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

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# Serbia

Progress report and written analysis by the  
Secretariat of Core Recommendations <sup>1</sup>

8 December 2010

<sup>1</sup> First 3<sup>rd</sup> Round Written Progress Report Submitted to MONEYVAL

Serbia is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 34<sup>th</sup> Plenary meeting (Strasbourg, 7-10 December 2010). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2010)39 at <http://www.coe.int/moneyval>)

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**This is the first 3<sup>rd</sup> Round written progress report submitted to MONEYVAL by the country. This document includes a written analysis by the MONEYVAL Secretariat of the information provided by Serbia on the Core Recommendations (R.1, R.5, R.10, R.13, SR.II and SR.IV), in accordance with the decision taken at MONEYVAL’s 32<sup>nd</sup> plenary in respect of progress reports.**

# Serbia

## First 3<sup>rd</sup> Round Written Progress Report Submitted to MONEYVAL

### 1 *Written analysis of progress made in respect of the FATF Core Recommendations*

#### 1.1 *Introduction*

1. The purpose of this paper is to introduce Serbia's first progress report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the third round mutual evaluation report (MER) on selected Recommendations.

2. Serbia was visited under the third evaluation round from 9 to 16 May 2009 and the mutual evaluation report (MER) was examined and adopted by MONEYVAL at its 31<sup>st</sup> Plenary (7-11 December 2009). According to the procedures, Serbia submitted its first year progress report to the December 2010 Plenary in accordance with Rule 42 of the Rules of Procedure.

3. This paper is based on the Rules of Procedure as revised in March 2010 which require a Secretariat written analysis of progress against the core Recommendations<sup>1</sup>. The full progress report is subject to peer review by the Plenary, assisted by the Rapporteur Country and the Secretariat (Rules 38-40). The procedure requires the Plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, both documents being subject to subsequent publication.

4. Serbia has provided the Secretariat and Plenary with a full report on its progress, including supporting material, according to the established progress report template. The Secretariat has drafted the present report to describe and analyse the progress made for each of the core Recommendations.

5. Serbia received the following ratings on the core Recommendations:

R.1 – Money laundering offence (LC)
SR.II - Criminalisation of terrorist financing (PC)
R.5 - Customer due diligence (PC)
R.10 – Record keeping (LC)
R.13 - Suspicious transaction reporting (LC)
SR.IV - Suspicious transaction reporting related to terrorism (LC)

6. This paper provides a review and analysis of the measures taken by Serbia to address the deficiencies in relation to the core Recommendations (Section II) together with a summary of the main conclusions of this review (Section III). This paper should be read in conjunction with the progress report and additional information in the annexes which were submitted by Serbia.

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<sup>1</sup> The core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

7. It is important to be noted that the present analysis focuses only on the core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account to the extent possible in a paper based desk review, on the basis of the information and statistics provided by Serbia, and as such the assessment made does not confirm full effectiveness.

## **1.2 Detailed review of measures taken by Serbia in relation to the Core Recommendations**

### **1. Main changes since the adoption of the MER**

8. Since the adoption of the mutual evaluation report in December 2009, Serbia has taken the following measures with a view to addressing the deficiencies identified in respect of the core Recommendations:

- It adopted an Action Plan for the Implementation of the national AML/CFT Strategy for the period 2009-2013 (dated 16 October 2009)
- It adopted legislation amending its Criminal Code which addresses some of the technical deficiencies related to money laundering and the financing of terrorism;
- It adopted amendments to the AML/CFT Law (dated 30 November 2010)<sup>2</sup>
- It adopted a Rulebook concerning the methodology for the implementation of tasks pursuant to the AML/CFT Law (in force on 1 March 2010) and several additional guidelines by supervisory authorities to assist financial institutions and reporting entities to implement AML/CFT requirements;
- It complemented the already issued lists of indicators for suspicious transactions with new ones covering indicators for financing of terrorism, attorneys, accountants, money transfer services, organizers of games of chance operated in the internet, telephone or in any other manner using telecommunications networks, tax advisors, auditing companies and certified auditors (dated 3 November 2010).
- It conducted numerous trainings for the judiciary, law enforcement, regulatory and supervisory authorities, the FIU, reporting entities

9. Serbia has also taken additional measures to address deficiencies identified in respect of the key and other Recommendations, as reflected in the progress report, however these fall outside of the scope of the present report and thus are not analysed therein.

### **2. Review of measures taken in relation to the Core Recommendations**

#### **Recommendation 1 - Money Laundering offence (rated LC in the MER)**

10. Deficiency 1 identified in the MER (*Lack of clarity as to the scope of property*). Article 112 of the Criminal Code which defines “property” was amended in September 2009 (Law amending the Criminal Code, Official Gazette no. 72/09). The amended provision, in paragraph 36, now defines property as “assets of every kind, tangible or intangible, movable or immovable, or the estimates and invaluable documents in any form evidencing title to or interest in such assets. Property is considered income or other benefit that originates, directly or indirectly, from a criminal offence, as well in which it is concerted or with which it is merged”. This shortcoming has been addressed.

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<sup>2</sup> The Act was published on the Official Gazette on 3/12/2010 and shall enter into force 8 days after its publication.

11. Deficiency 2 identified in the MER (*The list of predicate offences does not cover 2 out of 20 designated categories of offences (insider trading, market manipulation)*). Serbia indicated that an Act on capital markets and financial instruments has already been elaborated which will be presented shortly to the Government for consideration, following which it would be put forward to the Parliament. This draft law is reported to include provisions which will criminalise market manipulation and insider trading. Pending the adoption of this legislation, these shortcomings cannot be considered as having been addressed.

12. Deficiency 3 identified in the MER (*Low number of convictions and indictments for ML compared to the number of ML criminal investigations and investigations for serious offences that generate proceeds indicates an issue of effectiveness*). The statistics provided by Serbia show an increase in the total number of final convictions (4 final convictions involving 5 persons in 2009, 2 final convictions previously in 2008). After a small decrease in 2009, the number of yearly initiated criminal money laundering investigations has risen in 2010, though it appears that the number of cases in which charges were brought has clearly decreased, though cases seem to be more complex and involving more persons. The authorities indicated that the most common predicate offences in such cases are abuse of office, fraud, illegal online gaming. It is still to be noted that no convictions appear to have been obtained in relation to other proceeds generating predicate offences, in particular those related to organised crime, drug trafficking, human trafficking, etc.

13. Furthermore, action has been taken in 2009 and 2010 to address the issue of lack of expertise and training knowledge of the judiciary and other competent authorities when dealing with economic crimes, through trainings organised in Serbia and abroad. The Judicial Training Academy organised 21 seminars for 522 judges and prosecutors of district and municipality courts in the period from 1<sup>st</sup> of June 2009 to 1 November 2010, focusing on measures to combat money laundering and corruption and relevant international standards. 7 seminars were also organised for 134 participants (district court judges, prosecutors, representatives of the Directorate for Combating Organised Crime and the Administration for the Prevention of Money Laundering) on money laundering and terrorism. 6 seminars were organised for 184 participants (investigative judges, prosecutors and police) on Challenges and success cases related to ML and corruption in Serbia and abroad. Finally, seminars on *Gathering and analyzing evidence in corruption cases* were organised for representatives of relevant state authorities in order to promote team work and professional expertise in the process of cooperation with the prosecutor's office.

14. In conclusion, the changes introduced to the Criminal Code definition of "property" address the deficiency identified in the MER and strengthen the ML offence. Further action is required to ensure that the draft legislation on capital markets and financial instruments is adopted within a reasonable timeframe so that the predicate offences to ML cover insider trading and market manipulation. As regards the effectiveness in investigating and prosecuting ML, Serbia will need to pursue its efforts to demonstrate effectiveness. The efforts to undertake training in order to strengthen the knowledge and expertise of the law enforcement and judiciary are welcome. The quality of such trainings and their impact on the beneficiaries and the practice cannot be assessed in the context of this review. Such training efforts will need to be pursued through a comprehensive approach to the initial and on-going training in this area for investigators, prosecutors and judges.

### **Special Recommendation II - Criminalisation of terrorist financing (rated PC in the MER)**

15. Deficiency 1 identified in the MER (*Article 393 does not criminalize the financing of a terrorist organisation or of an individual terrorist*). The criminalization of terrorist financing was rated PC as a result of ambiguities and technical deficiencies on the scope of the offence that adversely impacted in the criminalization framework. In particular the financing of a terrorist organisation or of an individual

terrorist was not covered. Serbia amended article 393 of the Criminal Code (Law amending the Criminal Code, Official Gazette no. 72/09) as follows:

*“(1) Whoever directly or indirectly provides or collects funds intended for financing commission of criminal offences specified in Articles 312, 391 and 392 hereof, shall be punished by imprisonment of one to ten years.”*

*After paragraph 1, new paragraph 2 shall be added and shall read as follows:*

*(2) Whoever encourages and assists in providing or collecting funds for carrying out criminal acts specified in articles 312, 391 and 392 this Code, regardless of whether the act is committed, or whether the funds are used for the committing of these criminal offence, shall be punished by imprisonment from six months to five years.*

*(3) The funds specified in paragraph 1 of this Article shall be confiscated.*

16. The amendments introduced do not appear to have made changes to the provision or collection of funds to finance a terrorist organisation and individual terrorist (criterion II.1a)(ii) and (iii)). The offence does not seem to cover the financing of terrorist organisations and the financing of individual terrorists regardless of whether the financing is for criminal activities, legal activities or general support. Thus the FT provision still does not cover all the requirements of SR.II on this point.

17. Deficiency 2 identified in the MER (*The FT offence does not cover the whole range of activities envisaged by Article 2(1) (a) and (b) of the FT Convention (thus not all of them being predicate offences to ML)*). Articles 312 (Terrorism), 391 (International Terrorism) and 392 (Taking Hostages) do not seem to have been amended and criminalise only acts intended to cause harm to the constitutional order of Serbia, or of a foreign state or international organisation and hostage taking (see comments in the mutual evaluation report<sup>3</sup>, Section 2.2, page 56 and following). Thus the offences listed in Article 393 as amended do not mirror fully the offences which fall within the scope of the nonce international treaties appearing in the annex to the FT Convention, and thus of Article 2 paragraph 1 (a) and (b) of the FT Convention. The scope of the FT offence therefore does not extend to “all terrorist acts” as defined in the FT Convention. This shortcoming thus has not yet been addressed.

18. Deficiency 3 identified in the MER (*In the absence of a definition of “funds”, it is unclear that the offence encompasses the notion of funds as defined in the FT Convention*). The amendments introduced to article 112 paragraph 36 address this shortcoming.

19. Deficiency 4 identified in the MER (*The FT offence requires that funds are linked to a specific terrorist act*). Paragraph 1 of article 393 was not amended and still requires that funds are linked to a specific terrorist act. Hence, this shortcoming has not yet been addressed.

20. In conclusion, the amendments introduced in September 2009 do not address all of the shortcomings identified in respect of the criminalization of terrorist financing. Serbia will need to take further action in order to resolve the deficiencies identified in the MER and adequately implement the requirements set out under Special Recommendation II.

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<sup>3</sup> Mutual Evaluation Report on Serbia (ref. MONEYVAL (2009)29) at: [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL\(2009\)29Rep\\_SER3\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL(2009)29Rep_SER3_en.pdf)

**Recommendation 5 - Customer due diligence regarding financial institutions (rated PC in the MER)**

21. The evaluation team had concluded that there were only a only a few minor deficiencies, mostly stemming from the newness of the legislation and that the customer due diligence (CDD) obligations as set out in the AML/CFT Law and the Decision on KYC Procedure covered comprehensively the FATF Requirements and applied equally to all obligors as identified in the law. Competent authorities had yet to issue implementing measures for the AML/CFT Law and related guidance. In practice, there was awareness of the requirements and the application of due diligence measures, particularly in the banking sector, however this compliance level did not cover the financial sector as a whole, since significant parts had not sufficiently implemented not only the due diligence controls of the AML/CFT Law, but also of the previous AML Law.

22. In February 2010, the Ministry of Finance issued on 4 February a Rulebook concerning the methodology for the implementation of tasks pursuant to the AML/CFT Law, which entered into force in March 2010. This Rulebook sets out provisions on the criteria based on which obliged entities shall classify a client, business relationship or service that it provides within its business activity into a low risk group, on conditions to establish and verify the identity of customers and legal representatives using the qualified electronic certificate, internal controls procedures, record keeping, manner of reporting to the FIU, requirements for CTR reporting, list of countries that do not apply AML/CFT standards and countries that apply AML/CFT standards at EU level or higher, etc.

23. Deficiency 1 identified in the MER (*No guidance on the risk-based approach has been provided for financial institutions regulated by the Securities Commission*). Serbia indicated that Guidance for implementing the AML/CFT Law was issued in November 2009 which is applicable to financial institutions regulated by the Securities Commission (broker-dealer companies, authorized banks, custody banks and management companies). This document is reported to include instructions on how to fulfill their AML/CFT obligations, and also includes guidance on implementing a risk based approach. It appears thus that this shortcoming has been addressed, however, as the text of the guidance has not been made available, it remains to be demonstrated that the guidance satisfactorily covers the AML/CFT requirements and assists in the implementation of a risk based approach.

24. Deficiency 2 identified in the MER (*No explicit requirement for obligors to consider making a suspicious transaction report when they have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship*). Serbia reported that the amendments have to the AML/CFT Law have been adopted on 30 November 2010 which will explicitly require obligors to consider whether there are reasons for suspicion of ML or FT and to make an official note in writing. These amendments, which have been published in the Official Gazette, are expected to enter into force on 11 December 2010.

25. Deficiency 3 identified in the MER (*No adequate demonstration that all financial institutions have implemented the standards of Recommendation 5, including the risk based approach.*) The mutual evaluation process had concluded that overall, Serbia's compliance with the FATF standards on CDD requirements showed a number of essential gaps in implementation which were mostly stemming from the newness of the AML/CFT Law and of sectoral guidance issued. Since the evaluation, additional guidance was issued by the APML in October 2010, by the Securities Commission in November 2009 for financial institutions under its competence and by the Foreign Currency Inspectorate on 8 November 2010 for entities engaging in forfeiting and factoring operations in international payments. Furthermore the authorities reported having organised a series of seminars and workshops for financial institutions in the period from August 2009 to November 2010 (brokers, insurance companies, representatives from insurance supervision, leasing companies). The National Bank of Serbia also reported having organised



several meetings with obligors under its supervision competence in order to discuss the application of a risk based approach.

26. It appears difficult in this desk review to make any assessment on the level of implementation by financial institutions of their CDD requirements, based on the information provided by the authorities. The additional guidance issued and trainings organized nevertheless demonstrate positive developments aimed at strengthening the awareness of the financial institutions of the requirements and application of CDD measures. Such efforts will need to be sustained.

### **Recommendation 10 - Record keeping (rated LC in the MER)**

27. The MER had concluded that record keeping requirements were comprehensively covered by the AML/CFT Law, the Law on accounting and auditing and relevant regulations. The financial institutions, appeared to be knowledgeable of their record keeping obligations and supervisors did not report any problems with timely access to customer and transaction records and information. However, considering the limited number of inspections of financial institutions, in particular regarding non banking financial institutions, it was not possible to conclude that record-keeping requirements were effectively implemented by financial and non financial institutions.

28. Deficiency 1 identified in the MER (*Lack of sectoral laws/regulations enabling effective implementation of the recordkeeping requirements by persons involved in intermediation in credit transactions and provision of loans, factoring and forfeiting, and provision of guarantees – should they start operating in the Serbian financial sector*). These professionals have not started operating in the Serbian financial sector, with the exception of services of factoring and forfeiting. Serbia indicated that a new Law on foreign exchange actions is expected to be adopted in the beginning of 2011, its text being currently under discussion before being introduced to the Government. Once adopted, the Foreign Currency Inspectorate intends to draft amendments to the secondary legislation regarding factoring and forfeiting. The shortcomings in respect of coverage of persons providing services of factoring and forfeiting cannot be considered as having been addressed, and the authorities are encouraged to adopt the relevant sectoral laws and regulations in order to ensure that record keeping requirements are adequately covered.

29. Deficiency 2 identified in the MER (*Lack of effective implementation of the record-keeping requirements by financial institutions (including PTT Srbija currently not recognised as a financial institution)*). The evaluation process had concluded that financial institutions in Serbia often failed to obtain and maintain complete CDD information documents, thus raising the issue of lack of effective implementation of the record keeping requirements. Serbia has followed up on this deficiency and provided statistics on sanctions applied as a result of supervisory action in banks and exchange offices where breaches to record keeping requirements were identified. As with any paper desk based review, questions remain regarding the effectiveness of implementation of the AML/CFT law and regulations pertaining to record keeping by financial institutions, and especially non bank financial institutions. The obligations are monitored/ supervised by the authorities (see in this respect the information provided by Serbia on action taken to comply with Recommendation 23) This matter could be adequately evaluated only during an on-site visit, on the basis of comprehensive information and meetings with relevant entities and supervisory authorities.

30. In conclusion, the shortcomings regarding the lack of sectoral laws/regulations enabling effective implementation of the recordkeeping requirements by persons involved in intermediation in credit transactions and provision of loans, factoring and forfeiting, and provision of guarantees remain valid, pending further legislative developments underway which are expected to be finalized in 2011. Serbia

continued to supervise the implementation of record keeping requirements, as evidenced by the data submitted on supervisory action (particularly in banks and foreign exchange offices), sanctioning when applicable, breaches of the CDD and record keeping requirements.

**Recommendation 13 – Suspicious transactions reporting regarding financial institutions (rated LC in the MER)**

31. Serbia had been rated largely compliant in respect of compliance with Recommendation 13 and was recommended to take additional measures in order to ensure the effective implementation of the reporting obligation by all financial institutions (inter alia to issue specific guidance on the legal definition of the reporting obligation so as to prevent its possible restrictive interpretation; to issue STR reporting forms and instructions for all obligors, to complete and publish list of indicators, etc).

32. Deficiency 1 identified in the MER (*Not all financial institutions have lists of indicators for recognising ML related suspicious transactions*) and Deficiency 2 identified in the MER (*The lists of indicators developed by financial institutions are copied from those of the APML and, in some cases, contain contradictions with applicable legislation*). Serbia indicated that several meetings were organised with obligors, and in particular by the National Bank, to discuss the issue of the development and application of the list of indicators. Pursuant to the AML/CFT Rulebook issued in 2010 (article 23), financial institutions are required to develop their own lists of indicators and include therein the ones developed by the APML. The issue as to whether all financial institutions have developed lists of indicators remains to be demonstrated through on-site supervisions. Action has been taken to some extent to address these shortcomings, however it is not demonstrated that these have been fully addressed for all financial institutions.

33. Deficiency 3 identified in the MER (*The lists of indicators developed by the APML are not complete, clearly identifiable, need revision in terms of contents*). Serbia indicated that the APML has issued Guidelines for suspicious transaction reporting (hereinafter STR Guidelines), customer due diligence and no tipping off on 26 October 2010 (see annex XVIII), which were prepared in cooperation with the National Bank of Serbia and experts from the banking sector. At the time of the on-site visit, the following lists had been issued: Indicators for insurance companies (2 April 2009), Indicators for banks (2 April 2009), Indicators for Exchange Offices (2 April 2009), Indicators for Stock-market (2 April 2009). These have not been amended since December 2009. In addition to these, the APML also recently issued a list of Indicators for financing of terrorism, attorneys, accountants, money transfer services, organizers of games of chance operated in the internet, telephone or in any other manner using telecommunications networks, tax advisors, auditing companies and certified auditors (3 November 2010). These have also been communicated to obligor associations.

34. Deficiency 4 identified in the MER (*Serious lack of understanding of the reporting requirements among financial institutions, resulting in insufficient effectiveness of the reporting system; low level of STR reporting by non-bank financial institutions*). The MER had raised effectiveness concerns as regards the level of suspicious transactions reports by FIs and in particular of non bank financial institutions as well as on the level of understanding of the reporting requirements.

35. The authorities advised that in 2009-2010 a number of training seminars and meetings were organised by the National Bank, the Securities Commission and the APML for reporting entities (see annex III on Summary of trainings delivered).

36. The authorities, in the introduction to the STR Guidelines, mentioned specifically that the APML is receiving a too large number of STRs which are rather superficially or not at all analyzed by the obligors.

At the same time, supervisors have identified a considerable number of transactions which are covered by the suspicious indicators and which should have been analyzed and reported. The Guidelines include specific examples and are aimed at assisting reporting entities to detect, process and report suspicious transactions.

37. From the statistics provided by the authorities, it is noted that the number of STRs reported has steadily increased ( 2884 in 2008, 3957 in 2009 and 3854 as of October 2010), with a more active reporting not only from banks, but also from insurance companies (7 STRs in 2010 as opposed to 2 in 2008), brokers (7 STRs in 2009 compared with 2 in 2008), with leasing companies starting to report (6 STRs in 2009 and 43 in 2010 and with a more active reporting by the Post office.

38. In conclusion, there is thus some evidence that the implementation of the reporting obligation is more effective, at least in some parts of the financial sector. This has also resulted in an increased figure of cases opened, analysed and disseminated by the APML to the law enforcement and prosecutors. Further measures will be required in order to be able to demonstrate concrete progress in the implementation of the reporting obligations by the non-banking financial institutions and other reporting entities. The recently issued Indicators in November 2010 are a positive step in this direction and will need to be followed up upon through outreach to the reporting entities and supervisory action to ensure that they adequately comply with the reporting requirements of the AML/CFT Law and Rulebook.

#### **Special Recommendation IV - Suspicious transactions reporting related to terrorism regarding Financial institutions (rated LC in the MER)**

39. Deficiency 1 identified in the MER (*Financial institutions do not have lists of indicators for recognising FT related suspicious transactions*) and Deficiency 2 identified in the MER (*The APML has not developed lists of indicators for recognizing FT related suspicious transactions*). Pursuant to the new AML/CFT Rulebook (February 2010)), financial institutions are required under article 23 to develop their own lists of indicators, and include the ones developed by the APML. It is to be noted that the APML has recently developed a list of indicators regarding the financing of terrorism, which was issued in November 2010 and includes 10 indicators. The issue as to whether all financial institutions have developed lists of indicators for recognizing FT related suspicious transactions remains to be demonstrated through on-site supervisions, however at a minimum these are obliged to integrate within their own lists the recently issued list of indicators disseminated by the APML.

40. Deficiency 3 identified in the MER (*Serious lack of understanding of the reporting requirements among financial institutions, resulting in insufficient effectiveness of the reporting regime*). The new AML/CFT Rulebook , which remains the only implementing regulation in terms of the reporting regime, does not address in detail issues related to reporting suspicions on terrorist financing, nor do the STR Guidelines issued in October 2010. It remains to be ascertained whether the provisions which they contain and which refer specifically to the FT reporting requirements are considered adequate by the financial institutions. The authorities indicated in this context that in addition to the publication of the lists of FT indicators, several awareness raising measures were taken, through meetings and trainings that have been organised by the FIU and the supervisory authorities with the reporting entities and professional bodies and which covered also aspects related to the reporting obligations, and FT reporting, cases, typologies, etc.

41. As regards STRs made relating to suspicions on terrorism financing, the situation remains the same as previously, with no STRs having been made to date. Serbia will need to continue to work on enhancing the effectiveness of its STR system, and in particular in relation to terrorist financing.

### **1.3 Main conclusions**

42. It is recalled in this context that the evaluation proves had concluded that Serbia had reached a good level of compliance with most of the core recommendations. One year after the adoption of the mutual evaluation report, Serbia has demonstrated that it has commenced action in several areas in order to address the deficiencies identified in respect of the core Recommendations, including in those were Serbia was rated largely compliant. It is important that this commitment be sustained.

43. In relation to R.1, the amendments to the criminal legislation have successfully addressed the deficiencies identified in respect of the scope of property and the proposed draft legislation, once adopted, should address the deficiencies related to the criminalization of market manipulation and insider trading. On SR. II and R.10 no concrete progress seems to have been made.

44. It is to be noted though that very positive steps have been taken in the preventive area, and the existing AML/CFT law has been consolidated by the adoption of several guidelines, supported by trainings, hence efforts being made to strengthen the implementation of the CDD requirements. Also, Serbia was able to show positive developments in respect of the measures aimed at strengthening the STR reporting system and the implementation of the obligation by reporting entities. Further progress shall be required to demonstrate the implementation of the reporting obligations by the non-banking financial institutions and other reporting entities and enhance the effectiveness of its STR system, and in particular in relation to terrorist financing.

45. In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visit (i.e. December 2012), though the Plenary may decide to fix an earlier date at which an update should be presented.

MONEYVAL Secretariat

## **2 Information submitted by Serbia for the 1<sup>st</sup> progress report**

### **2.1 General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field**

The Law Amending Criminal Code (Official Journal of RS, no. 72/09), passed in September 2009, introduced, among other changes, a broader definition of terrorism financing, and a more general definition of property, which now includes all types of assets.

A Draft Law Amending the AML/CFT Law has been prepared and sent for approval by the Government and further to the National Assembly for adoption. Key improvements to the current system include the incorporation of the requirement provided for under SR VII, regarding wire transfers. The amendments aim also to implement the provisions of Regulation (EC) No 1781/2006 of the European Parliament and Council of 15 November 2006 on information on the payer accompanying transfers of funds. In addition to the obligations under SR VII, the amendments contain provisions regarding the licensing of compliance officers. Also, another important change is that the APML will be competent to supervise certain obliged entities, such as accountants, auditors, etc.

The Action Plan for the Implementation of the National Strategy against Money Laundering and the Financing of Terrorism (AML/CFT Strategy), is adopted in October 2009, for the period 2009-2013. This plan specifies certain priorities, objectives defined, timeframe for the implementation of the objectives, as well as the main implementing agencies, indicators and resources required for their implementation.

In order to harmonize national legislation with the international standards, AML/CFT by-laws have been passed and entered into force on 1 of March 2010. AML/CFT by-laws fully in line with Commission Directive 2006/70/EC laying down measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis of 1 August 2006.

It also merits mentioning that the implementation of a key comprehensive AML/CFT Project is expected to start shortly. The project was approved under the EU's IPA Instrument, and it will be implemented by the Council of Europe. The total project value is EUR 2,365,000.00 of which the European Union will allocate 2 million, Council of Europe 200,000.00, while the rest will be co-financed by the Republic of Serbia. Serbian authorities expect the project to improve the entire AML/CFT system in Serbia to a considerable extent.

In cooperation with the National Bank of Serbia and experts from the banking sector, the APML has issued Recommendations (or Guidelines) for suspicious transaction reporting, customer due diligence and no tipping off. The reason to adopt the Recommendations is difficulties and dilemmas encountered in the application of the suspicious transaction reporting requirement, as well as implementation of customer due diligence actions and measures and client monitoring.

The Law on capital markets has been drafted, and the main novelty is criminalization of market manipulation, as well as using, revealing and recommending the inside information as criminal offences.

The Proposed Law on Amendments and Changes to Law on Voluntary Pension Funds and Pension Schemes is in the procedure in the National Assembly of the Republic of Serbia. It is expected that it will be approved by the end of this year.

The draft of a new Law on Financial Leasing and by - laws in this area relating to issuance of licenses will, prescribes prohibition for physical persons with criminal background to participate in ownership of financial leasing companies.

In this period there are more changes regarding AML/CFT combat: PEP's provisions are added to Decision on the Guidelines for Assessing the Risk of Money Laundering and Terrorism Financing, Supervisory methodology for banks is changed in order to be fully compliant with RBA, Manner of supervision planning is changed in order to be fully compliant with RBA, AML/CFT Questionnaire analysis is now fully in accordance with RBA and Voluntary pension funds supervision department adopted the Manual for the assessment of the voluntary pension funds AML/CFT risk exposure, which will be used in the following onsite supervisions.

## 2.2 Core recommendations

Please indicate improvements which have been made in respect of the FATF Core Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

<b>Recommendation 1 (Money Laundering offence)</b>	
<b>Rating: Largely compliant (R.1)</b>	
Recommendation of the MONEYVAL Report	<i>Clarify that the offence of ML extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime.</i>
Measures taken to implement the Recommendation of the Report	<p>Money laundering is criminalized in Article 231 of Criminal Code, which reads as follows:</p> <p style="text-align: center;"><b>Money Laundering</b> Article 231</p> <p>Whoever converts or transfers property while aware that such property originates from a criminal offence, with intent to conceal or misrepresent the unlawful origin of the property, or conceals and misrepresents facts on the property while aware that such property originates from a criminal offence, or obtains, keeps or uses property with foreknowledge, at the moment of receiving, that such property originates from a criminal offence, shall be punished by imprisonment of six months to five years and with fine.</p> <p>By-Law amending the Criminal Code was passed in September 2009 (Official Gazette of the Republic of Serbia" No. 72/09) Article 112 of Criminal Code is amended. Article 112 prescribes meaning of terms which had been used in that Law. Article 112 Paragraph 36 defines term assets which cover all kinds of assets, regardless of its value. Assets mean any kind of right or any kind of benefit that directly or indirectly represents the proceeds of crime.</p> <p style="text-align: center;"><b>Meaning of Terms for the Purpose of this Code</b> Article 112</p> <p>(36) Property is considered to be good of every kind, tangible or intangible, movable or immovable, or the estimates and invaluable documents in any form that proves right or interest in relation to such well. Property is considered income or other benefit that originates, directly or indirectly, from criminal offence, as well in which it is converted or with which it is merged.</p>
Recommendation of the	<i>Criminalise insider trading and market manipulation.</i>

MONEYVAL Report	
Measures taken to implement the Recommendation of the Report	<p>Articles 281. and 282. of the Draft Law on capital markets (and financial instruments) stipulate market manipulation, as well as using, revealing and recommending the inside information as criminal offences. The Articles 281 and 282 read as follows:</p> <p><b><u>Prohibition of manipulative practice</u></b></p> <p style="text-align: center;">Article 281.</p> <p>Whoever undertakes the manipulative practice on the regulated market of securities on the basis of which realized gain for himself or another person or harm to other persons by:</p> <p>1) entering into a transaction or issue trade orders which give or are likely to provide false or misleading information on supply, demand or price of financial instruments or that person, or persons acting jointly maintain the price of one or more financial instruments at unrealistic levels;</p> <p>2) entering into transactions or issues trade orders which employ fictitious proceedings or any other form of deception or fraud; 3) disseminating information through the media, including the internet or in any other way spreading false news or news that can cause confusion about financial instruments, if he/she knew or should have known that such information is untrue or misleading, shall be punished with imprisonment from six months to five years and fined.</p> <p>Should there be a significant disturbance on the regulated market of securities, or MTF, due to offences referred to in paragraph 1 of this Article, the offender shall be punished by imprisonment of one to eight years and a fined.</p> <p><b><i>Use, disclosure or recommendation of privileged (insider) information</i></b></p> <p style="text-align: center;">Article 282.</p> <p>Whoever, with intent to gain material benefit for himself or another person or harm to other persons, uses a privileged information: 1) directly or indirectly in the acquisition, disposal or in the attempt of acquisition or disposal, on their own account or for account of another person, of financial instruments to which that information relates; 2)for detection and making available privileged information to any other person; 3) to recommend or provide any other person that he/she, on the basis of privileged information should acquire or dispose of financial instruments to which the information relates, shall be punished by fine or up to one year imprisonment.</p> <p>Should a material benefit was gained due to offence referred to in paragraph 1 of this Article, or a property damage was caused to another person exceeding 1.500.000,00 RSD, the offender shall be sentenced to imprisonment up to three years and fined.</p> <p>If the act referred to in paragraph 1 of this Article was made by the person who possesses privileged information by: membership in administrative or supervisory bodies of an issuer or public company, having equity shares in the issuer or public company, having an access to information that occur by performing duties of the office, practice professions, or other duties, or by criminal acts committed by him, the offender shall be punished by fined or imprisonment not exceeding three years.</p> <p>The above mentioned Law on capital markets will be, in short period of time, introduced to the Government, and then to the Serbian Assembly. At this moment it is a Draft.</p>

<p>Recommendation of the MONEYVAL Report</p>	<p><i>Develop comprehensive training materials and strengthen training programmes in order to enhance the capacity of investigative judges and prosecutors to investigate and prosecute ML cases and of judges to effectively apply the new ML offence as well as undertake appropriate initiatives to raise their awareness on the importance of integrating financial investigations into investigations of proceeds generating offences.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>In the period between 1 June 2009 and 1 November 2010 Judicial Training Academy organized following seminars on combat against organized crime and money laundering within the regular annual training curriculum:</p> <p>Measures in Combat against Corruption and Money Laundering</p> <p>Seminars for judges and prosecutors of district and municipality courts. There were a total of 21 seminars with 522 participants attending. The seminar addressed the issues of measures taken against money laundering and corruption, international standards and what Serbia is required to do in combating these phenomena.</p> <p>Money Laundering and Terrorism</p> <p>Seminars organized for district court judges, prosecutors, Directorate for Combating Organized Crime and the Administration for the Prevention of Money Laundering. There were 7 seminars with 134 participants attending.</p> <p>Challenges and Success Cases in Combat against Money Laundering and Corruption in Serbia and abroad</p> <p>Seminars were organized for investigative judges, prosecutors and police staff. There were 6 three-day seminars on this topic. The speakers were prosecutors and police staff both from Serbia and USA. There were 184 participants at these seminars.</p> <p>In 2010 Serbia's Public Prosecutor's Office and the Office of Resident Legal Advisor of US Embassy organized seminars <i>Gathering and Analysing Evidence in Corruption Cases</i> at Zlatibor, in Belgrade, Novi Sad, Niš and Kragujevac. The seminars gathered together representatives of relevant state authorities in order to promote team work and professional expertise of other state authorities which are by law obliged to cooperate with prosecutor's office (Tax Administration, Customs Administration, National Bank of Serbia, Administration for the Prevention of Money Laundering, Privatization Agency, Administration for Public Procurement, Budget Inspection and Auditing, Anti-Corruption Agency and Competition Committee).</p> <p>A representative of AML and Anti-Corruption Department of Serbia's Public Prosecutor's Office participated at an international conference <i>Strengthening Cooperation in Combat against Corruption in Eastern Europe and Central Asia</i>, organized by the World Bank in Ankara, 28.09-01.10.2010.</p> <p>A representative of Serbia's Public Prosecutor's Office participated at an international workshop <i>Cooperation between FIUs and Judicial Authorities in Combat against Money Laundering and Confiscation of Criminal Assets</i>, organized by Swiss and Italian Government and IMF in Siracusa, 04.10-08.10.2010.</p>
<p>(Other) changes since the last evaluation</p>	



<b>Recommendation 5 (Customer due diligence)</b>	
<b>I. Regarding financial institutions</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Serbian authorities should establish a direct requirement in law, regulation or enforceable means for obligors to consider filing an STR if they have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship.</i>
Measures taken to implement the Recommendation of the Report	By the Article 3 of new the Law amending the AML/CFT Law, Serbian Authorities implemented this recommendation. The new provision reads as follows: «In the cases referred to in paragraph 2 of this Article, the obligor shall make an official note in writing, and consider whether there are reasons for suspicion on money laundering or financing of terrorism. The obligor shall keep such a note in accordance with law.»
Recommendation of the MONEYVAL Report	<i>In the case of filing an STR where obligors have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship, the indicators of suspicious transactions are strong enough to precipitate a financial institution filing an STR, however, there remains the possibility that a situation might not match the list and a financial institution will not file an STR with the APML.</i>
Measures taken to implement the Recommendation of the Report	Serbian Authorities addressed this issue by elaborating the Guidelines for suspicious transaction reporting, customer due diligence and no tipping off which are published on the website of the Serbian FIU. In the Chapter II.2 of the abovementioned Guidelines, the suspicious transaction is defined as a transaction for which there are reasons for suspicion on money laundering or terrorism financing, or transaction which is performed by a person reasonably suspected to be involved in money laundering or terrorism financing. When establishing whether there are reasons to classify a transaction or person as suspicious, obligor should always have in mind the suspicious transaction indicators. However, if a transaction meets the conditions from one of the indicators it does not have to mean that this is a suspicious transaction and that it should be reported to the APML. We need to consider a wider framework, in line with the principle that the obligor knows its client best, and assess if a certain transaction goes beyond the line of usual, i.e. expected business operations of the client. The opposite is true as well: a transaction can be suspicious without being covered by any of the suspicious transaction indicators.
Recommendation of the MONEYVAL Report	<i>Issue guidelines on instructions for the manner of identifying their clients in accordance with the obligations under the AML/CFT Law.</i>
Measures taken to implement the Recommendation of the Report	The following supervisory authorities have issued guidelines for risk-based approach in certain groups of obligors: Securities Commission, Foreign Currency Inspectorate (for entities engaging in forfeiting and factoring operations in international payments). The Guidelines above define four types of risk ,namely: geographical , client, transaction and service (product) risk. Underlying effective risk management are CDD measures, which are implemented on an ordinary, simplified and enhanced basis. The obligors are bound to establish and verify the identity of a client prior to establishing business relation, from valid, credible and reliable sources. If unable to do so, the obligor is bound to refuse to establish business cooperation. When a legal person appears as client, the obligor has to establish its beneficial owner.

	<p>Furthermore, the obligor has to keep documentation on the client regularly updated. If the client undergoes relevant status changes, the obligor should satisfy themselves that the facts are properly documented. Each obligor is required to develop internal procedures for identifying and verifying the identity of the client to ensure consistent implementation of CDD measures. In cases of reliance on third parties, the ultimate responsibility for identification still rests on the obligor.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>As stated above, because of the newness of the AML/CFT Law, financial institutions have not yet applied the risk-based approach to clients. Serbian should work with financial institutions to ensure they understand how to effectively implement in practice.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>From August 2009 to November 2010, in Serbia were held seminars and workshops for following financial institutions: Brokers (about 65 were trained), representatives from insurance companies (about 15), representatives from insurance supervision (about 20), representatives from leasing companies (about 15), were trained.</p> <p>The main topics of those workshops were : the risk based approach in classification of clients and products, record keeping requirements in the AML/CFT Law, as well as case studies (national and international cases and typologies).</p> <p>Guidance for implementing AML/CFT Law (written by the Securities Commission) was published in November 2009. They are meant for financial institutions regulated by the Securities Commission – broker-dealer companies, authorised banks, custody banks and management companies, with instructions on how obligors fulfill their obligations according to AML/CFT Law, including risk-based approach to clients.</p> <p>As an addition to this, Serbian Securities Commission has recently been prepared an Inspection manual with creation and application of AML/CFT assessment program</p> <p>The National Bank of Serbia had organized several meetings with obligors which are under its supervisory competence where subject of discussion was application of risk-based approach to the clients.</p> <p>Also, the AML Questionnaire which all obligors fill on the demand of National Bank of Serbia twice a year is upgraded and now contains questions connected to the risk-based approach (e.g. Did bank make AML/FT risk analysis according National Bank of Serbia Guidelines?; Did bank complete risk analysis of the clients?; Name criterions for classifying client, business relation or bank’s service into the low AML/FT risk group; Name criterions for classifying client, business relation or bank’s service into the high AML/FT risk group etc.)</p> <p>NBS banking supervision department – Supervisory review committee adopted changes on the form of On-site Supervision Report which is now in the full consistency with RBA.</p>
<p>(Other) changes since the last evaluation</p>	

<b>Recommendation 5 (Customer due diligence)</b>	
<b>II. Regarding DNFBP<sup>4</sup></b>	
<b>Rating: Non Compliant</b>	
Recommendation of the MONEYVAL Report	<i>The new requirement in the AML/CFT Law prohibiting any economic entity, including dealers in high value goods from conducting cash transactions in excess of EUR 15,000 should be amended to extent the prohibition to transactions that are equal to EUR 15,000.</i>
Measures taken to implement the Recommendation of the Report	By the Article 10 of the Law amending the AML/CFT Law, this recommendation is implemented. Article 10 of the law reads as follows: <i>“A person selling goods or providing a service in the Republic of Serbia may not accept cash payments from a customer or third party in the amount of 15,000 or more in its RSD equivalent.  The restriction laid down in paragraph 1 shall also apply if the payment of goods or a service is carried out in more than one connected cash transactions which total the RSD equivalent of EUR 15,000 or more.”</i>
Recommendation of the MONEYVAL Report	<i>Serbia should introduce into law or regulation the requirement for obligors to consider filing an STR if they have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship.</i>
Measures taken to implement the Recommendation of the Report	By the Article 3 of new the Law amending the AML/CFT Law, Serbian Authorities implemented this recommendation. The new provision reads as follows: <i>“In the cases referred to in paragraph 2 of this Article, the obligor shall make an official note in writing, and consider whether there are reasons for suspicion on money laundering or financing of terrorism. The obligor shall keep such a note in accordance with law.”</i>
Recommendation of the MONEYVAL Report	<i>Serbian authorities should establish a list of indicators for the various DNFBP-s in order to help them identify unusual or suspicious transactions. Authorities should also provide AML/CFT training to create awareness and provide DNFBP-s with the knowledge to be able to file STR-s.</i>
Measures taken to implement the Recommendation of the Report	List of indicators for following DNFBP-s have been established: intermediaries in real estate transaction, organisers of special games of chance in casinos, accountants, lawyers and lawyer partnerships, tax advisors, organizers of games of chance operated on the Internet, by telephone, or in any other manner using telecommunication networks have been established. The lists of indicators are available on the web site of Serbian FIU, <a href="http://www.apml.org.rs">www.apml.org.rs</a> .
Recommendation of the MONEYVAL Report	<i>Issue guidelines on instructions for the manner of identifying their clients in accordance with the obligations under the AML/CFT Law.</i>
Measures taken to implement the Recommendation of the Report	The following supervisory authorities have issued guidelines for risk-based approach in certain groups of obligors: Ministry of Trade and Services (for intermediaries in real estate business, ie real estate agents), Administration for the Games of Chance (for organizers of games of chance in casinos and on internet, or in any other manner operating telecommunications network) and Ministry of Telecommunications (for persons engaging in postal communications domestically). The Guidelines above define four types of risk, namely: geographical, client, transaction and service (product) risk. Underlying effective risk management are

<sup>4</sup> i.e. part of Recommendation 12.

	<p>CDD measures, which are implemented on an ordinary, simplified and enhanced basis. The obligors are bound to establish and verify the identity of a client prior to establishing business relation, from valid, credible and reliable sources. If unable to do so, the obligor is bound to refuse to establish business cooperation. When a legal person appears as client, the obligor has to establish its beneficial owner. Furthermore, the obligor has to keep documentation on the client regularly updated. If the client undergoes relevant status changes, the obligor should satisfy themselves that the facts are properly documented. Each obligor is required to develop internal procedures for identifying and verifying the identity of the client to ensure consistent implementation of CDD measures. In cases of reliance on third parties, the ultimate responsibility for identification still rests on the obligor.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>As stated above, because of the newness of the AML/CFT Law, DNFBP-s have not yet applied the risk-based approach to clients. Serbian authorities should issue DNFBP-specific guidance and should work with DNFBP-s and their regulators to ensure they understand how to effectively implement in practice.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Ministry of Trade and Services (for intermediaries in real estate business, ie real estate agents), Administration for the Games of Chance (for organizers of games of chance in casinos and on internet, or in any other manner operating telecommunications network) and Ministry of Telecommunications (for persons engaging in postal communications domestically).</p> <p>The Guidelines above define four types of risk, namely: geographical, client, transaction and service (product) risk. Underlying effective risk management are CDD measures, which are implemented on an ordinary, simplified and enhanced basis. The obligors are bound to establish and verify the identity of a client prior to establishing business relation, from valid, credible and reliable sources. If unable to do so, the obligor is bound to refuse to establish business cooperation. When a legal person appears as client, the obligor has to establish its beneficial owner. Furthermore, the obligor has to keep documentation on the client regularly updated. If the client undergoes relevant status changes, the obligor should satisfy themselves that the facts are properly documented. Each obligor is required to develop internal procedures for identifying and verifying the identity of the client to ensure consistent implementation of CDD measures. In cases of reliance on third parties, the ultimate responsibility for identification still rests on the obligor.</p> <p>APML as well as other supervisory authorities have organized couple of seminars regarding AML/CFT issues for DNFBP-s</p> <ul style="list-style-type: none"> <li>• Real Estate July 2009 – Meeting at Belgrade Chamber of Commerce. A great number of obligors attended. Topics: introduction of AML/CFT Law; presentation of specific cases followed by questions and answers;</li> <li>• Real Estate March 2010 – Meeting at Serbian Association of Accountants. A great number of real estate agencies representatives attended. Topics: specific problems; practical examples; list of indicators (explanation); risks</li> <li>• Accountants November 2008 to February 2009 – Novi Sad, Belgrade, Kragujevac and Niš; Topic: AML/CFT Law; indicators; specific examples</li> <li>• Auditors August and October 2010 – Ministry of Finance and Belgrade Business School. 130 attendees. Topics: List of indicators; practical examples; questions and answers</li> </ul>

	about the AML/CFT Law
(Other) changes since the last evaluation	

**Recommendation 10 (Record keeping)  
I. Regarding Financial Institutions**

<b>Rating: Largely compliant</b>	
Recommendation of the MONEYVAL Report	<i>Provide for sectoral laws/regulations enabling effective implementation of the record-keeping requirements by persons involved in intermediation in credit transactions and provision of loans, factoring and forfeiting, and provision of guarantees, should they start operating in the Serbian financial sector.</i>
Measures taken to implement the Recommendation of the Report	After passing new Law on foreign exchange actions (it is expected to be passed in the beginning of next year), Foreign Currency Inspectorate is going to draft amendments on sub law regarding factoring and forfeiting with respect to international payment operations.
(Other) changes since the last evaluation	

**Recommendation 10 (Record keeping)  
II. Regarding DNFBP<sup>5</sup>**

<b>Rating: Non Compliant</b>	
Recommendation of the MONEYVAL Report	<i>As many DNFBP-s indicated that they were not aware of any requirements to maintain records about their clients and in fact, did not keep such records, the Serbian authorities should ensure that DNFBP-s fully understand and comply with their record keeping obligations.</i>
Measures taken to implement the Recommendation of the Report	One of the main topics of seminars held in Serbia was record keeping obligation. Many seminars were delivered to representatives of DNFBP-s: real estate agents and accountants.
(Other) changes since the last evaluation	

**Recommendation 13 (Suspicious transaction reporting)  
I. Regarding Financial Institutions**

<b>Rating: Largely compliant</b>	
Recommendation of the MONEYVAL Report	<i>Provide specific guidance on the legal definition of the reporting obligation, so as to prevent its possible restrictive interpretation, as well as to take further measures to ensure that obligors understand it in the broadest meaning of the AML/CFT Law and pertinent regulations/ guidelines.</i>
Measures taken to implement the Recommendation of the Report	APML has issued Guidelines for Suspicious Transaction Reporting (here and after: STR Guidelines), Customer due Diligence and No Tipping off on 26 October 2010. The STR Guidelines was made in cooperation with National Bank of Serbia and experts from banking sector. Suspicious transaction is a transaction for which there are reasons for suspicion on money laundering or terrorism financing, or transaction which is performed by a person reasonably suspected to be involved in money

<sup>5</sup> i.e. part of Recommendation 12.

	<p>laundering or terrorism financing. In establishing whether there are reasons to classify a transaction or person as suspicious, we should always have in mind the suspicious transaction indicators. However, if a transaction meets the conditions from one of the indicators it does not have to mean that this is a suspicious transaction and that it should be reported to the APML. We need to consider a wider framework, in line with the principle that the obligor knows its client best, and assess if a certain transaction goes beyond the line of usual, i.e. expected business operations of the client. The opposite is true as well: a transaction can be suspicious without being covered by any of the suspicious transaction indicators.</p>
Recommendation of the MONEYVAL Report	<p><i>Provide for appropriate implementation of the reporting requirement throughout the obligor community, by means of ensuring that all financial institutions have developed their own lists of indicators for recognising ML/FT related suspicious transactions.</i></p>
Measures taken to implement the Recommendation of the Report	<p>According to the Article 23 of AML/CFT Rulebook, obligor and lawyer are obliged to, in their own lists of indicators, include at least list of indicators published in the APML web site.</p> <p>National Bank of Serbia had organized several meetings with obligors which are under its supervisory competence, where subject of discussion, among others, was developing and application of the list of indicators for recognising ML/FT related suspicious transactions.</p> <p>Also, the AML Questionnaire which all banks fill on the demand of National Bank of Serbia twice a year is upgraded and now contains questions connected to developing of the list of indicators for recognising ML/FT related suspicious transactions (e.g. Have bank change own list of indicators for recognising suspicious transactions from last Questionnaire until today?; Name the changes if there were any.)</p> <p>NBS banking supervision department – Supervisory review committee adopted changes on the form of On-site Supervision Report which is now in the full consistency with RBA, and among others, contains separately chapter about suspicious transactions reporting.</p>
Recommendation of the MONEYVAL Report	<p><i>Revise the existing lists of the indicators developed by the APML to guide obligors in recognising ML/FT related suspicious transactions; develop such lists for all financial institutions and make such lists clearly identifiable (by means of an official, publicly accessible reference number, or publication in an official source).</i></p>
Measures taken to implement the Recommendation of the Report	<p>This recommendation is fully implemented. By Article 65 of AML/CFT Law, APML is authorised to develop lists of indicator for all obliged entities. Lists of indicators are official document with its own reference number, signed by APML director and published on the official APML web site. Also, revised lists of indicators have been sent to obligors associations.</p>
Recommendation of the MONEYVAL Report	<p><i>Continue efforts aimed at developing and introducing a well-structured coordinated outreach programme (for example by means of series of seminars, regular training sessions for compliance officers, etc) for the financial institutions to fully understand their reporting requirements, in particular the new FT reporting requirement.</i></p>
Measures taken to implement the Recommendation of the Report	<p>APML in cooperation with national and international partners had organized several seminars for financial institutions. One of the most important topics on these seminars was STR related to terrorism financing. Please see table with seminars held in Serbia.</p>
(Other) changes since the last	

evaluation	
<b>Recommendation 13 (Suspicious transaction reporting)</b>	
<b>II. Regarding DNFBP<sup>6</sup></b>	
<b>Rating: Non Compliant</b>	
Recommendation of the MONEYVAL Report	<i>Provide specific guidance on the legal definition of the reporting obligation, so as to prevent its possible restrictive interpretation, as well as to take further measures to ensure that obligor DNFBP-s and lawyers understand it in the broadest meaning of the AML/CFT Law and pertinent regulations/ guidelines.</i>
Measures taken to implement the Recommendation of the Report	APML has issued Guidelines for Suspicious Transaction Reporting, Customer due Diligence and No Tipping off (here and after: STR Guidelines) on 26 October 2010. The STR Guidelines was made in cooperation with National Bank of Serbia and experts from banking sector. Suspicious transaction is a transaction for which there are reasons for suspicion on money laundering or terrorism financing, or transaction which is performed by a person reasonably suspected to be involved in money laundering or terrorism financing. In establishing whether there are reasons to classify a transaction or person as suspicious, we should always have in mind the suspicious transaction indicators. However, if a transaction meets the conditions from one of the indicators it does not have to mean that this is a suspicious transaction and that it should be reported to the APML. We need to consider a wider framework, in line with the principle that the obligor knows its client best, and assess if a certain transaction goes beyond the line of usual, i.e. expected business operations of the client. The opposite is true as well: a transaction can be suspicious without being covered by any of the suspicious transaction indicators.
Recommendation of the MONEYVAL Report	<i>Provide for appropriate implementation of the reporting requirement by obligor DNFBP-s and lawyers, by means of ensuring that they have their own lists of indicators for recognizing ML/FT-related suspicious transactions.</i>
Measures taken to implement the Recommendation of the Report	According the Article 23 of the AML/CFT Rulebook, obligor and lawyer are obliged to, in their own lists of indicators, include at least list of indicators published in the APML web site. National Bank of Serbia had organized several meetings where subject of discussion, among others, was developing and application of the list of indicators for recognising ML/FT related suspicious transactions. Also, the AML Questionnaire which all banks fill on the demand of National Bank of Serbia twice a year is upgraded and now contains questions connected to developing of the list of indicators for recognising ML/FT related suspicious transactions (e.g. Have bank change own list of indicators for recognising suspicious transactions from last Questionnaire until today?; Name the changes if there were any.)
Recommendation of the MONEYVAL Report	<i>Ensure that for all obligor DNFBP-s and lawyers the APML has developed lists of indicators to guide obligors in recognizing ML/FT-related suspicious transactions; make such lists clearly identifiable (by means of an official, publicly accessible reference number, or publication in an official source).</i>
Measures taken to implement the Recommendation of the Report	This recommendation is fully implemented. By Article 65 of AML/CFT Law, APML is authorised to develop lists of indicator for all obliged entities. Lists of indicators are official document with its own reference number, signed by APML director and published on the official APML website. List of indicators have been issued for all types of obligors DNFBPs.

<sup>6</sup> i.e. part of Recommendation 16.

Recommendation of the MONEYVAL Report	<i>Continue efforts aimed at developing and introducing a well-structured, coordinated outreach program (for example, by means of series of seminars, regular training sessions for compliance officers, etc) for obligor DNFBP-s and lawyers to fully understand their reporting requirements, in particular the new FT reporting requirement.</i>
Measures taken to implement the Recommendation of the Report	APML in cooperation with national and international partners had organized several seminars for financial institutions. One of the most important topics on these seminars was STR related to terrorism financing. Please see table with seminars held in Serbia.

<b>Special Recommendation II (Criminalisation of terrorist financing)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Extend the criminalisation of FT in all instances envisaged in SR.II with reference to the financing of terrorist organisations and the individual terrorists.</i>
Measures taken to implement the Recommendation of the Report	<p>Law amending the Criminal Code from September 2009 (Official Gazette of the Republic of Serbia" No. 72/09) amends Article 393 of Criminal Code, which now reads as follows:</p> <p>“(1) Whoever directly or indirectly provides or collects funds intended for financing commission of criminal offences specified in Articles 312, 391 and 392 hereof, shall be punished by imprisonment of one to ten years. “</p> <p>After paragraph 1, new paragraph 2 shall be added and shall read as follows:</p> <p>(2) Who encourages and assists in providing or collecting funds for carrying out criminal acts specified in articles 312, 391 and 392 this Code, regardless of whether the act is committed, or whether the funds are used for the committing of these criminal offence, shall be punished by imprisonment from six months to five years.</p> <p>(3) The funds specified in paragraph 1 of this Article shall be seized.</p> <p>This criminal offence includes the financing of the commission of terrorist acts regardless of whether committed by an individual terrorist or terrorist organisation.</p>
Recommendation of the MONEYVAL Report	<i>Extend the criminalisation to the whole range of activities envisaged by Article 2(1) (a) and (b) of the FT convention.</i>
Measures taken to implement the Recommendation of the Report	<p>Expect crimes prescribes in Articles 287. Unlawful Acquiring and Endangerment of Safety with Nuclear Material, article 291. Endangering Air Traffic Safety, article 292. Endangering Air Traffic Safety by Violence, article 293. Hijacking an Aircraft, Ship or Other Means of Transport, article 294. Piracy, article 392. Taking Hostages, Law amending the Criminal Code (Official Gazette of the Republic of Serbia" No. 72/09) adds new Article, 390 a which reads as follows:</p> <p style="text-align: center;"><b>“Endangering Persons under International Legal Protection</b> Article 390a</p> <p>Whoever against the person under the international legal protection commits the violence or attack his official premises, private apartment or means of transportation, shall be punished by imprisonment from six months to five years.”</p>
Recommendation of the MONEYVAL Report	<i>Define “funds” so as to cover “assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques,</i>



	<i>money orders, shares, securities, bonds, drafts, letters of credit”.</i>
Measures taken to implement the Recommendation of the Report	Article 112 Paragraph 36 of Criminal Code is relevant as Article which prescribes meaning of terms which have been used in whole Criminal Code. Article 112 Paragraph 36 reads as follows:  <b><i>"Meaning of Terms for the Purpose of this Code</i></b> Article 112 (36) Property is considered to be good of every kind, tangible or intangible, movable or immovable, or the estimates and invaluable documents in any form that proves right or interest in relation to such well. Property is considered income or other benefit that originates, directly or indirectly, from criminal offence, as well in which it is converted or with which it is merged."
Recommendation of the MONEYVAL Report	<i>Amend the FT offence as it should not require that funds are linked to a specific terrorist act.</i>
Measures taken to implement the Recommendation of the Report	Law amending the Criminal Code, which is adopted in September 2009, adds new Paragraph 2 in Article 393, which reads as follows: “(2) Who encourages and assists in providing or collecting funds for carrying out criminal acts specified in articles 312, 391 and 392 this Code, regardless of whether the act is committed, or whether the funds are used for the committing of these criminal offence, shall be punished by imprisonment from six months to five years.”
(Other) changes since the last evaluation	

<b>Special Recommendation IV (Suspicious transaction reporting)</b>	
<b>I. Regarding Financial Institutions</b>	
<b>Rating: Largely compliant</b>	
Recommendation of the MONEYVAL Report	<i>Provide specific guidance on the legal definition of the reporting obligation, so as to prevent its possible restrictive interpretation, as well as to take further measures to ensure that obligors understand it in the broadest meaning of the AML/CFT Law and pertinent regulations/ guidelines.</i>
Measures taken to implement the Recommendation of the Report	APML has issued Guidelines for Suspicious Transaction Reporting (here and after: STR Guidelines), Customer due Diligence and No Tipping off on 26 October 2010. The STR Guidelines was made in cooperation with National Bank of Serbia and experts from banking sector. Suspicious transaction is a transaction for which there are reasons for suspicion on money laundering or terrorism financing, or transaction which is performed by a person reasonably suspected to be involved in money laundering or terrorism financing. In establishing whether there are reasons to classify a transaction or person as suspicious, we should always have in mind the suspicious transaction indicators. However, if a transaction meets the conditions from one of the indicators it does not have to mean that this is a suspicious transaction and that it should be reported to the APML. We need to consider a wider framework, in line with the principle that the obligor knows its client best, and assess if a certain transaction goes beyond the line of usual, i.e. expected business operations of the client. The opposite is true as well: a transaction can be suspicious without being covered by any of the suspicious transaction indicators. See Annexes .

Recommendation of the MONEYVAL Report	<i>Revise the existing lists of the indicators developed by the APML to guide obligors in recognising ML/FT related suspicious transactions; develop such lists for all financial institutions and make such lists clearly identifiable (by means of an official, publicly accessible reference number, or publication in an official source).</i>
Measures taken to implement the Recommendation of the Report	APML has developed List of indicators regarding financing of terrorism. Lists of indicators have been established for following financial institutions: Financial leasing providers, entrepreneurs and legal persons who deal with factoring and forfeiting, Investment fund management companies and Voluntary pension fund management companies. The above mentioned lists of indicators are available on the web site of Serbian FIU <a href="http://www.apml.org.rs">www.apml.org.rs</a>
Recommendation of the MONEYVAL Report	<i>Continue efforts aimed at developing and introducing a well-structured coordinated outreach programme (for example by means of series of seminars, regular training sessions for compliance officers, etc) for the financial institutions to fully understand their reporting requirements, in particular the new FT reporting requirement.</i>
Measures taken to implement the Recommendation of the Report	National Bank of Serbia has organized several meetings with obligors which are under its supervisory competence, where subject of discussion, among others, was internal audit of AML/CFT functions in the bank. Also, the AML Questionnaire which all banks fill on the demand of National Bank of Serbia twice a year contains questions connected to internal audit of AML/CFT functions in the bank (e.g. Have bank conducted any internal audit of AML/CFT functions during last 6 months?; What irregularities were found in that process?; Measures taken to eliminate these irregularities). NBS banking supervision department – Supervisory review committee adopted changes on the form of On-site Supervision Report which is now in the full consistency with RBA, and among others, contains separately chapter about internal audit function of the bank. Securities Commission organized seminars and training programs related to new AML/CFT Law: September: Securities Commission, in association with APML, from USAID, for obligors, financial institutions regulated by the Securities Commission – broker-dealer companies, authorised banks, custody banks and management companies, instructions on how obligors fulfill their obligations according to AML/CFT Law, including risk-based approach to clients and case studys. This seminar was organized for Securities Commission staff too. – October: Money laundering and combatting terrorist financing in securities sector, for Securities Commission staff (program issued by FATF/OECD) Securities Commission organized seminars related to new AML/CFT Law: – 19/01/2010/ Bob Singlateri SEGA Project USAID- Market manipulation and money laundering on capital market, for Securities Commission staff. – 10/09/2010/ Bob Singlateri and Milko Štimac, President of Securities Commission, Capital market, including money laundering and combating terrorist financing, for obligors and Securities Commission staff, overviews on Draft of new Securities Law, relation AML/CFT Law and new Securities Law, comments and suggestions. APML has organized following meetings with financial institutions: February 2010 – A meeting was held at the Bankers' Association, where all banks were represented. Topics: typologies in general; statistics (number of reported transactions, STRs); STR quality; typologies (loans; insurance; problems with identifying legal person's final beneficiary; custody accounts – problems in

	<p>identifying final beneficiaries of securities, etc);</p> <p>April 2010 – A seminar organised by Bankers’ Association at Palić Resort. The seminar was attended by the representatives of all banks, NBS and the APML. Topics discussed: Typologies; suspicious transaction reporting; specific examples; Throughout 2010: bilateral meetings between the APML and individual banks. Topics: STR quality; feedback to the obligor about the number of suspicious cases opened based on the STRs received.</p> <p>March 2010 – Meeting at Palata «Srbija» Building, Belgrade. Meeting attended by 20 obligors. Topics: questions and answers about the requirements from the AML/CFT Law, cases dealt with in practice; discussion and comments about the list of indicators.</p> <p>The full list of training and feedback events in the reporting period is attached.</p>
(Other) changes since the last evaluation	
<b>Special Recommendation IV (Suspicious transaction reporting)</b>	
<b>II. Regarding DNFBP</b>	
Recommendation of the MONEYVAL Report	<i>Provide for appropriate implementation of the reporting requirement by obligor DNFBP-s and lawyers, by means of ensuring that they have their own lists of indicators for recognizing ML/FT-related suspicious transactions.</i>
Measures taken to implement the Recommendation of the Report	According the Article 23 of the AML/CFT Rulebook, obligor and lawyer are obliged to, in their own lists of indicators, include at least list of indicators published in the APML web site.
Recommendation of the MONEYVAL Report	<i>Ensure that for all obligor DNFBP-s and lawyers the APML has developed lists of indicators to guide obligors in recognizing ML/FT-related suspicious transactions; make such lists clearly identifiable (by means of an official, publicly accessible reference number, or publication in an official source).</i>
Measures taken to implement the Recommendation of the Report	APML has developed List of indicators regarding financing of terrorism. APML has developed lists of indicators for all reporting entities. Lists for indicators, signed by APML director, and with its own reference number, have been published on the web site of APML- apml.org.rs. Also, lists of indicators were sent to obligors associations.
Recommendation of the MONEYVAL Report	<i>Continue efforts aimed at developing and introducing a well-structured, coordinated outreach program (for example, by means of series of seminars, regular training sessions for compliance officers, etc) for obligor DNFBP-s and lawyers to fully understand their reporting requirements, in particular the new FT reporting requirement.</i>
Measures taken to implement the Recommendation of the Report	In the period from October 2009 to November 2010 there were many seminars for following obligors: From 12 October 2009 to 02 March 2010, professional accountants were trained in several Serbian towns: Belgrade, Novi Sad, Kragujevac and Niš; On 11 March 2010 real estate agents were trained in Belgrade, as well as supervisors for those obligors (Ministry of Trade and Services). The list of training and feedback events in the reporting period is attached.
(Other) changes since the last evaluation	

### 2.3 Other Recommendations

In the last report the following FATF recommendations were rated as “partially compliant” (PC) or “non compliant” (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

<b>Recommendation 3 (Confiscation and provisional measures)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To review the current regime and satisfy themselves that the competent authorities have necessary tools to clarify the application of the relevant provisions and regimes and ensure that they can make full use of the existing legal framework.</i>
Measures taken to implement the Recommendation of the Report	<p>Following the entry into force of the Law on Seizure/Confiscation of Proceeds from Crime and its application, as well as after the Asset Management Directorate became operational (1 March 2009), awareness of courts and prosecutors' offices was raised concerning the application of the provisions on seizure/confiscation of proceeds from crime.</p> <p>Awareness raising concerning the above law and the necessity of its implementation included 22 one-day seminars organised by the Judicial Training Academy for judges and prosecutors. The topic was „Implementation of the Law on Seizure/Confiscation of Proceeds from Crime“. The training was attended by 720 judges and prosecutors.</p> <p>As of March 2010, two-day seminars have been organized for judges and prosecutors of the Higher courts together with the police, where practical case studies are discusses as well as practical implementation of the law. 6 two-day seminars have been organized and attended by 163 persons. Three more seminars are planned to be held until the end of 2010. These seminars are organized in cooperation with the US Embassy in Belgrade and the OSCE Mission in Serbia. The lecturers at the seminar included forensic experts, Belgrade University Law School professors, Appellate Court judges, and justices of the Constitutional Court.</p> <p>Asset Management Directorate implements a Council of Europe project "Criminal Assets Recovery Project".</p>
Recommendation of the MONEYVAL Report	<p><i>To amend the legislation as necessary to:</i></p> <ul style="list-style-type: none"> <li>- <i>Clarify the scope of property subject to confiscation;</i></li> </ul>
Measures taken to implement the Recommendation of the Report	<p>The September 2009 amendments to the Criminal Code of Serbia (Official Gazette of the Republic of Serbia" No. 72/09) complemented Article 112 which defines the meaning of terms used in this Code. Paragraph 36 of Article 112 introduces the term of property which covers any type of property regardless of its value. Besides, the property is taken to mean any type of assets or any type of value generated from the commission of a criminal offence, whether directly through the commission of the criminal offence or indirectly.</p> <p style="text-align: center;"><b><i>Meaning of Terms for the Purpose of this Code</i></b></p> <p style="text-align: center;">Article 112</p> <p>(36) Property is considered to be good of every kind, tangible or intangible, movable or immovable, or the estimates and invaluable documents in any form that proves right or interest in relation to such well. Property is considered income or other benefit that originates, directly or indirectly, from criminal offence, as well in</p>

	<p>which it is converted or with which it is merged.</p> <p>Article 3 of the Law on Seizure/Confiscation of Proceeds defines the meaning of terms used for the purposes of this Law, as follows:</p> <ol style="list-style-type: none"> <li>1) "Assets" shall denote goods of any kind, tangible or intangible, movable or immovable, estimable or of inestimably great value, and instruments in any form evidencing rights to or interest in such good. Assets shall also denote revenue or other gain generated, directly or indirectly, from a criminal offence as well as any good into which it is transformed or which it is mingled with.</li> <li>2) "Proceeds from crime" shall denote assets of an accused, cooperative witness or bequeather being manifestly disproportionate to his/her lawful income.</li> <li>3) "Third party" shall mean a natural person or a legal entity to which the proceeds from crime have been transferred.</li> </ol>
Recommendation of the MONEYVAL Report	- <i>Ensure that value based confiscation can be applied in the case of instrumentalities used in and intended for use in the commission of ML, FT or other predicate offences;</i>
Measures taken to implement the Recommendation of the Report	<p>The September 2009 Amendments to the Criminal Code (Official Gazette of the Republic of Serbia" No. 72/09) modify Articles 87 and 92, and they now read as follows:</p> <p style="text-align: center;"><b><i>Seizure of Objects</i></b> Article 87</p> <p>(1) The measure of Seizure of Objects may be set to the object that was intended or used to commit a criminal offence or originate from the criminal offense, when there is a danger that the object shall be re-used to commit a criminal offence, or if so required by the interests of general safety or for moral reasons seizure of object is necessary.</p> <p>(2) Application of this security measure shall be without prejudice to the right of third parties to compensation of damages by the offender.</p> <p style="text-align: center;"><b><i>Conditions and Manner of Seizure of Material Gain</i></b> Article 92</p> <p>(1) Money, items of value and all other material gains obtained by a criminal offence shall be seized from the offender, and if such seizure should not be possible, the offender shall be obligated to give in exchange other property that is adequate to the value of property acquired by criminal act or resulting from criminal acts or pay a pecuniary amount commensurate with obtained material gain.</p> <p>(2) Material gain obtained by a criminal offence shall also be seized from the legal or physical persons it has been transferred to without compensation or with compensation that is obviously inadequate to its actual value.</p> <p>(3) If material gain is obtained by an offence for another, such gain shall be seized.</p>
Recommendation of the MONEYVAL Report	- <i>Ensure that the legislation provides for the confiscation of instrumentalities when it is held by a third party (legal entity or natural person);</i>
Measures taken to implement the Recommendation	September 2009 amendments to the Criminal Code (Official Gazette of the Republic of Serbia" No. 72/09) modify Articles 87 and 92, and they now read as follows:

of the Report	<p style="text-align: center;"><b><i>Conditions and Manner of Seizure of Material Gain</i></b></p> <p style="text-align: center;">Article 92</p> <p>(1) Money, items of value and all other material gains obtained by a criminal offence shall be seized from the offender, and if such seizure should not be possible, the offender shall be obligated to give in exchange other property that is adequate to the value of property acquired by criminal act or resulting from criminal acts or pay a pecuniary amount commensurate with obtained material gain.</p> <p>(2) Material gain obtained by a criminal offence shall also be seized from the legal or physical persons it has been transferred to without compensation or with compensation that is obviously inadequate to its actual value.</p> <p>(3) If material gain is obtained by an offence for another, such gain shall be seized.</p>
Recommendation of the MONEYVAL Report	<p>- <i>Remove the limitation to offences punishable by at least 4 years imprisonment under article 23<sup>4</sup>.</i></p>
Measures taken to implement the Recommendation of the Report	<p>This issue will be considered under Council of Europe and Ministry of Justice's Asset Management Directorate: "Criminal Assets Recovery Project".</p> <p>Also, the implementation of the project of the United Nations on terrorism will be soon started, and it will include the analysis of the entire legislation against all the counter terrorism and counter terrorism financing standards (UN, FATF, CoE, EU directives).</p>
Recommendation of the MONEYVAL Report	<p><i>Speed up the implementing measures required in relation to the Law on Seizure and confiscation of the proceeds from crime (appointment of relevant persons, adoption of internal acts, etc) and ensure that competent authorities are adequately trained in the application of these new provisions.</i></p>
Measures taken to implement the Recommendation of the Report	<p>Courts have started to apply the Law on Seizure/Confiscation of Proceeds, while the Asset Management Directorate became operational on 1 March 2009 and it has 25 employees according to its jobs systematisation.</p> <p>Until now, three confiscation judgments have been passed and around 70 decisions on seizure of property with respect to which there are reasonable grounds to have derived from crime. Asset Management Directorate currently manages:</p> <ul style="list-style-type: none"> <li>- 73 real estate,</li> <li>- 100 automobiles,</li> <li>- 2.000.000 EUR in cash,</li> <li>- 15 companies, etc.</li> </ul> <p>Seized property is assessed to appr. EUR 200,000,000.00.</p> <p>Out of the total number of seizure decisions, there have so far been none related to the financing of terrorism crime. 4 seizure decisions concern money laundering, and they have seized the following: 3 apartments in Belgrade, 3 apartments and 1 house in Novi Sad, agricultural facility with 450 ha of owned land and 600 ha of land rented to a long term, as well as 1 vehicle (make Mercedes). Seized property belongs to the perpetrators of criminal offences as well as their relatives and persons related to them, but also to persons to whom property has been transferred.</p>
(Other) changes since the last evaluation	

**Recommendation 7 (Correspondent banking)**

**Rating: Partially compliant**

Recommendation of the MONEYVAL Report	<i>Serbian authorities should require financial institutions to document respective AML/CFT responsibilities for each party in the correspondent relationship so that there is no confusion between the financial institution and respondent bank about which one will carry out AML/CFT requirements.</i>
Measures taken to implement the Recommendation of the Report	The Law amending the AML/CFT Law addressed this issue by Article 6 of proposed Law, which reads as follows: “The obligor shall specifically provide and document, in the contract based on which loro correspondent relationship is established, the money laundering and terrorism financing related obligations for each party. The obligor shall keep the contract in accordance with the law.”
Recommendation of the MONEYVAL Report	<i>While use of payable-through accounts appears not to be common in Serbia, this practice should either be prohibited by law or should have obligations attached to it to ensure that appropriate CDD is conducted and institutions share relevant information should the practice become established in the future.</i>
Measures taken to implement the Recommendation of the Report	Payable-through accounts will be prohibited by Article 6 of the law amending the AML/CFT Law. Article 6 adds new Paragraph 5 and 6 in Article 29 of current AML/CFT Law. New provision reads as follows: “(6) The obligor can not establish a loro correspondent relationship with a foreign bank or any other similar institution based on which such foreign institution may use the account with the obligor to operate directly with its clients.”
(Other) changes since the last evaluation	

<b>Recommendation 11 (Unusual transactions)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Serbian authorities should ensure that capital market participants, bureaux de change, persons dealing with postal communications, money remitters, and foreign exchange operators are required to pay special attention to unusual transactions, examine the background and purpose of transactions and set forth those findings in writing.</i>
Measures taken to implement the Recommendation of the Report	Law amending the AML/CFT Law addressed this issue by Article 7, which adds new Article 29b in the current AML/CFT Law. New Article 29b reads as follows: <p style="text-align: center;">”Unusual transactions Article 29B</p> <p>(1) The obligor shall pay special attention to the transactions characterized by their complexity and unusually high amount, unusual manner in which they are carried out, the value or the mutual relation of transactions with no economically or legally justifiable purpose, or which are not consistent with or which are disproportionate to the usual, i.e. expected, business operations of the customer, as well as to other circumstances related to the status or other characteristics of the customer.</p> <p>(2) The obligor shall establish the basis and purpose of the transactions referred to in paragraph 1 of this Article, and make a written official note thereof. The obligor shall keep the official note referred to in this Article in accordance with the law.”</p>
Recommendation of the MONEYVAL Report	<i>Serbian authorities should ensure that financial institutions, particularly those outside of the banking sector, are capable of adequately identifying unusual transactions, particularly through additional training and developing better lists of</i>

Report	<i>indicators that match the market activities of the financial institution.</i>
Measures taken to implement the Recommendation of the Report	On seminars which were held in Serbia special attention is dedicated to identifying unusual transactions, which do not match with usual behaviour of customer. The list of training and feedback events in the reporting period is attached.
(Other) changes since the last evaluation	

<b>Recommendation 12 (DNFBP – 6, 8-11)</b>	
<b>Rating: Non compliant</b>	
Recommendation of the Report	<i>Serbian authorities should assist DNFBP-s on how to identify foreign officials and apply enhanced due diligence, per the new requirements of the AML/CFT Law. This could include additional training seminars and additional instruction on assessing risk.</i>
Measures taken to implement the Recommendation of the Report	Seminars and workshops which were held in the period of August 2009 to October 2010 one of the most important topic on seminars was record keeping obligation.
Recommendation of the MONEYVAL Report	<i>Serbian authorities should adopt explicit requirements for DNFBP-s to develop policies and procedures to mitigate the use of technological developments for the purposes of ML and FT when conducting risk assessments.</i>
Measures taken to implement the Recommendation of the Report	Draft AML/CFT Law addressed this issue, by the Article 7, which reads as follows: <p style="text-align: center;">“New Technologies Article 29A</p> <p style="text-align: center;">(1) The obligor shall pay special attention to the money laundering or terrorism financing risk arising from the application of new technologies which may allow for client anonymity (e.g. e-banking, use of ATMs, telephone banking, etc.).</p> <p style="text-align: center;">(2) The obligor shall introduce procedures and take additional measures to eliminate the risks posed by and prevent the misuse of new technologies for the purposes of money laundering or financing of terrorism.”</p>
Recommendation of the MONEYVAL Report	<i>Until Serbian authorities have determined in which countries financial institutions are permitted to rely on third parties, there can be no implementation of this provision. Serbian authorities should work to issue the sub-law in preparation and the list mentioned in Article 24.</i>
Measures taken to implement the Recommendation of the Report	Minister of Finance, on 1 March 2010 issued a Rulebook concerning the methodology for the implementation of tasks pursuant to the Law on the prevention of money laundering and terrorism financing (hereinafter: AML/CFT Rulebook). AML/CFT Rulebook addressed this issue by Article 21, which reads as follows: “Countries which, based on the data held by international organizations and data held by the APML, do not apply AML/CFT standards are as follows: 1) Uzbekistan; 2) Turkmenistan; 3) Pakistan; 4) Sao Tome and Principe; 5) Azerbaijan.”
Recommendation	<i>As many DNFBPs indicated that they were not aware of any requirements to</i>



of the MONEYVAL Report	<i>maintain records about their clients and in fact, did not keep such records, the Serbian authorities should ensure that DNFBPs fully understand and comply with their record keeping obligations.</i>
Measures taken to implement the Recommendation of the Report	Seminars and workshops which were held in the period of August 2009 to October 2010 one of the most important topic on seminars was record keeping obligation. The list of training and feedback events in the reporting period is attached.
Recommendation of the Report	<i>As the AML/CFT Law only requires obligors to pay special attention to all complex, unusual large transactions or unusual patters of transactions that have no apparent or visible economic or lawful purpose when developing a list of indicators and Serbian authorities have not provided a list of indicators for DNFBP-s, the evaluation team has concerns about the sector's ability to implement the requirements of Recommendation 11.</i>
Measures taken to implement the Recommendation of the Report	Law amending the AML/CFT Law addressed this issue by new provision in the Article 7, which reads as follows: <b>“Unusual transactions</b> Article 29B (1) The obligor shall pay special attention to the transactions characterized by their complexity and unusually high amount, unusual manner in which they are carried out, the value or the mutual relation of transactions with no economically or legally justifiable purpose, or which are not consistent with or which are disproportionate to the usual, i.e. expected, business operations of the customer, as well as to other circumstances related to the status or other characteristics of the customer. (2) The obligor shall establish the basis and purpose of the transactions referred to in paragraph 1 of this Article, and make a written official note thereof. The obligor shall keep the official note referred to in this Article in accordance with the law.” According the new provision, obligor must pay special attention to unusual transaction, not only when developing the lists of indicators, so by adopting AML/CFT Law, the requirements under the Recommendation 11 are fully met.
Recommendation of the MONEYVAL Report	<i>While the evaluation team finds the list of indicators to be insufficient to meet the requirements of Recommendation 11, the Decision on KYC Procedure does meet the requirements of Recommendation 11 in regards to paying special attention to unusual transactions and examining the background and purpose of transactions and setting forth those finding in writing, however it is not applicable to all financial institutions. Serbian authorities should ensure that the provisions of the Decision on KYC Procedure also apply to DNFBP-s.</i>
Measures taken to implement the Recommendation of the Report	New provision in the Law amending the AML/CFT Law addressed this issue, so the obligor, including DNFBP's, will be obliged to pay special attention to unusual transaction and examining the background and purpose of transaction.
Recommendation of the MONEYVAL Report	<i>Serbian authorities should ensure that DNFBP-s are capable of adequately identifying unusual transactions, particularly through additional training and developing better lists of indicators that match the market activities of the financial institution.</i>
Measures taken to implement the Recommendation of the Report	According the Article 65 of current AML/CFT Law, APML has issued Lists of indicators for the following reporting entities-DNFBP's: 1) Lawyers and lawyer partnerships; 2) Organizers of games of chance operated on the Internet, by telephone, or in any other manner using telecommunication networks; 3) Accountants and

	<p>4) Tax advisors.</p> <p>Lists of indicators have published on the web site of APML(apml.org.rs).</p> <p>According the Article 23. of AML/CFT Rulebook, all obligors have obligation to, when developing their own list of indicators, in their lists include lists of indicators from web site of APML.</p> <p>From August 2009 to November 2010 in Serbia were held many seminars, workshops , etc. targeting different types of obligors:</p> <p>About 220 professional accountants were trained in the different Serbian towns, and the main topics in those seminars were: Awareness Raising on AML/CFT, record keeping, and how to recognize unusual transaction, which does not have visible lawful or economic purpose.</p> <p>Seminar for real estate agents, was held in Belgrade, and about 20 real estate agents were trained how to use risk based approach, as well as how to recognize unusual transaction in their daily work.</p>
(Other) changes since the last evaluation	

<b>Recommendation 14 (Protection &amp; no tipping-off)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<p><i>It is recommended to the Serbian authorities to make the necessary legal amendments to ensure that:</i></p> <p style="padding-left: 40px;"><i>a) DNFBPs are protected from criminal liability for breach of any restriction on disclosure of information if they report their suspicions in good faith to the APML;</i></p>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue, by amending Article 73 paragraph 2 of current AML/CFT Law. New provision reads as follows:</p> <p style="padding-left: 40px;"><i>“The obligor, lawyer and their employees shall not be held liable, either disciplinary or criminally, for any breach of the obligation to keep the business, banking or professional secrets, in the following circumstances:</i></p> <p style="padding-left: 80px;"><i>1) when they send data, information and documentation to the APML in accordance with this Law;</i></p> <p style="padding-left: 80px;"><i>2) when they process data, information and documentation in order to examine customers or transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing.”</i></p>
Recommendation of the MONEYVAL Report	<p style="padding-left: 40px;"><i>b) Expand the tipping-off provisions to include not only those cases where a STR or related information has been reported but also when it is in the process of being reported to the APML.</i></p>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue by Article 17, which amending Article 73 Paragraph 1 of current AML/CFT Law, which reads as follows:</p> <p style="padding-left: 40px;"><i>“The obligor, lawyer and their employees, including the members of the governing, supervisory or other managing bodies, or any other person having access to the data referred to in Article 81 of this Law shall not disclose to the customer or any other person the following:</i></p> <p style="padding-left: 80px;"><i>1) That the APML was sent, or is being sent, data, information and documentation on a customer or transaction with respect to which there is</i></p>

	<p><i>suspicion of money laundering or terrorism financing”</i></p> <p>Bank is in obligation to conduct continuous training of its employees as prescribed in the Section 20 of Decision on Minimum Contents of the Know Your Client and Tipping of is one of the topics of these seminars.</p>
Recommendation of the MONEYVAL Report	<p><i>Serbian authorities should ensure that these provisions are appropriately implemented, through issuing adequate guidance to obligors concerning tipping off, so that DNFBPs and their employees fully understand the scope of the safe harbour and tipping off requirements and are aware of and sensitive to these issues when conducting CDD.</i></p>
Measures taken to implement the Recommendation of the Report	<p>Recently adopted document “STR Guidelines” contains provisions referred to tipping off. According to these provisions it is forbidden to tip off information that obligor has reported or is preparing to report to the FIU about client or transaction under suspicion for money laundering of terrorist financing.</p> <p>These Guidelines also prescribes obligation to the obligors that all employees have to be informed about these Tipping off provisions, which should also be the part of AML/CFT trainings, as well as about possible consequences in case of disregarding of the provisions.</p>
(Other) changes since the last evaluation	

<b>Recommendation 15 (Internal controls, compliance and audit)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<p><i>Article 39 of the AML/CFT Law exempts obligors with less than four employees from designating an AML/CFT compliance officer, imposing different obligations on small and large obligors. Serbian authorities should amend the law to remove this exemption.</i></p>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue by Article 16, which reads as follows:</p> <p><i>“Article 39 Paragraph 2 is deleted.”</i></p> <p>By this amendment, existing exemption shall be removed.</p>
Recommendation of the MONEYVAL Report	<p><i>While there is no blanket requirement for financial institutions to utilize a set procedure for screening employees to ensure a high standard, sectoral laws have set specific requirements for hiring employees within the sector. Serbian authorities should require a set procedure for all financial institutions to screen employees to ensure a high standard across all institutions.</i></p>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue by Article 13, adding new provision in the current Law, which reads as follows:</p> <p><i>“Integrity of employees</i>  Article 44A  (1) <i>The obligor shall establish the procedure according to which, at the time of recruitment for the job where the provisions of this Law and regulations passed according to this Law are applied, the candidate for such job is evaluated to establish if they have been convicted for any of the criminal offences through which illegal proceeds are acquired or any of the criminal offences linked to terrorism.</i>  (2) <i>Other criteria shall be evaluated too in the procedure referred to in paragraph 1 of this Article based on which it is established whether the candidate for the job referred to in paragraph 1 of this Article meets the high professional and moral qualities.”</i></p>

**Within the National Bank of Serbia NBS**

**BANK SUPERVISION**

For example, in one of sub-laws there is obligation for banks to provide certain data together with an application for the issue of a bank operating license, such as: organizational structure of staff and length of service for each job post, as well as the plan staffing schedule which has to support the planned expansion of bank's activities and organizational network, human resource capacity including qualification structure of staff.

Association of Serbian banks issued "Code of professional banking conduct" (issued with approval of NBS) which in the Item 4 prescribes responsibilities of the bank employees as cited below:

"4. Responsibilities of the staff employed. Professional attitude towards work will assist the staff employed in banks to maintain and build confidence in the safety and integrity of the banking system. In this context, staff employed in banks shall:

- uphold laws in force and supporting regulations, consistently implementing business policies of the bank and internal work procedures adopted by the bank (legality);

- refrain from overstepping authority vested upon them, and in all circumstances shall act in the best interests of the banks, restraining from being influenced by their personal gains, i.e. shall avoid all the situations that may give cause to the conflict of interest (accountability);

- keep banking and business confidentiality and care for protection of data in accordance with law (business confidentiality);

- conduct themselves and act in a conscientious, correct and courteous manner with clients, amongst themselves as colleagues, and in the relations with their superiors (courtesy);

- conduct themselves with clients in a consistent and ethical manner, meaning that the staff employed shall respect the principle of equitable treatment of clients, i.e. they shall refrain from all forms of harassment that is strictly prohibited, as well as from any form of discrimination, especially in respect to race, nationality, religion, political views, or philosophical stands (consistency);

- provide their clients will clear information that have been requested from them and respond to the applications submitted or complains lodged in a timely and appropriate fashion (accessibility to information);

- respect property of the bank and, in general, in an appropriate manner use the facilities placed at their disposal in the execution of their duties (correctness);

**NBS – VOLUNTARY PENSION FUNDS SUPERVISION**

The Proposed Law on Amendments and Changes to Law on Voluntary Pension Funds and Pension Schemes is currently in the procedure in the National Assembly of the Republic of Serbia. After the adoption of the above mentioned Proposed Law, secondary legislation regarding requirements for hiring employees of voluntary pension fund management companies will be adopted.

According to the Code of business ethics of Voluntary Pension Fund Management Companies, Voluntary Pension Fund Management Companies must work with the parties respecting the good business practices in accordance with the rules contained in the guidelines and standards of Association of Voluntary Pension Fund Management Companies and rules provided by international professional

	<p>associations especially when it is found that there is a risk factor related to the party i.e. it is estimated that there is a suspicious transaction.</p> <p>Articles 127 and 128 of Law on securities and other financial instruments prescribes conditions under which broker/dealer company may perform business activities, as well as procedure for licensing brokers, investment advisors and portfolio managers. Articles 127 and 128 reads as of Law on securities and other financial instruments follows:</p> <p>“Article 127</p> <p>A broker-dealer company may perform activities referred to in Article 124, paragraph 1 of the present Law if it meets the requirements regarding staff and organizational capacities and technical equipment, in conformity with the present Law and the act of the Commission.</p> <p>Staff capacity of the broker-dealer company in terms of paragraph 1 of the present Article, shall be at least one person permanently employed with the broker-dealer company, with the license to conduct broker activities.</p> <p>The broker-dealer company may perform activities referred to in Article 124, paragraph 1, sub-paragraph 4 of the present Law, if it meets the requirements specified in paragraph 1 of the present Article, and permanently employs at least one person with the license to perform portfolio manager activities.</p> <p>The broker-dealer company may perform activities referred to in Article 124, paragraph 1, sub-paragraph 7 of the present Law, if it meets the requirements specified in paragraph 1 of the present Article, and permanently employs at least one person with the license to perform investment consultant activities.</p> <p>The Commission shall prescribe detailed conditions for performing activities of a broker-dealer company regarding its organizational capacity and technical equipment.</p> <p>A broker-dealer company may engage intermediaries to carry out its activities.</p> <p>In addition to intermediaries, broker-dealer companies shall be held accountable for acts and damages done in the course of extending services by the intermediaries.</p> <p>By its act, the Commission shall determine in detail the types of transactions which the intermediaries can perform, and/or the conditions the physical persons and legal entities shall meet in order to perform intermediary transactions, and the Commission shall keep the registry of intermediaries.</p> <p>Licenses for Brokers, Investment Advisors and Portfolio Managers</p> <p>Article 128</p> <p>Transactions of broker, investment advisors and portfolio manager shall only be performed by natural persons holding a valid license for engaging in such transactions.</p> <p>The Commission shall organize the training and taking the test for obtaining the title of broker, investment advisor and portfolio manager, and shall issue the certificate on obtaining the mentioned titles, grant license for performing such activities, as well as keep a registry of persons possessing the license for performing these activities.</p> <p>The Commission shall grant the license for performing activities of a broker, if the applicant for obtaining the license meets the following requirements</p> <p>1) has successfully passed test for obtaining the title of a broker;</p>
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	<p>2) fulfils the conditions referred to in Article 86, sub-paragraph 1 of the present Law;</p> <p>3) not previously having his/her license for performing such activities revoked.</p> <p>The Commission shall grant the license for performing activities of an investment consultant and portfolio manager if the applicant for obtaining the license meets the following requirements:</p> <p>1) successfully passed test for obtaining the title of investment consultant and/or portfolio manager;</p> <p>2) fulfils the conditions referred to in Article 86, sub-paragraph 1 of the present Law;</p> <p>3) not previously having his/her license for performing such activities revoked;</p> <p>4) possession of a university degree;</p> <p>5) at least three years of experience with securities transactions</p> <p>The Commission shall issue the license for performing these activities to a person who has obtained the title of broker, investment consultant and/or portfolio manager abroad, after completed nostrification of the appropriate certificate, in case they fulfill other conditions from paragraphs 3 and 4 of this Article.</p> <p>The Commission shall perform nostrification of the certificate from paragraph 5 of the present Article in the manner prescribed by its acts and the agreements closed between the Commission and foreign institutions competent for supervision.</p> <p>The Commission may temporarily, for the maximum period of three months, forbid a person who has obtained the license of broker, investment consultant and/or portfolio manager to perform those activities due to violation of the provisions of the present Law regarding the rules of safe and fair operations.</p> <p>The Commission shall revoke the license from a broker, investment consultant and/or portfolio manager, if the person:</p> <p>1) is sentenced by a finally binding court decision for the criminal offence specified in Article 86, paragraph 1, sub-paragraph 1 of the present Law;</p> <p>2) has committed a serious violation of provisions of the present Law in Article 86, paragraph 1, sub-paragraph 2 of the present Law;</p> <p>3) has previously performed activities for which the license had not been granted.</p> <p><b>Requirements for Election and/or Appointment of the Members of Management</b></p> <p><b>Article 86</b></p> <p>As a management member can be elected a person for whom the consent specified in Article 85 of this Law was granted, and:</p> <p>1) who has not been sentenced by a finally binding court decision for criminal offences against labor relations, economy, property, administration of justice, money laundering, public order and legal transactions and the line of duty, as well as for other criminal offence specified by this Law, for which the minimum prescribed punishment is one year imprisonment;</p> <p>2) who has not committed a serious violation of provisions of this Law relating to the rules of safe and fair operation, to the prohibition of the use and disclosure of privileged information, and/or to the prohibition of manipulative practice, business morality rules, conscientious operation and rules on risk management or has not in any other way severely jeopardized interests of the participants in the regulated market.</p> <p>The stock exchange management member shall not be the person who is a</p>
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	<p>management member:</p> <ol style="list-style-type: none"> <li>1) of another market operator or their employee;</li> <li>2) of a broker-dealer company or an authorized bank;</li> <li>3) of a bank with which the stock exchange has closed a contract;</li> <li>4) persons related to the persons specified in items 1 and 2 of this paragraph.</li> </ol> <p>The management member shall have an appropriate business reputation and at least three years of professional experience acquired in operations involving securities in the country or abroad, in activities:</p> <ol style="list-style-type: none"> <li>1) in a broker-dealer company;</li> <li>2) in the securities and/or financial derivatives exchange;</li> <li>3) in a bank;</li> <li>4) in a company managing investment or voluntary pension funds;</li> <li>5) in an insurance company;</li> <li>6) at the National Bank of Serbia, state agency or organization, or a legal entity conducting operations involving securities for the account of the state as entrusted operations;</li> <li>7) in the Commission;</li> <li>8) at the Central Registry</li> <li>9) of a scientist in the field of securities, industrial law, accounting, and audit;</li> <li>10) of a business company or other legal entity in the activities involving finance.</li> </ol> <p>Stated above, are the Articles from the Law on securities and other financial instruments (Law on investment funds has very similar articles concerning the conditions for employment.)</p> <p>Also, these articles have thoroughly been regulated in By-Laws and, lets say, extended to the certain point they are supposed to be – within the boundaries set by law.</p> <p>Since this Law (on securities) has been put into force (2006), Serbian financial institutions have also thoroughly been implementing “the fit/proper” standard (set in European documents).</p> <p>As one can see, these provisions include, amongst else, condition of not-being sentenced for criminal offences against money laundering.</p>
(Other) changes since the last evaluation	

<b>Recommendation 16 (DNFBP – R.14, 15 &amp; 21)</b>	
<b>Rating: Non compliant</b>	
Recommendation of the MONEYVAL Report	<p><i>It is recommended to the Serbian authorities to make the necessary legal amendments to ensure that:</i></p> <p style="padding-left: 40px;"><i>(a) DNFBPs are protected from criminal liability for breach of any restriction on disclosure of information if they report their suspicions in good faith to the APML;</i></p>
Measures taken to implement the Recommendation of the Report	<p>Law amending the AML/CFT Law addressed this issue by Article 19, which amending Article 75 of current AML/CFT Law, so the new provision reads as follows:</p> <p style="padding-left: 40px;"><i>“Obligor, lawyer and their employees shall not be held liable, either disciplinary or criminally, for any breach of the obligation to keep the business, banking or professional secrets, in the following circumstances:</i></p> <p style="padding-left: 80px;"><i>1) when they send data, information and documentation to the APML in accordance with this Law;</i></p>

	<p>2) when they process data, information and documentation in order to examine customers or transactions with respect to which there are reasons for suspicion of money laundering or terrorism financing”.</p>
Recommendation of the MONEYVAL Report	<p>(b) Expand the tipping-off provisions to include not only those cases where a STR or related information has been reported but also when it is in the process of being reported to the APML.</p>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue by Article 17, which amending Article 73 Paragraph 1 of current AML/CFT Law, which reads as follows:</p> <p>“The obligor, lawyer and their employees, including the members of the governing, supervisory or other managing bodies, or any other person having access to the data referred to in Article 81 of this Law shall not disclose to the customer or any other person the following:</p> <p>2) That the APML was sent, <b>or is being sent</b>, data, information and documentation on a customer or transaction with respect to which there is suspicion of money laundering or terrorism financing”</p>
Recommendation of the MONEYVAL Report	<p>Serbian authorities should ensure that these provisions are appropriately implemented, through issuing adequate guidance to obligors concerning tipping off, so that DNFBPs and their employees fully understand the scope of the safe harbour and tipping off requirements and are aware of and sensitive to these issues when conducting CDD.</p>
Measures taken to implement the Recommendation of the Report	<p>Recently adopted document “STR Guidelines” contains provisions referred to tipping off. According to these provisions it is forbidden to tip off information that obligor has reported or is preparing to report the FIU about client or transaction under suspicion for money laundering of terrorist financing.</p> <p>These Guidelines also prescribes obligation to the obligors that all employees have to be informed about these tipping off provisions, which should also be the part of AML/CFT trainings, as well as about possible consequences in case of disregarding of the provisions</p>
Recommendation of the MONEYVAL Report	<p>Specify the procedure for executing internal policies and controls aimed at prevention of ML/FT, as defined by Articles 45 of the AML/CFT Law; provide guidance and training for all obligor DNFBP-s and lawyers to assist them in developing adequate internal controls to prevent ML/ FT</p>
Measures taken to implement the Recommendation of the Report	<p>Minister of finance issued AML/CFT Rulebook on 1 March 2010. Part III of AML/CFT Rulebook, stipulated provisions concerning internal policies and controls. The Articles 8 and 9 of Rulebook reads as follows:</p> <p>“Article 8</p> <p>The purpose of the internal control referred to in Article 44 of the AML/CFT Law is the prevention, detection and remedying of insufficiencies found in the implementation of the AML/CFT Law, as well as the improvement of the internal systems for the detection of transactions and persons suspected of money laundering or terrorism financing.</p> <p>In the performance of internal controls, the obliged entity is required to carry out checks and tests of the application of the AML/CFT system and adopted procedures, using the method of random samples or other appropriate method.</p> <p>Article 9</p> <p>In case of change in the business processes of the obligor (for instance, organizational change, business procedures change, introduction of a new service),</p>



	<p>the obliged entity is required, in the performance of the internal control, to check and harmonise its procedures so that they are adequate for the implementation of the AML/CFT Law.</p> <p>The obliged entity is required to verify the compliance of its system and procedures for the purposes of application of the AML/CFT Law, as well as application of such procedures, once a year, and each time when a change referred to in paragraph 1 of this Article occurs, no later than the day of introduction of such change into the business offer.</p> <p style="text-align: center;">Article 10</p> <p>The obliged entity and the management bodies of the obliged entity shall be responsible for the provision and organization of internal controls over the tasks performed at the obliged entity according to the AML/CFT Law.</p> <p>The obliged entity shall determine, in its legal document, the powers and responsibilities of the management bodies, organization units, compliance officers, and other entities in the obliged entity in the implementation of the internal controls, as well as the manner and schedule of internal controls.”</p>
Recommendation of the MONEYVAL Report	<i>Amend the AML/CFT Law to require obligors having less than four employees to appoint a compliance officer.</i>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue by Article 16, which reads as follows:</p> <p>“Article 39 Paragraph 2 is deleted.”</p> <p>By this amendment, existing exemption shall be removed.</p>
Recommendation of the MONEYVAL Report	<i>Provide for adequate implementation of the requirement to conduct an internal audit of AML/CFT compliance.</i>
Measures taken to implement the Recommendation of the Report	<p>According the Articles 10 and 11 of AML/CFT Rulebook, reporting entities have obligations to organize internal controls and to once per year make reports. Above mentioned Articles reads as follows:</p> <p style="text-align: center;">“Article 10</p> <p>The obliged entity and the management bodies of the obliged entity shall be responsible for the provision and organization of internal controls over the tasks performed at the obliged entity according to the AML/CFT Law.</p> <p>The obliged entity shall determine, in its legal document, the powers and responsibilities of the management bodies, organization units, compliance officers, and other entities in the obliged entity in the implementation of the internal controls, as well as the manner and schedule of internal controls.</p> <p style="text-align: center;">Article 11</p> <p>The obliged entity shall make an annual report concerning the internal controls performed and measures undertaken following such controls until the 15<sup>th</sup> of March of the current year for the previous year.</p> <p>The annual report referred to in paragraph 1 of this Article shall contain the following data:</p> <ol style="list-style-type: none"> <li>1) number of reported cash transactions in the amount of EUR 15,000 or more, in its RSD equivalent;</li> <li>2) number of transactions or persons reported as suspected to be related to money laundering or the financing of terrorism;</li> <li>3) number of transactions or persons suspected to be related to money laundering or</li> </ol>

	<p>the financing of terrorism that have been reported to the compliance officer by the obliged entity's employees, but were not reported to the APML;</p> <p>4) number of established business relationships where the client's identity was established based on a qualified electronic certificate of the client, as well as the number of business relationships established through the attorney;</p> <p>5) frequency of certain suspicious transaction indicators used (hereinafter referred to as: indicators) by obliged entity's employees when reporting transactions to the compliance officer;</p> <p>6) number of internal controls performed based on this rulebook, as well as findings of the internal controls (number of mistakes found and remedied, description of mistakes found, etc.);</p> <p>7) measures undertaken based on the internal controls performed;</p> <p>8) data on the performed internal control of information technologies used in the implementation of the provisions of AML/CFT Law (protection of data transmitted electronically, keeping of client data and transactions in a centralized database);</p> <p>9) data on the content of training curriculum concerning the detection and prevention of money laundering and terrorism financing, venue and persons implementing the training curricula, number of employees trained, as well as a needs assessment for further training and improvement of the employees;</p> <p>10) data on the measures undertaken to keep data representing official secret;</p> <p>11) number of established business relationships where a third party was relied on for certain customer due diligence actions and measures.</p> <p>The obliged entity shall send the report referred to in paragraph 1 of this article to the APML and the bodies charged with supervising the implementation of the AML/CFT Law, at their request within three days from the date of filing of such request. “</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Provide for adequate implementation of the requirement to provide regular professional training for employees carrying out tasks of prevention and detection of ML/FT.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>AML/CFT Rulebook addressed this issue by Article 13, which reads as follows:  “Professional education, training and improvement curricula for employees in the obliged entity and lawyer referred to in Article 43 paragraph 3 of the AML/CFT Law shall contain at least the following:  1) annual number of trainings planned;  2) annual number of employees planned to be trained, as well as the profile of the employees for which the trainings are intended;  3) AML/CFT topics that will be covered in the trainings;  4) manner of implementation (seminars, workshops, etc).”</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Provide for screening procedures to ensure high standards when hiring employees.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>The Law amending the AML/CFT Law addressed this issue in Article 13, adding new provision in the current Law, which reads as follows:  <p style="text-align: center;"><b>“Integrity of employees</b>  Article 44A</p> <p>(1) The obligor shall establish the procedure according to which, at the time of recruitment for the job where the provisions of this Law and regulations passed according to this Law are applied, the candidate for such job is evaluated to</p> </p>

	<p>establish if they have been convicted for any of the criminal offences through which illegal proceeds are acquired or any of the criminal offences linked to terrorism.</p> <p>(2) Other criteria shall be evaluated too in the procedure referred to in paragraph 1 of this Article based on which it is established whether the candidate for the job referred to in paragraph 1 of this Article meets the high professional and moral qualities.”</p>
Recommendation of the MONEYVAL Report	<i>Revise and update the list of the countries which do not apply or insufficiently apply the FATF Recommendations; establish enforceable procedures for that list to be recognized and duly applied by obligor DNFBP-s and lawyers.</i>
Measures taken to implement the Recommendation of the Report	<p>List of countries which do not apply the FATF Recommendations is revised and issued by Minister of finance in the AML/CFT Rulebook. Article 21 of AML/CFT Rulebook reads as follows:</p> <p style="text-align: center;"><i>”Article 21</i></p> <p><i>Countries which, based on the data held by international organizations and data held by the APML, do not apply AML/CFT standards are as follows:</i></p> <ul style="list-style-type: none"> <li><i>6) Uzbekistan;</i></li> <li><i>7) Turkmenistan;</i></li> <li><i>8) Pakistan;</i></li> <li><i>9) Sao Tome and Principe;</i></li> <li><i>10) Azerbaijan.”</i></li> </ul>
(Other) changes since the last evaluation	

<b>Recommendation 17 (Sanctions)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Ensure coverage of all requirements of the AML/CFT Law under the sanctioning provisions (at least Articles 28.2, 40 and 73).</i>
Measures taken to implement the Recommendation of the Report	<p>The Law amending the AML/CFT Law addressed this issue in the Article 23, which adds new Items in paragraph 1 Article 88 of current AML/CFT Law. New Items read as follows:</p> <p>“19a) Fails to conduct enhanced customer due diligence actions and measures referred to in Articles <u>29</u> to <u>31</u> of this Law in cases when, in line with the provisions of <u>Article 7</u> of this Law, it assesses that, due to the nature of the business relationship, form and manner of the execution of transaction, customer's business profile, or other circumstances related to the customer, there is or there may be a high money laundering or terrorism financing risk (<u>Article 28</u>, paragraph 2);</p> <p>30a) Fails to ensure that the tasks of the compliance officer and deputy compliance officer, referred to under Article 39 of this Law, are carried out by a person which meets the requirements stipulated under Article 40 of this Law (<u>Article 40</u>);”</p> <p>Article 73 of Current Law is already under sanctioning provision. Article 91 Paragraph 1 Item 7) reads as follows:</p> <p>“7) Acts contrary to the provisions of <u>Article 73</u>, paragraph 1 of this Law.”</p>
Recommendation of the MONEYVAL Report	<i>Eliminate the grounds for uncertainty and confusion about applicability of pecuniary sanctions under the AML/CFT Law and administrative sanctions under various sectoral laws.</i>

Measures taken to implement the Recommendation of the Report	<p>AML/CFT Law Article 82 paragraph 2 prescribes if NBS, when conducting supervision, establishes irregularities in the implementation of the Law shall act as follows:</p> <ol style="list-style-type: none"> <li>1) demand that the irregularities and deficiencies be remedied in the period which it sets itself</li> </ol> <p>This is provided by issuing corrective measures to supervised obligor such as written warning, send ordering letter etc.</p> <ol style="list-style-type: none"> <li>2) lodge a request to the competent body for the institution of adequate procedure</li> </ol> <p>NBS prepares and sent to a Prosecutor and Court proposal of economic offence and Court make final decision about punishment</p> <ol style="list-style-type: none"> <li>3) Take other measures and actions for which it is authorized</li> </ol> <p>Those other measures are possibility of pecuniary sanctions for obligor and its management given to NBS within provisions of Law on Banks.</p> <p>The Law on Banks ("RS Official Gazette" No. 107/2005) provide, in case of breach of regulations, only a possibility and right to supervisor, but not an obligation, to declare the fine to bank, as well as to a member of the board of directors and the executive board of a bank. National Bank of Serbia uses that right only in case of significant irregularities and large exposure to the risk of money laundering and terrorist financing.</p> <p>In this way the grounds for uncertainty and confusion about applicability of pecuniary sanctions are eliminated.</p>
Recommendation of the MONEYVAL Report	<p><i>Provide for a full-scale applicability of administrative sanctions available for prudential purposes in case of AML/CFT incompliance (for example, revocation of license of banks, pension funds, broker/dealer companies, investment funds).</i></p>
Measures taken to implement the Recommendation of the Report	<p><b><u>NBS</u></b></p> <p>According to the provisions of the AML/CFT Law article 84 the National Bank of Serbia supervise activities of banks, exchange offices , voluntary pension funds, insurance companies and financial leasing companies. Article 82 paragraph 2 NBS, when conducting supervision, establishes irregularities in the implementation of the Law shall act as follows:</p> <ol style="list-style-type: none"> <li>1) demand that the irregularities and deficiencies be remedied in the period which it sets itself</li> <li>2) lodge a request to the competent body for the institution of adequate procedure</li> <li>3) Take other measures and actions for which it is authorized</li> </ol> <p>According to the provisions of the Law on Banks the National Bank of Serbia, in case of breach of regulations, shall take one or more measures :</p> <ol style="list-style-type: none"> <li>1) end written warning;</li> <li>2) send ordering letter;</li> <li>3) declare orders and measures for eliminating the established irregularities;</li> <li>4) introduce receivership;</li> <li>5) Revoke operating license of the bank.</li> </ol> <p>To revoke banks license the numerous conditions must be met, and one of them may be if the activities of the bank are related to money laundering, financing of terrorism, or performing other punishable acts.</p> <p>According to the provisions of the Law on Banks Article 130 Paragraph 8 NBS</p>

	shall revoke the bank's operating license if it establishes that the bank has committed gross or persistent violations of the Law on Banks, <b>as well as other Regulations.</b>
Recommendation of the MONEYVAL Report	<i>Provide the missing elements of legislatively defined supervisory power for application of sanctions with respect to voluntary pension funds management companies, as well as of the directors/senior management of voluntary pension funds management companies and broker-dealer companies for AML/CFT incompliance</i>
Measures taken to implement the Recommendation of the Report	<p><b><u>NBS – VOLUNTARY PENSION FUNDS SUPERVISION</u></b></p> <p>According to the Proposed Law on Amendments and Changes to the Voluntary Pension Funds and Pension Schemes Law<sup>1</sup>, if the National Bank of Serbia, in the course of supervision of the management company, establishes any illegalities or irregularities, in conformity with this law or any other law under which the National Bank of Serbia has the competence in the conduct of supervision<sup>2</sup> or non-compliance with the risk management rules, the National Bank of Serbia shall take one or more measures mentioned above including withdrawal of approval of appointment of a member of management of the management company. (the article 45 of the Proposed Law on Amendments and Changes to the Voluntary Pension Funds and Pension Schemes Law)</p> <p><sup>1</sup>The Proposed Law on Amendments and Changes to the Voluntary Pension Funds and Pension Schemes Law is in the procedure in the National Assembly of the Republic of Serbia. It is expected that it will be approved by the end of this year.</p> <p><sup>2</sup> According to the Law on the prevention of money laundering and the financing of terrorism ("RS Official Gazette" No. 20/2009), the National Bank of Serbia has the competence in the conduct of supervision of the law appliance by voluntary pension fund management companies among other financial institutions and has the competence in taking measures. (the article 82, paragraph 1. indent 2, the article 82, paragraph 2 and the article 84, paragraph 1 of the Law on the prevention of money laundering and the financing of terrorism)</p>
Recommendation of the MONEYVAL Report	<i>Provide for effective functioning of the AML/CFT enforcement mechanism enabling application of proportionate and dissuasive sanctions under the AML/CFT Law and respective sectoral laws.</i>
Measures taken to implement the Recommendation of the Report	<p><b><u>National Bank of Serbia</u></b></p> <p>According to the provisions of the AML/CFT Law Article 84 the National Bank of Serbia has the competence in the conduct of supervision of the law appliance by banks, insurance companies, financial leasing companies, voluntary pension fund management companies and exchange offices.</p> <p>According to the provisions of Article 82 Paragraph 2 of the AML/CFT Law NBS has competence in taking following measures:</p> <ol style="list-style-type: none"> <li>1) elimination of irregularities and deficiencies within the time specified;</li> <li>2) apply to the competent authority to initiate appropriate proceedings;</li> <li>3) take other actions and measures for which the Law authorizes</li> </ol> <p>According to the provisions of the Law on Banks the National Bank of Serbia, in case of breach of regulations, shall take one or more measures : send written warning; send ordering letter; declare orders and measures for eliminating the established irregularities; introduce receivership; revoke operating license of the bank.</p>

	Coordinated implementation of these laws is enabling application of proportionate and dissuasive sanctions under AML/CFT Law and respective sector laws.
(Other) changes since the last evaluation	

<b>Recommendation 23 (Regulation, supervision and monitoring)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Amend the legislation to include a definite requirement for banning market entry – as owners and significant/controlling interest holders of leasing companies – of persons with criminal background.</i>
Measures taken to implement the Recommendation of the Report	<b><u>NBS – LEASING SUPERVISION</u></b> The procedure of the adopting the relevant law is underway. The draft of a new Law on Financial Leasing and by - laws in this area relating to issuance of licenses will, prescribe prohibition for physical persons with criminal background to participate in ownership of financial leasing companies.
Recommendation of the MONEYVAL Report	<i>Recognize the PTT “Srbija” as a money transfer business (and as such, a financial institution subject to all pertinent requirements).</i>
Measures taken to implement the Recommendation of the Report	Foreign Currency Inspectorate has been conducting on site control of PTT “Srbija” within the remits of its competence regarding AML/CFT Law. Public Enterprise IITT “Srbija” undertakes all actions and measures under the AML/CFT Law (“RS Official Gazette” No 20/09 and 72/09), and the Foreign Exchange Inspectorate, pursuant to Article 11 of the Rulebook on methodology for the execution of tasks under the AML/CFT Law was went the Annual Report about the conducted internal supervision and measures undertaken.
Recommendation of the MONEYVAL Report	<i>Establish licensing/registration procedures for persons involved in money transfer services<sup>7</sup>, agents/third party transaction processors, and persons exercising professional activities of intermediation in credit transactions and provision of loans, factoring and forfeiting, and provision of guarantees; supervision mechanisms and tools for ensuring their compliance to AML/CFT requirements.</i>
Measures taken to implement the Recommendation of the Report	This recommendation is addressed by the draft Law amending the Law on foreign exchange operations. According the Draft Law, it is prescribe registration procedure for persons who deal with money transfer services. It is expected that Draft Law amending the Law on foreign exchange operations will be passed in the beginning of next year. Licensing of persons exercising professional activities of factoring and forfeiting is not prescribe in Law on foreign exchange operations. Factoring and forfeiting companies are established according the Law on companies.
Recommendation of the MONEYVAL Report	<i>Define legislative provisions establishing the powers of the National Bank to regulate and supervise for AML/CFT purposes activities of voluntary pension fund management companies.</i>
Measures taken to implement the Recommendation	<b><u>NBS – VOLUNTARY PENSION FUNDS SUPERVISION</u></b> According to the Law on the prevention of money laundering and the financing of terrorism (“RS Official Gazette” No. 20/2009), the National Bank of Serbia may

<sup>7</sup> Particularly, for the PTT “Srbija”

of the Report	issue, independently or in cooperation with other authorities, recommendations and guidelines for applying this Law (the article 87 of the Law on the prevention of money laundering and the financing of terrorism Proposed Law on Amendments and Changes to the Voluntary Pension Funds and Pension Schemes Law specify that National Bank of Serbia has the competence in the conduct of supervision given by this law or any other law.
Recommendation of the MONEYVAL Report	<i>Define legislative provisions establishing the powers of the Ministry of Finance to regulate and supervise for AML/CFT purposes activities of persons dealing with postal communications [with respect to domestic payment operations] and of persons involved in professional activities of intermediation in credit transactions and provision of loans, factoring and forfeiting, provision of guarantees, and provision of money transfer services.</i>
Measures taken to implement the Recommendation of the Report	It has been observed that supervision system for some obligors failed to bring effective results. Therefore the Law amending the AML/CFT Law defined the APML as a supervisory authority for the obligors above in terms of AML/CFT Law provisions.
Recommendation of the MONEYVAL Report	<i>Define legislative provisions establishing the powers of the Ministry of Telecommunications and Information Society to regulate and supervise for AML/CFT purposes activities of persons dealing with postal communications [with respect to valuable mail operations].</i>
Measures taken to implement the Recommendation of the Report	According to the Law amending AML/CFT Law, APML will be competent for supervision of persons dealing with postal communications. It seems not to be good solution for supervision regarding persons who deal with postal communications in current AML/CFT Law, so that was the reason why supervision authority is going to be changed pursuant to the Law amending the AML/CFT Law.
Recommendation of the MONEYVAL Report	<i>Define legislative provisions establishing the powers of Foreign Currency Inspectorate to regulate and supervise for AML/CFT purposes activities of persons involved in professional activities of factoring and forfeiting, and provision of money transfer services [with respect to international payment transactions].</i>
Measures taken to implement the Recommendation of the Report	According the Draft Law on Foreign Exchange Operations, Foreign Exchange Inspectorate will be competent to supervise in AML/CFT requirements when supervise transfer of money, factoring and forfeiting. Foreign Exchange Inspectorate has issued Guidelines for money laundering and terrorism financing risk assessment regarding factoring and forfeiting, which is available the web site of Foreign Exchange Inspectorate. ( <a href="http://www.devizni.gov.rs">www.devizni.gov.rs</a> )
Recommendation of the MONEYVAL Report	<i>Develop supervision methodologies based on consideration of risk profile of institutions and enabling identification of inherent risks in financial activities, determination of risk mitigants, assessment of exposure of AML/CFT risk to various aspects of financial activities, assessment of internal control and risk management systems, corporate governance oversight, and integration of results of off-site monitoring and surveillance.</i>
Measures taken to implement the Recommendation of the Report	<b>NBS</b> NBS Banking Supervision Department – Supervisory Review Committee adopted changes of Supervision Methodology, including Procedure for supervisions plan for banks, as same as changes of the Memorandum for AML/CFT Supervision of Banks. Committee also adopted the new form of on-site Supervision Report - Report on executed supervision of AML/CFT risk management and supervision of Payment transactions. According to these changes all these documents fully implemented RBA. Also NBS changed AML/CFT Questionnaire in order to be in

	<p>compliance with RBA. Supervision methodologies for obligors under the supervision of NBS, including supervision plans, are based on risk profile of financial institutions and detailed assessment of their exposure to AML/CFT risk.</p> <p>The Draft of Law on Amendments and Supplements to the Law on Financial Leasing is prepared in order to make an adequate legal framework for risk based supervision of financial leasing companies. Draft of relevant sub-law is also done.</p> <p>Voluntary pension funds supervision department adopted the Manual for the assessment of the voluntary pension funds AML/CFT risk exposure, which will be used in the following onsite supervisions. Manuel includes risk-based approach and instruction for on-site supervision.</p> <p>The Decision on the manner of NBS insurance supervision- is being prepared (provides detailed conditions and manner of supervision -off-site and on-site, types of supervision, subject to supervision, process of supervision, international co-operation and information exchange etc.)</p> <p>The Manual for the supervision of AML/CFT Law implementation- is being prepared (which includes risk-based approach, assessment of the insurance market participants AML/CFT risk exposure, assessment of internal control and risk management systems, actions and measures to be taken by the insurance company according to the AML/CFT Law etc.)</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Establish mechanisms and tools for effective, consistent, risk-based planning of the supervision process – both off-site and on-site; introduce systems for continuous monitoring and follow-up of supervision results.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p><b><u>NBS</u></b></p> <p>Up to changes in Supervision Methodology planning of the supervision process is risk-based. Up to the Methodology a bank shall, within 15 days after the deadline given in Measure, inform the National Bank of Serbia - the Department of Bank Supervision, and provide proofs about elimination of irregularities stated in a Supervisory Report. These should be done in the form of Bank`s Compliance Officer Report. After some time NBS conducts the follow – up supervision in order to check if obligor executed orders given by measures.</p> <p>The draft of Manual for the supervision of financial leasing companies in the field of AML/CFT is prepared and it includes risk-based approach, assessment of the financial leasing market participants AML/CFT risk exposure, assessment of internal control and risk management systems, actions and measures to be taken by the financial company according to the AML/CFT Law etc.</p> <p>Voluntary pension funds supervision department adopted the Manual for the assessment of the voluntary pension funds AML/CFT risk exposure, which will be used in the following onsite supervisions. Manuel includes risk-based approach and instruction for on-site supervision.</p> <p>The Decision on the manner of NBS insurance supervision- is being prepared (provides detailed conditions and manner of supervision -off-site and on-site, types of supervision, subject to supervision, process of supervision, international co-operation and information exchange etc.)</p> <p>The Manual for the supervision of AML/CFT Law implementation- is being prepared (which includes risk-based approach, assessment of the insurance market participants AML/CFT risk exposure, assessment of internal control and risk management systems, actions and measures to be taken by the insurance company according to the AML/CFT Law etc.)</p>



	<p><b><u>NBS – LEASING SUPERVISION</u></b>  The procedure of the adopting the relevant law is underway.  The draft of a new Law on Financial Leasing and by - laws in this area relating to issuance of licenses will, prescribes prohibition for physical persons with criminal background to participate in ownership of financial leasing companies.</p> <p><b><u>NBS – INSURANCE SUPERVISION</u></b>  The Decision on the manner of NBS insurance supervision- is being prepared (provides detailed conditions and manner of supervision -off-site and on-site, types of supervision, subject to supervision, process of supervision, international co-operation and information exchange etc.)  - The Manual for the supervision of AML/CFT Law implementation- is being prepared (which includes risk-based approach, assessment of the insurance market participants AML/CFT risk exposure, assessment of internal control and risk management systems, actions and measures to be taken by the insurance company according to the AML/CFT Law etc.)  The Securities Commission has adopted the supervision plan (for year 2010.) and the methodology for conducting monitoring and supervision in adopting and implementing the Law AML/CFT provisions (for the entities over which the Securities Commission has competence).  This annual supervision plan was done on the bases of risk-based approach. Therefore, the broker-dealer companies with the larger number of clients and greater turnover, were considered the supervision priority.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Ensure consistency among and harmonization of supervision methodologies and planning procedures throughout the bodies involved in supervision of financial institutions.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Supervision of obligors under NBS competence are done under supervision plans which include risk assessment process , risk profile of supervised obligor, size of obligor and its market position ,as well as human resource capacities.  A draft Manual for the supervision of financial leasing companies in the field of AML/CFT is being prepared and it includes risk-based approach, assessment of the financial leasing market participants AML/CFT risk exposure, assessment of internal control and risk management systems, actions and measures to be taken by the financial company according to the AML/CFT Law etc.  Voluntary pension funds supervision department in the National Bank of Serbia adopted the Manuel for the estimation of voluntary pension funds AML/CFT risk exposure. Supervision departments in the National Bank of Serbia are interchanging adopted manuals.  Administration for the Prevention of Money Laundering and the National Bank of Serbia realize constructive and successful collaboration that has formalized with an Agreement on cooperation in the prevention of money laundering and terrorist financing signed on 3 June 2009. The subject of the Agreement is continuous exchange of data and information between the parties to the contract. In order to exchange information and experience, the representative of Administration for the Prevention of Money Laundering will hold during November, 2010 to representatives of the National Bank of Serbia the training on typologies of money laundering and other challenges to which participants in the system against money laundering are being faced.</p>
<p>Recommendation</p>	<p><i>Ensure sufficient coverage of inspections incorporating elements or dedicated to the</i></p>

of the MONEYVAL Report	<i>examination of AML/CFT compliance, stemming from an adequate planning of supervision and resulting in regular and in-depth analysis (disclosure of underlying reasons for incompliance) and assessment of compliance, with relevant follow-up procedures provided for.</i>
Measures taken to implement the Recommendation of the Report	According to the process of supervision planning, based on annual plans, and on the bases of risk assessment and taking into account human resource capacities National Bank of Serbia conducts supervision of obligor under its supervisory competence. On the bases of supervision results the Report is done, and it contains detailed description of all detected irregularities. Within some period of time which is given to obligor to eliminate detected irregularities, and after analyzing number and type of irregularities, NBS conducts follow – up supervision.
(Other) changes since the last evaluation	

<b>Recommendation 24 (DNFBP - Regulation, supervision and monitoring)</b>	
<b>Rating: Non compliant</b>	
Recommendation of the MONEYVAL Report	<i>Eliminate the grounds for uncertainty about applicability of pecuniary sanctions under the AML/CFT Law and the Law on Games of Chance.</i>
Measures taken to implement the Recommendation of the Report	Given its administrative capacities, the Games of Chance Administration was bound to postpone taking action in this context, because amending this element alone might have affected a whole section of the Law, which would eventually result in a necessity to amend the whole area. This exercise would have proved to be not feasible given the Games of Chance Administration’s administrative capacities at the moment.
Recommendation of the MONEYVAL Report	<i>Provide for administrative sanctions in case of casinos’ incompliance with the national AML/CFT requirements (such as written warnings, orders to comply with specific instructions, barring individuals from employment within the sector, replacing or restricting powers of managers, directors, or controlling owners, or withdrawal of license).</i>
Measures taken to implement the Recommendation of the Report	Administration on Games of Chance is in the process of drafting Methodology for carrying out on site inspection regarding AML/CFT Methodology. However, Administration of Games on Chance is due to lack of employees in the Supervision Division unable to conduct on site controls regarding AML/CFT Law.
Recommendation of the MONEYVAL Report	<i>Take legal or regulatory measures to prevent individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding a management function, in or being/becoming an operator of a casino.</i>
Measures taken to implement the Recommendation of the Report	Article 40 of Law on games on chances prescribes conditions for licensing organizers special games for chance: <p style="text-align: center;">“Article 40</p> <p>Licenses for organizing special games of chance in gaming facilities shall be given through a tender announced in daily papers, based on procedures laid down by the government. Bidders participating in tender for the granting of license to organize special games of chance in gaming facilities shall, together with their offer, submit the following:</p> <p>1) The name and registered offices of the body corporate concerned;</p>

	<p>2) The decision by which the body corporate concerned was entered in the appropriate register, including an annex stating its capital stock, as prescribed in Article 38 of this Act;</p> <p>3) The articles of association of the body corporate concerned;</p> <p>4) A three-year business plan at least;</p> <p>5) A certificate issued by state authorities to the effect that none of the founders or members of the body corporate referred to in Item 1 of this Article, or any other person considered connected to the participant, its founder or member under the relevant laws on citizen’s income tax and corporate profit tax, were convicted for felonies prescribed by government legislation during the five-year period preceding the opening of the tender;</p> <p>6) A proposal for the license tax;</p> <p>7) A bank guarantee covering the minimum license tax referred to in Item 6 of this Paragraph;</p> <p>8) A description of the types of games of chance that will be organized and the game rules;</p> <p>9) Extensive data on the founders of the body corporate;</p> <p>Government of Republic of Serbia adopted Decree on determining the criminal offences for which a certificate of non-conviction for certain persons must be submitted with the application for a license or approval to organize certain games of chance ("Official Gazette of the Republic of Serbia ", No. 128/2004)</p> <p>Article 2 of Decree reads as follows:</p> <p style="text-align: center;">“Article 2</p> <p>The criminal offences for which the certificate of non-conviction is submitted within the meaning of Article 1 of this decree are the following criminal offences from the Criminal Code of the Republic of Serbia, (hereinafter: “the CCRS”): 1) commercial criminal offences: in conscientious work in commercial affairs (Article 136 of the CCRS), causing of insolvency (Article 137 of the CCRS), damaging creditors (Article 138 of the CCRS), abuse of authority in commerce (Article 139 of the CCRS), unjust granting and using of a loan, or other benefits (Article 139a of the CCRS), impairing the business reputation or credit capacity (Article 139b of the CCRS), executing a detrimental contract (Article 140 of the CCRS), disclosing and illegal knowledge of a business secret (Article 141 of the CCRS), creating and using false signs of value or securities (Article 144 of the CCRS), creating, acquiring, or disposing of means for creating counterfeit (Article 145 of the CCRS), misleading buyers (Article 146 of the CCRS), illegal trade (Article 147 of the CCRS), and tax evasion (Article 154 of the CCRS).</p> <p>2) criminal offences regarding property: theft (Article 165 of the CCRS), burglary (Article 166 of the CCRS), mixed larceny (Article 167 of the CCRS), robbery (Article 168 of the CCRS), aggravated larceny and robbery (Article 169 of the CCRS), larceny by bailey (Article 170 of the CCRS) , larceny by fraud or deception (Article 171 of the CCRS), larceny by extortion (Article 180 of the CCRS), and contracting of unproportional material benefit (Article 182).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Establish an adequate and relevant supervisory regime with regard to auditing companies, licensed auditors, lawyers and lawyer partnerships, dealers in precious metals and dealers in precious stones persons exercising professional activities of intermediation in real estate transactions, accounting, and tax advising, with the national AML/CFT requirements; particularly provide for the ability of the respective supervisory bodies to monitor and ensure compliance of the respective</i></p>

	<i>obligors with AML/CFT requirements, conduct (on-site) inspections, obtain access to all records and information relevant to monitoring compliance, enforce and sanction both the institutions/businesses and their directors/senior management for non-compliance with AML/CFT requirements.</i>
Measures taken to implement the Recommendation of the Report	According to the Law amending the AML/CFT Law, APML will be competent to supervise certain types of obligors-accountants, tax advisors. APML is planning to develop new department competent for supervision. The idea is to improve AML/CFT requirements and system in some regimes where solution for supervision from current AML/CFT Law was not so efficient.
(Other) changes since the last evaluation	

<b>Recommendation 25 (Guidelines and Feedback)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Ensure implementation of the requirements of the AML/CFT Law concerning provision of general feedback, i.e. information on ML/FT techniques and trends (typologies), as well as sanitized cases from the practice of the APML and other competent state bodies; share information with financial institutions either within the annual reporting framework, or through other communication.</i>
Measures taken to implement the Recommendation of the Report	Article 15 of the Law amending the AML/CFT Law, addressing this issue by adding paragraph 2 in the Article 66 of current AML/CFT Law. Amended Article 66 of AML/CFT Law reads as follows:  <b>“Work reports Article 66</b>  (1) The APML shall submit a work report to the Government, no later than until 31 March of the current year for the previous year. (2) The report referred to in paragraph 1 of this Article shall include statistical data on money laundering or terrorism financing manifestations, money laundering or terrorism financing trends, as well as data on APML's activities.” APML has developed first publication on money laundering and terrorist financing prevention. This publication includes information on the APML, AML/CFT legal framework, Serbian AML/CFT system, obligor reporting requirements, international cooperation, specific regional ML/FT features, and provides some specific examples of money laundering.
Recommendation of the MONEYVAL Report	<i>Proactively seek to make the APML's annual reports available to the widest scope of stakeholders.</i>
Measures taken to implement the Recommendation of the Report	APML's annual report for 2009 has been published in the web site of APML, <a href="http://www.apml.org.rs">www.apml.org.rs</a> and is available to the widest scope of stakeholders.
Recommendation of the MONEYVAL Report	<i>Consider providing specific feedback (other than the acknowledgment of the receipt of report) to enable financial institutions to get an idea of the quality of their reporting, and statistics on received STR-s cross-referenced with the respective results so as to identify the areas, where ML/FT is being successfully detected.</i>
Measures taken to implement the Recommendation	APML has provided some kind of special feedback in order to improve quality of reporting transactions. The list of training and feedback events in the reporting period is attached.

of the Report	
Recommendation of the MONEYVAL Report	<i>Ensure participatory approach to the provision of feedback, by involving other competent state authorities, for example, law enforcement agencies to regularly provide and disseminate (possibly through the APML) data on investigated cases, convictions, confiscations, etc; participate in the development of typologies</i>
Measures taken to implement the Recommendation of the Report	Members of Standing Cooperative Group regularly meets once per month and is competent body for developing typologies. Standing Cooperative Group currently analyse state of plate whitening NPO sector in Serbia, as well as informal remittance system. Seminar organised by Bankers' Association at Palić Resort in April 2010, one of the trainers was senior officer from Financial Investigation Unit within Ministry of Interior whose presentations was typologies in ML though his own practical experience.
Recommendation of the MONEYVAL Report	<i>Establish guidelines that would assist obligor DNFBP-s and lawyers to implement and comply with their respective AML/CFT requirements. Such guidelines would provide assistance on issues covered under the relevant FATF Recommendations, including:</i> <i>(i) a description of ML and FT techniques and methods; and</i> <i>(ii) any additional measures that obligor DNFBP-s and lawyers could take to ensure that their AML/CFT measures are effective.</i>
Measures taken to implement the Recommendation of the Report	Ministry of Trade and Services (for intermediaries in real estate business, ie real estate agents), Administration for the Games of Chance (for organizers of games of chance in casinos and on internet, or in any other manner operating telecommunications network) and Ministry of Telecommunications (for persons engaging in postal communications domestically). The Guidelines above define four types of risk, namely: geographical, client, transaction and service (product) risk. Underlying effective risk management are CDD measures, which are implemented on an ordinary, simplified and enhanced basis. The obligors are bound to establish and verify the identity of a client prior to establishing business relation, from valid, credible and reliable sources. If unable to do so, the obligor is bound to refuse to establish business cooperation. When a legal person appears as client, the obligor has to establish its beneficial owner. Furthermore, the obligor has to keep documentation on the client regularly updated. If the client undergoes relevant status changes, the obligor should satisfy themselves that the facts are properly documented. Each obligor is required to develop internal procedures for identifying and verifying the identity of the client to ensure consistent implementation of CDD measures. In cases of reliance on third parties, the ultimate responsibility for identification still rests on the obligor.
(Other) changes since the last evaluation	

<b>Recommendation 27 (Law enforcement authorities)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Analyse the current legal framework and take legislative or other measures in order to establish an effective and functional cooperation, communication and coordination mechanisms between competent law enforcement and prosecution services responsible for investigating and prosecuting ML, FT and underlying predicate offences.</i>

Measures taken to implement the Recommendation of the Report	<p>Legal framework is constantly analysed at the regular meetings of the Standing Coordination Group for Monitoring the Implementation of the National Strategy against Money Laundering and Terrorism Financing. The Group comprises, among others, representatives of law enforcement and Serbia's Public Prosecutor's Office. Police and prosecutors have appointed liaison officers for communication, and work together on a case-by-case basis.</p> <p>Military Security Agency actively participates in the UNODC Joint Programme on Strengthening Legal Regime in Combating Terrorism Financing, together with Ministry of Interior and other relevant authorities.</p>
Recommendation of the MONEYVAL Report	<i>Review the current situation in the light of the specific concerns raised in respect of practical implementation problems related to potential jurisdictional issues, to the gathering of evidence in ML/FT investigations and take necessary measures to address these concerns and prevent risks of unnecessary duplication of efforts.</i>
Measures taken to implement the Recommendation of the Report	The Interior Ministry is in the process of adopting the so-called Integrity Plan which will address the duplication of efforts issue.
Recommendation of the MONEYVAL Report	<i>Take measures to increase the numbers and effectiveness of ML investigations, such as establishing through inter-agency meetings of enforcement authorities a concerted programme for increasing the focus on ML investigations, placing an emphasis on a more systematic recourse to financial investigations, providing guidance particularly on procedures and requirements set out under the newly adopted legislation.</i>
Measures taken to implement the Recommendation of the Report	<p>Regular meetings have been held for prosecutors and police, with the aim of strengthening cooperation between police and local prosecutor's offices, all in line with the agenda that the Serbia's Public Prosecutor's Office developed based on the Action Plan for Implementing the National Strategy against Money Laundering and Terrorism Financing. These meetings also resulted in forming standing and ad hoc working groups (task force).</p> <p>A new Criminal Proceedings Code is in the process of adoption, which will broaden the competence of prosecution and intensify cooperation between police and prosecution, which will be in charge of the investigation. The importance of team work is reaffirmed, and prosecutor will be empowered to take disciplinary measures against police staff, in case they fail to act according to the prosecution request.</p> <p>In addition, financial investigations are initiated at the request of public prosecutor according to the Law on Confiscation of Assets Derived from Criminal Offences, and the prosecutor is authorized to conduct financial investigations in direct cooperation with law enforcement.</p> <p>In investigations of money laundering and underlying predicate offences Prosecutor's Office for Organized Crime cooperates closely with Directorate for the Suppression of Organized Crime. These cases can also see the use of SIMs based on the court decision, including controlled deliveries, undercover agents, controlled payments, etc.</p>
Recommendation of the MONEYVAL Report	<i>Pursue and sustain current efforts to eliminate corruption within the police and judiciary to ensure that they do not impede law enforcement authorities' action.</i>
Measures taken to implement the	Implementing the Action Plan for the Implementation of the National Strategy against Corruption, Prosecutor's Office continues to monitor work on corruption

<p>Recommendation of the Report</p>	<p>cases, in line with the Program and Mandatory Instruction A. No.194/10 on handling corruption cases.</p> <p>According to the Program, all appellate prosecutor's offices and higher prosecutor's offices in Belgrade, Novi Sad, Niš and Kragujevac formed Departments for Combat against Corruption and Money Laundering, whereas all higher prosecutor's offices appointed deputy public prosecutors specialized for corruption, and which are points of contact with Serbia's Public Prosecutor's Office. Higher and basic prosecutor's offices keep special records and directly notify Serbia's p's office on all criminal reports that they receive. All prosecutor's offices are obliged to notify Serbia P's office on all decisions in cases involving corruption. The decisions must be reached by a panel in case of criminal report dismissal or abandonment of prosecution, and it is compulsory that a public prosecutor be present when reaching the decision. Serbia's Public Prosecutor's Office must be provided with a copy of first-instance court decision and the prosecutor's appeal (if lodged), and subsequently, second-instance court decision.</p> <p>The above said enables efficient monitoring and control of a prosecutor's work in each single case, as well as professional expertise and assistance through advisory opinions, suggestions and instructions to clarify problematic issues in certain cases, with a special emphasis on consistent implementation of legal provisions on mandatory confiscation of assets derived through criminal offences. Throughout a year cooperation is fostered through meetings with prosecutors and their deputies in Serbia's Prosecutor's Office whenever complexity of a case requires it.</p> <p>These mechanisms ensured preventive side of Serbia Prosecutor's Office work, which is reflected in well-foundness and valid rationale of court decisions. These mechanisms also resulted in reactivating certain cases. after criminal report had been dismissed. The aim of these activities is a more adequate protection of professional integrity of prosecutors.</p> <p>The Ministry of Interior formed a working group through the resolution from 27 of October 2008 with assignments to coordinate implementation of recommendations of National Strategy for fight against corruption, Action plan for carrying out the National Strategy for fight against corruption and recommendations from group of countries for fight against corruption GRECO.</p> <p>According to commitments that arrive from Action Plan, working group has made Sector Action Plan of the Ministry of Interior which the minister of the Interior carried out through an Act from 25 of December 2009. Activities that are about to implement towards an aim of realization of recommendations from strategy, persons who actualize all those activities, dead lines, possible issues, indicator of objects, as well as the necessary recourses for implementation of activities.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Consideration should be given to amend the existing provisions so as to provide competent authorities with the legal basis to use a wide range of special investigative techniques when conducting ML or FT and underlying predicate offences.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Public dispute on amendments on Law on Criminal Proceedings is in progress.</p> <p>Measures for engagements of undercover agent and making simulated legal jobs based upon the Article 504 of the Law on Criminal Proceedings according to the commend of the Investigative Judge to the Special Department of Higher Court in Belgrade are implemented for the first time and it gave result by arresting organizers and members of two organized crime groups that operated on territories of Belgrade and Novi Sad ( KU 39/10 KU 40/10)</p> <p>Base upon the commend of the Investigative Judge to the Special Department of</p>

	Higher Court in Belgrade the measures for surveillance and recording of telephone and other communications or talks and optical recording of face are being implemented.
Recommendation of the MONEYVAL Report	<i>Consideration should be given to use mechanisms such as permanent or temporary groups specialized in investigating the proceeds of crime.</i>
Measures taken to implement the Recommendation of the Report	<p>Article 5 of the Law on Seizure and Confiscation of Proceeds from Crime designates the authorities responsible for detection, confiscation and management of proceeds from crime.</p> <p>The authorities are as follows: public prosecutor, court, Financial Investigations Unit within the Ministry of Interior and Asset Management Directorate. Financial Investigations Unit is a specialized unit which detects proceeds from crime and undertakes other activities, according to the Law. Law Amending the Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime from September 2009 ("Official Gazette of the Republic of Serbia" No. 72/09) in its Article 2 broadens the competence of Prosecutor's Office for Organized Crime, of Directorate for the Suppression of Organized Crime, and of Special Departments within the Higher Court in Belgrade and Appellate Court in Belgrade to include the criminal offences of aggravated corruption, international terrorism, terrorism financing and money laundering. Article 2 of the Law shall read as follows:</p> <p style="text-align: center;">Article 2</p> <p>“This Law is applied so as to detect, prosecute and indict for:</p> <ol style="list-style-type: none"> <li>1) criminal offences of organized crime,</li> <li>2) criminal offences against constitutional order and security of the Republic of Serbia (Articles 310 through 312 of the Criminal Code),</li> <li>3) criminal offences by abuse of office (Articles 359, 366, 367 and 368 of the Criminal Code), when an offender, that is, a person receiving the bribe, an official or a responsible person holding public office based on the election, appointment, or appointment by the National Assembly, the Government, the High Judicial Council, or the State Prosecutorial Council,</li> <li>4) criminal offence of the abuse of office (Article 359, paragraph 3 of the Criminal Code), when the value of the acquired material gain exceeds the amount of 200,000,000 Dinars,</li> <li>5) criminal offence of the international terrorism and the criminal offence of financing terrorism (Articles 391 and 393 of the Criminal Code),</li> <li>6) criminal offence of money laundering (Article 231 of the Criminal Code), if the property which is the object of money laundering originates from the criminal offences from the items 1), 3), 4) and 5) of this Article,</li> <li>7) criminal offences against government authorities (Article 322, paragraphs 3 and 4 and Article 323, paragraphs 3 and 4 of the Criminal Code) and criminal offences against judiciary (Articles 333 and 335, Article 336, paragraphs 1, 2 and 4, and Articles 336b, 337 and 339 of the Criminal Code), if they are perpetrated under the criminal offences in the items 1) through 6) of this Article.”. <p>Military Security Agency is authorized to use special investigative means and techniques by the order of court for the purposes of detecting, investigating and documenting criminal offences of money laundering and terrorism financing; the evidence gathered in this way is fully admissible at court.</p> </li></ol>
Recommendation	<i>Consider conducting joint reviews of ML and FT methods, techniques and trends</i>



of the MONEYVAL Report	<i>with law enforcement bodies, the APML and other competent authorities on a regular inter-agency basis and disseminating the results of such reviews.</i>
Measures taken to implement the Recommendation of the Report	The work of the Department for Combat against Corruption is based on specialization and centralization in establishing communication and coordination between specialized departments, on intensive information exchange and consultation that the Serbia's Public Prosecutor's Office has on a regular basis with all prosecutors, and also with other state authorities. Military Security Agency has intensified activities to establish efficient and functional cooperation with Security Information Agency, Ministry of Interior, APML and other relevant authorities. When necessary, operational and analytical task forces can be formed quickly.
(Other) changes since the last evaluation	

### **Recommendation 30 (Resources, integrity, and training)**

#### **Rating: Partially compliant**

Recommendation of the MONEYVAL Report	<i>Additional measures should be taken by the authorities to adequately staff the APML as well as provide to them with adequate offices, technical resources and equipment.</i>
Measures taken to implement the Recommendation of the Report	The APML has a plan and strategy to enhance business premises, equipment, and staff. According to the most recent draft amendments to the AML/CFT Law, the APML will be charged with supervising certain obliged entities, such as accountants, auditors, etc. The APML is therefore planning to increase the current number of staff by 10 more employees, and to set up an additional department, namely the Supervision Department. The APML has taken all necessary formal steps to provide adequate premises, but it will need support from other competent Authorities so as to strengthen technical capabilities.
Recommendation of the MONEYVAL Report	<i>Internal training programs would need to be tailored, to ensure that APML staff, including newly recruited staff, receives specialised and on-going training suited to their responsibilities. Such training could include in particular analyst training, training on specialised products, trend and typologies, IT and software training.</i>
Measures taken to implement the Recommendation of the Report	The APML staff is regularly trained through trainings and seminars: 2-4 November 2009, study visit to FIU of Slovakia, <i>transposition of acquis communautaire</i> . 9-12 November 2009, seminar on financial intelligence analysis 16-20 November 2009, Typologies in money laundering through insurance, held in Cipar organized by Council of Europe 23-25 February 2010, Workshop on integrity of the Customs, held in Belgrade, organized by Custom Administration 15 March 2010, Seminar on organization of games of chance 14-15 January 2010, study visit to FIU Netherlands, topic: Prevention of terrorism financing 28-30 April and 10-11 May 2010, Belgrade, Serbia, Seminar on Illegal Migrations, 16-17 June, Strasbourg, France, Training Seminar about the Warsaw Convention 28-29 June, Zagreb, Croatia, Seminar on the role of auditors in AML and CFT in

	<p>the organization of Zagreb school of economy and management.  12-16 July, Andorra, Training Seminar for MONEYVAL Evaluators, Council of Europe;  September 2010, I2 Analyst's Notebook 8 training  International workshop <i>Cooperation between FIUs and Judicial Authorities in Combat against Money Laundering and Confiscation of Criminal Assets</i>, organized by Swiss and Italian Government and IMF in Siracusa, in October 2010;  October 2010, Financial analysis workshop for FIUs - Joint Vienna Institute organized by IMF-Egmont Group IT;</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Review the existing legal framework and amend it, in the light of the issues of concern highlighted in the report, to ensure that adequate requirements are set out clearly for law enforcement and prosecution services, including specialised services, enabling them to maintain high professional standards, including high integrity and that the staff are appropriately skilled</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>In the period between 1 June 2009 and 1 November 2010 Judicial Training Academy organized following seminars on combat against organized crime and money laundering within the regular annual training curriculum:  Measures in Combat against Corruption and Money Laundering  Seminars for judges and prosecutors of district and municipality courts. There were a total of 21 seminars with 522 participants attending. The seminar addressed the issues of measures taken against money laundering and corruption, international standards and what Serbia is required to do in combating these phenomena.  Money Laundering and Terrorism  Seminars organized for district court judges, prosecutors, Directorate for Combating Organized Crime and the Administration for the Prevention of Money Laundering. There were 7 seminars with 134 participants attending.  Challenges and Success Cases in Combat against Money Laundering and Corruption in Serbia and abroad  Seminars were organized for investigative judges, prosecutors and police staff. There were 6 three-day seminars on this topic. The speakers were prosecutors and police staff both from Serbia and USA. There were 184 participants at these seminars.  In 2010 Serbia's Public Prosecutor's Office and the Office of Resident Legal Advisor of US Embassy organized seminars <i>Gathering and Analysing Evidence in Corruption Cases</i> at Zlatibor, in Belgrade, Novi Sad, Niš and Kragujevac. The seminars gathered together representatives of relevant state authorities in order to promote team work and professional expertise of other state authorities which are by law obliged to cooperate with prosecutor's office (Tax Administration, Customs Administration, National Bank of Serbia, Administration for the Prevention of Money Laundering, Privatization Agency, Administration for Public Procurement, Budget Inspection and Auditing, Anti-Corruption Agency and Competition Committee).  A representative of AML and Anti-Corruption Department of Serbia's Public Prosecutor's Office participated at an international conference <i>Strengthening Cooperation in Combat against Corruption in Eastern Europe and Central Asia</i>, organized by the World Bank in Ankara, 28.09-01.10.2010.  A representative of Serbia's Public Prosecutor's Office participated at an international workshop <i>Cooperation between FIUs and Judicial Authorities in Combat against Money Laundering and Confiscation of Criminal Assets</i>, organized by Swiss and Italian Government and IMF in Siracusa, 04.10-08.10.2010.</p>

Recommendation of the MONEYVAL Report	<i>Review the Tax Police's structure and adequacy of financial, human and technical resources, as well as the requirements regarding professional standards, integrity and skills.</i>
Measures taken to implement the Recommendation of the Report	It has been observed that supervision system for some obligors (accountants and providers of tax advisory services) failed to bring effective results. Therefore the Law amending the AML/CFT Law defined the APML as a supervisory authority for the obligors above in terms of AML/CFT Law provisions.
Recommendation of the MONEYVAL Report	<i>Take all necessary legislative and other measures to ensure that the Financial Investigation Unit within the Ministry of Interior is adequately structured, funded and staffed in order to become operational as soon as possible.</i>
Measures taken to implement the Recommendation of the Report	<p>According to the Law on seizure and confiscation of the proceeds from crime, the Unit for Financial Investigations was formed on 1 of June 2009 under the Ministry of Interior, General Police Directorate, Criminal Investigations Directorate, Service for Fight Against Organized Crime.</p> <p>Thirty three (33) police officers are currently working in the Unit for Financial Investigations. Twenty nine (29) police officers graduated from Faculty of Law or Faculty of Economics, while four (4) employees carry out administrative affairs having High school degree. The Headquarters of Unit for Financial Investigations is in Belgrade, where seventeen (17) police officers work while the other twelve (12) work in Sections formed in bigger regional centers in Serbia.</p> <p>In its previous work on implementation of financial investigations and based upon final judgments, until now one (1) apartment and one lot (1) in Belgrade have been permanently confiscated.</p> <p>After the completion of financial investigations, based upon the decisions of the Court, the following property has been temporally confiscated:</p> <ul style="list-style-type: none"> <li>- Fifty (50) houses and apartments</li> <li>- Six (6) garages</li> <li>- Two (2) business premises</li> <li>- Fifty one (51) vehicles</li> <li>- 941.124 €</li> <li>- 1.828.500 dinars</li> <li>- 287.000 shares and</li> <li>- Three (3) hectares , fifty six (56) acres, thirty six (36) m2 of land area</li> </ul> <p>Based upon the decisions of competent authorities and based upon financial investigation that was carried out, temporary prohibition of disposal has been pronounced for the following property:</p> <ul style="list-style-type: none"> <li>- Seventy two (72) houses and apartments</li> <li>- Five (5) garages</li> <li>- Four (4) business premises</li> <li>- Thirty nine (39) vehicles</li> <li>- 8.964.340 €</li> <li>- 77.016.538 dinars</li> <li>- 5.792 \$</li> <li>- 1.714.026 shares</li> <li>- 17.520 bonds</li> <li>- Four (4) safes</li> <li>- legal and natural persons' land area of seven hundred and seventeen (717) hectares , eighty (80) acres</li> </ul>

Recommendation of the MONEYVAL Report	<i>Additional resources (human, premises, equipment, etc) should be allocated to the over-worked public prosecutor and police services so that they can fully and effectively perform their functions.</i>
Measures taken to implement the Recommendation of the Report	Newly established Appellate Prosecutor's Offices, which became operational on 1 January 2010, are adequately staffed – namely, money laundering cases are prosecuted by five (5) prosecutors in Belgrade, by three (3) prosecutors in Novi Sad and Kragujevac each and by one (1) prosecutor in Niš. There are three deputy prosecutors competent for money laundering cases at the level of State Prosecutor's Office. All prosecutors have got networked mobile phones. Computer networking is planned in near future. The new Criminal Proceedings Code, the adoption of which is expected until the end of 2010, provides for a prosecutor-led investigation, which will certainly require additional human resources, premises and equipment.
Recommendation of the MONEYVAL Report	<i>Consistent with a more proactive approach to the detection and exposure of the various forms of ML, take measures to ensure a greater specialisation of police officers, prosecutors and judges in financial crime and ML cases and improve prosecutorial AML/CFT expertise. The recommendations formulated in the National Strategy regarding training should be implemented speedily.</i>
Measures taken to implement the Recommendation of the Report	There is a section for suppression of money laundering under the Ministry of Interior. Police officers carry out only and specific areas concerning money laundering and they are narrowly specialized only for that area. Currently, these jobs are being carried out by seven police officers in abovementioned section. The rest of the police officers that work on affairs concerning suppression of commercial crime also work on affairs concerning money laundering, it depends on the case itself. They also passed the training in the area of suppression of money laundering. The abovementioned section provides expert help, when it is necessary.
Recommendation of the MONEYVAL Report	<i>Establish requirements providing for professional standards (including confidentiality and integrity requirements), and expertise/skills of the staff of supervisory bodies involved in the supervision of the AML/CFT Law (for the Securities Commission<sup>8</sup>, the Bar Association, the Chamber of Certified Auditors).</i>
Measures taken to implement the Recommendation of the Report	Article 237. of the Law on the market of securities and other financial instruments stipulates: The president and the members of the Commission shall be obliged to act with expertise, conscientiously and impartially in performing their duties. The president and the members of the Commission shall not jeopardize the autonomy in enacting their decisions, as well as the autonomy of the Commission. Any person, agency or organization shall not undertake any action to influence the autonomy in operation and decision-making of the Commission or any of its members. Any person, agency or organization shall not take actions that are foreseen by law as the competence of the Commission, unless otherwise stipulated by law.
Recommendation of the MONEYVAL Report	<i>Ensure adequate, relevant, and regular training for combating ML and FT throughout all supervisory bodies involved in the supervision of the AML/CFT Law.</i>

<sup>8</sup> The Securities Commission has provided some information on the requirements to professional standards and expertise/ skills of the staff, but not on those to confidentiality and integrity.

<p>Measures taken to implement the Recommendation of the Report</p>	<p>Since last on-site visit of MONEYVAL Committee, National Bank of Serbia employees have attended to the following seminars:</p> <p><b><u>NBS – BANK SUPERVISION</u></b></p> <ol style="list-style-type: none"> <li>1. Combating Money Laundering Terrorism Financing and misuse of payment system, international developments and national perspectives, Banca d'Italia, Rome; (1 employee)</li> <li>2. Fight against Money laundering, Banque de France, Paris; (1 employee)</li> <li>3. Expert seminar “Financial Investigations” OSCE, Belgrade; (3 employees)</li> <li>4. Anti Money Laundering and its Impact in the Financial Sector, OSCE, Belgrade; (10 employees)</li> <li>5. Seminar on supervision of AML/CFT, Central bank of Slovenia, Ljubljana, Slovenia (2 employees)</li> <li>6. Seminar on FT, OSCE – Mission to Serbia, Belgrade, (2 employees)</li> <li>7. Seminar on FT, OSCE, Association of Serbian Banks, Belgrade (2 employees)</li> </ol> <p><b><u>NBS – INSURANCE SUPERVISION</u></b></p> <ol style="list-style-type: none"> <li>1. „AML/CFT Course on Financial Supervision and risk based approach“, IMF Institute, Vienna, 25- 29. May 2009, (2 employees)</li> <li>2. „Regional Seminar on Selected Insurance Core Principles for Supervisors from Central and Eastern Europe, and Central Asia and Transcaucasia“, FSI, Vienna, 20-24. April 2009 (one of the topics was the - Anti-Money Laundering, Combating the Financing of Terrorism and Insurance) (1 employee)</li> </ol> <p>After attended seminars participants make presentation for all other employees who conduct on-site supervisions on AML/CFT issues.</p> <p>- Through the Resolution of the Minister of Interior from 24 of March 2010, was form a working group for making and implementation of Sector Action Plan for prevention of money laundering and financing of terrorism with assignment to make and, after the adoption, to monitor the implementation of Action Plan on the level of the Ministry of Interior with relations to assignments on legislative, institutional and operational level and on the level of professional training and improvement, envisaged by this Plan. According to the abovementioned assignment, working group has made Sector Action Plan for implementation of National Strategy for fight against money laundering and financing of terrorism and it is signed and adopted on 27 of July 2010.</p> <p>With relations to the recommendations of Action Plan concerning professional training and improvement, it was formed working group of representatives from Department for vocational education, training, improvement and science and representatives from Criminal Investigations Directorate with assignment to analyze educational needs for training, to establish methodology of professional training, to assess capacity for training. Making of Plan and program for specialized training is in progress, as well as the suggestions of thematic parts that are going to be part of annual Program of professional training and improvement of police officers of the Ministry of Interior, as well as the curriculum of specialized courses.</p> <p>Also, during 2010, police officers of the Ministry of Interior, Criminal Investigations Directorate and Service for Fight Against Organized Crime attended bigger number of international seminars concerning fight against money laundering and financing of terrorism (organized by DEA, in Dubrovnik, May</p>
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	2010, organized by OSCE, Vienna, from 11 of June until 14 of June 2010, organized by CIA- USA Embassy to Belgrade from 13 of September until 17 of September 2010 etc.)
Recommendation of the MONEYVAL Report	<i>The Serbian authorities should satisfy themselves that there are adequate resources allocated to set up and maintain the AML/CFT system on the policy level and that policy makers are appropriately skilled and provided with relevant training.</i>
Measures taken to implement the Recommendation of the Report	Serbian AML/CFT system is constantly reviewing, encouraged by new AML/CFT developments (as reported by Serbian experts participating in various AML/CFT forums, most notably MONEYVAL, and other FATF-style regional bodies) and emerging ML/TF threats (as recognised by local and international experts, and operative staff). State bodies are focusing on AML/CFT issues and have already set up units (Police AML Unit) or designated staff to follow ML/TF specifically. No special allocation of resources in the budgets of specific state bodies have been made, mostly due to the global financial crisis which has caused restrictions and postponing of some measures in this area. Therefore, training of relevant policy makers are currently carried out mostly through ad-hoc training, study visits, and working meetings. This is expected to improve with the implementation of a comprehensive 2.4 million Euros AML/CFT project, planned to start in late 2010 and funded mostly by the EU with the Council of Europe as the implementing agency.
Recommendation of the MONEYVAL Report	<i>Serbian authorities should ensure that the competent authorities for sending/receiving mutual legal assistance/extradition requests are adequately structured, funded, staffed to fully and effectively perform their functions.</i>
Measures taken to implement the Recommendation of the Report	With the aim of meeting this recommendation, the new job systematisation of the Ministry of Justice, which was adopted in Government's Conclusion 05 No. 110-5297/2010 of 22/08/2010, the Mutual Legal Assistance Department was divided in two Sections – Section for Mutual Legal Assistance in Criminal Matters and Section for International Legal Assistance in civil Matters. In this manner, specialisation of employees for mutual legal assistance in criminal and legal matters was made, thereby increasing the efficiency and timely performance to a considerable extent. Also, we should bear in mind that certain forms of mutual legal assistance in criminal matters are realised by the court and prosecutors' offices directly, through multilateral international instruments. Special Prosecutor's Office for Organised Crime entered into bilateral agreements providing for direct communication between prosecutors' offices. Sections for mutual legal assistance employ a total of 15 employees, which makes about 21% of the total number of employees at the Ministry.
Recommendation of the MONEYVAL Report	<i>Serbian authorities should review existing technical resources available and take appropriate measures to ensure that proper technical means and equipment (e.g. ICT equipment, equipment for video/telephone conference, technical means required for special investigative measures) are available for competent authorities enabling them to adequately respond to mutual legal assistance requests.</i>
Measures taken to implement the Recommendation of the Report	There is equipment for maintenance of video conferences in the Department for International Police Cooperation under the Ministry of Interior. This equipment was donated under the Project of SECI Center and it is at disposal to the Police, Prosecutor's Offices and Courts.
Recommendation of the	<i>Initial and continuous training should be organised for all staff of competent authorities responsible for sending/receiving mutual legal assistance/extradition</i>

MONEYVAL Report	<i>requests on a regular basis to ensure that they have an adequate understanding of the relevant conventions related to international cooperation in criminal matters as well as the application of the new provisions and procedures for mutual assistance and extradition set out in the MLA Law and the Law on Seizure and Confiscation of the Proceeds from Crime. Also, in order to enable direct communication between judicial authorities, the Serbian authorities should consider promoting trainings in foreign languages for relevant professionals.</i>
Measures taken to implement the Recommendation of the Report	Judicial Training Academy has organised two cycles of training about mutual legal assistance in criminal and civil matters, both of which lasted for two days. Since 2010, the Judicial Training Academy, in cooperation with ASER Institute from the Netherlands, organised five four-day-cycle seminars on mutual legal assistance, EU standards, and cooperation in criminal and civil matters. Each of the five cycles of seminars should end, according to the programme, in April 2011. Employees of the Asset Management Directorate too have also participated in the seminars about seizure/confiscation of proceeds from crime. Judicial Training Academy, in cooperation with the French Cultural Centre, organises French language courses for the employees in the judicial bodies, Judicial Training Academy, Justice Ministry, and the Asset Management Directorate.
Recommendation of the MONEYVAL Report	<i>The authorities should also develop general reference materials, models forms and circulars or practical guidelines which cover practical aspects of mutual legal assistance in criminal matters and commentaries of the existing legal provisions.</i>
Measures taken to implement the Recommendation of the Report	In order to meet this recommendation, the new Judicial Book of Rules, passed by the minister of justice on 29 December 2009 (Official Gazette of the Republic of Serbia" No. 110/09) provides for the Form of the outgoing request for mutual legal assistance in criminal matters, civil matters, and diplomatic and consular matters, the purpose of which is to have a uniform procedure to be followed by the judges and prosecutors in requesting or responding to mutual legal assistance. In early 2010, a commentary to the Law on Mutual Legal Assistance in Criminal Matters was developed in the organization of the OSCE Mission in Serbia. In addition, also organized by the OSCE Mission in Serbia, a commentary to the Law on Seizure/Confiscation of Proceeds from Crime was also developed in late. Apart from the OSCE's legal adviser and the deputy state prosecutor of Italy, judges of the Appellate court in Belgrade and justices of the Constitutional court as well as a professor of the Faculty of Law in Belgrade also participated in the development of the commentary. The commentary of the law pays special attention also to Chapter V of the Law, i.e. mutual legal assistance.
(Other) changes since the last evaluation	

### Recommendation 32 (Statistics)

<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Considering the various statistics presented to the evaluation team before the visit and afterwards, the evaluation team recommends the authorities to consider designating one single institution responsible for keeping integrated statistics related to AML/CFT.</i>
Measures taken to implement the Recommendation	The Republic of Serbia has through the competent ministries, where is the Ministry of Interior as well, taken a part in Regional Project called :”Development of monitoring instruments for judicial and institutions for law enforcement in the

of the Report	Western Balkans” implemented by UNODC and funded by EU through CARDS Regional Action Program. Realization of this Project should, in the broadest sense, contribute to strengthening of answers of all countries of Western Balkans on crime and corruption in the region, adopting statistic mechanisms that should provide a clear image of scope and type of crime (in that framework, money laundering as well), but also corruptions, migration, issues concerning asylum and visas, in accordance with the international standards and EU regulations. One of the important segments refers to “statistic on money laundering” that should be adapted by Directive 2005/60/EC on prevention of the use financial system for the purpose of money laundering according to which EUROSTAT formed a set of nine indicators for monitoring problems. In order to respond to this need, to adapt to these standards, it is necessary to edit and enhance the process (electronic) of data transfer between the Directorate for money laundering, on one side and specially Police, Public Prosecutor’s Office and Court, on the other side in order that work initiated by report on suspicious or cash transactions (over the certain amount) could be monitored until the final verdict and confiscation of illegally obtained property . That means that electronic database on cases of money laundering that are being managed in all mentioned authorities, in other words subject have to tie, including allocation of unique identification number per case that is going to follow it from the beginning until he final verdict, in other words decision, in order to obtain, in periodic sections, accurate and reliable data on activities and results that were made in fight against money laundering and financing of terrorism, and with that also qualitative parameters for planning and direction of further preventive and repressive activities.
Recommendation of the MONEYVAL Report	<i>Also, the authorities may consider keeping records on the underlying predicate offences, on cases where there was an autonomous money laundering prosecution, cases which were tried in the same indictment as the predicate offence, cases which are self laundering and sanctions applied, as this would enable them to monitor the effectiveness of implementation of the ML provision.</i>
Measures taken to implement the Recommendation of the Report	Under the established system of gathering, recording, processing and analyze of data concerning crime; and by that including also criminal offence of money laundering and financing of terrorism, statistic, as well as analytic data are being recorded and processed, and data concerning predicate criminal offence, or to be more precise criminal offence by which was illegally obtained money and that put into regular circulation (or it is tried). Therefore data concerning these criminal offences are integral part of each analyze related to problems of money laundering and financing of terrorism, because they indicate on the most frequent types of crime by which the money is obtained, and then is used for legal business, for buying property etc. Thereby the problems concerning money laundering may be seen on adequate and complete way.
Recommendation of the MONEYVAL Report	<i>Though there are no statistics due to the absence of relevant proceedings, Serbia should ensure that there is a requirement for competent authorities to maintain comprehensive annual statistics on FT investigations, prosecutions and convictions, should there be such cases.</i>
Measures taken to implement the Recommendation of the Report	Ministry of Interior made assumptions in its information system in order to evident „investigations related to criminal offence of financing of terrorism, as soon as this incrimination was implemented in Criminal Code. There have not been cases concerning financing of terrorism, so far.
Recommendation of the	<i>The authorities should maintain comprehensive and precise annual statistics on the</i>



MONEYVAL Report	<i>number of cases and the amounts of property frozen, seized and confiscated relating to ML, FT and criminal proceeds.</i>
Measures taken to implement the Recommendation of the Report	<p>According to Article 72 of the AML/CFT Law the courts and public prosecutor's offices are required to send regularly to the APML data on ML and FT criminal offences as well as on seizure/confiscation of proceeds acquired through the commission of criminal offences. Data on proceedings and amounts of the property seized and confiscated is shown below:</p> <p><b>Higher Court in Belgrade, Special Department</b> from inception to 31 July 2010 (in cases of organized crime)  <i>Amount of confiscated assets</i>  <b>Cases:</b> 21 cases of organized crime (final conviction), against 131 persons  <b>Confiscated Assets:</b> approx. EUR 1,136,440.00, USD 10,332,100.00, CHF 2,500,000.00, and DM 100,000.00</p> <p><b>Cases of seizure/confiscation before Belgrade Higher Court's Special Department</b>, as of the date of entering into force of the Law on Seizure/Confiscation of Proceeds from Crime in March 2009 until 31 July 2010  <i>Amount of confiscated assets</i>  <b>Cases:</b> 1 case against 2 persons  <b>Confiscated assets:</b> right to use 17.5 ares of Belgrade city construction land  <i>Amount of seized assets</i>  <b>Cases:</b> 31 cases against 31 indicted, their relatives, and related third parties  <b>Seized assets:</b>  49 apartments,  2 business premises,  approx. 4031,57 acres of land in Belgrade and wider Belgrade area  59123 shares of issuer Vojvodina AD Novi Sad (shareholder Consortium)  68390 shares of issuers UTP Putnik (shareholder Consortium)  262637 shares of issuer Jedinstvo AD (shareholder Consortium)  23454 shares of issuers Jedinstvo AD (shareholder Jedinstvo AD)  12 luxury passenger vehicles  EUR 42847</p> <p><b>Higher Court in Kragujevac</b> from 1 January to 31 July 2010  <i>Amount of seized assets</i>  In proceedings against <b>32 persons</b> (crimes including abuse of office, illicit trafficking in narcotic drugs, offering bribe, etc) a total of RSD 1,043,303 (approx. <b>EUR 10,000</b>) was seized  <i>Amount of confiscated assets</i>  In proceedings against <b>10 persons</b> (crimes including illicit production and trafficking in narcotic drugs, abuse of office, etc) a total of RSD 2,936,874.7 (approx. <b>EUR 28,000</b>) was confiscated.</p> <p><b>Higher Court in Subotica</b> from 1 January to 31 July 2010  1 proceedings against 2 persons (illicit production and trafficking in narcotic drugs), amount of confiscated property EUR 1475.00</p> <p><b>Higher Court in Valjevo</b> from 1 January to 31 July 2010  In 2 proceedings against 3 persons property in the amount of RSD 15,200 was confiscated (illicit production and trafficking in narcotic drugs)</p> <p><b>Higher Court in Kraljevo</b> during 2009 and 2010  <b>Cases:</b> 5 proceedings against 7 persons (crimes include illicit production and trafficking in narcotic drugs, etc)  <b>Amount confiscated:</b> RSD 47730</p>

	<p><b>Higher Court in Požarevac</b> from 1 January to 31 July 2010 1 proceedings against 1 person (abuse of office);</p> <p><b>Higher Court in Smederevo</b> <b>Cases:</b> 2 proceedings against 2 persons (taking of bribes) – EUR 700 seized</p> <p><b>Appellate Court in Belgrade</b> <b>Cases:</b> 6 proceedings are under way before the Appellate Court in Belgrade, against 14 persons</p>
Recommendation of the MONEYVAL Report	<i>Ensure maintenance of accurate, differentiated (by types and number of obligors, types and number of irregularities, types and number of applied supervisory measures [including pecuniary sanctions] etc), consistent statistics on on-site inspections conducted by supervisors relating to or including AML/CFT issues, throughout all supervisory bodies involved in the supervision of the AML/CFT Law.</i>
Measures taken to implement the Recommendation of the Report	Statistics on procedure for economic crimes since the new AML/CFT Law has come into force (March 2009), statistics on procedure for economic crimes, as well as statistics on misdemeanour procedure are attached.
Recommendation of the MONEYVAL Report	<i>Ensure maintenance of accurate, differentiated (by types and number of requestors and requested counterparties, number of refused and satisfied requests, records on bases for refusals etc), consistent statistics on formal requests for assistance, throughout all supervisory bodies involved in the supervision of the AML/CFT Law.</i>
Measures taken to implement the Recommendation of the Report	<p>The Securities Commission maintains single electronic records on all incoming and outgoing requests, including those relating to the supervision of implementation of the AML/CFT Law by the obligors supervised by the Commission.</p> <p>The Securities Commission has sent 5 requests to 3 foreign regulators. It received replies to three requests, while replies are pending in two requests. The Commission replied to three requests sent to the Commission by foreign regulators.</p> <p>In terms of national cooperation, the Securities Commission sent 9 requests to the national authorities regarding the implementation of the AML/CFT Law in 2010, and received the requested data in all 9 cases. Additionally, the Commission sent 5 reports to the competent state authorities.</p>
Recommendation of the MONEYVAL Report	<i>Undertake an on-going analysis of the risks of ML/FT (vulnerabilities, sectors at risk, trends, etc) to streamline its AML/CFT strategy and efforts as necessary.</i>
Measures taken to implement the Recommendation of the Report	<p>Standing Coordination Group (hereinafter: SCG) has been established in April 2009, and it is competent to supervise National Strategy for Combating Money Laundering and Terrorism Financing. SCG regularly meets one per month, and is dealing with ML and FT sectors on going analysis of complete AML/CFT system. In 16 October 2009, Serbian Government adopted The Action Plan for the Implementation of the National Strategy against Money Laundering and the Financing of Terrorism. The AML/CFT Action Plan lays down a series of specific measures and actions to be implemented in the set timeframe, whose common objective is to contribute to the improvement of efficiency of the entire AML/CFT system. The Action Plan is a special form of the plan which concretizes, for each of the competent bodies, the objectives and measures laid down in the AML/CFT Strategy. Recently, two subgroups have been formed within the SCG: for reviewing current legal framework in NPO sector, and the other for reviewing informal ways for cash entering and leaving the borders.</p> <p>Because of implementation of almost all recommendations from the National Strategy, Serbian Authorities are planning to adopt new Strategy with new aims and</p>

	<p>goals, and for the period of next 5 years.</p> <p>Carrying out risk analysis as primary activity that should point to basic risk factors, and by that direct service activity towards eliminating or mitigating risk from money laundering and, related to that, modify and change already made action plans on prevention and suppression of money laundering and terrorism financing, has been established as an obligation also by the New law on money laundering prevention and terrorism financing, that had been delivered on 19 March 2009, and that came into force on 18 September 2009. However, new law, unlike the old one, encompasses field of terrorism financing suppression, and in a significantly precise and more detailed way were established measures taken towards prevention and detection of money laundering and terrorism financing. Within that, new obligation of making risk analysis regarding money laundering and terrorism financing is being introduced. It should contain evaluation of risk for each group or type of party, business relation and service provided by the taxpayer within its activity.</p> <p>Liability of making state of play analysis, as well as determining regional and international partners in fight against money laundering and terrorism financing and cooperation modalities in the sense of signing bilateral agreement on cooperation between competent authorities, establishing adequate procedure for collection and access to data basis, were determined by Action plan of the MoI of the Republic of Serbia for the implementation of the National strategy for fight against money laundering and terrorism financing, that had been delivered in June 2010. Realization of all the aforementioned should be based on:</p> <ol style="list-style-type: none"> <li>1. Necessity of cooperation between the police and judicial authorities in fight against money laundering and terrorism financing, followed by simultaneous promotion of international cooperation in this area;</li> <li>2. Promotion of the internal organization of the MoI of the Republic of Serbia aiming grater efficiency of fight against money laundering and terrorism financing (in accordance with the Law on confiscation proceeds of crime, Unit for financial investigations was formed within the UKP-SBPOK);</li> <li>3. Recognition of problems that police officers meet with in detecting criminal offences of money laundering and terrorism financing;</li> <li>4. Recognition of special circumstances affecting increase of degree of danger from money laundering and terrorism financing.</li> </ol> <p>In accordance with this obligation, but also with established system of statistical and analytical monitoring of security phenomena and events, as well as activities and accomplished results of the Ministry, data on criminal offences of money laundering and terrorism financing are noted and processed in the Unique information system of the MoI of the Republic of Serbia, in its centralized database on detected and reported criminal offences and their perpetrators (a program system named "Criminal offences and perpetrators"). These data are afterwards used within the analytical investigating of security problems, i.e. problems of money laundering and terrorism financing by bonding with security interesting information and data form external sources. In this way, these problems are regularly analytically monitored and investigated (time and space distribution, organized and other forms, modus of execution, trends and tendencies, profile of perpetrator, measures taken towards perpetrators- deprivation of liberty, detaining, number of criminal offences, filed criminal complaints, amount of "laundered money", confiscated money etc.), which provides with sufficient parameters for creation of quality risk analysis, as laid down by the Law and named Strategy, but also by this recommendation.</p> <p>Special attention is dedicated to tracking of detection and processing of money laundering as basic or side activity of organized criminal groups. In that sense could</p>
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	be underlined that MoI of the Republic of Serbia, regarding detection of money laundering as an activity of organized criminal groups, during 2010, made significant improvement- during nine months of this year, three organized criminal groups were detected, that had been formed precisely with aim of carrying out money laundering; totally 82 persons were reported, a 71 person was deprived of liberty within these groups.
Recommendation of the MONEYVAL Report	<i>Pursue current efforts and develop the strategic and collective review of the performance of the AML/CFT system as a whole.</i>
Measures taken to implement the Recommendation of the Report	Standing Coordination Group (hereinafter: SCG) has been established in April 2009, and it is competent to supervise National Strategy for Combating Money Laundering and Terrorism Financing. SCG regularly meets one per month, and is dealing with ML and FT sectors on going analysis of complete AML/CFT system. In 16 October 2009, Serbian Government adopted The Action Plan for the Implementation of the National Strategy against Money Laundering and the Financing of Terrorism. The AML/CFT Action Plan lays down a series of specific measures and actions to be implemented in the set timeframe, whose common objective is to contribute to the improvement of efficiency of the entire AML/CFT system. The Action Plan is a special form of the plan which concretizes, for each of the competent bodies, the objectives and measures laid down in the AML/CFT Strategy.
Recommendation of the MONEYVAL Report	<i>The Serbian authorities should maintain comprehensive annual statistics on all mutual legal assistance and extradition requests - including requests relating to freezing, seizing and confiscation - that are made or received, relating to ML, the predicate offences and FT, including the nature of the request, whether it was granted or refused and the time required to respond.</i>
Measures taken to implement the Recommendation of the Report	From June 2009 to November 2010, there were 5 requests for mutual legal assistance in cases related to money laundering. The requests were related to mutual legal assistance in extradition and seizure/freezing/confiscation matters.
(Other) changes since the last evaluation	

<b>Recommendation 33 (Legal persons-beneficial owners)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Review the existing registration mechanisms in place and take legislative and other measures to ensure that registered information includes accurate and up to date details on beneficial ownership and control, as defined under the FATF Recommendations, for all legal persons and that such information is available to competent authorities in a timely fashion.</i>
Measures taken to implement the Recommendation of the Report	The Law on Business Companies prescribes that a business company acquires the status of legal entity upon its registration in the Registry which is administered in accordance with the law regulating Limited Partnership, Limited Liability Company, Joint Stock Company, Cooperatives and Cooperative Associations and other legal forms registered in the Register in accordance with the Law. The same Law prescribes the object of registration, in other words that the Register shall register the founding, merging and termination of a business entity, any changes in

	<p>status and legal form, reorganization of a particular business entity, data on the business entity which are relevant for legal transactions, data related to liquidation proceedings, bankruptcy proceedings and other data determined by law.</p> <p>The Law on Business Companies and the Law on Registration of Business Entities does not differentiate between foreign legal and natural entities founders, in other words the same company start up related requirements are prescribed for domestic natural and legal entities as for foreign natural and legal entities.</p> <p>The most common forms of business are Limited Liability Companies and Joint Stock Companies:</p> <p><u>Limited Liability Company</u></p> <p>A Limited Liability Company is a business company founded by one or more legal and/or natural entities, as members of the company, to conduct certain business activities under a common registered name (Art. 104, para. 1 of the Law on Business Companies).</p> <p>For the foundation of a Limited Liability Company, the following supporting documents are to be submitted together with the application for registration:</p> <ul style="list-style-type: none"> <li>• Proof of identity of the founders (copy of ID or passport of a natural person and/or certificate of registration for foreign legal entities)</li> <li>• Articles of Association (decision or contract) with certified signatures of the founders</li> <li>• Bank certificate on deposit of the monetary contribution to an interim account or a certified statement of the founder that the monetary contribution has been provided</li> <li>• Agreement of the founders about the value of the in kind contribution, unless it is contained in the Articles of Association</li> <li>• Decision on the appointment of the company representative, unless the representative has been designated in the Articles of Association</li> <li>• Certified signature of the authorized representative</li> </ul> <p>(Art. 35 of the Law on Registration of Business Entities)</p> <p><u>Joint Stock Company</u></p> <p>A Joint Stock Company is a company founded by one or more legal entities and/or natural persons, as shareholders of the company, to conduct a specific business activity under a common registered name, and whose basic capital is defined and divided into shares (Art. 184 of the Law on Business Companies).</p> <p>Along with the application for the registration of a joint stock company, the applicant is required to submit the following:</p> <ul style="list-style-type: none"> <li>• Proof of identity of the founders (copy of ID or passport for a natural person and/or certificate of registration for foreign legal entities)</li> <li>• Articles of Association (decision or contract) with certified signatures of the founder</li> <li>• Bank report on subscribed shares</li> <li>• Bank certificate on deposit of the monetary contributions to an interim account</li> <li>• Proof confirming publication with the contents of a public invitation for registration and depositing of shares (a prospect) with the authorization of a prospect by a competent body</li> <li>• An estimate by an authorized evaluator of the value of in kind deposit of the founder</li> <li>• A decision on the nomination of representative if a representative was not designated in the Articles of Association</li> <li>• Certified signature of representative</li> </ul>
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	<p>(Art. 36, para. 1 of the Law on Registration of Business Entities)</p> <p>The identity of the founders of a business company, and their authority to sign and certify the Articles of Association are verified by the bodies competent for the certification of signatures, which are the courts or municipalities, in accordance with the procedures and requirements prescribed by the Law on Certification of Signatures, Scripts and Copies (Official Gazette of RS 39/93)</p> <p>The Registrar does not check the accuracy of the data or the authenticity of the documents submitted with the application for registration (Art. 22, para. 2 of the Law on Registration of Business Entities).</p> <p><u>III Limited Liability Company</u></p> <p>A limited liability company is liable for its obligations with all of its assets (Art. 104, para. 2 of the Law on Business Companies).</p> <p>A member of a limited liability company is not liable for the obligations of the company, except up to the amount of any agreed but unpaid contribution to the company assets (Art. 104, para.3 of the Law on Business Companies).</p> <p>A limited liability company may have a maximum of 50 members (Art. 104, para. 4 of the Law on Business Companies).</p> <p><u>A Joint Stock Company</u></p> <p>A joint stock company is liable for its obligations with all of its assets (Art. 184, para. 1 of the Law on Business Companies).</p> <p>The shareholders of a joint stock company are not liable for the obligations of the company, except up to the amount of any agreed but unpaid contribution to the company assets, in accordance with the law (Art. 184, para. 3 of the Law on Business Companies).</p> <p>The registration of data on a business entity (as per questionnaire)</p> <p>Business entity data contained in the Register are (irrelevant information has been omitted):</p> <ul style="list-style-type: none"> <li>• Registered office</li> <li>• Registered name, legal form, registered office and registration number of the founder if the founder is a legal entity, or alternatively the name and personal number of the founder if the founder is a natural person</li> <li>• Name and personal number of the Director and/or members of the Board of Directors, depending on the legal form (Art 6, para 1, item 10 of the Law on Registration of Business Entities).</li> </ul> <p>The Register of Business Entities also contains all changes of registered data (Art. 6, para. 6 of the Law on Registration of Business Entities).</p> <p>Along with the application for the registration of change of the registered office of the company, (limited liability company and joint stock company), a decision of the competent company body on change of registered office is to be submitted.</p> <p>The Register of Business Entities registers changes in the membership of a limited liability company.</p> <p>Along with the application for registration of a change in the membership, the contract on transfer of the share must be submitted with the certified signatures of the transferor and acquirer of the share and if there is a new member is acceding to the company, then proof of identity for the new member (copy of ID or passport for a natural person and/or certificate of registration for foreign legal entities).</p> <p>The identity of the transferor and acquirer of the agreement on the transfer of share, and the authority for signing and certification of the agreement are determined by the authorities in charge of signature certification, which are the courts or</p>
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	<p>municipalities, in accordance with the procedures and requirements prescribed by the Law on Certification of Signatures, Scripts and Copies (Official Gazette of RS 39/93).</p> <p>The Registrar does not verify the accuracy of data or the authenticity of the documents submitted together with the application for registration (Art. 22, para. 2 of the Law on Registration of Business Entities).</p> <p>The Register of Business Entities does not register founders or changes in shareholders in a joint stock company. The provision contained in Art. 207, para. 1 of the Law on Business Companies prescribes that a shareholder, in relation to a joint stock company and third parties, is a person who is registered as such in the Central Registry of Securities, in accordance with the law regulating the securities market.</p> <p>Provision contained in Art. 2, para. 15 of the Law on Securities Market and Other Financial Instruments prescribes that the Central Registry of Securities, among other things, conducts activities related to the unique records on the lawful holders of securities and other financial instruments and on the rights related to these securities or instruments, and on rights of third parties related to the securities.</p> <p>A limited liability company may have a Director of a Board of Directors (Art. 153 of the Law on Business Companies).</p> <p>A joint stock company must have a Board of Directors (Art. 307, para. 2 of the Law on Business Companies).</p> <p>The Register of Business Entities registers changes in the Director or Board of Directors of limited liability companies, or in the Board of Directors of joint stock companies.</p> <p>Along with the application for registration, the decision of the competent company body must be submitted concerning the discharge of the current director/chairman and members of the Board of Directors and on the appointment of a new director/chairman and members of the Board of Directors and the certified signature of the company representatives.</p> <p>The registration of business companies is based, among other principles, also on the principle of publicity according to which data contained in the Register shall be available to interested parties without any proof of legal interest, and the principle of accessibility, according to which access to the Register is provided online and in other prescribed ways, for the purpose of registration, access to data contained in the Register and issuance of extracts from the Register (Art. 3, para. 1, items 1 and 5 of the Law on Registration of Business Entities).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Strengthen preventative measures for deterring from the practice of setting up fictitious companies.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Under the Law on Tax Procedure and Administration shall refuse to issue the TIN if it finds data that is not credible, among other things, thereby making it possible to prevent a potential fictitious company from being established</p> <p>The relevant article reads as follows:</p> <p style="text-align: center;"><b>IDENTIFICATION AND REGISTRATION OF TAXPAYERS</b> <i>Tax Identification Number</i> Article 26</p> <p>For the purposes of identification of taxpayers the Tax Administration assigns TIN to natural persons, entrepreneurs, legal persons and permanent branch offices of a non-resident legal person.</p>

	<p>TIN cannot be assigned to a legal person founded by another legal person or entrepreneur who has got outstanding liabilities on the basis of public revenues in relation to its line of business...</p> <p>The legal entities, entrepreneurs and other entities, the registration of which lies within the competence of the Serbian Business Registers Agency will be assigned a TIN through the Agency, within the deadline prescribed by the law governing the registration of companies...</p> <p>Should the Tax Administration establish, on the basis of the data from its own records, or from the records kept by other relevant authorities, that the application for TIN contains the data that is not credible, or the founders of the company are subject to protective measures and/or are precluded from the activity of founding companies as a result of misdemeanour or criminal proceedings, it will issue a decision rejecting the application for TIN within the prescribed deadline.</p> <p>Should the control undertaken by the Tax Administration establish that there were legal impediments for the assignment of TIN at the time of assignment, the Tax Administration will issue a decision to revoke temporarily a TIN – pending the removal of the impediments...</p>
(Other) changes since the last evaluation	

<b>Recommendation 36 (Mutual legal assistance)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>The Serbian authorities should put in place a system enabling them to monitor the quality and speed of executing requests.</i>
Measures taken to implement the Recommendation of the Report	<p>In order to implement this recommendation in the new jobs systematisation of the Ministry of Justice, adopted in Government conclusion 05 No 110-5297/2010 of 22 August 2010, the Mutual Legal Assistance Department was divided into two sections, namely the Section for mutual legal assistance in criminal matters and Section for mutual legal assistance in civil matters. In this manner, employees were specialised for mutual legal assistance in criminal and legal matters, which increased the efficiency and speed of the process to a considerable extent.</p> <p>Ministry of Justice, in cooperation with the Government of the Netherlands designed LURIS Project whose aim is to create a database of requests for mutual legal assistance in criminal and civil matters. This project enhances the speed and efficiency of the process and allows for a control and monitoring of work and efficiency of responding to mutual legal assistance requests. The cases in the database can be searched by criminal offences, type of mutual legal assistance given, persons against whom the mutual legal assistance is requested, as well as responding or requesting countries. It is possible to enter into a case at any time, inspect the case and see the stage of the case. Also, Luris allows for a better coordination of authorities responding to requests or requesting legal assistance from other counties (courts and prosecutors' offices).</p> <p>A special component of the UN anti-terrorism project, is covers increasing of the efficiency of mutual legal assistance.</p> <p>Judicial Training Academy's training programmes, namely the basic training programme and permanent training programme for judges and prosecutors envisage</p>



	special training for mutual legal assistance in criminal and legal matters. The first generation of trainees of the initial training that enrolled in the Academy in October 2010 has mutual legal assistance as a separate module.
Recommendation of the MONEYVAL Report	<i>Serbia should clarify whether the application of dual criminality may limit its ability to provide assistance in certain situations, particularly in the context of identified deficiencies with respect to the FT offence as outlined under Special Recommendation II.</i>
Measures taken to implement the Recommendation of the Report	The Law on Mutual Legal Assistance in Criminal Matters is very flexible. It provides for dual criminality as a basic requirement, where the very title of the criminal offence is not a precondition for mutual legal assistance. It is sufficient to be satisfied from the description of a committed act that a certain criminal offence is provided for under our domestic laws. Also, legal assistance in this sense is provided also in cases of minor offences, and not only crimes. In addition, the provisions of the Law are applied only if there are no ratified agreements with the specific country, whether bilateral or multilateral convention, or if a certain issue is not regulated in such agreement or multilateral convention. If the bilateral agreement or convention does not provide for the dual criminality requirement, then the provisions of the agreement or convention are applied regardless of the convention or crime in question.
(Other) changes since the last evaluation	

<b>Recommendation 38 (mutual legal assistance on confiscation and freezing)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>The shortcomings identified with respect to provisional and confiscation measures should be remedied as they may limit Serbia's ability to take such measures based on foreign requests in certain cases.</i>
Measures taken to implement the Recommendation of the Report	Please see answer number 2 under Recommendation 36.
Recommendation of the MONEYVAL Report	<i>Serbia should have arrangements in place for coordinating seizure and confiscation actions with other countries.</i>
Measures taken to implement the Recommendation of the Report	The ministers of justice, internal affairs, and finance signed an Agreement establishing a joint task force for the improvement of international cooperation in suppressing crime - ILECUS. The basic aim is exchange of operative information in cases with a foreign element, with international organisations and foreign countries. This body coordinates activities in this field. Guidelines have been passed related to procedures undertaken under this agreement. This has improved coordination and cooperation of the three key ministries in mutual legal assistance.
(Other) changes since the last evaluation	

<b>Recommendation 40 (Other forms of co-operation)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>The authorities should undertake a thorough review of the legal framework which governs international co-operation and information exchange and amend the existing laws governing the scope of action of all competent financial sector and non financial sector supervisory authorities to ensure that they allow the widest range of co-operation and that these bodies can exchange information both spontaneously and upon request in line with the FATF standards under Recommendation 40.</i>
Measures taken to implement the Recommendation of the Report	<p>According to Article 220, para 1, item 15 of the Securities and Other Financial Instruments Market Law the Securities Commission cooperates with international organisations, foreign regulatory bodies and other domestic and legal bodies and organisations for the purposes of legal assistance and information exchange. The Securities Commission is also a member of the IOSCO and signatory to its Multilateral MOU and it can exchange information and is required to exchange information with other supervisory authorities. The new Draft law on securities incorporates also the provisions on the MMOU, as follows:</p> <p>Article 280</p> <p>The Securities Commission is signatory to the Multilateral Memorandum of Understanding (MMOU) of the International Organisation of Securities Commissions (IOSCO) and is authorised to offer services to the IOSCO members signatories to the MMOU and to exchange with them as follows:</p> <ol style="list-style-type: none"> <li>1) Information and documents regarding the data requested, including: <ol style="list-style-type: none"> <li>a) Updated records which allows for a reconstruction of all transactions with financial instruments, as well as records of all funds and assets from the account of a credit institution and broker-dealer company in relation to the transactions</li> <li>b) Records on the intermediary owner and person carrying out supervision;</li> <li>c) Data on any transaction, account holder, amount of purchase or sale, time of transaction, price, as well as the person, credit institution or investment company that carried out the transaction;</li> </ol> </li> <li>2) Personal statements given under material and criminal liability, concerning the matters that are the subject-matter of cooperation.</li> </ol> <p>The information shall be exchanged, i.e. services referred to in paragraph 1 of this Article offered, under the condition that the body requesting information or assistance provides explanation for its request, and if appropriate proof is provided that the information will be kept confidential.</p> <p>The state authorities of Serbia, as well as other persons holding information that are the subject-matter of cooperation under para 1 of this Article, shall be required to send it to the Securities Commission in line with the provisions of this Law, unless this violates the laws or other legislation applied by such bodies and persons.</p>
Recommendation of the MONEYVAL Report	<i>The authorities should ensure that exchanges of information by supervisory and law enforcement authorities are not made subject to disproportionate or unduly restrictive conditions.</i>
Measures taken to implement the	Based on the MOUs signed, e.g. between the NBS and its counterparts, information is exchanged upon request and in writing, based on the principle of reciprocity.

Recommendation of the Report	<p>Situation is the same with the Securities Commission.</p> <p>Wishing to make international cooperation as quick and effective as possible, and useful in operational terms, the Ministry of Interior, Ministry of Finance and Ministry of Justice signed, on 10 September, a cooperation agreement whose aim is to establish a single contact point in Serbia which will serve as an effective channel for both the cooperation between these 3 bodies and for international cooperation in criminal matters (International Law Enforcement Coordination Unit – ILECU Serbia). The ILECU procedures have been mainly established, and its operation is expected to begin by the end of the year, 7 days a week and 24 hours a day.</p> <p>Also, another indicator of appropriate information exchange is the fact that certain forms of mutual legal assistance in criminal matters also are realised by the court and prosecutors' offices directly, through multilateral international instruments. Special Prosecutor's Office for Organised Crime entered into bilateral agreements providing for direct communication between prosecutors' offices.</p>
Recommendation of the MONEYVAL Report	<i>The supervisory authorities should keep comprehensive statistical information on the exchange of information with foreign counterparts, including on whether the requests were granted or refused.</i>
Measures taken to implement the Recommendation of the Report	<p><b><u>NBS – BANK SUPERVISION</u></b></p> <p>In accordance with the provisions of the Memorandums of Understanding (MOU), signed between National Bank of Serbia and other supervisory authorities, and following the course of increasing cooperation in the field of banking supervision, National Bank of Serbia informs other supervisory authorities about the measures conducted over bank which is a subsidiary bank of the bank with residence in that supervisory authority country.</p> <p>Since the last MONEYVAL committee evaluation, National Bank of Serbia has sent nine information according to the MOU's.</p> <p>The List of Memorandum of understanding, which NBS has signed are affordable in public, and can be found on NBS' s web site, on links:  <a href="http://www.nbs.rs/export/internet/english/55/55_9.html">http://www.nbs.rs/export/internet/english/55/55_9.html</a> (English version)</p> <p>The Securities Commission has exchanged information in 5 cases with three counterpart foreign supervisory authorities since the last evaluation.</p>
(Other) changes since the last evaluation	

### Special Recommendation I (Implementing UN instruments)

#### **Rating: Partially compliant**

Recommendation of the MONEYVAL Report	<p><i>The same recommendations on criminalisation of FT offence as well as on further improvement of freezing and confiscation mechanisms are reiterated in this context. In particular, Serbia should</i></p> <p><i>- Define the FT offense in line with the definition of the offense in the FT Convention;</i></p>
Measures taken to implement the Recommendation of the Report	<p>Law amending the Criminal Code from September 2009 (Official Gazette of the Republic of Serbia" No. 72/09) amends Article 393 of Criminal Code, which now reads as follows:</p> <p>“(1) Whoever directly or indirectly provides or collects funds intended for financing commission of criminal offences specified in Articles 312, 391 and 392 hereof, shall</p>

	be punished by imprisonment of one to ten years. “
Recommendation of the MONEYVAL Report	- <i>Put in place adequate measures to fully address the requirements under S/RES 1267 (1999) and successor resolutions and S/RES 1373 (2001).</i>
Measures taken to implement the Recommendation of the Report	The Law on Restrictive Measures Undertaken on the Basis of UN Security Council Resolutions, including the S/RES 1267 (1999) and successor resolutions and S/RES 1373 (2001) is in the drafting process (Foreign Affairs Ministry is in charge of its drafting).
(Other) changes since the last evaluation	

### Special Recommendation III (Freeze and confiscate terrorist assets)

#### Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>The evaluators strongly recommend that the authorities adopt a comprehensive set of rules (judicial or administrative) which would enable them to adequately implement the targeted financial sanctions contained in the United Nations Security Council Resolutions (UNSCRs) relating to the prevention and suppression of the financing of terrorist acts – UNSCR 1267 and its successor resolutions and UNSCR 1373 and any successor resolutions related to the freezing, or, if appropriate, seizure of terrorist assets and address all requirements under the 13 criteria of SR.III.</i>
Measures taken to implement the Recommendation of the Report	According to the Action Plan for implementing recommendations of Money Val Committee, which was adopted by the Serbian Government on 15 May 2010, Ministry of Foreign Affairs is competent for drafting Law on restrictive measures undertaken on the basis of United Nations Security Council Resolutions (UNSCRs) relating to the prevention and suppression of the financing of terrorist acts – UNSCR 1267 and its successor resolutions and UNSCR 1373. This Law is still in the process of drafting.
Recommendation of the MONEYVAL Report	<i>The authorities could also consider implementing the measures set out in the Best Practices Paper for SR.III.</i>
Measures taken to implement the Recommendation of the Report	Serbian authorities are considering the Best Practices Paper for SR III in the context of drafting of the Law on Repressive Measures.
(Other) changes since the last evaluation	

### Special Recommendation VI (AML requirements for money/value transfer services)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>As it is only banks, and in some cases the Post Office, in Serbia that may conduct international remittances, Serbia’s compliance with this Recommendation is inextricably linked to its compliance with other Recommendations which apply to financial institutions. The evaluation team’s recommendations, elsewhere in this report, particularly with respect to Recommendations 4-11, 13-15, 17, 21-23, and</i>
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	<i>Special Recommendation VII, are also relevant here.</i>
Measures taken to implement the Recommendation of the Report	The PTT Serbia and banks only may carry out international remittances, and they are therefore explicitly designed as obliged entities according to the AML/CFT Law. Indicators have also been developed not only for the banks, but also for PTT Serbia.
Recommendation of the MONEYVAL Report	<i>Serbian authorities should take quick action to ensure that Post Office branches be subject to AML/CFT supervision.</i>
Measures taken to implement the Recommendation of the Report	Foreign Currency Inspectorate, has been conducting on site control of PTT “Srbija” within the remits of its competence regarding AML/CFT Law. Public Enterprise PTT “Srbija” undertakes all actions and measures under the AML/CFT Law (“RS Official Gazette” No 20/09 and 72/09), and the Foreign Exchange Inspectorate, pursuant to Article 11 of the Rulebook on methodology for the execution of tasks under the AML/CFT Law was went the Annual Report about the conducted internal supervision and measures undertaken.
Recommendation of the MONEYVAL Report	<i>Requirements should be introduced for MVT service operators to maintain a current list of agents and to make it available to the designated competent authority.</i>
Measures taken to implement the Recommendation of the Report	At the initiative of the Foreign Exchange Inspectorate, the Draft Law Amending the Law on Foreign Exchange Operations gives competences to the Foreign Exchange Inspectorate for supervision under the AML/CFT Law, as they concern money transfer services, factoring and forfeiting Standing Coordination Group continuously works on the issues covered by SR 6. In particular, the SCG has set up a subgroup in order to analyse formal and informal money transfer systems. The subgroup is composed of the representatives of the Foreign Exchange Inspectorate, NBS, Ministry of Foreign Affairs, Ministry of Interior, Customs Administration, and the APML. The APML has been active in gathering experience from other AML/CFT systems regarding the money transfer remitters, and the forthcoming IPA (EU/CoE) AML/CFT project is expected to bring international experts who will assist Serbian authorities to further improve the AML/CFT system in the area covered by SR 6.
Recommendation of the MONEYVAL Report	<i>Serbian authorities made no indication that they were actively attempting to uncover illegal remittance activity and there is little if any attention being paid to this by relevant ministries and the supervisory authorities. It is recommended that supervisory authorities when inspecting businesses for other matters also be alert to the possibility that illegal remittance activity may be occurring. In addition, Serbian authorities could focus more broadly at looking for signs of underground banking as well as alternative remittance.</i>
Measures taken to implement the Recommendation of the Report	The Foreign Exchange Inspectorate takes into account and closely inspects, in its on-site inspections, whether there any signs of alternative remittance systems or their operators
(Other) changes since the last evaluation	

**Special Recommendation VII (Wire transfer rules)**

<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Provide in legislation for obtaining full originator information in the case domestic payment transactions, and for including such information in the message or payment order accompanying the transfer.</i>
Measures taken to implement the Recommendation of the Report	<p>”According to the Law amending the AML/CFT Law, new obligation for the obliged entities is the requirement provided for under SR VIII, regarding wire transfers. Law amending the AML/CFT Law also tries to implement, the provisions of Regulation (EC) No 1781/2006 of the European Parliament and Council of 15 November 2006 on information on the payer accompanying transfers of funds). The definitions of wire transfer and the terms connected with wire transfers are in the Article 1 of the Law amending the AML/CFT Law, which amends Article 3 of current AML/CFT Law. Article 1 of the Law amending the AML/CFT Law, reads as follows:</p> <p>”29) 'Wire transfer' - transaction carried out by a payment and collection service provider, on behalf of the originator of the wire transfer, which is carried out electronically, in order to make the funds available to the beneficiary of the wire transfer at another payment and collection service provider, irrespective of whether the originator and the beneficiary is one and the same person.</p> <p>30) 'Payment and collection service provider' - legal or natural person which is registered for providing payment operation services, as well as the money transfer services referred to in item 8) of this Article.</p> <p>31) 'Originator of the wire transfer' - legal or natural person holding an account with the payment and collection service provider and ordering the transfer of funds from the account, or a legal or a natural person ordering the transfer of funds at the person referred to in item 8) of this Article.</p> <p>32) 'Beneficiary of the wire transfer' - legal or natural person to whom the transferred funds are addressed.</p> <p>33) 'Payment chain intermediary' – payment and collection service provider who is not engaged by the originator or the beneficiary of the wire transfer, while participating in the execution of the wire transfer.</p> <p>34) 'Unique identifier' – a combination of letters, numbers and signs determined by the payment and collection service provider in accordance with the payment and collection system protocols or system of messages used in money transfers.”</p>
Recommendation of the MONEYVAL Report	<i>Provide in legislation for verifying the identity of the originator in accordance with Recommendation 5, at least for all wire transfers of EUR 1.000 and more.</i>
Measures taken to implement the Recommendation of the Report	<p>Article 4 of the Law amending the AML/CFT Law, which adds new Articles 12a, 12b and 12c of current AML/CFT Law, regarding wire transfers, reads as follows:</p> <p>”Article 12A</p> <p>(1) Payment and collection service provider shall collect accurate and complete data on the originator and include it in the form or message accompanying the incoming or outgoing wire transfer, regardless of the currency. Such data shall accompany the wire transfer throughout the entire payment chain, regardless of whether intermediaries participate in the payment chain and regardless of their number.</p> <p>(2) Data referred to in paragraph 1 of this Article include:</p> <ul style="list-style-type: none"> <li>- name and surname of the wire transfer originator</li> </ul>

- address of the wire transfer originator
  - account number of the wire transfer originator or the unique identifier
- (3) If obtaining the data concerning the address of the wire transfer originator is impossible, the payment and collection service provider shall obtain, instead of the address, some of the following data:
- unique identifier;
  - place and date of birth of the wire transfer originator;
  - national ID number of the wire transfer originator

#### Article 12B

(1) The payment and collection service provider shall identify and verify the identity of the wire transfer originator before such transfer in the manner provided for in Articles 13 to 18 of this Law.

(2) If the wire transfer is carried out without opening an account, the obligations stipulated in paragraph 1 of this Article shall be carried out only in case of transfer of the RSD equivalent of the amount of EUR 1000 or more.

(3) The payment and collection service provider shall fulfil the requirements referred to in Article 12A, paragraph 1 of this Law always when there are reasons for suspicion on money laundering or financing of terrorism, regardless of the amount of the wire transfer.

(4) If the wire transfer does not contain accurate and complete data on the wire transfer originator, the payment and collection service provider shall obtain, within three days from the date of transfer receipt, the missing data or refuse to execute such transfer.

(5) Payment and collection service provider shall consider terminating the business relation with the other payment and collection service provider which frequently fails to fulfill the requirements from Article 12A paragraph 1 of this Law, of which the latter shall be previously warned. The payment and collection service provider shall inform the APML about the termination of such relation.

(6) Payment and collection service provider shall consider whether the lack of accurate and complete data on the wire transfer originator constitutes reasons for suspicion on money laundering or financing of terrorism, of which it shall make an official note to be kept in line with the law.

(7) The provisions of Article 12A and of this Article shall be applied irrespective of whether the wire transfer is domestic or international.

#### Exemptions from the requirement to obtain data on the wire transfer originator

#### Article 12C

(1) Payment and collection service provider is not required to obtain wire transfer originator data in the following cases:

- 1) when the wire transfer is carried out from an account opened with the payment and collecting service provider and if the customer due diligence actions and measures have already been performed in line with this law.
- 2) when using credit and debit cards, if
  - the wire transfer originator has a contract with the payment and collection service provider under which it can carry out payment for goods and services;
  - the money transfers are carried out using the unique identifier based on which the wire transfer originator can be identified;

	<p>3) when paying taxes, fines, and other public payment;</p> <p>4) when both the originator and beneficiary of wire the wire transfer are payment and collection service providers acting for their own account and on their own behalf;</p> <p>5) when the wire transfer originator withdraws money from their own account.”</p>
Recommendation of the MONEYVAL Report	<i>Define a requirement for financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers not accompanied by complete originator information.</i>
Measures taken to implement the Recommendation of the Report	According to the Law amending the AML/CFT Law, when wire transfer is not accompanied by complete originator information, the payment and collection service provider shall obtain, within three days from the date of transfer receipt, the missing data or refuse to execute such transfer. Payment and collection service provider shall consider terminating the business relation with the other payment and collection service provider which frequently fails to fulfil the requirements of complete originator information. The payment and collection service provider shall inform the APML about the termination of such relation. Payment and collection service provider shall consider whether the lack of accurate and complete data on the wire transfer originator constitutes reasons for suspicion on money laundering or financing of terrorism, of which it shall make an official note to be kept in line with the law.
Recommendation of the MONEYVAL Report	<i>Legislatively provide for sanctions applicable to money transfer businesses for their failure to meet the requirements of SR VII.</i>
Measures taken to implement the Recommendation of the Report	<p>According to Article 23 of the Law amending the AML/CFT Law, which amends Article 88 of current AML/CFT Law, the payment and collection service provider fails to met requirements regarding wire transfers, shall be charged for economic crime. Article 23 of the law amending the AML/CFT Law, reads as follows:</p> <p>“(1) A legal person shall be punished for an economic offence with a fine amounting from RSD 500,000 to RSD 3,000,000, if it:</p> <p>5a) Fails to obtain accurate and complete data concerning the originator of the electronic transfer or fails to include it into the form or message accompanying the incoming or outgoing electronic transfer of funds, regardless of the currency (Article 12a, paragraph 1);</p> <p>5b) Fails to establish and verify the identity of the originator of the electronic transfer before the execution of such transfer, in the manner provided for in Article 13, paragraph 2, and Article 15, paragraph 2 of this Law (Article 12b, paragraph 1);</p> <p>5c) Fails to meet the requirements laid down in Article 12a, paragraph 1 of this Law at all times when there are reasons to suspect money laundering or terrorist financing, regardless of the electronic transfer amount (Article 12c, paragraph 3);</p> <p>5d) Fails to obtain missing data or fails to refuse the execution of the electronic transfer if the electronic transfer lacks accurate and complete data concerning the electronic transfer originator, or fails to obtain such data within the specified time limit (Article 12b, paragraph 4); “</p>
Recommendation of the MONEYVAL Report	<i>Provide effective mechanisms for ensuring compliance of money transfer businesses (particularly, PTT “Srbija”) with the requirements of SR VII.</i>



Report	
Measures taken to implement the Recommendation of the Report	Draft Law on Foreign Exchange Operations addressed this issue by prescribing registration (licensing) of persons involved in money transfer services. It is expected that Law on foreign exchange operation will be passed in the beginning of next year. The Foreign Exchange Inspectorate has issued Guidelines for money laundering and terrorism financing risk assessment regarding money transfers services, which are available on the Foreign Exchange Inspectorate web site-(www.devizni.gov.rs).
(Other) changes since the last evaluation	

<b>Special Recommendation VIII (Non-profit organisations)</b>	
<b>Rating: Non compliant</b>	
Recommendation of the MONEYVAL Report	<i>Conduct a review of the adequacy of domestic laws and regulations that relate to NPO-s for the purpose of identifying the features and types of NPO-s that are at risk of being misuses for FT and conduct periodic reassessments by reviewing new information on the' sector's potential vulnerabilities to terrorist activities.</i>
Measures taken to implement the Recommendation of the Report	Subgroup for reviewing adequacy and legal framework in NPO sector in Republic of Serbia was formed within the Standing Coordination Group for monitoring implementation of National Strategy for Combating Money Laundering and Terrorism Financing. Members of that subgroup are representatives of different Serbian authorities: Ministry of Interior, Ministry of Foreign Affairs, Tax Administration, Security Information Agency and APML. Subgroup is in the process of collecting international experience about this issue. Project on Strengthening the capacity of AML/CFT system in Serbia, worth 2, 4 million Euros is going to start in November 2010. One of the goals of this project is to address this issue in the next period of time.
Recommendation of the MONEYVAL Report	<i>Reach out to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include: i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPO-s.</i>
Measures taken to implement the Recommendation of the Report	On 14 July 2009 Law on Associations was adopted. According Article 2 of Law on Associations, an association is a voluntary, non-governmental, non-profit organization, founded upon the freedom of association of several natural or legal entities, established for the purpose of achieving and improving a specific joint or common object and interest, provided that these are not prohibited by the Constitution or Law.
Recommendation of the MONEYVAL Report	<i>Take measures to promote effective supervision or monitoring of NPO-s which account for a significant portion of financial resources under control of the sector and a substantial share of the sector's international activities.</i>
Measures taken to implement the Recommendation of the Report	It is prescribes that Ministry of Public Administration and Local self government is competent to supervise implementation of Law on association. Inspection control shall be conducted by the administrative inspectors. Law on associations prescribes penal provisions for failing to fulfil some of obligations prescribed by Law on associations ( economic crime and some minor offences).
Recommendation of	<i>Review the legal framework to ensure that:</i>

the MONEYVAL Report	<i>a) NPO-s maintain information on purpose and objective of their stated activities and on the identity of the persons who own, control or direct their activities, including senior officers, board members and trustees and that such information is publicly available;</i>
Measures taken to implement the Recommendation of the Report	In the Law on association, Article 10 it is prescribes that an association may be founded by a minimum of three founders, whereby at least one of the founders shall have residence, or registered office, on the territory of the Republic of Serbia. Any legally capable natural or legal entity may be the founder of an association. Association is establish b adopting Article of incorporation and Memorandum of association. Activities of associations are transparent. Memorandum of associations shall consist of: personal names, that is business names of the founders, their place of residence and registered office address; name, registered office and address of the association; the area in which the association pursues its objects; the purposes for which it is being established; personal name and place of residence and address of the person authorized to represent the association; signatures of the founders and unique personal identification numbers for nationals, or passport number and country of issue for founders who are foreign nationals, and date of adoption of the Memorandum of Association.
Recommendation of the MONEYVAL Report	<i>b) all NPO-s are adequately registered and that information is available to competent authorities;</i>
Measures taken to implement the Recommendation of the Report	According the Article 4 of Law on associations, registration in the Register of Associations is condition for to acquire as a legal entity. Article 4 of Law on associations reads as follows: <b>” Registration</b> Article 4 Registration into the Register of Associations is voluntary. Starting with the date of registration into the Register, an association acquires the status of a legal entity.” According the Article 5 of Law on Associations, the activities of associations are public. Article 5 of Law on Associations reads as follows: <b>”Transparency</b> Article 5 The activities of an association shall be open to the public. The enforcement of transparency shall be regulated by association’s Articles of Association. ”
	<i>c) record keeping requirements for NPO-s include records of domestic and international transactions sufficiently detailed to verify that funds have been spent consistently with the purpose and objectives of the organisation and keep such data for a period of at least 5 years;</i>
Recommendation of the MONEYVAL Report	According the Article 39 Law on associations, association are obliged to carry out their own business accounting, financial statement and to audit their financial statement. Article 39 Law on associations reads as follows:  <p style="text-align: center;">Business accounting and financial statements  Art. 39</p> An association shall manage its business accounting, draw up financial statements, and is subject to the obligation to audit its financial statements, in

	<p>accordance with the regulations governing accounting and auditing.</p> <p>Annual accounts and progress reports on the activities of the association shall be submitted to the members of the association, in the manner prescribed in the Articles of Association.</p> <p>According the Article 41 Law on associations, assets of association can be only used for the achievement of the objects of the association defined in the Articles of Association.</p> <p>Any disposal of the assets of an association which is in violation of the provisions of Law on associations shall be null and void (Article 44 of Law on Association).</p> <p>Article 73 of Law on associations prescribes minor offence (fine from 50.000 to 500.000 RSD), for association if it does not use asset solely for the purpose of achieving its statutory objectives.</p>
Measures taken to implement the Recommendation of the Report	<i>d) there are measures in place to sanction violations of oversight measures or rules by NPO-s or persons acting on behalf of NPOs</i>
Recommendation of the MONEYVAL Report	<p>It is prescribes that Ministry of Public Administration and Local self government is competent to supervise implementation of Law on association. Inspection control shall be conducted by the administrative inspectors.</p> <p>Law on associations prescribes penal provisions for failing to fulfil some of obligations prescribed by Law on associations ( economic crime and some minor offences).</p>
Recommendation of the MONEYVAL Report	<i>Implement measures to ensure that competent authorities can effectively investigate and gather information on NPO-s as listed in criterion VIII.4.</i>
Measures taken to implement the Recommendation of the Report	<p>According the Article 26 of Law on association, Administration of the Register of Associations is competent to carry out Register of associations. The Register on associations is kept in the written form as a unique centralized electronic database.</p> <p>Article 28 of Law on associations prescribes content of Register. Article 28 reads as follows:</p> <p style="text-align: center;">“Article 28</p> <p>The contents entered into the Register are: name and abbreviated name of the association, registered office and address of the association; work scope area; date of establishment of the association; commercial and other activities directly conducted by the association; personal name, place of permanent or temporary residence and unique personal identification number, or passport number and country of issue of the authorized representative of the association; the time period for which the association is being established; membership in a federation of associations; date of adoption of and amendments to the Articles of Association; data on status changes; data related to liquidation and bankruptcy of the association; note on the institution of the procedure for banning the activities of an association and ban on the activities of an association; dissolution of an association; number and date of issue of the Certificate of Registration, changes in data and strike off from the Register.”</p>
Recommendation of the MONEYVAL Report	<i>Identify appropriate points of contacts and procedures to respond to international requests for information regarding particular NPO-s that are suspected of terrorist financing or other forms of terrorist support.</i>
Measures taken to implement the	The primary point of contact for matters related to terrorism is the Ministry of Interior, Criminal Police Directorate, Department for Monitoring and Investigating

Recommendation of the Report	Phenomena of Terrorism. When necessary, military intelligence agencies assists the police by providing relevant intelligence and information. Therefore any request regarding an NPO in Serbia suspected of being involved in terrorism financing should be addressed to the Ministry of Interior.
(Other) changes since the last evaluation	

<b>Special Recommendation IX (Cross Border declaration and disclosure)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Ensure that the new requirements introduced in the AML/CFT law are speedily implemented, that the form and content of the new declaration procedure are prescribed and that they are well disseminated at the border checkpoints.</i>
Measures taken to implement the Recommendation of the Report	<p>Article 67 of current AML/CFT Law, have stipulated obligation for any natural person crossing the state border carrying bearer negotiable instruments amounting to EUR 10,000 or more, to declare it to the competent customs body.</p> <p>On 24 September 2009, Minister of finance issued Rulebook on cross-border transfer of currency and other bearer negotiable instrument declaration (published in The Official Gazette of Serbian Republic, no 78/2009). By abovementioned Rulebook Serbian Authorities have tried to implement Regulation (EC) of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community. Rulebook includes declarations forms, which are in Serbian and English language, and are disseminated at the border checkpoints.</p> <p>Declaration forms, which are be language (in Serbian and English language) have been printed out and disseminated to all border-crossing points.</p> <p>Billboards with basic information on rights and duties of the travellers in passenger traffic (placed on visible spots at border-crossing points, before one comes to the Customs inspection) – in the process of printing</p>
Recommendation of the MONEYVAL Report	<i>Introduce freezing requirements envisaged by SR.III and the UNSCR in the vase of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to FT.</i>
Measures taken to implement the Recommendation of the Report	According the Article 69 of current AML/CFT Law, the competent customs body shall temporarily seize the bearer negotiable instruments that have not been declared and shall deposit them into the account, kept with the National Bank of Serbia, held by the body competent to adjudicate in minor offence proceedings. A certificate shall be issued on any seized bearer negotiable instruments.
Recommendation of the MONEYVAL Report	<i>Introduce requirements and procedures to ensure that in cases when the Customs discover an unusual cross-border movement of gold, precious metals or precious stones they should consider notifying, as appropriate, the foreign competent authorities from which these items originated and/or to which they are destined, and to enable cooperation in such cases.</i>
Measures taken to implement the Recommendation of the Report	<p>Should the Serbian Customs Administration notice an increase in the movement of gold, precious metals and precious stones, the country of destination can be notified in the following way:</p> <ul style="list-style-type: none"> <li>• Through the Customs Administration intelligence unit</li> <li>• Through SECI liaison officer</li> </ul>

	<ul style="list-style-type: none"> <li>• Routinely –on the basis of signed agreements.</li> </ul> <p>Should the goods in question be gold, precious metals and precious stones that were subject to administrative or criminal proceedings, Customs Administration forwards the case to competent authorities, which will determine the origin of such goods.</p> <p>When gold coins and metal antiquities are in question, Customs Administration will proceed to act based on the <b>Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property</b>.</p> <p>Customs Administration implements relevant provisions of the Law on the Prevention of Money Laundering and Terrorism Financing but it does not implement penal provisions against the offenders. Such cases are forwarded to relevant authorities.</p> <p>In line with the above statement, Customs Administration cannot change penal policy in this segment.</p>
Recommendation of the MONEYVAL Report	<i>Enhance domestic law enforcement co-operation between the customs, immigration and other competent authorities to respond to detections and to analyse the information collected under the legal requirements implementing SR.IX to develop AML/CFT intelligence.</i>
Measures taken to implement the Recommendation of the Report	<p>This recommendation is implemented by Agreement on Cooperation in Integrated Border Management, which has been concluded by several Serbian Ministries.</p> <p><b>Implementation of the Agreement on Cooperation in Integrated Border Management</b> – Signatories: Ministry of the Interior, Ministry of Finance, Ministry of Agriculture, Forestry and Water Management, Ministry of Infrastructure. The Agreement establishes cooperation between the signatories with regard to integrated border management for the purpose of enhancement of security, prevention of any kind of criminal activities, faster flow of passengers, goods and capital, efficient collection of customs duties, other import duties, VAT, excises and charges, prevention of entry of animal and plant quarantine diseases, prevention of corruption and protection of integrity of civil servants with a view to contributing economic development of the country and raising efficiency in cross-border agencies' activities.</p> <p><b>Also, MOU between APML and Customs have been concluded.</b></p> <p><b>Implementation of the Agreement on Cooperation and Exchange of Data</b> – Signatories: Anti-money Laundering Administration and Customs Administration. The Agreement defines relations between the signatories in respect of cooperation aimed at establishing, maintaining and developing closer mutual communication, understanding and cooperation concerning exchange of data and information significant for revealing and preventing money laundering and efficient control of foreign trade activities.</p>
Recommendation of the MONEYVAL Report	<i>Increase the level of sanctions to ensure that they are dissuasive.</i>
Measures taken to implement the Recommendation of the Report	<p>According the Article 90 paragraph 2 of current AML/CFT Law, any natural person not declaring to the competent customs body a cross-border transportation of bearer negotiable instruments amounting to EUR 10,000 or more in RSD or foreign currency shall be punished for minor offence with a fine amounting from RSD 5,000 to RSD 50,000 (Article 67, paragraph 1).</p> <p>If the declaration does not contain all the required data, the natural person shall be</p>

	punished for minor offence with a fine amounting from RSD 500 to RSD 50,000 (Article 67, paragraph 2).
Recommendation of the MONEYVAL Report	<i>Strengthen the effectiveness of the sanctions to encourage declarations.</i>
Measures taken to implement the Recommendation of the Report	According to the Proposed Law Amending the AML/CFT Law courts will be responsible for minor offence proceedings. Having in mind the most recent reorganisation of courts in Serbia, and the new internal court management systems, the efficiency and speed of processing of the minor offences related to declarations is expected to improve, while the system itself will provide accurate and complete statistics on the cases.
Recommendation of the MONEYVAL Report	<i>Consider maintaining the reports in a computerised database, available to competent authorities for AML/CFT purposes and establish strict safeguards to ensure proper use of the information and data which is reported and recorded.</i>
Measures taken to implement the Recommendation of the Report	This recommendation is implemented by introducing new databases within Customs. Since November 9, 2009 the Information System of the Customs Service has introduced a new database which covers record keeping of: - Receipts on means of payment temporarily withheld (passenger's personal data); - Amounts declared.
Recommendation of the MONEYVAL Report	<i>Take measures as necessary to increase the technical resources of the Customs authorities and provide for further additional training on the newly introduced requirements as well as to provide additional specialised training on AML/CFT issues for Customs officials, including on detection and recognition of serious criminal activities and movements of funds possibly related to ML/FT.</i>
Measures taken to implement the Recommendation of the Report	Training programs regarding AML/CFT have been regularly held since 2006 (organized by USA Embassy, Anti-money Laundering Administration etc.) – continue with specialized training.
Recommendation of the MONEYVAL Report	<i>Pursue and strengthen efforts to prevent and eliminate corruption within the Customs administration in order to ensure that they do not impede Custom's efficiency.</i>
Measures taken to implement the Recommendation of the Report	The Customs Administration's Internal Affairs Department has developed the CAS Strategy for Combating Corruption, which addresses this issue. Internal Affairs Department of the Customs Administration has an active role in the Pilot Project "Raising the Level of Integrity and Combating Corruption" According the Pilot project, Custom Administration has been committed to raising the level of integrity of customs officers and combating corruption, which is also one of its main strategic goals. Accordingly, in cooperation with the World Customs Organisation, the Customs Administration of Serbia is the participant of the Pilot Project "Raising the Level of Integrity and Combating Corruption" Within this Pilot Project and with the valuable support of experts from Great Britain, Germany, Poland and the United States of America, this year we have organised two workshops: "Raising the Level of Integrity and Combating Corruption" and "Development of the Risk Atlas" The Action Plan has been drawn up within the Pilot Project and permanent strategic goals have been set.

	In line with the Action Plan, the electronic Report Form and the Risk Atlas are being drafted, along with the establishment of the Report Processing Group.
(Other) changes since the last evaluation	

## 2.4 Specific Questions

<p>1. Please describe how many investigations, and convictions for money laundering so far relate to autonomous money laundering and how many relate to self laundering. What are the major underlying predicate offences involved and how many of these cases involve “foreign” predicate offences?</p>
<p>Abuse of office, frauds, illegal gambling (on line gambling – one case) are the most common predicate offences..</p>
<p>2. Since the evaluation, have reporting forms and procedures been developed for all obligors and lawyers?</p>
<p>AML/CFT Rulebook prescribes reporting forms for all obligors and lawyers. Cash and suspicious transaction report form is so called transaction report form for the other obligors, form no 4 in abovementioned Rulebook.</p>
<p>3. Have any measures been taken, as recommended in the mutual evaluation report, to amend the legislation to include a definite requirement for banning market entry – as owners and significant/controlling interest holders of leasing companies – of persons with criminal background?</p>
<p><b><u>NBS – LEASING SUPERVISION</u></b></p> <p>The draft of a new Law on Financial Leasing and by - laws in this area relating to issuance of licenses will, prescribe prohibition for physical persons with criminal background to participate in ownership of financial leasing companies.</p>
<p>4. Have sanctions been imposed specifically for AML/CFT infringements, at the instigation of the supervisor, since the adoption of the last evaluation report? If so, please indicate the main types of AML/CFT infringements detected by supervisors since the adoption of the previous evaluation report by distinguishing between financial institutions and DNFBPs’ infringements (NB. It is not necessary for these purposes to provide full detailed statistics, but an overview).</p>
<p><b><u>NBS – BANK SUPERVISION</u></b></p> <p>From July 2009 until October 2010. NBS Bank Supervision Department had conducted 11 AML targeted supervisions and 5 AML as a part of full scope supervisions. Main irregularities which were found during these supervisions are inadequate beneficiary owner identification, inappropriate application of banks suspicious transactions indicators and missing to provide information about suspicious transactions to the FIU.</p> <p>In the same period National Bank of Serbia has conducted 3.723 supervisions of <i>Bureaux de Change</i> and there were 15 AML irregularities founded during these supervisions. These irregularities were unreported transactions and connected transactions above EUR 15.000 to the FIU.</p>
<p><b><u>NBS – INSURANCE SUPERVISION</u></b></p> <p>During 2009 and 2010 (until 30 September, 2010) 10 controls of insurance companies were conducted, of which 5 insurance companies deal with life insurance. These 5 insurance companies have been controlled with respect of the implementation of the AML/CFT Law.</p>

Irregularities which were found are:

- transaction (payments for life insurance –above the prescribed threshold) was not reported;
- internal regulation of company (Regulations on Prevention of Money laundering and terrorist financing) wasn't in compliance with the provisions of the AML/CFT Law, in the part related to the data that have to be submitted to the APML;
- internal control of the implementation of the obligations laid down in the AML/CFT Law was not performed

All irregularities were removed during the control.

**Securities Commission**

From the last evaluation report, Securities Commission were conducted 18 inspections specifically for AML/CFT, according to Supervision Plan for year 2010., main irregularities identified were lack of proposed instructions presented in obligors own internal documents and failure to provide proper data. Securities Commission imposed sanctions specifically for AML/CFT (temporary prohibition of performing the activity: from 10 to 30 days and filed a charge to the authorized state agency for commercial violation) against 4 obligors (3 broker dealer company and 1 management company).

**Foreign Exchange Inspectorate**

From the last evaluation report, Foreign Exchange Inspectorate were conducted 8 on site inspections of factoring and forfeiting companies, and 4 on site inspections of legal persons exercising money transfer services.

**2.5 Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)<sup>9</sup>**

<b>Implementation / Application of the provisions in the Third Directive and the Implementation Directive</b>	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Serbian Authorities implemented Third Directive by Law on prevention of money laundering and terrorist financing, which has been passed on 27 March 2009. Also, Rulebook, as the most important sub law act was adopted and have become into force in 1 March 2010.

<b>Beneficial Owner</b>	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3 <sup>rd</sup> Directive <sup>10</sup> (please also provide the legal text with your reply)	Legal framework for beneficial owner is Article 3 paragraph 1 items 11, 12 and 13 of current AML/CFT Law, which reads as follows: “11) ‘Beneficial owner of a customer’ - natural person who owns or controls a customer. 12) Beneficial owner of a company or any other legal person shall include the following: - natural person who owns, directly or indirectly, 25% or more of the business share, shares, voting right or other rights, based on which they participate in the management of the legal person, or who participates in the capital of the legal person with 25% or more of the share, or has a dominant position in managing the

<sup>9</sup> For relevant legal texts from the EU standards see Appendix II.

<sup>10</sup> Please see Article 3(6) of the 3<sup>rd</sup> Directive reproduced in Appendix II.



	<p>assets of the legal person;</p> <ul style="list-style-type: none"> <li>- natural person who has provided or provides funds to a company in an indirect manner, which entitles him to influence significantly the decisions made by the managing bodies of the company concerning its financing and business operations.</li> </ul> <p>13) Beneficial owner of a person under foreign law, which receives, manages, or allocates assets for a specific purpose, shall include the following:</p> <ul style="list-style-type: none"> <li>- a natural person using, indirectly or directly, more than 25% of the assets that are the subject matter of management, provided that the future users have been designated;</li> <li>- a natural person or group of persons for the furtherance of whose interests a person under foreign law is established or operates, provided that such natural person or group of persons are identifiable;</li> <li>- a natural person who, indirectly or directly, unrestrictedly manages more than 25% of the property of the person under foreign law.”</li> </ul> <p>According the Article 1 of the Law amending the AML/CFT Law, the item 13 of this paragraph shall be amended, instead of “more than 25%”, it shall be “25% or more”.</p> <p>According the Article 20 of current AML/CFT Law, obligors have obligation to identify and verify identity of beneficial owner. The Article 20 reads as follows:</p> <p style="text-align: center;"><b>“Identification of the beneficial owner of a legal person and person under foreign law Article 20</b></p> <p>(1) The obligor shall identify the beneficial owner of a legal person or person under foreign law by obtaining the data in Article 81, paragraph 1, item 14 of this Law.</p> <p>(2) The obligor shall obtain the data referred to in paragraph 1 of this Article by inspecting the original or certified copy of the documentation from the official public register, which may not be issued earlier than three months before its submission to the obligor. The data may be also obtained by directly inspecting the official public register in accordance with the provisions of Article 15, paragraphs 4 and 6 of this Law.</p> <p>(3) If it is not possible to obtain all the data on the beneficial owner of the customer from the official public register, the obligor shall obtain the missing data by inspecting the original or certified copy of a document and other business documentation submitted by a representative, procura holder, or empowered representative of the customer. If, for objective reasons, the data cannot be obtained as specified in this Article the obligor shall obtain it from a written statement given by a representative, procura holder or empowered representative of the customer.</p> <p>(4) The obligor shall, based on a money laundering and terrorism financing risk assessment, identify the beneficial owner of a legal person or person under foreign law in such a manner as to know the ownership and management structures of the customer and to know the beneficial owners of the customer.”</p>
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**Risk-Based Approach**

Please indicate the extent to which financial institutions have been permitted to use a risk-based	AML/CFT Law in Article 12 prescribes transactions related to certain services that do not require CDD. But, if there are reasons for suspicious in money laundering and terrorist financing, exemption is not possible ( Article 12, paragraph 2). The Article 12 of the AML/CFT Law reads as follows:
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<p>approach to discharging certain of their AML/CFT obligations.</p>	<p><b>“Exemption from customer due diligence in relation to certain services</b>  <b>Article 12</b></p> <p>(1) Insurance companies, insurance brokerage companies, insurance agency companies and insurance agents licensed to perform the life insurance business, as well as voluntary pension fund management companies and their founders shall not be required to apply customer due diligence when:</p> <ol style="list-style-type: none"> <li>1) Concluding life insurance contracts where an individual premium instalment or several premium instalments that are to be paid in one calendar year do not exceed the RSD equivalent of EUR 1,000 or if the single premium does not exceed the RSD equivalent of EUR 2,500;</li> <li>2) When concluding contracts on the membership in voluntary pension funds or contracts on pension plans under the condition that assignment of the rights contained under the contracts to a third party, or the use of such rights as collateral for credits or loans, are not permitted.</li> </ol> <p>(2) Provisions of paragraph 1 of this Article and of a regulation made in accordance with Article 4, paragraph 3 of this Law, shall not be applied if there are reasons for suspicion of money laundering or terrorism financing.”</p> <p>Conditions for applying simplified CDD are prescribed in Article 32 of AML/CFT Law, which reads as follows:</p> <p><b>“2.2.4.2. Simplified customer due diligence actions and measures</b>  <b>General provisions</b>  <b>Article 32</b></p> <p>(1) The obligor may apply simplified customer due diligence measures in the circumstances referred to in Article 9, paragraph 1, items 1 and 2 of this Law, except where there are reasons for suspicion of money laundering or terrorism financing with respect to a customer or transaction, if a customer is:</p> <ol style="list-style-type: none"> <li>1) The obligor referred to in Article 4, paragraph 1, items 1 to 8 of this Law, except for insurance brokers and insurance agents;</li> <li>2) Person from Article 4, paragraph 1, items 1 to 8 of this Law, except for insurance brokers and agents from a foreign country on the list of countries that apply international standards against money laundering and terrorism financing at the European Union level or higher;</li> <li>3) A State body, body of an autonomous province or body of a local self-government unit, a public agency, public service, public fund, public institute or chamber;</li> <li>4) A company whose issued securities are included in an organized securities market located in the Republic of Serbia or in the state where the international standards applied regarding the submission of reports and delivery of data to the competent regulatory body are at the European Union level or higher.</li> <li>5) A person representing a low risk of money laundering or terrorism financing as established in a regulation adopted on the basis of Article 7, paragraph 3 of this Law.</li> </ol> <p>(2) Notwithstanding the provisions laid down in Article 8 of this Law, an auditing company or licensed auditor, when establishing a business relationship regarding the obligatory auditing of the annual financial statements of a legal person, may apply simplified customer due diligence actions and measures, unless there are reasons for suspicion of money laundering or terrorism financing with respect to a customer or the auditing circumstances.”</p>
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**Politically Exposed Persons**

<p>Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive<sup>11</sup> are provided for in your domestic legislation (please also provide the legal text with your reply).</p>	<p>Legal framework for Politically Exposed Persons is Article 3 paragraph 1 item 24 of the AML/CFT Law, which reads as follows:  “24) ‘Foreign official’ – a natural person who holds or who held in the past year a public office in a foreign country or international organisation, including</p> <ul style="list-style-type: none"> <li>- heads of State and/or heads of government, members of government and their deputies or assistants;</li> <li>- elected representatives of legislative bodies;</li> <li>- judges of the supreme and the constitutional courts or of other high-level judicial bodies whose judgments are not subject to further regular or extraordinary legal remedies, save in exceptional cases;</li> <li>- members of courts of auditors or of the boards of central banks;</li> <li>- ambassadors, <i>chargés d'affaires</i> and high-ranking officers in the armed forces;</li> <li>- members of the managing or supervisory bodies of legal entities whose majority owner is the State;”</li> </ul> <p>According the Article 30 of AML/CFT Law, obligors have obligation to establish procedure for identification foreign official. The Article 30 of current AML/CFT Law reads as follows:</p> <p style="text-align: center;"><b>“ Foreign official Article 30</b></p> <p>(1) The obligor shall establish a procedure for determining whether a customer or beneficial owner of a customer is a foreign official. Such procedure shall be laid down in an internal document of the obligor, in line with the guidelines adopted by the body referred to in Article 82 of this Law that is competent for the supervision of the implementation of this Law with the obligor.</p> <p>(2) If a customer or beneficial owner of a customer is a foreign official, the obligor shall, apart from the actions and measures referred to in Article 8, paragraph 1 of this Law:</p> <ol style="list-style-type: none"> <li>1) obtain data on the origin of property which is or which will be the subject matter of the business relationship or transaction from the documents and other documentation which shall be submitted by the customer. If it is not possible to obtain such data as described, the obligor shall obtain a written statement on its origin directly from the customer;</li> <li>2) ensure that the employee in the obligor who carries out the procedure for establishing a business relationship with a foreign official shall, before establishing such relationship, obtain a written consent of the responsible person;</li> <li>3) monitor with special care transactions and other business activities of a foreign official for the period of duration of the business relationship.</li> </ol> <p>If the obligor establishes that a customer or a beneficial owner of a customer became a foreign official during the business relationship it shall apply the actions and measures referred to in paragraph 2, items 1 and 3 of this Article, whereas for the continuation of a the business relationship with such person a written consent of the responsible person shall be obtained. “</p>
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<sup>11</sup> Please see Article 3(8) of the 3<sup>rd</sup> Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

<b>“Tipping off”</b>	
<p>Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.</p>	<p>According the Article 73 Paragraph 1 of current AML/CFT Law prohibits the disclosure of information. The Article 73 reads as follows:</p> <p>“(1) The obligor, lawyer and their employees, including the members of the governing, supervisory or other managing bodies, or any other person having access to the data referred to in Article 81 of this Law shall not disclose to the customer or any other person the following:</p> <ol style="list-style-type: none"> <li>1) that the APML was sent, <b>or is being sent</b>, data, information and documentation on a customer or transaction with respect to which there is suspicion of money laundering or terrorism financing;</li> <li>2) that the APML has issued, based on Articles 56 and 63 of this Law, an order for a temporary suspension of transaction;</li> <li>3) that the APML has issued, based on Article 57 of this Law, an order to monitor financial operations of the customer;</li> <li>4) that proceedings against a customer or a third party have been initiated or may be initiated in relation to money laundering or terrorism financing.” <p>According the Article 17 of the Law amending the AML/CFT Law, the Article 73, paragraph 1 is amended, by adding situation where STR is in the process of sending to APML. The amended Article 73 paragraph 1 reads as follows:</p> <p>“(1) that the APML was sent, <b>or is being sent</b>, data, information and documentation on a customer or transaction with respect to which there is suspicion of money laundering or terrorism financing;”</p> </li></ol>
<p>With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.</p>	<p>In the Article 73 Paragraph 2 of current AML/CFT Law, there are several exceptions, as the prohibition do not apply to the certain situations:</p> <p>“(2) The prohibition referred to in paragraph 1 of this Article shall not apply to the situations:</p> <ol style="list-style-type: none"> <li>1) when the data, information and documentation obtained and maintained by the obligor or lawyer in accordance with this Law are required to establish facts in criminal proceedings and if such data is required by the competent court in accordance with law.</li> <li>2) if the data referred to in item 1 of this Article is requested by the body referred to in Article 82 of this Law in the supervision of the implementation of the provisions of this Law;</li> <li>3) if the lawyer, auditing company, licensed auditor, legal or natural person offering accounting services or the services of tax advising attempt to dissuade a customer from illegal activities.” </li></ol>

<b>“Corporate liability”</b>	
<p>Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.</p>	<p>According to the Law on Liability of Legal Entities for Criminal Offences (Official Gazette of Republic of Serbia, no 20/09) legal persons can be held liable for criminal offences, including ML, which have been committed for the benefit of the legal person by a responsible person or when a lack of supervision or control by the responsible person allowed the commission of crime for the benefit of that legal person by a natural person operating under the supervision and control of the responsible person. Parallel criminal and civil and administrative procedures are possible in all cases when damage has been inflicted upon a legal or natural person through the commission of a criminal offence, regardless of whether the perpetrator is a natural or legal person.</p> <p>As regards liability of natural and legal persons for infringements of the AML/CFT provisions, these are set out in articles 88-91 of the AML/CFT Law.</p>

<p>Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.</p>	<p>According the Article 6, Paragraph 2 of Law on Liability of Legal Entities for Criminal Offences, the legal person shall also be held liable if lack of supervision or control by the responsible person allows a natural person, which acts under the supervision and control of the responsible person, to commit a criminal offence to the benefit of the legal person.</p>
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<b>DNFBPs</b>	
<p>Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.</p>	<p>According the Article 4 current AML/CFT Law, obligors are the following entrepreneurs and legal persons:</p> <p style="text-align: center;"><b>“Obligors Article 4</b></p> <p>(1) For the purposes of this Law, obligors shall include the following:</p> <ol style="list-style-type: none"> <li>1) Banks;</li> <li>2) Licensed bureaux de change;</li> <li>3) Investment fund management companies;</li> <li>4) Voluntary pension fund management companies;</li> <li>5) Financial leasing providers;</li> <li>6) Insurance companies, insurance brokerage companies, insurance agency companies and insurance agents with a licence to perform life insurance business;</li> <li>7) Persons dealing with postal communications;</li> <li>8) Broker-dealer companies;</li> <li>9) Organisers of special games of chance in casinos;</li> <li>10) Organisers of games of chance operated on the Internet, by telephone, or in any other manner using telecommunication networks;</li> <li>11) Auditing companies;</li> <li>12) Licensed auditors.</li> </ol> <p>(2) ‘Obligors’ shall include both entrepreneurs and legal persons exercising the following professional activities:</p> <ol style="list-style-type: none"> <li>1) Intermediation in real-estate transactions;</li> <li>2) Provision of accounting services;</li> <li>3) Tax advising;</li> <li>4) Intermediation in credit transactions and provision of loans;</li> <li>5) Factoring and forfeiting;</li> <li>6) Provision of guarantees;</li> <li>7) Provision of money transfer services.”</li> </ol> <p>According the Article 36 of current AML/CFT Law, it is forbidden to pay in cash goods and services in the amount of 15.000 EUR or more. The Article 36 reads as follows:</p> <p style="text-align: center;"><b>“Restriction of cash transactions Article 36</b></p> <p>(1) A person selling goods or providing a service in the Republic of Serbia may not</p>

	accept cash payments from a customer or third party in the amount of EUR 15,000 or more in its RSD equivalent. (2) The restriction laid down in paragraph 1 shall also apply if the payment of goods or a service is carried out in more than one connected cash transactions which total the RSD equivalent of EUR 15,000 or more.”
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## 2.6 Statistics

a. Please complete - to the fullest extent possible - the following tables:

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	13		2									
FT												

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	28		5		1							
FT												

2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	26		12		2							
FT												

Data of the Ministry of the Interior, Prosecutor's Office and the courts in Serbia

2009												
	Investigations		Prosecutions		Convictions (Final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	14	27	9	35	4	5						
<b>FT</b>	-	-	-	-	-	-	-	-	-	-	-	-

30.8.2010 Started in 2010												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	20	97	2	69								
<b>FT</b>	-	-	-	-	-	-	-	-	-	-	-	-

According to data received from Prosecutor's Offices and Courts in Serbia, total number of prosecutions and convictions in Serbia, since the incrimination of the ML laundering offence is as follows:  
13 convictions against 15 persons of which 6 final convictions against 7 persons  
19 prosecutions against 132 persons

Prosecutions		Convictions (1 <sup>st</sup> Instance+Final)	
cases	Pers.	cases	Pers.
1. Higher PO Pirot, KT No 32/08, Higher C No:K10/10	2	1. K-476/04, District Court in Novi Sad	1
2. Basic PO Pirot, KT No 187/07 (14.4.2010 transferred to Higher PO Pirot KT 25/10) Basic Court Pirot New No 2 K. No. 168/10 (2007) 19 persons, Money L 1 person	1	2. K 185/06, Municipal C in Kraljevo (decision from 2008, appeal in progress)	1
3. Higher PO Užice, transferred to Spec Org. Crime PO (KT-27/09)	1	3. K-152/06, District C in Novi Sad	2
4. Higher PO Novi Sad, KT No. 1452/09 Higher PO Novi Sad took over case under KT-No 304/10	1	4. K-420/05, District C in Novi Sad (transferred to Appellate C in Novi Sad)	1
5. Basic PO, Trstenik, KT-No 217/07 of 28/10/2008 (court case K 262/08)	1	5. K-736/07, District C in Novi Sad (transferred to Appellate C in Novi Sad)	1
6. Higher PO Novi Sad, KT-No 140/10, earlier Basic PO case No. KT-No 2774/02	1	6. Higher C Čačak K.No.119/08 (new No K54/10), of 15.4.2010	1

of 10.12.2004			
7. Higher Court in Belgrade, K. No. 3728/10	66	7. Higher C in NS, K148/10	1
8. Higher Court in Belgrade: K. No. 3315/10	3	1. K 46/08 District Court Jagodina	1
9. Belgrade Higher Court Special Org Crim Department (K. II. 14/2008; New No: K-Po <sup>1</sup> No 121/10	5	2. K 287/05 District Court Novi Sad	1
10. Belgrade Higher Court Special Org Crim Department (K.II. 15/2009, <u>New No: K-Po<sup>1</sup> No 190/10</u> )	2	3. K 288/07 District Court Novi Sad	1
11. Basic Court Paracin No. K. T. 19/08	7	4. K-558/06, District Court Novi Sad	1
12. K 212/08 (from 2004) Higher Court Zrenjanin New No. K25/10	1	5. K-171/07 (Municipal Court Kučevo)	2
13. Higher Court in Zrenjanin, K 168/08 (from 2008) new number K21/10	6	6. K-750/07, District Court Novi Sad	1
14. Higher Court Pozarevac New No: 3 K 3/10 (K 90/07)	1		
15. Belgrade Higher Court K.P. 55/09 (Ki.P 18/09 and Ki.P. 24/09)	20		
16. Jagodina Higher Court K 62/10; charges brought on 21.1.2008	7		
17. K-Po <sup>1</sup> 284/10 (before Ki. P. 29/09, Belgrade Higher Court Spec Dept: Ki-Po <sup>1</sup> 255/10: (Prosecutor's No KTS No 11/09)	1		
18. Belgrade H.C. Spec Dept K-Po <sup>1</sup> 195/10; before K.P. 20/09 from 2009	1		
19. Belgrade H.C. Spec Dept K-Po <sup>1</sup> No 230/10; before K.P. 55/09 from 2009	5		



**b. STR/CTR**

Explanatory note:

The statistics under this section should provide an overview of the work of the FIU.

The list of entities under the heading “*monitoring entities*” is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.

The information requested under the heading “*Judicial proceedings*” refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.

“*Cases opened*” refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term “cases open” is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2005																	
Statistical Information on reports received by the FIU								Judicial proceedings									
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions					
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT			
								cases	persons	cases	persons	cases	persons	cases	persons		
Commercial Banks	159105	134															
Insurance Companies																	
Notaries																	
Currency Exchange	984																
Broker Companies																	
Securities' Registrars																	
Lawyers																	
Accountants/Auditors																	
Company Service Providers																	
Real estate	228 Post Office 450 Real estate	4(submitted by Post office)															
<b>Total</b>	<b>16767</b>	<b>138</b>															

2006																	
Statistical Information on reports received by the FIU								Judicial proceedings									
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions					
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT			
								cases	persons	cases	persons	cases	persons	cases	persons		
Commercial Banks	154644	621															
Insurance Companies	1																
Notaries																	
Currency Exchange	532																
Broker Companies	34																
Securities' Registrars																	
Lawyers																	
Accountants/Auditors																	
Company Service Providers																	
Real estate agents Post office	219	1 (Post office)															
<b>Total</b>	<b>155727</b>	<b>622</b>															



2008																	
Statistical Information on reports received by the FIU								Judicial proceedings									
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions					
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT			
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons		
Commercial Banks	351923	2860															
Insurance Companies	2576	2															
Notaries																	
Currency Exchange	750																
Broker Companies	150	1															
Securities' Registrars																	
Lawyers																	
Accountants/Auditors																	
Company Service Providers																	
Postal telecomm.Enterprise)	291(Post office) 1 (Investment Fund) 212(real estate agents)	21															
<b>Total</b>	<b>355903</b>	<b>2884</b>															



Lawyers	/	/	/			377												
Accountants/Auditors	/	/	/															
Company Service Providers	/	/	/															
Others (please specify and if necessary add further rows)	Other 2 Western Union 1 PTT 299 Pension fund man. comp. 2 Leasing comp. /	/	PTT 44															
<b>Total</b>	<b>165.669</b>	<b>3.854</b>																

### 3 Appendices

#### 3.1 APPENDIX I - Recommended Action Plan to Improve the AML/CFT System

AML/CFT System	Recommended Action (listed in order of priority)
<b>1. General</b>	<b>No text required</b>
<b>2. Legal System and Related Institutional Measures</b>	
2.1 Criminalisation of Money Laundering (R.1 & 2)	<p><i>Recommendation 1</i></p> <ul style="list-style-type: none"> <li>• Clarify that the offence of ML extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime.</li> <li>• Criminalise insider trading and market manipulation.</li> <li>• Develop comprehensive training materials and strengthen training programmes in order to enhance the capacity of investigative judges and prosecutors to investigate and prosecute ML cases and of judges to effectively apply the new ML offence as well as undertake appropriate initiatives to raise their awareness on the importance of integrating financial investigations into investigations of proceeds generating offences.</li> </ul> <p><i>Recommendation 2</i></p> <ul style="list-style-type: none"> <li>• Monitor in time the application of the exonerating ground under article 19 of the Law on Liability of Legal Entities for Criminal Offences with a view to taking any corrective action, should it be demonstrated that it impacted negatively on the effective application of the criminal liability provisions.</li> <li>• Raise awareness on the statutory requirements of the newly adopted Law on Liability of Legal Entities for Criminal Offences through adequate training of competent authorities.</li> </ul>
2.2 Criminalisation of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> <li>• Extend the criminalisation of FT in all instances envisaged in SR.II with reference to the financing of terrorist organisations and the individual terrorists.</li> <li>• Extend the criminalisation to the whole range of activities envisaged by Article 2(1) (a) and (b) of the FT convention.</li> <li>• Define “funds” so as to cover “assets of every kind, whether tangible or intangible, movable or</li> </ul>

	<p>immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit”.</p> <ul style="list-style-type: none"> <li>• Amend the FT offence as it should not require that funds are linked to a specific terrorist act.</li> </ul>
<p>2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)</p>	<ul style="list-style-type: none"> <li>• To review the current regime and satisfy themselves that the competent authorities have necessary tools to clarify the application of the relevant provisions and regimes and ensure that they can make full use of the existing legal framework.</li> <li>• To amend the legislation as necessary to: <ul style="list-style-type: none"> <li>- Clarify the scope of property subject to confiscation;</li> <li>- Ensure that value based confiscation can be applied in the case of instrumentalities used in and intended for use in the commission of ML, FT or other predicate offences;</li> <li>- Ensure that the legislation provides for the confiscation of instrumentalities when it is held by a third party (legal entity or natural person);</li> <li>- Remove the limitation to offences punishable by at least 4 years imprisonment under article 234.</li> </ul> </li> <li>• Speed up the implementing measures required in relation to the Law on Seizure and confiscation of the proceeds from crime (appointment of relevant persons, adoption of internal acts, etc) and ensure that competent authorities are adequately trained in the application of these new provisions.</li> </ul>
<p>2.4 Freezing of funds used for terrorist financing (SR.III)</p>	<ul style="list-style-type: none"> <li>• The evaluators strongly recommend that the authorities adopt a comprehensive set of rules (judicial or administrative) which would enable them to adequately implement the targeted financial sanctions contained in the United Nations Security Council Resolutions (UNSCRs) relating to the prevention and suppression of the financing of terrorist acts – UNSCR 1267 and its successor resolutions and UNSCR 1373 and any successor resolutions related to the freezing, or, if appropriate, seizure of terrorist assets and address all requirements under the 13 criteria of SR.III.</li> <li>• The authorities could also consider implementing the measures set out in the Best Practices Paper for SR.III.</li> </ul>
<p>2.5 The Financial Intelligence Unit</p>	<ul style="list-style-type: none"> <li>• The authorities should: <ul style="list-style-type: none"> <li>- Provide financial institutions and other reporting</li> </ul> </li> </ul>



<p>and its functions (R.26)</p>	<p>entities with comprehensive and adequate written guidance, based on the new legislation, is introduced in order to further support obligors in understanding better the reporting procedures and requirements and undertake outreach measures to under-reporting sectors.</p> <ul style="list-style-type: none"> <li>- Develop reporting forms and procedures for all obligors and lawyers.</li> <li>- Clarify through relevant amendments, article 102 of the Criminal Code.</li> <li>• The APML should also publicly release periodic reports which include in an adequate manner statistics, typologies and trends and information on its activities.</li> </ul>
<p>2.6 Law enforcement, prosecution and other competent authorities (R.27 &amp; 28)</p>	<p><i>Recommendation 27</i></p> <ul style="list-style-type: none"> <li>• Analyse the current legal framework and take legislative or other measures in order to establish an effective and functional cooperation, communication and coordination mechanisms between competent law enforcement and prosecution services responsible for investigating and prosecuting ML, FT and underlying predicate offences.</li> <li>• Review the current situation in the light of the specific concerns raised in respect of practical implementation problems related to potential jurisdictional issues, to the gathering of evidence in ML/FT investigations and take necessary measures to address these concerns and prevent risks of unnecessary duplication of efforts.</li> <li>• Take measures to increase the numbers and effectiveness of ML investigations, such as establishing through inter-agency meetings of enforcement authorities a concerted programme for increasing the focus on ML investigations, placing an emphasis on a more systematic recourse to financial investigations, providing guidance particularly on procedures and requirements set out under the newly adopted legislation.</li> <li>• Pursue and sustain current efforts to eliminate corruption within the police and judiciary to ensure that they do not impede law enforcement authorities' action.</li> <li>• Consideration should be given to amend the existing provisions so as to provide competent authorities with the legal basis to use a wide range of special investigative techniques when conducting ML or FT and underlying predicate offences.</li> </ul>

	<ul style="list-style-type: none"> <li>• Consideration should be given to use mechanisms such as permanent or temporary groups specialised in investigating the proceeds of crime.</li> <li>• Consider conducting joint reviews of ML and FT methods, techniques and trends with law enforcement bodies, the APML and other competent authorities on a regular inter-agency basis and disseminating the results of such reviews.</li> </ul> <p><i>Recommendation 28</i></p> <ul style="list-style-type: none"> <li>• Investigation and prosecution bodies should be sensitised to the importance of the financial aspects of ML, TF and proceed-generating cases and to the full use of their powers in the context of such investigations with a view to obtaining the necessary financial documents and information.</li> </ul>
<p>2.7 Cross Border Declaration &amp; Disclosure</p>	<ul style="list-style-type: none"> <li>• Ensure that the new requirements introduced in the AML/CFT law are speedily implemented, that the form and content of the new declaration procedure are prescribed and that they are well disseminated at the border checkpoints.</li> <li>• Introduce freezing requirements envisaged by SR.III and the UNSCR in the vase of persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to FT.</li> <li>• Introduce requirements and procedures to ensure that in cases when the Customs discover an unusual cross-border movement of gold, precious metals or precious stones they should consider notifying, as appropriate, the foreign competent authorities from which these items originated and/or to which they are destined, and to enable cooperation in such cases;</li> <li>• Enhance domestic law enforcement co-operation between the customs, immigration and other competent authorities to respond to detections and to analyse the information collected under the legal requirements implementing SR.IX to develop AML/CFT intelligence.</li> <li>• Increase the level of sanctions to ensure that they are dissuasive.</li> <li>• Strengthen the effectiveness of the sanctions to encourage declarations.</li> <li>• Consider maintaining the reports in a computerised database, available to competent authorities for AML/CFT purposes and establish strict safeguards to ensure proper use of the information and data which is reported and recorded.</li> </ul>

	<ul style="list-style-type: none"> <li>• Take measures as necessary to increase the technical resources of the Customs authorities and provide for further additional training on the newly introduced requirements as well as to provide additional specialised training on AML/CFT issues for Customs officials, including on detection and recognition of serious criminal activities and movements of funds possibly related to ML/FT.</li> <li>• Pursue and strengthen efforts to prevent and eliminate corruption within the Customs administration in order to ensure that they do not impede Custom’s efficiency</li> </ul>
<b>3. Preventive Measures – Financial Institutions</b>	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p><i>Recommendation 5</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should establish a direct requirement in law, regulation or enforceable means for obligors to consider filing an STR if they have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship.</li> <li>• In the case of filing an STR where obligors have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship, the indicators of suspicious transactions are strong enough to precipitate a financial institution filing an STR, however, there remains the possibility that a situation might not match the list and a financial institution will not file an STR with the APML.</li> <li>• Issue guidelines on instructions for the manner of identifying their clients in accordance with the obligations under the AML/CFT Law.</li> <li>• As stated above, because of the newness of the AML/CFT Law, financial institutions have not yet applied the risk-based approach to clients. Serbian should work with financial institutions to ensure they understand how to effectively implement in practice.</li> </ul> <p><i>Recommendation 6</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should issue additional regulations and guidelines to ensure that Serbian financial institutions clearly understand and uniformly apply their obligations under Article 30 of the AML/CFT Law to monitor <u>with special care</u> (“<i>posebna paznja</i>”) transactions and other</li> </ul>

	<ul style="list-style-type: none"> <li>business activities of a foreign official.</li> <li>Serbian authorities should assist financial institutions outside of the banking sector on how to identify foreign officials and apply enhanced due diligence, per the new requirements of the AML/CFT Law. This could include additional training seminars and additional guidance on risk assessment for investment fund management companies, licensed bureaux de change, persons dealing with postal communications, and broker-dealer companies.</li> </ul> <p><i>Recommendation 7</i></p> <ul style="list-style-type: none"> <li>Serbian authorities should require financial institutions to document respective AML/CFT responsibilities for each party in the correspondent relationship so that there is no confusion between the financial institution and respondent bank about which one will carry out AML/CFT requirements.</li> <li>While use of payable-through accounts appears not to be common in Serbia, this practice should either be prohibited by law or should have obligations attached to it to ensure that appropriate CDD is conducted and institutions share relevant information should the practice become established in the future.</li> </ul> <p><i>Recommendation 8</i></p> <ul style="list-style-type: none"> <li>Serbian authorities should adopt requirements for licensed bureaux de change, investment fund management companies, persons dealing with postal communications, and broker-dealer companies to develop policies and procedures to consider technological developments in ML and FT when conducting risk assessments.</li> <li>The evaluation team was unable to assess the effectiveness of the new measures on technological developments, given the newness of the regulations.</li> </ul>
3.3 Third parties and introduced business (R.9)	<ul style="list-style-type: none"> <li>Until Serbian authorities have determined in which countries financial institutions are permitted to rely on third parties, there can be no implementation of this provision. Serbian authorities should work to issue the sub-law in preparation and the list mentioned in Article 24.</li> </ul>
3.4 Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> <li>While Serbian financial institutions are able to share information with foreign financial institutions per obligations under requirements of SR.VII, Serbian authorities should amend the AML/CFT Law to ensure that financial institutions are able to share information with</li> </ul>

	<p>other foreign financial institutions, where it is required by R.7 and R.9.</p> <ul style="list-style-type: none"> <li>• Provisions of obtaining financial information by LEA and investigative judge appear to be inconsistent and uncertain regarding the range of information that can be obtained from financial obligors.</li> </ul>
<p>3.5 Record keeping and wire transfer rules (R.10 &amp; SR.VII)</p>	<p><i>Recommendation 10</i></p> <ul style="list-style-type: none"> <li>• Provide for sectoral laws/regulations enabling effective implementation of the record-keeping requirements by persons involved in intermediation in credit transactions and provision of loans, factoring and forfeiting, and provision of guarantees, should they start operating in the Serbian financial sector.</li> </ul> <p><i>Special Recommendation VII</i></p> <ul style="list-style-type: none"> <li>• Provide in legislation for obtaining full originator information in the case domestic payment transactions, and for including such information in the message or payment order accompanying the transfer.</li> <li>• Provide in legislation for verifying the identity of the originator in accordance with Recommendation 5, at least for all wire transfers of EUR 1.000 and more.</li> <li>• Define a requirement for financial institutions to adopt effective risk-based procedures for identifying and handling wire transfers not accompanied by complete originator information.</li> <li>• Legislatively provide for sanctions applicable to money transfer businesses for their failure to meet the requirements of SR VII.</li> <li>• Provide effective mechanisms for ensuring compliance of money transfer businesses (particularly, PTT “Srbija”) with the requirements of SR VII.</li> </ul>
<p>3.6 Monitoring of transactions and relationships (R.11 &amp; 21)</p>	<p><i>Recommendation 11</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should ensure that capital market participants, bureaux de change, persons dealing with postal communications, money remitters, and foreign exchange operators are required to pay special attention to unusual transactions, examine the background and purpose of transactions and set forth those findings in writing.</li> <li>• Serbian authorities should ensure that financial institutions, particularly those outside of the banking sector, are capable of adequately identifying unusual transactions, particularly through additional training and developing better</li> </ul>

	<p>lists of indicators that match the market activities of the financial institution.</p> <p><i>Recommendation 21</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should extend the Decision on KYC Procedure requirements to examine the background and purpose of unusual transactions and set forth those finding in writing to capital market participants, bureaux de change, persons dealing with postal communications, money remitters, and foreign exchange operators.</li> <li>• Serbian authorities should ensure that the lists of countries that do not sufficiently apply AML/CFT international standards are kept up to date and that financial institutions are aware of when changes are made. Serbian authorities should also issue the “white list” described above, as financial institutions may have difficulties implementing provisions of the AML/CFT Law without it.</li> </ul>
<p>3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 &amp; SR.IV)</p>	<p><i>Recommendation 13 and Special Recommendation IV</i></p> <ul style="list-style-type: none"> <li>• Provide specific guidance on the legal definition of the reporting obligation, so as to prevent its possible restrictive interpretation, as well as to take further measures to ensure that obligors understand it in the broadest meaning of the AML/CFT Law and pertinent regulations/guidelines.</li> <li>• Provide for appropriate implementation of the reporting requirement throughout the obligor community, by means of ensuring that all financial institutions have developed their own lists of indicators for recognising ML/FT related suspicious transactions.</li> <li>• Revise the existing lists of the indicators developed by the APML to guide obligors in recognising ML/FT related suspicious transactions; develop such lists for all financial institutions and make such lists clearly identifiable (by means of an official, publicly accessible reference number, or publication in an official source).</li> <li>• Continue efforts aimed at developing and introducing a well-structured coordinated outreach programme (for example by means of series of seminars, regular training sessions for compliance officers, etc) for the financial institutions to fully understand their reporting requirements, in particular the new FT reporting requirement.</li> </ul> <p><i>Recommendation 14</i></p> <ul style="list-style-type: none"> <li>• It is recommended to the Serbian authorities to</li> </ul>

	<p>make the necessary legal amendments to ensure that:</p> <ul style="list-style-type: none"> <li>(a) financial institutions are protected from criminal liability for breach of any restriction on disclosure of information if they report their suspicions in good faith to the APML;</li> <li>(b) expand the tipping-off provisions to include not only those cases where a STR or related information has been reported but also when it is in the process of being reported to the APML.</li> </ul> <ul style="list-style-type: none"> <li>• Serbian authorities should ensure that these provisions are appropriately implemented, through issuing adequate guidance to obligors concerning tipping off so that financial institutions and their employees fully understand the scope of the safe harbour and tipping off requirements and are aware of and sensitive to these issues when conducting CDD.</li> </ul> <p><i>Recommendation 25 (c. 25.2 [financial institutions and DNFBP-s])</i></p> <ul style="list-style-type: none"> <li>• Ensure implementation of the requirements of the AML/CFT Law concerning provision of general feedback, i.e. information on ML/FT techniques and trends (typologies), as well as sanitized cases from the practice of the APML and other competent state bodies; share information with financial institutions either within the annual reporting framework, or through other communication.</li> <li>• Proactively seek to make the APML’s annual reports available to the widest scope of stakeholders.</li> <li>• Consider providing specific feedback (other than the acknowledgment of the receipt of report) to enable financial institutions to get an idea of the quality of their reporting, and statistics on received STR-s cross-referenced with the respective results so as to identify the areas, where ML/FT is being successfully detected.</li> <li>• Ensure participatory approach to the provision of feedback, by involving other competent state authorities, for example, law enforcement agencies to regularly provide and disseminate (possibly through the APML) data on investigated cases, convictions, confiscations, etc; participate in the development of typologies and sanitized cases.</li> </ul>
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	<p><i>Recommendation 19</i></p> <ul style="list-style-type: none"> <li>• Establish mechanisms for assessing: a) usefulness of the CTR database, and b) efficiency of the use of the CTR database by the APML.</li> </ul>
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	<p><i>Recommendation 15</i></p> <ul style="list-style-type: none"> <li>• Article 39 of the AML/CFT Law exempts obligors with less than four employees from designating an AML/CFT compliance officer, imposing different obligations on small and large obligors. Serbian authorities should amend the law to remove this exemption.</li> <li>• While there is no blanket requirement for financial institutions to utilize a set procedure for screening employees to ensure a high standard, sectoral laws have set specific requirements for hiring employees within the sector. Serbian authorities should require a set procedure for all financial institutions to screen employees to ensure a high standard across all institutions.</li> </ul> <p><i>Recommendation 22</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should issue detailed procedures for financial institutions to follow after reporting to the APML that a foreign jurisdiction does not permit implementation of AML/CFT controls, including measures to eliminate the risk of ML or FT.</li> </ul>
3.9 Shell banks (R.18)	
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	<p><i>Recommendation 23</i></p> <ul style="list-style-type: none"> <li>• Amend the legislation to include a definite requirement for banning market entry – as owners and significant/controlling interest holders of leasing companies – of persons with criminal background.</li> <li>• Recognize the PTT “Srbija” as a money transfer business (and as such, a financial institution subject to all pertinent requirements).</li> <li>• Establish licensing/registration procedures for persons involved in money transfer services<sup>12</sup>, agents/third party transaction processors, and persons exercising professional activities of intermediation in credit transactions and provision of loans, factoring and forfeiting, and provision of guarantees; supervision mechanisms and tools for ensuring their compliance to AML/CFT requirements.</li> <li>• Define legislative provisions establishing the powers of the National Bank to regulate and</li> </ul>

<sup>12</sup> Particularly, for the PTT “Srbija”



	<p>supervise for AML/CFT purposes activities of voluntary pension fund management companies.</p> <ul style="list-style-type: none"> <li>• Define legislative provisions establishing the powers of the Ministry of Finance to regulate and supervise for AML/CFT purposes activities of persons dealing with postal communications [with respect to domestic payment operations] and of persons involved in professional activities of intermediation in credit transactions and provision of loans, factoring and forfeiting, provision of guarantees, and provision of money transfer services.</li> <li>• Define legislative provisions establishing the powers of the Ministry of Telecommunications and Information Society to regulate and supervise for AML/CFT purposes activities of persons dealing with postal communications [with respect to valuable mail operations].</li> <li>• Define legislative provisions establishing the powers of Foreign Currency Inspectorate to regulate and supervise for AML/CFT purposes activities of persons involved in professional activities of factoring and forfeiting, and provision of money transfer services [with respect to international payment transactions]</li> <li>• Develop supervision methodologies based on consideration of risk profile of institutions and enabling identification of inherent risks in financial activities, determination of risk mitigants, assessment of exposure of AML/CFT risk to various aspects of financial activities, assessment of internal control and risk management systems, corporate governance oversight, and integration of results of off-site monitoring and surveillance.</li> <li>• Establish mechanisms and tools for effective, consistent, risk-based planning of the supervision process – both off-site and on-site; introduce systems for continuous monitoring and follow-up of supervision results.</li> <li>• Ensure consistency among and harmonization of supervision methodologies and planning procedures throughout the bodies involved in supervision of financial institutions.</li> <li>• Ensure sufficient coverage of inspections incorporating elements or dedicated to the examination of AML/CFT compliance, stemming from an adequate planning of supervision and resulting in regular and in-depth analysis (disclosure of underlying reasons for</li> </ul>
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	<p>incompliance) and assessment of compliance, with relevant follow-up procedures provided for.</p> <p><i>Recommendation 17</i></p> <ul style="list-style-type: none"> <li>• Ensure coverage of all requirements of the AML/CFT Law under the sanctioning provisions (at least Articles 28.2, 40 and 73).</li> <li>• Eliminate the grounds for uncertainty and confusion about applicability of pecuniary sanctions under the AML/CFT Law and administrative sanctions under various sectoral laws.</li> <li>• Provide for a full-scale applicability of administrative sanctions available for prudential purposes in case of AML/CFT incompliance (for example, revocation of license of banks, pension funds, broker/dealer companies, investment funds).</li> <li>• Provide the missing elements of legislatively defined supervisory power for application of sanctions with respect to voluntary pension funds management companies, as well as of the directors/senior management of voluntary pension funds management companies and broker-dealer companies for AML/CFT incompliance.</li> <li>• Provide for effective functioning of the AML/CFT enforcement mechanism enabling application of proportionate and dissuasive sanctions under the AML/CFT Law and respective sectoral laws.</li> </ul> <p><i>Recommendation 25 (c. 25.1 [financial institutions])</i></p> <ul style="list-style-type: none"> <li>• Provide guidance describing ML/FT techniques and methods so as to assist financial institutions to better understand the potential risks pertaining to ML/FT and to strive for establishing appropriate mechanisms in order to deal with those risks.</li> <li>• Revise and update the existing guidance papers provided by supervisors of financial institutions within the context of the current AML/CFT Law providing for a more standardized and detailed AML/CFT framework, in compliance with the applicable international best practice; harmonize such papers so as to provide a level “playing field” for all obligors in the financial market.</li> </ul> <p><i>Recommendation 29</i></p> <ul style="list-style-type: none"> <li>• Define legislative provisions establishing the powers of the National Bank to take the following measures while supervising for AML/CFT purposes activities of voluntary pension fund management companies – conduct (on-site) inspections, obtain access to all records and</li> </ul>
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	<p>information relevant to monitoring compliance, enforce and sanction both the institutions/businesses and their directors/senior management for incompliance with AML/CFT requirements.</p> <ul style="list-style-type: none"> <li>• Provide for application of sanctions with respect of directors/senior management of broker-dealer companies for their failure to comply with the legislative requirements (including those related to the AML/CFT framework).</li> <li>• Establish an adequate and relevant supervisory regime with regard to persons dealing with postal communications (with respect to domestic and international payment operations, and valuable mail), persons involved in professional activities of intermediation in credit transactions and provision of loans, factoring and forfeiting, provision of guarantees, and provision of money transfer services; particularly provide for the ability of the respective supervisory bodies to monitor and ensure compliance of the respective obligors with AML/CFT requirements, conduct (on-site) inspections, obtain access to all records and information relevant to monitoring compliance, enforce and sanction both the institutions/businesses and their directors/senior management for incompliance with AML/CFT requirements.</li> </ul>
<p>3.11 Money value transfer services (SR.VI)</p>	<ul style="list-style-type: none"> <li>• As it is only banks, and in some cases the Post Office, in Serbia that may conduct international remittances, Serbia's compliance with this Recommendation is inextricably linked to its compliance with other Recommendations which apply to financial institutions. The evaluation team's recommendations, elsewhere in this report, particularly with respect to Recommendations 4-11, 13-15, 17, 21-23, and Special Recommendation VII, are also relevant here.</li> <li>• Serbian authorities should take quick action to ensure that Post Office branches be subject to AML/CFT supervision.</li> <li>• Requirements should be introduced for MVT service operators to maintain a current list of agents and to make it available to the designated competent authority.</li> <li>• Serbian authorities made no indication that they were actively attempting to uncover illegal remittance activity and there is little if any attention being paid to this by relevant ministries and the supervisory authorities. It is recommended</li> </ul>

	<p>that supervisory authorities when inspecting businesses for other matters also be alert to the possibility that illegal remittance activity may be occurring. In addition, Serbian authorities could focus more broadly at looking for signs of underground banking as well as alternative remittance.</p>
<p><b>4. Preventive Measures – Non-Financial Businesses and Professions</b></p>	
<p>4.1 Customer due diligence and record-keeping (R.12)</p>	<p><i>Recommendation 5</i></p> <ul style="list-style-type: none"> <li>• The new requirement in the AML/CFT Law prohibiting any economic entity, including dealers in high value goods from conducting cash transactions in excess of EUr 15,000 should be amended to extent the prohibition to transactions that are equal to EUR 15,000.</li> <li>• Serbia should introduce into law or regulation the requirement for obligors to consider filing an STR if they have refused to establish a business relationship, carry out a transaction, or terminate an existing business relationship.</li> <li>• Serbian authorities should establish a list of indicators for the various DNFBP-s in order to help them identify unusual or suspicious transactions. Authorities should also provide AML/CFT training to create awareness and provide DNFBP-s with the knowledge to be able to file STR-s.</li> <li>• Issue guidelines on instructions for the manner of identifying their clients in accordance with the obligations under the AML/CFT Law.</li> <li>• As stated above, because of the newness of the AML/CFT Law, DNFBP-s have not yet applied the risk-based approach to clients. Serbian authorities should issue DNFBP-specific guidance and should work with DNFBP-s and their regulators to ensure they understand how to effectively implement in practice.</li> </ul> <p><i>Recommendation 6</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should assist DNFBP-s on how to identify foreign officials and apply enhanced due diligence, per the new requirements of the AML/CFT Law. This could include additional training seminars and additional instruction on assessing risk.</li> </ul> <p><i>Recommendation 8</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should adopt explicit requirements for DNFBP-s to develop policies and procedures to mitigate the use of</li> </ul>

	<p>technological developments for the purposes of ML and FT when conducting risk assessments.</p> <p><i>Recommendation 9</i></p> <ul style="list-style-type: none"> <li>• Until Serbian authorities have determined in which countries financial institutions are permitted to rely on third parties, there can be no implementation of this provision. Serbian authorities should work to issue the sub-law in preparation and the list mentioned in Article 24.</li> </ul> <p><i>Recommendation 10</i></p> <ul style="list-style-type: none"> <li>• As many DNFBPs indicated that they were not aware of any requirements to maintain records about their clients and in fact, did not keep such records, the Serbian authorities should ensure that DNFBPs fully understand and comply with their record keeping obligations.</li> </ul> <p><i>Recommendation 11</i></p> <ul style="list-style-type: none"> <li>• As the AML/CFT Law only requires obligors to pay special attention to all complex, unusual large transactions or unusual patters of transactions that have no apparent or visible economic or lawful purpose when developing a list of indicators and Serbian authorities have not provided a list of indicators for DNFBP-s, the evaluation team has concerns about the sector’s ability to implement the requirements of Recommendation 11.</li> <li>• While the evaluation team finds the list of indicators to be insufficient to meet the requirements of Recommendation 11, the Decision on KYC Procedure does meet the requirements of Recommendation 11 in regards to paying special attention to unusual transactions and examining the background and purpose of transactions and setting forth those finding in writing, however it is not applicable to all financial institutions. Serbian authorities should ensure that the provisions of the Decision on KYC Procedure also apply to DNFBP-s.</li> <li>• Serbian authorities should ensure that DNFBP-s are capable of adequately identifying unusual transactions, particularly through additional training and developing better lists of indicators that match the market activities of the financial institution.</li> </ul>
4.2 Suspicious transaction reporting (R.16)	<p><i>Recommendation 13</i></p> <ul style="list-style-type: none"> <li>• Provide specific guidance on the legal definition of the reporting obligation, so as to prevent its possible restrictive interpretation, as well as to take further measures to ensure that obligor DNFBP-s and lawyers understand it in the</li> </ul>

	<p>broadest meaning of the AML/CFT Law and pertinent regulations/ guidelines.</p> <ul style="list-style-type: none"> <li>• Provide for appropriate implementation of the reporting requirement by obligor DNFBP-s and lawyers, by means of ensuring that they have their own lists of indicators for recognizing ML/FT-related suspicious transactions</li> <li>• Ensure that for all obligor DNFBP-s and lawyers the APML has developed lists of indicators to guide obligors in recognizing ML/FT-related suspicious transactions; make such lists clearly identifiable (by means of an official, publicly accessible reference number, or publication in an official source).</li> <li>• Continue efforts aimed at developing and introducing a well-structured, coordinated outreach program (for example, by means of series of seminars, regular training sessions for compliance officers, etc) for obligor DNFBP-s and lawyers to fully understand their reporting requirements, in particular the new FT reporting requirement.</li> </ul> <p><i>Recommendation 14</i></p> <ul style="list-style-type: none"> <li>• It is recommended to the Serbian authorities to make the necessary legal amendments to ensure that:       <ol style="list-style-type: none"> <li>(a) DNFBPs are protected from criminal liability for breach of any restriction on disclosure of information if they report their suspicions in good faith to the APML;</li> <li>(b) Expand the tipping-off provisions to include not only those cases where a STR or related information has been reported but also when it is in the process of being reported to the APML.</li> </ol> </li> <li>• Serbian authorities should ensure that these provisions are appropriately implemented, through issuing adequate guidance to obligors concerning tipping off, so that DNFBPs and their employees fully understand the scope of the safe harbour and tipping off requirements and are aware of and sensitive to these issues when conducting CDD.</li> </ul> <p><i>Recommendation 15</i></p> <ul style="list-style-type: none"> <li>• Specify the procedure for executing internal policies and controls aimed at prevention of ML/FT, as defined by Articles 45 of the AML/CFT Law; provide guidance and training for all obligor DNFBP-s and lawyers to assist them in developing adequate internal controls to prevent ML/ FT.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Amend the AML/CFT Law to require obligors having less than four employees to appoint a compliance officer.</li> <li>• Provide for adequate implementation of the requirement to conduct an internal audit of AML/CFT compliance.</li> <li>• Provide for adequate implementation of the requirement to provide regular professional training for employees carrying out tasks of prevention and detection of ML/FT.</li> <li>• Provide for screening procedures to ensure high standards when hiring employees.</li> </ul> <p><i>Recommendation 21</i></p> <ul style="list-style-type: none"> <li>• Revise and update the list of the countries which do not apply or insufficiently apply the FATF Recommendations; establish enforceable procedures for that list to be recognized and duly applied by obligor DNFBP-s and lawyers.</li> </ul>
<p>4.3 Regulation, supervision and monitoring (R.24-25)</p>	<p><i>Recommendation 24</i></p> <ul style="list-style-type: none"> <li>• Eliminate the grounds for uncertainty about applicability of pecuniary sanctions under the AML/CFT Law and the Law on Games of Chance.</li> <li>• Provide for administrative sanctions in case of casinos' incompliance with the national AML/CFT requirements (such as written warnings, orders to comply with specific instructions, barring individuals from employment within the sector, replacing or restricting powers of managers, directors, or controlling owners, or withdrawal of license).</li> <li>• Take legal or regulatory measures to prevent individuals with criminal background from acquiring or becoming the beneficial owner of a significant or controlling interest, holding a management function, in or being/becoming an operator of a casino.</li> <li>• Establish an adequate and relevant supervisory regime with regard to auditing companies, licensed auditors, lawyers and lawyer partnerships, dealers in precious metals and dealers in precious stones persons exercising professional activities of intermediation in real estate transactions, accounting, and tax advising, with the national AML/CFT requirements; particularly provide for the ability of the respective supervisory bodies to monitor and ensure compliance of the respective obligors with AML/CFT requirements, conduct (on-site) inspections, obtain access to all records and</li> </ul>

	<p>information relevant to monitoring compliance, enforce and sanction both the institutions/businesses and their directors/senior management for incompliance with AML/CFT requirements.</p> <p><i>Recommendation 25 (c. 25.1 [DNFBP])</i></p> <ul style="list-style-type: none"> <li>• Establish guidelines that would assist obligor DNFBP-s and lawyers to implement and comply with their respective AML/CFT requirements. Such guidelines would provide assistance on issues covered under the relevant FATF Recommendations, including: (i) a description of ML and FT techniques and methods; and (ii) any additional measures that obligor DNFBP-s and lawyers could take to ensure that their AML/CFT measures are effective.</li> </ul>
4.4 Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> <li>• The Serbian authorities should conduct sector-specific assessments of MT and FT risk posed by other non-financial businesses and professions, and based on those results, consider extending the requirements of the AML/CFT law to additional obligors, such as on dealers in high value and luxury goods, pawnshops, auction houses, and investment advisers.</li> <li>• Serbian authorities should also consider taking measures to issue smaller denominations of banknotes and develop and utilize modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.</li> </ul>
<b>5. Legal Persons and Arrangements &amp; Non-Profit Organisations</b>	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> <li>• Review the existing registration mechanisms in place and take legislative and other measures to ensure that registered information includes accurate and up to date details on beneficial ownership and control, as defined under the FATF Recommendations, for all legal persons and that such information is available to competent authorities in a timely fashion.</li> <li>• Strengthen preventative measures for deterring from the practice of setting up fictitious companies.</li> </ul>
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> <li>• Recommendation 34 does not appear to be applicable as trusts cannot be established in Serbia. Nevertheless, given the uncertainty of foreign trusts operating in Serbia, the Serbian authorities should consider satisfying themselves that foreign trusts do not operate in the country</li> </ul>



	<p>having registered themselves as branches of foreign institutions.</p>
<p>5.3 Non-profit organisations (SR.VIII)</p>	<ul style="list-style-type: none"> <li>• Conduct a review of the adequacy of domestic laws and regulations that relate to NPO-s for the purpose of identifying the features and types of NPO-s that are at risk of being misuses for FT and conduct periodic reassessments by reviewing new information on the' sector's potential vulnerabilities to terrorist activities.</li> <li>• Reach out to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include: i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPO-s.</li> <li>• Take measures to promote effective supervision or monitoring of NPO-s which account for a significant portion of financial resources under control of the sector and a substantial share of the sector's international activities.</li> <li>• Review the legal framework to ensure that: <ul style="list-style-type: none"> <li>e) NPO-s maintain information on purpose and objective of their stated activities and on the identity of the persons who own, control or direct their activities, including senior officers, board members and trustees and that such information is publicly available;</li> <li>f) all NPO-s are adequately registered and that information is available to competent authorities;</li> <li>g) record keeping requirements for NPO-s include records of domestic and international transactions sufficiently detailed to verify that funds have been spent consistently with the purpose and objectives of the organisation and keep such data for a period of at least 5 years;</li> <li>h) there are measures in place to sanction violations of oversight measures or rules by NPO-s or persons acting on behalf of NPO-s.</li> </ul> </li> <li>• Implement measures to ensure that competent authorities can effectively investigate and gather information on NPO-s as listed in criterion VIII.4.</li> <li>• Identify appropriate points of contacts and procedures to respond to international requests for information regarding particular NPO-s that are suspected of terrorist financing or other forms of terrorist support.</li> </ul>

<b>6. National and International Co-operation</b>	
6.1 National co-operation and coordination (R.31)	<p><i>Recommendation 31</i></p> <ul style="list-style-type: none"> <li>• The effective functioning of the Standing Monitoring Group should be ensured and the implementation and improvements emanating from the work undertaken by this group should be measured.</li> <li>• The Serbian authorities should speedily implement the recommendations under the National Strategy aimed at improving the operational co-operation between competent state bodies and agencies.</li> <li>• The authorities should give more emphasis to consultations and feedback to the financial sector and consider establishing formal mechanisms to ensure an adequate consultation also with DNFBP-s.</li> </ul>
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<p><i>Recommendation 35</i></p> <ul style="list-style-type: none"> <li>• The Serbian authorities should take additional measures to address the deficiencies identified in sections 2 and 6 which are also relevant in the context of implementation of specific articles of the Conventions as well as to ensure the effective implementation of the newly adopted legislation. Additional measures are required in order to implement article 31 of the Palermo Convention.</li> </ul> <p><i>Special Recommendation I</i></p> <ul style="list-style-type: none"> <li>• The same recommendations on criminalisation of FT offence as well as on further improvement of freezing and confiscation mechanisms are reiterated in this context. In particular, Serbia should: <ul style="list-style-type: none"> <li>– Define the FT offense in line with the definition of the offense in the FT Convention;</li> <li>– Put in place adequate measures to fully address the requirements under S/RES 1267 (1999) and successor resolutions and S/RES 1373 (2001)</li> </ul> </li> </ul>
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	<p><i>Recommendation 36</i></p> <ul style="list-style-type: none"> <li>• The Serbian authorities should put in place a system enabling them to monitor the quality and speed of executing requests.</li> <li>• Serbia should clarify whether the application of dual criminality may limit its ability to provide assistance in certain situations, particularly in the context of identified deficiencies with respect to the FT offence as outlined under Special</li> </ul>

	<p>Recommendation II.</p> <p><i>Recommendation 37</i></p> <ul style="list-style-type: none"> <li>• Serbia should consider lifting the dual criminality requirement for less intrusive and non compulsory measures.</li> </ul> <p><i>Recommendation 38</i></p> <ul style="list-style-type: none"> <li>• The shortcomings identified with respect to provisional and confiscation measures should be remedied as they may limit Serbia’s ability to take such measures based on foreign requests in certain cases.</li> <li>• Serbia should have arrangements in place for coordinating seizure and confiscation actions with other countries.</li> </ul> <p><i>Special Recommendation V</i></p> <ul style="list-style-type: none"> <li>• Serbian authorities should explicitly set out formal timeframes to enable that requests for MLA relating to FT are dealt with by competent authorities in a timely manner.</li> </ul>
6.4 Extradition (R.39, 37 & SR.V)	<ul style="list-style-type: none"> <li>• Clarify whether the application of dual criminality may limit its ability to provide assistance in certain situations, particularly in the context of identified deficiencies with respect to the FT offence as outlined under Special Recommendation II.</li> <li>• Eliminate the ground for refusal of an extradition request set out in article 7(5) of the MLA Law</li> <li>• In cases of non-extradition of own citizens, the Serbian authorities should ensure that internal criminal proceedings are instituted efficiently and in a timely manner.</li> <li>• Take steps to improve the overall effectiveness of the extradition framework and develop general reference materials, models forms and circulars or practical guidelines which cover practical aspects of extradition and commentaries of the existing legal provisions.</li> </ul>
6.5 Other Forms of Co-operation (R.40 & SR.V)	<ul style="list-style-type: none"> <li>• The authorities should undertake a thorough review of the legal framework which governs international co-operation and information exchange and amend the existing laws governing the scope of action of all competent financial sector and non financial sector supervisory authorities to ensure that they allow the widest range of co-operation and that these bodies can exchange information both spontaneously and upon request in line with the FATF standards under Recommendation 40;</li> <li>• The authorities should ensure that exchanges of information by supervisory and law enforcement authorities are not made subject to disproportionate</li> </ul>

	<p>or unduly restrictive conditions;</p> <ul style="list-style-type: none"> <li>• The supervisory authorities should keep comprehensive statistical information on the exchange of information with foreign counterparts, including on whether the requests were granted or refused</li> </ul>
<p><b>7. Other Issues</b></p>	
<p>7.1 Resources and statistics (R. 30 &amp; 32)</p>	<p><i>Recommendation 30</i> <u>FIU</u></p> <ul style="list-style-type: none"> <li>• Additional measures should be taken by the authorities to adequately staff the APML as well as provide to them with adequate offices, technical resources and equipment.</li> <li>• Internal training programs would need to be tailored, to ensure that APML staff, including newly recruited staff, receives specialised and on-going training suited to their responsibilities. Such training could include in particular analyst training, training on specialised products, trend and typologies, IT and software training.</li> </ul> <p><u>Law enforcement and prosecution authorities</u></p> <ul style="list-style-type: none"> <li>• Review the existing legal framework and amend it, in the light of the issues of concern highlighted in the report, to ensure that adequate requirements are set out clearly for law enforcement and prosecution services, including specialised services, enabling them to maintain high professional standards, including high integrity and that the staff are appropriately skilled.</li> <li>• Review the Tax Police's structure and adequacy of financial, human and technical resources, as well as the requirements regarding professional standards, integrity and skills;</li> <li>• Take all necessary legislative and other measures to ensure that the Financial Investigation Unit within the Ministry of Interior is adequately structured, funded and staffed in order to become operational as soon as possible;</li> <li>• Additional resources (human, premises, equipment, etc) should be allocated to the over-worked public prosecutor and police services so that they can fully and effectively perform their functions;</li> <li>• Consistent with a more proactive approach to the detection and exposure of the various forms of ML, take measures to ensure a greater specialisation of police officers, prosecutors and judges in financial crime and ML cases and improve prosecutorial AML/CFT expertise. The recommendations formulated in the National</li> </ul>

	<p>Strategy regarding training should be implemented speedily.</p> <p><u>All supervisory authorities</u></p> <ul style="list-style-type: none"> <li>• Establish requirements providing for professional standards (including confidentiality and integrity requirements), and expertise/skills of the staff of supervisory bodies involved in the supervision of the AML/CFT Law (for the Securities Commission<sup>13</sup>, the Bar Association, the Chamber of Certified Auditors).</li> <li>• Ensure adequate, relevant, and regular training for combating ML and FT throughout all supervisory bodies involved in the supervision of the AML/CFT Law.</li> </ul> <p><u>Policy makers</u></p> <ul style="list-style-type: none"> <li>• The Serbian authorities should satisfy themselves that there are adequate resources allocated to set up and maintain the AML/CFT system on the policy level and that policy makers are appropriately skilled and provided with relevant training.</li> </ul> <p><u>MLA/extradition competent authorities</u></p> <ul style="list-style-type: none"> <li>• Serbian authorities should ensure that the competent authorities for sending/receiving mutual legal assistance/extradition requests are adequately structured, funded, staffed to fully and effectively perform their functions.</li> <li>• Serbian authorities should review existing technical resources available and take appropriate measures to ensure that proper technical means and equipment (e.g. ICT equipment, equipment for video/telephone conference, technical means required for special investigative measures) are available for competent authorities enabling them to adequately respond to mutual legal assistance requests.</li> <li>• Initial and continuous training should be organised for all staff of competent authorities responsible for sending/receiving mutual legal assistance/extradition requests on a regular basis to ensure that they have an adequate understanding of the relevant conventions related to international cooperation in criminal matters as well as the application of the new provisions and procedures for mutual assistance and extradition set out in the MLA Law and the Law on Seizure and Confiscation of the Proceeds from Crime.</li> </ul>
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<sup>13</sup> The Securities Commission has provided some information on the requirements to professional standards and expertise/ skills of the staff, but not on those to confidentiality and integrity.

	<p>Also, in order to enable direct communication between judicial authorities, the Serbian authorities should consider promoting trainings in foreign languages for relevant professionals.</p> <ul style="list-style-type: none"> <li>• The authorities should also develop general reference materials, models forms and circulars or practical guidelines which cover practical aspects of mutual legal assistance in criminal matters and commentaries of the existing legal provisions.</li> </ul> <p><i>Recommendation 32</i></p> <ul style="list-style-type: none"> <li>• Considering the various statistics presented to the evaluation team before the visit and afterwards, the evaluation team recommends the authorities to consider designating one single institution responsible for keeping integrated statistics related to AML/CFT.</li> <li>• Also, the authorities may consider keeping records on the underlying predicate offences, on cases where there was an autonomous money laundering prosecution, cases which were tried in the same indictment as the predicate offence, cases which are self laundering and sanctions applied, as this would enable them to monitor the effectiveness of implementation of the ML provision.</li> <li>• Though there are no statistics due to the absence of relevant proceedings, Serbia should ensure that there is a requirement for competent authorities to maintain comprehensive annual statistics on FT investigations, prosecutions and convictions, should there be such cases.</li> <li>• The authorities should maintain comprehensive and precise annual statistics on the number of cases and the amounts of property frozen, seized and confiscated relating to ML, FT and criminal proceeds.</li> <li>• Ensure maintenance of accurate, differentiated (by types and number of obligors, types and number of irregularities, types and number of applied supervisory measures [including pecuniary sanctions] etc), consistent statistics on on-site inspections conducted by supervisors relating to or including AML/CFT issues, throughout all supervisory bodies involved in the supervision of the AML/CFT Law.</li> <li>• Ensure maintenance of accurate, differentiated (by types and number of requestors and requested counterparties, number of refused and satisfied requests, records on bases for refusals etc), consistent statistics on formal requests for</li> </ul>
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	<p>assistance, throughout all supervisory bodies involved in the supervision of the AML/CFT Law.</p> <ul style="list-style-type: none"> <li>• Undertake an on-going analysis of the risks of ML/FT (vulnerabilities, sectors at risk, trends, etc) to streamline its AML/CFT strategy and efforts as necessary;</li> <li>• Pursue current efforts and develop the strategic and collective review of the performance of the AML/CFT system as a whole.</li> <li>• The Serbian authorities should maintain comprehensive annual statistics on all mutual legal assistance and extradition requests - including requests relating to freezing, seizing and confiscation - that are made or received, relating to ML, the predicate offences and FT, including the nature of the request, whether it was granted or refused and the time required to respond.</li> </ul>
7.2 Other relevant AML/CFT measures or issues	NA
7.3 General framework – structural issues	NA

### 3.2 APPENDIX II – Relevant EU texts

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

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

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

(a) in the case of corporate entities:

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

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

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

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

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

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

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

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

**Article 2**

**Politically exposed persons**

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

- (a) heads of State, heads of government, ministers and deputy or assistant ministers;
  - (b) members of parliaments;
  - (c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
  - (d) members of courts of auditors or of the boards of central banks;
  - (e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
  - (f) members of the administrative, management or supervisory bodies of State-owned enterprises.
- None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:

- (a) the spouse;
- (b) any partner considered by national law as equivalent to the spouse;
- (c) the children and their spouses or partners;
- (d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:

- (a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;



(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

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