural sub-division of the Central Bank, which implements powers stipulated by laws, resolutions of the Board of the Central Bank, decrees and instructions of the chairman of the Central Bank, and this statute.

2. The FMC ensures the implementation of functions of the Authorized Body (hereinafter referred to as AB) under the RA Law against laundering of illicit proceeds and terrorism financing.

3. In its activities the FMC is guided by the strategy and work plan approved by the Board of the Central Bank.

Chapter 2. The Goal, Objectives And Functions Of The FMC

2.1. The goal of the FMC is to set up effective mechanisms for the fight against laundering of illicit proceeds and terrorism financing (hereinafter ML and TF).

2.2. The objectives of the FMC are:
2.2.1. coordination of activities aimed at prevention of ML and TF;
2.2.2. detection of ML and TF cases and implementation of effective measures to assist their prosecution;
2.2.3. through enhancing public awareness of the negative consequences of ML and TF, formation of an environment of intolerance towards that phenomenon, as well as contribution to the consistent deepening of knowledge on fight against ML and TF in the Republic of Armenia;
2.2.4. ensuring participation of the Republic of Armenia to international efforts to fight ML and TF and presentation of the position of the Republic of Armenia in the relevant international structures.

2.3. FMC is in charge of the following functions:
2.3.1. formation and development of information databases on fight against ML and TF, which includes:
a. formulation of requirements towards inflow and outflow information, related documents and relevant requests and reports;
b. centralized receipt and logical checks of information received from entities reporting to AB, detection and correction of inaccuracies, input of the relevant information into the centralized information system;
c. based on the relevant demand (request), the receipt of the necessary information from the state, ministerial and public databases, its development, input into the centralized information system and exchange;
d. input of other collected information into the centralized information system, receipt of information from the aforementioned system on the basis of the relevant demand (request), development and provision of necessary digital files;
e. submission of proposals on reporting forms, frequency of their submission, content and completion;
f. development of algorithms for information check through the centralized information system;
g. study and assimilation of international experience on centralized information system development;
2.3.2. development and analysis of data to fight ML and TF, which includes:

[54] Is approved by the Central Bank Board Decision No 97A dated March 3, 2005.

a. analysis of information submitted by entities reporting to AB to detect suspicious transactions;
b. collection and development of additional relevant information on suspicious transactions;
c. analysis of possible elements of crime in transactions (deals) which are being observed for detection of cases of ML and TF;
d. implementation of strategic analysis for fight against ML and TF, identification of possible tendencies on structural changes, dynamics, links and mutual connections, implementation of legal and economic analysis of digital information;
e. study of typologies of ML and TF cases, development of methodology for their disclosure and detection of indicators;
f. implementation of relevant analysis on the basis of requests from international organizations, foreign financial intelligence units, sub-divisions of the Central Bank, state and other agencies to fight against ML and TF;
g. comparative analysis of volume and quality of information received from entities reporting to AB;
h. examination, processing, formalization, automatization and implementation of internal business procedures (procedures insuring receipt, inputting, processing, dissemination of data, and internal document circulation),.
i. examination, comparison and presentation of outcomes of IT systems within the FMC and in the entire field of AML/CFT.
j. insuring exchange of information with internal and external (law enforcement agencies) sources.
2.3.3. exchange of information and cooperation with other state authorities of the Republic of Armenia, inclusive of law enforcement agencies, which includes:
a. provision by the FMC of information received as a result of measures implemented during the fight against ML and TF to the authorized state bodies, in accordance with the procedure defined by law;
b. development and adjustment of effective cooperation methods, agreements on fight against ML and TF between relevant authorized bodies and AB, coordination of activities on their signing and further cooperation;
c. provision of information on ML and TF cases to prosecution bodies, follow-up on the course of implementation of operational investigation activities based on the above information, as well as course of proceedings of initiated criminal cases (investigation, preliminary investigation and judicial inquiry);
d. provision of expert or other assistance deriving from its objectives on fight against ML and TF needed for operational investigation and inquest actions of criminal prosecution bodies, as well as judicial inquiry and activities of relevant authorized bodies;
2.3.4. exchange of information and cooperation with international organizations, foreign financial investigation bodies, other state authorities of the Republic of Armenia, inclusive of law enforcement agencies, involved in fight against ML and TF, which includes:
a. implementation of activities for membership to Egmont group;
b. development of concepts of cooperation with foreign financial intelligence units, preparation of cooperation agreements, coordination of their adjustment and signing procedures;
c. exchange of information and implementation of other types of activities within the framework of effective cooperation with foreign financial intelligence units;
d. preparation of the position of the Republic of Armenia in the relationships with international organizations involved in fight against ML and TF (FATF, MONEYVAL, etc.), follow-up on international legal agreements and other documents adopted by those structures;
2.3.5. regulation of fight against ML and TF, which includes:
a. development of mechanisms for the implementation of the requirements of international legal agreements and other documents on fight against ML and TF;
b. implementation of activities aimed at the development of legislation, normative and other legal acts on fight against ML and TF;
2.3.6. ensuring (supervising) implementation of requirements of legislation on fight against ML and TF, which includes:
a. preparation of criteria, manuals and guidelines about compliance of activities of entities reporting to AB and their clients with international and national standards on fight against ML and TF, analysis of efficiency of their implementation;

b. analysis of internal procedures and rules of entities reporting to AB and their supervising bodies aimed at prevention of ML and TF;
c. monitoring of compliance of activities of entities reporting to AB and their clients with international and national standards on fight against ML and TF, implementation, if needed, of joint checks with other sub-divisions of the Central Bank and other state authorities;
2.3.7. implementation of consultation and training on fight against ML and TF, which includes:
a. identification of consultation and training needs of the staff of state authorities, entities reporting to AB and their clients, staff of the Central Bank and wide segments of society on international legal standards and national legislation on fight against ML and TF;
b. provision, if needed, of consultation to the staff of state authorities, entities reporting to AB and their clients, staff of the Central Bank and wide segments of society, as well as development, coordination and implementation of training programs on fight against ML and TF.

Chapter 3. The principles of the FMC activities

3.1. The activities of the FMC are based on the principles of objectiveness, impartiality, variety, centrality, confidentiality and efficiency. While implementing activities arising from the objectives of the FMC, employees of the Center are guided by the principles set up by this chapter.

3.2. The employees of the FMC are independent from other structural sub-divisions of the Central Bank. The independence of employees of the FMC is provided by the special status of the FMC within the Central Bank.

Chapter 4. The accountability and relations of the FMC with the Board of the Central Bank

4.1. The FMC reports to the Board of the Central Bank. The FMC submits annual report to the Board of the Central Bank about the measures undertaken and results achieved in the fight against ML and TF, which includes:
a. the present status of information management system on fight against ML and TF and steps taken in the direction of its development;
b. general description of disclosed and analyzed ML and TF cases and the course of their investigation;
c. activities on the strategic analysis for fight against ML and TF, identification of possible tendencies on structural changes, dynamics, links and mutual connections, legal and economic analysis of digital information;
d. the present state and measures taken to develop cooperation of the FMC with state authorities and entities reporting to AB in fight against ML and TF;
e. general description of existing legislation (other normative acts) on fight against ML and TF and works performed to ensure its reforming;
g. description of programs implemented in the direction of training and consultation on fight against ML and TF.

The FMC submits to the Board of the Central Bank summarized quarterly reports on its day-to-day activities as well as on actions taken in the scope of national and international cooperation, and on gained outcomes.

4.2. The Board of the Central Bank approves the strategy of activities of the FMC.
In accordance with the strategy of activities of the FMC, the Board of the Central Bank approves the work plan of the FMC.

4.3. The Board of the Central Bank approves the annual budget (cost estimate) of the FMC.

4.4. As a result of its analysis the FMC applies to the Board of the Central Bank for suspension or termination of a suspicious transaction or of an account.

4.5. In the relationships with national, foreign and international bodies involved in fight against ML and TF, the FMC performs, on behalf of Central Bank, the necessary activities stemming from the functions of the clause 2.3 of this statute, in accordance with the procedure defined by the Board of the Central Bank.

4.6. If necessary the FMC applies directly to the Board of the Central Bank.

Chapter 5. Relations of the FMC with other sub-divisions of the Central Bank

5.1. While implementing its functions, the FMC cooperates with other sub-divisions of the Central Bank, in accordance with the procedure defined by the Board of the Central Bank.

5.2. The functions defined by the paragraph 2.3.1., sub-paragraph “b” of the paragraph 2.3.3., sub-paragraph “b” of the paragraph 2.3.4., sub-paragraph “b” of the paragraph 2.3.5., sub-paragraph “c” of the paragraph 2.3.6., paragraph 2.3.7. of this statute are performed by the FMC with the support of the relevant sub-divisions of the Central Bank, within the objectives and powers defined by their statute.

Chapter 6. Resources of the FMC

6.1. The property assigned to the FMC by the Central Bank is under its administration and use.

6.2. The annual budget (cost estimate) of the FMC is submitted to the approval of the Board of the Central Bank after being passed through the budgetary procedure defined by the internal rules of the Central Bank.

6.3. The international donor organizations can provide to the Central Bank financial means and other property necessary for due implementation of the FMC activities.

Chapter 7. The structure of FMC and organization of activities

7.1. The FMC is composed of the Head of the FMC, Deputy Head of the FMC, the Secretary Assistant, the Legal Compliance and International Relations Division, the Analysis Division and the IT Division. The Head of the FMC, Deputy Head of the FMC, the Employees of the Legal Compliance and International Relations Division, the Analysis Division and the IT Division are the FMC members as prescribed by the paragraph 3 of the Article 10 of the AML/CFT law. The Secretary Assistant is an administrative employee. The administrative employees are not the FMC members as prescribed by the paragraph 3 of the Article 10 of the AML/CFT law. The Head of the FMC, the Deputy Head of the FMC and other members are appointed by the Board of the Central Bank.

7.2. The Head of the FMC:
a. coordinates the process of drafting the FMC strategy, presents to the Board of the Central Bank characteristics of FMC’s development and ensures development of AML/CFT system upon them.
b. leads works of the Center’s annual program preparation and presents to the approval of the Board of the Central Bank.
c. coordinates works of compiling FMC’s annual and quarter reports, as well as the Center’s annual budget (estimate of expenditures), exercises its disposal.
d. coordinates and oversees work of the Secretary Assistant and the Divisions;
e. participates to the sessions of the Board and departmental administration of the Central Bank, committee acting within the Central Bank, as well as inter-ministerial committee;
f. organizes and participates to the consultations, sessions, discussions on issues relating to the Center and submits information about the results to the members of the Center;
g. submits to the discussion of the Board of the Central Bank proposals on employing and dismissing employees of the Center, their disciplinary encouragement and punishment;
h. determines the issues concerning the business trips, training and re-training of the employees of the Center;

i. submits proposals to the Board of the Central Bank on participation of the Central Bank and the Republic of Armenia in national and international discussions on fight against ML and TF;
j. drafts proposals to donor organizations about the needs of the Republic of Armenia in fight against ML and TF and submits them to the Board of the Central Bank;
ja. leads the process of development of rules with regard to work behavior and evaluation of work performance to ensure the normal course of activities of the Center;
jb. coordinates preparation of reports about the activities of AML/CFT system, as well as the FMC (if needed, regarding activities of each employee separately) and submits them to the Board of the Central Bank;
jc. coordinates the activities of developing annual reports of the Central Bank on fight against ML and TF to be presented to the public and submits them to the Board of the Central Bank;
jd. administers the correspondence addressed to the Center and oversees its due and timely implementation;
k. exchanges information (makes requests and answers to requests) and cooperates with foreign financial intelligence units, as well as exchanges information and cooperates with other state bodies, including law enforcement authorities.
l. signs relevant Memoranda of Understanding between the FMC and foreign financial intelligence units in the field of AML/CFT.
la. implements other powers authorized by the Board of the Central Bank.

7.3. The Head of FMC is responsible for working discipline of the Center and performance of his job responsibilities with due time and quality.

7.4. The Board of the Central Bank determines the number of FMC members, the requirements towards them and their job descriptions.
7.4.1. The Deputy Head of the FMC:
a. Coordinates implementation of functions envisaged in paragraph 2.3.2, sub-point d of paragraph 2.3.3, paragraphs 2.3.5, 2.3.6 and 2.3.7.
b. Fulfils other instructions, orders and indications of the Head of the FMC.
7.4.2 In case of absence of the FMC Head his functions are fulfilled by the Deputy Head.

7.5. The FMC divisions perform the following functions stemming from the FMC objectives:
a. The IT Division performs functions defined by paragraph 2.3.1, sub-point “b” of paragraph 2.3.2, 2.3.6 and paragraph 2.3.7;
b. The Analysis Division performs functions defined by paragraph 2.3.2, sub-point “d” of paragraph 2.3.3 and paragraphs 2.3.5, 2.3.6 and 2.3.7;
c. The Legal Compliance and International Relations Division performs functions defined by sub-points “a”, “b”, “c” of paragraphs 2.3.3 and paragraphs 2.3.4, 2.3.5, 2.3.6 and 2.3.7

7.6. The administrative staff of FMC is appointed by the Chairman of the Central Bank.
7.6.1. The Secretary Assistant of the FMC ensures necessary conditions for normal course of activities of the Center and its employees, particularly:
a. checks the documents addressed to the Center, submits them to the Head of the Center and forwards them to the addressees defined by the Head of the Center;
b. submits to the signature of the chairman of the Central Bank the outgoing correspondence of the Central Bank, registers it, keeps the copies and submits to the relevant sub-division for sending to the addressees;
c. arranges the delivery of the statistics reference books, annual report and other documents to the relevant addresses and updates database;
d. prepares minutes and working schedules, checks the deadlines of the assignments given to the employees of the Center by the Board, Chairman of the Central Bank and Head of the Center;
e. copies the necessary documents for the Head of the Center;
f. maintains and archives the documents developed in the Center as by roster of the Central Bank;
g. arranges preparation of formal and non-formal correspondence, prepares and sends other documents;

h. supervises and registers the attendance of the employees of the Center;
i. ensures the current designing and update of the Center's web site;
j. participates to the preparation of the Center's budget as regards administrative expenses;
k. during the implementation of functions stemming from the objectives the Center, performs other organizational duties as assigned by the Head of the Center.

7.7. While performing their duties the Head and the other employees of the FMC shall be guided exclusively by the law, ensure the required confidentiality of information, display impartiality and good faith.

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**Board of the Central Bank of**
**The Republic of Armenia**

Approved by Decision No 269
September 9, 2008
Board of the Central Bank of the Republic of Armenia

R E G U L A T I O N

## ON THE MINIMAL REQUIREMENTS STIPULATED FOR THE FINANCIAL INSTITUTIONS IN THE FIELD OF COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

### Chapter 1. Subject Matter

1. This Regulation is based on Republic of Armenia Law "On Combating Money Laundering and Terrorist financing" (hereinafter referred to as Law).
2. This Regulation stipulates the requirements, rules and criteria in the field of money laundering and terrorism financing (hereinafter referred to as ML/TF) prevention:
a) Minimal requirements with regard to the functions of the management bodies of financial institutions, including the internal monitoring body, and to the rules for performing such functions in the field of combating money laundering and terrorism financing;
b) Rules for approving and amending the internal legal acts of financial institutions in the field of combating money laundering and terrorism financing; the minimal criteria with regard to such internal legal acts;
c) Criteria for high or low risk of money laundering and terrorism financing, and the rules for their determination;
d) Minimal rules for customer identification;
e) Minimal rules for customer due diligence (including enhanced and simplified);
f) Minimal rules for the recording, collecting and updating the documents (information) for the financial institutions in the field of ML/TF prevention;
g) Minimal rules for identifying suspicious transactions (business relationships) and for considering the relevance of reporting to the Authorized Body by financial institutions;
h) Minimal rules for the audit of financial institutions' activities the field of ML/TF prevention;
i) Minimal rules for the selection, training and qualification of the competent staff in the field of ML/TF prevention.
3. The provisions of this Regulation are extended to the following reporting entities (hereinafter referred to as financial institutions):

1) banks;
2) credit organizations;
3) persons engaged in dealer-broker foreign currency trading, foreign currency trading;
4) licensed persons providing cash (money) transfers;
5) persons rendering investment services in accordance with the Republic of Armenia Law on Securities Market ;

6) central depositary for regulated market securities in accordance with the Republic of Armenia Law on Securities Market;
7) insurance (including reinsurance) companies and insurance (including reinsurance) brokers;
8) pawnshops.

## Chapter 2. Minimal requirements with regard to the functions of the management bodies of financial institutions and to the rules for performing such functions

4. The Board of the financial institution (hereinafter referred to as Board) and executive body are responsible for the establishment of an effective internal system of ML/TF prevention; ensure its current activities and supervision.
5. In case the Board is missing in the management structure of the financial institution the functions stipulated by paragraph 8 of this Chapter shall be performed by the executive body.
6. In case the both Board and the executive body are missing in the structure of the financial institution the functions stipulated by paragraphs 8 and 9 of this Chapter are performed by the management bodies stipulated by the internal legal acts.
7. If the reporting body is an individual entrepreneur, the functions stipulated by paragraphs 8 and 9 of this Chapter are performed by the individual entrepreneur or his/her Authorized body.
8. In the field of ML/TF prevention the Board of the financial institution shall:
1) stipulate the policy of the financial institution to combat ML/TF;
2) approve the annual program of the internal monitoring body and internal audit in the field of ML/TF prevention, the reports on their execution, as well as oversee the implementation of those programs;
3) when needed initiate studies of internal monitoring body dealing with ML/TF prevention; approve the measures aimed at the elimination of shortcomings identified in the aftermath of audit or other supervisions and oversee their implementation;
4) approve internal legal acts of ML/TF prevention (hereinafter referred to as internal legal acts);
5) receive and discuss the reports of the internal monitoring body and (or) internal audit on the state of implementation of internal legal acts at the frequency stipulated by itself;
6) approve the reports submitted to the supreme management (Board in the bank) by the internal monitoring body; and
7) oversee the efficiency of internal system of ML/TF prevention.
9. The executive body of the financial institution (hereinafter referred to as executive body) in the field of ML/TF prevention shall:
1) ensure the complete and effective application of internal legal acts;
2) ensure the implementation of the policy of combating ML/TF and procedures stipulated by the supreme management, as well as for their current enforcement;
3) appoint and dismiss the head (staff) of the internal monitoring body upon the approval of the Board;
4) provide that the staff of the financial institution masters completely the internal legal acts of combating ML/TF, as well as code of ethics;
5) jointly with the internal monitoring body ensure the appropriate education and training of the proper staff in combating ML/TF;
6) ensure the performance of customer due diligence measures, including the simplified or enhanced due diligence, on-going monitoring, as well as information registration, storage and upgrading;
7) provide the internal monitoring body with necessary equipment;
8) undertake measures aimed at the elimination of the shortcomings identified in the aftermath of study, audit or other controls carried out by the internal monitoring body; and
9) perform other functions stipulated by this Regulation and internal legal acts.

## Chapter 3. Internal monitoring function and the body dealing with ML/TF prevention

10. The head (staff member) of the internal monitoring body is appointed and dismissed by the executive body upon the approval of the Board.

11. The head (staff member) of the internal monitoring body shall have university degree and at least 2 years professional experience.
12. The head (staff member) of the internal monitoring body cannot be the person, who
a) has previous conviction for crimes committed deliberately;
b) by the court decision has been deprived of the right to hold positions in financial, banking, tax, customs, commercial, economic and legal fields;
c) has been recognized as bankrupt and have unpaid (non-satisfied) obligations;
d) is involved as suspect, accused or defendant in a criminal case;
e) has negative business reputation in banking sector;
f) does not meet the requirements stipulated by paragraph 11 of this Regulation; and
g) is affiliated with the management of the given financial institution.
13. In the banks the internal monitoring function cannot be conferred upon a staff member of the customer service department.
14. According to Article 22 of the Law in case of assigning the function of ML/TF prevention to another sub-division or staff member of the financial institution in the job obligations of the sub-division or staff member the function of ML/TF prevention shall be clearly described and sufficient time shall be allocated to perform it. According to the same Article the function of ML/TF prevention can be assigned to respective persons engaged in professional activities of consulting on ML/TF prevention.
15. The internal monitoring body shall have direct access to all documents (including credit files, working documents, contracts, etc.) concerning the customer's accounts and transactions. The internal monitoring body shall be entitled to require clarifications from any staff member of other sub-divisions on business relationships (transactions), customers, authorized bodies, as well as real beneficiaries.
16. The financial institution shall in its legal acts envisage that the internal monitoring body supports and provides consulting to the Board and to the executive body while they realize ML/TF prevention functions conferred on them.
17. The internal monitoring body shall at least:
1) draft the internal legal acts on combating ML/TF and submit them to the approval of the Board;
2) implement monitoring of effectiveness of legal acts in the field of combating ML/TF, makes recommendations on increasing their effectiveness;
3) provide connection between the financial institution and the Authorized body in terms of ML/TF prevention issues;
4) provide submission of information and reports on the transactions to the Authorized body on behalf of the financial institution;
5) realize analyses and other activities to disclose suspicious business relationships and transactions;
6) follow the on-going monitoring of business relationships and periodically review the process of updating and clarifying the information,
7) ensure the risk-based classification of customers of the financial institution; implement on-going monitoring of high risk business relationships;
8) organize internal education and training in ML/TF prevention; implement monitoring of training program process and its outcomes;
9) make a decision on suspension or rejection to carry out the business relationship or transaction, on freezing the funds connected with terrorism; if necessary, discuss that issue with the customer service clerk; and in case of controversy make a final decision;
10) based on the standards defined by the Board and according to the established order, inform the Board on suspension or rejection to carry out the business relationship or transaction;
11) implement monitoring of data registration and keeping; and
12) carry out activities stipulated by this Regulation; internal legal acts or assigned by the Board.
18. The successive report submitted by the internal monitoring body to the supreme management (to the Board in the banks) should at least include:
1) the number of suspicious business relationships and transactions, subject to mandatory reporting, as well as the short description of suspicious transactions (business relationships);

2) the number and complete description of transactions and business relationships, on which analyses have been carried out, though they have not been reported as suspicious transactions or business relationships;
3) the number and short description of business relationships and transactions suspended or rejected by the financial institution, the cost of the suspended transactions;
4) the amount of frozen funds; and
5) other information stipulated by internal legal acts.

## Chapter 4. Rules for approving and amending the internal legal acts of financial institutions in the field of combating money laundering and terrorism financing; the minimal criteria with regard to such internal legal acts

19. Internal legal acts of a financial institution shall be approved and amended by the Board.
20. In a week after the internal legal acts have been approved, they shall be submitted to the Authorized body. Based on the remarks and recommendations made by the Authorized body the internal legal acts shall be reviewed within twenty days, and the amended acts shall be resubmitted to the Authorized body within a week.
21. In addition to the requirements to the content of internal legal acts of Article 21 of the Law, the internal legal acts of the financial institutions shall also define:
a) the process of submitting proposals on filing reports on or suspending or rejecting suspicious transactions and business relationships by the customer service clerk to the internal monitoring body;
b) the criteria and order of informing the Board on suspending or rejecting the transaction or business relationship by the internal monitoring body.

## Chapter 5. Criteria for high risk and the rules for their determination

22. The following persons, events or objects are high risk criteria:
1) the resident natural person or legal person customer registered (performing an activity) in an offshore country or territory;
2) the relation of the customer's business relationship or occasional transaction to such countries (territories) (according to the lists stipulated by the Authorized body and respective international organizations), where the international standards for combating ML/TF are not appropriately applied, as well as to the countries released by the UN, to which sanctions are applied;
3) the residence (location) of the customer in the countries (territories) mentioned in clause 2 of this paragraph;
4) charity and non-profit organizations;
5) bearer securities (including the bearer checks), which are put into circulation during the business relationships or are subject of an occasional transaction;
6) cases, when suspicions arise on the veracity and equivalence of the obtained identification data including the existence of real beneficiaries and veracity of data on them;
7) cases, when it becomes clear that the establishment of business relationships with the customer or conclusion of the transaction has been rejected by another financial institution;
8) cases, when there is a customer making a large scale cash circulation, business relationship or occasional transaction;
9) customers, whose accounts are used for frequent and unexplainable moves of funds to various financial institutions;
10) business relationships or occasional transactions with politically exposed persons, members of their families, as well as affiliated with them persons;
11) private banking;
12) establishment of non face-to-face business relationships or occasional transactions through electronic means or correspondence (non face-to-face relationships);
13) business relationships or occasional transactions through such account or means, which have not been used for more than 6 months;
14) corresponding banking; and

15) allowing credit to the customer, when the credits allocated are ensured by the deposits at the same institution.
23. The internal legal acts of the financial institution can also envisage other criteria and requirements for high risks.
24. To identify the high risk criteria the following circumstances can be taken into account:
1) the customer is not a citizen or resident of the Republic of Armenia or the previous or current citizenship or residence of the customer assumes high risks in regard of ML/TF;
2) the customer has previously been involved in business relationships or transactions, which from ML/TF standpoint has been suspicious;
3) the accounts, means or reputation of the legal person are used for the circulation of a natural person's assets;
4) the structure or management of a legal person is unreasonably complicated;
5) it is impossible or difficult to identify the participants of a legal person; and
6) the legal person customer issues bearer securities.
25. The existence of high risk criteria is determined during customer due diligence. With the purpose to identify and assess the high risk criteria the financial institution compares:
1) the customer identification data;
2) the customer business profile;
3) the customer business relationships;
4) the nature and purpose of the customer's occasional transaction;
5) information received from the available sources; and
6) other circumstances.
26. While establishing non face-to–face business relationships or concluding transactions the financial institution shall as a minimum undertake the following additional measures:
1) performance of solely noncash transactions – except for the cash payments done through payment terminals and ATMs; and
2) ask for additional documents, like contracts, payment receipts or other justifying documents.
27. With the purpose to determine the political influence of the person the financial institution can perform the following actions:
1) inquiry of information from the possible customers or receipt of data about the customers and nature of activities of the persons affiliated with them;
2) study of public information and use of private databases about politically exposed persons (World-Check, etc.).

## Chapter 6. Criteria for Low risk

28. The following persons, events or objects are low risk criteria:
1) effectively controlled financial institutions from the viewpoint of combating ML/TF;
2) public bodies;
3) local self-governing bodies;
4) organizations founded by the state;
5) payments to the consolidated budget of the Republic of Armenia; and
6) payments for public utilities.

## Chapter 7. Minimal rules for customer identification

29. Identification of a customer, including an authorized person and the beneficial owner is done based on Article 15 of the Law.
30. Before establishing a business relationship with a customer (authorized person) or carrying out an occasional transaction, when there is a high risk criterion as per this Regulation and the internal legal acts of reporting entities, the financial institution checks the existence of the beneficial owner on the ground of a declaration filed by customer (authorized person) in accordance with the form introduced in Appendix 2. During a business relationship the form of declaration envisaged by this clause is filed (changed) only in case a beneficial owner appears or in case of the change of the beneficiary.

31. Information obtained during the customer identification must be checked by the customer service division and if necessary by the internal monitoring body or by other divisions. The check may not include the check of all the identification information, though it should be enough for the real identification of the customer. For this purpose the financial institutions can use both paper based and non-paper based methods of checking.

## Chapter 8. Minimal rules for customer due diligence (including enhanced and simplified)

32. When carrying out a customer due diligence in a business relationship the financial institution shall at least:
1) check the interrelation between those transactions, discover the possible scheme of that connection, as well as define the objectives of the aforementioned transactions;
2) check if the substance of the transactions corresponds to the type of activities performed by the customer;
3) obtain possible information about the customer's income sources;
4) compare the sources of money turnover, movement and volumes of various transaction of the customer;
5) assess the possible ML/TF risks of the transaction or business relationships through comparing the grounds and criteria of suspicious transactions and business relationships;
6) check, whether there are such business relationships and (or) occasional transactions, with which the customer has a purpose to avoid from submitting report to the Authorized body by the financial institution;
7) check the types, frequency and chronology of the transaction in a certain period of time;
8) perform the registration of contractual parties, recipient, beneficial owner, as well as the authorized person and perform comparison to identify the affiliation of the customers; and
9) undertake other measures stipulated by the internal legal acts.
33. The financial institution shall perform enhanced customer due diligence, if case there is high risk criterion.
34. While performing enhanced examination the financial institution shall at least:
1) perform more comprehensive and in-depth check of the veracity of the documents (information) necessary to establish business relationships with the customer, for example by requiring other justifying documents (information);
2) require information about the customer's assets and their origin;
3) examine the information about the customer, business relationships and transactions through the databases;
4) make inquiries from other reporting or other bodies, including foreign partners, to check the information about the customer, business relationships with him/her and occasional transactions; and
5) undertake other measures to have real and complete understanding about the customer, business relationships with him/her and occasional transactions.
35. Through the enhanced customer due diligence the financial institution shall receive reasonable excuses and clarifications and in this way have a real and complete understanding about the given customer, business relationships with him/her and occasional transactions. If in the aftermath of the undertaken measures the financial institution does not have a real and complete understanding, it shall consider the possibility of submitting a report to the Authorized body on suspicious transaction or business relationship.
36. The financial institution can perform simplified customer due diligence in case there is low risk criterion.
37. The simplified customer due diligence for natural persons shall at least include the clarification and registration of the following information:
1) name, surname;
2) account number, if any; and
3) data on ID.
38. The simplified customer due diligence for the legal persons shall at least include the clarification and registration of the following information:
1) name of the legal person;
2) serial number of the state registration certificate; and
3) identification data on the person entitled to manage the bank accounts of the customer.

## Chapter 9. Minimal requirements for the recording, collection and updating the information

39. The financial institutions shall collect the information mentioned in paragraph 44 of this Regulation in a way, which will ensure its use in the future as evidence. The documents asserting the information shall have the requisites ascribed to them.
40. The information shall be registered. The registration shall be conducted through the classified databases. The information registration shall be done in a way, which will enable to restore the data of the staff member, who has performed identification or other actions subject to registration.
41. The information may be kept in paper based form, computers and electronic bearers.
42. The financial institution shall ensure the security, confidentiality of the registered and kept information and prevent its unauthorized use and disposition.
43. By its internal legal acts the financial institution shall stipulate the frequency of upgrading the information obtained about the customer.
44. The financial institution shall register and keep:
1) customer identification data as established by the Law;
2) data about the main conditions of the transaction (business relationship) as established by the Law;
3) data about any analysis and activities performed with the purpose to determine the suspiciousness of the transaction or business relationship;
4) report on the suspicious transaction, as well as its grounding information and minutes of the deliberations concerning the submission of the report; and
5) data and implications about the suspicious transaction or business relationship, which has not been reported to the Authorized body .

## Chapter 10. Minimal rules for identifying suspicious transactions (business relationships) and for considering the relevance of reporting to the Authorized Body by financial institutions

45. In case the customer service clerk identifies ML/TF suspicions in business relationships or transactions according to the criteria described in the Law, guidelines submitted by the Authorized body or on the basis of personal opinion, he/she shall immediately inform the internal monitoring body as established by the internal legal acts.
46. In case of identifying a suspicious transaction on the grounds of the information received from the customer service clerk, other sources or in the aftermath of own monitoring the internal monitoring body shall submit a suspicious transaction report to the Authorized body .
47. The financial institution shall by its internal legal acts stipulate the internal procedures for identifying suspicious business relationships and transactions and consideration of reporting on them to the Authorized body. The aforementioned procedures shall stipulate at least:
1) procedures of informing the internal monitoring body the preliminary information (assumptions) about the suspicious business transaction or business relationships;
2) order and terms of developing, checking the information about the suspicious business transaction or business relationship and making possible conclusions by the internal monitoring body; and
3) possible actions and analysis for the purpose to determine the possible suspicious business transaction or business relationship, including the order of access to the national and international databases, requests, criteria of assessing their results and summary.
48. The Authorized body can pass individual names or other data to financial institutions and instruct to submit suspicious transaction report in case the transaction or business relationship concerns the provided data. Based on these instructions, if no deadline is determined, the financial institutions shall at least once a ten day review the business relationship and occasional transaction with their customers and in case of identifying the possible information submit suspicious transaction report.
49. The requests submitted by the Authorized body for the purpose to analyze the suspicious transaction or business relationship, including the requirement to submit additional documents (information), shall be executed by the financial institution within the shortest time mentioned in the request or requirement.

## Chapter 11. Minimal rules for the audit of the financial institutions' activities in the field of ML/TF prevention

50. According to Article 23 of the Law the internal audit shall at lease once a year perform check to make sure that the executive body and the internal monitoring body ensure the full compliance of the financial institution with the requirements stipulated by the Law, this Regulation and other legal acts, as well as internal legal acts. In case, when the function of combating money laundering and terrorism financing is assigned to the internal audit division or staff member, then the audit is performed by the body and order established by the internal legal acts of the financial institution.
51. The internal audit shall regularly submit to the Board and executive body reports about its evaluations and disclosures, including its conclusions about relevance and efficiency of staff training in the field of combating ML/TF.
52. According to Article 23 of the Law the financial institution shall submit to the Authorized body a copy of the external audit opinion invited for the purpose to introduce the legislation on combating ML/TF and crosscheck the efficiency level.
53. The financial institution, which has an subsidiary company, branch and (or) representation, shall be responsible for the appropriate application of the provisions of this Regulation. With this purpose the financial institution shall receive and study the copies of the reports on combating ML/TF conducted by the internal and (or) external audit in its subsidiary companies, branches and representations.

## Chapter 12. Minimal rules for the selection, training and qualification of the competent staff in the field of ML/TF prevention

54. The checking of the qualifications and professional relevance, including qualification and professional relevance test (hereinafter referred to as Test) shall be held for the candidates and applicants for the positions of the head and personnel of the internal monitoring body.
55. In the sense of this Regulation the candidates are those persons having come to the qualification and professional relevance test of the financial institution, whom the financial institution has appointed to the position of the head and personnel of the internal monitoring body.
56. In the sense of this Regulation applicants are the persons, who upon their personal initiative submit an application to pass a qualification and professional relevance test.
57. The persons appointed to the position of the head and personnel of the internal monitoring body, prior to the enforcement of this Regulation, shall be qualified within three months upon the enforcement of this Regulation and the persons appointed to the position of the head and personnel of the internal monitoring body after the enforcement of this Regulation within three months upon their appointment.
58. The auditors qualified by the Central Bank of the Republic of Armenia; persons having relevance diploma or certificate of International Association of Relevance; persons (applicants) having passed a practical course and qualification examination in the field of combating ML/TF organized by the European Bank of Reconstruction and Development are exempt from the requirement of passing a qualification exam.
59. The qualification and professional relevance check of the candidates (applicants) is done by the Licensing and Supervision Commission (hereinafter referred to as Commission) of the Central Bank of the Republic of Armenia.
60. To take part at the test the candidates (applicants) shall submit to the Authorized body the following documents:
1) an application;
2) a copy of the payment order of the amount stipulated by the Authorized body for the qualification and professional relevance test;
3) a copy of the passport;
4) a copy of the work record card;
6) a copy of the university certificate and
5) autobiography (CV).
61. In case the documents stipulated by paragraph 60 of this Regulation are fake or unreliable the Authorized body refuses the application or cancels the qualification certificate.

62. The tests of the candidates (applicants) are held in written form (in test form).
The written test is conducted by software. The Commission members, as well as upon the commitment of the Commission other Authorized body personnel can follow the test.
63. The test is a document containing questions, which is prepared based on the list of topics published beforehand. The lists and tests are approved by the Board of the Authorized body.
64. The tests shall be reviewed at least once in a year.
65. The examination tests of the head and personnel of the internal monitoring body are made to check the knowledge of the candidate (applicant) about the international documents and practice of combating ML/TF; requirements of the legal framework of the Republic of Armenia; ML/TF typologies, Regulation and supervision of the activities of the given financial institution. The test also checks the analytical capacities of the candidate (applicant).
66. In the professional relevance test there are 120 questions for the head of the internal monitoring body and 100 questions for the personnel.
67. For each question of the test the candidate (applicant) has on average 1.5 minutes.
68. Each of the test questions contains four answers, of which one is correct. The correct answer of the test gains 1 point and 0 point for wrong answer or no answer.
69. The candidates (applicants) are allowed to take part in the test in case of presenting a passport or other ID. During the test the candidate (applicant), as well as other persons in the test room shall not use legal acts or other legal materials, professional literature, information bulletins and talk to each other. In case of violating any of these requirements the applicant is stripped of right to take part in the rest of exam and a negative conclusion is given about him/her.
70. The Commission evaluates the questions of the tests as follows:
1) negative conclusion in case the applicant gains maximum up to 70% of the points;
2) positive conclusion in case the applicant for the positions of the head and personnel of the internal monitoring body gains 70 and more percent of the points and he/she is given a qualification certificate.
71. The results of the answers to the test questions (based on the computer data) are approved by the Commission.
72. The candidates (applicants) can appeal against the test results within 5 working days after the test – by submitting a written application to the chairman of the Authorized body. Upon the instruction of the chairman a revision commission can be set up, which can review the conclusion of the commission.
73. Based on the test results and positive feedback of the Commission upon the personal decision of the chairman of the Authorized body the candidate (applicant) is given a qualification certificate.
74. The qualification certificates of the head or personnel of the internal monitoring body are given for a period of 3 years from the moment of their issuance.
75. In case of loss of the qualification certificate the head or personnel of the internal monitoring body inform the Authorized body in writing – by submitting a written application in the dame of the chairman of the Authorized body. The Commission annuls the lost certificate and instead of it, within 10 days upon the receipt of the written application, a new certificate is given with a note “Copy”.
76. The name, surname, address of the persons that received certificates; the individual decision number and date of the chairman of the Authorized body; number of the Commission protocol and date; qualification certificate number and date of issuance are registered in the registration book of the issued qualification certificates.
77. The test is held within 15 days after the candidate or applicant submits the document package.
78. The financial institution shall regularly organize trainings for all the staff dealing with combating ML/TF. In case of employing new personnel a training of combating ML/TF issues shall be organized during first three months.
79. All the personnel of the financial institution shall be aware about their internal legal acts in the field of combating ML/TF.
80. The financial institution shall stipulate and conduct regular training courses for its staff in the field of combating ML/TF. Those courses shall stipulate training for the Board members, executive body personnel, internal monitoring body personnel, customer service and audit department personnel. The training and retraining of those personnel shall make sure that they have appropriate knowledge about the requirements and procedures for combating ML/TF, in particular:

1) about high and low risk criteria; most frequently encountered grounds and criteria for suspicious transaction or business relationships, including about the typology of the suspicious transactions provided by the Authorized body guidelines and
2) about the legislation of the Republic of Armenia, the provisions of this Regulation and internal legal acts on combating ML/TF.
81. The training courses of the financial institutions, all of their materials, as well as the names and signatures of the persons that took part in them shall be registered separately and kept for at least 5 years.

## Chapter 13. Transitional provisions

82. The moment this Regulation come into legal force the Regulation 5 of the Board of the Central Bank of the Republic of Armenia dated December 17, 2002 "On combating the circulation of criminal proceeds and terrorism financing in the banks and credit organizations, as well as other persons providing with reports", reference form "About suspicious transactions", Decree No442-N "On approving the sample lists of the information required by the bank for opening an account, information required by the credit organization during serving the customers and debtors".

Approved by the Decree No….
Dated …..2008
Of the Board of the Central Bank of the Republic of Armenia

Declaration about Existence (Absence) of a Beneficial Owner

Iª ----------, on----- ------ ---------- ---------- ---------- acting in business relationships or single transaction as ----------, declare that in the business relationships or single transaction there is/there is not a beneficial owner.

In case of existence the beneficial owner is---------- ----------.

I also commit myself to inform the ---------- in case of change of the beneficial owner or emergence of a beneficiary during the business relationships.

------ ---------- -------
/date/ ----------
/signed/