



# Mutual Evaluation Report

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

JUNE 2010

REPUBLIC OF UZBEKISTAN

Uzbekistan is a member of the Eurasian Group on combating money laundering and financing of terrorism (EAG). This evaluation was conducted by the EAG and was then discussed and adopted by the EAG Plenary in June 2010.

© 2010 EAG. All rights reserved. No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate, reproduce or translate all or part of this publication should be obtained from EAG ([info@eurasiangroup.org](mailto:info@eurasiangroup.org)).

2010

© EAG

## TABLE OF CONTENTS

PREFACE - INFORMATION AND METHODOLOGY USED TO EVALUATE THE REPUBLIC OF UZBEKISTAN .....	6
EXECUTIVE SUMMARY .....	7
1. Background .....	7
2. Legal System and Institutional Measures.....	8
3. Preventive Measures – Financial Institutions.....	9
4. Preventive measures - designated non-financial businesses and professions .....	11
5. Legal Entities and Forms and non-commercial institutions.....	12
6. National and International Cooperation .....	13
MUTUAL EVALUATION REPORT .....	15
1. GENERAL ISSUES .....	15
1.1. General information about Uzbekistan .....	15
1.2. The general situation with the money laundering and financing of terrorism .....	18
1.3. Summary of the Financial Sector and DNFBPs.....	19
1.5. Brief summary of the strategy of countering the money laundering and financing of terrorism .....	26
2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES .....	34
2.1 Criminalization of Money Laundering (R.1 & 2) .....	34
2.2 Criminalization of Financing of Terrorism (SR.II) .....	41
2.3 Confiscation, freezing or seizing of proceeds of crime (R.3) .....	45
2.4. Freezing of Funds used for Financing of Terrorism (SR.III) .....	49
2.5. The Financial Intelligence Unit and its functions (R.26, 30 and 32). .....	52
2.6. Law enforcement, prosecution and other competent authorities – the framework for investigation and prosecution of offences as well as for confiscation and freezing (R.27, 28, 30 and 32).....	56
2.7. Cross-border Declaration and Disclosure (SR.IX).....	59
3. PREVENTIVE MEASURES –FINANCIAL INSTITUTIONS .....	65
3.1. Risk of money laundering and terrorist financing.....	65
3.2 Customer Due Diligence, including enhanced and reduced measures (R.5 - 8).....	65
3.3. Third parties and intermediaries (R.9) .....	95
3.4 Financial Institution Secrecy or Confidentiality (R.4) .....	95
3.5. Record Keeping and Wire Transfer Rules (R.10 and SR.VII).....	97
3.6 Monitoring of Transactions and Relationships (R.11 &21).....	102
3.7. Suspicious Transactions Reports and Other Reporting (R.13-14, 19, 25 & SR.IV).....	109
3.8. Internal Control, Compliance, Audit and Foreign Branches (R.15 & 22) .....	120
3.9. Shell Banks (R.18) .....	125
3.10. The Supervisory and Oversight System – Competent Authorities and SROs. Role, Functions, Duties and Powers (Including Sanctions) (R.23, 29, 17 & 25) .....	126
3.11 Money or Value Transfer Services (SR.VI).....	139
4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS.....	141
4.1. Customer Due Diligence and Record-Keeping (R.12).....	141
4.2. Suspicious Transaction Reporting (R.16) .....	145
4.3. Regulation, Supervision and Monitoring (R.24-25).....	148
4.4. Other Non-Financial Businesses and Professions. Modern Secure Transaction Techniques (R.20).....	151
5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS .....	152
5.1 Legal Persons - Access to Beneficial Ownership and Control Information (R.33) .....	152
5.2. Legal Arrangements - Access to Beneficial Ownership and Control Information (R.34). .....	154
5.3 Non-Profit Organizations (SR.VIII).....	155

6. NATIONAL AND INTERNATIONAL COOPERATION.....	160
6.1 National Cooperation and Coordination (R.31) .....	160
6.2 The Conventions and UN Special Resolutions (R.35 and SR.I) .....	160
6.3 Mutual Legal Assistance (R.36-38, SR.V).....	163
6.4. Extradition (R.37, 39 and SR.V).....	168
6.5. Other Forms of International Cooperation (R.40 and SR.V) .....	172
7. OTHER ISSUES .....	175
7.1. Resources and Statistics (R.30 and 32) .....	175
7.2 Other Relevant AML/CFT Measures or Issues.....	175
7.3. General Framework of the AML/CFT System (see also Section 1.1) .....	175
TABLES.....	176
Table 1. Ratings of Compliance with FATF Recommendations .....	176
Table 2: Recommended Action Plan to Improve the AML/CFT System .....	187
Table 3. Authorities' Response to the Evaluation (if necessary) .....	199
ANNEXES .....	200
Annex 1. List of Abbreviations .....	200
Annex 2. Details of all Bodies Met on the On-Site Mission.....	202
Annex 3. Key Laws, Regulations and other Documents.....	204
Annex 4. List of Key Law, Regulations and Other materials Provided to Evaluation Team ...	220
Annex 5 .....	225
Annex 6 .....	228
Annex 7 .....	229
Annex 8 .....	231

## **PREFACE - INFORMATION AND METHODOLOGY USED TO EVALUATE THE REPUBLIC OF UZBEKISTAN**

1. The evaluation of the regime for anti-money laundering (AML)<sup>1</sup> and combating the financing of terrorism (CFT) of the Republic of Uzbekistan (Uzbekistan) is based on the Forty Recommendations of 2003 and Nine Special Recommendations for Financing of Terrorism of 2001 issued by the Financial Action Task Force (FATF) and prepared using the AML/CFT Methodology of 2004<sup>2</sup> recognized by the EAG. The evaluation was based on laws, regulations and other materials and data received by the evaluating team during its November 8-14, 2009 off-site mission to Uzbekistan and thereafter. During its off-site mission, the evaluating team met with officials and representatives of all relevant government authorities of Uzbekistan and the private sector. The list of agencies meetings were held with are given in Annex 1 attached hereto.

2. The evaluation was conducted by a group of evaluators made up of the EAG's law, finance and law-enforcement experts. The evaluating team consisted of the following experts: Mr. A. Abdramanov, Chief Expert of the Department of Legal Services and International Relations at the Committee for Financial Monitoring of the Republic of Kazakhstan, (law-enforcement expert); Mr. I. Alexeev, Deputy Head of the Department of International Relations at the Federal Financial Monitoring Service of the Russian Federation (law-enforcement expert); Ms. T. Artamonova, Head of the Coordination Department for Cooperation with Authorized Bodies and International Organizations at the Russian Central Bank (financial expert); Mr. M. Mavlonov, Head of the Department of Banking Supervision and Licensing at the National Bank of Tajikistan (financial expert); Mr. O. Mayarovich, Chief Specialist of the Principal Expert and Legal Department at the State Control Committee of Belarus (legal expert); Mr. Ch. Kenenbaev, Chief Inspector of the Legal Support and Supervision Department at the State Financial Intelligence Service of the Kyrgyz Republic (legal expert), as well as Mr. I. Nebyvaev and Mr. S. Teterukov from the EAG Secretariat. The experts reviewed the institutional structure, existing laws on AML / CFT, instructions, guidelines and other requirements along with regulatory and other systems used for combating money laundering (ML) and financing of terrorism (FT) through financial institutions, designated non-financial businesses and professions (DNFBP) and studied the implementation and effectiveness of these systems.

3. This report presents a summary of existing in Uzbekistan at the time of the off-site mission AML / CFT measures, or immediately thereafter. It describes and analyzes these measures and makes recommendations on how certain aspects of the system could be strengthened (see Table 2). It also reveals levels of conformity of Uzbekistan to the FATF 40+9 Recommendations (see Table 1).

---

<sup>1</sup> See Annex 1 containing full list abbreviations and acronyms

<sup>2</sup> With February 2009 updates

## EXECUTIVE SUMMARY

### 1. Background

1. This report represents a summary of existing measures for combating money laundering (AML) and the financing of terrorism (CFT) in Uzbekistan as of November 2009 (i.e. during the off-site mission and immediately thereafter). It describes and analyzes these measures and makes recommendations on how certain aspects of the system could be strengthened (see Table 2). It also reveals the levels of conformity of Uzbekistan to the FATF 40 +9 Recommendations (see attached Rating Table of Compliance with the FATF Recommendations).

2. The foundation of Uzbekistan's AML / CFT system was laid in 2001, when both ML and FT were criminalized. Law of the Republic of Uzbekistan No. 660-II "On Combating Money Laundering and Terrorist Financing" (AML/CFT Law) came into force on January 1, 2006. The original version of the AML / CFT Law required all financial institutions not only to report on all transactions meeting the specified by the law criteria or those valued at more than the amount equaling 4000 times of the size of the minimum wage, but also to suspend such transactions for a period of two business days. Such transactions could only be executed after a specified period in the absence of special instructions to the contrary. This system created a number of difficulties for the country's economy, leading to the suspension of the part of the AML/CFT Law related to reporting suspicious transactions on April 27, 2007, along with termination of the authority of the Financial Intelligence Unit (FIU). In April 2009, the Law was reinstated in a new version, with the necessary subordinate acts restoring the powers of the FIU adopted in September 2009. Despite the suspension of a number of legislative provisions, the AML / CFT system continued to function in 2007 – 2008 largely due to the efforts of the country's law-enforcement agencies. At this stage, the oversight and law-enforcement agencies are undergoing the necessary resource and structural reforms and stepping up the work on AML / CFT, both when it comes to finalizing the legal framework, conducting inspections and implementing enforcement measures. Despite the fact that the fundamentals of the AML / CFT system were established in 2006, some provisions of the legislation enacted in 2009 are being introduced for the first time, making it impossible to judge on their effectiveness (especially in regard to the powers of oversight agencies). There are certain concerns about the existence of gaps in the system of preventive measures (customer due diligence, data storage, internal controls, etc.) which are applied to financial institutions and designated non-financial businesses and professions (DNFBP).

3. The main sources of criminal proceeds in Uzbekistan are linked to drug-related offenses, given that Uzbekistan is used as a transit country for shipment of drugs from Afghanistan, along with offences related to fraud and abuse of public office. Uzbekistan faces an acute threat of terrorism from "Islamic Movement of Uzbekistan", "Hizb ut-Tahrir" and related to them organizations.

4. Uzbekistan is a sovereign, unitary, secular and democratic republic with a presidential form of government. Uzbekistan's GDP is approximately equal to 36.8 trillion Som (2008). The country's banking system, made up of 30 banks, is the most developed part of the financial sector, which is also the home to 100 credit unions, 31 micro credit organizations, 185 professional participants of the securities market, 30 insurance companies (including 2 life insurance companies) and 3 insurance brokers. The money and valuables remittance services are only available through banks and the postal service of Uzbekiston Pochtasi JSC. The DNFBP are

represented by lottery companies and other gaming activities associated with risk, precious metal/stone merchants, real-estate intermediaries, public notaries, lawyers or their associations and audit companies.

## **2. Legal System and Institutional Measures**

5. Uzbekistan criminalized ML as "Legalization of Proceeds from Crime" in Art. 243 of the Criminal Code of Uzbekistan. According to this Law, legalization of assets (monitory and others) obtained by criminal means through transfer, conversion or exchange, as well as concealment of its nature, source, location, disposition, transfer, ownership and other rights and title constitutes a criminal offence. At the same time, the definition of the ML offence does not include, in particular, acquisition, possession or use of assets obtained by criminal means, as required by the Vienna and the Palermo Conventions. All offences provided for in the Criminal Code can be regarded as predicate for laundering. However, the Criminal Code of Uzbekistan does not cover all categories of predicate offences listed in the 40 FATF Recommendations. In particular, it does not cover such offences as insider trading and market manipulation. The money laundering offence may be applied to persons who committed a predicate offence (self-laundering). Under the Uzbek Law, criminal liability applies only to natural persons, with no explicit provisions ensuring ML liability for legal entities. Penalties for natural persons are largely well-proportioned (5 to 10 years of imprisonment), with 47 guilty verdicts affecting 200 individuals passed during the 2006 – 2009 period. Given a relatively high number of ML-related convictions and a positive trend in this field, as well as the fact that convictions continued at the time when the framework legislation in the sphere of AML / CFT was suspended, it appears that the system, in this part at least, functions effectively, particularly so when predicated offences are represented by tax-related crimes.

6. Financing of terrorism is criminalized in Art. 155 "Terrorism" of the Criminal Code of Uzbekistan. Under this law, any activity that has the purpose of ensuring the existence, operation and financing of a terrorist organization, preparation and commission of terrorist acts, direct or indirect provision and collection of any funds, resources or provision of other services to terrorist organizations or persons assisting or participating in terrorist activities constitutes a criminal offence. Criminal liability applies only to natural persons, with penalties being largely proportionate (eight years to life imprisonment). There were 80 convictions affecting 432 persons in the 2006 – 2009 period. Given that the offences of terrorism and FT are combined into a single article, there is no separation of dispositions in art. 155, namely: terrorism or FT. However the Uzbek officials reported that 2 out of 15 persons charged under Art.155 in 2008 were persons prosecuted for FT; 29 persons out of 105, in 2009. In this connection, it is assumed that Article 155 of the Criminal Code of Uzbekistan is applied effectively enough with regard to FT. The Law on Combating Terrorism, which was passed in 2000, provides liability in the form of liquidation for organizations recognized as terrorist.

7. Confiscation of property for ML-related offences in Uzbekistan are covered in Art. 203, 211, 284 and 285 of the Criminal Procedure Code of Uzbekistan. In view of the fact that one out of the necessary twenty types of predicate offences is not criminalized, confiscation in respect of this offence is not possible. Law enforcement and other competent authorities have sufficient powers to identify and search for property subject to forfeiture, or in the even of suspicions that such property constitutes the proceeds from crime. However, the legal basis for these powers is poorly regulated.

8. The AML/CFT Law contains provisions allowing for freezing (up to 5 working days) of transactions conducted by persons suspected of being involved in terrorist activities. At the same



time, the existing legal mechanisms do not provide for any effective procedures for freezing terrorist assets or ways for implementing such procedures as required by the requirements of UN Security Council resolutions 1267 and 1373. The necessary mechanisms for analyzing and using the data received from foreign states and pertaining to the subjects of freezing, along with procedures for review of requests for de-listing of individuals are absent.

9. The FIU of Uzbekistan (Department for Combating Money Laundering and Terrorist Financing), hereinafter the "Department" was set up within the Department for Combating Tax, Currency Crimes and Money Laundering at Uzbekistan's Prosecutor-General's Office pursuant to Presidential Decree No. PP-331 dated 21.04.2006, with responsibilities for gathering, analyzing and transfer of information on suspicious transactions for further investigations. In the period from April 2007 to September 2009, the Department functions were suspended. There is not enough clarity on the issue of the FIU's authority to request additional information on the transactions in respect of which STRs have not been sent. Additionally, the efforts of the Department are mainly devoted to identifying predicate offences and only after that conducting financial investigations into their results, resulting in the FIU becoming less effective as an analytical tool. There are also question marks over the operational independence of the FIU.

10. Pursuant to Art. 345 of the CPC, investigations into ML-related offences are carried out by the Interior Ministry, while FT-related offences are the prerogative of the National Security Service. Almost all criminal cases related to ML were opened by the Department. It appears that the law enforcement authorities have sufficient resources and are well aware of their responsibilities in respect to AML / CFT-related investigations. Their structure, as a whole, is adjusted to meet the AML /CFT-related objectives. The need for the staff to receive additional training on using ML/FT-related investigation procedures also exists. General powers of law-enforcement agencies related to confiscation of documents, searches, arrests and other similar actions are in line with Recommendation 28.

11. Under Uzbekistan's system for declaring goods and currency, it is compulsory to declare all currency (regardless of amount or type) being brought in or taken out of the country in the manner prescribe by the law. The current system is not fully compliant with SR.IX, because it is not used for AML / CFT and, besides, the Customs authorities have no powers to arrest or freeze the funds suspected of being used for money laundering or terrorist financing.

### **3. Preventive Measures – Financial Institutions**

12. The AML/CFT Law covers the entire spectrum of financial institutions (FI) in accordance with the FATF Recommendations, except for businesses accepting payments from the public through automated terminals (at time of the evaluation only one such company operated in Uzbekistan). Regulation of financial institutions is carried out, among others, on the basis of standard Internal Control Rules (hereinafter "ICR") developed and established by joint Decrees of the Department and the relevant supervisory, regulatory and licensing bodies. It is the responsibility of financial institutions to incorporate the provisions of these rules into their own rules of internal control. At the same time, it is impossible to assess the level of compliance with all the requirements of the IRC, since they had been adopted shortly before the mutual evaluation mission.

13. Financial institutions are not allowed to open and maintain anonymous accounts. The Central Bank of the Republic of Uzbekistan has taken necessary steps to close (convert) the existing anonymous accounts. Pursuant to the AML/CFT Law, the CDD measures must be used

with all transactions regardless of the amount, with the exception of the so-called "one-off" transactions. The meaning of the term "one-off" transaction varies from sector to sector, but in any case, the amount of such transaction may not exceed the amount equivalent to 1000 times of the minimum wage (33,645,000 Sum, approximately 15,000 Euro). However, due to the fact that the detailed requirements for implementation of the CDD measures are sets by appropriate IRCs for each type of financial institutions, it leads to narrowing of the requirements of the AML / CFT Law, which, in turn, may lead to problems with enforcement. There are also a number of gaps in the legal requirements related to verification of information provided by the client, ascertaining whether the client is acting on its own behalf or not, as well as ownership and management structures of clients operating as legal entities. The meaning of the term "beneficial owner" introduced in the insurance sector is not compliant with the FATF definition.

14. Uzbekistan has not accepted the required by the FATF Recommendations measures regarding politically exposed persons (PEPs). Regulation on correspondent bank relations is performed very well by the Central Bank. However, certain requirements, i.e. allocation of AML/CFT-related responsibilities between it and correspondent banks, are still absent. The practice of maintaining suspense accounts and correspondent relations in non-banking sectors is absent. Uzbekistan has taken some measures aimed at preventing ML / FT-related risks associated with the use of new technologies and remote access transactions (mostly in the banking sector).

15. Financial institutions are not allowed to transfer CDD-related responsibilities to third parties or businesses and, for this reason, R.9 is not applicable to Uzbekistan.

16. There are certain legal obstacles in the area of banking and commercial secrets, which may make it difficult for the FIU to obtain additional and not related to STR information from FIs.

17. There is a general requirement making it necessary for financial institutions to store the client identification and transaction history data (to be kept for five years following the relationship termination date). There is no explicit requirement for financial institutions to ensure proper storage of information to allow its prompt retrieval in the event of a request from the competent authorities. The storage period of three years provided for in some cases by certain bylaws does not meet the requirements of the AML/CFT Law. Uzbekistan has adopted most of the measures required in accordance with SR.VII.

18. The explicit obligation to pay extra attention to complex, very large or unusual transactions is present only in the banking sector. However, the special requirement to study their history and purpose, record analysis results, store them and make them available to competent authorities and auditors is absent. The AML/CFT Law also requires financial institutions to pay special attention to business relationships and transactions involving financial institutions in the countries with lax AML/CFT regimes. The list of such countries is based on the FATF data and is supplied to financial institutions.

19. Prior to April 2007, Uzbekistan used a system of mandatory controls, stipulating that all reports exceeding a certain threshold as well as all suspicious transaction reports meeting the criteria of suspiciousness established by the FIU had to be submitted to the FIU. Following the reinstatement of the of AML/CFT system in April 2009, all transactions suspected by financial institutions of being involved in money laundering or terrorist financing are subject to reporting. However, the number of STRs in some sectors appears to be disproportionate to the size of the market. Regarding Recommendation 14, all requirements have largely been met. However, due to insufficient practice, their level of effectiveness is also difficult to analyze. Recommendation 19 is

fully complied with. The feedback link to financial institutions is not strong enough. There are no guidelines or recommendations for institutions conducting monetary and other transaction. Descriptions of ML/FT schemes and techniques are also missing.

20. The AML/CFT Law contains a general requirement for financial institutions to set up a system of internal control. More detailed requirements for each of the sectors are specified by the relevant ICR. In this regard, not all types of financial institutions have a complete set of requirements of internal control, as required by Recommendation 15. Financial institutions (except banks) of Uzbekistan do not have any branches or subsidiaries abroad. However, the establishment of branches and subsidiaries is not prohibited under the Uzbek law. In this regard, Uzbekistan has not adopted all necessary legislative measures required pursuant to Recommendation 22 that govern the regulation of foreign country subsidiaries and branches (except banking sector).

21. No shell banks can be set up in Uzbekistan. Uzbek banks are not allowed to establish or maintain correspondent relations with shell banks. All financial institutions must also refrain from executing any transactions with foreign correspondent banks that allow shell banks to use their accounts.

22. Uzbekistan is at the stage of formation its own systems of AML / CFT-related regulation, supervision and sanctions for financial institutions. This system is predominantly based on the IRCs developed for each sector by an appropriate registration, licensing and supervisory authority and approved by the Department. Monitoring and supervision of implementation of the AML/CFT requirements is the responsibility of appropriate registration, licensing and supervisory authorities and the authorized state agency (the Department). The same authorized state agency (Department) is tasked with coordinating the work of all governmental and other agencies and organizations members of Uzbekistan's AML/CFT system, including the work related to regulation and supervision, which is the central element of the regulatory system. However, the regime of AML / CFT supervision and monitoring does not extend to cover businesses accepting payments from the public through automated terminals. De facto monitoring of leasing companies is absent due to lack of resources available to the Department. With the exception of the banking sector, the possibility of using a wide range of sanctions against all types of financial institutions guilty of AML/CFT violations is not defined. Also, there is no practice of applying sanctions (except banking sector). Financial institutions are not obliged to apply the Basic Principles for AML/CFT purposes. The staff size and structure of oversight agencies are not yet fully adjusted for successful AML/CFT supervision, having received no training in this field. Besides, not all oversight agencies are authorized to conduct such supervision. All AML/CFT-related guidelines published until now have largely been intended for the banking sector.

23. The government-regulated financial system of Uzbekistan permits money remittance only through banks or postal services. However, banks and postal services are already subject to the requirements of the AML / CFT Law, and, therefore, all the AML / CFT-related deficiencies identified in the banking system are applicable to banks in the context of remittances. At the same time, Uzbekistan has failed to demonstrate the effectiveness of its legislative and other measures against individuals engaged in transfers of money or valuables (TMV) outside the framework of the regulated financial system (e.g. *Hawala, fei ch'ien*).

#### **4. Preventive measures - designated non-financial businesses and professions**

24. Uzbekistan's AML/CFT Law covers the following types of DNFBP: persons engaged in transactions with precious metals and stones; participants of, or intermediaries in real-estate

operations; notary offices (notaries), lawyers and their associations; audit companies (when preparing and executing transactions on behalf of clients). Uzbekistan has banned all forms of risk-based gaming (including betting houses), except for draw, instant and numerical lotteries. There are no businesses in Uzbekistan offering trust services or independent accountants. Registration of virtually all legal entities is carried out by respective local authorities (hokimiyats). All registering authorities are informed on the matters of AML / CFT and regularly receive updated lists of terrorists and non-cooperative states.

25. The existing system of measures established by the AML/CFT Law for financial institutions is also applicable to DNFBP. The deficiencies in fulfillment of Recommendations 5, 6, and 8-11 in respect of DNFBP as well as Recommendations 13-15 and 21 are similar to the deficiencies identified in respect of financial institutions, while the low level of awareness among DNFBP of their AML / CFT-related responsibilities contributes to greater risk of money laundering and terrorist financing in this sector.

26. The State Assay Chamber of the Precious Metal Agency at the Central Bank of the Republic of Uzbekistan is responsible for licensing of the precious metal and precious stone business. However, the function for supervising the activities of precious metal and precious stone dealers in the field of AML / CFT, including audits and sanctions for violations, is de facto non-existent (de jure, however, it is the responsibility of the Department). Real estate agents do not currently have a public agency or SRO, authorized to exercise general supervision or monitoring of their activities. The Ministry of Justice licenses and regulates the activities of lawyers and their associations, notary offices (notaries) as well as audit firms. The powers of the Ministry of Justice are reduced to monitoring compliance by supervised persons with the general legislation regulating performance of business activities, licensing requirements and conditions, and does not include matters of AML / CFT. The competent authorities have not yet published any informative guidelines intended for DNFBP. The same feedback mechanisms are used in respect of DNFBP as in respect of financial institutions.

27. In addition to financial institutions and DNFBP, AML / CFT measures are applied to pawnshops and institutions running lotteries and other risk-based games. Uzbekistan is taking active steps to reduce the number of cash payments. One example of it is the introduction of a "Set of Additional Measures for Further Involvement of Uncommitted Funds of the Public or Economic Entities in Deposits of Commercial Banks". It is intended to assist the development of a system of cashless payments and promote greater use of credit card terminals.

## **5. Legal Entities and Forms and non-commercial institutions**

28. Pursuant to the Regulation on the Notification Procedures for State Registration and Recording of Entrepreneurial Entities, the Ministry of Justice of Uzbekistan is the regulating authority for audit firms, insurers and insurance brokers, stock exchange, agencies of economic management in the form of joint stock companies and businesses with foreign capital; Departments of the Ministry of Justice in regions, for businesses with foreign capital and markets operating in regions; Business Entity Registration Inspectorates at hokimiyats of regions and towns, for other business entities. Registration involves gathering of appropriate data on the legal entity, including submission of its charter documents. However, these measures are not aimed at establishing beneficial owners. Law-enforcement authorities have access to the registration data. Registration of legal entities is declarative in nature and does not provide for checking (verification) of the received by state authorities during registration data.

29. No legal associations, including trusts, in the sense as these terms are used in the FATF Recommendations can be set up in Uzbekistan.

30. Uzbekistan has established a comprehensive system for control and monitoring of the NPO (non-profit organization) sector. However, the issues of AML/CFT are beyond its priority area. At the same time, it can be argued that this system can also be used to protect the sector against the risks of ML or FT. This conclusion is also supported by the fact that at the time of the evaluation there was not a single case of NPO being used for FT or ML purposes. However, this sector of the country has not subject to analysis aimed at identifying the risks related to financing of terrorism. Even though programs for cooperation with the NPO sector have been developed and continue to function, they almost completely ignore the issues related to AML/CFT. State registration of non-governmental organizations is the responsibility of judicial authorities. Additionally, NPOs must be registered with tax and state statistics authorities. According to the NSS of Uzbekistan, all foreign grants are subject to a registration with a special committee set up by a "closed" government decree and responsible for compiling internal statistical data on the sources and allocation of funds intended for NPOs. The country has taken a number of measures to ensure effective and nationwide exchange of information related to NPOs among various competent authorities. The statistical data related to sanctions applied to the NPO sector suggests that the established system of supervision is very effectively.

## **6. National and International Cooperation**

31. Pursuant to Art. 9 of the AML/CFT Law, the specially authorized state agency (the Department) is authorized to coordinate the work of agencies involved in combating money laundering and terrorist financing. In practice, this is realized through the inclusion of the Department representatives into interagency investigating teams as well as organizing and conducting training activities for law-enforcement and regulatory agencies. Cooperation between all concerned agencies is carried out through the Coordination Council on AML / CFT set up by a "closed" government decree. A number of agencies (General Prosecutor's Office, the Department, the State Drug Control Committee, the Interior Ministry, the Central Bank, State Customs Committee, Center for Coordination and Control of the Securities Market) mentioned the existence of bilateral agreements with other agencies, which are typically "closed". One of the forms of such cooperation is to provide the FIU access to the databases of other agencies. Uzbekistan has not conducted the overall evaluation of the level of effectiveness of the AML / CFT system.

32. Uzbekistan joined the Vienna Convention on Feb. 24, 1995; the Palermo Convention on August 30, 2003 (subject to reservations: the competent authority for mutual legal assistance (MLA) for the Republic of Uzbekistan – General Prosecutor's Office); the UN International Convention for the Suppression of the Financing of Terrorism of 1999 on May 12, 2001. Effective implementation of the Convention is negatively impacted by insufficient criminalization of ML and FT. There are substantial deficiencies in respect of implementation of the UNSCR 1267 and 1373 and subsequent resolutions, the UNSCR 1452 on granting access to funds for basic needs is not being implemented, there are no de-listing procedures.

33. Uzbekistan is capable of providing various types of MLA in accordance with the requirements of Recommendations 36. During the period between 2006 and 2009, Uzbekistan received two Art. 243 (ML) requests for MLA. One in 2008 and another in 2009. Both requests were satisfied. During this same period, Uzbekistan sent one request for MLA under Art. 155 in 2009, which was satisfied. In the absence of a mutual recognition of the appropriate act as a

criminal offence (dual jurisdiction), MLA can be given to the maximum extent possible, while any technical differences between the laws of the requesting and requested States do not create an obstacle for provision of MLA by Uzbekistan. There are clear procedures to ensure timely execution of all MLA requests. Every law-enforcement agency in Uzbekistan has its own fund, which is replenished through the proceeds received from the disposal of confiscated assets. However, there is no mechanism governing the distribution of confiscated assets among countries in the case when such confiscation is a direct or indirect result of coordinated law enforcement measures.

34. Pursuant to the CC and CPC of Uzbekistan, foreign citizens and stateless persons who have committed crimes outside of Uzbekistan but who are located on the territory of Uzbekistan, may be extradited to a foreign state for prosecution or service of sentence subject to an appropriate international agreement. The said provisions also cover ML offences and other predicate offenses except those that are not criminalized in Uzbekistan: insider trading and market manipulation. Certain elements of the ML offence, which are not criminalized by Uzbekistan as required by the Vienna and Palermo Conventions are not covered either. There are clear procedures to ensure timely execution of extradition requests.

35. The AML/CFT Law establishes the necessary framework for international cooperation between the competent authorities of Uzbekistan and foreign contracting parties. The existing mechanisms for international cooperation are not sufficiently used by the FIU, as evidenced by the recorded low numbers. Additionally, the level of cooperation between the oversight authorities of Uzbekistan and other countries is almost nonexistent.

# MUTUAL EVALUATION REPORT

## 1. GENERAL ISSUES

### 1.1. General information about Uzbekistan

1. The Republic of Uzbekistan is located in the Central Asia, to the North of Afghanistan. It borders Afghanistan, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan. The Republic occupies 447.4 thousand square kilometers, there are more than 26 mln. 485 thousand people, with 37% of urban and 63% of rural inhabitants. According to the administrative division Uzbekistan consists of the sovereign democratic Republic of Qoralqalpogiston, twelve regions and Tashkent city, which is the capital of the Republic of Uzbekistan. Uzbek is the national language. The citizens have the right to choose the language for the international communication upon their own discretion. The most common languages of the business communications are Russian, English and German.

#### Governmental System

2. Uzbekistan is a sovereign democratic republic. The Constitution of the Republic of Uzbekistan was adopted on December 08, 1992. It was subsequently amended, based on the national referendum carried out on January 27, 2002, the Laws adopted on 28.12.1993, 11.04.2007 and 25.12.2008. The President of the Republic of Uzbekistan is the head of the government.

3. Oliy Majlis is the Supreme public representative body of the Republic of Uzbekistan, representing the legislative branch. Oliy Majlis of the Republic of Uzbekistan consists of two chambers – the Legislative house (the lower chamber – 150 deputies) and the Senate (the Upper chamber – 100 senators).

4. The Cabinet of Ministers - the Government of the Republic of Uzbekistan is an executive body of the Republic of Uzbekistan, facilitating the management of an efficient economic performance, development of the social and spiritual functions, implementation of laws and other resolutions of Oliy Majlis, orders and decrees of the President of the Republic of Uzbekistan. The Cabinet of Ministers of the Republic of Uzbekistan consists of a Prime-Minister of the Republic of Uzbekistan, the deputies thereof, the Ministers, and the Chairmen of the Government Committees. The Head of the Government of the Republic of Qoralqalpogiston is a member of the Cabinet of Ministers by virtue of his position. The Cabinet of Ministers is the head of the state administration bodies and established economic boards, providing for the coordination of their operations. The Cabinet of Ministers is formed by the President of the Republic of Uzbekistan. The candidate for the Prime-Minister's position of the Republic of Uzbekistan is considered and approved by the chambers of Oliy Majlis of the Republic of Uzbekistan upon recommendation of the President of the Republic of Uzbekistan. The members of the Cabinet of Ministers are approved by the President of the Republic of Uzbekistan upon recommendation of the Prime-Minister of the Republic of Uzbekistan.

5. The state powers in the Republic of Uzbekistan are executed by their division into the legislative, executive and judicial. Judicial power in the Republic of Uzbekistan is independent from the legislative and executive powers, political parties or any other public associations. The

government bodies are independent to the extent of their authority, interacting, restraining and balancing each other.

6. The control for the constitutionality of the regulatory acts in the state is exercised by the Constitutional Court of the Republic of Uzbekistan.

### **Economy**

7. According to article 94 of the Civil Code of RUz, “sum” is the unit of currency, which is the legal means of payment compulsory accepted at par. The payments are made in cash or cashless settlements. As of the date of assessment the exchange rate of sum was 1 sum = \$0.00066 US.

<b>Economy in figures, 2005-2008</b>					
<b>Indicator</b>	<b>Unit of measurement</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
GDP (current prices)	bn. sum	15,923.4	20,759.3	28,186.2	36,839.4
GDP growth in fixed prices	in %	7.0	7.3	9.5	9.0
GDP per capita in USD	USD	546.8	647.7	813.2	1,020.3
Fixed capital expenditures	% to GDP	19.8	19.5	19.4	23.0
Foreign investments	% to GDP	3.6	2.6	4.4	5.9

8. Uzbekistan exports (\$10.4 bn. USD in 2008) cotton, gold, natural gas, mineral fertilizers, textile and food products, automobiles. The main buyers are Ukraine (27.4%), Russia (16.9%), Turkey (7.5%), Bangladesh (5%), China (4.3%) and Japan (4.1%).

9. It imports (\$7.1 bn. USD in 2008) industrial products, foods, chemicals and metals. The main suppliers are Russia (25.1%), China (15.3%), South Korea (13.5%), Ukraine (7.1%), Germany (5.4%), Kazakhstan (4.8%) and Turkey (4%).

### **Foreign affairs**

10. Uzbekistan is a member of UN, OSCE and the CIS, Collective Security Treaty Organization (CSTO), since 2005 Uzbekistan is a member of EAG.

11. Besides, Uzbekistan is a member of about 40 other international organizations. The legal framework of the international legal cooperation consists of more than 180 multilateral Conventions and Protocols thereto.

### **The legal framework and hierarchy of laws**

12. The legal framework of Uzbekistan is based on the Roman and German law. The following types of the regulatory legal acts are the major legal sources in Uzbekistan:

- a) statutory instruments
  - Constitution of the Republic of Uzbekistan;
  - Laws of the Republic of Uzbekistan;
  - Enactments of the Chambers of Oliy Majlis of the Republic of Uzbekistan



b) by-laws

- Decrees of the President of the Republic of Uzbekistan;
- Enactments of the Cabinet of Ministers of the Republic of Uzbekistan;
- regulatory legal acts of the Ministers, Government Committees and Authorities, resolutions of the local governmental authorities.

13. According to the law #160-II of the Republic of Uzbekistan dated 14.12.2000 “On regulatory legal acts” the laws shall govern the most important and stable social relations and shall be adopted by Oliy Majlis of the Republic of Uzbekistan or by referendum. Enactments of the Chambers of Oliy Majlis of the Republic of Uzbekistan shall be made on the basis and in pursuance of the Constitution and the laws of the Republic of Uzbekistan. The President of the Republic of Uzbekistan on the basis and in pursuance of the Constitution and the laws of the Republic of Uzbekistan shall issue decrees, enactments and orders, binding throughout the republic. The Cabinet of Ministers of the Republic of Uzbekistan according to the Constitution and the laws of the Republic of Uzbekistan, resolutions of Oliy Majlis and the President of the Republic of Uzbekistan adopts the regulatory legal acts in the form of enactments.

14. The Ministries, Government Committees and Authorities within their competence adopt the regulatory legal acts in the form of orders and enactments. The regulatory legal acts adopted in the form of provisions, rules and guidelines shall be approved by the orders or enactments of the Ministries, Government Committees and Authorities. The regulatory legal acts of the Ministries, Government Committees and Authorities may be jointly adopted by several Ministries, Government Committees and Authorities or one of them subject to agreement of the others.

15. The ratio of various regulatory legal acts by their legal effect shall be determined according to the Constitution of the Republic of Uzbekistan, the competence and the status of the body that has adopted the regulatory legal act, and the types of such acts. The regulatory legal act must comply with the regulatory legal acts of higher legal effect. In case of any discrepancies between the regulatory legal acts, a regulatory legal act of higher legal effect shall apply. In case of any discrepancies between the regulatory legal acts of the equal legal effect, the provisions of the later adopted act shall apply. The regulatory legal act adopted by the Ministry, the Government Committee or Authority has a higher legal effect compared to the regulatory legal act of the other Ministry, Government Committee or Authority of the same level, if the adopting body has the special powers to govern a specific field of public relations.

16. Another consideration is, according to the Constitution, Uzbekistan recognizes the priority of the generally recognized norms of the international law, besides, according to art.29 of the Law “On regulatory legal acts” the superiority of the international treaties against the RLA of the Republic of Uzbekistan is recognized.

### **Transparency, bona fide governance, anti-corruption measures**

17. According to the Law #ZRU-158 of the Republic of Uzbekistan dated July 07, 2008, Uzbekistan has joined the UN Anti-Corruption Convention (New York, October 31, 2003).

18. In this regard by the joint enactment of the General Prosecutor’s Office and the other authorities on September 16, 2008 the workgroup was established for the development of the National Anti-Corruption Plan, headed by the Deputy General Prosecutor of the Republic of Uzbekistan. The workgroup consists of the representatives of MID, NSS, the Supreme Court, the Ministries of Economy, Justice and Foreign Affairs, GTS, GCC, Goskomstat, and the Academy of

the State and Public Construction under the President of the Republic of Uzbekistan. The draft plan has been developed and currently is under approval. The agencies of prosecution, law enforcement and national security have the special-purpose anti-corruption units.

## 1.2. The general situation with the money laundering and financing of terrorism

### Money Laundering

19. The anti-money laundering measures have been taken in the republic since 2006, after implementation of the Law of the Republic of Uzbekistan "On countering legalization of proceeds from crimes and financing of terrorism" and adoption of some by-laws. The aims and goals of AML/FT activities are set forth in the Law "On countering legalization of proceeds from crimes and financing of terrorism".

20. It should be mentioned that suspension of some norms of the Law "On countering legalization of proceeds from crimes and financing of terrorism" in 2007—2008 did not entail refusal from combating of the phenomena. Implementation of the strategic methods allowed for detection of 10 money laundering-related crimes in 2007, 32 -in 2008, and 31- for 6 months of 2009.

21. The situation with the crimes making the main source of illegal proceeds is as follows:

Type of crime	year/number			
	2005	2006	2007	2008
Tax evasion	766	757	1,034	1,449
Embezzlement of funds through official misconduct	3,818	3,926	4,055	4,204
Fraud	3,350	3,684	4,150	4,933
Making, storage or sale of counterfeit money or securities	169	216	235	160
Illegal acquisition or sale of currency valuables	395	426	442	521
Bribery	275	324	367	758
Human trafficking	98	99	165	376
Theft and robbery	16,155	14,846	12,769	12,850
Plunder	739	711	829	841
Murder	910	861	815	831
Illicit trafficking in firearms, ammunition and explosive substances	656	614	603	654
Illicit trafficking in drugs, psychotropic substances and precursors	6,928	7,244	7,738	8,204

22. The situation is aggravated by the fact that a significant part of commerce in Uzbekistan is supported in cash. The volumes of cash transactions largely narrow the opportunity of maintaining efficient reporting by financial and other institutions.

23. Uzbekistan is a transit point for drug trafficking and illegal migration. Drugs from Afghanistan (opium, heroin) are delivered through Uzbekistan to Europe. According to the statistics, 2,247 criminal cases, associated with drug-related crimes, were reviewed by the judicial authorities.

### Financing of Terrorism

24. The Republic of Uzbekistan is the object of aspiration of various terrorist and extremist groups and organizations. Specifically, on February 16, 1999 in Tashkent there was a series of blowups in the buildings of the Cabinet of Ministers of Uzbekistan and the National Bank, and on the neighboring street and at airport area. For the terrorist attacks they used six car bombs. As a

result, 28 people were killed, 351 received injuries of various severity. About 50 administrative and residential houses were damaged. On February 17 the Minister of Foreign Affairs of Uzbekistan Zakir Almatov declared in his speech on the National television that “Hizb ut-Tahrir” stood behind the blowups, that were effected by “Hizbullah”, the combat unit of “Hizb ut-Tahrir”. The authorities of Uzbekistan laid responsibility for the incident on the so called “Islamic Movement of Uzbekistan” (IMU) and some international terrorist organizations.

25. In spring 2004 Uzbekistan was swept through by the new wave of the terrorist attacks. On March 29, at night, a number of militia officers were attacked in Tashkent, which entailed the death of three militiamen and the injury of one militiaman. On March 29, in the morning, the suicide bomber actuated a blaster at Chorsu market at the entrance to Detskiy Mir (Children's World) shop in Tashkent. According to preliminary data, two persons were killed and four - were injured. Later, near Kukeldash Madrassas there was a second blowup committed by the suicide bomber. 9 militiamen were killed as a result. On the same day in Kahramon community of the Romitan District there was an explosion in the private house, in which 9 persons were killed. On March 30 the terrorists actuated the blaster near the traffic police checkpoint in Kibraisk District of Tashkent Region. 8 terrorists were killed in a firefight. Another blowup occurred in the residential area at the suburb of Tashkent. 20 terrorists exploded themselves on attempt of their arrest by the law enforcement authorities. Here three militiamen were killed and five - injured. On March 31 in Chimbay community of Tashkent the suicide bomber actuated a blaster when the law enforcement officers tried to arrest him. On April 1 as a result of the terrorist attack committed by the suicide bomber in Romitan District of Bukhoro Region, 1 person was killed. On July 30 a series of blowups were committed in Tashkent in the General Prosecutor’s Office of the republic and near the Israel and US embassies. According to the preliminary data, two persons were killed and nine were injured. The blowups were committed by the suicide bombers.

26. For the period of 2005-2009 the criminal courts of the Republic of Uzbekistan under art. 11 CC RUz convicted 432 individuals on 80 criminal cases. For more details, please, refer to section 2.2 of the Report.

art.155 CC	year/number				
	2005	2006	2007	2008	2009
Number of criminal cases	25	23	14	11	7

### 1.3. Summary of the Financial Sector and DNFBPs

#### 1.3.1. The Summary of the Financial Sector

27. The following table compares the types of financial institutions available in the Republic of Uzbekistan with the types of financial activities to which FATF Recommendations should apply.

Financial activities and types of financial institutions			
Type of activity of a financial institution (see Glossary to 40 FATF Recommendations)	Types of financial institutions engaged in such activities	Whether they are covered by AML/FT requirements	Supervisory/regulatory body for AML/FT
1. Acceptance of deposits and other repayable funds from the	Banks Credit Unions	Yes	The Central Bank

population.			
2. Lending.	Banks Credit Unions Micro-credit institutions Pawnshops	Yes	The Central Bank
3. Financial leasing.	Banks Credit Unions Micro-credit institutions	Yes	The Central Bank
	Leasing companies	Yes	Department
4. Transfer of money or valuables.	Banks, including the banks operators of the international money transfer systems	Yes	The Central Bank
	Postal operators	Yes	Communication and Information Agency of the Republic of Uzbekistan
5. Issue and management of the payment instruments (for instance, credit and debit cards, cheques, traveler's cheques, money orders and bank drafts).	Banks	Yes	The Central Bank
6. Financial guarantees and liabilities.	Banks	Yes	The Central Bank
	Insurance Companies	Yes	Ministry of Finance
7. Transactions with: (a) money market instruments (cheques, bills of exchange, deposit certificates, derivative securities and etc.); (b) currency exchange; (c) instruments, linked to the currency exchange rate, interest rates and indices; (d) transferable securities; (e) commodity futures trading.	Banks for transactions specified in subpar. (a), (b), (c), (d) and (e) Credit unions (a)	Yes	The Central Bank
	Brokers in securities for transactions, specified in subpar. (d) and (e)	Yes	Center for Coordination and Control of Securities Market
8. Participation in the issues of securities and provision of financial services related to such emissions.	Banks	Yes	The Central Bank
	Securities brokers	Yes	Center for Coordination and Control of Securities Market
9. Management of individual and collective portfolios	Investment Funds (mutual funds)	Yes	Center for Coordination and Control of Securities Market
10. Storage and disposal of cash or liquidation securities for the other persons/entities.	Banks	Yes	The Central Bank
	Depositaries Investment Funds	Yes	Center for Coordination and Control of Securities Market
11. Other investment, disposal or management of assets or monetary funds for the other persons/entities	Banks	Yes	The Central Bank
12. Underwriting and placement	Insurance Companies	Yes	Ministry of Finance

of life insurance policies and other investment-related insurance policies.			
13. Exchange of funds and cash.	Banks	Yes	The Central Bank

28. In addition to aforementioned institutions there are the organizations in Uzbekistan accepting payments from the people through the automated terminals (as of the date of assessment, there was one of such companies in Uzbekistan). The list of transactions available through such terminals is limited with the payments for public utilities and communications services. The funds are directly transferred to the accounts of relevant institutions. There are no options of revoking a transaction or cash withdrawal. It should be mentioned that the institution managing the terminals was certified by the Central Bank of RUz, therefore it is subject to the general monitoring by the financial regulator.

### ***Banking sector***

29. The Central Bank of the Republic of Uzbekistan is a licensing and regulating body for commercial banks (hereinafter- banks) and the credit unions, as well as the licensing for micro-credit institutions and pawnshops. The services of banks and other credit institutions are always subject to licensing. The services of currency exchange transactions may be provided by the banks only. The money transfer services may be provided only through the banks or by the post.

30. As of November 01, there are 30 commercial banks in the republic, registered by the Central Bank of the Republic of Uzbekistan and licensed for banking activities. Besides, there are 804 branch offices of commercial banks operating throughout the republic.

31. Besides, 100 credit unions were registered throughout the republic, along with 31 micro-credit institutions and 45 pawnshops, duly licensed by the Central Bank of the Republic of Uzbekistan.

### ***Insurance sector***

32. The professional members of the insurance market are insurers, insurance intermediaries, adjusters, actuaries, insurance surveyors, and assistance. The insurance intermediaries are an insurance broker, a re-insurance broker, an insurance agent. The data on the volumes of insurance premiums at the Uzbekistani market is given below:

<b>Indicator</b>	thousand sum			
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>9 months of 2009</b>
Insurance premiums, total	49,702 640.2	73,573 437.9	88,015 174.6	99,816,900.6
Incl. life insurance	635,231.8	1,002,443.6	1,688,087.1	1,464,197.4
Share of life insurance premiums in the total amount	1.3%	1.4%	1.9%	1.5%

33. Currently there are 20 insurance companies and 3 insurance brokers operating in the republic.

34. It should be mentioned that among all insurance companies of Uzbekistan only 2 companies offer life insurance policies (one of them – starting from 2009). Thus, as of the end of 2009 they executed 250 life insurance agreements.

### *Securities sector*

35. As of 01.10.2008 the records were made in the Unified Register for Securities Issues on registration of 13,737 issue of shares with the total issue amount of 5.2 bn. sum. By the results of 9 months of 2008 the total turnover of the securities market reached 484.2 bn. sum against 213.3 bn. sum for the similar period of 2007.

36. As of July 30, 2009 the number of valid licenses for the professional operation at the securities market was 185 units, including:

- investment agents – 87;
- investment advisors – 16;
- depositories – 35;
- custodians of investment assets – 34;
- investment funds – 9;
- settlement and clearing houses – 2;
- OTC trading organizers – 2.

### *Currency exchange*

37. The currency exchange transactions are effected at the Republic of Uzbekistan through the commercial banks duly licensed by the Central Bank. The exchange offices of the authorized banks are allowed to deal with purchase and sale of cash foreign currency and traveler's cheques, as well as any other transactions according to the permits issued by the Central Bank of Uzbekistan.

### *Entities, providing the services of transfer of money and valuables (MVT)*

38. The money may be transferred (with or without the opening of an account (deposit)) through the commercial banks (Laws "On banks and banking activities", "On currency regulation", Provision "For cashless settlements in the Republic of Uzbekistan"), post (article 9 of the Law # 118-II "On postal communications" dated 31.08.2000 and the Temporary Rules of rendering the "Electronic money transfer" service, implemented by the order # 307 of Uzbekiston Pochtasi, OJSC dated 29.11.05). According to the data supplied as of the date of assessment, the average amount of the money transfer for 9 months of 2009 was 63,822 sums (local transfers), and 161,052 sums (international wire transfers).

39. The money transfers are effected by the postal operator - Uzbekiston Pochtasi, OJSC. However, the law of the Republic of Uzbekistan (Law RUz # 118-II "On postal communications" dated 31.08.2000) does not rule out the possibility of establishment of any other entities rendering the postal services.

## **1.3.2. Summary of Designated Non-Financial Businesses and Professions (DNFBP)**

### *Dealers in precious metals and stones*

40. According to the legislation of the Republic of Uzbekistan any business entities involved in operations with the precious metals and stones, legal entities and individuals, including the jewelry stores, jeweler's workshops, pawnhouses, individual jewelers, buy-back centers, registered by the Assay Chamber and issued with a registration certificate of the same. The business entities involved in production of jewelry out of precious metals must be licensed by the Cabinet of Minister of the Republic of Uzbekistan.

41. As of 01.08.2009 the number of business entities engaged in operations with the precious metals and stones is:

<b>Description</b>	<b>Type of activity</b>	<b>Number</b>
Jewelry stores	Sale of jewelry made of precious metals and stones	505
Jeweler's workshops	Production of jewelry out of precious metals and stones by the customer orders	25
Private jewelers	Production of jewelry out of precious metals and stones by the customer orders	290
Buy-back centers	Purchase of jewelry, precious metals and stones, scrap jewelry and scrap precious metals	112

### ***Gaming business***

42. Pursuant to the enactment # 176 of the Cabinet of Minister of the Republic of Uzbekistan dated 16.08.2007 "On measures for further regulation of arrangement and conduct of gambling" throughout the Republic of Uzbekistan, arrangement and conduct of gambling and other risk-based games (including betting houses), except for the draw, instant and numeric lotteries, is prohibited.

43. Any activities for casino arrangement are persecuted according to the Criminal Code of the Republic of Uzbekistan. Pursuant to section 8 of the Criminal Code gambling and other risk-based games shall have the meaning of a game, assuming a sequence of actions of game organizers and players according to risk-based arrangement, made between the game organizer (gambling house) with one or more players about the prize depending on event (fortune) and (or) abilities, smartness or other qualities of the player, including any betting houses, casinos and slot-machine games.

### ***Real Estate Registration***

44. The State Committee of the Republic of Uzbekistan for Land Resources, Geodesics, Cartography and State Cadastre and the regional subdivisions thereof are the Body for Registration of Real Property, Rights and Transactions therewith in the Republic of Uzbekistan (enactment #483 of the Cabinet of Ministers of the Republic of Uzbekistan dated 19.10.2004 "On arrangement of activities of the State Committee of the Republic of Uzbekistan for Land Resources, Geodesics, Cartography and State Cadastre").

### ***Real Estate Activities***

45. The real estate activities are not regulated by the effective law. Therefore and owing to the absence of any regulating bodies the data on the market size, the number of its members and any other information are unavailable.

### ***Notaries and Advocacy***

#### ***Notaries***

46. In December 1996 Oliy Majlis of the Republic of Uzbekistan adopted a new Law of the Republic of Uzbekistan "On the Notaries" implemented since March 01, 1997. That very law gave the start to the principal reorganization of the Notaries in Uzbekistan. While there was only the

public system of notaries in the Republic of Uzbekistan before, with adoption of the law the first private notaries appeared.

47. Pursuant to article 2 of the Law of the Republic of Uzbekistan “On the Notaries” the notary's position in the Republic of Uzbekistan shall be occupied by the citizen of the Republic of Uzbekistan with a University degree in law, who has undertaken an internship for more than one year at the public or the private notary, has successfully passed a qualification exam, and has been licensed for the notary's practice.

48. As of the date of the field mission there were 758 notaries operating in Uzbekistan. For the period of 2008 – the first half of 2009 the public and the private notaries effected 4,921,450 notarial acts. Among them 150,946 notarial acts related to alienation of residential houses and apartments, 446,241 notarial acts, related to alienation of auto motor vehicles, and 119,011 pledge agreements were authenticated.

#### *Advocacy*

49. According to article 116 of the Constitution of the Republic of Uzbekistan advocacy operates to provide the legal assistance for the citizens, businesses, institutions and organizations. The advocacy activities are subject to the laws of the Republic of Uzbekistan “On advocacy” and “On guarantees of advocacy and social security of lawyers”.

50. Pursuant to article 1 of the Law “On Advocacy” the advocacy is a legal institute, including independent, voluntary and professional associations of persons engaged in advocacy, and individuals, engaged in a private legal practice. According to the Constitution of the Republic of Uzbekistan advocacy provides the legal assistance to the citizens of the Republic of Uzbekistan, foreign citizens, persons without citizenship, businesses, institutions and organizations.

51. According to the Law, the lawyer in the Republic of Uzbekistan may be the citizen of the Republic of Uzbekistan with a University degree in law and duly licensed for the legal activities (hereinafter – license).

52. To provide the legal assistance to individuals and legal entities the lawyer: gives consultations and explanations on legal issues, oral and written certificates on the matters of law, compiles applications, complaints and other legal documents, represents the clients in court and against the other governmental authorities, before the individuals and legal entities for the cases of civil and administrative offence, takes part in pretrial investigations and in a criminal court as defenders, representatives of the victims, civil plaintiffs and defendants, offers the legal services to business activities. The lawyer may render any other types of the legal support, permitted by the law.

53. As of date of the field mission there were 913 advocacies in Uzbekistan.

#### **1.4. Summary of commercial laws and mechanism of regulation of the legal entities and establishments**

54. The legal entities in the Republic of Uzbekistan are organized as commercial and non-commercial institutions. Commercial institutions are incorporated for the profit making and may be organized as joint-stock companies, limited or supplementary liability companies, business partnerships, private and unitary enterprises.



55. The regulatory legal acts regulating the procedure for registration, reorganization and liquidation of the legal entities in the Republic of Uzbekistan are the Civil Code, the laws of the Republic of Uzbekistan “On joint-stock companies and protection of shareholders’ rights”, “On business partnerships”, “On limited and supplementary liability companies”, “On private businesses”, “On credit unions”, “On micro-credit institutions”, “On farming enterprises” and “On dekhan businesses”, and a Provision for the public registration procedure, recording of business entities and issue of permits, approved by the enactment # 357 of the Cabinet of Ministers on August 20, 2003 and the Enactment # IIII-357 of the President of the Republic of Uzbekistan dated May 24, 2006 “On notification requirement for the public registration and recording of business entities”.

56. Particularly, pursuant to section II of the Provision for the public registration procedure, recording of business entities and issue of permits, approved by the enactment # 357 of the Cabinet of Ministers on August 20, 2003, the following documents must be submitted to the registering authority for the public registration of incorporation of any business entities:

- an application for the public registration;
- original copies of the constituent documents in the official language, duly authenticated by the notary, (a constituent document submitted to the registering authority for the public registration of a legal entity shall be the Articles of Association, or the Memorandum and the Articles of Association, or the Memorandum only, while for limited and supplementary liability companies - the Memorandum and the Articles of Association, for the general and limited partnerships - the Memorandum only, for incorporated joint-stock companies, private, farming and dekhan businesses - the Articles of Association only);
- a bank payment document for the payment of a stamp duty of a set amount (except for dekhan businesses and joint-stock companies incorporated on the basis of public enterprises);
- an original certificate of no identical or confusingly similar brand names;
- designs of a seal and a stamp in three copies.

57. In addition to aforementioned documents, the following shall be submitted for the public registration of foreign investment enterprises and other enterprises involving the foreign investments:

- an extract on the foreign founder from the commercial register at the place of registration of the legal entity, duly legalized by the consular institution of the Republic of Uzbekistan, if available, otherwise, by the Ministry of Foreign Affairs of the country of registration of the founder, by the consular institution or a diplomatic mission of this country in the Republic of Uzbekistan, further authenticated by the Consular Directorate at the Ministry of Foreign Affairs of the Republic of Uzbekistan, unless otherwise is stipulated by the international treaty of the Republic of Uzbekistan. Such extract must contain:
  - name of the foreign legal entity,
  - location of the foreign legal entity,
  - size of the authorized share capital,
  - form of incorporation,
  - date of registration and period of operation,
  - details of the authorized signatory of the foreign legal entity.

The extract shall be valid within 1 year since the issue thereof.

Any individual, other than the residents of the Republic of Uzbekistan, shall submit a passport copy. All documents must be submitted with a translation to the official language, duly authenticated by the notary. If a foreign founder invests any intellectual property in the authorized share capital of the business (organization), the applicant must supply an appraisal report executed by the appraiser as prescribed by the law;

- the documents confirming the deposit of 30% of their shares in the authorized share capital by every founder (a bank's certificate for the deposit of funds to the temporary accumulation sum and currency accounts, a customs document confirming the import of property to the Republic of Uzbekistan, an Acceptance Certificate for the property, a document confirming the title for the property deposited, and etc.).

58. For the period of 2008 and the first half of 2009 the Ministry of Justice has registered 192 foreign investment businesses, including 120 joint ventures and 73 foreign enterprises, 9 pawnhouses, 26 auditing firms, 10 associations of the legal entities, 6 insurance companies, 8 organizations of the tax advisors and 10 wholesale trading depots. Besides, there are 5,103 non-commercial organizations (NCO) in Uzbekistan.

## **1.5. Brief summary of the strategy of countering the money laundering and financing of terrorism**

### *a. Strategies and priorities of AML/FT*

59. A unified anti-money laundering system in the Republic of Uzbekistan consists of the Law “On countering legalization of proceeds from crime and financing of terrorism”, other Laws of the Republic of Uzbekistan, Decrees and Enactments of the President of the Republic of Uzbekistan, enactments of the Cabinet of Ministers of the Republic of Uzbekistan in the issues of countering the money laundering and financing of terrorism, regulatory documents of the specially authorized public body – Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor’s Office, and the regulatory acts of any other authorized public bodies.

60. At the same time, the practice of application of individual norms of aforementioned law in 2009, in particular, the reporting of money transactions according to specified criteria with suspension of bank transactions affected the timing of settlements and caused a business decline and a slowdown in the deposit growth.

61. Suffice it to say, that out of 10,533 reports submitted for six months (2nd half of 2006) to the Department and subject to compulsory control, only in 30 cases the signs of money laundering were detected, however, pursuant to the requirements of the Law, the transactions were automatically suspended for two business days subject to every report submitted, which in its turn, created certain difficulties for development of business and private enterprises.

62. In view of aforesaid, for the financial system stabilization in 2007 several norms of the Law “On countering legalization of proceeds from crime and financing of terrorism” were suspended.

63. Excessive strictness of these norms was also highlighted by the international experts of the World Bank, United Nations Office on Drugs and Crime, and the International Monetary Fund, which provided their technical assistance in preparation of amendments and additions to the said Law, envisaging liberalization and further improvement of the law and bringing it in compliance with the international standards.

64. The Law “On countering legalization of proceeds from crime and financing of terrorism”, revised and amended, was re-enacted on April 23, 2009.

65. In 2009 the regulatory acts were adopted to bring the legislation in line with the Law of the Republic of Uzbekistan “On countering legalization of proceeds from crime and financing of terrorism”.

***b. Institutional structure of countering the money laundering and financing of terrorism***

***Specially authorized AML/FT government body***

66. Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor’s Office is a specially authorized government body, exercising the powers stipulated by the Law “On countering legalization of proceeds from crime and financing of terrorism” (for detailed description, please, refer to section 2.5). Within the Department the Directorate for countering legalization of proceeds from crime and financing of terrorism was established to execute the functions of the Financial Intelligence Unit (FIU) (Enactment #PP-331 of the President of the Republic of Uzbekistan dated 21.04.2006 “On measures for strengthening of efforts of combating the crimes in financial and economic, tax field and legalization of proceeds from crime”).

67. Pursuant to the legislation (article 9 of the Law #660-II of the Republic of Uzbekistan dated 26.08.2004 “On countering legalization of proceeds from crime and financing of terrorism”), the Directorate shall have the following powers:

- coordinate activities of organizations engaged in money and other property transactions, and the bodies engaged in countering legalization of proceeds from crime and financing of terrorism;

- perform the data analysis by the money and other property transactions, received according to the Law;

- subject to reasonable grounds forward the materials on money and other property transactions, associated with legalization of proceeds from crime and financing of terrorism, to the relevant authorities, engaged in countering legalization of proceeds from crime and financing of terrorism;

- forward an instruction for suspension of money and other property transactions for the period not exceeding two business days, if the report on such transactions is recognized as reasonable subject to the inspection results;

- request and receive free of charge any information required for implementation of measures of countering legalization of proceeds from crime and financing of terrorism, including the automated information and reference systems and databases;

- exercise any other powers stipulated by the law.

68. In addition, the Directorate is vested with the duty of supervision over the organizations that have no supervisory or regulating authorities.

***Financial sector’s authorities***

69. The Central Bank of the Republic of Uzbekistan performs the licensing and regulation of the banking activities, operations of the credit unions, micro-credit institutions and pawnhouses, supervision over the banks, credit unions, micro-credit institutions and pawnhouses, the licensing of securities’ forms production. It exercises AML/FT regulation and supervision over the credit institutions (the Law #154-I of the Republic of Uzbekistan dated 21.12.1995 “On the Central Bank of the Republic of Uzbekistan”).

## *Ministries*

70. ***The Ministry of Finance of the Republic of Uzbekistan*** – exercises state regulation and control (supervision) in the insurance and auditing activities, compliance with the law in arrangement and holding of lotteries (Enactment #533 of the Cabinet of Minister of the Republic of Uzbekistan dated 23.11.1992 “On approval of the provision issued by the Ministry of Finance of the Republic of Uzbekistan”).

71. ***Precious Metals Agency with the Central Bank of the Republic of Uzbekistan***- has the status of the institution of the Central Bank of the Republic of Uzbekistan, performing:

- reconciliation of the regulatory legal documents in arrangement of production, processing, accounting, storage and sale of precious metals and stones, the items containing the same, scrap and wastes;

- establishment of assaying in the Republic of Uzbekistan and adoption of the relevant regulatory legal acts (Decree # VII-3346 of the President of the Republic of Uzbekistan dated 31.10.2003 “On improvement of the system of purchasing, storage and sale of precious metals”).

72. ***The Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan*** – an authorized state body for the regulation of the securities market. The Center is focused on (Enactment #126 of the Cabinet of Minister of the Republic of Uzbekistan dated 30.03.1996 “On the issues of establishment of the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan”):

- keeping of the Unified State Register of registered issues of securities, the database of participants, the structure and development of the securities market, organization of accountancy and reporting, regulation of securities trading and professional activities of the securities market members;

- licensing of the professional activities at the securities market; exercising control over the implementation of the law on the securities market by the governmental authorities, the securities market members and in case of any detected breaches of the law on the securities market bringing in binding conclusions and instructions, application of sanctions stipulated by the law to the defaulting entities;

- development of the regulatory acts facilitating required legal environment for the issue and efficient trading of securities of Uzbek and foreign issuers at the national and international securities markets.

73. ***Ministry of Justice of the Republic of Uzbekistan*** (Ministry of Justice) – is a governmental authority. In AML/FT the Ministry is focused on (Enactment # 370 of the Cabinet of Ministers of the Republic of Uzbekistan dated 27.08.2003 “On measures for further improvement of efforts of the Ministry of Justice of the Republic of Uzbekistan”):

- facilitation of the uniform government policy in lawmaking and law enforcement practices;

- state control and improvement of performance of the notaries, advocacy, the Civil Registry Offices and other structures in the sphere of legal assistance to individuals and legal entities;

- control of compliance with the law upon the registration of the legal entities, including non-governmental non-commercial institutions;

- provision jointly with the relevant government authorities of the efficient legal assistance to the Republic of Uzbekistan in the international legal relations;

- management of the system of bodies and institutions of justice.

74. **Communication and Information Agency of the Republic of Uzbekistan** (UzCIA) – is a coordinating body in communications and information. In AML/FT UzCIA is focused on (Enactment # 215 of the Cabinet of Ministers of the Republic of Uzbekistan dated 07.05.2004 “On measures for further improvement of efforts of the Communication and Information Agency of the Republic of Uzbekistan”);

- coordination of activities of the branches and regional bodies and communications and information services, and the issues of facilitation of standardization, certification and licensing of activities of business entities, improvement of the regulatory legal framework in communications and information, including contemporary data transfer devices, and IP-technologies;

- monitoring of compliance with the laws and regulatory acts, public and branch standards, license terms by the legal entities and individuals, engaged in operations in mass communications, including contemporary information and communications technologies, satellite systems, Internet global network and other electronic means of delivery and distribution of information, and the printing products.

75. **State Property Committee of the Republic of Uzbekistan** (Goskomimuschestvo) is a governmental authority mainly focused on (Enactment # 335 of the President of the Republic of Uzbekistan dated 26.04.2006 “On measures for improvement of efforts of Goskomimuschestvo of the Republic of Uzbekistan”):

- further advancement of economic reforms, acceleration of processes of denationalization and privatization, arrangement of the public property management, post-privatization monitoring of businesses and assistance in development of the market infrastructure;

- state control of exchange activities (except for the stock exchange).

#### *Criminal justice bodies and operations authorities*

76. **Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor’s Office** (hereinafter Department) is:

- an independent special-purpose law enforcement authority under the Uzbekistani General Prosecutor’s Office, mainly focused on organization and execution of operations and analytical, investigatory activities in combating fiscal and foreign currency crimes and offences and legalization of proceeds from crime, financing of terrorism and compensation of economic damage incurred as a result of aforesaid crimes;

- specially authorized government body for combating legalization of proceeds from crime and financing of terrorism. Any resolutions of the Department taken within the powers set up by the law, shall be binding for the ministries, state committees, authorities, local government authorities, by enterprises, institutions and organizations, as well as any officials and individuals.

77. The Department is headed by the Head of the Department equivalent by his status to the Deputy General Prosecutor and appointed by the President of the Republic of Uzbekistan.

78. **Directorate on countering legalization of proceeds from crime and financing of terrorism** is included in the Department’s structure and performs the functions of FIU. The Directorate also includes the Department on operational support in combating legalization of proceeds from crime and financing of terrorism, vested with the law enforcement functions.

79. **The General Prosecutor’s Office of the Republic of Uzbekistan** is the only centralized system of the prosecution agencies headed by the General Prosecutor of the Republic of Uzbekistan. The General Prosecutor of the Republic of Uzbekistan and reporting prosecutors supervise a precise and uniform implementation of law throughout the Republic of Uzbekistan.

80. The prosecution agencies have the following lines of activity (The Law #746-XII of the Republic of Uzbekistan dated 09.12.1992 “On prosecution”):

- control for implementation of laws by the ministries, state committees and authorities, public authorities, social associations, enterprises, institutions, organizations, khokims and other officials;
- control for implementation of laws by the bodies of operations, investigation, inquiry, preliminary investigation activities, and coordination of their activities in combating the crime;
- pre-trial investigation of crimes;
- support of official prosecution in criminal cases before court, participation in civil trials, consideration of cases on administrative offences and business disputes, disputing of any judicial acts subject to incompliance with the law;
- control for implementation of laws aimed at strengthening of the fiscal discipline, countering the fiscal, foreign currency crimes and offences, and compensation of any economic damage incurred by the state;
- control for implementation of laws in places for holding detained persons, persons held under guard, while executing the criminal sentences and other criminal and legal measures;
- participation in lawmaking activities and enhancement of the public legal culture;
- execution of international cooperation in the framework of mutual legal assistance.

81. ***The National Security Service of the Republic of Uzbekistan*** (NSS) – is a law enforcement authority responsible for facilitation of the efficient protection of functioning of the government and management bodies of the Republic of Uzbekistan from intelligence undermining and other criminal offence of the special-purpose services of unfriendly countries and internal anti-Constitution structures, and systematically reports to the President and Oliy Majlis of the Republic of Uzbekistan (Enactment # 278 of the Cabinet of Ministers of the Republic of Uzbekistan dated 02.11.1991 “On the National Security Service of the Republic of Uzbekistan”).

82. Coordination activities of the governmental authorities involved in combating terrorism and provision of their interaction in prevention, detection and suppression of terrorist activities and minimization of their consequences are carried out by the National Security Service of the Republic of Uzbekistan (The Law # 167-II of the Republic of Uzbekistan dated 15.12.2000 “On combating terrorism”).

83. ***The Ministry of Internal Affairs of the Republic of Uzbekistan*** (MIA) is a law enforcement authority responsible for security of rights and lawful interests of the citizens, public order and security, and combating the crime. MIA is mainly focused on (Enactment #270 of the Cabinet of Ministers of the Republic of Uzbekistan dated 25.10.1991 “On the Ministry of Internal Affairs of the Republic of Uzbekistan”):

- defining of strategic trends of activities for the law enforcement agencies of the republic;
- general control, coordination of operations of the law enforcement agencies, provision of organization and methodical assistance to the same, and facilitation of efficient performance;
- control of legality in activities of the law enforcement agencies, enterprises, institutions and organization of MIA system, protection of rights, freedoms and lawful interests of the citizens;
- provision of operational and mobilization readiness of the internal troops;
- provision of the social security and public order protection, arrangement of efforts for combating crime;
- implementation of the achievements of science and technology, positive experience, progressive forms of management and operating methods;
- development of the legal framework for the activities of the law enforcement agencies;
- provision of high level HR work in the law enforcement agencies;

- provision of social guarantees for the officers of the law enforcement agencies;
- provision of support in efforts of combating the organized crime and corruption.

84. ***State Customs Committee of the Republic of Uzbekistan*** (hereinafter - SCC) and the units thereof are the customs authorities of Uzbekistan, which is the governmental authority and the law enforcement agency at the same time. Pursuant to the law, the activities of the Customs authorities are carried out independently from the local governments. Any resolutions made by the customs authorities to the extent of their competence are binding for all legal entities and individuals.

85. The major tasks of the customs authorities are (The Law #472-I of the Republic of Uzbekistan dated 29.08.1997 “On the State Customs Service”):

- protection of rights and interests of the legal entities and individuals protected by the law;
- protection of economic interests and provision of the economic security in the Republic of Uzbekistan to the extent of their competence;
- participation in development and implementation of the customs policy;
- exercise of control for compliance with the customs law;
- charging the customs payments;
- execution of the customs control for commodities and vehicles, subject to such control;
- prevention, detection and suppression of any incompliance with the customs law, including smuggling;
- keeping the customs statistics and the Foreign Economic Activity Commodity Classification;
- control for discharge of obligations coming out of the international treaties of the Republic of Uzbekistan in terms of the customs procedures.

#### *Judicial authorities*

86. **The judicial power** in the Republic of Uzbekistan is independent from the legislative and executive power, political parties and other public associations.

87. The Uzbekistani judicial system consists of the Constitutional Court of the Republic of Uzbekistan, the Supreme Court of the Republic of Uzbekistan, the Supreme Commercial Court of the Republic of Uzbekistan, supreme courts of the Qoralqalpogiston Republic in civil and criminal matters, the Business Court of the Qoralqalpogiston Republic, elected for the term of five years, regional, Tashkent city courts in civil and criminal matters, military and business courts, appointed for the same term (Constitution of the Republic of Uzbekistan and the Law #924-XII of the Republic of Uzbekistan dated 02.09.1993 “On Courts”).

#### *Other bodies*

88. ***Department on execution of court judgments, logistics and financial support of court activities under the Ministry of Justice of the Republic of Uzbekistan*** (hereinafter – The Judicial Department) is a specially authorized governmental authority exercising the functions of execution of judicial acts and acts issued by any other bodies, logistics and financial support of the court activities.

89. The major tasks of the Judicial Department are (Enactment #III-458 of the President of the Republic of Uzbekistan dated 31.08.2006 “On measures for further improvement of activities of the Department on execution of court judgments, logistics and financial support of court activities under the Ministry of Justice of the Republic of Uzbekistan”):

- control of precise and unconditional execution of judicial acts and any acts issued by the other bodies;
- logistics and financial support of the court activities and preparation of proposals for improvement thereof;
- selection and positioning of the law enforcement officials and an advanced training thereof;
- arrangement for efficient performance of the law enforcement officials;
- arrangement of activities for the security of judges and court proceedings.

90. *The State Committee on Drugs Control of the Republic of Uzbekistan* is an interagency body for the matters of coordination of countering drug trafficking, development and implementation of efficient measures for suppression of drug distribution both at the national and regional levels, discharge of the international drugs control obligations.

91. The Committee consists of the heads of the law enforcement authorities, national security service, customs authorities, healthcare, national education and other public authorities. All governmental authorities, enterprises, institutions and organizations, irrespective of the type of ownership, and the public associations must provide their assistance to the Committee.

92. The Committee shall be charged with the following basic tasks and functions:

- development and assistance in implementation of the national drugs control program;
- execution of continuous complex status assessment of combating drug trafficking throughout the relevant area, and in specific localities, if required;
- assistance in creation and enhancement of activities of the Republican Center of Drugs control Operations Information, creation of the uniform network between the center and drugs control organizations to provide free and unrestrained information exchange and the interested ministries and authorities of the Republic of Uzbekistan, as well as the law enforcement authorities of the CIS countries and other foreign states;
- assistance in development and enhancement of activities of the republican forensic enquiry service (forensic laboratory) for rendering services to any organizations involved in drugs control;
- development and implementation of efforts for strengthening of the law enforcement authorities with the qualification staff. Provision of logistics and financial support to such authorities; implementation of scientific achievements and best practices in tracing, detection and identification of drugs in their work practices;
- development of cooperation of Uzbekistani drugs control organizations with the relevant foreign institutions for implementation of joint efforts on closing the routes laid through the republic for drug trafficking to the CIS countries and the Western states, restraint of the drug supplies made of the local raw materials;
- approval of the lists of drugs and other substances subject to the international and national control, pursuant to the UN Conventions 1961, 1971 and 1988, and the issue of official comments on the lists;
- defining the amounts of drugs and other substances subject to the international and national control, which illegal disposal and handling may lead to an administrative or criminal liability;
- participation in the development and implementation throughout the Republic of Uzbekistan and abroad the programs of cooperation on the drugs control matters;
- control for development of proposals to the draft agreements with the CIS countries, and to the draft agreements with any other foreign countries on the matters of drug trafficking prevention;



- control of compliance of the ministries and authorities with Uzbekistani obligations stipulated by the international treaties in prevention of drug trafficking and addiction;
- participation, as appropriate, in activities of the international organizations dealing with the drugs control issues;
- selection of the relevant candidates seconded abroad for examination of work experience in drugs control;
- arrangement of the national and international seminars, conferences and symposiums to share the experience of combating drug trafficking.

93. The sittings of the Committee shall be carried out as required, as a rule, once a quarter. In between of the sittings of the Committee the current activities are carried out by the ***National Information and Analytical Center on Drugs Control under the Cabinet of Ministers of the Republic of Uzbekistan***, directly reporting to the Chairman of the Committee.

94. For coordination of efforts against the drug trafficking locally, the regional drugs control committees under the Cabinet of Minister of Republic of Qoralqalpogiston are established at khokimiyats of the regions and Tashkent city (Enactment #229 of the Cabinet of Minister of Republic of Uzbekistan, dated 30.04.1994 "On establishment of the State Committee of the Republic of Uzbekistan on Drugs Control").

95. Pursuant to the confidential instruction of the President, an ***AML/FT Coordination Council*** was established to provide for coordination and interaction between the governmental authorities in countering legalization of proceeds from crime and financing of terrorism. The activities of this body are confidential.

## 2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

### Laws and Regulations

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

##### 2.1.1. Description and Analysis

###### *Recommendation 1*

96. Uzbekistan criminalized money launder (hereinafter "ML") in accordance with Article 243 "Legalization of Proceeds from Crime" of the Criminal Code of Uzbekistan.

*"Article 243. Legalization of proceeds from crime.*

*Legalization of proceeds from crime, i.e., legalization of assets (monetary and other) obtained as the result of criminal activities through transfer, conversion or exchange, as well as concealment of their nature, source, location, disposition and movement, ownership and other rights and titles-*

*is punishable by a five to ten-year prison sentence".*

The wording of this Article, on the whole, reflects the requirements of the Vienna and Palermo Conventions (hereinafter "Conventions").

97. Conventions requirements for criminalizing activities pertaining to *conversion and transfer of crime-related assets* are reflected in the wording of Article 243 of the Criminal Code of Uzbekistan "legalization of assets (monetary and other) through transfer, conversion or exchange, if such assets are obtained through criminal means".

98. However, Article 243 of the Criminal Code of Uzbekistan does not specify the purposes of ML, as they are stipulated in the Conventions "*for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action*". Therefore, it should be noted that, in accordance with Article 243 of the Criminal Code of Uzbekistan, the purposes of ML may include concealment of the source of crime-related assets.

99. Conventions requirements for criminalizing "*concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime*" are reflected in the wording of Article 243 of the Criminal Code of Uzbekistan "as well as concealment of real nature, source, location, disposition and transfer of, or real ownership and other rights and title to monetary and other assets obtained through criminal means".

100. Conventions requirements for criminalizing "*acquisition, possession and use of property constituting proceeds from crime*" are not reflected in Article 243 of the Criminal Code of Uzbekistan. However, in accordance with Article 171 of the Criminal Code, acquisition or disposal of assets obtained through criminal means are viewed as indictable offences and predicate for ML. Therefore, Uzbekistan has not criminalized possession and use of assets constituting proceeds from crime.

101. Conventions requirements for criminalizing "*participation in, association with or conspiracy to commit any criminal offence, ...attempting to, as well as aiding, abetting, facilitating and counseling during the perpetration of a criminal offence*" are reflected in the requirements of Articles 25 (Preparation for and attempt to commit a criminal offence), 28 (Types of accomplices: organizers, instigators, accessories) and 30 (Liability limitations for complicity in a crime) of the Criminal Code of Uzbekistan.

102. The object of a ML-related offence is monetary or other assets (Article 243 of the Criminal Code of Uzbekistan), regardless of their value, that, directly or indirectly, constitute proceeds from crime. The term "assets" is given in Article 22 of the Tax Code of Uzbekistan: "assets are material, including monetary, means, securities and intangible objects which may be the subject of ownership, use or disposal".

103. In view of Article 243 of the Criminal Code of Uzbekistan and comments received by the evaluators from the Supreme Court of Uzbekistan, it should be noted that no court ruling on conviction of a person on charges of committing a predicate offence is required in order to determine the extent of revenues obtained through perpetration of a predicate offence. The Supreme Court of Uzbekistan has not, however, issued a format clarification pertaining to hearing ML-related cases yet.

104. Financial Intelligence Unit (FIU) of Uzbekistan pointed out that, in accordance with Article 26 of the Constitution of the Republic of Uzbekistan that states that "*any person charged with a criminal offence shall be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense*", all cases involving legalized assets of criminal origin must be substantiated in manner prescribed by law.

105. In light of this, all criminal proceeding related to ML are initiated on an aggregate basis (for perpetration of two or more criminal offences provided for in different Articles of the Special Section of the Criminal Code of Uzbekistan) with the inclusion of a predicate offence, or the ML-related charges are filed separately. However, a predicate offense (i.e., proving the criminal origin of property) takes priority. There have been cases when a judge dismissed charges in view of the absence of a prior conviction for a predicate offense. The evaluators were informed of the Supreme Court's plans to rule on this issue soon.

106. Pursuant to Article 243 of the Criminal Code of Uzbekistan, any criminal activity can be defined as a predicate offence for ML. Regulatory and legal acts provide no definition for the term "criminal activity", but, according to the Prosecutor's Office and the Supreme Court, its meaning broadly reflects the concept of the term "crime". The evaluating team, however, had doubts as to whether the term "crime" matches that of a "criminal activity" used in the context of Article 243 of the Criminal Code of Uzbekistan. Additionally, there is some concern over a possible interpretation of the term "criminal activity" as perpetration of two or more crimes.

107. According to Article 14 of the Criminal Code of Uzbekistan, a crime is defined as a guilty socially dangerous act (act or omission), prohibited and punishable under the Criminal Code of Uzbekistan.

108. The following articles of the Criminal Code of Uzbekistan cover 19 offenses of 20 "designated categories of offenses":

Designated categories of offences (40 FATF Recommendations Glossary)	Sections and Articles of the Criminal Code of Uzbekistan
participation in an organized criminal group and racketeering	29-30
terrorism, including terrorist financing	155
trafficking in human beings	135
sexual exploitation, including sexual exploitation of children	135 and section VIII
illicit trafficking in narcotic drugs and psychotropic substances	section IX
illicit arms trafficking	248
illicit trafficking of stolen and other goods	171
corruption and bribery	210-213
fraud	168
counterfeiting currency	176
counterfeiting and piracy of goods	section VIII
environmental crimes	section IX
murder, grievous bodily injury	97 and 104
kidnapping, illegal restraint and hostage-taking	137, 138, 245
robbery and theft	166, 169
smuggling	246
extortion	165
forgery	209
piracy	149, 164 and 264
insider trading and market manipulation	Not covered

109. Accordingly, the following types of the "designated offence categories" are not criminalized under the Criminal Code of Uzbekistan: insider trading and market manipulation. As the result of this, there a case of partial non-compliance with the FATF Recommendations for a minimal list of "designated categories of predicate offences".

110. Pursuant to Article 12 of the Criminal Code of Uzbekistan, citizens of Uzbekistan as well as stateless persons permanently residing in Uzbekistan are subject to criminal liability under the Criminal Code of Uzbekistan for crimes committed on the territory of a third country; provided, however, they have not been punished by court of law of the said third country.

111. Foreign citizens and stateless persons not residing permanently in Uzbekistan are subject to criminal liability under the Criminal Code of Uzbekistan for crimes committed on the territory of a third country only to the extent provided for in international treaties and agreements.

112. Under Article 243 of the Criminal Code of Uzbekistan, it should be noted that the subject of a ML-related crime might be both an individual who has committed a predicate offence and an individual not involved in its perpetration but who has carried out a transaction involving illegally acquired property. Therefore, ML-related crimes can be applied to persons who have committed a predicate offence (i.e., self-laundering), and there are no provisions in the laws of Uzbekistan limiting the application of the said Article.

113. The Criminal Code of Uzbekistan includes auxiliary to ML crimes. The table below provides a brief overview:

Auxiliary crimes			
FATF terminology	Article	of the	Explanation

	Criminal Code of Uzbekistan	
Conspiracy to commit	30	Organizers as well as members of conspiring organized groups, criminal gangs and syndicates are liable for preparation and/or commission of any crime they have been a party to.
Attempt	25	Preparation and attempt to commit a crime
Aiding and abetting	28	Types of accessories to the crime: Instigators and accomplices An instigator is someone who instigates someone else to commit a crime
Aiding and counseling in committing	28	Types of accessories to the crime: Instigators and accomplices An accomplice is a person who has assisted in the perpetration of a crime with advice, directions or by making available means or eliminating obstacles, or a person who has pledged to assist with concealing a perpetrator of a crime, instruments, traces or means of such perpetration, or objects obtained by criminal means, as well as a person who has promised in advance to acquire or dispose of such objects.

114. If a natural person conspires in, counsels on, attempts, aids, abets and instigates the perpetration of a ML-related crime, such person is subject to criminal liability under Articles 25, 28 and 30 of the Criminal Code of Uzbekistan.

#### *Additional Elements*

115. Pursuant to Article 12 of the Criminal Code of Uzbekistan, citizens of the Republic of Uzbekistan as well as stateless persons permanently residing in Uzbekistan are subject to criminal liability for crimes committed on the territory of a third country under the Criminal Code of Uzbekistan; provided, however, they have not been punished by a court of law of the said third country.

#### ***Recommendation 2***

116. Under Article 17 and 18 of the Criminal Code of Uzbekistan, only a mentally competent natural person who has reached the age of 16 prior to commission of a crime can be subject to criminal proceedings. A person is defined as mentally competent if he/she, during the commission of a crime, is conscious of the danger his/her crime poses to society and has control over it. In view of this, ML-related criminal proceedings can only be instituted against natural persons who are found to be mentally competent.

117. Under Article 21 of the Criminal Code of Uzbekistan, a crime is considered to have been committed with specific intent if the person who committed it was aware of the danger his crime posed to society, foresaw its socially dangerous consequences and desired their onset. A crime is considered to have been committed with indirect intent if the person who committed it was aware of the danger his crime posed to society, foresaw its socially dangerous consequences and

intentionally failed to prevent their onset. The element of intent to commit a ML-related offence can be inferred from objective factual circumstances.

118. Under Article 81 of the Criminal Code of Uzbekistan, evidence in a criminal case can be any factual data on the basis of which an inquiry agency, investigator and a court establish, in the manner prescribed by the law, the existence or absence of a socially dangerous act, the extent of guilt of a person responsible for committing it and/or any other circumstance relevant to the fair resolution of a case. This data is compiled through the following: testimonies of a witness, victim, suspect, accused, defendant, expert's evidence, physical evidence, sound and videos recordings, records of investigative and judicial proceedings and other documents.

119. Prior to referring a case with an indictment to a court for conviction, the following must be proven/established:

- 1) object of a crime; nature and extent of damage caused by a crime, circumstances characterizing the identity of a victim;
- 2) time, place, modus operandi and others listed in the Criminal Code circumstances of a crime; causal connection between the act and matured socially dangerous consequences;
- 3) commission of a crime by the person in question;
- 4) commission of a crime with direct or indirect intent, either through negligence or presumptuousness; motives and purpose of a crime;
- 5) circumstances that characterize the personality of the accused/defendant.

120. In accordance with the decree issued by the Oliy Majlis of the Republic of Uzbekistan dated 30.08.2003, No. 536-II "On Ratification of the United Nations Convention against Transnational Organized Crime", no criminal or administrative liability of legal entities is provided for in the Law of Uzbekistan. Under the Criminal Code (Article 17) and the Administrative Liability Code, legal persons are not subject to criminal or administrative liability. Thus, the fundamental principles of the Law of Uzbekistan do not allow for criminal or administrative proceedings to be initiated against a legal entity.

121. It should be noted that criminal or administrative liability may be applied to a natural person acting as a legal entity; provided, however, he/she is found guilty of committing or abetting a ML-related crime.

122. Civil or other liability of legal entities for ML and FT is provided for in the following legislative acts:

1) Under Article 53 of the Civil Code of Uzbekistan, a legal entity can be liquidated by a court decision; provided, however, it has been engaged in activities prohibited by law. Under the Criminal Code of Uzbekistan, ML and FT constitute a criminal and prohibited activity; therefore, the provisions of this Article can be applied to a legal entity engaged in laundering the proceeds from crime and terrorist financing.

2) Pursuant to Article 29 of the Law of Uzbekistan "On Combating Terrorism", an organization can be deemed to be terrorist and subject to liquidation only on the basis of a court decision.

123. When an organization is deemed to be terrorist, its property is confiscated and nationalized.

124. In the event that an international organization (its branch, business unit, representative office) registered outside Uzbekistan is deemed to be terrorist by a court of Uzbekistan, the activities of such organization (its branch, business unit, representative office) in Uzbekistan shall

be prohibited, while the organization itself (its branch, business unit, representative office) in Uzbekistan shall be liquidated; all the property belonging to such organization (its branch, business unit, representative office) in Uzbekistan shall be confiscated and nationalized.

125. Under Article 15 of the Criminal Code of Uzbekistan, ML constitutes a grave offence and carries a sentence provided for in Article 243 of the Criminal Code of Uzbekistan of five to ten years in prison. The extent of liability depends on the specific level of involvement in a crime; i.e., in sentencing for a crime committed in complicity, a court shall consider the nature and extent of involvement of each of the perpetrators. Mitigating and aggravating circumstances relating to the personality of each of the accomplices shall be considered by a court only when sentencing this accomplice. However, the extent of punishment to be meted out for the preparation and attempt to commit an offence may not exceed three-quarters of the maximum punishment provided for by the relevant article of the Special Section of the Criminal Code of Uzbekistan. (Article 58 of the Criminal Code of Uzbekistan); i.e., the length of a prison sentence for the said offences shall not exceed 7.5 (seven and half) years.

126. A comparative analysis of the degree of punishment meted out for ML in the CIS member states shows that Uzbekistan's penal measure for ML (in terms of deprivation of liberty) is effective, proportionate and acts as a deterrent.

127. However, in comparison with other countries of the EAG, Article 243 of the Criminal Code of Uzbekistan does not provide for penalty in the form of "fine" and "confiscation of property" as an additional punishment.

### *Effectiveness and statistics*

128. 2006 - 2009 statistics on criminal prosecutions related to ML is as follows:

Year	Criminal cases	Convictions	Convicted individuals	Penal measures used against convicted individuals	
				Fine	Imprisonment
2006	30	17	1	-	1
2007	10	5	30	2	13
2008	32	17	72	2	61
2009	42	8 (January-November)	97	14	77

129. The following statistical data for predicate offences investigated by prosecution agencies (exclusive of the Ministry of Internal Affairs and National Security) covering the 2008 – 2009 period was provided:

Type of offence	Number of Cases		Number of persons	
	2008*	2009	2008*	2009
Theft through embezzlement or defalcation (Art.167 of CC of Uzbekistan)	9	10	69	20
Fraud (Art. 168 of CC of Uzbekistan)	-	2	-	27
Illegal purchase or sale of currency values (Art. 177 of CC of Uzbekistan)	-	3	-	7
Evasion of tax or other mandatory payments (Art. 184 of CC of Uzbekistan)	3	22	19	52

Total	12	37	88	106
-------	----	----	----	-----

\* statistics for 2008 include only the data provided by the Directorate for Combating Economic Crimes and Corruption at the Prosecutor-General's Office of Uzbekistan.

130. A specially authorized state body compiles statistical data on ML, including STR and completed investigations; however, it was not made available.

131. It is worth noting that while both insider trading and market manipulation are not criminalized in Uzbekistan, the Center for Coordination and Control over the Securities Market at the State Property Committee told the group of evaluators that a fact of market manipulation worth UZS5 billion (about \$3.7 million) had been uncovered. All the related materials were passed on to the law enforcement authorities and the case sent to a court (charges of "Fraud"), the licenses of the organizations involved in the offense were revoked.

132. The representatives of Uzbekistan did not provide any statistical data on the sanctions applied to legal entities involved in ML, having noted, however, that instances of legal entity liquidations did take place.

133. Given a relatively high number of ML-related convictions and a positive trend in this field, as well as the fact that convictions continued at the time when the framework legislation in the sphere of AML/CFT was suspended, it appears that the system, in this part at least, functions effectively, particularly so when tax crimes constitute a predicate offence.

### 2.1.2. Recommendations and Comments

134. Uzbekistan should make the necessary changes to the wording of Article 243 of the Criminal Code to make it more specific and bring it in line with the provisions of the Vienna and Palermo Conventions; i.e., include possession and use of property obtained through illegal means into the list of ML-related crimes and specify the purposes of ML.

135. It is necessary for Uzbekistan to criminalize the following types of "designated categories of offences" (provided for in the FATF Recommendations): insider trading and market manipulation.

136. Uzbekistan (Supreme Court) is recommended to issue a clarification pertaining to examining ML-related criminal cases (in particular, to determine revenues obtained through commission of a predicate offence).

137. In order to concretize the extent of liability of legal entities, Uzbekistan is recommended to introduce into the Law of Uzbekistan "On AML/CFT" provisions specifying the liability of legal entities for involvement in ML-related crimes (similar to Article 28 and 29 of the Law of Uzbekistan "On Combating Terrorism");

### 2.1.3. Compliance with Recommendations 1 and 2

	Rating	Summary of factors underlying rating
R. 1	LC	<ul style="list-style-type: none"> <li>Provisions of Article 243 of the Criminal Code (ML) do not cover the activities involving possession and use of property obtained by criminal means and which, under the Vienna and Palermo Conventions, constitute one of the</li> </ul>



		<p>elements of ML</p> <ul style="list-style-type: none"> <li>• Under the Criminal Code, such types of "designated categories of offences" as insider trading and market manipulation are not criminalized.</li> </ul>
<b>R. 2</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• Insufficient effectiveness of application of sanctions against legal entities for ML offences.</li> </ul>

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

### 2.1.1. Description and Analysis

138. In Uzbekistan, financing of terrorism (hereinafter "FT") is criminalized in accordance with Article 155 (Terrorism) of the Criminal Code of Uzbekistan.

*"Article 155. Terrorism*

*Terrorism, i.e. an act of violence, use of force, other acts that endanger persons or property or the threat of them used to force public bodies, international organizations, their officials, natural or legal persons to do or abstain from doing any activities with the aim of complicating international relations, violating sovereignty and territorial integrity, undermining state security, provoking war or armed conflict, destabilizing the social and political climate, intimidating the population, as well as activities aimed at supporting the existence, functioning and financing of a terrorist organization, preparation and commission of terrorist acts, direct or indirect provision or collection of any funds, resources or other services to terrorist organizations or persons assisting or participating in terrorist activities -*

*is punishable by a prison term of eight to ten years.*

*Attempt upon someone's life, causing bodily harm to a state or public figure or a representative of the state authority carried out in connection with their public or social activities with the aim of destabilizing the situation or impacting the decisions taken by public bodies, or preventing political or other social activities -*

*is punishable by a prison term of ten to fifteen years.*

*Activities provided for in Parts 1 or 2 of this Article, which resulted in the following:*

*a) a person's death;*

*b) other grave consequences -*

*are punishable by a prison term of fifteen to twenty five years or life imprisonment.*

*A person involved in preparation of a terrorist act shall be exempted from the criminal liability if he/she willingly contributed to prevention of a terrorist act and/or terrorists' plans through timely warning of governmental bodies or otherwise; provided, however, his/her actions do not contain other corpus delicti".*

The wording of Article 155 of the Criminal Code of Uzbekistan, in general, reflects the requirements of Article 2 of the International Convention for the Suppression of the Financing of Terrorism of 1999.

139. First, the requirements of this Convention in respect of Paragraph (a)<sup>3</sup> of Article 2 are reflected in the following wording of Article 155 of the Criminal Code of Uzbekistan:

- "activities aimed at direct or indirect provision or collection of funds, resources or other services for terrorist organizations or persons assisting or participating in terrorist activities".

- "supporting existence, functioning and financing of a terrorist organization, preparation and commission of terrorist acts"<sup>4</sup>.

140. Based on the provisions of Article 155 of the Criminal Code of Uzbekistan, a terrorist activity is, among others, a commission of a terrorist act, which is a crime in itself. A number of corpora delicti provided for in the 9 conventions and agreements on combating terrorism that are listed in the Annex to the International Convention for the Suppression of the Financing of Terrorism are covered by the term "terrorist act", referred to in Article 2 of the Law of Uzbekistan "On Combating Terrorism."

141. At the same time, an act of seizure, theft of nuclear materials for terrorist purposes and unlawful acts against fixed platforms located on the continental shelf are not included in the list of activities covered by the term "terrorist act". Additionally, this term also includes "other acts of a terrorist nature provided for in the law of the Republic of Uzbekistan and universally recognized norms of international law". Uzbekistan is a signatory to the International Convention for the Suppression of Acts of Nuclear Terrorism (entry into force on 09.04.2008), as well as to the Protocol for the Suppression of Unlawful Acts against Safety of Fixed Platforms located on the Continental Shelf (entry into force on 24.12.2000). In this regard the "seizure, theft and use of

---

<sup>3</sup> (a) Crimes of financing of terrorism shall apply to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intent to use them, or knowing that they will be used, in whole or in part, for the following:

- (i) to carry out a terrorist act (s);
- (ii) terrorist organization; or
- (iii) an individual terrorist.

<sup>4</sup> Pursuant to the Law of Uzbekistan "On Combating Terrorism", the terms "terrorist organizations", "terrorist activity" and "terrorist act" shall have the following meaning:

- terrorist organization is a stable union of two or more persons or terrorist groups created to carry out terrorist activities;
- terrorist activity is an activity that includes organizing, planning, preparation and execution of a terrorist act, incitement to terrorist act, creating a terrorist organization, recruiting, training, financing, arming of and providing logistical support to terrorists;
- terrorist act is a commission of an offence of a terrorist nature that includes the following:
  - capture and detention of hostages;
  - infringement on the life of a state or public figure, a representative of national, ethnic, religious and other groups of population, foreign states and international organizations;
  - damage to, seizure and destruction of property of public or social significance;
  - explosion, arson;
  - use or threat or use of explosive devices, radioactive, biological, explosive, chemical and toxic substances;
  - seizure, hijacking, destruction of and damage to land, water and airborne vehicles;
  - causing panic, inciting unrest in public places and during mass events;
  - causing harm/damage to or threatening the lives of people or the property of natural or legal persons by causing accidents and/or man-made disasters;
  - proliferation of threats by any means or methods, or other acts of terrorist nature provided for in the Law of Uzbekistan and the universally recognized norms of international law.

nuclear materials as well as unlawful acts against the safety of fixed platforms located on the continental shelf” are covered by the notion of “other acts of terrorist nature provided for in the Law of Uzbekistan and the universally recognized norms of international law” which in turn is “terrorist activity”.

142. Secondly, based on the provisions of Article 155 of the Criminal Code of Uzbekistan, FT-related crimes include any funds, as required by Paragraph (b)<sup>5</sup> of Article 2 of the International Convention. The wording in the provisions of Article 155 of the Criminal Code of Uzbekistan "*direct or indirect provision or collection of any funds, resources or other services for terrorist organizations or persons who assist in or participate a terrorist activity*" indicates that financing of terrorism is an act, even if the funds have not actually been used in terrorist activities and are not intended for a specific terrorist act. In its turn, the definition of a "terrorist activity" in the Law "On Combating Terrorism" is also not limited to terrorist acts alone. Thus, FT offense is considered committed as soon as funds are collected or provided to terrorist organizations or individual terrorists, regardless if they are further used in the commission of a terrorist act or not.

143. Thirdly, in accordance with Article 25 of the Criminal Code of Uzbekistan, criminal responsibility for preparation and attempt to commit an offence begins under the same Article of the Special Section of the Criminal Code of Uzbekistan as for a committed offence (requirement of Paragraph (d)<sup>6</sup> of Article 2 of the International Convention).

144. Fourthly, as noted in the summary to R.1, the Criminal Code of Uzbekistan provides for criminalization of all necessary forms of complicity in a crime, including those provided for in Article 2 (5) of the International Convention for the Suppression of the Financing of Terrorism (requirement of Paragraph (e)<sup>7</sup> of Article 2 of the International Convention).

145. Complicity in a crime as well as aiding, abetting, facilitating or counseling are reflected in Articles 27 - 29 of the Criminal Code of Uzbekistan, preparation and attempt to commit it, in Article 25 of the Criminal Code of Uzbekistan.

146. Pursuant to Article 243 of the Criminal Code of Uzbekistan, FT is a predicate offense in relation to ML.

147. Pursuant to Article 12 of the Criminal Code of Uzbekistan:

- citizens of Uzbekistan as well as stateless persons permanently residing in Uzbekistan are subject to criminal liability for crimes committed on the territory of a third country under the Criminal Code of Uzbekistan; provided, however, they have not been punished by a court of law of the said third country.

---

<sup>5</sup> (b) Crimes of financing of terrorism shall apply to any funds, as this term is defined in the Convention on FT, including funds from licit or illicit sources.

(c) The crime of financing of terrorism does not require the funds to have been:

(i) actually used in carrying out or an attempt to carry out a terrorist act(s); or

(ii) associated with a specific terrorist act(s).

<sup>6</sup> (d) An attempt to commit a crime of financing of terrorism shall also be regarded as a crime.

<sup>7</sup> (e) Participation in any of the activities set forth in Article 2(5) of the Convention on Financing of Terrorism shall also be a crime.

- foreign citizens and stateless persons not residing permanently in Uzbekistan are subject to criminal liability under the Criminal Code for crimes committed on the territory of a third country only to the extent provided for in international treaties and agreements.

148. Under Article 3 of the CPC of Uzbekistan, proceedings in criminal cases are conducted in accordance with the laws applicable at the time of the inquiry, preliminary investigation and court proceedings, regardless of the location of the scene of crime, unless otherwise is provided for in the treaties and agreements concluded by and between the Republic of Uzbekistan and other countries.

149. In respect to FT-related offences as well as ML-related offences, the same requirements of Article 81 of the CPC of Uzbekistan on the proof of guilt / innocence of a person apply; i.e., the extent of guilt of a person is determined by objective factual circumstances.

150. In accordance with the fundamental principles of law, described above, legal entities are not subject to criminal or administrative liability, including for FT (see. R.2). At the same time, under Article 29 of Law of Uzbekistan "On Combating Terrorism", an organization can be deemed to be terrorist and subject to liquidation by a court decision. When an organization is deemed to be terrorist, its property is confiscated and nationalized.

151. In the event that an international organization (its branch, business unit, representative office) registered outside Uzbekistan is deemed to be terrorist by a court decision in Uzbekistan, the activities of such organization (its branch, business unit, representative office) in Uzbekistani are prohibited, while the organization itself (its branch, business unit, representative office) in Uzbekistan is liquidated; all the property belonging to such organization (its branch, business unit, representative office) in Uzbekistan is confiscated and nationalized.

152. The punishment provided for in Article 155 of the Criminal Code of Uzbekistan carries a prison sentence ranging from eight years to life imprisonment. Based on the extent of public danger it represents, an FT-related offence constitutes a grave or particularly grave type of crime.

153. The extent of liability depends on the specific level of involvement in a crime; i.e., in sentencing for a crime committed in complicity, a court shall consider the nature and extent of involvement of each of the perpetrators. Mitigating and aggravating circumstances relating to the personality of each of the accomplices shall be considered by a court only when it sentences the said accomplice. However, the extent of punishment to be meted out for preparation and attempt to commit an offence may not exceed three-quarters of the maximum punishment provided for in the relevant article of the Special Section of the Criminal Code. (Article 58 of the Criminal Code of Uzbekistan); i.e., the length of a prison sentence for the said offences shall not exceed 7.5 (seven and half) years.

154. A comparative analysis of the degree of punishment for FT in the CIS member states shows that Uzbekistan's penal measure for FT (in terms of deprivation of liberty) is effective, proportionate and acts as a deterrent

### ***Effectiveness and statistics***

155. In the period between 2005 and 2009, criminal courts of Uzbekistan convicted 432 individuals in 80 criminal cases on charges defined in Article 155 of the Criminal Code of Uzbekistan.

Year	Criminal cases	Referred to court	Convicted individuals	Penal measures used against convicted individuals	
				Fine	Imprisonment
2005	25	91	91	n/a	n/a
2006	23	225	225	-	198
2007	14	36	36	-	33
2008	6	15	n/a	n/a	n/a
2009	16	105	-	n/a	n/a

156. The official statistics are not broken down by the dispositions of Art. 155, namely terrorism or FT. Representatives of Uzbekistan reported that 2 out of 15 persons charged under Art.155 in 2008 were persons prosecuted for FT; 29 persons out of 105, in 2009. An investigation into one of the cases revealed that more than \$1 million was spent on supporting the families of terrorists' associates, more than \$100,000 on purchasing weapons, and more than \$5 million on acquiring property. In view of that, it seems that the penal part of the CFT system works rather effectively.

### 2.2.2. Recommendations and Comments

157. Uzbekistan should explicitly criminalize seizure, theft and use of nuclear materials as well as unlawful acts against the safety of fixed platforms located on the continental shelf..

158. The country is also recommended to compile detailed statistical data on FT-related criminal cases and take measures to improve the effectiveness of the application of Article 155 of the Criminal Code of Uzbekistan, including by providing training to the employees of the Prosecutor's Office and judiciary.

### 2.2.3. Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR. II	LC	<ul style="list-style-type: none"> <li>The Law of Uzbekistan does not explicitly criminalize seizure, theft and use of nuclear materials as well as unlawful acts against the safety of fixed platforms located on the continental shelf which may compromise the effectiveness of law application.</li> </ul>

## 2.3 Confiscation, freezing or seizing of proceeds of crime (R.3)

### 2.3.1. Description and Analysis

159. In Uzbekistan, confiscation is provided for in the criminal legislation. Requirements of Article 203, 211, 284 and 285 of the CPC of Uzbekistan, in general, correspond to the meaning of the term "Confiscation"<sup>8</sup> as it is specified in the FATF Recommendations.

---

<sup>8</sup> Confiscation is a deprivation of rights, where applicable, and stands for the permanent deprivation of funds or other assets by a decision of the competent authority or court. The confiscation or deprivation of rights is carried out through a judicial or administrative procedure that transfers the ownership in the form of certain funds or other assets to the state. In this case, the natural or legal person(s) who had owned rights to these or other assets at the time of confiscation or forfeiture lose all rights to all confiscated or forfeited funds or assets. (Confiscation or forfeiture

160. Pursuant to Article 290 (Seizure of Property) of the CPC of Uzbekistan, seizure of property consists of the following: informing the owner or possessor of the property of a prohibition on the disposition and, if necessary, use of such property or confiscation of property and its placement under a safe keeping arrangement with a third party. Under Article 284 of the CPC of Uzbekistan (nationalization of objects of crime), the property which constitutes an object of crime shall be nationalized; provided, however, there is no court order specifying that such property should be restored to its previous owner. If such property has not been found, the cost of such property or its property equivalent (property of correspondent value), upon a court order or, in the event of termination of a criminal case, upon a court ruling handed down in civil proceedings, is recovered in favor of the state. In accordance with CPC article 211, instruments of crime and intended instruments of crime are also subject to seizure.

161. Also, under Article 285 of the CPC of Uzbekistan (Determining further ownership of property acquired by criminal means), money, clothes and other property acquired by the accused on the proceeds from crime, shall, upon a court order, be disposed of to compensate for the caused material damage, with the remainder being added to the revenues of the state.

162. If the property, constituting an object crime was discovered in possession of a third party, confiscated from it and restored to its rightful owner, then the money, clothes and other property acquired by the defendant through the disposal of the said property, upon a court order, shall be placed in possession of the state. *Bona fide* purchaser of the property restored to its rightful owner is informed of his/her right to bring a civil action suit against the convicted person for damages caused through the forfeiture of such property.

163. The experts were told that it is also possible to confiscate the property directly or indirectly acquired on the proceeds from crime. In one case, given as an example, a retail stores network was established using the proceeds from crime. All the revenues received by this network were deemed illegal, seized and later confiscated by a court order.

164. The competent authorities of Uzbekistan have broad powers for application of preventive measures, including seizure and freezing of the property, which is subject to confiscation. Under Article 290 (Seizure of property) of the CPC of Uzbekistan, to ensure the enforcement of civil action sentences, other recovery measures, investigating officers or a court shall seize the property belonging to a suspect, accused, defendant and civil defendant.

165. The following property can not be seized: residential house, apartment, household furnishings and utensils, clothing and other items necessary for the wellbeing of the family of a suspect, accused, defendant and civil defendant. In the event that residential or non-residential premises, regardless of their ownership status, were used to commit the following offences: high treason, abuse of the constitutional order and/or the President of the Republic of Uzbekistan, terrorism, sabotage, or when any of the said crimes involve premeditated murder, robbery, theft or other grave (including ML) and particularly grave offences, such premises shall be seized.

166. A seizure consists of the following: informing the owner or possessor of the property of a prohibition on the disposition and, if necessary, use of such property, or confiscation of property and its placement under a safe keeping arrangement with a third party. Seizure of property is

---

warrants are usually tied to a criminal conviction or a court decision authorizing such confiscation or forfeiture of rights. Such property is defined as resulting from the breach of law or intended for such.)

carried out upon order of an investigating officer, or a court with the right to assign the execution of this measure to the investigating authority. The decision or the ruling authorizing a seizure contains the following details: by whom, when and in connection with which case it was made, reason and identity of the person whose property is to be seized, and, when the seizure is carried out as part of a civil action, its value. It is worth noting, that competent authorities of Uzbekistan have the right to seize property, which is subject to confiscation *ex parte*, and without preliminary notification.

167. In the event of failure on the part of an investigating officer to take measures aimed at ensuring the enforcement of a sentence or its part pertaining to property recovery measures or penal measures of material nature, the court handling the case shall oblige them to take such measures.

168. In the even that a civil suit is satisfied or a recourse to other property recovery measures is made, a court may, prior to entry of judgment into legal force, issue a decision on the measures to be taken to insure the enforcement of the sentence in this part, if they were not taken earlier.

169. Under Article 294 of the CPC of Uzbekistan (removal and storage of seized property), seized property may be removed and deposited under a safekeeping arrangement with the representative of a civil self-government body or other organizations.

170. The seized property may be retained under a safekeeping arrangement with its owner or the possessor, an adult family member or other person who shall be explained the statutory responsibility for the safety of the thereby deposited property, for which he/she shall provide a written undertaking. All illegal items are subject to mandatory confiscation regardless of any arrangements. Upon issuance of a seizure order, cash deposits, government bonds, stocks and other securities held in banking institutions are not removed; however, all transaction involving them shall be stopped upon receipt of such seizure order.

171. The decree issued by the President of the Republic of Uzbekistan "On Measures of Further Improving the System of Legal Protection of Business Entities" of 14.06.2005, No. UP-3619 stipulates that in cases involving money laundering and terrorist financing, freezing of bank accounts may be carried out without a court decision. In all other cases, the measure shall be endorsed by a court.

172. The competent authorities of Uzbekistan, including law enforcement agencies (using operational-search powers - see summaries of R.27 and 28), under Articles 157-168 of the CPC of Uzbekistan, have the right to search and seize documents from natural persons and legal entities in order to identify and trace the property which is subject or may be subject to confiscation, or when the said property is suspected to constitute the proceeds from crime.

173. At the same time, the powers of the competent and law-enforcement agencies of Uzbekistan related to searching for the property that is subject or may be subject to confiscation, or when the said property is suspected to constitute the proceeds from crime are not sufficiently defined in those legislative acts of Uzbekistan that were provided to the experts. The representatives of Uzbekistan reported that the powers of these agencies are specified in classified documents. Additionally, Article 9 of the Law of Uzbekistan "On AML / CFT" does not provide for FIU to have the authority to conduct search for the property that is subject to confiscation.

174. The rights of *bona fide* third parties are protected under Article 285 of the CPC of Uzbekistan. According to which, if the property that was an object crime was discovered in possession of a third party, confiscated from it and restored to its rightful owner, then the money, clothes and other assets acquired by the defendant through the disposal of the said property shall be appropriated by the State upon a court order. The *Bona fide* purchaser of the property that has been restored to its rightful owner shall be informed of his/her right to bring a civil action suit against the convicted person for damages caused through the forfeiture of such property. This provision is largely consistent with the standards set out in the FATF Recommendations.

175. Under Article 113 of the Civil Code of Uzbekistan, a transaction is invalid for the reasons set out in the Civil Code by virtue of it being recognized as such by a court (voidable transaction) or independent of such recognition (void transaction). This provision means that a court may suspend or cancel the contract subject to a request made by one of the parties concerned. Also, under Article 116 of the Civil Code of Uzbekistan, a transaction, the content of which is not consistent with the existing legislative requirements, and which is executed on the grounds deliberately contrary to the foundations of law and order or morality shall be deemed to be void.

#### *Additional Elements*

176. Under Article 199 of the Civil Code of Uzbekistan, seizure of property from the owner is allowed upon enforcement of recovery of his/her property as part of the liabilities of the owner, and can be carried out in cases and in the order stipulated by appropriate legislative acts or as part of nationalization, requisition or confiscation. If any property is found to be in possession of a person it can not legally belong to, the ownership rights to such property are voided by a court order and the cost of the confiscated property is refunded to such person.

177. Additionally, under Article 204 of the Civil Code of Uzbekistan and in the cases provided for in the law, property can be confiscated from its owner (subject to a court order) for commission of a criminal or other offence without compensation.

#### *Effectiveness and statistics*

178. Statistical data on seizures of confiscated property compiled by the specialized Center at the Ministry of Internal Affairs is presented below:

<b>Confiscation, seizure and freezing statistics</b>			
	year	all criminal cases	ML (243 Criminal Code)
Property freezing and seizure cases	2006	1179	4
	2007	1240	5
	2008	1229	5
	2009	1029	15
Value of frozen or seized property (billion UZS)	2006	5,877	0,191
	2007	39,746	0,048
	2008	13,579	0,411
	2009	16,252	0,602
Property seizures in favor of the state	2006	1068	1



	2007	1098	4
	2008	1162	26
	2009	852	44
Values of seized property in favor of the state (billion UZS)	2006	2,881	0,191
	2007	2,597	0,023
	2008	5,724	1,672
	2009	6,586	0,725

179. In light of the presented statistical data, one can argue that the property confiscation requirements in Uzbekistan are sufficiently effective.

### 2.3.2. Recommendations and Comments

180. It should be noted that unlike other EAG countries, the Criminal Code of Uzbekistan does not provide for any additional punishment, such as confiscation of property, for committing a criminal offence.

181. Uzbekistan is recommended through its legislative acts (in addition to the CPC, e.g. in Law "On Operational and Search Activity") and in more detail consolidate the powers of the competent and law-enforcement authorities of Uzbekistan, including the FIU, in the domain of identifying and searching for the property which is subject to, or may be subject to confiscation, or when the said property is suspected to constitute the proceeds from crime.

### 2.3.3 Compliance with Recommendation 3

№	Rating	Summary of factors underlying rating
R. 3	LC	<ul style="list-style-type: none"> <li>The on-site mission was unable to analyze thoroughly powers of competent authorities RUz to trace assets which are subject or can be subject to seizure, because these powers are envisaged in the classified documents.</li> </ul>

## 2.4. Freezing of Funds used for Financing of Terrorism (SR.III)

### 2.4.1 Description and Analysis

182. The main instrument for implementing the provisions of the UN Security Council Resolutions 1267 and 1373 is the mechanism for suspending the transactions conducted by persons listed as terrorists. The body responsible for enforcing the resolutions of the UN Security Council in Uzbekistan is the Ministry of Foreign Affairs (MFA), which compiles data on the persons who, based on the available evidence, are involved in terrorist activities, or under the influence of persons engaged in terrorist activities. This data is subsequently made available to the relevant agencies, including the FIU. In accordance with the Resolution of the Cabinet of Ministers dated 12.10.2009, No. 272, the FIU shall draw up a general, updatable (international and national) list of persons suspected of involvement in terrorist activities and make it available to financial institutions. The list shall be based on the data submitted by the Ministry of Foreign Affairs, Ministry of Interior, General Prosecutor's Office, Defense Ministry, State Customs Committee, the National Security Service, as well as the Supreme Court of Uzbekistan.

183. Under Art. 14 and 15 of the AML/CFT Law, the accountable organizations shall suspend all transactions involving the listed persons, except credit transactions, for a period of three business days counting from the transaction closing date, and inform the relevant authorized governmental agencies of such a transaction on the day of its suspension. In the absence of any instructions from the relevant governmental authority on further suspension of the transaction involving monetary or other assets, and following the expiration of the set period, the said transaction shall be resumed. Additionally, under Art. 9 of the AML/CFT Law, the FIU may extend the suspension period, but by no more than two business days; provided, however, that the supplied information pertaining to such transactions was deemed to be accurate by a subsequent investigation.

184. Following the expiration of the said 5-day period, the funds belonging to a listed person must be released, which constitutes a violation of the provisions of Resolutions 1267 and 1373. Any further action involving seizure or confiscation of assets is only possible through the criminal procedural mechanisms, which calls into question the effectiveness of the freezing procedure.

185. There are no detailed procedures specifying the transaction suspension mechanism (excluding commercial banks). It is not clear what action should be taken by financial institutions following the discovery of accounts or assets relating to natural persons or legal entities included in these lists. Also, there are no clear procedures for challenging the suspension of transaction involving funds or other assets and cancellation of the said measures. Moreover, there are no provisions covering the appropriate responsibilities and powers of the governmental agencies working in the field of AML/CFT pertaining to suspension of transactions with assets belonging to the persons suspected of involvement in terrorism.

186. One of the drawbacks is the fact that the FIU has no right to order a bank to suspend transactions with the funds believed to be intended to finance a terrorist act.

187. The necessary mechanisms for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures are absent. The mission was informed that, any suspension of transactions involving funds located in Uzbekistan and owned by persons or entities involved in a terrorist act must be carried out using the general procedures for handling the requests for legal assistance. However, no specific facts of the use of such freezing measures were presented.

188. As was mentioned before, any seizure or confiscation of funds and/or other assets belonging to natural persons or legal entities believed to be involved in terrorist activities (financing of terrorism) for a period beyond the term specified in the ruling issued by the FIU must be sanctioned by a decision, order or ruling issued by a court or an investigating agency working on pending cases. However, this mechanism is similar to the one previously described in the section of the report devoted to the Recommendation 3.

189. The freezing mechanism is applicable to assets that belong to terrorists in their entirety; however, Uzbekistan has not provided any evidence indicating that it also covers the assets that are jointly owned by terrorists and other third parties. A procedure used for registering legal entities, analyzed in R.33, which does not provide for sufficient measures for identifying the beneficial owners only adds extra difficulty to this situation. There is also no evidence to suggest that the freezing mechanism can be applied to the funds that constitute the proceeds from the income or assets belonging to terrorists. As of the date of the evaluation, the Uzbek authorities did not discover any assets belonging to terrorists or terrorist organizations. The authorities intend to

continue amending the domestic legislation to ensure its compliance with the UN Security Council Resolutions 1267 and 1373.

190. In Uzbekistan, there are no procedures for reviewing petitions to remove a person from the lists. There are also no mechanisms to grant access to the part of the funds needed to satisfy a person's basic living requirements, as required by the terms of the UN Security Council Resolutions. The rights of bona fide third parties are reflected in the mechanism applicable to the requirements of Recommendation 3. However, if the mechanism of freezing is applied by mistake, then after 3 days of freezing and in the absence of any notification from the FIU, the suspension will be lifted automatically.

191. The mechanisms for oversight and monitoring of financial institutions and Designated Non-Financial Businesses and Professions (DNFBP) for compliance with the Special Recommendation III are applied as part of the oversight mechanism for monitoring the compliance with the AML/CFT legislation as a whole (see Recommendations 23 and 29) . Any violation of the AML/CFT Law results in the application of appropriate sanctions (see Recommendation 17).

### *Effectiveness*

192. There is no statistical data on the number of individuals and organizations involved or the value of assets frozen pursuant to UN resolutions. The relevant information was not provided to the mission due to the fact that at the time of the evaluation the freezing mechanisms were not applied. Additionally, the representatives of Uzbekistan mentioned one FT-related case that involved freezing of assets totaling UZS 400 million in 2009; however, no further details were made available.

### **2.4.2. Recommendations and Comments**

193. The current regime for freezing transactions applied to individuals listed as terrorists does not meet the requirements of Resolutions 1267 and 1373, nor the Special Recommendation III as a whole. It is necessary to develop a full range of administrative measures for indefinite and immediate freezing of assets belonging to such individuals, as well as provide detailed instructions to financial institutions and the DNFBP sector. It is also advisable to introduce specific mechanisms for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures. It is necessary to establish procedures for reviewing petitions to remove individuals from the lists. It is necessary to develop and implement mechanisms for granting access to the part of the funds needed to satisfy a person's basic living requirements, as required by the terms of the UN Security Council Resolution 1452.

### **2.4.3. Compliance with Special Recommendation III**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>SR.III</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• The current regime for suspension of transactions and application of criminal-procedural mechanisms in respect to individuals listed as terrorists raises questions as to the effectiveness of the implementation of Resolutions 1267 and 1373</li> <li>• There are no necessary mechanisms for reviewing and utilizing the information received from foreign countries in</li> </ul>

		<p>respect of entities subject to freezing measures.</p> <ul style="list-style-type: none"> <li>• Uzbekistan has no procedures for processing/considering de-listing requests.</li> <li>• Uzbekistan has no mechanisms authorizing access to a portion of funds necessary for basic expenses, as required by the UN Security Council Resolutions 1452.</li> </ul>
--	--	---

## Authorities

### **2.5. The Financial Intelligence Unit and its functions (R.26, 30 and 32).**

#### **2.5.1 Description and Analysis**

194. The Financial Intelligence Unit of Uzbekistan – Anti-Money Laundering and Terrorist Financing Directorate (hereinafter the "Directorate") was established within the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office pursuant to the Resolution of the President of the Republic of Uzbekistan No. PP-331 dated 21.04.2006. However, in April 2007, the Law N ZRU-94 dated 27.04.2007 was used to suspend the operation of the AML/CFT Law, along with the powers of the Department in the domain of AML/CFT. In April 2009, the suspension was lifted. Several necessary subordinate acts were adopted in September 2009 restoring the powers of the FIU.

195. Under Art. 8 and 9 of the AML/CFT Law, this agency oversees monetary and other transactions in accordance with the established procedures, and

- coordinates the work of organizations that conduct monetary or other transactions, as well as agencies involved in combating money laundering and terrorist financing;
- analyses the data (received under the AML/CFT Law) related to transactions with monetary and other assets;
- submits the materials on transactions involving monetary or other assets linked to money laundering and terrorist financing activities to the relevant authorities involved in combating money laundering and terrorism financing; provided, however, it has sufficient grounds to do so;
- sends instructions requiring the suspension of operations with monetary or other assets for a period not exceeding two business days; provided, however, that the supplied information pertaining to such transactions was deemed to be accurate by a subsequent investigation;
- requests and receives free information needed to implement measures to combat money laundering and financing of terrorism, including from computerized information systems and databases.

196. Report submission and completion procedure are defined in the "Guideline on the Procedure for Providing Information Related to Combating Money Laundering and Financing of Terrorism" approved by the Cabinet of Ministers of Uzbekistan, No. 272 dated 12.10.2009. At present, the majority of such reports arrive in an electronic form (mainly from banks). A technique has been developed that helps to monitor the incoming reports for completion errors.

197. Under Art. 9 of the AML/CFT Law, it requests and receives free information needed to implement measures to combat money laundering and financing of terrorism, including from computerized information systems and databases. Currently, the Directorate has a direct (online) access to the following information resources:

- Customs Committee (cargo customs declarations, declarations for import / export of money and valuables);
- Tax Committee (the register of legal entities);
- MIA's passport database (including on lost passports);
- cadastre.

A possibility for gaining access to the country's other public authorities' automated databases is being considered.

198. Pursuant to Paragraph 20 of the "Guideline on the Procedure for Providing Information," the Department has the right to send written enquires to various organizations requesting additional information or appropriately certified copies of relevant transaction documents in the following cases:

- when it is necessary to ascertain the credibility of the information contained in a report;
- when information is available about a possibility of a transaction to be carried out for the purposes of money laundering and terrorist financing;
- as part of an arrangement to fulfill the obligations under international treaties in the sphere of anti-money laundering and financing of terrorism signed by Uzbekistan.

199. The above list does not include the case when the FIU is required to proactively request financial institution to supply information on individuals and transactions in respect of which the STR was not sent. The FIU representatives declared that they had such authority, referring to Art. 9 and 10 of the AML / CFT, according to which the FIU has the right to request and receive information needed to implement AML / CFT measures free of charge. Additionally, all FIU's decisions pertaining to AML / CFT are binding on the country's businesses, institutions and organizations. At the same time, absence of explicit provisions in the legislation can potentially result in a denial of the request.

200. Department's written requests for information and documents are issued on the Department's headed paper, signed by the Head of the Department or his deputies and delivered by courier or by registered mail service.

201. The Directorate may decide to transfer the collected materials to the Department' investigation unit for further filing of criminal charges. According to one official from the Directorate, there has not been a single instance when materials were returned; a sign that the submitted materials are properly analyzed.

202. The duties related to identifying the persons involved and transfer of information are performed solely by the Directorate. All materials related to opened criminal cases are transferred to the Prosecutor's Office, only subject to the approval of the Head of the Directorate. After the transfer, the Directorate continues to support the case until it reaches court. As part of the Department's structural unit, the Directorate, however, is located in a separate building that can only be accessed by the Directorate employees by means of electronic access cards.

203. It should be noted, however, that the Directorate does not have its own budget, and its Head has no authority to sign any interagency or international agreements; this remains the prerogative of the Head of the Department. Additionally, all enquiries to be sent to financial institutions must be authorized by the Head of the Department. The above-mentioned facts may affect the operational independence of the FIU.

204. Pursuant to Par. 11 of the Provision "On the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office", the Department staff are required to keep state, official and trade secrets confidential, along with the classified information related to natural persons' deposits and other information acquired as part of the performance of their duties. In the even of failure on the part of an employee to keep the said classified information secret, he/she shall be liable to prosecution under the existing law. To address this issue, a special system of electronic and physical protection of information stored in the FIU's database was set up. Plans are underway to make the system handling all the incoming reports electronic.

205. The Directorate does not publish periodic reports on its activities.

206. During its on-site mission, the Department considered a possibility for the FIU (Directorate) to join the group of financial intelligence units Egmont Group and appealed to potential sponsors in order to prepare a formal application for membership.

207. The Directorate employs the principles of the Egmont Group in its work; i.e., there is a positive experience of sharing information with the Federal Financial Monitoring Service (Russia's FIU).

### ***Structure and resources***

208. The Directorate has a staff of 22 people, 10 in the department of systematic monitoring and analysis of financial transactions, 5 in the department for operational support of efforts to combat money laundering and financing of terrorism and 7 in the information technology department. It may be necessary for the Directorate to recruit more staff in view of the fact that it received a sufficiently large number of reports during the previous years of its work. The Head of the Directorate is also the Deputy Head of the Department.

209. In order to ensure a proper international cooperation and information exchange with competent authorities of foreign states in the domain of AML/CFT, a special International Relations Unit was set within the structure of the Department with a staff of 2 employees.

210. The employees of the Directorate are trained in a specialized training center operated and run by the Department.

211. Pursuant to Paragraph 5 of the provision "On the Department", all of its subdivisions, including FIU, are staffed with highly qualified personnel of the following professions: economists, lawyers, IT experts. All new recruits have practical experience of working within law enforcement, regulatory, oversight agencies and financial institutions. They possess, among other professional and personal qualities needed to work in the field of financial intelligence, analytical skills, high moral values, endurance and stamina.

### ***Effectiveness***

212. Uzbekistan submitted the following statistics on received reports, their analysis and transfer to law enforcement agencies (for the period from November 1, 2009 to April 30, 2010):

Received reports	Selected for examination and analysis	Found to be of no interest	Being monitored	Under review	Criminal cases initiated as the result of examination
4125	324	270	30	18	6

213. Based on the above data, we can draw a preliminary conclusion that the FIU work is effective to a certain extent.

214. It should be noted that, according to the representatives of the Department, all criminal cases initiated under Article 243 (ML) during 2006-2009 period (114 cases altogether) were based on materials provided by the FIU. However, as we know, the operations of the national AML/CFT system in the field of STR were suspended during the 2007-2008 period. Perhaps, the reason for such extensive use of the FIU's materials in criminal cases should be attributed to the fact the FIU's structure contains a unit that performs operational functions. This unit's authority as that of a law-enforcement structure was never subject to suspension; i.e., the opened criminal cases may have contained the materials supplied by the operational rather than analytical unit. Therefore, given the circumstances, it is difficult to talk about the effectiveness of the FIU in respect to analytical work. Additionally, no FT-related criminal proceedings (Art.155) were initiated on the basis of the material provided by the FIU.

215. As was previously mentioned in Section 2.1, about 90% of all predicate offences are tax-related. This fact clearly shows that the efforts of the Directorate are, above all, focused on detecting predicate offences and only then on carrying out financial investigations into their results, thus lowering the value of the FIU as an analytical tool.

### 2.5.2. Recommendations and Comments

216. It is necessary to better specify the powers of the FIU when it comes to requesting additional information from financial institutions, given that the existing provisions may result in the denial of the request.

217. The FIU should devote more attention to a proactive approach to financial investigations, as this will result in higher value of the materials being submitted to the law enforcement authorities.

218. It is also necessary to raise the FIU's work effectiveness in the field of FT combating.

219. It is necessary for the Head of the FIU to have greater authority when it comes to cooperating with various national and international partner agencies.

220. The FIU should regularly (at least once a year) publish its performance reports that should include among other things the description of the AML/CFT-related typologies and trends.

### 2.5.3. Compliance with Recommendation 26.

	Rating	Summary of factors underlying rating
R. 26	LC	<ul style="list-style-type: none"> <li>The scope of the authority vested in the Head of the Directorate raises question about operational independence of the FIU.</li> <li>The Directorate does not publish regular reports on its activities.</li> </ul>

		<p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• The absence of a clearly defined provision in the legislation with regard to the FIU's powers to request additional information may result in a denial of the request.</li> </ul>
--	--	--

## **2.6. Law enforcement, prosecution and other competent authorities – the framework for investigation and prosecution of offences as well as for confiscation and freezing (R.27, 28, 30 and 32)**

### **2.6.1 Description and Analysis**

#### ***Recommendation 27***

221. Pursuant to Art. 35 of the CPC of Uzbekistan, investigations into criminal cases are to be carried out by the Prosecutor's Office, Interior Ministry and National Security Service. A money laundering offence is provided for in Art. 243 of the Criminal Code "legalization of the proceeds from crime", a financing of terrorism offence is provided for in Art. 155 of the Criminal Code. Pursuant to Art. 345 of the CPC, investigations into ML-related offences are carried out by the Interior Ministry, while FT-related offences are the prerogative of the National Security Service. If separate criminal cases are combined into one, the Prosecutor is to assign the responsibility for the case to the agency dealing with the more serious of the crimes.

222. According to the evaluating team, the main role in investigating money-laundering offences is played by the Department on Combating Fiscal and Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office acting pursuant to the Resolution of the President of the Republic of Uzbekistan No. IIII-331 dated 2006. The Department includes the Anti-Money Laundering and Terrorism Financing Directorate, which is responsible for collecting, analyzing and transferring the information to the Department's Inquest Office for further action.

223. The Anti-Money Laundering and Terrorist Financing Department contains a Division for Operational Support of Combating Money Laundering and Terrorist Financing (Operations Division), with a staff of 5. The Division has the following responsibilities:

- conduct special investigation activities based on the analytical data received from the Department of Monitoring and System Analysis of Financial Transactions;
- suspend transactions involving monetary or other assets subject to the availability of certain operational data;
- jointly with the Ministry of Internal Affairs and National Security Service, conduct special investigation activities to identify and suppress AML/CFT-related transactions involving monetary or other assets carried out by legal and natural persons.
- based on the materials obtained through special investigation activities and uncovered evidence of money laundering, prepare a report and refer the gathered data to the Agency of Inquiry for Tax and Currency Crimes of the Department for further action (staff of 5).

The Department responsibilities are set out in Chapter 42 (Art. 339-343) of the CPC Uzbekistan.

224. Pursuant to Resolution No. 291 "On Measures to Strengthen the Fight Against Economic and Tax Crimes" of 06.07.2001 issued by the Cabinet of Ministers of Uzbekistan, all criminal cases opened by the Department shall be investigated by the Directorate for Combating Economic



Crimes and Corruption at the Prosecutor-General's Office of the Republic of Uzbekistan (staff of 14).

225. Pursuant to the CPC, the Prosecutor's Office ensures compliance with the laws during inquest and preliminary investigation, as well as issuing written instructions on criminal investigations, nature of detention, investigative actions and search for wanted persons. It also seeks or contests court petitions for an order authorizing or extending the period of involuntary detention. The Prosecutor's Office may also delegate the performance of any investigative actions and, if necessary, personally perform certain investigative actions or full-scale investigations involving any criminal case.

226. Pursuant to Art. 220 of the CPC of Uzbekistan, detention of individuals for a period of up to 72 hours can happen both before and after the initiation of criminal proceedings, subject to the decision by an investigating officer, prosecutor or court. Pursuant to Art.18 of the CPC, no person can be arrested or detained without a court order. Additionally, during a preliminary investigation, a prosecutor or an investigating officer with the consent of the prosecutor issues an order to file a petition with a court seeking a detention order. The detention period shall not exceed three months. This period can be extended, however, to 5 months at the request of the Prosecutor of the Republic of Karakalpakstan, the Regional Prosecutor of Tashkent or prosecutors with the same status, to 7 months - Deputy Prosecutor General of the Republic of Uzbekistan, to 9 months and up to one year – Prosecutor General of the Republic of Uzbekistan.

227. Powers of the competent authorities on the application of interim measures of sentence enforcement and other asset recovery measures are contained in the section of the report devoted to Recommendation 3.

228. Pursuant to Art. 351 of the CPC, a preliminary investigation shall be completed in the period not exceeding 3 months. The investigation period can be extended, however, to 5 months at the request of the Prosecutor of the Republic of Karakalpakstan, the Regional Prosecutor of Tashkent or prosecutors with the same status, to 7 months - Deputy Prosecutor General of the Republic of Uzbekistan, to 9 months and up to one year – Prosecutor General of the Republic of Uzbekistan.

229. Arrest and detention of suspects, seizure of property can be carried out in the course of the preliminary investigation, which allows for a delay or denial of arrest of the suspects or freezing of money to gather evidence.

#### *Additional Elements*

230. The evaluating team was informed of the existence of certain regulatory and legal acts in Uzbekistan that regulate the operational-search activities and that are listed as "classified". It was not possible to review the regulatory framework on the measures deployed when investigating ML and FT-related cases due to the fact that the provisions of the legal and regulatory acts were not disclosed for the reason of their classified nature. In the course of several meetings, the representatives of Uzbekistan also noted that, when required, it is possible to carry out "undercover", etc. operations.

231. Pursuant to Art. 354 of the CPC of Uzbekistan, if a criminal case is particularly difficult, labor-intensive or extremely relevant, the Prosecutor or the Head of the Investigation Unit may assign the responsibility for the preliminary investigation of this case to a permanent or a specially created team of investigators. Additionally, pursuant to a special classified resolution, a

coordination committee handling the issues of AML/CFT has been set up in the country. It is made up of the representatives of all the relevant agencies.

### ***Structure and resources***

232. It appears that the law enforcement authorities have sufficient resources and are well aware of their responsibilities in respect to AML/CFT-related investigations. Their structure, as a whole, is adjusted to meet the AML/CFT-related objectives. The need for the staff to receive additional training on using ML/FT-related investigation procedures is considerable.

233. All law enforcement agencies have their own specialized training centers and programs on combating ML and FT. In particular, at the Prosecutor's Office: Higher Education Courses of the Prosecutor's Office of the Republic of Uzbekistan, in the Department: Operations and Forensic Center, at the Interior Ministry: the Uzbek Police Academy, in the National Security Service: Learning Center of the National Security Service of Uzbekistan.

234. All members of the Prosecutor's Office must attend a special 6-month training course. There are also specialized training programs on AML/CFT for investigators at the tax academy (16-20 teaching hours on methodology, general practice and international experience).

235. In 2009, the Department organized a number of seminars on AML/CFT involving international experts of the World Bank, IMF, OSCE, EAG and representatives of law enforcement, oversight and other relevant agencies.

236. The evaluating team was also informed of the on-going training programs for the staff involved in AML/CFT, and of the work on developing guidelines for ML/FT-related investigations. However, the presented information was not detailed enough.

### ***Effectiveness***

237. The evaluating team was informed that 90% of ML-related criminal proceeding were initiated by the Department and were investigated, as a rule, by a team of investigators that, among others, included several employees of the Department.

#### *Statistical data on ML-related criminal cases*

	2006	2007	2008	2009
Criminal cases opened by the Department	30	10	32	42
Guilty verdict criminal cases examined by courts	17	5	17	8

238. The evaluators were also informed that ML-related crimes are also investigated by the Interior Ministry and National Security Service; however, no relevant statistical data on the results of this work was provided. No statistical data on initiated and examined by courts criminal cases involving FT offences was made available either. The statistics on combating financing of terrorism are given in the report section dedicated to SR.II (see above). The data provided in the report makes it possible to judge the effectiveness of work carried out by law enforcement agencies in the field of AML / CFT.

### ***Recommendation 28***

239. Subject to a substantiated order the Uzbekistani law enforcement authorities which conduct preliminary criminal investigation including ML and FT cases are authorized under Article 20 of

the CPC to collect and seize objects and documents (as well as to force the collection or seizure of the aforementioned), to search persons, premises or other places, to arrest, search and seize post-and-telegraph dispatches. Pursuant to Art. 97 of the CPC, individuals shall be summoned to an inquest officer, investigation officer, prosecutor and court by serving them with a subpoena.

240. In order to enforce a civil court sentence or other asset recovery measures, an investigator or a court shall seize the property of a suspect pursuant to Art. 290 of the CPC. Pursuant to Art. 289 of the CPC, any property, depending on the legality or illegality of its acquisition by its owner, shall be requisitioned or confiscated, i.e., shall be transferred by a court to the appropriate public agency or business entity which is authorized to possess, use and dispose of it.

241. Under the penal legislation of Uzbekistan, any statements, reports and other information related to any crime must be registered and dealt with immediately. Law enforcement agencies and the Prosecutor's Office are authorized for the purposes of investigation and to use as evidence in the prosecution of crimes, including ML, FT and other predicate offences or related to them activities to take witness statements, accept testimonial evidence and interrogate individuals involved.

### **2.6.2. Recommendations and Comments**

#### **Recommendation 27**

242. It is necessary to have a law regulating operational–search activities and clearly defining the scope of authority of various law enforcement agencies.

243. The statistical data on criminal cases, including those examined by courts (with guilty verdicts), compiled by the Interior Ministry should be segregated into a separate category that covers ML and FT-related offences. The value of seized or confiscated in the course of investigations assets should also be reflected.

244. Recommendations indicated above concern additional elements of Recommendation 27 and don't have an impact on rating.

#### **Recommendation 28**

245. Uzbekistan has adopted all necessary measures recommended by Recommendation 28.

### **2.6.3. Compliance with Recommendations 27 and 28**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R. 27</b>	<b>C</b>	This recommendation is fully met.
<b>R. 28</b>	<b>C</b>	This recommendation is fully met.

## **2.7. Cross-border Declaration and Disclosure (SR.IX)**

### **2.7.1. Description and Analysis**

246. A combined declaration system for transfer of cash and payment instruments is used under the existing legislation of Uzbekistan. It has to be said that this system was not set up to address the AML/CFT objectives. The country's regulatory and legal acts do not contain any provisions for

its use in the domain of AML/CFT. In this respect, the Special Recommendation IX is largely not complied with.

247. Uzbekistan's customs legislation comprises of the Customs Code and other legislative acts. No regulatory and legal acts regulating the procedure for cross-boarder movement of goods, currency and foreign exchange instruments, with the exception of the Customs Code, were provided to the evaluating team.

248. Pursuant to Art. 89 of the Customs Code (CC), cross-boarder transit of goods and vehicles is subject to customs declaration procedure. Thus, pursuant to Par. 1, Art. 7 of the CC, the term "goods" includes the following: any movable assets, including currency values, electrical, thermal and other forms of energy, vehicles, intellectual property. Pursuant to Art. 3 of the Law of Uzbekistan "On Currency Regulation", currency valuables are foreign currency, foreign currency securities, payment instruments in foreign currency and fine gold ingots. Pursuant to Art. 96 of the Civil Code of Uzbekistan, valuable securities are documents dully certifying upon compliance with the established form and mandatory requirements the ownership of property rights. Valuable securities include the following: bonds, bills, checks, deposit and saving certificates, bills of lading, shares and other documents identified as valuable securities by the existing law. It is worth noting, that in compliance with CC, international postal deliveries and containerized cargo are also subject to declaration.

249. The evaluation team were informed that cross-border transfer of foreign currency is regulated by Decree No. 86 dated 2004 (no copy of the Decree was made available). According to this Decree, any person must declare the currency he/she is bringing in and taking out of the county using a specially approved for this purpose form No. T-6. Cross-border transfer of national currency by non-residents is not allowed. Residents may bring in and take out of the country the amount equivalent to no more than 50 minimum wages (about UZS 1.7 million, or \$1,100).

250. Pursuant to Art. 39 of the CC, customs control procedures are carried out by the employees of the customs authorities and include the following: inspection of documents and verification of information required by customs regulations; oral questioning of private persons and public officials; customs clearance; customs identification of goods, vehicles, premises and other places; accounting of goods and vehicles; auditing the system of accounting and reporting; inspection of areas, buildings and other places where goods and vehicles subject to clearance might be located, or implementation of activities that are the responsibility of the customs authorities; other measures as provided for in the law. Customs clearance procedures may involve the use of different technical equipment. The customs officials stated that there are no mandatory legal requirements for individuals to notify the customs officials about the origin (legality) of the hard cash they are carrying across the border. Also, the customs authorities have no power to detain or seize funds or bearer instruments in the event of any suspected money laundering or terrorist financing activities.

251. Under Article 178 of the CC, any products, vehicles, documents or other items constituting an instrument or an immediate object of an offence and discovered during customs control/inspection are subject to seizure by the official representatives of the customs authorities. The seized goods, vehicles, documents and other items are stored in specially designated by the customs authorities places until the investigation involving these items is completed. Seizure of goods, vehicles, Uzbek currency and foreign exchange assets from offenders with no permanent residence in Uzbekistan is allowed.

252. Pursuant to the CC (Art. 186), cases involving violations of customs legislation are to be examined by the customs authorities if the punitive measure provided for is either a fine or confiscation of goods, and by a court at the location of the appropriate customs authority if the main or additional punitive measure provides for is a confiscation of goods and/or vehicles.

253. Pursuant to Art. 198 of the CC, all goods, vehicles and other items confiscated in accordance with the Customs Code are to be either nationalized or destroyed in the manner prescribed by law.

254. Under Art. 220-222 of the CPC, employees of the customs authority as an agency of enquiry may, either before or after the initiation of criminal proceedings, detain for up to 72 hours and deliver to the nearest police station or any other law enforcement agency a person suspected of committing a crime if he/she is caught during the commission of a crime or immediately after it, or the available evidence provides sufficient grounds to suspect such person of being guilty of a crime, including ML or FT. It should be noted that Art. 243 and 155 are beyond the investigative jurisdiction of the customs authorities making it impossible for them to investigate AML/CFT-related cases. Under Art. 345 of the CPC of Uzbekistan, the investigative jurisdiction over offences provided for in Art. 182 (Violation of Customs Law) of the Criminal Code belongs to the national security service.

255. All data related to violations of customs laws, including false declarations of the value of currency being transported, is to be stored by Customs authorities for a period of not less than 5 years and may be made available to the authorized bodies subject to their jurisdiction to carry out investigations and procedural actions. Given the fact that Customs Authorities are not empowered to act on the basis of suspicion of money laundering or terrorist financing, the data related to such cases is not stored.

256. The evaluating team was informed that, pursuant to the Resolution No. 203 of 16.06.2008 issued by the SCC, all electronic systems and databases used by the SCC were integrated into a unified automated information system that operates on-line and consists of the following:

- "UAIS ETO" – a unified automated information system for external trade operations was created by Decree No. 416 of September 30, 2003 "On Measures for Better Monitoring of Export and Import Operations" issued by the Cabinet of Ministers of the Republic of Uzbekistan. The system is being used by the State Customs Committee, State Tax Committee, Ministry of Foreign Economic Relations, Investment and Trade and the Central Bank;

- AIS "ASCD CCD" – automated information system "Automated System of Customs Data for Customs Cargo Declaration. It forms and processes data on Customs Cargo Declarations processed by the Customs authorities;

- "AIS AUTO" – automated information system for auto vehicle delivery control;
- "AIS Railway" – automated information system for railway vehicle delivery control;
- "AIS CCA" – automated information system for processing the data of customs clearance acts;

- "AIS ACD" – automated information system for accounting customs duties;

- "AISCW" – automated information system of customs warehouses;

- "AISVCL" – automated information system of violations of customs legislation.

257. The data stored with "UAIS ETO" is classified as "for official use only". Access to this data is granted in the manner prescribed by the Law. Representatives of the state competent authorities regularly receive requested statistical and other data pursuant to appropriate regulatory and legal acts, as well as on the basis of one-off requests.

258. Direct access to the data base is granted to the customs authorities only. Pursuant to the Joint Regulation on the Procedure for Providing Information dated January 29, 2010, concluded by and between the SCC and the Department, the Customs Service shall provide the FIU of Uzbekistan updated information from the database in electronic form and on a weekly basis, including information on currency movement, export-import operations and identification data on appropriate persons. The data is stored for 15 years, as was explained by a State Customs representative (no regulatory legal act was provided). Cooperation of the Customs Authorities with the Boarder Service enables information exchange and assists apprehension of individuals using the data supplied by the Boarder Service, including on person suspected of being involved in FT.

259. Cooperation between the customs authorities and other law enforcement and regulatory agencies is carried out in accordance with the provisions of the Customs Code of Uzbekistan and other regulatory and legal acts, as well as on the basis of joint short-term and long-term organizational and tactical action plans. More detailed information on this was not provided. Additionally, all coordinating work is carried out within the framework of the established interagency working group for cooperation and coordination among state agencies in the field of anti-money laundering and financing of terrorism (established pursuant to a "closed" resolution of the Cabinet of Ministers).

260. The SCC of the Republic of Uzbekistan is a party to about 120 customs matters-related international agreements and treaties, including intergovernmental, interagency, multilateral and bilateral. As part of these agreements and treaties, the SCC cooperates with the customs administrations of foreign countries, including in the fields of information and experience exchange, personnel training and combating customs violations. Cooperation with the customs authorities of the CIS countries is particularly intensive. Uzbekistan, for instance, has signed several agreements on cooperation and mutual assistance on customs matters with governments and customs authorities of the following countries: Azerbaijan, Georgia, Russian Federation, Ukraine, the Republic of Korea, the Czech Republic, Greece, Italy, Latvia, Lithuania, Egypt, Slovakia. International agreements contribute to the exchange of information among customs authorities and governments on movement of goods and vehicles across borders. Besides, the representatives of Uzbekistan mentioned some cases, when customs authorities of some CIS member-states cooperated with State Customs Control on a mutual basis in the area of notification of unusual transportation of gold, precious metals and stones, but no details or statistics were presented.

261. Section IX of the Customs Code of Uzbekistan provides for liability for breach of the customs legislative act that has a provision for a culpable unlawful breach of the customs rules set out in the CC and other legislative acts. Citizens and public officials found guilty of violation of any provisions of the customs legislation are subject to administrative, and in cases of any essential elements of crime found in their actions, criminal liability. Thus, individuals responsible for violations in the amount exceeding 100 times the minimum monthly salary are subject to administrative liability, from 100 to 300 - criminal, over 300 and individuals with previous administrative convictions - criminal. Pursuant to Art. 132 of the CC, any violations of the customs legislation may result in the following: fine, termination of a license, confiscation of goods and vehicles deemed to be the instrument or the means of such violation.

262. Pursuant to Art. 182 of the Criminal Code, transfer of goods or other property across the customs border of the Republic of Uzbekistan without customs clearance or through the use of fraudulent ID or/and customs documents, non-declaration or false declaration committed on a

large scale (ranging from one hundred to three hundred times the minimum wage) is subject to criminal liability for breach of customs law (following administrative liability for a similar or identical offence). This Article of the Criminal Code provides for a punishment of up to five years (part 1) and up to eight years (part 2) imprisonment. Additionally, pursuant to Art. 223 of the Criminal Code, any entry or exit of the county by individuals carried out in violation of the established procedure carries a punishment of between three and ten years imprisonment, and, pursuant to Art. 246 of the Criminal Code, smuggling of potent, poisonous, radioactive, explosive substances and devices, weapons, firearms or ammunition, narcotic or psychotropic substances, materials promoting religious extremism, separatism and fundamentalism carries a punishable of between five and twenty years imprisonment.

263. Pursuant to Art. 159-165 of the CC , any unlawful transfer, including non-declaration or false declaration of goods, fraudulent use of documents, avoidance of customs clearance of goods and/or vehicles is subject to a fine in the amount of between twenty and two hundred percent of the value of goods and vehicles plus their confiscation. Any confiscation of funds and/or instruments payable to the bearer related to a breach of customs legislation is carried out in the same way as it was previously described in Recommendation 3.

264. Despite the fact that it is not possible to apply the relevant provisions of the Special Recommendation III (see description of the Recommendation above) in respect of funds transported across the boarder and related to FT, this function is actually implemented by border authorities, located within the NSS structure. In view of the fact that the NSS has access to lists of persons suspected of involvement in terrorism or FT, the Border Service is, pursuant to UN Security Council Resolutions, including Resolution 1267, is required to deny such persons the right of entry, thereby making it impossible to move any funds through the customs border of Uzbekistan.

***Structure and resources***

265. Uzbekistan did not provide any data regarding the structure, funding, staff, technical and other resources of the customs authorities involved in combating money laundering and terrorist financing. No data regarding the requirements imposed on the employees of such agencies, any past or present refresher courses related to combating ML and FT, etc., was provided either. Also, the representatives of Customs stated that they implement appropriate programs of education and trainings of employees, but the issues of AML/CFT are not envisaged in the framework of these programs.

***Effectiveness and statistics***

266. All information regarding incoming and outgoing local and foreign currency, regardless of the amount, is recorded and stored using declaration form T-6.

267. Pursuant to SCC Resolution No. 140 dated 21.05.2009, the customs authorities shall keep records of all national and foreign currency in cash transported across the customs boarder. The relevant statistics are submitted to the State Statistics Committee on a monthly basis. Statistical data on the trasfer of national and foreign currency in cash by natural persons is given below:

Currency	2009		Q1 2010	
	entry	exit	entry	exit

	persons	amount	persons	amount	persons	amount	persons	amount
<b>US Dollar</b>	968820	573026,9	863004	406465,2	196086	123388,1	198398	101146,9
<b>EURO</b>	21508	62319,5	16261	34073,3	2454	7918,6	1691	6293,6
<b>Russian Ruble</b>	556353	2812231,3	289010	1343350,7	62503	517800,9	111785	320016,1
<b>British Pound</b>	29	1459,6	24	1656,4	2	100,9	3	8,4
<b>Kazakh Tenge</b>	349764	4933806,5	265344	2706665,0	135886	1409467,1	148664	742273,3
<b>Kyrgyz Som</b>	28346	157768,4	16517	37763,2	11484	19480,7	5451	18792,8
<b>Uzbek Som</b>	1641561	80925168,9	1313364	49109 119,7	449080	26010896,4	291273	13219937,1

268. The SCC of Uzbekistan keeps records of all offences identified by customs officers pursuant to Resolution No. 98 dated 31.03.2003.

269. In 2009, customs officers were instrumental in identifying 6,286 instances of offences involving illegal movement of currency values, which resulted in the seizure of currency values totaling \$ 5 billion and 238 Som.

270. Additionally, according to the employees of the SCC, they established effective cooperation with the National Security Service, which often supplies them with operational intelligence on suspected illegal movements of funds and bearer instruments, including those related to FT. Furthermore, the representatives of the SCC cited incidents when such individuals with funds were detained and handed over to the law enforcement agencies.

### 2.7.2. Recommendations and Comments

271. It is necessary to give the customs authorities the power to freeze and seize any funds suspected of being involved in money laundering or terrorist financing, as well as obtain information about the origin of funds/ bearer instruments and their intended use. Besides, it is necessary to designate AML/CFT as one of the functions of the customs authorities.

### 2.7.3. Compliance with Special Recommendation IX

	Rating	Summary of factors underlying rating
<b>SR.IX</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• The Customs system as a whole is not used for AML/CFT-related purposes.</li> <li>• Customs authorities do not have powers to obtain information about the origin of funds/bearer instruments and their intended use.</li> <li>• The customs authorities do not have sufficient authority to freeze and seize any funds suspected to be involved in money laundering or terrorist financing.</li> </ul>



### **3. PREVENTIVE MEASURES –FINANCIAL INSTITUTIONS**

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

##### **3.1. Risk of money laundering and terrorist financing**

272. Uzbekistan's National System of AML/CFT does not use a risk-based approach to assess the risk of various financial sectors. In this regard, all AML/CFT measures provided for in the law apply equally to all financial institutions. As part of the requirements for identifying clients, certain financial institutions (commercial banks and members of stock exchange) are required to create risk profiles; however, this is a sub-requirement and will be examined in the context of Recommendation 5.

##### **3.2 Customer Due Diligence, including enhanced and reduced measures (R.5 - 8)**

###### **3.2.1. Description and Analysis**

###### ***Preamble: Types of financial institutions subject to AML/CFT measures***

273. Pursuant to the FATF Recommendations, the following financial institutions of Uzbekistan are covered by the AML/CFT Law (Art. 12):

- banks, credit unions and other lending institutions;
- professional participants of the securities market;
- members of stock exchange;
- insurers and insurance brokers;
- leasing companies;
- companies that carry out money transfers, payments and settlements.

274. The AML/CFT Law labels the above-mentioned categories of financial institutions as "organizations engaged in transactions of funds and other assets". However, this law does not apply to companies that accept payments from the public through automated terminals (at the time of the evaluation, there was only one such company in Uzbekistan).

275. Pursuant to the Law on Central Bank, issuance of national currency into circulation is the exclusive prerogative of the Central Bank. Currently, there is no organization in Uzbekistan carrying out the issuance or circulation of electronic money. However, the country is currently developing measures necessary to regulate and monitor this sector. This is due to the fact that officials at the country's oversight agencies feel confident that with the development of new technologies in Uzbekistan there will inevitable appear institutions issuing electronic money.

276. Legislative requirements on AML/CFT apply equally to all financial institutions specified in the Law.

###### ***Preamble: Characteristics of the legislative instruments on AML/CFT***

277. The hierarchy of legislative instruments of Uzbekistan in the context of the FATF Requirements is evaluated as follows: category of "law or regulation" includes the laws of the Republic of Uzbekistan, in particular, AML/CFT Law, as well as legislative instruments, the drafting of which is delegated by this law to the Cabinet of Ministers or other authority.

278. Regulation of financial institutions is carried out, among others, on the basis of standard Internal Control Rules (hereinafter "IRC"), developed and established by joint Decrees of the Department and the relevant supervisory, regulatory and licensing bodies. It is the responsibility of financial institutions to reflect the provision of these rules in their own rules of internal control. Due to the fact that the issuance of such Rules is expressly provided for in Article 6 of the AML/CFT Law, these rules are regarded as "law or regulation" under the FATF Methodology criteria.

279. In 2009, the following Internal Control Rules for all financial institutions were developed and approved:

- for commercial banks - Internal Control Rules approved by the Resolution of the Central Bank of Uzbekistan and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 23/6, 32 (hereinafter "IRC for commercial banks") as amended by the Resolution of the Board of Directors of the Central Bank and the Department, registered by the Ministry of Justice 02.02.2010, No. 2023-1;

- for non-bank credit institutions - Internal Control Rules, approved by the Resolution of the Central Bank of Uzbekistan and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 23/5, 31 (hereinafter "IRC for non-bank credit institutions"), as amended by the Resolution of the Board of Directors of the Central Bank and the Department, registered by the Ministry of Justice 02.02.2010, No. 2023-1;

- for professional participants of the securities market - Internal Controls Rules, approved by the Resolution of the Center for Coordination and Control over the Securities Market at the State Property Committee and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 2009-43, 83 (hereinafter "IRC for professional participants of the securities market");

- For insurers and insurance brokers – Internal Controls Rules for insurers and insurance brokers, approved by the Resolution of the Ministry of Finance of Uzbekistan and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 104, 41 ( hereinafter "IRC for insurers and insurance brokers");

- For members of stock exchange - Internal Control Rules for Combating Money Laundering and Terrorist Financing for Members of Stock Exchange, approved by the Resolution of the State Committee of Uzbekistan for State Property Management and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 01/19-18/24, 43 (hereinafter "IRC for members of stock exchange"),

- for leasing companies – Internal Control Rules for Combating Money Laundering and Terrorist Financing in Companies Providing Leasing Services, approved by the Resolution of the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 34 (hereinafter "IRC for leasing companies");

- for operators and providers of postal services - Internal Controls Rules for Combating Money Laundering and Terrorist Financing for Operators and Providers of Postal Services, approved by the Resolution of the Communications and Information Agency of Uzbekistan and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan, dated October 13, 2009 No. 10-8/4270, 33-09, (hereinafter "IRC for operators and providers of postal services").

## ***Recommendation 5***

280. Prior to the entry into force of the Internal Control Rules, identification of counterparties (customers) in Uzbekistan was actually carried out in accordance with other legislative instruments regulating the relevant markets. It is the banking sector that is largely affected by this. Thus, the Instruction "On Bank Accounts Opened in Banks of Uzbekistan" (hereinafter "Instruction on Bank Accounts No. 1) approved by the Resolution of the Board of Directors of the Central Bank, dated 06.10.2001, No. 1 (25 / 4) stipulated that all legal entities (individual entrepreneurs) shall present (on a compulsory basis) their State Registration Certificate (for non-residents - a copy of the Certificate of the Taxpayer's Identification Number issued by the tax authorities) to the bank if they wished to open a bank account. In any case, each application form used to open a bank account was supposed to include the applicant's place of residence and business address. All customer (legal entity) information was to be stored in his business file and in the account registration book. Bearer accounts were the only exception (see below). To date, opening of such accounts is prohibited, while all previously opened ones are to be closed and reissued as personalized (sections II and III of the Instruction on Bank Accounts No. 1). At present, the existing Instruction on Bank Accounts Opened in Uzbekistan, approved by the Board of Directors of the Central Bank dated 16.03.2009, No. 7 / 2 (hereinafter "Instruction on Bank Accounts No. 7 / 2), raises the level of requirements applied to submitted documents and data to be stored.

### ***Anonymous accounts***

281. Financial institutions of Uzbekistan were able to offer bearer accounts and deposits (anonymous accounts) beginning from 1998. Presidential Decree of 23.09.1998, No. UP-2079 authorized the National Bank for Foreign Economic Activity of the Republic of Uzbekistan to open bearer accounts to natural persons (residents and non-residents of Uzbekistan) in foreign currency. Later, this practice was extended to include other authorized banks in Uzbekistan. From April 1, 2008 to April 1, 2009, the Presidential Decree of 20.02.2008 No. UP-3968 compelled all banks to begin accepting from natural persons (residents) funds (including for depositing in anonymous accounts,) in cash or from foreign bank deposits without any amount restrictions or documents identifying their source of origin. The said legislative act outlawed the bank practice of requesting its customers (natural persons) to submit documents confirming the lawful origin of their funds. A Decree dated 12.10.2009, No. UP-4148 issued by the President of Uzbekistan abolished the Decrees No. UP-2079 and No. UP-3968.

282. At present, steps are being taken to close (reissue) the existing anonymous accounts. All commercial banks received a letter-instruction (No 23-19 dated 19.10.2009) from the Central Bank of Uzbekistan requesting them to close all such accounts. Bearer accounts are reissued as personalized at the time when their owners visit their banks to conduct transactions involving such accounts. A joint estimate put the total amount of funds held in the anonymous accounts in commercial banks of Uzbekistan at UZS3 billion 800 million or 0.18% of the deposit portfolio of the banking system of Uzbekistan. As of April 2010, all anonymous bank accounts were closed (or reissued as personalized), as was reported by representatives of the Central Bank of Uzbekistan. This fact is supported by the information contained in the monthly statements of credit institutions (submitted pursuant to the letter of the Central Bank No. 11-2-36/322 dated September 26, 2002). Under Law No. 660-II dated 26.08.2004, companies and organizations engaged in transactions involving monetary or other assets are required when establishing economic and civil relations and carrying out one-off transactions to take steps to conduct proper customer identification and deny

the right to carry out any transactions to any natural person or legal entity failing such identification.

283. The requirement prohibiting commercial banks to open anonymous accounts (deposits) is also contained in the Internal Control Rules for AML/CFT in commercial banks, dated October 13, 2009 No. 23/6 and 32. A prohibition on opening anonymous deposits in non-bank credit institutions is contained in the Rules of internal Control for AML/CFT in non-bank credit institutions, dated October 13, 2009 No. 23/5 and 31. Both of these documents are approved by the Resolution of the Board of Directors of the Central Bank of Uzbekistan and the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering at the General Prosecutor's Office of Uzbekistan (hereinafter IRC for non-bank credit institutions).

284. Pursuant to Instruction of the Central Bank of Uzbekistan "On Bank Accounts Opened in Banks of Uzbekistan", approved by the Resolution of the Board of Directors of the Central Bank No. 7/2, dated 16.03.2009 (hereinafter "Instruction on Bank Accounts"), currently, no bank account can be opened without carrying out a customer identification procedure (for legal entities – a state registration certificate, identity documents of a natural person authorized to sign financial documents on behalf of a legal entity).

285. Other types of financial institutions are not subject to the ban on anonymous accounts; however, since all the Internal Control Rules provide for the mandatory identification of customers before establishing business relations, we can safely assume that anonymous accounts are not used.

#### ***When CDD is required***

286. Pursuant to Art. 7 of the AML/CFT Law No. 660-II, mandatory customer identification procedures shall be carried out in the following cases: suspicious transactions, doubts over the veracity of the previously obtained customer identification data, in carrying out one-off transactions and in cases provided for in the rules of internal control, as well as in establishing business and civil legal relations in cases provided for in the rules of internal control. The responsibility of financial institutions to apply the CDD measures is defined in the said Law (Article 15). The AML/CFT Law No. 60-II provides for no limit to the amount of funds to be used for implementation of the CDD measures. The CDD measures also cover electronic payments. Despite the fact that under the AML/CFT Law No. 660-II all data related to on-going and prepared transactions involving monetary or other assets (art. 13) shall be submitted to the competent authorities, the Law contains no clearly defined provision for a mandatory application of the CDD measures when attempting to conduct transactions (Article 7).

#### ***Credit Institutions***

287. As was noted above, Art. 7 of the AML/CFT Law states that the CDD shall be carried out in the cases specified in the Internal Control Rules when establishing business, civil legal relations in the cases provided for in the rules of internal control.

288. In this regard, the IRC contains requirements for commercial banks on implementation of the CDD measures in the cases involving the following: opening accounts (deposits), conclusion of loan agreements, transactions involving securities, certain types of one-off foreign exchange transactions, as well as all suspicious transactions, execution (receipt) of money transfers,

including those that do not require opening of a bank account, doubt as to the previously obtained information.

289. The IRC for non-bank credit institutions contains a requirement for mandatory implementation of the CDD measures in the cases involving the following: establishing economic and civil legal relations (i.e., receipt of an application for a membership in a credit union, obtaining loans, becoming a founding member, etc.), carrying out large-amount one-off transactions, suspicious transactions and doubts as to the veracity of the previously obtained customer data.

290. In the cases of one-off transactions, the IRC for non-bank credit institutions (credit unions, micro credit organizations) provides for a threshold equivalent to 1000 times the minimum monthly salary (UZS 33,645,000; approximately €15,000), at which the application of the CCD measures is not necessary.

291. Such one-off transaction carried out by commercial banks are limited to purchase of foreign currency from natural persons in the amount equaling or exceeding 1000 times the minimum monthly salary. In all other cases of one-off transactions, including money transfers, banks are required to apply the CDD measures without any exceptions. A "one-off transaction" is a transaction carried out no more than once a month; otherwise, a transaction shall be subject to the CDD measures. This definition of a one-off transaction is not entirely consistent with the FATF Recommendations, since such definition is supposed to mean a set of connected to one another transactions. However, given the time period specified in the IRC, it can be assumed that this requirement will preclude any attempts to avoid the CDD measures by splitting transactions.

292. No re-identification of previously identified persons is required. It is also not necessary to apply the CDD measures to public bodies and founders (shareholders) of legal entities the information about the ownership structure of which is subject to mandatory disclosure. Repeated CDD measures are carried out in the cases involving doubts as to the veracity of previously obtained customer and/or beneficial owner (Paragraph 34 of the Internal Control Rules for commercial banks and Paragraph 29 of the Internal Control Rules for non-bank credit institutions) data.

#### *Insurance companies*

293. Insurers and insurance brokers apply the CDD measures to their customers, persons on whose behalf they are acting, owners or persons controlling a customer (legal entity, beneficiaries, and owners of property). The CDD measures are applied to the said persons in establishing civil legal relations in the field of insurance, property co-insurance, liability, personal insurance (co-insurance), as well as reinsurance and conclusion of cooperation agreements, agency agreements and other agreements related to carrying out of activities. Suspected involvement in AML/CFT activities, as well as doubts as to the veracity of the previously obtained identification data can provide sufficient grounds for applying the CDD measures.

#### *Professional participants of the securities market*

294. Professional participants of the securities market apply the CDD measures in the cases involving establishing business relations, suspicion of ML/FT activities, doubt as to the veracity of the previously obtained identification data, as well as at all stages of transactions (paragraphs 12 and 13 of the relevant Rules).

### *Members of stock exchange*

295. The members of stock exchange apply the CDD measures in the cases involving suspected money laundering and terrorist financing activities or doubt as to the veracity of the previously obtained identification data (Paragraph 16 of the Rules). Interestingly, but the IRC for members of stock exchange does not contain a requirement to apply the CDD measures when establishing business relations. Despite the fact that this requirement is contained in the framework of the AML/CFT Law, practical application of this requirement in the future may potentially create problems. As was explained by representatives of the regulatory bodies, the reason for such regulation lies in specific nature of activities carried out by members of stock exchange: offering services to the client through conclusion of one-off, short-term transactions, and the absence of long-term business relations.

### *Leasing companies*

296. Leasing companies apply the CDD measures in the cases involving establishing business relations, suspected ML/FT activities, doubts as to the veracity of the previously obtained identification data, as well as at all stages of leasing activities (paragraphs 12 and 11 of the relevant Rules).

### *Operators and providers of postal services*

297. Operators and providers of postal services apply the CDD measures of users in the cases involving provision of services related to receipt, remittance of money payments, suspected ML / FT, doubts as to veracity of the previously obtained identification data (Paragraph 12 of the Rules).

298. In general, both legal requirements and the IRC reflect the requirements of the FATF Recommendations in the cases when the implementation of the CDD is necessary. Nevertheless, certain factors do not contribute to their effective implementation, i.e. discrepancy between the requirements of the AML/CFT Law and the IRC for stock exchange can create distortions in the enforcement process. Additionally, the term "one-off" transaction might potentially create an opportunity for avoiding the CDD measures by splitting transactions.

### ***Required CDD measures***

299. Pursuant to the AML/CFT Law No. 660-II (Article 7), the mandatory CDD measures include the following: verification of identity and authority (through relevant documents) of a customer and persons on whose behalf he is acting, identification of the owner or a person controlling a customer (legal entity) by examining the ownership and management structures (through constituent documents), conducting ongoing study of business relations and transactions involving monetary and other assets of a customer in order to ensure their correspondence with the information about such customer.

300. The AML/CFT Law of Uzbekistan requires the identification of the representatives of both a natural person and legal entity. Article 7 of the AML/CFT Law No. 660-II states that the CDD measures applied by financial organizations shall (on a compulsory basis) include the verification of the identity and authority (through appropriate documents) of the persons on whose behalf a customer is acting. However, the term "customer" is interpreted differently in different CDDs, which leads to some confusion (see below).

301. Financial institutions of Uzbekistan are not obliged to request their customers to provide information as to the purpose and intended nature of the business relations. Such requirement is absent from both the AML/CFT Law and in the IRC for each of the sectors.

302. The AML/CFT Law No. 660-II (Article 7) requires financial institutions to conduct ongoing study of business relations and transactions involving monetary and other assets conducted by a customer to ensure their correspondence with the information about such customer.

303. The existing regulations do not require financial institutions to request their customers to provide information as to the origin of the funds, where it is necessary.

#### *Credit Institutions*

304. Pursuant to the relevant IRCs, credit institutions are subject to similar CDD (Par. 23 of the IRC for commercial banks, Par. 22 of the IRC for non-bank credit institutions).

305. Mandatory identification of natural persons by credit institutions is based on the presentation of original identity papers (passport or an equivalent document), the documents constituting the basis of transactions and other necessary information (Paragraphs 24 and 26 of the IRC for commercial banks, as well as Paragraphs 23 and 25 of the IRC for non-bank credit institutions). However, it is the responsibility of each individual credit institution to verify such original document. Pursuant to Annex No. 1 to the IRC, the following items shall also be ascertained:

- Surname, name and patronymic.
- Date and place of birth.
- Citizenship.
- A place of permanent and (or) temporary residence.
- Details of the passport or document substituting it: document series and Ref. Number, date of issue, name of the authority issuing the document.
- Taxpayer Identification Number (if available).
- Home phone (if applicable).

306. With regard to an individual entrepreneur, the following shall also be established (Appendix No. 2 to the IRC):

- state registration details: date, ref. number, name of the registering authority;
- place of economic activity;
- other details specified in the certificate of state registration;
- information on existing certificates and operating licenses: type of activity, ref. number, issue date, issuing authority, validity;
- business phone numbers

307. Pursuant to Annex No. 2 to the IRC, identification of a legal entity requires the following information:

- full and abbreviated name, if there is one in the certificate of state registration;
- state registration details: date, ref. number, title of the registering authority;
- Taxpayer Identification Number;
- location area (address);
- other details specified in the certificate of state registration;
- information on existing licenses for activities that are subject to licensing: type of activity, ref. number, issue date, issuing authority, validity;
- information on the identity of a natural person acting on behalf of a legal entity;

- information on the founders (shareholders, participants) and their shareholdings in the statutory fund of a legal entity;
- information on the size of registered and paid statutory fund;
- information on the management of a business entity (structure and personnel composition of the management team of a legal entity);
- phone numbers.

308. Furthermore, credit institutions are required to obtain the appropriate documents related to the state registration, information on the management, constituent documents details, as well as the documents constituting the basis of transactions and other necessary information.

309. It should be noted that commercial banks and non-bank credit institutions are, in fact, not required to conduct customer due diligence with respect to the public authorities (Paragraph 29 of the IRC for commercial banks, Paragraph 28 of the IRC for non-bank credit institutions). Only general identification rules are applied in respect to such customers. This approach is not consistent with the requirements of the FATF Recommendations.

310. Pursuant to the relevant Internal Control Rules, credit institutions are required to complete a customer form (Annex No. 3 to the IRC) containing not only identity details but also the level of risk, results of additional measures undertaken by an organization in identifying a customer, the relationship commencement date, the dates of completion of and any changes made to the customer form along with other data specified by the internal rules.

311. Moreover, when identifying the client and its real owner, commercial banks and non-banking credit institutions must compare the received information with the list of persons linked to terrorism, as well as the list of states not participating in international cooperation on AML/CFT, compiled and distributed by the Department (Par. 35 and 30 of the relevant IRC).

312. The IRC for commercial banks stipulates that with credit card transactions customer identification shall be based on the details of a plastic card being used (Paragraph 25 of the Rules). Under the Provision for Non-Cash Transactions, among the mandatory identification requirements of a credit card are listed the following: code of the issuing bank, account number and details of the cardholder (full name), validity of the card (Paragraph 89 of the Provision for Non-Cash Transactions). The Provision for Non-Cash Transactions also requires for all documents to be made both on paper and in electronic form and contain details sufficient to establish the correspondence between the card and account details and the data of cash dispensing offices, ATMs, businesses.

313. Identification of customers conducting foreign exchange transactions had already been practiced in Uzbekistan pursuant to the Resolution of the Cabinet of Ministers of Uzbekistan No. 250, dated June 30, 2000 "On Measures for Further Liberalization of the Foreign Exchange Market and Increase in Foreign Exchange Transactions" that approved the Provision on exchange bureaus prior to the introduction of the IRC for commercial banks.

314. Par. 15 of the said Provision states that all transactions involving sale of foreign currency in cash or traveler's checks to residents of Uzbekistan carried out in exchange bureaus of authorized banks shall necessitate presentation of a passport or an equivalent document. These requirements do not apply to non-residents; however, they are allowed to carry out only a so-called "reverse exchange" (exchange of UZS for foreign currency). Following the logic of the document, determining the status of a non-resident will necessitate presentation of identity documents.



However, the above-mentioned Provision does not contain a clause requiring presentation of identity documents when carrying out a transaction involving a sale to natural persons (purchase from natural persons, etc.) of foreign currency in cash or traveler's checks. Nevertheless, the provision makes it mandatory to issue information sheets on all currency exchange transactions (containing seller's name), as well as attach passport copies of buyers to the daily accounting records.

315. Pursuant to Provision on Exchange Bureaus (New version) approved by Resolution of the Board of Directors of the Central Bank № 505 (№ 5/1) dated 20.02.2002, exchange bureaus are allowed (subject to a permission issued by the Central Bank) to carry out additional (to the ones specified in Provision No. 250) transactions, i.e., collection and expert examination, conversion transactions, money changes, replacement of damaged banknotes, cash withdrawals (foreign currency) involving credit and debit cards. The Provision on Exchange Bureaus does not require presentation of identity documents in all cases either. This requirement does not cover the cases involving purchase of foreign currency in cash for Uzbek Sums in cash from natural persons (sale by natural persons of foreign currency in cash) and exchange of traveler's checks to residents, accepting foreign currency in cash and traveler's checks from natural persons for expert examination, cash withdrawals (foreign currency) involving international plastic cards (Sections VIII, IX, XIII, XIV). The so-called "reverse exchange" (allowed to non-residents) of the previously withdrawn through international cards Uzbek Sums is carried out upon presentation of a passport (Par. 91). Transactions involving money changes (exchanges of large banknotes for small ones and vice versa) do not require presentation of any identity documents either. However, information sheets issued by commercial banks with such transactions contain identification details of both the person and the presented ID document (Section XV, Annex 16). The Provision on Exchange Bureaus does not adequately cover the procedural issues involving conversion transactions (exchange of foreign currency in cash of one foreign country for foreign currency in cash of another foreign country). Furthermore, the Provision on Exchange Bureaus (Par. 120) strictly prohibits the sale of foreign currency (in cash) and traveler's checks without entering a customer's passport details into the unified computer system, as well as buying and selling foreign currency without entering the relevant data into the register for purchased foreign currency, the register for sold foreign currency and a separate register for the name and initials of the person foreign currency is sold to, his passport details, name and amount of the sold foreign currency, along with the date of sale. Therefore, despite the absence of a direct requirement for presentation of identification documents with a number of exchange transactions, in reality it does exist, because identification information is required for verifying the status of residents/non-residents, as well as for completing the appropriate accounting documents. Also, representatives of the Central Bank of Uzbekistan explained that exchange offices are not allowed to conduct any transactions involving changing of bank notes or conversion. This can be done in offices of authorized banks, but, in reality, does not happen (due to lack of demand).

316. The AML/CFT Law No. 660-II and the Internal Control Rules for commercial banks (Par. 22) make it compulsory for banks to implement the CDD measures to a broader spectrum of transactions involving purchase and sale of foreign currency by residents and nonresidents. Thus, the CDD measures must be applied to transactions involving sale by natural persons (residents or nonresidents) of foreign currency in cash in the amount equaling or exceeding 1000 times the minimum monthly salary, and purchase by natural persons (residents or nonresidents) of foreign currency in cash (irrespective of the amount).

317. The AML/CFT Law of Uzbekistan does contain a requirement for credit institution to carry out verification of the data submitted by customers. However, these organizations are free to

establish their own requirements for verifying information received from customers by using data obtained from government agencies, as well as by gathering information about the business reputation of their customers, including through the use of publicly available and other sources. In fact, verification is carried out on the basis of identity documents issued by public agencies, and which must be presented during implementation of the CDD measures. Additionally, one essential element of the verification process available to all commercial bank is a so-called bank identification code, which is assigned to every bank client. When a client first opens an account (or starts another type of business relationship) with any bank registered in Uzbekistan, he is assigned a unique number (code), which stays with him for the rest of his life and is stored by the Central Bank. Subsequently, if this person desires to open an account with another bank, this bank requests data on all bank accounts opened by such client from the Central Bank. This information can also be used to verify the client identity.

318. The AML/CFT Law of Uzbekistan requires the identification of the representatives of both a natural person and legal entity. Article 7 of the AML/CFT Law No. 660-II states that the CDD measures applied by financial organizations shall (on a compulsory basis) include the verification of the identity and authority (through appropriate documents) of the persons on whose behalf a customer is acting. According to the appropriate IRCs, a customer due diligence means, among others, verification of identity and authority of a customer and persons on whose behalf he is acting, while a customer, according to the same Rules, is any natural person or legal entity that has applied to a credit institution with a request to carry out a transaction involving monetary or other assets.

319. Pursuant to the AML/CFT Law No.660-II, the compulsory CDD measures include identification of the owner or a person controlling a customer (legal entity).

320. The IRC for credit institutions insists on "identification of the beneficial owner of a customer", while the term "beneficial owner" of a customer stands for an owner or a person controlling such customer, i.e., one or several persons exercising ownership rights or control over a customer and/or a person beneficiary of a transaction. At the same time, pursuant to Par. 27 of the IRC for commercial banks and Par. 33 of the IRC for non-banking credit institutions, the due diligence procedure used by credit institutions to verify legal entities shall contain reasonable and available measures for identifying the natural person, i.e. real owner of the client, who ultimately owns or controls the client, including by studying the client ownership and management structure as well as the founders (shareholders) of the client.

321. Additionally, a closer examination needs to be directed at the customers (legal entities) in respect of "major" founders (shareholders), management, size of charter capital, as well as non-resident banks in establishing and continuing correspondent relationships with commercial banks.

322. Credit institutions of Uzbekistan are not obliged to ascertain if a customer is acting on his own behalf or not. The requirement to identify the ownership and management structures of customers (legal entities) is included in the definition of the term "CDD", since identification of the beneficial owner of a customer is carried out "by examining the ownership and management structures through constituent documents".

323. In addition to the requirements of the AML/CFT Law, the IRC for credit institutions also contains a requirement to conduct an ongoing study of business relations and transactions involving monetary and other assets conducted by a customer to ensure their correspondence with the information about such customer and his activities.

324. Credit institutions (Paragraph 75 of the Rules) and non-bank credit organizations (depending on the customer risk level) are required to update the customer information.

#### *Insurance companies*

325. Comprehensive CDD measures in the field of insurance began to be implemented within the framework of the adopted Internal Control Rules following their entry into force in November 2009. Prior to that moment insurance-related identification had been carried out in accordance with the AML/CFT Law No. 660-II (Article 7 of the Law was not suspended, instead there was a different version of it) and in line with the general requirements of the Civil Code, Law of the Republic of Uzbekistan № 358 - II dated 05.04.2002 "On Insurance Activities" in execution and performance of economic contracts.

326. Pursuant to the IRC, identification of a customer (natural person) is carried out on the basis of an ID document (a passport or an equivalent document). In cases when a customer (natural person) is an individual entrepreneur, his state registration certificate should also be subjected to close examination. When identifying a customer (legal entity), an organization should verify the appropriate information about the following: form of business ownership, name, management, bank details, location (postal address), tax identification number and line of business.

327. Insurers and insurance brokers shall identify a customer or a beneficiary on the basis of the transaction by examining the previously conducted by this customer transactions (for the latest reporting period) (if such data is available), determining the type of the transaction and its consistency with the objectives and the activities of the customer in question (to be found in the constituent documents and certificate of state registration) (Paragraph 19 of the Rules).

328. Pursuant to Par. 22 of the IRC, insurance companies have the right (but not the obligation) to verify the information provided by a customer through the following:

- using customer information received from government agencies or other organizations;
  - examining his/her credit history;
- as well as
- gathering information about the business reputation of a customer.

329. As to the customers that are legal entities, there are only the requirements of the AML/CFT Law to verify the identity and authority of a customer and persons on whose behalf a customer is acting (on the basis of the relevant documents). Pursuant to the IRC, a term "customer" stands for a "natural person or legal entity that is a party to a contract concluded with an insurer or insurance broker". Strictly speaking, this language does not provide for identification or authority verification of persons acting under instruction or under the power of attorney.

330. Responsibility for identification of a beneficial owner is provided for by term "CDD" in the context of the IRC for insurance companies, which includes "identification of a beneficial owner by examining the ownership and management structures on the basis of constituent documents". Pursuant to Art. 18 of the IRC, in order to identify a beneficial owner, a company is first required to determine if a customer is acting on behalf of another person, and then take steps to identify and properly verify the identity of the person on whose behalf a customer is acting. However, the term "beneficial owner", which is defined as a "natural person who ultimately owns the rights to the property or actually controls a customer, or a legal entity that is the beneficiary of a transaction involving monetary or other assets", does not fully reflect the relevant definition of the FATF

Recommendations. In the course of the meetings held with representatives of Uzbekistan, they explained that it stood for a natural person ("end" owner) who has ultimate control over the client.

331. The term "CDD" used in the IRC for insurance companies provides for "an ongoing study of business relations and transactions undertaken by a customer to ensure their correspondence with the information about such customer and his activities. Additionally, pursuant to Par. 18 of the IRC, CDD should be implemented at all stages of transactions.

332. Pursuant to Par. 22 of the IRC, identification and other data necessary to conduct customer due diligence measures shall be updated by companies at least once a year.

#### *Professional participants of the securities market*

333. Comprehensive CDD measures in the securities sector were first undertaken within the framework of the adopted Internal Control Rules following their entry into force in November 2009. Prior to that, all identification measures related to transactions in the securities market had been implemented in accordance with the AML/CFT Law No. 660-II (Article 7 of the Law was not suspended, instead there was a different version of it) and in line with the general requirements of the Civil Code, Law of the Republic of Uzbekistan No. 63 dated 22.07.2008 "On Securities Market" in execution and performance of economic contracts.

334. Pursuant to the IRC, identification of a customer (natural person) is carried out on the basis of an ID document (a passport or an equivalent document). In cases when a customer (natural person) is an individual entrepreneur, his state registration certificate should also be subjected to close examination. When identifying a customer (legal entity), an organization should verify the appropriate information about the following: form of business ownership, name, management, bank details, location (postal address), tax identification number and line of business.

335. If necessary, a professional participant should, along with implementing customer due diligence measures, also examine the available to him history of transactions carried out by the customer in question (Par. 13).

336. Pursuant to Paragraph 17 of the IRC, a professional participant has the right (but not the obligation) to verify the information provided by a customer through the use of the customer information received from government and other agencies.

337. As to those customers that are legal entities, there is, in addition to the requirements of the AML/CFT Law for verification of identity and authority of a customer and persons on whose behalf a customer is acting, also a requirement of the IRC (Par. 13). According to this requirement, professional participants of the securities market are required, along with identification of a customer and a beneficial owner, to carry out a verification of the authority to carry out transactions using the documents in question. Pursuant to the IRC, the term "customer" stands for a "depositor or other person using the services of a professional participant of the securities market". Similarly to the insurance sector, this language does not provide for identification of persons acting under instruction or under the power of attorney of a depositor, nor for the verification of their authority.

338. Responsibility to identify a beneficial owner is provided for in the requirements of the Par. 16 of the IRC. According to this Paragraph, a professional participant, while carrying out the identification of natural persons and legal entities, is required to take reasonable and available

measures to identify the beneficial owners of a customer, including by examining the ownership structure of such customer. However, the term "beneficial owner", which is defined as "a natural person who ultimately owns the rights to property or actually controls a customer, including a legal entity, that is the beneficiary of a transaction involving monetary or other assets", largely conforms to the requirements of the FATF Recommendations.

339. The term "CDD" used in the IRC for professional participants of the securities market provides for "an ongoing study of business relations and transactions undertaken by a customer to ensure their correspondence with the information about such customer and his activities. Additionally, pursuant to Par. 13 of the IRC, CDD shall be implemented at all stages of transactions.

340. A requirement to regularly update identification and other data necessary to implement customer due diligence measures is absent.

#### *Members of stock exchange*

341. Comprehensive CDD measures in the stock exchange sector were first applied within the framework of the adopted Internal Control Rules following their entry into force in November 2009. Prior to that, all identification measures related to stock exchange transactions had been implemented in accordance with the AML/CFT Law No. 660-II (Article 7 of the Law was not suspended, instead there was a different version of it) and in line with the general requirements of the Civil Code, Law of the Republic of Uzbekistan No. 625-XII dated 02.07.1992 "On Stock Exchanges and related Activities" in execution and performance of economic contracts.

342. Pursuant to the IRC, identification of a customer (natural person) is carried out on the basis of an ID document (a passport or an equivalent document). In cases when a customer (natural person) is an individual entrepreneur, his state registration certificate shall also be subjected to close examination. When identifying a customer (legal entity), members of stock exchange shall verify the appropriate documents and information related to the following: state registration, form of ownership, location, management and constituent documents.

343. Additionally, the CDD measures applied by members of stock exchange shall always include the following: identification of a customer or other interested in the transaction parties, examination of the previously conducted by this customer transactions (for the latest reporting period, if such data is available), determining the type of transaction and its consistency with the objectives and activities of the customer in question (to be found in the constituent documents and certificate of state registration) (Par. 18 of the IRC).

344. Pursuant to Par. 22 of the IRC, members of stock exchange have the right (but not the obligation) to verify the information provided by a customer through:

- customer information received from government agencies or other organizations;
- examining the relations of a customer with other members of stock exchange;
- gathering information about the business reputation of a customer.

345. Pursuant to Par. 17 of the IRC, the authority of a customer to carry out a transaction using the documents provided by him under the law shall be verified along with his identification. The term "customer", is defined in the IRC as "a natural person or a legal entity using the services of a member of stock exchange". As was pointed out above, this language does not provide for

identification or authority verification of persons acting under instruction or under the power of attorney of a "customer".

346. For the purposes of a more thorough examination of a customer (legal entity), Par. 21 of the IRC requires members of stock exchange to pay special attention to the following:

- customer's constituent (including all registered amendments and supplements) and state registration documents;
- customer's management structure and authority;
- size of the registered statutory fund of a customer.

347. Responsibility to identify a beneficial owner is provided for in the requirements of the Par. 23 of the IRC. According to this Paragraph, the identification procedure of natural persons and legal entities shall include reasonable and available measures aimed at identifying the beneficial owners of a customer, including by examining the ownership structure of such customer. However, the term "beneficial owner", which is defined as "a natural person who ultimately owns the rights to property or actually controls a customer, including a legal entity, that is the beneficiary of a transaction involving monetary or other assets", largely conforms to the requirements of the FATF Recommendations.

348. The term "CDD" used in the IRC for members of stock exchange provides for "an ongoing study of business relations and transactions undertaken by a customer to ensure their correspondence with the information about such customer and his activities. Additionally, pursuant to Par. 17 of the IRC, CDD shall be implemented at all stages of transactions.

349. A requirement to regularly update identification and other data necessary to implement customer due diligence measures is absent.

#### *Leasing companies*

350. Identification of a customer (natural person) is carried out on the basis of an ID document (a passport or an equivalent document). In cases when a customer (natural person) is an individual entrepreneur, his state registration certificate shall also be subjected to close examination. When identifying a customer (legal entity), the following shall be verified: state registration, form of ownership, location, management and constituent documents.

351. Pursuant to Par. 15 of the IRC, leasing companies have the right (but not the obligation) to verify the information provided by a customer through:

- use of customer information received from government agencies or other organizations;
- examining his "leasing history";
- gathering information about the business reputation of a customer.
- publicly available sources and information.

352. Pursuant to Par. 12 of the IRC, the authority of a customer to carry out a transaction using the documents provided by him under the law shall be verified along with his identification. The term "customer" is defined in the IRC as a "natural person or legal entity acquiring an object of leasing for their possession and use on the basis of a leasing contract". As was pointed out above, this language does not provide for identification or authority verification of persons acting under instruction or under the power of attorney of a "customer".

353. For the purposes of a more thorough examination of a customer (legal entity), Par. 14 of the IRC requires members of stock exchange to pay special attention to the following:

- customer's constituent (including all registered amendments and supplements) and state registration documents;

- customer's management structure and authority;

- size of the registered statutory fund of a customer.

- other necessary data in accordance with the law.

354. Leasing companies are required to identify the "beneficial owner of a customer", including by examining the ownership structure. Additionally, there is a general requirement contained in Paragraph 9 of the IRC, pursuant to which the person responsible for the AML/CFT measures shall take steps to identify the "beneficial owners". However, there is no evidence of any concurrence between these terms under the IRC. The term "beneficial owner", which is defined as "a natural person who ultimately owns the rights to property or actually controls a customer, including a legal entity, that is the beneficiary of a transaction involving monetary or other assets", largely conforms to the requirements of the FATF Recommendations.

355. The term "CDD" used in the IRC for members of stock exchange provides for "an ongoing study of business relations and transactions undertaken by a customer to ensure their correspondence with the information about such customer and his activities. Additionally, pursuant to Par. 12 of the IRC, CDD shall be implemented at all stages of transactions.

356. Pursuant to Par. 15 of the IRC, identification and other data necessary to conduct customer due diligence measures shall be updated by companies at least once a year.

#### *Operators and providers of postal services*

357. The Interim Service Procedure "Electronic Money Transfer" (introduced by Resolution No. 307 of "Uzbekistan Pochtasi"), which has been used since 2005, contains a provision, pursuant to which a recipient of a money transfer shall present his/her identity paper, while transfer request forms shall contain a sender's details (full name and place of residence). However, this interim procedure does not contain a requirement for a mandatory identification of a sender (presentation by him/her of identity papers).

358. Pursuant to the IRC for operators and providers of postal services, CDD measures shall always contain the following requirements: identification of a user or beneficiary of a transaction, examination of the previously conducted by this user transactions (for the latest reporting period, if such data is available), determining the type of transaction and its consistency with the objectives and activities of the customer in question (to be found in the constituent documents and certificate of state registration (Par. 14 of the Rules).

359. Identification of a customer (natural person) is carried out on the basis of an identity paper (a passport or an equivalent document). In cases when a customer (natural person) is an individual entrepreneur, his state registration certificate shall also be subjected to close examination. When identifying a user (legal entity), operator and providers of postal services shall verify the appropriate documents and information related to the following: state registration, form of ownership, location, management and constituent documents.

360. Additionally, when a user files a request to carry out a transaction, operator and providers of postal services shall:

- identify the user or beneficiary of such transaction;
- examine all previously conducted by this user transactions for the latest reporting period (month, quarter, 6 months, year), if such data is available.
- determine the type of transaction and its consistency with the objectives and activities of the user (legal entity) in question (to be found in the constituent documents);
- determine the type of transaction and its consistency with the business activities of a user (natural person) specified in his/her state registration certificate;

361. Pursuant to Par. 17 of the IRC, operators and providers of postal services have the right (but not the obligation) to verify the information provided by a customer through:

- use of user information received from government agencies or other organizations;
- examining the relations of a user with other operators, providers of postal services.

362. Pursuant to Par. 13 of the IRC, the authority of a user to carry out a transaction using the documents provided by him under the law shall be verified along with his identification. The term "user" is defined as "a natural person or legal entity that is a consumer of postal services". This language does not provide for identification or authority verification of persons acting under instruction or under the power of attorney of a "user".

363. Responsibility to identify a beneficial owner is provided for in the requirements of the Par. 18 of the IRC. According to this Paragraph, identification procedure of natural persons and legal entities shall include reasonable and available measures aimed at identifying the beneficial owners of a user, including by examining the ownership structure of a user. However, the term "beneficial owner", which is defined as "a natural person who ultimately owns the rights to property or actually controls a user of postal services, including a legal entity, that is the beneficiary of a transaction involving monetary or other assets", largely conforms to the requirements of the FATF Recommendations.

364. Pursuant to Par. 13 of the IRC, CDD shall be implemented at all stages of service delivery.

365. A requirement to regularly update identification and other data necessary to implement customer due diligence measures is absent.

### ***Risks***

366. Requirement to implement the risk-based CDD measures is provided for in the relevant IRCs for commercial banks, non-bank institutions as well as members of stock exchange.

367. Additionally, the risk factor of a transaction or a customer is an element of a comprehensive analysis used to identify a suspicious transaction. By the same token the term "risk" is used in the IRCs for insurers and insurance brokers, professional participants of the securities market, operators and providers of postal services (Par. 25, 20, 21 of the appropriate Rules). For example, insurers and insurance brokers use a comprehensive analysis to determine the suspiciousness level of a transaction "depending on the degree of risk posed by the following factors: type of customer, his reputation, nature of business relations, reasons for, objectives, volume and type of a transaction and the mode of its execution...." (See also description R.11).

### ***Credit Institutions***

368. When applying the CDD measures, commercial banks are required to assign a risk level (high or low) to every transaction carried out by customers (Par. 43 of the Rules) based on the data



provided by customers and taking into account their activities and other transactions. It is worth mentioning that the term "low risk" should not be understood literally. Instead, when compared to the "high risk" category, a term "standard risk" would be more appropriate in this context.

369. The Internal Control Rules for commercial banks (Section VI of the Rules) set out an open list of criteria for mandatory assignment of customers to the high-risk category. Above all, this category contains

- persons (or their beneficial owners) who are known to have been involved in terrorist activities,
- persons (or their beneficial owners) who are residents of countries not involved in the international cooperation on AML/CFT, plus offshore areas;
- persons with bank accounts in offshore areas,
- persons whose location details do not correspond to their actual location,
- persons whose activity period does not exceed 3 months,
- persons engaged in suspicious or dubious transactions.

370. Commercial banks may extend this list of criteria by adding their own categories to it. The same criteria (with the exception of accounts in offshore areas) for assigning customers to the high-risk category is established for non-bank credit institutions (Section VI of the Rules).

371. In assigning transactions themselves to the high-risk category, commercial banks and non-bank credit institutions may themselves set such criteria. The Internal Control Rules for commercial banks provide a generalized list of possible criteria for transactions of high-risk that includes the following:

- transactions carried out by "high-risk" customers,
- transactions involving accounts in offshore areas,
- transactions with precious metals/stones,
- transactions involving transfers of funds with incomplete sender's data (full names of natural persons and legal entities, sender's address and account number), as well as other transactions specified in internal rules.

372. The Internal Control Rules for non-bank credit institutions make it possible to assign, among others, all transactions carried out by "high-risk" customers to the category of high-risk transactions (Par. 40).

373. Commercial banks and non-bank credit institutions are required to constantly monitor the level of customer and transaction risk to reflect all the changes in the transaction pattern.

374. The Internal Control Rules for commercial banks state that assignment of a customer (transaction) to the high-risk category shall result in the following legal implications (Par. 44, 46, 47 of the Rules):

- more attention must be paid to customers and transactions belonging to the high-risk category;
- all transactions (account openings, write-offs, etc.) must be sanctioned by the head of the Internal Control Service;
- continuous monitoring of transactions conducted by high-risk customers.

375. Non-bank credit institutions are only required to pay extra attention to the customers and transactions belonging to the high-risk category (Par. 39, 40 of the Internal Control Rules for non-bank credit institutions).

376. In all cases, commercial banks and non-bank credit institutions are required to regularly (at least once a year) update the data on high-risk customers obtained as the result of proper verification and identification procedures (Par. 75 of the Internal Control Rules for commercial banks, Par. 69 of the Internal Control Rules for non-bank credit institutions).

377. The fact that a transaction or a customer belongs to the high-risk category tends to be sufficient for commercial banks to assign a transaction to the category of suspicious (Par. 39 of the Internal Control Rules for commercial banks). In the case of non-bank credit institutions, the risk factor of a transaction or a customer is an element of a comprehensive analysis used to identify a suspicious transaction (Par. 47 of the Internal Control Rules for non-bank credit institutions).

378. The law does not provide for any simplified CDD measures; however, commercial banks and non-bank credit institutions are, in principal, not obliged to conduct customer due diligence measures with respect to the agencies of state power and administration (see above under "*Required CDD measures*").

379. Additionally, a certain exception is made with respect to legal entities subject to the requirements of regulatory legal acts on disclosure of the data related to ownership structure. In this case, banks and non-bank credit institutions are not required to identify and verify the identity of founders (shareholders, participants) of such legal entities (Par. 27 and 26 of the relevant Rules).

380. It is also not necessary to re-identify a customer and/or beneficial owner prior to every transaction, if such customer and/or beneficial owner were already identified by a commercial bank or non-bank credit institution (Par. 33 and Par. 29 of the relevant Rules).

#### *Stock exchange*

381. The mandatory criteria for assigning customers to the high-risk category for members of stock exchange established by the Internal Control Rules for members of stock exchange (Section IV) is identical to the criteria for assigning customers to the high-risk category established for commercial banks in the relevant Rules. However, for members of stock exchange this list is closed. Also, the Internal Control Rules for members of stock exchange do not provide for assignment of transactions to the high-risk category.

382. In the case of members of stock exchange, the risk factor of a transaction or a customer is an element of a comprehensive analysis used to identify a suspicious transaction (Par. 31 of the Internal Control Rules for members of stock exchange).

383. Members of stock exchange are required to apply enhanced CDD measures to customers classified as high-risk and to continuously monitor all transactions involving such customers.

384. Also, members of stock exchange are required to review the risk level of each customer to reflect the changes in the transaction pattern.

385. When assigning customers and transactions to the high-risk category, members of stock exchange are required to pay them extra attention, as well as apply enhanced CDD measures and continuously monitor their transactions (Par. 26, 27 of the Internal Control Rules for members of stock exchange). The rules of Internal Control do not specify what specific actions are implied by enhanced CDD measures and extra attention.

### ***Timing of verification***

386. The AML/CFT Law of Uzbekistan does not provided for any deadlines as to identification and verification of identification data.

387. The AML/CFT Law No. 660-II and the relevant Internal Control Rules for financial institutions use the terminology that denotes either a preliminary or one-time nature of an action for defining CDD cases and measures; e.g. "when establishing business relations", "in carrying out one-off transactions", "when filing an application to open an account". However, the Internal Control Rules for the banking sector contains a requirement of an advisory rather than mandatory nature: ("should") should not enter into business relations, should terminate them, should not conduct transactions when application of the CDD measures is not possible (Par. 38 of the Internal Control Rules for commercial banks, Par. 33 of the Internal Control Rules for non-bank credit institutions). The majority of requirements of an advisory nature contained in the AML/CFT Law of Uzbekistan are regarded as mandatory by the country's supervisory bodies and institutions responsible for transactions involving monetary and other assets. Moreover, the IRC for non-bank credit institutions (Par. 32) contain a ban on opening of deposits by natural persons without personal presence of the person opening a deposit, or his representative (in credit unions). The IRC for credit institutions also include a ban on opening of accounts without personal presence of the person opening an account or his authorized representative (Par. 37).

388. Analysis of the above-mentioned requirements and factors leads to the conclusion that the AML/CFT Law of Uzbekistan encourages the banking sector to implement the CDD measures prior to establishing business relations with customers or conducting transactions.

389. Similar language in determining the time of an evaluation (of cases and measures of CDD) is used in the relevant Internal Control Rules in respect to members of stock exchange, insurers and insurance brokers, professional participants of the securities market, leasing companies, operators and providers of postal services. Moreover, the adopted for them Internal Control Rules contain a requirement to apply the CDD measures at all stages of service delivery (Par. 17 of the IRC for members of stock exchange, Par. 18 of the IRC for insurers and insurance brokers, Par. 13 of the IRC for professional participants of the securities market, Par. 12 of the IRC for leasing companies, Par. 13 of the IRC for operators and providers of postal services).

390. Given the fact that financial institutions are required to refrain from carrying out transaction for, or establishing a business relationship with customers who fail to provide documents necessary for identification, identification of customers in the financial sector of Uzbekistan is carried out prior to conducting transactions with monetary or other assets.

### ***Failure to complete CDD***

391. The requirement to deny the right to carry out transactions (except transactions involving crediting of incoming funds to a customer's account) in the absence of documents required for identification (Article 16) is set out in the AML/CFT Law No. 660-II.

392. The obligation of members of stock exchange, insurers and insurance brokers, professional participants of the securities market, leasing companies, operators and providers of postal services to deny a customer the right to conduct transactions without documents required for identification is reflected in their Internal Control Rules (Paragraphs 24, 23, 18, 17, 19 of the relevant Rules).

393. The said requirement of the AML/CFT Law No. 660-II (to deny a customer the right to conduct transactions without documents required for identification) also applies to the banking sector. At the same time, the IRC for commercial banks (Par. 38) and IRC for non-bank credit institutions (Par. 33) contain a requirement of an advisory rather than mandatory nature. In cases when application of the CDD measures is not possible, credit institutions should refrain from establishing business relations with, or conducting transactions involving monetary or other assets of such customers, or they should terminate any relations with them. Almost all regulatory authorities, commercial banks, non-bank credit organizations and their unions (associations) interpret this requirement as an obligation and guidance. However, the difference in language used in the Law and the Internal Control Rules may create imbalances in the practice of their application.

394. The obligation contained in the AML/CFT No. 660-II and in the Internal Control Rules to deny a natural person or legal entity the right to carry out transactions applies only to cases when identification documents have not been presented. However, CDD contains a wider range of measures other than identification. Accordingly, the issue of legal implications caused by the impossibility of application of other CDD measures (except presentation of documents for identification) remains unresolved (except banking sector).

395. It is also necessary to mention that the Uzbek law does not contain a clear provision requiring financial institutions to consider expediency of submitting STR to the FIU, when it is impossible to complete the CDD procedures. However, as was reported by representatives of Uzbekistan, the AML/CFT Law provided for indirect regulation of this issue. Thus, all transactions reasonably believed to be executed for the purpose of avoiding the established control procedures and warranting a submission of STR are identified as suspicious by the IRC for leasing companies. The IRC for other organizations of the financial sector provide for recognition of a transaction as suspicious and submission of STR, if there is a reasonable suspicion that such transaction is related to AML / CFT. Therefore, as was explained by representatives of the regulatory agencies, the inability to complete the CDD procedures will give institutions conducting operations with monetary or other assets the reason to recognize such client's transaction as suspicious and submit STR.

396. Given that all the IRCs (with the exception of the insurance sector) contain an open list of suspicious transactions, as well as an extensive interpretation of designated responsibilities by all parties, we can conclude that the Uzbek AML/CFT Law does not exclude the possibility of sending STR to the FIU when it is impossible to conclude the CDD procedure, but, in fact, directs financial institutions to do so.

### ***Existing customers***

397. With respect to existing customers, the AML/CFT Law No. 660-II (Article 7) contains a requirement for ongoing examination of business relations and transactions of customers to verify their correspondence with the available information about such customers and their activities.

398. The above-mentioned directly applicable requirement is reflected in the relevant Internal Control Rules. Similar requirements are contained in the Internal Control Rules for the financial sector. Therefore, the CDD measures reviewed in previous sections are equally applicable to the customers of financial institutions who had existed prior to the enactment of the legislation.

399. For instance, in the requirements for insurers and insurance brokers as well as operators and providers of postal services it states that when receiving a customer's requests to perform account transactions (single or multiple), an organization is obliged not only to carry out identification procedures but also examine such customer's history of transactions, along with determining the type of transaction and its consistency with the activities of the customer specified in the constituent (registration) documents (Par. 19 of the IRC for insurers and insurance brokers, Par. 14 of the IRC for operators and providers of postal service). Members of stock exchange have a similar requirement applicable to customers making single or multiple requests (possibly a mistake) (Par. 18 of the IRC for members of stock exchange); however, members of stock exchange implement the risk-based CDD measures, i.e., responsible for reviewing the risk level.

400. Professional participants of the securities market are, on the other hand, subject to another IRC provision (Par. 13) that requires, if necessary, to examine a customer's transaction history using the available data. However, the inclusion of "if necessary" makes it sound more like a recommendation rather than a rule.

401. The IRC for leasing companies does not contain the above-mentioned requirement for customer identification and examination of his transaction history. The latter does not relieve them of the legal responsibility to conduct ongoing examinations of a customer's business relations and transaction history to ensure their correspondence with the available information on such customer or his activities.

402. The specified in several Internal Control Rules requirement to review the risk level compels the relevant organizations carrying out transactions with monetary and other assets to monitor the existing customers. Thus, commercial banks and non-bank credit institutions are required to monitor the risk level of existing customers and be prepared to review it if the need to do so arises (Par. 47 of the IRC for commercial banks, Par. 41 of the IRC for non-bank credit institutions). Members of stock exchange are also required to review each customer's risk level subject to changes to the transaction pattern (Par. 29 of the IRC for members of stock exchange) and, therefore, conduct ongoing monitoring of the existing customers.

403. As was mentioned above (Section "Timing of verification" of the report on Recommendation 5), there is a requirement contained in the appropriate IRC for members of stock exchange, insurers and insurance brokers, professional participants of the securities market, leasing companies, operators and providers of postal services to apply the CDD measures at all stages of service delivery. This term is too generic in nature, but, given a broader interpretation of the AML/CFT Law in Uzbekistan, one can assume that in practice it will be regarded by these organizations as an obligation to implement the CDD measures prior to (during) the establishment of business relations or execution of transactions.

404. The Law of Uzbekistan does not contain any special requirements for application of the CDD measures to those customers with whom business relations had been established prior to the adoption of the IRC, except the banking sector. Thus pursuant to the IRC for commercial banks (Par. 22), customer due diligence measures are applied to clients whose bank accounts had been opened prior to the IRC gaining legal force. Article 7 of the AML/CFT Law No. 660-II (effective as of January 1, 2006) on mandatory CDD measures was not suspended. Instead, until mid-2009 there was an older version of it in force. This Article contains a directly applicable requirement. In regard to the customers with bearer bank accounts, it was mentioned above that all commercial banks received a letter-instruction from the Central Bank of Uzbekistan requesting them to close such accounts. Bearer accounts are reissued as personalized at the time when their owners visit

their banks to conduct transactions involving these accounts. As of April, 2010 all anonymous bank accounts were closed or reopened in the name of the holder.

### *Effectiveness*

405. Uzbekistan's AML/CFT Law is relatively young. Uzbekistan's Law on "Combating Money Laundering and Terrorist Financing" No. 660-II was adopted in April 2004 and put into effect January 1, 2006. Due to its partial suspension, the enforcement of the Law did not begin until 2009. Moreover, the crucial for the enforcement of the AML/CFT Law subordinate acts, such as the IRC for financial institutions and other acts establishing the mechanism for application of customer due diligence measures, were passed only at the end of 2009.

406. As of the time of the on-site mission conducted by the oversight agencies, financial institutions did not carry out any inspections on compliance with the AML/CFT Law and, in particular, application of the CDD measures. Due to this fact, it is difficult to draw a conclusion as to the extent of enforcement by these organizations of the existing requirements.

407. The organizations responsible for transactions involving monetary and other assets (except banking sector) have not themselves ratified the appropriate internal documents yet; however, both oversight agencies and financial institutions are actively working on it.

408. All participants of the meetings held in Uzbekistan declared that prior to the entry into force of the Internal Control Rules, identification of counterparties (customers) in Uzbekistan had actually been carried out in accordance with other existing in Uzbekistan legislative instruments regulating the relevant markets. This mainly concerns the banking sector (see introduction to Recommendation 5. It should also be noted that pursuant to the Procedure for maintaining non-residents' bank accounts in local currency by authorized banks (approved by Resolution No. 231 of the Board of the Central Bank of Uzbekistan dated 09.05.1998, ) and the Procedure for maintaining foreign currency bank accounts by authorized banks (approved by Resolution No. 232 of the Board of the Central Bank of Uzbekistan dated 05.09.1998), foreign companies are not allowed to open accounts with credit institutions without being registered as a legal entity in Uzbekistan. The only exception covers representative offices of foreign companies with no status of a separate legal entity. The list of allowed account transactions is limited (payment of salaries, settlement of mandatory payments, etc.). Also, such accounts may not be used for any entrepreneurial activities.

409. Not all subordinate acts regulating other relations (e.g., currency exchange transactions) are aligned with the existing AML/CFT Law. In the course of the mission, the representatives of both supervisory and subordinated bodies repeatedly stressed the priority of the AML/CFT Law. According to the evaluating team, it may, nevertheless, create some problems of enforcement.

410. The list of transactions that commercial banks are allowed to conduct under the Law of Uzbekistan "On banks and banking activity" is open. Under these circumstance, the application of the CDD measures to the limited list of one-off transactions, in particular foreign exchange and securities transactions, may also adversely affect the effectiveness.

411. Not conducive to raising the effectiveness level is the fact the Law of Uzbekistan does not contain clear guidelines as to the duration of the CDD measures. The issue of legal implications for failure to implement the CDD measures (other than identification) needs further clarification. In these circumstances, the use of recommendatory terminology (e.g., "should not enter into

business relations") when dealing with the issues of impossibility of implementation of the CDD measures may affect the process of enforcement of the AML/CFT Law. The representatives of the private sector declared that in cases of any conflict between the provisions of the AML/CFT Law and the relevant IRC, they will be guided by more rigorous standards in order to avoid sanctions by regulatory and law enforcement authorities.

412. The Internal Control Rules that regulate the application of the CDD measures were first adopted in November 2009. Taking into account the suspension of certain provisions of the AML/CFT Law No. 660-II, it is rather worrying that the regulatory framework does not provide for sufficient regulation of the activities of the institutions carrying out transactions involving monetary and other assets in relation to the earlier (prior to the adoption of the specified Rules) established customer relations (except commercial banks). This includes the closure of (reissuing) the existing anonymous accounts. Neither joint meetings held between the Central Bank of Uzbekistan and commercial banks nor the explanatory letter sent by the Central Bank to commercial banks constitute a legislative instrument prohibiting banks to conduct transactions involving such accounts without applying the CDD measures. All anonymous accounts in Uzbekistan have been closed (reissued as personalized).

413. The status of other "old" customers, beneficiaries and representatives in respect of whom commercial banks have not received all the required data and documents is not specified. Nor is it clear what actions the institutions involved in carrying out transactions with monetary and other assets should take in respect to such subjects.

414. It should also be said that the absence of a supervisory authority for leasing organizations may adversely affect the effectiveness of the necessary AML/CFT measures applied by them.

### ***Recommendation 6***

415. Currently, the legislation of Uzbekistan does not contain the term "politically exposed person" (PEP). Nor does it contain any provisions requiring financial institutions to determine whether a customer is a politically exposed person (PEP). Financial institutions are also not required to get authorization from the management of institutions when entering into a business relationship with a PEP. There are no requirements to apply any other provisions under Recommendation 6.

416. As it became clear in the course of the meetings held between the evaluating team and the representatives of private banks, some of them (including large banks with government participation) use special mechanisms to identify PEPs among their customers. Identified PEPs are subject to special monitoring measures. Some banks also require a management authorization prior to establishing business relations with a PEP. However, implementation of these procedures across the entire financial sector can not be guaranteed, as there are no binding legislative provisions.

### ***Recommendation 7***

417. Uzbekistan has implemented certain measures to address the requirements of the Recommendation 7.

418. Establishment of correspondent relations in Uzbekistan is regulated by the following: the Laws of Uzbekistan "On Banks and Banking Activity", "On the Central Bank of Uzbekistan" On

Currency Regulation", "On Combating Money Laundering", Instruction of the Central Bank "On Bank Accounts Opened in Banks of Uzbekistan" and appropriate Internal Control Rules. Pursuant to the Law on Banks and Banking Activity (Article 4), both opening and handling of accounts of correspondent banks constitute banking activities (bank transactions). Correspondent accounts with foreign banks are opened by authorized banks (Article 11 of the Law on Currency Regulation). Foreign banks that are correspondents of authorized banks have the right to open correspondent and other accounts in national and foreign currency with authorized banks (Article 17 of the Law on Currency Regulation). Procedures for opening and maintaining accounts with banks located in Uzbekistan are established by the Central Bank of Uzbekistan, in particular, by the Instruction on Bank Accounts. It appears there are no correspondent relations outside the banking sector in Uzbekistan.

419. The Law of Uzbekistan on AML/CFT (Internal Control Rules for commercial banks) views non-resident banks as customers and requires the same CDD measures to be applied to them. In particular, the duty to implement the CDD measures in respect to clients whose bank accounts had been opened prior to the IRC for commercial banks gaining legal force also covers non-resident banks (Par. 22). At the same time, commercial banks are subject to additional responsibilities requiring them to gather and monitor additional information when establishing correspondent relations with non-resident banks, as well as apply certain measures in respect to certain categories of non-resident banks.

420. Thus, pursuant to the Internal Control Rules for commercial banks (Par. 30), when establishing correspondent relations, commercial banks should, gather all possible information about the non-resident bank in question in order to have a complete picture of the nature of its business activities, ascertain (using publicly available information) its reputation and quality of oversight measures (including data on any AML/CFT-related violations committed by such bank), as well as its ability to provide identity data on customers.

421. Pursuant to Par. 31 of the Instruction on Bank Accounts, when establishing correspondent relations with non-resident banks, commercial bank shall submit to the authorized banks information on the implementation by the bank and the state where the bank is registered of the international standards on AML/CFT.

422. The Internal Control Rules for commercial banks (Par. 31) require commercial banks when establishing correspondent relations to ensure that non-resident banks use internationally recognized verification standards and apply appropriate verification procedures to their transactions. Commercial banks are required to be extra vigilant when maintaining correspondent relations with non-resident banks located in countries not involved in the international cooperation on AML/CFT (Par. 32).

423. Also, commercial banks must take measures to prevent establishment of relations with those non-resident banks whose accounts are known to be used by banks with no permanent management structure in the countries where they are registered, and to be extra vigilant when continuing correspondent relations with non-resident banks based in countries not involved in the international cooperation on AML / CFT (Par. 32 of the IRC).

424. A decision to establish correspondent relations with non-resident banks is the prerogative of the board of directors of each commercial bank (Par. 30 of the Internal Control Rules). Moreover, when assigning a transaction (client) to the high-risk category, the IRC require notification of the appropriate service of internal control of such client's transaction, while the service of internal



control is required to continuously monitor all transactions conducted by such client (Par. 47 of the IRC for commercial banks).

425. With respect to "transit accounts", commercial banks should also receive a confirmation of the fact that a respondent bank is able to provide the necessary customer identification data requested by a correspondent bank (Par. 30 of the Internal Control Rules). It should also be noted that, as was often stated by representatives of the oversight agencies, Uzbek banks have not recorded any instances of the use of "transit accounts".

### ***Effectiveness***

426. Although the Law of Uzbekistan on AML/CFT contains many sufficiently advanced provisions on the CDD measures in relation to any customers, there is a noticeable gap in the regulation of commercial banks activities on evaluating the effectiveness of the AML/CFT-related monitoring of correspondent banks and on further steps to be taken by commercial banks following such evaluation.

427. All issues related to cooperation with offshore jurisdictions are resolved exclusively through regulation of the authority for determining the risk category of a customer (transaction). Undoubtedly, the ability of banks to assign transactions and customers to the high-risk category when establishing correspondent relations helps the regulatory mechanisms to acquire a sense of completeness; however, the use of such vague terms in the regulation of activities of commercial banks as "pay attention", "should" does not contribute to the clarity of measures applied by banks to reduce the risk level when establishing correspondent relations with non-resident banks. Insufficient elaboration of the issue related to actions to be taken by commercial banks in the event of any violations by such correspondent bank of the AML/CFT requirements adversely impacts effectiveness. Adversely affects the efficiency of the lack of considerations on the operating commercial banks in case of violation of such a correspondent bank rules and regulations in the field of AML / CFT.

### ***Recommendation 8***

428. The special AML/CFT-related provisions separately regulating the use of new technologies by financial institutions are almost completely absent from the Uzbek legislation. Par. 7 of the Internal Control Rules for commercial banks makes it mandatory for commercial banks to annually develop and adopt the rules of internal control containing provisions designed to prevent the misuse of technological achievements for ML / FT. Also, the Internal Control Rules for commercial banks provide, as the main goal of the internal control system, for special measures to address the threat posed by the use of services provided by commercial banks to commit offences, in particular, related to ML/FT, while using the latest technologies that increase the level of anonymity. However, no specific responsibility of the financial sector to develop separate requirements for reducing the risk level or applying special CDD procedures in respect to customers using remote access to carry out transactions is provided for. Such persons are subject to the general rules on AML/CFT, the country's AML/CFT Law No. 660-II and the Internal Control Rules.

429. Certain legislative instruments regulating the activities of commercial banks contain requirements for establishing customer relations (conducting transactions) that are similar to the requirements on AML/CFT.

430. Regulation of customer transaction procedures is provided for in the Instructions of the Central Bank of Uzbekistan "On Bank Accounts Opened in Banks of Uzbekistan," On Accounting and Accounting Practices in the banks of Uzbekistan" and the Provision of the Central Bank of Uzbekistan "On Performing Calculations Using " Bank-Client " software.

431. Under the Uzbek law (the AML/CFT Law No. 660-II), customer relations (opening of accounts) can be established without the personal attendance of a customer (his/her representative). Nevertheless, the IRC for commercial banks (Par. 22 of IRC) and non-bank credit institutions (Par. 32 of IRC) contain a ban on opening of accounts without personal presence of the person opening the account or his authorized representative.

432. All bank transactions are carried out on the basis of original payment and account documents of the type approved by the Central bank, electronic payment documents received from other users of the electronic system "Bank-Client ", as well as credit card-based electronic documents.

433. The Internal Control Rules for financial institutions do not contain any provisions for the assignment of transaction to the categories of high risk, questionable or suspicious without a customer's personal attendance. However, given the fact that the list of criteria for assigning transactions to the high-risk category is open, commercial banks and non-bank credit institutions are free to exercise more rigorous control (monitoring) of such transactions (Par. 44 of the Internal Control Rules for commercial banks, Par. 39 of the Internal Control Rules for non-bank credit institutions). Also, commercial banks and non-bank credit institutions may, subject to the internal regulations, use their own criteria to assign such transactions to the category of suspicious (Par. 41 of the Internal Control Rules for commercial banks, Par. 36 of the Internal Control Rules for non-bank credit institutions).

434. Other institutions of the financial sector are not allowed to assign such transactions (customers) to the high-risk category. The only opportunity for these institutions (except insurers and insurance brokers) to exercise stricter control over such transactions is to use the open list of suspicious transactions contained in the Internal Control Rules. Thus, these institutions may deem a transaction to be suspicious if there is any suspicion that the funds used to carry it out have a criminal background.

435. The main technological achievement used in the financial sector is the "Bank-Client" system, which has become rather popular in Uzbekistan. Exchange of information within the "Bank-Client" system is carried out through customers' mailboxes. Customer identifications and passwords are used to ensure the safety of the system. The system also allows for verification of a customer's electronic payment documents (accuracy of completion is the responsibility of a customer), encryption and transfer to a commercial bank through dedicated communication channels (Paragraphs 1.4, 1.11, 4.3 of the Provision "On Performing Calculations Using "Bank-Client" Software).

436. Pursuant to the Letter of the Central Bank of Uzbekistan No. 23-19.17 of 29 January 2010, customer due diligence measures must be applied to all bank clients, including those using "Bank-Client" and other similar programs. Also, the internal control service of a commercial bank must perform on-going monitoring (at least once in three months) of the client it signed a contract for an appropriate program with, including for the purpose of monitoring transactions conducted directly by the person specified in the bank service agreement and who was subject to due diligence measures .

437. At the meetings, the representatives of the financial sector repeatedly highlighted the problem related to the inadequate use, or absence, of new technologies, including Internet Banking, that make it possible to execute financial transactions without being physically present in the country. Internet-banking technology is used only by one Uzbek bank and its use is limited to requesting information on account balance and turnover. There is no provision allowing for internet-banking to be used for transactions.

438. In connection with that, no risk-based study of the new payment technologies had been done by the oversight agencies prior to the meetings. They were not subjected to the separate control measures, whereas the AML/CFT Law contains virtually no requirements for the use of new technologies in the light of AML/CFT in the non-banking sector.

### **3.2.2. Recommendations and Comments**

#### **Recommendation 5**

439. Uzbekistan has not adopted all the necessary measures to ensure compliance of the financial sector with Recommendation 5.

440. Despite the fact that the law provides for a possibility of applying the CDD measure to a broad spectrum of relations, the adopted for its enforcement Internal Control Rules allow to limit its application, which is not always justified. For example, not all transactions conducted by the representatives of the financial sector are subject to the CDD measures.

441. Not conducive to improving effectiveness is the fact that the list of cases contained in the IRC (despite the fact that Art. 7 of the AML/CFT Law is well balanced) which warrant CDD measures in the exchange sector (establishment of business relations is absent) and securities market (one-off transactions are absent) is limited.

442. Regarding the banking sector, the list of cases requiring the application of the CDD measures does not include several foreign exchange transactions (e.g., exchanges of large banknotes for small ones and conversion) carried out in Uzbekistan.

443. In this regard, Uzbekistan should consider the possibility of extending the list of cases when mandatory CDD measures for commercial banks, members of stock exchange and professional participants of the securities market are obligatory.

444. The country should also consider extending the list of the necessary identity documents required by financial institutions (except credit institutions).

445. It is also necessary to ensure that the CDD measures are applied to government agencies and regulatory bodies of credit institutions.

446. The mechanism for conducting the CDD measures when attempts to perform transactions are being made should be developed in by-laws to the fullest extent possible.

447. It should be made mandatory for financial institutions to carry out verification (check) of the data submitted by customers.

448. It should also be made mandatory for financial institutions in Uzbekistan to ascertain whether a customer is acting on his own behalf or not. Financial institutions should be required to

request their customers to provide data as to the objective and intended nature of business relations, as well as information about the origin of funds (when necessary).

449. The incorporated in the Law provision for permanent verification of customers should be more clearly communicated to members of stock exchange, insurers and insurance brokers, professional participants of the securities market. The contained in their Internal Control Rules requirement to apply the CDD measures at all stages of service delivery is too general.

450. With respect to professional participants of the securities market, members of stock exchange and operators of postal services, the mandatory update of customer information should be considered. For non-bank financial sector, one should examine the procedure for registering the results of the applied CDD measures using the provisions of the AML / CFT Law.

451. The work on the risk-based approach is still in its infancy (except banking and exchange sectors). In this regard, more specific rules for the application and implementation of the enhanced CDD measures (particularly for non-banking sector) would have a positive impact on the development of the AML/CFT system.

452. The issue of applying enhanced CDD measures to clients belonging to the high-risk category and registering them should be elaborated in greater detail for all organizations of the financial sector.

453. The periods of time allowed for identification and verification of identification data must leave no room for different interpretations.

454. The implications of a negative CDD result affect only such procedures as identification. Steps to be taken by financial institutions in the event of a negative result of application of other (besides identification) CDD measures should be considered. The non-binding requirements to deny the right to carry out transactions (establish business relations) when application of the CDD measures is not possible should be made binding.

455. The requirement to submit STR when it is impossible to complete the CDD measures should be set out as part of separate entry, eliminating any doubts as to its existence and making it more understandable to all parties.

456. The rules for applying the CDD measures to persons who had already been clients (beneficiaries, representatives) of financial institutions (predominantly non-banking sector) at the time of entry into force of the rules of internal control should be laid out more clearly.

#### Recommendation 6

457. Uzbekistan should adopt regulatory legal acts requiring financial institutions to establish whether a customer is a politically exposed person (PEP) and seek the approval of the management of a financial institution before establishing relations with such PEP. Financial institutions should be obliged to establish the origin of a PEP's funds and pay extra attention to all transactions conducted by such person.

#### Recommendation 7

458. For more effective application of the AML/CFT measures in establishing correspondent relations, one should consider refining the assessment mechanism for the application of the

AML/CFT measures by correspondent banks and the process of recording the results of such assessment.

459. The issue of documenting the responsibilities of each correspondent institution is not subject to separate regulative measures and is addressed within the frameworks of the general CDD requirements and civil legal relations. These responsibilities should be specified when addressing the issue of establishing correspondent relations.

460. The requirement to receive a confirmation of a correspondent bank's ability to provide the necessary identification data is advisory rather than binding. A requirement to provide a confirmation of the fact that a respondent bank has established the identity of and applied the CDD measures to a customer with access to the accounts of a correspondent is absent.

461. However, in practice, the remarks made in the above two paragraphs can be offset, subject to the provision of the information (specified in the Instruction on Bank Accounts) on the implementation by a bank and the state the bank is registered in of the international standards on AML / CFT, and the agreement concluded by such bank.

**Recommendation 8**

462. On the whole, Uzbekistan's legislation for the banking sector contains the requirements banning establishment of customer relations (opening accounts, setting up deposits, etc.) without the personal attendance of a customer (his/her representative).

463. The Law of Uzbekistan on AML/CFT also allows financial institutions in the banking sector (in view of limited practice of using new technologies) to develop their own mechanisms of internal control precluding the use of technological advances for ML/FT and allowing an appropriate assessment of risk.

464. However, the responsibility for devising measures to prevent the use of technological developments for money laundering and terrorism financing needs to be developed further in greater detail and on an on-going basis to keep pace with the development of such technologies in the financial sector. Moreover, this provision applies only to the banking sector and does cover other financial institutions. As the financial markets continue to develop, there will a greater need to regulate both the CDD procedures and the measures to reduce the risks of using new technologies, including those enabling remote access transactions.

**3.2.3 Compliance with Recommendations 5 - 8**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.5</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• The list of cases for application of the CDD measures to certain financial institutions is not sufficient.               <ul style="list-style-type: none"> <li>▪ commercial banks are not required to apply the CDD measures to certain foreign exchange transactions (changing money and conversion);</li> <li>▪ members of stock exchange are not required to apply the CDD measures when establishing business relations;</li> <li>▪ professional participants of the securities market are not required to apply the CDD measures when conducting one-off transactions;</li> </ul> </li> </ul>

- The list of identity data to be requested from customers of financial institutions (except credit institutions) is not extensive enough;
- Credit institutions are not required to apply any CDD measures in respect to government agencies and regulatory bodies.
- There is no mechanism for applying the CDD measures to cases involving attempts to execute transactions;
- Not all financial institutions in Uzbekistan are required to ascertain whether a customer is acting on its own behalf or not, as well as clarify the ownership and management structures of customers (legal entities).
- Financial institutions are not required to request their customers to provide data as to the objective and intended nature of business relations, as well as information about the origin of funds (when necessary).
- There are no clear rules for the application of the CDD measures (monitoring customers' transactions) on an ongoing basis in the non-bank financial sector;
- The requirements to apply special CDD measures to high-risk customers does not apply to all institutions of the financial sector (except credit institutions and stock exchange);
- There are no clear rules in the non-bank financial sector as to what actions the institutions involved in conducting transactions with monetary and other assets should take in the event of a negative CDD result (except non-presentation of documents for identification);

*Effectiveness*

- The IRC requirements often limit the requirements of the AML/CFT law, which may complicate its implementation;
- Not all subordinate acts regulating other relations (e.g. currency exchange transactions) are aligned with existing AML/CFT Law, which may cause certain implementation problems.
- The short duration of the adopted rules and requirements on CDD, as well as the lack of oversight practice make it impossible to estimate their effectiveness at this stage;
- The absence of an oversight body in the leasing sector makes it impossible to guarantee the effectiveness of the AML/CFT measures taken by these financial institutions;
- Due to the fact that the list of transactions commercial banks are allowed to conduct is open, the application of the mandatory CDD measures to only a limited number of one-off transactions, in particular foreign exchange and securities transactions, may also adversely affect the effectiveness.
- There is no requirement to carry out verification (check) of data submitted by the client, except for checking the identity card;
- There is no clarity for the non-bank financial sector on the issue of registering the results of the applied CDD measures;
- The advisory nature of the IRC terminology used in addressing the issues of the impossibility of application of the CDD measures (despite the stern wording used in the AML/CFT Law) may adversely affect the

		<p>practical application of the relevant rules.</p> <ul style="list-style-type: none"> <li>Professional participants of the securities market, members of stock exchange and operators of postal services are not required to update customer information;</li> <li>The mechanism for submitting STR to the FIU when it is not possible to complete the CDD measures is indirect;</li> <li>There is no clarity on the issue of applying the CDD measures to persons who were already clients of financial institutions at time of introduction of the AML/CFT measures.</li> </ul>
<b>R.6</b>	<b>NC</b>	The legislative and other measures required by the Recommendation 6 are missing.
<b>R.7</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>The mechanism used for evaluating the data supplied by correspondent banks and the procedure for recording the results of such evolutions need to be clarified.</li> <li>There is no clear requirement for division/sharing of AML/CFT responsibilities with correspondent banks.</li> </ul>
<b>R.8</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>No system for regulating transactions involving new technologies is developed for financial institutions of the non-bank sector.</li> <li>There are no requirements for non-bank financial institutions to manage the AML/CFT-related risks when using new technologies and carrying out non-face to face transactions</li> </ul>

### **3.3. Third parties and intermediaries (R.9)**

#### **3.3.1. Description and Analysis**

##### *Recommendation 9*

465. Financial institutions are not allowed to transfer the CDD-related responsibilities to third persons and companies. Outsourcing arrangements for the CDD measures are absent.

#### **3.3.2. Recommendations and Comments**

466. Not applicable.

#### **3.3.3 Compliance with Recommendation 9**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.9</b>	<b>N/a</b>	Not applicable

### **3.4 Financial Institution Secrecy or Confidentiality (R.4)**

#### **3.4.1 Description and Analysis**

##### *Recommendation 4*

467. In general, the legislation of the Republic of Uzbekistan does not inhibit the implementation of the FATF Recommendations.

468. Pursuant to Article 18 of the AML/CFT Law financial institutions are obligated to provide the FIU with the information on suspicious transactions, including information constituting bank or other secrets, and such action will not be considered a breach of the bank, commercial or other secrecy. This provision is also stipulated in Article 8 of the Law on Bank Secrecy and in Article 38 of the Law on Banks and Banking Activity of the Republic of Uzbekistan.

469. Under Article 38 of the Law on Banks and Banking Activity information on transactions and accounts of legal entities and other institutions is to be disclosed to a public prosecutor, and investigating and inquiring authorities, where criminal proceedings have been instituted. Information on accounts and deposits of natural persons is to be disclosed to courts, and to inquiring and investigating authorities on cases being in their proceedings, where customer's funds and other valuables on accounts or deposits may be subject to seizure, foreclosure or confiscation.

470. Pursuant to Article 44 of the Law on Banks and Bank Activity and Article 51 of the Law on the Central Bank the Central Bank is authorized to request and receive information on the activities carried out by the supervised institutions and to require clarification of the obtained information.

471. Certain supervisory agencies (in addition to the Central Bank) are also vested with powers to request any information from supervised entities (Article 10 of the Regulations on the Ministry of Finance of the Republic of Uzbekistan, Article 7 of the Regulations on the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan). The Communication and Information Agency of the Republic of Uzbekistan, being the founder with respect to Uzbekiston Pochtasi postal service organizations, has powers to obtain from them any information related to their activities including information on their customers and transactions performed by them.

472. Article 26 of the Law on Insurance Activity stipulates that information on policyholders, insured persons and beneficiaries, health condition of policyholders and insured persons, insured property, amount of insurance coverage, availability of bank accounts, account balance and movement of funds to and from such accounts is to be disclosed by insurers in the established manner and without consent of policyholders to courts, public prosecutor and, where criminal proceedings have been instituted also to inquiring an investigating authorities. Besides that, insurers and insurance brokers shall provide the FIU with the AML/CFT related information on transactions being performed.

473. Pursuant to Article 7 of the Regulation on Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan the Center is authorized to submit information on revealed violations of the securities market legislation to the law enforcement agencies in compliance with the current laws. Under Article 46 of the Law on Securities Market information on customers – professional securities market participants, their account balance and performed transactions as well as details of transactions with securities are to be disclosed to the designated authority responsible for regulation of the securities market when this authority investigates or makes inquiries pertaining to violations of the securities market legislation. Besides that, information on customers' accounts is provided to courts on matters falling within their competence, and also to inquiring and investigating agencies if criminal proceedings have been instituted. The AML/CFT related confidential information is provided to the FIU.



474. Under Article 23 of the Law on Stock Exchanges and Exchange Activity details of exchange transactions are to be disclosed to courts and, where criminal proceedings have been instituted, also to inquiring and investigating authorities. Details of an exchange transaction related to AML/CFT are to be provided to the FIU in circumstances and in a manner specified in the legislation.

475. Obligation to disclose information constituting secrets (other than bank secret) is imposed on other financial institutions by the Internal Control Rules approved by the designated authority and by the authority which licenses (controls) their activities.

476. Information including data constituting bank or other secrets may be exchanged among the competent authorities under inter-agency agreements which contain a respective provision.

477. Pursuant to Article 14 of the Law on Bank Secrecy information including data constituting bank or other secrets may also be shared among banks at both national and international levels in the context of Recommendation 7 and Special Recommendation VII.

478. At the same time, it should be noted that there are certain ambiguities in the regulatory framework that could potentially limit the ability of the FIU to obtain additional information other than that related to suspicious transactions or transactions with funds and other assets. For example, Article 16 of the Law on Bank Secrecy of the Republic of Uzbekistan prohibits any authority to request information constituting bank secret except under circumstances specified in that Law, and Article 8 of the same Law allows for transferring information only so far as it pertains to obtaining data on AML/CFT related transactions. Therefore, it may be difficult to obtain information related to transactions not considered suspicious as well as other data (e.g. on CDD results, on accounts opened in credit institutions).

### 3.4.2. Recommendations and Comments

479. The Republic of Uzbekistan should eliminate ambiguities with regard to determining information to be reported to the FIU stipulated in Article 8 of the Law on Bank Secrecy.

### 3.4.3. Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
<b>R.4</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>The current wording of Article 8 of the Law on Bank Secrecy may potentially create obstacles for the FIU to obtain information other than STRs from financial institutions.</li> </ul>

## 3.5. Record Keeping and Wire Transfer Rules (R.10 and SR.VII)

### 3.5.1. Description and Analysis

#### *Recommendation 10*

480. Pursuant to Article 21 of the AML/CFT Law financial institutions shall maintain information on transactions with funds or other assets as well as identification data and information obtained through CDD process for a time period established by the law but for not

less than five years after transactions are completed or business relationships with customers are ended.

481. Besides that, the standard Internal Control Rules (ICR) for each sector impose obligation on the covered organizations to maintain information on transactions with funds or other assets as well as identification data and information obtained through CDD process for a time period established by the law but for not less than five years after transactions are completed or business relationships with customers are terminated (paragraph 72 of the IRC for commercial banks, paragraph 66 of the ICR for non-bank credit institutions, paragraph 26 of the ICR for professional securities market participants, paragraph 37 of the ICR for stock exchange members, paragraph 32 of the ICR for insurers and insurance brokers, paragraph 25 of the ICR for leasing service providers, paragraph 27 of the ICR for postal service operators and providers). However, none of the above mentioned documents clarifies the “information obtained through CDD process” concept.

482. The basic regulatory document in the banking sector – the “Instruction on application of the list specifying period of retention of documents generated in the course of activity of commercial banks” approved by the Central Bank of the Republic of Uzbekistan on 03.06.200 (Protocol No.10) and by the Chief Archive Department with the Cabinet of Ministers of the Republic of Uzbekistan (registered by the Ministry of Justice of the Republic of Uzbekistan on 26.07.2000, No.951) has been amended so as to comply with the AML/CFT Law and Internal Control Rules. In addition to this document, the banks are also obligated to comply with the provisions of the “Instruction on procedure of maintaining electronic archive in banks of the Republic of Uzbekistan” approved by the Resolution No.11/13 issued by the Central bank of the Republic of Uzbekistan on 14.04.2007. According to this Instruction the following electronic data contained in the bank’s electronic payment databases shall be archived and retained for 15 years:

- a) complete electronic database containing a banking day information;
- b) expired digital and electronic signatures;
- c) banking day software and other separately used software;
- d) electronic protocols on receipt/transmission of electronic payment documents;
- e) documents received and transmitted via e-mail;
- f) all electronic payment documents encrypted and unencrypted by bank departments;
- g) overall bank balance;
- d) information on loans and other bank transactions conducted by commercial banks.

Requirements for the postal service organizations have also been amended so as to comply with the Law and the Internal Control Rules.

483. It should be noted, however, that the requirements in respect of the business correspondence do not comply with the FATF standards. For example, according to the “Instruction on application of the list specifying period of retention of documents generated in the course of activity of commercial banks” the customer correspondence related to the cash services for clients (item 55) should be retained for 3 years. Similar deficiencies exist in other sectors as well.

484. At the same time, some laws and regulations set different requirements for retention of documents by financial institutions. Pursuant to the Law “On Accounting” (Article 23) accounting records and registers, microfilms or financial data of computerized accounting shall be retained for at least three years. Besides that, the Regulation on Accounting by Professional Securities Market Participants of Deals and Transaction Carried Out in Securities Market and Retaining Accounting Documents was approved by Order No. 2009-12 issued by the General Director of the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic

of Uzbekistan on 11.02.2009. This Regulation stipulates that primary documents and attachments thereto, which form the grounds for accounting records, and documents confirming customer's cash inflow (payment orders, account statements, reports) shall be retained for 3 years after the completion of audit. Should any disputes or disagreements arise or should any investigations and legal proceedings be instituted, documents shall be retained till final decisions are passed. Reports of brokers and dealers on the results of securities transactions and reports on sales of securities as of a specific date shall be retained for 3 years.

485. At the same time, the representatives of the Republic of Uzbekistan have noted that, should there be any discrepancy in the regulations, the most recently adopted legislation, i.e. the provisions of the AML/CFT Law are applicable. They also noted that in practice all transactions are carried out by financial institutions only through bank accounts and therefore it is not a problem to reconstruct any transaction. However, the assessors have concerns that the aforementioned fact could impair effectiveness of the undertaken measures.

486. The legislation of the Republic of Uzbekistan does not contain a special requirement for financial institution to keep documents and information in such a way as to enable their timely submission to the competent authorities. Besides that, no requirement is set for keeping information on business transactions in such a way and in such volume which would allow for its reconstruction and use as evidence in criminal or civil proceedings. However, it does not apply to banks and non-bank credit institutions since paragraph 71 of the Internal Control Rules for commercial banks and paragraph 65 of the Internal Control Rules for non-bank institutions, respectively require to process and keep information on transactions with funds or other assets in such a way as to ensure reconstruction of transaction details, if necessary.

487. At the same time, the representatives of Uzbekistan have affirmed that the competent authorities are capable of obtaining information from any financial institutions in a timely manner and in required scope upon a public prosecutor's order. Such order specifies a scope of information to be provided as well as submission deadline. Although there is no strictly regulated timeline for submission of information, the order specifies a time period during which information shall be provided. Besides that, taken into account is a scope of requested data, on one hand, and pretrial investigation time limit, on the other hand.

### ***Special Recommendation VII***

488. Wire transfers, as they are defined in Special Recommendation VII, can be carried out in the Republic of Uzbekistan only by commercial banks and by the Uzbekiston Pochtasi company which is the government-owned postal service institution. Wire transfers are carried out by almost all postal branches and offices. Wire transfers are accepted from both natural and legal persons, but only natural persons can be recipients. Wire transfers are carried out both domestically and abroad. It is worth to mention that the Uzbekiston Pochtasi company carries out cross-border wire transfers only to those countries with the postal service agencies of which respective agreements have been signed. At the time of evaluation such agreements have been signed with all CIS 11 countries and with Switzerland. Besides that, Uzbekistan is exploring possibility of signing similar agreements with South Korea and Turkey. These agreements have a standardized form, and minimum set of data accompanying the wire transfer is set out therein. Each of the above agreements sets a maximum amount of fund transfer (in particular, the threshold of wire transfers from/to Russia is 90 thousand rubles, i.e. about 3 thousand US dollars).

489. It is noteworthy that in Uzbekistan it is impossible to carry out wire transfers, including the use of services provided by special institutions such as Western Union, Anelik, MIGOM, etc., without opening a bank account. To carry out even a single wire transfer a person shall open a current bank account with all legal implications that come with it.

490. In addition to the general customer identification requirement, specific wire transfer requirements also apply to commercial banks of Uzbekistan. Under paragraph 32 of the Internal Control Rules commercial banks:

- when acting as intermediaries in a wire transfer transaction shall ensure that all originator information that accompanies a wire transfer is sent and retained with the transfer;
- shall pay special attention to and scrutinize transactions associated with international (cross-border) wire transfers where originator information (last name, first name, middle name/patronymic, full name of legal entities, originator address and account number) is not provided or is incomplete.

491. The Internal Control Rules (ICR) for commercial banks also include requirement to record information when establishing and maintaining correspondent relations. Commercial banks should retain all information on electronic transfers when establishing relations with other banks for carrying out cross-border wire transfers (paragraph 30 of the ICR)

492. In accordance with Civil Code of Uzbekistan Republic wire transfers as non-cash payments can be done with the help of payment orders. The article 792 of the Civil Code (CC) says, that in case of settlement via a payment order, a bank has to transfer certain amount of money at the expense of funds on the account of a customer, to the account indicated by a customer in this or another bank. In accordance with the article 793 of the CC, the contents of a payment order and relevant settlement documents, attached to it, and their form, should be in compliance with the requirements, set by the banking rules. These requirements are set by the Regulation of the Central Bank “On non-cash settlements in Republic of Uzbekistan” N 1122 dated 15.04.2002 according to which any payment document should contain:

- document number;
  - document date;
  - name of payer;
  - number of payer’s account;
  - taxpayer identification number (TIN);
  - payer’s bank identification code;
  - name of payer’s bank;
  - amount of payment (specified with digits and in writing);
  - name of recipient;
  - number of recipient’s account;
  - recipient’s bank identification code;
  - name of recipient’s bank;
- purpose of payment.

In case, if some information is absent in a standing order, bank can’t fulfill this order.

Payments made with the use of plastic cards envisage transfer of electronic documents between the payment system members. These documents should contain all information needed for manual reconstruction of transactions performed (paragraphs 91-93 of the Regulation on Non-Cash Settlements).

493. When a payment is made with the help of a payment order, the bank acts as an intermediate, thus, in compliance with the Article 32 of the IRC for commercial banks, it is obliged to ensure that all originator information that accompanies a wire transfer is sent and retained with the transfer. In this case, originator information consists of two components: information, obtained in the course of CDD, and, also, data, which is contained in the payment order of a customer. As it was already mentioned in the section of the report dealing with the Recommendation 5 a minimum set of CDD data in respect to individuals (Annex 1 of the IRC) is as follows:

Surname, name and patronymic name;

Data and place of birth;

Citizenship;

Place of permanent and (or) temporal residence;

Passport requisites or any document, which can replace it; document series and number; date of document issue; name of the body, which issued document;

Identification number of a tax payer (if applicable);

Home telephone number (if applicable).

Thus, all data indicated above has to be included in electronic payment document and transferred together with the wire transfer.

494. For carrying out cross-border wire transfers the Uzbekiston Pochtasi company implemented IFS LITE, special system designed by the Universal Postal Union, which envisages transfer of a unique identification code for each transaction in the wire transfer message, which is also stipulated in bilateral agreements with foreign postal operators. It is worth mentioning that according to the ruling on postal wire transfers issued by the Uzbekiston Pochtasi each payment message is accompanied by full information on the payer contained in a special form N 114 (which includes such data as name, date of birth and residential address). It should be noted that postal remittances are carried out directly between a payer (originator) and recipient and do not envisage involvement of any intermediaries in a transaction.

495. It should be noted, however, that banks are not obliged to consider the issue of limiting or breaking business relations with the counterparts not meeting the requirements of SR.VII. Also it seems there are no specific means for carrying out the monitoring of compliance of financial institutions with the rules of electronic wire transfers as well as sanctions for non-compliance. It should be noted that the drawbacks mentioned can affect the effectiveness of the measures taken in relation to SR VII.

### **3.5.2. Recommendations and Comments**

#### **Recommendation 10**

496. Periods of retention of documents related to business transactions and customer correspondence should be extended to be in line with the requirements set out in the AML/CFT Law and Recommendation 10.

497. It is necessary to introduce a clear requirement for financial institutions to retain information in a scope sufficient to provide evidence for criminal and civil prosecution.

#### **Special Recommendation VII**

498. Banks should be obliged to consider the issue of limiting or breaking business relations with the counterparts not meeting the requirements of SR VII. The supervisory bodies also have to introduce specific measures for the monitoring of compliance with the rules of electronic wire transfer.

### 3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
<b>R.10</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for maintaining information in volumes sufficient for its use as evidence in criminal or civil proceedings (does not apply to credit institutions).</li> <li>• A 3-years retention period is set by certain laws and regulations, which is inconsistent with the AML/CFT Law</li> </ul>
<b>SR.VII</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• The banks are not obliged to consider the issue of limiting or breaking business relations with the counterparts not meeting the requirements of SR VII.</li> <li>• There are no specific means for carrying out the monitoring of compliance of financial institutions with the rules of electronic wire transfer</li> <li>• The drawbacks mentioned can affect the effectiveness of the measures taken in relation to SR VII.</li> </ul>

### Unusual and Suspicious Transaction

## 3.6 Monitoring of Transactions and Relationships (R.11 &21)

### 3.6.1 Description and Analysis

#### *Recommendation 11*

499. The Internal Control Rules obligate the banking sector to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose (paragraph 47 of the ICR for commercial banks and paragraph 41 of the ICR for non-bank credit institutions). Besides that, a commercial bank and a non-bank credit institution may (and in certain cases shall) use additional criteria to independently qualify such transactions as high-risk ones (paragraph 46 of the ICR for commercial banks and paragraph 39 of the ICR for non-bank credit institutions). Notably, pursuant to the ICR a commercial bank (paragraph 44) and a non-bank credit institution (paragraph 39) shall consider customers systematically involved in suspicious or shady transactions as high-risk customers. Commercial banks automatically consider high-risk transactions as shady transactions (paragraph 39 of the ICR for commercial banks), while non-bank credit institutions may qualify them as such using additional criteria (paragraph 36 of the ICR for non-bank credit institutions).

500. Pursuant to the Internal Control Rules criteria and indicators of shady transactions for commercial banks and non-bank credit institutions are: lack of apparent economic purpose, inconsistency with nature and type of customer's activity and inconsistency of customer's transactions with common transaction practice (paragraph 39 and 36 of the respective ICR).

501. Under the Internal Control Rules certain large transactions also fall in the category of shady ones, e.g. transfer of funds to off-shore zones (receipt of funds from off-shore zones) during 30 days, which total value exceeds 1000 minimum wages, and raising cash loan or credit, which amount also exceeds 1000 minimum wages.

502. It is noteworthy that under the tax legislation the amount exceeding 1000 minimum wages for legal entities (exceeding 500 minimum wages for sole proprietors) serves as the indicator of a large payment.

503. In certain cases large value of a transaction (in aggregate exceeding 1000 minimum wages) is defined in the respective Internal Control Rules for the non-banking financial sector (stock exchange members, insurers and insurance brokers, professional securities market participants, postal service operators and providers) as one of the criteria for/ indicator of suspicious transaction. In some cases lack of apparent economic purpose (ignoring more favorable terms and conditions), inconsistency with nature and type of customer's activity and inconsistency of customer's transactions with common transaction (payment) practice serves as such criterion. The above organizations are entitled to independently extend the list of criteria by including large, complex and unusual transactions thereto. When making a decision on qualifying a transaction as suspicious one, they should take into account amount of transaction, its purposes and any other relevant circumstances. Nevertheless, the fact that the Internal Control Rules do not clearly specify the obligation of institutions operating in the non-banking financial sector to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose is the gap in the legislation and may impair effectiveness of control over the aforementioned unusual transactions.

504. The Internal Control Rules for commercial banks and non-bank credit institutions (paragraphs 50 and 44 of the ICR, respectively) prescribe that "where a shady transaction is detected the front office personnel shall, if necessary, request a customer to provide additional information on a transaction performed". However, there are no further instructions on how to request, keep and examine information obtained from a customer.

505. The Internal Control Rules also obligate commercial banks and non-bank credit institutions to make sure that information on transactions with funds or other assets is processed and kept in such a way as to ensure reconstruction of transaction details, if necessary (paragraph 71 of the ICR for commercial banks, paragraph 65 of the ICR for non-bank credit institutions). However, the Internal Control Rules developed for the non-banking financial sector do not contain such obligation.

506. Notably, the Internal Control Rules set out a special requirement obligating commercial banks and non-bank credit institutions to keep a special register, in which information on transactions subject to mandatory reporting in special circumstances and on filed reports is to be recorded (paragraphs 55 and 57 of the ICR for commercial banks, paragraphs 49 and 51 of the ICR for non-bank credit institutions).

507. It should be noted that a suspicious transaction report is filed only where a decision is made to include it in a category of transaction subject to reporting (in this case a transaction is qualified as suspicious one). However, the Internal Control Rules do not establish that information on complex, large and unusual transactions, if no decision on reporting such transaction has been made, shall be recorded in the special register, i.e. in this case a general procedure of processing transactions with funds or other assets will be used. The AML/CFT legislation of the Republic of

Uzbekistan related to the banking sector does not clearly and explicitly regulate the issue pertaining to recording information on such transactions. During the on-site meetings the representatives of Central Bank of the Republic of Uzbekistan asserted that information on complex, large and unusual transactions in commercial banks and non-bank credit institutions will be recorded and access to such information will be provided for the supervisory authorities. It is noteworthy that the ICR for commercial banks obligates a relevant bank department, if the aforementioned transactions are qualified as high-risk ones, to inform the Internal Control Service on carrying out such transaction by a customer, and the Internal Control Service shall conduct on-going monitoring of transactions performed by such customer (paragraph 47).

508. The respective Internal Control Rules obligate institutions operating in the non-banking financial sector to keep a special paper and (or) electronic register for recording suspicious transaction reports (paragraph 34 of the ICR for stock exchange members, paragraph 29 of the ICR for insurers and insurance brokers, paragraph 23 of the ICR for professional securities market participants, paragraph 22 of the ICR for leasing companies, paragraph 24 of the ICR for postal service operators and providers). The issue of establishing a separate detailed mechanism of recording information on complex, large and unusual transactions, on which no decision to file a report has been made, remains unresolved. It should be mentioned that institutions engaged in transactions with funds or other assets may, on their own initiative, define in their Internal Control Rules a procedure for recording information on such transactions. As an example, the representatives of the supervisory authorities of the Republic of Uzbekistan presented the Internal Control Rules of the Uzbekiston Pochtasi company (approved by order No.323 dated 31.12.2009). In compliance with these ICR all postal service institutions keep registers for recording both outgoing and incoming postal remittances irrespective of their amount as well as for recording information on complex, large and unusual transactions, if no decision on reporting such transaction has been made. However, no information on how data on such transactions are separated from other information recorded in the register has been provided.

509. Despite a broad range of obligations of the financial sector to provide information, the issue pertaining to access of the designated authority to information, including information on complex, large and unusual transactions not specified in Regulation No.272 (not falling into a category of suspicious transactions, or carried out by a person located in a state (territory) not participating in the international AML/CFT cooperation (non-cooperative country), or carried out by a person suspected in terrorist activity), remains unresolved. At the meetings with the representatives of the Department, the supervisory authorities and the banking sector it was repeatedly stated that no problems with obtaining (no impediments for providing) information on complex, large and unusual transactions would occur in practice.

### ***Effectiveness***

510. Given the short practice of application of the basic AML/CFT regulations in Uzbekistan, it is impossible to assess actual efforts undertaken with regard to complex, large and unusual transactions and to understand that the list of such transactions cannot be considered exhaustive.

511. The legislation of the Republic of Uzbekistan established certain environment for exercising control over all complex, large and unusual transactions. Willingness to arrange control over such transactions was clearly seen at the meetings with both supervisory authorities and commercial banks (non-bank credit institutions). Thanks to the actual application of the Tax Code of the Republic of Uzbekistan such practice is not new for the banking system of Uzbekistan. However, lack of specific areas of such control (examination of background and purposes of controlled



transactions) as well as unclear basis for qualification of transactions (whether they are suspicious or not) and control over such transactions, especially in the non-banking sector, may affect the practice of handling such transactions. The latter applies to both qualification of transactions and recording, maintaining and reporting information thereon. Lack of clear corresponding obligation of institutions engaged in transactions with funds and other assets to provide information on complex, large and unusual transactions may create an environment where access for the designated authority to such information will be impeded. However, taking into account the provision of the Law on the binding nature of decisions made this authority, probability of such impediment is extremely unlikely.

### ***Recommendation 21***

512. AML/CFT Law No.660-II envisages application of special control over persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation (non-cooperative country). For example, under Article 13 of this Law transaction with funds and other assets (being carried out or prepared) shall be reported to the FIU if one of the parties to a transaction is a person residing, located or registered in a country that does not participate in the international AML/CFT cooperation. The requirement of AML/CFT Law concerning special control over transactions carried with persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation is directly applicable and may not be constrained by any by-laws and regulations.

513. Article 15 of the Law stipulates that whenever a suspicious transaction is detected institutions shall forward information on such transaction to the designated governmental authority within one business day following the detection date.

514. Furthermore, when identifying a customer and an actual owner of a customer a commercial bank, non-bank credit institution shall check the obtained information against the list of persons associated with terrorist activities and against the list of countries that do not participate in the international AML/CFT cooperation. The latter list is drawn up and provided by the Department (paragraphs 35 and 30 of the respective ICR).

515. The Internal Control Rules for the financial sector qualify transactions with persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation as suspicious ones (paragraph 40 of the IRC for commercial banks, paragraph 35 of the ICR for non-bank credit institutions, paragraph 30 of the ICR for stock exchange members, paragraph 24 of the ICR for insurers and insurance brokers, paragraph 19 of the ICR for professional securities market participants, paragraph 18 of the ICR for leasing companies, paragraph 20 of the ICR for postal service operators and providers). In the insurance and stock exchange sectors only some the transaction with the aforementioned persons are deemed suspicious (for example, only receipt of overriding commissions and share of profits from foreign insurers (reinsurers) registered in the non-cooperative countries).

516. Commercial banks are additionally obligated to pay special attention to ongoing correspondent relations with non-resident banks located on the territory of countries that do not participate in the international AML/CFT cooperation (paragraph 32 of the ICR for commercial banks).

517. Commercial banks shall also pay special attention to compliance by their foreign subsidiaries, branches and representative offices, located in countries that do not or insufficiently

apply the international AML/CFT requirements, with the international standards in this area. If it is impossible to apply appropriate AML/CFT measures due to legislative prohibition in countries where foreign subsidiaries, branches and representative offices are located, commercial banks are also obligated to require their foreign subsidiaries, branches and representative offices to inform the parent bank about such situation. The parent bank, in its turn, shall notify the Central Bank about it (paragraph 32 of the ICR). Similar obligation with respect to foreign subsidiaries, branches and representative offices is imposed on non-bank credit institutions (paragraph 33 of the ICR for non-bank credit institutions).

518. Commercial banks shall make sure that non-resident banks, with which they establish correspondent relationships, apply international CDD standards and appropriate transaction verification procedures (paragraph 31 of the ICR). At the same time, the legislation of the Republic of Uzbekistan does not contain prohibition to establish (or recommendation not to establish) business relationships with non-resident banks located in countries that do not participate in the international AML/CFT cooperation.

519. The obligation to notify institutions about countries that do not participate in the international AML/CFT cooperation is assigned to the Department on Combating Tax and Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office (hereinafter the Department). Pursuant to paragraph 24 of the Regulation on AML/CFT Reporting Procedure approved by Resolution No.272 adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 12.10.2009 (hereinafter Regulation No.272) the lists of countries not participating in the international AML/CFT cooperation are drawn by the Department and provided to the relevant institutions with the follow-on notification about changes made thereto.

520. At the time of evaluation the representatives of the Department stated that the lists of countries not participating in the international AML/CFT cooperation were under development. No such lists were provided to the Evaluation Team. Criteria against which countries are included into these lists and mechanism of communicating these lists to organizations were not clarified.

521. The representatives of the Department told the assessors that the Department sent the letter (dated March 2, 2010) to the respective supervisory authorities to communicate the lists of the countries subject to a FATF call on its members and other jurisdictions to apply countermeasures to protect the international financial system from the ongoing and substantial money laundering and terrorist financing (ML/TF) risks emanating from the jurisdiction (approved at the FATF Plenary Meeting held in Abu Dhabi, the UAE on February 14-19, 2010). Those authorities further communicated these lists to the supervised (regulated) institutions.

522. Besides that, the assessors were advised that banks also use the so-called list of off-shore zones as the ancillary information. The list of off-shore zones (countries or territories which grant a privileged tax regime and/or do not provide for the disclosure and provision of information on performed financial transactions) is contained in the Regulation on procedure for monitoring soundness of foreign currency transactions carried out by legal and natural persons dated 12.09.2003 (approved on 12.09.2009 by Resolution No.2003-67 of the State Tax Committee, Resolution No.01-02/19-36 of the State Customs Committee and Resolution No.240-V of the Central Bank Board). Pursuant to this Regulation (paragraph 1) a designated bank shall provide the State Customs Committee with information on foreign currency transactions carried out under a contract that envisages import payments in favor of non-residents registered (residing) in off-shore zones. Examination of the documents shows that the main area of application of the lists of off-shore zones specified therein is the foreign currency relations. However, the representatives of

the governmental authorities asserted that the aforementioned list can also be used for making decisions in the AML/CFT sphere (in particular for assessment of a degree of customer and/or transaction risk).

523. In the financial sector of the Republic of Uzbekistan the obligation to exercise special control over transaction with persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation is implemented through the use of norms and regulations pertaining to suspicious transactions and high-risk transactions (customers). Therefore, when carrying out transactions with persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation financial institutions have the same rights and bear the same responsibilities as those established with regard to suspicious transactions and/or high-risk transactions (customers) (in particular, examining background and purposes of business relations, recording information obtained as a result of such examination, retaining and providing access to such information for the competent authorities and auditors).

524. Pursuant to the Internal Control Rules for the banking sector (in addition to the aforementioned obligations of correspondent banks and foreign subsidiaries, branches and representative offices) persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation and transactions with such persons fall in the high-risk category (paragraphs 44 and 46 of the ICR for commercial banks, paragraphs 39 and 40 of the ICR for non-bank credit institutions). Persons registered in off-shore zones (transactions with such persons) also fall in the high risk category. Similar norm is established for stock exchange members (paragraph 21 of the ICR for stock exchange members). It should be noted that pursuant to the ICR, if the aforementioned criteria are met, commercial banks and non-bank credit institutions shall qualify a transaction (customer) as a high-risk one.

525. Where customers and transactions are qualified as the high-risk ones, their examination is conducted in compliance with the general procedure established for the high-risk customers (transactions). For example, they are subject to enhanced CDD measures (commercial banks must notify the Internal Control Service which shall perform on-going monitoring of such transactions) and transactions shall be subject to ongoing monitoring (paragraph 47 of the ICR for commercial banks, paragraph 42 of the ICR for non-bank credit institutions, paragraph 27 of the ICR for stock exchange members).

526. The respective Internal Control Rules do not obligate insurers and insurance brokers, professional securities market participant, leasing companies and postal service providers and operators to assess customer (transaction) risk. However, given that where a transaction is qualified as suspicious one a decision shall be made to pay special attention to transactions carried out with a customer (this is prescribed by all Internal Control Rules), one can state that Uzbekistan has established a legal framework for the financial sector to scrutinize transactions with persons residing, located or registered in a country that does not participate in the International AML/CFT cooperation. But special rules for retention of the results of examination of such transactions, inter alia, for rendering assistance to the law enforcement and supervisory authorities and the FIU are, apparently, not provided for.

527. Application counter-measures against countries that do not participate in the international AML/CFT cooperation is implemented through possible rising of a risk level and qualifying a transaction as suspicious one with the follow-on filing STR with the Department and undertaking enhanced CDD measures as well as through imposing additional obligation on commercial banks and non-bank credit institutions (see above).

## *Effectiveness*

528. Since establishment of the required information support mechanism for the supervised institutions in the Republic of Uzbekistan was completed just in early 2010, it is difficult to assess effectiveness of the efforts undertaken by the government authorities or the private sector institutions.

### **3.6.2 Recommendations and Comments**

#### ***Recommendation 11***

529. It is necessary to clearly and explicitly lay down the obligation for institutions operating in the non-banking financial sector to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.

530. It is necessary to envisage, as clearly as possible, examination of background and purposes of all complex, large and unusual transactions and recording of findings of such examinations in writing (including findings on transactions not qualified as suspicious ones) and results of their analysis. Consideration should be given to the issue of extension of authority of insurers and insurance brokers to qualify complex, large and unusual transactions and to increase their obligations when carrying out such transactions.

531. As regards all financial institutions, there should be clear understanding that the list of complex, large and unusual transactions is not exhaustive, and that control over them is not limited to suspicious transaction control.

532. Legislative recognition of the right of the competent authorities and auditors to have access to information on complex, large and unusual transactions and a corresponding obligation to transfer such information, inter alia, upon individual requests will help to raise effectiveness.

533. It is recommended for all financial institutions (primarily for the non-bank financial sector) to develop detailed procedures of handling complex, large and unusual transactions.

#### ***Recommendation 21***

534. Clear instructions should be given to all financial institutions (primarily for the non-banking sector) describing a mechanism of their actions in a situation when a transaction with persons from countries that participate in the international AML/CFT cooperation is not qualified as suspicious one. In this context it is necessary to clarify in more detail the “special control” concept, i.e. not just examination of background and purposes of transactions with persons from such countries but also recording, retention and providing access to the examination findings for competent authorities and supervisory agencies (mainly in the non-banking sector). For the insurance and stock exchange sectors it is necessary, in addition to the above, to extend the obligation to exercise special control over persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation.

535. Besides that, in addition to filing STRs, Uzbekistan should consider application of additional counter measures against countries that do not participate in the AML/CFT cooperation.

### 3.6.3 Compliance with Recommendations 11 and 21

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.11</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no obligation to pay special attention to complex, large and unusual transactions in the non-banking sector.</li> <li>• Unclearly established special obligation with regard to complex, large and unusual transaction to examine their background and purpose, and ambiguously defined rules for recording examination findings, maintaining and providing access thereto for the competent authorities and auditors.</li> <li>• Since the measures have been implemented just recently, it is difficult to assess their effectiveness.</li> </ul>
<b>R.21</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• Unclearly established special requirement with regard to transactions with persons residing, located or registered in a country that do not participate in the international AML/CFT cooperation to examine their background and purpose, and ambiguously defined rules for recording examination findings, maintaining and providing access thereto for the competent authorities and auditors.</li> <li>• No possible counter-measures have been developed against countries that do not participate in the international AML/CFT cooperation, except for filing STRs.</li> <li>• It is hard to assess the effectiveness of the measures taken since the arrangement of necessary informational support of the reporting organizations was finished in the Republic of Uzbekistan during the on-site mission.</li> </ul>

## 3.7. Suspicious Transactions Reports and Other Reporting (R.13-14, 19, 25 & SR.IV)

### 3.7.1 Description and Analysis

#### *Preamble*

536. The original version of the AML/CFT Law validated on January 1, 2006 obligated all financial institutions not just to report all transactions that meet a number of criteria specified in the Law and which value exceeds 4 minimum wages but also to suspend such transactions for two business days. Such operations could be carried out only after expiration of the specified period of time if no special instruction was issued by the FIU. Such system caused certain difficulties in the national economy of Uzbekistan, and on April 27, 2007 provisions of the AML/CFT Law related to suspicious transaction reporting were suspended.

537. On April 22, 2009 a new version of the AML/CFT Law was adopted and was in effect at the time of the mutual evaluation.

#### *Recommendation 13*

##### *Requirement to File STR (on ML and TF)*

538. AML/CFT Law No.660-II sets out the obligation to file with the specially designated authority reports on the following transactions:

- transactions with funds or other assets which are being carried out or prepared if institutions engaged in transactions with funds or other assets consider them suspicious as a result of internal control (Article 13);

- transactions with funds or other assets (irrespective whether they are considered suspicious or not) if one of the parties to such transactions is a person residing, located or registered in a country that does not participate in the AML/CFT cooperation (Article 13);

- any transactions with persons directly or indirectly associated with terrorist activity (Article 14).

539. Article 15 of AML/CFT Law No.660-II obligates institutions engaged in transactions with funds or other assets upon detection of suspicious transaction with funds or other assets subject to reporting to the specially designated authority to provide this authority with information on such transactions in the established manner no later than one business day following the transaction detection date.

540. Pursuant to Article 3 of the aforementioned Law suspicious transaction means a transaction with funds or other assets that is being conducted or that has already been conducted, and which caused, in compliance with the criteria and indicators established by the internal control rules, suspicions as conducted for laundering criminal proceeds or financing of terrorism. Such transactions in the process of both preparation and implementation shall be reported to the specially designated authority.

541. The Criminal Code of the Republic of Uzbekistan defines proceeds from “criminal activity” as any funds or other assets derived from criminal activity and makes no exception with regard of any types of crime specified therein (including terrorist financing).

542. However, it is noteworthy that deficiencies in criminalization of ML and FT mentioned above in the respective Sections of the Report (R.1, SR.II) impede effective implementation of requirements set forth in Recommendation 13.

543. The Internal Control Rules for the financial sector institutions specify criteria and indicators of suspicious transactions.

544. The most developed system of qualification of transactions with funds or other assets exists in the banking sector. There are two ways in which commercial banks may qualify a transaction as suspicious one: mandatory (against the established criteria and indicators of suspicious transactions) and voluntary (after considering it shady (in some cases after considering it high-risk transaction)).

545. The Internal Control Rules for credit institutions contain the concept of suspicious and the broader concept of shady transactions. The list of indicators and criteria against which a transaction shall be qualified as suspicious established in the Internal Control Rules for commercial banks is exhaustive and contains small number of indicators. Suspicious transactions include large transactions carried out by natural persons (buying or selling foreign currency, money remittances) and transactions with persons from countries that do not participate in the international AML/CFT cooperation (non-cooperative countries) or with anonymous account holders and also shady transactions qualified by a commercial bank as those subject to reporting (paragraph 40).

546. The list of criteria and indicators of shady transaction is comprehensive and includes a large number of situations. Shady transactions include both complex, large and unusual transactions and high-risk transactions and/or transactions with high-risk customers (paragraph 41). Notably, pursuant to the Internal Control Rules shady transaction may (but not necessarily) be qualified by a commercial bank as suspicious ones and therefore be subject to reporting to the designated authority (paragraph 40).

547. The list of suspicious transactions is exhaustive but can be extended by a commercial bank based on a publicly available (not classified) list of criteria and indicators of shady transactions and high-risk customers/transactions (paragraphs 41 and 44 of the Internal Control Rules). In any case a commercial banks shall monitor customer's transactions (based on the information obtained in the course of identification and degree of risk assigned) to make sure that such transactions are consistent with the types of customer's activities and to examine, if necessary, sources of funds.

548. Similar provisions are contained in the Internal Control Rules for non-bank credit institutions (Chapters IV and VI of the ICR).

549. According to the supervisory authority experts such multi-tiered system for qualifying a transaction as suspicious is the most effective, since on one hand it allows for examining a maximum number transactions and on the other hand it takes into account customer's specificities and does not overburden the supervisory authorities with excessive information.

550. The Internal Control Rules for other financial institutions – stock exchange members, insurers and insurance brokers, leasing companies, professional securities market participants, postal service operators and providers contain lists of criteria and indicators of only suspicious transactions (Chapter V of the ICR for stock exchange members, Charters IV of the Internal Control Rules for insurers and insurance brokers, leasing companies, professional securities market participants, postal service operators and providers).

551. This list is broad enough and includes complex and large transactions and transactions without apparent economic purpose as well as other criteria such as unusual behavior of a customer, third party transactions, certain cash transactions and location (residence) in a country that does not participate in the international AML/CFT cooperation, etc. Notably, this requirement is not imperative. Unlike in the banking sector, if a transaction meets certain criteria and indicators of a suspicious transaction such transaction may be (but not shall be) qualified as suspicious by a respective financial institution. In other words, the criteria and indicators of suspicious transactions contained in the aforementioned Internal Control Rules are permissive rather than mandatory.

552. Notably, the list of criteria and indicators for all financial institutions operating in the non-banking sector (except for insurers and insurance brokers) is publically available. A transaction may be qualified as suspicious if there are reasonable grounds to suspect that it is carried out for money laundering and terrorist financing purposes.

553. AML/CFT Law No.660-II also establishes the criterion for transactions subject to reporting (irrespective whether they are considered suspicious or not). For example, under Article 13 transactions with funds or other assets shall be reported to the specially designated authority if one of the parties to such transactions is a person residing, located or registered in a country that does not participate in the international AML/CFT cooperation.

554. However, not all Internal Control Rules for the financial sector institutions contain similar obligation. The obligation to qualify a transaction as suspicious one against the aforementioned criterion is established only in the banking sector. For other financial institutions such criterion for suspicious transaction specified in the respective Internal Control Rules is permissive rather than mandatory. Therefore, there is a discrepancy in regulatory methods set out in the Law and in the regulations for the non-banking financial sector.

555. The AML/CFT Law (Article 14), the Regulation on Reporting Procedure (paragraph 3) and the Internal Control Rules contain a separate provision regarding transactions with funds or other assets subject to reporting in special circumstances. In any case, transactions with funds or other assets (irrespective whether they are qualified as suspicious or not) shall be reported if information has been obtained in the established manner indicating that one of the parties to a transaction is a person associated with terrorist activity. This refers to persons who are engaged or suspected to be engaged in terrorist activity, or directly or indirectly own or control an organization engaged or suspected to be engaged in terrorist activity, or are owned or controlled by such organization. The AML/CFT legislation on the Republic of Uzbekistan establishes special sanctions and legal implications for such transactions.

556. Procedure of qualifying a transaction as suspicious one is thoroughly enough elaborated for the banking sector in the respective Internal Control Rules.

557. For the banking sector it is established that where shady transactions are detected all information on such transactions and respective customers shall be submitted to the manager of the Internal Control Service (in non-bank credit institutions – to the employee or the manager of the Internal Control Service) who, if there are reasonable suspicions, make a decision to qualify such transaction as suspicious one. After this a decision to file a STR is made (an appropriate record is made in the special register of the Internal Control Service). Decision is also made on the follow-on actions, in particular reassessing risk level, obtaining additional information on a customer, termination of contractual relations, etc. (paragraphs 51, 52, 54 and 55 of the Internal Control Rules for commercial banks, paragraphs 45, 46, 48 and 49 of the Internal Control Rules for non-bank credit institutions).

558. The Internal Control Rules for non-bank financial institutions do not explicitly clarify a mechanism of making decisions regarding suspicious transactions, in particular, who makes a decision and what is the mechanism of interaction and coordination among structural departments of a financial institution. In all cases after a transaction is qualified as suspicious an appropriate person makes a decision to file SRT with the Department or to take another measures and actions. For example, in the insurance sector this person is a executive officer, in the postal service operators and provides sector – an officer responsible for compliance with the Internal Control Rules, in the stock exchange members sector – a stock exchange member itself, and for professional securities market participants such person is a controller. Notably, information on each submitted SRT is recorded in the special register.

559. Procedure for providing information on suspicious and other transactions subject to reporting is established by the Cabinet of Ministers of the Republic of Uzbekistan (Article 18 of AML/CFT Law No.660-II). Resolution No.272 adopted by the Cabinet of Ministers of the Republic of Uzbekistan approved the Regulation on AML/CFT Reporting Procedure (hereinafter the Regulation on Reporting Procedure) and the standard STR template (hereinafter the standard report template).



560. Pursuant to the Regulation on Reporting Procedure institutions engaged in transactions with funds or other assets shall submit to the Department on Combating Tax and Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office (hereinafter the Department) a report in electronic form on electronic media (where it is impossible – in hard copy) taking necessary precautions against disclosure of information contained in the report in the process of delivery (paragraphs 8 and 11 of the Regulation).

561. The Regulation of Reporting Procedure also stipulates that transactions are subject to reporting to the Department where one of the parties to a transaction is a person residing, located or registered in a country that does not participate in the international AML/CFT cooperation.

562. The standard report template includes a list of identification codes of suspicious transactions. In electronic form a report is transmitted by the automated information processing and transmitting system (AIPTS) which enjoys cryptographic and electronic security features. Development and supply of the AIPTSs and their operating manuals is ensured by the Department (paragraphs 8 and 9 of the Regulation).

563. According to the information obtained in the process of mutual evaluation the AIPTSs were developed for each type of the institutions and delivered to the majority of institutions by the supervisory authorities or via respective associations and at the time of the on-site mission were under test. According to the Department the developed AIPTSs contain the respective lists of identification codes of suspicious transactions. The Department also informed that at the time of the on-site mission financial institutions had already submitted STRs including reports in hard copy (those which had not received and/or installed the AIPTSs yet). Besides that, according to the supervisory authorities the suspicious transaction reporting system (including electronic STRs) has been functioning in the banking sector since the moment AML/CFT Law No.660-II came into effect and was easily reactivated under a new regulatory and technical framework.

#### ***Tax Matters, Threshold Criteria, Attempted Transactions***

564. Threshold criteria are not fundamental for regulation of suspicious transaction criteria and indicators. The Internal Control Rules envisage the use of these criteria as both a mandatory indicators (for the banking sector) and voluntary indicators (for shady transactions or for non-bank financial institutions). Amount equal to 1000 minimum wages is the basic threshold criterion. In the banking sector this criterion is applied as the mandatory one in the process of examining the following transactions carried out by natural persons: foreign currency transfers, buying and selling foreign currency during 3 months. In other cases this criterion is nonbinding.

565. AML/CFT Law No.660-II stipulates that a transaction may be qualified as suspicious one in the process of preparation of such transaction, during its performance or after it has been conducted. The Internal Control Rules define a suspicious transaction in a similar manner.

566. Paragraph 2 of the Regulation on Reporting Procedure contains similar provision. Transactions with funds or other assets being under preparation or implementation, which in the process of internal control are qualified by institutions engaged in transactions with funds or other assets as suspicious ones are subject to reporting to the Department.

567. The Internal Control Rules for financial institutions do not contain a mechanism and special criteria for qualifying an attempted transaction as suspicious. There is a risk that in practice

financial institutions, which focus their attention only on the defined concepts, will face difficulties in assessment of attempted suspicious transactions.

568. The legislation of the Republic of Uzbekistan does not exclude tax offences from the predicate crimes and, therefore, suspicion in laundering of money obtained as a result of tax crime may be a ground for submitting STRs to the Department. No limitations for filing such reports are set forth in the AML/CFT legislation of the Republic of Uzbekistan. Besides that, according to the representatives of the Department in the process of investigations of the ML offences it was found out that 90% of all predicate crimes are tax crimes.

569. The legislation of the Republic of Uzbekistan contains separate provisions regulating submission of SRTs and legal relations pertaining to tax matters (Resolution No.280 “On measures for further reduction on non-banking cash turnover” and Regulation “On procedure of providing by commercial banks of electronic information on large funds turnover to the State Tax Committee”). Pursuant to these Regulations commercial banks shall inform the State Tax Committee on payments exceeding 1000 minimum wages for legal entities (500 minimum wages for sole proprietors) and on giving cash in amount exceeding 500 minimum wages.

### *Effectiveness*

570. During the on-site mission the assessors were provided with the statistics on STRs filed from 01.06.2006 till 12.01.2007, i.e. when the old reporting system was in force (see Preamble to this Section):

Type of Institution	STR Total	Including	
		Threshold (over 4000 min. wages)	Suspicious (less than 4000 min. wages)
Credit Institutions	9569	3501	6044
Investment Funds, Depository Institutions	124	103	21
Stock Exchanges	2029	1969	60
Insurers	27	27	0
Leasing Companies	5	5	0
Postal Service Institutions	0	0	0
Pawnshops	0	0	0
Lotteries	3	1	2
Notaries	52	52	0
TOTAL	11809	5658	6127

571. Besides that, being provided was the statistics on STR filed from November 1, 2009 till April 30, 2010 (i.e. after reactivation of the AML/CFT regime):

Institutions	Number of Filed Reports
Banks, Credit Unions and other Credit Institutions	4042
Professional Securities Market Participants	52
Stock Exchange	15
Insurers	1
Institutions Providing Leasing or other Financial Services	3
Postal Service Institutions	0
TOTAL	4113

572. In this context, number of STRs filed by the postal service institutions is surprisingly low given the large volume of postal remittances in Uzbekistan. Besides that, number of STRs received from professional securities market participants and stock exchange members also does not correspond to the market volume/size.

573. During the on-site mission financial institutions and the supervisory authorities demonstrated interest in the development and implementation of technical facilities for transmitting SRTs by all institutions involved in transactions with funds or other assets and in legal support of these efforts.

574. In the non-banking sector the existing discrepancy in regulatory methods of filing reports on transactions with persons residing, located or registered in a country that does not participate in the AML/CFT cooperation set out in the Law and in the regulations may impede their practical application.

575. In the insurance sector effectiveness may be hampered by the classified list of criteria and indicators of suspicious transactions contained in the Internal Control Rules for insurers and insurance brokers.

576. Unclear regulation of issues pertaining to making decisions on qualifying a transaction as suspicious ones also does not help to raise effectiveness.

577. It is noteworthy that statistics does not contain a breakdown of reports by ML and FT categories.

#### ***Special Recommendation IV***

578. Definition of the “terrorist financing” concept is discerned in Article 155 (Terrorism) of the Criminal Code of the Republic of Uzbekistan which define this crime. This Article defines terrorism as “activity carried out in order to support operation of and to finance a terrorist organization, preparation and commission of terrorist acts, direct or indirect provision or collection of any resources and providing other services to terrorist organizations, or to persons assisting to or participating in terrorist activities”.

579. Pursuant to Uzbekistan Law No.167-II on Combating Terrorism (2000) financing and logistical support of terrorist organizations and terrorists is included as a sufficient element of terrorist activity and constitutes this concept. Therefore, the legislation of the Republic of Uzbekistan refers financing of terrorism to terrorist activities. It is the “terrorist activity” concept that is used in AML/CFT Law No.660-II.

580. As mentioned in the overview of R.13 the obligation to file suspicious transaction reports fully applies to financing of terrorism which is broadly enough addressed in the AML/CFT Law and includes financing of both terrorists and terrorist organizations.

581. Besides that, under Article 14 of the AML/CFT Law transactions with funds or other assets are subject to reporting to the specially designated authority and to suspension if according to information obtained in the established manner one of the parties to such transactions is:

- a legal entity or an individual engaged or suspected to be engaged in terrorist activities;
- a legal entity or an individual that, directly or indirectly, owns or controls the organization engaged or suspected to be engaged in terrorist activities;

- a legal entity owned or controlled by an individual or organization that is engaged or suspected to be engaged in terrorist activities.

582. The respective obligation of institutions engaged in transactions with funds or other assets corresponds to this requirement. These institutions shall suspend transactions with funds or other assets (except for transactions on depositing funds on the account held by a legal entity or individual) for three business days from the day when such transaction must have been performed and inform the specially designated authority about such transaction on the day of its suspension. When the specially authorized government body does not issue a warrant to suspend the transaction with funds or other property upon the expiration of the 3-days period, the suspended transaction shall be carried out (Article 15 of AML/CFT Law No.660-II).

583. The Regulation on Reporting Procedure also stipulates that transactions with funds or other assets shall be reported to the Department if according to information obtained in the established manner one of the parties to such transactions is the aforementioned person (paragraph 3). Notably, the lists of such persons are developed by the Department (paragraph 24).

584. The Internal Control Rules also obligate financial institution to send reports about transactions carried out by persons who are engaged or suspected to be engaged in terrorist activities, or directly or indirectly, own or control the organization engaged or suspected to be engaged in terrorist activities, or are owned or controlled by such organizations.

585. In all other respects the requirements of Recommendation 13 equally apply to regulation of issues related to reporting transactions associated with financing of terrorism.

### ***Effectiveness***

586. Since at the time of evaluation practice of filing STRs with the designated authority was insufficient, it is difficult to make impartial assessment of effectiveness of this system. Besides that, one can mention a fact that could impair the effectiveness of system of filing FT reports. The point is that when filing a STR a reporting institution cannot qualify a transaction against the FT criterion (by default all reports are qualified against the ML criterion), except for transactions carried out by persons included in the extremist and terrorist list. However, reports on such persons are not STRs in the straight sense since a reporting institution acts (files a report) not on the basis of its suspicion, but on the basis of the formally established list. In other words, if a financial institution suspects FT and a person, who carries out a transaction, is not included in a terrorist list, such institution can only indicate its suspicion in a descriptive part of the STR (the STR template has no ML/FT column). Therefore, the FIU is not capable of maintaining reliable STR statistics with breakdown by the ML/FT categories.

587. Besides that, not all institutions (except for the banking sector) are equipped with the automated systems for transmitting information.

### ***Recommendation 14***

588. The legislation of the Republic of Uzbekistan provides for protection from liability for sending information to the specially designated authority and also sets limitations on disclosure of information obtained through the AML/CFT procedures.

589. The Civil Code (Article 98 “Employment and Commercial Secrecy”) provides for protection of information constituting an employment or commercial secret when such information has actual

or potential commercial value by virtue of its it being unknown to third parties for whom there is no free access on legal grounds and the possessor of the information takes measures to secure its confidentiality. At the same time, the Civil Code (Article 789 “Bank Secrecy”) stipulates that information constituting banks secret may be disclosed to the governmental authorities and their officials in circumstances and in a manner established by the current legislation.

590. Pursuant to Article 18 of AML/CFT Law No.660-II disclosure in an established manner of information on transactions with funds or other assets carried out by legal and natural persons to the specially designated authority does not constitute a breach of commercial, bank or other secrets protected by the law. Given that this provision sets no limitations with regard to those who are subject to the aforementioned requirement, one can state that indemnity against liability for disclosure of information under the AML/CFT regime applies to both institutions engaged in transactions with funds or other assets and their respective employees.

591. The Law on Banks and Banking Activity (Article 38 “Bank Secrecy”) contains similar provision which entitles banks to disclose AML/CFT related information on transactions with funds or other assets to the specially designated authority in circumstances and in a manner established by the current legislation.

592. Article 8 of the Law on Bank Secrecy also stipulates that AML/CFT related information on transactions with funds or other assets, which constitutes bank secret, is to be provided to the specially designated authority in circumstances and in a manner established by the legislation. The same Law (Article 15) stipulates that a bank discloses information constituting bank secret only on its customer (correspondent) and, if customer’s (correspondent’s) documents retained by a bank contain information on other persons, such information is considered to be information on a customer (correspondent).

593. AML/CFT Law No.660-II ensures confidentiality of and limited access to the information. Pursuant to Articles 19 and 20 the specially designated authority and its personnel shall ensure confidentiality and security of data constituting commercial, bank or other secrets that have become known to them. The staff of institutions involved in transactions with funds or other assets and the personnel of the specially designated authority and other agencies engaged in the AML/CFT efforts are prohibited from tipping off legal and natural persons about the control performed in relation to them. These institutions and authorities are also obligated to limit access to AML/CFT related information in a manner established by the law and to ensure non-disclosure of such information.

594. The Regulation on AML/CFT Reporting Procedure (paragraph 6) approved by Resolution No.272 of the Cabinet of Ministers of the Republic of Uzbekistan obligates the Department and its personnel to ensure security of information constituting commercial, bank or other secrets that has become known to them. Besides that, the Department and its staff are prohibited from tipping off legal and natural persons about control performed in respect of them and bear liability established by the law for disclosing or providing such information.

595. The Internal Control Rules also establish the obligation to keep information confidential and clarify this obligation. For example, commercial banks and non-bank credit institutions shall limit access to the AML/CFT related information, ensure its non-disclosure and are prohibited from tipping off legal and natural persons about reports on their transactions filed with the Department. A commercial bank shall also ensure non-disclosure (or non-use in personal interests or in interests of third parties) by its personnel of information obtained in the process of performing the

respective internal control functions (paragraph 73 of the ICR for commercial banks, paragraph 67 of the ICR for non-bank credit institutions). The respective provisions of Internal Control Rules for the non-banking financial sector contain almost the same wording (paragraph 33 of the ICR for insurers and insurance brokers, paragraphs 38 and 39 of the ICR for stock exchange members, paragraph 27 of the ICR for professional securities market participants, paragraph 28 of the ICR for postal service operators and providers).

### ***Additional elements***

596. The legislation of the Republic of Uzbekistan imposes a unified obligation on the specially designated authority to limit access to AML/CFT related information and to ensure its non-disclosure (Article 20 of AML/CFT Law No.660-II, the Regulation on Reporting Procedure, the Internal Control Rules) and does not focus on confidentiality of names and personal data of financial institutions' personnel who submit information to the designated authority.

### ***Effectiveness***

597. Insufficient practice existed at the time of the on-site mission makes it very difficult to assess effectiveness of the undertaken efforts.

598. The Code of Administrative Offences of the Republic of Uzbekistan (Article 179-3) establishes administrative liability for failure to undertake measures for arranging internal control and also for unauthorized request, receipt or disclosure of AML/CFT related information constituting commercial, bank or other secrets.

### ***Recommendation 25***

599. At the time of evaluation the only element of the mechanism of providing feedback to financial institutions was control of correctness of completion of submitted STRs, which is specified in Resolution No.272 of the Cabinet of Ministers. For example, upon receipt of an erroneous or incomplete report or a report without electronic digital signature (bearing no seal of institution, signatures of authorized officers and other necessary details) the Department, at the date of receipt of such report, sends a confidential request to re-submit the report, pointing out specific errors contained therein.

600. The supervisory authorities and the Department have not issued any guidelines with description of AM/FT methods and techniques which institutions could use for enhancing effectiveness of the AML/CFT measures.

601. The AML/CFT Law does not require the FIU to provide feedback to the reporting institutions, and the supervised institutions do not request such feedback.

### ***Recommendation 19***

602. Pursuant to the AML/CFT Law that was in effect in Uzbekistan till April 27, 2007 all transactions with cash in amount exceeding 4000 minimum wages were subject to reporting to the designated authority and were automatically suspended. Such measures caused certain difficulties and problems in the financial system of the country and the Law was suspended till April 2009 when a new version of the Law was put into effect. The new revision of the Law does not contain the obligation to report to the FIU about transactions which amount exceeds certain threshold.

603. At the same time, pursuant to Regulation No.1281 “On procedure of monitoring validity of foreign currency transactions carried out by legal and natural persons” adopted on 04.10.2003 all banks shall provide the State Tax Committee with information on all transactions exceeding 500 minimum wages for sole proprietors and 1000 minimum wages for legal entities for the taxation purposes. According to the representatives of the Department and the State Tax Committee the FIU is provided with access to the information for the AML/CFT purposes.

### **3.7.2 Recommendations and Comments**

#### ***Recommendation 13***

604. The legislation of the Republic of Uzbekistan generally includes the requirements of Recommendation 13, however since the system of filing STRs has been implemented relatively recently it is difficult to assess its effectiveness. Since it is for the first time when the non-banking financial sector faces many issues pertaining to organization of the AML/CFT efforts, the supervisory authorities of the Republic of Uzbekistan should pay special attention to practice of compliance by the non-banking financial sector institutions with the adopted regulations.

#### ***Special Recommendation IV***

605. The Republic of Uzbekistan has taken necessary measures under Special Recommendation IV. However, Uzbekistan should take legislative measures to extend the STR requirement so that it covers attempted transactions related to terrorist financing.

#### ***Recommendation 14***

606. The Republic of Uzbekistan has taken all necessary measures under Recommendation 14. However due to insufficient practice it is difficult to assess effectiveness of these measures.

#### ***Recommendation 25***

607. The FIU should provide financial institutions and DNFBPs with more information on progress in and results of financial investigations conducted based on reports submitted by them, and also extend the feedback taking into account cases and examples listed in the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

608. Uzbekistan should hold ML/FT typology workshops with participation of the FIU, supervisory authorities and private sector representatives. Taking into account the fact that DNFBPs in the Republic of Uzbekistan are less prepared for the AML/CFT measures compared to the banking sector, special attention should be paid to the outreach activities for DNFBPs.

#### ***Recommendation 19***

609. This Recommendation is fully observed.

### **3.7.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2) and Special Recommendation IV**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
--	---------------	---

<b>R.13</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• Deficiencies in criminalization of ML/FT impair effectiveness of implementation of requirements of Recommendation 13.</li> <li>• Low STR filing effectiveness in the securities, stock exchange and postal remittance sectors</li> </ul>
<b>SR.IV</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• It is impossible to assess effectiveness of the system of filing reports on transactions suspected to be carried out for terrorist financing.</li> <li>• Deficiencies in criminalization of ML/FT impair effectiveness of implementation of requirements of Recommendation 13.</li> </ul>
<b>R.14</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• It is difficult to assess effectiveness due to insufficient practice.</li> </ul>
<b>R.25</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• No guidelines or recommendations describing ML/FT methods and techniques have been issued for institutions engaged in transactions with funds or other assets.</li> <li>• Insufficient information on results of financial investigations conducted by the FIU is available to financial institutions.</li> </ul> <p>Other factors underlying R.25 rating are presented in Sections 3.10 and 4.3 of the Report.</p>
<b>R.19</b>	<b>C</b>	This Recommendation is fully observed.

### **3.8. Internal Control, Compliance, Audit and Foreign Branches (R.15 & 22)**

#### **3.8.1 Description and Analysis**

##### ***Recommendation 15***

610. Pursuant to Article 15 of the AML/CFT Law financial institutions shall introduce and implement the internal control procedures. Article 6 of this Law defines internal control as “activities of institutions engaged in transactions with funds or other assets in order to detect transactions subject to reporting to the specially designated authority”.

611. Under this Law the internal control procedures along with determining criteria for detecting and identifying signs of transactions with funds or other assets subject to reporting to the designated authority also include procedure for recording the required information, ensuring its confidentiality and qualification requirements for staff training and education.

612. At the same time the concept of internal control as defined in the basic AML/CFT Law does not cover, for example, customer due diligence. However, it should be noted that the concept of internal control as well as its goals and objectives are clarified in more detail in the Internal Control Rules for each type of financial institutions.

613. The Internal Control Rules for financial institutions are developed and approved by the respective oversight, licensing and registration authorities jointly with the FIU or, whether they do not exist, by the FIU. At present the standard Internal Control Rules are developed for all financial institutions that are subject to the AML/CFT Law. Provisions of these Rules are binding upon the respective institutions, and form the basis on which the institutions shall develop their own



internal rules. However it is impossible to assess effectiveness of implementation of these Rules since at the time of the on-site mission the Rules have been just put into effect.

614. The Internal Control Rules for all financial institutions specify that the main objectives of the internal control system are:

- undertaking customer due diligence measures in compliance with the legislation and internal rules;
- identifying and examining actual (beneficial) owners of customers as well as taking reasonable and available measures for identifying sources of funds or other assets involved in transactions;
- detecting shady and suspicious transactions;
- timely providing the Department with information (documents) on suspicious transactions detected in the course of internal control;
- suspending transactions subject to reporting in special circumstances for three business days from the day when such transaction must have been performed and informing the Department on such transaction on the day of its suspension;
- ensuring confidentiality of AML/CFT related information;
- ensuring retention of information on transactions with funds or other assets as well as identification data and CDD information for a time periods established by the law;
- establishing database containing information on suspicious or attempted suspicious transactions, persons (managers, founders) associated with customers that have carried out suspicious transactions and exchanging such information with other commercial banks and governmental authorities in compliance with the legislation.

615. Besides that, a number of additional objectives of internal control are established for certain types of financial institutions. For example, under the internal control regime banks, non-bank credit institutions, professional securities market participants, leasing and insurance companies are obligated to promptly and systematically provide the management of an institution with reliable information and materials necessary for a decision making process. Along with that, banks, non-bank credit institutions, stock exchanges, professional securities market participants, leasing companies and postal service institutions shall, upon request, identify among their customers persons associated with terrorist financing.

616. In addition to the above, under the internal control regime commercial banks and non-bank credit institutions shall pay special attention to prevention of threat of use of commercial bank services for committing offences, in particular for laundering criminal proceeds and (or) terrorist financing through the use of new and advanced technologies that favor anonymity.

617. And finally, there is a special obligation set for commercial banks to examine and review the internal control systems of other domestic and foreign banks in the process of establishing correspondent relations with them.

618. Taking all the above in consideration one can state that in general all the aforementioned provisions reflect the internal control procedures as they are described in FATF Recommendations. The ICR for stock exchange members and professional securities market participants (paragraphs 6 of respective ICR), the ICR for banks and non-bank credit institutions (paragraphs 19-20 and 18-19 of the respective ICR) and the ICR for insurance companies (paragraph 14 of the ICR) set out the requirements to communicate the internal control rules to the employees of financial institutions. No such requirements are set for other institutions.

619. Financial institutions, except for banks, are not required to appoint an executive officer (compliance officer) at the management level. The representatives of Uzbekistan explained that it is inexpedient to introduce such requirement for all financial institutions since many of them (in particular, stock exchange members and securities market participants) have small staff and the compliance-officer functions are combined with other duties.

620. At the same time the Internal Control Rules for all financial institutions entitle a compliance officer to:

- demand and obtain from managers and employees of commercial bank departments administrative and accounting documents necessary for implementing internal control;
- make copies of the received documents, obtain copies of files and other records contained in databases, local area networks and autonomous computer systems of a commercial bank for implementing internal control;
- make proposals to the management on further actions with regard to customers' transactions, including transaction suspension, for obtaining additional information or verifying the existing information on a customer or a transaction.

Notably, a compliance-officer has real time access to the aforementioned information.

621. The legislation does not specify any requirements for financial institutions, except for banks, to establish and operate an independent department which would perform audits of the internal control system. Under paragraph 5 of the Internal Control Rules for commercial banks, in order to meet goals and objectives of the internal control system the Internal Control Service shall monitor elimination of errors and deficiencies in the organization and operation of the internal control system revealed as a result of inspections and audits conducted by the representatives of the Central Bank of the Republic of Uzbekistan, internal and external auditors, and personnel of the Department.

622. Pursuant to paragraph 21 of the Internal Control Rules for commercial banks and paragraph 20 of the Internal control rules for non-bank credit institutions the respective institutions shall establish ongoing employee retraining to ensure that employees are kept informed of new developments, including information on current ML and FT techniques, methods and trends; and that there is a clear explanation of all aspects of the legislation, and in particular, requirements concerning AML/CFT obligations. Besides that, the ICR for insurance companies (paragraph 13 and 14) and the ICR for stock exchange members and professional securities market participants (paragraphs 6) set out the obligation to provide AML/CFT-related professional development training for the personnel on a regular basis. As for other financial institutions, regular training and professional development training is provided only for the compliance-officer.

623. There are no requirements in the current legislation obligating financial institutions to establish screening procedures when hiring personnel, except for the banking sector where a "know your employee" system is implemented. Certain qualification requirements are established under the general monitoring and licensing regime for managers of financial institutions (banks, non-bank credit institutions, insurance companies, stock exchange members, professional securities market participants) and also for AML/CFT compliance officers.

624. For example, a manager of the Internal Control Service shall have higher economic or legal education and at least three-years experience of managing a commercial bank department engaged in banking transactions, or at least one year work experience in the Internal Control Service. A person appointed as a manager or employee of the Internal Control Service shall:

- know banking and financial legislation including regulations of the Central Bank;

- have knowledge of accounting rules and regularly undergo professional development training under special training courses;

625. The following persons may not be appointed as managers or employees of the Internal Control Service:

- those who have demonstrated incompetence or inappropriate behavior in managing a subordinated department or unfair business practice;
- those who have been convicted by a court for economic crimes.

626. Similar requirements are established in the insurance sector. The following qualification requirements are set for a compliance officer and employees of AML/CFT structural department (if any):

- a) requirements for AML/CFT compliance officer – manager of structural department:
  - higher education and at least two years management experience in the insurance sector; for persons without higher education – at least three years management experience;
  - knowledge of the specificities of operations an institution is engaged in;
- b) requirements for personnel of a structural department:
  - higher education and at least two years work experience in an institution (except for work experience as technical or auxiliary personnel); for persons without higher education – at least three years work experience in an institution (except for work experience as technical or auxiliary personnel);
  - knowledge of the specificities of operations an institution is engaged in.

### ***Effectiveness***

627. Since the internal control requirements have been implemented just recently, it is impossible to assess effectiveness of their application. It is also noteworthy that although the Internal Control Rules for financial institutions developed by the supervisory and regulatory authorities in general contain similar requirements, they still have certain discrepancies related, for example, to internal control arrangements. Therefore, as the first step, Uzbekistan should introduce standard requirements for the organization of internal control systems in all Internal Control Rules.

### ***Recommendation 22***

628. Under the legislation of the Republic of Uzbekistan financial institutions have the right to establish branches and offices abroad. However, at present financial institutions in Uzbekistan, except for one bank, have no foreign subsidiaries, branches and representative offices.

629. The legislation of Uzbekistan (paragraph 3 of Resolution No.102 adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 24.03.2004) stipulates the obligation of all institutions and companies of the Republic of Uzbekistan (including financial institutions), that have foreign branches, to comply with and observe the legislation of the Republic of Uzbekistan, the branch constituent documents and the legislation of a country they are located in.

630. Besides that, the ICR for commercial banks and non-bank credit institutions contain a requirement (paragraphs 32 and 33, respectively) according to which foreign bank subsidiaries, branches and representative offices of commercial banks when undertaking AML/CFT measures shall:

- observe the international standards and comply with the requirements of a country they are located in;

- pay special attention to compliance by their foreign subsidiaries, branches and representative offices, located in countries that do not or insufficiently apply the international AML/CFT requirements, with the international standards in this area;

- if it is impossible to apply appropriate AML/CFT measures due to legislative prohibition in a country where they are located, require their foreign subsidiaries, branches and representative offices to inform the headquarters of a non-bank credit institution about such situation. Commercial banks and non-bank credit institutions shall, in their turn, notify the Central Bank and the Department about it.

631. At the same time, no such requirements are set for other financial sector institutions.

### **3.8.2. Recommendations and Comments**

#### ***Recommendation 15***

632. It is necessary to establish requirements for communicating the internal control rules to employees of financial institutions.

633. Requirements should be introduced to the legislation obligating financial institutions to establish screening procedures when hiring all employees.

634. It is necessary to impose obligation to appoint a (AML/CFT) compliance officer at the management level (does not apply to banks).

635. The legislation should include the requirement for carrying out independent audit of internal control systems in financial institutions (does not apply to banks).

636. Requirements for AML/CFT training and education of personnel should be established for all financial institutions (does not apply to banks).

637. Requirements obligating all financial institutions to conduct training and establish screening procedures when hiring all employees should also be introduced (does not apply to banks).

#### ***Recommendation 22***

638. Uzbekistan shall extend the requirements of Recommendation 22 to other financial sector institutions.

### **3.9.3. Compliance with Recommendations 15 & 22**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.15</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to communicate internal control rules to employees of leasing companies and postal service operators.</li> <li>• There is no requirement to appoint AML/CFT compliance officer at the management level (does not apply to banks).</li> <li>• There is no requirement to have an independent AML/CFT audit system in financial institutions (does not apply to banks).</li> <li>• There is no requirement for leasing companies and postal service operators to provide AML/CFT training for their personnel.</li> </ul>

		<ul style="list-style-type: none"> <li>• No sufficient requirement for financial institutions (except for some positions in banks and professional securities market participants) to put in place screening procedures when hiring employees</li> <li>• The effectiveness of internal control measures cannot be assessed since they were just recently implemented</li> </ul>
<b>R.22</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• Requirements concerning foreign subsidiaries, branches and representative offices apply only to banks and non-bank credit institutions.</li> </ul>

### **3.9. Shell Banks (R.18)**

#### **3.9.1. Description and Analysis**

##### ***Recommendation 18***

639. The Republic of Uzbekistan does not have any shell banks. Establishment of shell-banks on the territory of Uzbekistan is not directly prohibited, however, the Bank Registration and Licensing Procedure, approved by the Central Bank Resolution No.23/3 dated 15.08.2009, actually rules out possibility of establishing such banks. Pursuant to this Procedure, prior to issuing a license to a bank the personnel of the Cash Issuing Transaction Department, the Payment System and Information Department and the Physical Protection and Information Security Department of the Central Bank shall make sure during an on-site inspection that a bank meets the requirements set forth in section IX of the Registration and Licensing Procedure in terms of organization of operation of a cash operating unit, availability of physical and information security system and the required software systems. Besides that, the procedure envisages interviews with executive officers in the Central Bank office.

640. The Bank Registration and Licensing Procedure sets out stringent requirements for bank founders and capital and also establishes additional requirements for adequate banking supervision regime in a country where a bank founder is located, which rules out possibility of establishing shell banks and makes it impossible for persons located in off-shore zones to become shareholders and participate in capital of the resident banks.

641. Paragraph 37 of the Internal Control Rules for commercial banks prohibits banks from establishing and continuing relations with non-resident banks that do not have physical presence and permanent management boards in countries where they a registered.

642. Paragraph 32 of the Internal Control Rules obligates commercial banks to take preventive measures against establishing relations with non-resident banks, which accounts are known to be used by banks that have no physical presence and permanent management boards in countries where they a registered.

#### **3.9.2. Recommendations and Comments**

643. Requirements of this Recommendation are fully implemented.

#### **3.9.3. Compliance with Recommendation 18**

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.18</b>	<b>C</b>	The Recommendation is fully observed.

--	--	--

**Regulation, Supervision, Guidance, Monitoring and Sanctions**

**3.10. The Supervisory and Oversight System – Competent Authorities and SROs. Role, Functions, Duties and Powers (Including Sanctions) (R.23, 29, 17 & 25)**

**3.10.1 Description and Analysis**

***Recommendation 23***

644. Uzbekistan has the system of AML/CFT regulation and supervision of financial institutions, which is mainly based on the Internal Control Rules (see above in this Section) developed for each sector by the respective registration, licensing and oversight authorities and approved by the Department. Monitoring and control of AML/CFT compliance is assigned to the respective registration, licensing and oversight authorities and to the specially designated authority (the Department). This designated authority (the Department) is also tasked with coordination of the activities carried out by all governmental and other agencies and organizations being part of the AML/CFT system of the Republic of Uzbekistan (Article 6 of the AML/CFT Law), inter alia, coordination of issues pertaining to regulation and supervision. Therefore, the Department is the central element of the regulation system.

645. Currently the structure of the system of supervision of financial institutions in the Republic of Uzbekistan is as follows:

<b>Financial Institutions</b>	<b>Supervisory Agency</b>
Banks Credit Unions Microcredit Institutions Pawnshops	Central Bank
Insurance Companies	Ministry of Finance
Securities Brokers Investment Funds (Mutual Investment Funds) Depository Institutions	Center for Coordination and Control of Securities Market
Postal Service Operators	Communication and Information Agency of the Republic of Uzbekistan
Leasing Companies	Department on Combating Tax and Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor’s Office

646. Currently leasing companies are, de facto, not subject to supervision by the Department since it does not have adequate resources. Institutions which accept payments from population through unattended payment terminals (at the time of evaluation one such company operated in Uzbekistan; that company was registered with the Central Bank) are also not covered by the supervisory regime.

647. Pursuant to Article 50 of the Law on the Central Bank of the Republic of Uzbekistan the Central Bank regulates and supervises activities of banks, credit unions, microcredit institutions and pawnshops for monitoring their compliance with the Internal Control Rules and with the procedure of filing AML/CFT related information with the FIU.

648. Regulation and supervision of the activities of commercial banks, credit unions and microcredit institutions is performed by the Central Banks of the Republic of Uzbekistan, inter alia, on the grounds of the general powers vested in it under the Law on the Central Bank of the Republic of Uzbekistan, the Law on Banks and Banking Activity, the Law on Credit Unions and the Law on Microcredit Institutions.

649. The Ministry of Finance is empowered to exercise general supervision of the insurance market. However, its powers related to AML/CFT supervision are not stipulated in the legislation.

650. Documents regulating activities of other institutions operating in the financial sector (the Center for Coordination and Control of Securities Market, the Communication and Information Agency of the Republic of Uzbekistan) do not contain provisions under which their functions include AML/CFT supervision.

### ***Recommendation 30 (Structure and Resources of Supervisory Authorities)***

651. At the time of the on-site mission the AML/CFT supervisory agencies and authorities were establishing necessary structures in charge of ensuring compliance with the internal control rules by the supervised institutions.

652. The most “prepared” in this respect is the Central Bank of the Republic of Uzbekistan which has five Departments in charge of banking regulation and supervision: Credit Institutions Licensing and Regulation Department, Bank Inspection Department, Non-Bank Credit Institutions Licensing and Regulation Department, Foreign Currency and Foreign Relations Department, Internal Control Coordination Department.

653. Pursuant to paragraph 10 of the Regulation on Department for Coordination of Internal Control of the Central Bank of the Republic of Uzbekistan this Department exercises control and ensures compliance with the AML/CFT Law of the Republic of Uzbekistan, the Decrees, Resolutions and Instructions of the President of the Republic of Uzbekistan, the Resolutions of the Cabinet of Ministers and respective regulatory documents by the Central Bank, its territorial department, commercial banks and other credit institutions, in particular:

- verifies compliance by banks and other credit institutions with the AML/CFT Law and related regulations during scheduled inspections conducted under the annual plan approved by the Board of the Central Bank as well as during ad hoc inspections performed upon orders of the management of the Central Bank;

- submits reports to the management of the Central Bank containing information on results of inspections of banks and credit institutions and, should any deficiencies be revealed, proposes measures to be taken for their elimination.

654. Since recently the AML/CFT issues have become one of the objectives of the documentary and inspectorial supervision performed by the Central Bank on the daily and annual basis. The supervisory departments of the Central Bank of the Republic of Uzbekistan are staffed by sufficient number of personnel and are provided with sufficient technical resources for effective performance of their functions. The headquarters of the aforementioned Departments are staffed

with 124 employees, the territorial departments employ 147 personnel, 36 of whom are on-site officers (inspectors).

655. There are a number of recruitment conditions and requirements applicable to civil servants in general and specific recruitment requirements for the employees of the Central Bank of Uzbekistan which is the sensitive institution. There is also a requirement for the Central Bank personnel to keep bank, commercial and other secrets confidential, and liability is established for non-compliance with this requirement.

656. The Central Bank of the Republic of Uzbekistan provides regular training and professional development training for the personnel of the supervisory departments. The aforementioned personnel receive training in the Central Bank's training centers and also participate in various training events held both domestically and abroad including AML/CFT training arranged by such international organizations as the United Nations Office on Drugs and Crime, International Monetary Fund, World Bank, Eurasian Group, Organization for Security and Cooperation in Europe, etc.

657. At the time of evaluation, other supervisory authorities had no special departments in charge of the AML/CFT issues.

658. It is also worth mentioning that the functions of the Financial Transactions Monitoring and System Analysis Office of the AML/CFT Directorate (FIU) of the Department, approved by General Prosecutor's Order No.3-OR dated 12.11.2009, include monitoring compliance with the AML/CFT internal control rules by the supervised (regulated) institutions.

659. According to division of responsibilities among employees of the Office, approved by Department Manager's Order No.4-OR dated 01.12.2009, these functions are assigned to 3 employees of the Office. These three officers are in charge of monitoring dealers in precious metals and precious stones, persons providing services and engaged in transactions related to purchase and sale of real estate (real estate agents) and institutions providing leasing services.

### ***Recommendation 29***

660. The mechanism of AML/CFT supervision, monitoring and sanctions is currently under development in the Republic of Uzbekistan. The only exception is the banking sector that has the supervisory mechanism including elaborated procedures for detection of non-compliance with the banking laws and regulations and a number of sanctions including sanctions for violation of the AML/CFT requirements.

661. The assessors were advised that the Department had developed a draft Regulation on procedure for monitoring compliance with the AML/CFT internal control rules by institutions engaged in transactions with funds or other assets. The draft Regulation is currently submitted for review and approval to the authorities that have approved the Internal Control Rules.

### ***Banking Sector and Non-Bank Credit Institutions***

662. Pursuant to the Law on the Central Bank of the Republic of Uzbekistan and the Law on Anti-Money Laundering and Combating the Financing of Terrorism the Central Bank of the Republic of Uzbekistan has sufficient powers to monitor and ensure compliance by commercial banks and other credit institutions with the requirements of the AML/CFT legislation.



663. Article 51 of the Law on the Central Bank of the Republic of Uzbekistan stipulates that the Central Bank is entitled to inspect and audit activities of banks, credit unions, microcredit institutions, their branches and affiliate persons and to apply sanctions against violators.

664. Besides that, under Article 51 of the Law on the Central Bank of the Republic of Uzbekistan the Central Bank is empowered to:

- receive and review reports and other documents of banks, credit unions, microcredit institutions and pawnshops and also request and receive information on their activities including information of transactions performed;
- require clarification of obtained information;
- give binding instructions to banks, credit unions, microcredit institutions and pawnshops to eliminate violations revealed in their activities.

665. It should be noted that no court approval is required for exercising these powers.

666. The commercial bank inspection procedure is described in detail in the respective Regulation approved by the Central Bank Board's Resolution No.277 dated 22.05.1999. According to paragraph 22 of this Regulation subject to inspection, among other things, are:

- effectiveness of the risk management, internal audit and internal control system;
- effectiveness of accounting and the management reporting system;
- compliance with the current legislation of the Republic of Uzbekistan and the regulations of the Central Bank.

667. According to paragraph 4.2 of the above Regulation commercial banks may not deny the Central Bank inspectors the right to conduct inspection and may not refuse to provide them with documents or information on a given bank (branch) activities for any period of time under a pretext banking secrecy or commercial confidentiality. Besides that, according to paragraph 10.1 in the course of inspection the Central Bank inspectors are entitled to:

- enter any rooms of a bank intended for carrying out, processing and accounting for bank transactions;
  - examine accounts and flow of funds, books, primary documents and other bank records;
- have access to any documents of a bank including administrative documents, minutes of meetings of a governing body, computer systems, printed copies of any records stored in these systems, sound-recording systems, copies and interpretation of such records, originals and photocopies of any documents;
- conduct interviews with managers and personnel of a bank, obtain information and clarifications from them on issues arising in the course of the inspection as well as written explanations and answers in case of noncompliance or improper compliance with the requirements of the current legislation;
  - obtain copies of bank documents certified by persons authorized by a bank and copies of files, copies of any records stored in local area networks and stand-alone computer systems, interpretation of such records as well as copies of regulatory documents developed by a bank.

668. Under Article 53 of the Law on the Central Bank of the Republic of Uzbekistan, where a violation of the AML/CFT legislation by banks, credit unions, microcredit institutions and pawnshops is revealed the Central Bank has the right to apply measures and sanctions against such institutions in compliance with the legislation. In this context the Board of the Central Bank adopted Regulation No.39/1 dated 29.12.2009 "On measures and sanctions applied by the Central Bank against banks, credit unions, microcredit institutions and pawnshops for violation of the AML/CFT legislation". (See detailed description below).

### *Securities Sector*

669. Pursuant to Article 5 of the Regulation on the Center for Coordination and Control of Securities Market one of the main functions of the Center is exercising control over compliance with the securities market legislation by the government administrative agencies and professional securities market participants and, should non-compliance with the securities market legislation be revealed, issuing opinions and mandatory compliance orders and applying sanctions against violators.

670. Under Article 17 the Center is empowered, inter alia, to:

- request and receive from the government administrative agencies, citizens, securities market experts and officials documents and information needed for performing functions and pursuing objectives assigned to the Center;

- within its powers apply the following sanctions against violators of the securities market legislation:

- issue compliance orders that are subject to compulsory consideration and execution by the securities market participants;

- require stock exchanges (other exchanges that have securities departments) to expel or dismiss one or several of their members if they violate the securities market legislation of the Republic of Uzbekistan and fail to comply with the Center requirements.

671. Thus, the Center has sufficient powers to control the activity of the securities market participants for compliance with the sector-specific legislation including the AML/CFT legislation.

672. At the same time, it should be noted that pursuant to Article 7 of the Regulation on the Center economic sanctions may be applied, activity may be suspended and licenses may be withdrawn only by court ruling. Therefore, in this respect the Center does not have sufficient tools as required by the FATF Recommendations.

### *Insurance Sector*

673. Pursuant to Article 8 of the Regulation on the Ministry of Finance of the Republic of Uzbekistan one of the main functions of the Ministry is to perform control over the activities of insurance institutions on the territory of the Republic of Uzbekistan to ensure protection on rights and legitimate interests of all parties engaged in the insurance relations. For these purposes under Article 10 of the Regulation the Ministry of Finance is empowered to:

- audit, in compliance with the legislation, activities of the professional insurance market participants, inter alia, for compliance by the insurance institutions with the established prudential standards and also issue mandatory compliance orders for the professional insurance market participants to eliminate revealed deficiencies;

- impose a fine in the amount of 0.1 percent of the minimum size of the authorized capital established for an insurer, if insurers breach the insurance activity legislation and established prudential regulations, inter alia, solvency standards.

674. Besides that, under Article 10 of the Law on Insurance Activity the designated authority (the Ministry of Finance) is entitled to:

- suspend, in a manner established by the law, licenses of insurers and insurers brokers fully or for separate types (classes) of insurance and to apply to a court for terminating their activities;

- apply, in compliance with the legislation, measures and sanctions against insurers and insurance brokers if any violations of the AML/CFT legislation are revealed.

675. Therefore, the Ministry of Finance has sufficient powers to control the activity of the securities market participants for compliance with the sector-specific legislation and the AML/CFT legislation. However, in the absence of practice demonstrating application of sanctions for breach of the AML/CFT or similar regulations in this area, the assessors questioned the effectiveness of this mechanism.

#### *Postal Service Operators Sector*

676. At the time of evaluation the Communication and Information Agency of the Republic of Uzbekistan had no powers to supervise the postal service operators for compliance with the AML/CFT requirements. Besides that, there is no regulatory framework for conducting on-site inspections, requiring submission of necessary documents and performing functions as required by the FATF Recommendations. The assessors were also advised that there is no supervisory inspection practice as well.

#### ***Recommendation 17***

677. The regime of sanctions for non-compliance with AML/CFT legislation in Uzbekistan is not established in all sectors.

678. Pursuant to the AML/CFT Law (Article 6) functions of monitoring and control of compliance with the internal control rules are assigned to the authorities that have approved these rules and also to the specially designated authority. However, this Law does not contain provisions on the application of sanctions.

679. The supervisory authorities have the right to apply sanction against supervised persons under their own regulations. Therefore, sanctions are set forth in the legislation on these authorities.

680. Article 179-3 of the Code of Administrative Offences of the Republic of Uzbekistan sets out a direct sanction for violation of the AML/CFT legislation and, in particular for failure to undertake measures for arranging internal control (imposition of fine in the amount from 10 up to 15 minimum wages). However, this sanction is applicable only to officials and cannot be applied to an institution as a whole. Besides that, a supervisory authority may just submit recommendation on imposition of this sanction to a court, which makes the final decision. Pursuant to the requirements of Article 245 of the Code of Administrative Offences of the Republic of Uzbekistan administrative law judges hear cases related to administrative offences specified in Article 179-3. Article 280 of the Code stipulates that an administrative offence report shall be drawn up by a designated officer of a respective competent authority, which is obligated by the law to oversee and supervise compliance with the rules, violation of which entails administrative liability. Therefore, powers to institute legal proceedings on administrative offences specified in Article 179-3 are vested with officers of the agencies that have approved the Internal Control Rules and are in charge of monitoring compliance therewith, including the Department.

681. Should a repeat offence be revealed, provisions of Article 179-3 shall be applied. At the same time, pursuant to Article 313 of the Code an authority (an officer) that investigates a case, when examining causes of administrative offences and conditions that facilitated such offences issues an compliance order to senior executive officer of a respective company, institution,

organization to take measures for eliminating such causes and conditions. Within one month from the date of receiving such order a senior executive officer shall inform the authority (officer) that have issued the order on taken measures. Therefore, in case of a repeat offence a person who has committed it, apart from bearing administrative liability, is, as a rule, dismissed from his/her office.

682. Sanctions specified in Article 179-3 envisage a fine in the amount from ten up to fifteen minimum wages, which at present in absolute terms ranges from 376.8 thousand soums (about 240 US dollars) to 565.2 thousand soums (about 360 UD dollars). Given the amount of this fine, it seems that this sanction is not proportional and dissuasive. In view of this Article, it is applicable not only to all sectors listed in Article 12 of the AML/CFT Law of the Republic of Uzbekistan but to the supervisory authorities as well.

#### *Banking Institutions and Non-Bank Credit Institutions*

683. Article 53 of the Law on the Central Bank empowers the Central Bank to apply, in compliance with the legislation, measures and sanctions against banks, credit unions, microcredit institutions and pawnshops for breach of the AML/CFT legislation. Based on this Article, the Board of the Central Bank adopted Regulation No.39/1 dated 29.12.2009 “On measures and sanctions applied by the Central Bank of the Republic of Uzbekistan against commercial banks, credit unions, microcredit institutions and pawnshops for non-compliance with the requirements of the AML/CFT legislation”.

684. This Regulation stipulates that in case of failure by institutions to comply with the AML/CFT legislation the Central Bank is empowered to:

- issue a compliance order for a commercial bank to eliminate the revealed deficiencies;
- impose a fine in the amount of up to one percent of the minimum authorized capital of a commercial bank.

685. Besides that, the Central Bank is authorized to apply the following measures against a commercial bank that failed to fulfill the compliance order of the Central Bank, or grossly or systematically (two and more times a year) violated the AML/CFT legislation:

- require replacement of the top manager of such commercial bank (branch) and the manager and compliance officers of the internal control service;
- prohibit a bank from performing certain transactions authorized by the license for banking operations and by the license for foreign currency transactions for a period of up to one year;
- take measures up to and including withdrawal of a license for banking operations and a license for foreign currency transactions.

686. In case of failure to comply with the requirements of the AML/CFT legislation by credit unions and microcredit institutions the Central Bank is empowered to:

- issue a compliance order to eliminate the revealed deficiencies;
- impose a fine in the amount of up to one percent of the minimum authorized capital.

687. The Central Bank is authorized to apply the following measures against a credit union or microcredit institution that failed to fulfill the compliance order of the Central Bank, or grossly or systematically (two and more times a year) violated the AML/CFT legislation:

- require replacement of the top manager of such institution and the manager and compliance officers of the internal control service;

- prohibit an institution from performing certain transactions authorized by the operating license for a period of up to one year;
- take measures up to and including withdrawal of the operating license.

688. These sanctions appear to be proportionate and dissuasive. However, it is too early to judge their effectiveness. Besides that, the Central bank informed that 72.4 million soums fines were imposed on 9 banks in 2009 – 1<sup>st</sup> quarter of 2010, which allows to conclude that the sanctions regime in the banking sector is effective.

#### *Securities Sector*

689. General economic sanctions may be applied against professional securities market participants for non-compliance with the sector-specific legislation. Pursuant to Resolution No.126 adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 30.03.1996 the Center for Coordination and Control of the Securities Market is authorized to apply such sanctions. At this stage special sanctions may be applied against the securities sector only under Article 179-3 of the Code of Administrative Offences.

#### *Insurance Sector*

690. General economic sanctions may be applied against the insurance sector institutions for non-compliance with the sector-specific legislation and with the AML/CFT legislation. Pursuant to Resolution No.553 adopted by the Cabinet of Ministers of the Republic of Uzbekistan the Ministry of Finance is authorized to apply such sanctions. However, there are no detailed regulations in this area, nor there is a practice of application of sanctions for the AML/CFT violations.

#### *Postal Service Operators Sector*

691. Apparently, no extrajudicial sanctions, except for sanctions under Article 179-3 of the Code of Administrative Offences, may be applied against postal service operators and providers.

#### ***Recommendation 23 (Market Entry)***

692. The legislation of the Republic of Uzbekistan including the regulations adopted by the registration and oversight authorities prevents and obstructs criminals, their capital or their associates from participating in the capital and governing bodies of financial institutions, especially the banking institutions.

#### *Banking Sector and Non-Bank Credit Institutions*

693. The Regulation of Bank Registration and Licensing (No.630 dated 11.02.1999) sets out stringent requirements for sound business reputation (no criminal records) of officers, members of the Board of banks and persons having a significant interest of the capital on newly established banks.

694. A preliminary approval of the Central Bank of the Republic of Uzbekistan is required for appointing top managers of a bank and its offices and branches. Such approval is granted if a nominee meets the qualification and professional requirements and has successfully passed the fit and proper test in the Central Bank.

695. The legislation of the Republic of Uzbekistan sets out requirements for regulation of the interest of persons in the authorized capital of banks. In particular: pursuant to Article 49 of the Law of the Republic of Uzbekistan on Securities Market acquisition of more than twenty percent of shares of a bank by one or several persons connected to each other by an agreement or by a group of legal persons being subsidiaries or dependent entities with respect to each other requires a prior approval of the Central Bank.

696. Besides that, paragraph 4 of the Regulation on Bank Registration and Licensing stipulates that acquisition by legal or natural persons or by a group of legal or natural persons connected to each other by an agreement or through controlling assets of each other as a result of one or several transactions of more than five percent of the authorized capital of a bank shall be notified in writing to the Central Bank no later than five business days prior to such acquisition. Acquisition of twenty and more percent of the authorized capital of a bank requires a prior approval of the Central Bank.

697. The Regulation “On procedure of changing size of authorized capital, shareholding structure, name and location, registration of modifications in the charter of a bank” (state registration No.573 dated 19.12.1998) establishes similar requirements for changing the shareholding structure of banks.

698. For obtaining a permission of the Central Bank of the Republic of Uzbekistan a person along with the information on the amount of his/her/its interest in the authorized capital of a bank and on the total value of shares to be acquired (inter alia, percentage of the authorized capital) shall also provide necessary documents based on which a decision is made (paragraphs 3.1-3.14 of Regulation No.573 dated 19.12.1998).

699. In particular, natural persons shall provide the following information:

- last name, first name and patronymic (middle name), passport details, taxpayer identification number;
- place of residence (postal address), telephone number;
- education;
- occupation;
- detailed information on professional activity and qualification including names of all companies and institutions which employed (employ) such person, or in which such person was (is) a major shareholder, and description of activity performed (being performed) by such person, in particular, information on issues falling within his/her competence, areas that he/she managed (manages) in a company (institution);
- information on close relatives (spouse, parents, children, siblings);
- information on legal persons, which activity may be influenced by such natural person by virtue of participation in their authorized capital or otherwise;
- information on legal persons, which activity may be influenced by close relatives of such natural person by virtue of participation in their authorized capital or otherwise.

700. Legal persons shall provide the following information:

- name, information on state registration, name of the government agency it is subordinated to, telephone number, bank details and taxpayer identification number of each party having interest in its authorized capital, share of such interest of each party in percentage;
- if a major shareholder is a natural person, he/she shall provide information required from natural persons;

- information (required from natural persons) on members of board of directors and management board of a legal entity;
- balance sheets for the last two years, including those made at the two last reporting dates, certified by the tax authorities and verified by an audit firm;
- information (required from natural and legal persons) on other persons connected with it by an agreement or through control of its assets or controlled by it, who are shareholders of a given bank;
- information on associated persons including the following data:
  - 1) identities of members of management bodies including:
    - passport details, taxpayer identification number (if any)
    - place of residence;
    - occupation;
    - interest in the authorized capital of a given legal entity (if any);
  - 2) information on legal entities which activity may be influenced by a given legal person by virtue of participation in their authorized capital or otherwise including:
    - name, information on state registration, postal address, telephone number and bank details, taxpayer identification number;
    - information on founders;
    - information on financial condition (including information on issued bonds, raised loans and bank guarantees);
    - identification of members of management bodies.

701. Certain measures are also undertaken with regard to management of financial institutions. Pursuant to the Regulation “On procedure of establishing by the Central Bank of the Republic of Uzbekistan qualification requirements for nominees to the positions of top manager and chief accountant and members of management board of commercial banks and their branches and top managers of management bodies of credit unions and microcredit institutions” (state registration No.1641, dated 14.11.2006) control is exercised over appointment of top managers of financial institutions.

702. In order to prevent persons implicated in criminal activity from holding management positions in credit institutions a structural department has been established and operates in the Central Bank of the Republic of Uzbekistan which functions include examination of nominees to management positions of credit institutions.

703. Besides that, the Central Bank of the Republic of Uzbekistan builds up an annual database containing information on managers of banks against whom criminal proceedings have been instituted for violation of the banking legislation. In the process of examination of nominees to the management positions the Central Bank also makes an inquiry with the law enforcement agencies on criminal records of such persons.

704. The Central Bank has a special structural department one of the main functions of which is coordination of the efforts undertaken by the internal control services of credit institution as well as verification of capital sources and identification of founders and shareholders of credit institutions.

705. Pursuant to the Regulation “On procedure of establishing by the Central Bank of the Republic of Uzbekistan qualification requirements for nominees to the positions of top manager and chief accountant and members of management board of commercial banks and their branches and top managers of management bodies of credit unions and microcredit institutions” (state

registration No.1641, dated 14.11.2006) certain qualification requirements are established for nominees to management positions of commercial banks and other credit institutions. These requirements necessarily include higher economic or legal education, knowledge of all laws and regulations applicable to this sector and work experience in relevant positions.

#### *Insurance Institutions*

706. Pursuant to the Regulation on the Ministry of Finance the Ministry establishes qualification requirements for top manager and chief accountant of an insurer (insurance broker) and also develops and approves, within its powers, regulations governing the insurance activities and controls compliance by insurers and insurance brokers with the license terms and conditions specified in the license agreements.

707. However, since the assessors were not provided with the information on the qualification requirements established by the Ministry of Finance it was impossible to make any conclusions about quality of these requirements.

708. Availability of requirements and mechanisms that prevent criminals from holding ownership of or interest in an insurance institution also remains unclear.

#### *Securities Market*

709. Pursuant to the Regulation on the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan the Center establishes qualification requirements for the executives of professional securities market participants holding license for carrying out professional activity in the securities market, conducts their certification, issues qualification certificates, establishes requirements for keeping a register of securities holders and accounting records and controls compliance with these requirements.

710. However, since the assessors were not provided with the information on the qualification requirements established by the Center it was impossible to make any conclusions about quality of these requirements.

711. Availability of requirements and mechanisms that prevent criminals from holding ownership of or interest in a professional securities market participant also remains unclear.

#### *Postal Service Operators Sector*

712. In Uzbekistan money and value transfers are carried out either by banks or by Uzbekiston Pochtasi government-owned company which activity is licensed by the Communication and Information Agency of the Republic of Uzbekistan in compliance with the legislation of the Republic of Uzbekistan.

#### ***Recommendation 23 (Ongoing Supervision and Monitoring)***

713. The legislation of the Republic of Uzbekistan does not contain regulations that would obligate credit institutions, the insurance sector and the securities sector to apply the Core Principles under the AML/CFT system.

714. The Central Bank of the Republic of Uzbekistan performs ongoing supervision and monitoring of the banking system for compliance with the Core Principles (Basel-1). The Core



Principles have been implemented and are complied with in the process of licensing banks and formation of capital through supervision of banking activity, through compliance with and supervision of compliance with prudential regulations, through establishment of a bank activity risk management system and also through implementing effective corporate management principles. However, Uzbekistan has not provided any regulatory or practical evidences demonstrating that the AML/CFT issues are covered by the existing mechanisms of licensing, monitoring, risk management, etc.

715. The Core Principles are also applied during regulation and supervision in the securities sector and the insurance sectors. For example, since January 12, 1998 the Center for Coordination and Control of Securities Market is the member of the International Organization of Securities Commissions (IOSCO) and uses the standards of this organization in its activities. Since September 8, 2005 the Ministry of Finance is the member of the International Association of Insurance Supervisors and also implements the respective principles. At the same time, no information is available on application by them of the Core Principles for the AML/CFT purposes.

716. As mentioned above, institutions, which accept payments from population through unattended payment terminals, are not subject to the supervisory regime, but are subject to special registration with the Central Bank.

### ***Effectiveness***

717. At the time of evaluation there was no practice and statistics on implementation of supervisory measures and application of sanctions for AML/CFT violations, inter alia, in the banking sector. Therefore, it is impossible to comprehensively analyze effectiveness of the supervision, monitoring and sanctions systems.

### ***Recommendation 25***

718. The main AML/CFT guideline for financial institutions and DNFBPs is the standard Internal Control Rules that in accordance with Article 6 of the AML/CFT Law are developed and approved by the respective oversight, licensing and registration authorities jointly with the FIU or, whether they do not exist, by the FIU. These Internal Control Rules regulate the customer identification process and also contain a set of criteria for suspicious transactions with due consideration for the specificities of each sector. At present 12 standard Internal Control Rules are issued for each type of organizations covered by the AML/CFT Law.

719. However, these Internal Control Rules are not the guidelines in a sense envisaged by the FATF Recommendations, i.e. are not guidelines intended for assisting financial institutions to comply with the AML/CFT legislation requirements since they are part of this legislation.

720. Apart from that, the supervisory authorities and the FIU have not issued any guidelines describing ML and FT methods and techniques.

## **3.10.2. Recommendations and Comments**

### **Recommendation 17**

721. It is necessary to ensure direct application of the entire range of sanctions (starting from fines through withdrawal of licenses) to all noncredit financial institutions for AML/CFT violations, inter alia, through adopting individual regulations by the competent authorities.

722. It is also necessary to extend the scope of application of Article 179-3 (its current wording envisages sanctions only for failure to undertake measures for arranging internal control) and to consider possibility of applying tougher sanctions for violation of provisions of this Article.

#### Recommendation 23

723. The AML/CFT supervision and monitoring system in the Republic of Uzbekistan is under development, there is no practice of application of sanctions and therefore it is impossible to assess effectiveness of these sanctions.

724. It is necessary to extend the regime of supervision and monitoring of compliance with the AML/CFT legislation requirements to leasing companies and also to institutions which accept payments from population through unattended payment terminals.

725. The Communication and Information Agency of the Republic of Uzbekistan should be clearly and explicitly authorized to perform supervision in this area.

726. All supervisory and oversight authorities should develop regulations governing the issues of performing the AML/CFT supervisory functions.

727. The market entry rules are specified in detail only for the banking sector. Therefore, it is necessary to develop similar requirements for top management for other financial institutions.

728. It is necessary to ensure appropriate application by financial institutions of the Core Principles for the AML/CFT purposes.

#### Recommendation 25

729. The supervisory authorities should issue special guidelines for the private sector which would facilitate a more effective performance of obligations by financial institutions, including description on new ML/FT trends and typologies. Such guidelines should take into account the specificities of the activity of supervised entities.

#### Recommendation 29

730. The Communication and Information Agency of the Republic of Uzbekistan should be authorized to perform AML/CFT supervision.

731. All supervisory and oversight authorities should develop regulations governing the issues pertaining to application of sanctions for violation of the AML/CFT requirements (does not apply to the Central Bank).

732. In order to implement the AML/CFT measures the oversight authorities of the Republic of Uzbekistan should ensure application of the broadest possible range of sanctions against financial institutions and their managers (except for the banking sector).

### 3.10.3 Compliance with Recommendation 17, 23, 25 & 29

	<b>Rating</b>	<b>Summary of factors underlying overall rating</b>
<b>R.17</b>	<b>PC</b>	<ul style="list-style-type: none"><li>• The possibility to apply a broad range of sanctions against all types of financial institutions (except for the banking sector) has</li></ul>

		<p>not been established.</p> <ul style="list-style-type: none"> <li>Article 179-3 covers a narrow list of violation types and does not provide for effective, proportionate and dissuasive sanctions.</li> <li>Except for the banking sector, it impossible to assess effectiveness of sanctions</li> </ul>
<b>R.23</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>The AML/CFT supervision and monitoring regime does not cover institutions, which accept payments from population through unattended payment terminals.</li> <li>Leasing companies are, de facto, not subject to supervision and monitoring.</li> <li>The supervision and monitoring regulatory framework for the AML/CFT purposes is not yet established for all types of financial institutions.</li> <li>No information is available on application of the Core Principles for the AML/CFT purposes in the banking, insurance and securities sectors.</li> <li>The market entry procedures are specified in detail only for the banking sector.</li> <li>The AML/CFT supervision and monitoring system is under development and lack of sufficient results does not allow for assessing its effectiveness (does not apply to the banking sector).</li> </ul>
<b>R.25</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>Detailed guidelines for the private sector which would facilitate a more effective performance of obligations by financial institutions, including description on new ML/FT trends and typologies, have not been issued.</li> </ul>
<b>R.29</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>The Communication and Information Agency of the Republic of Uzbekistan is not authorized to perform AML/CFT supervision.</li> <li>Only the Central Bank has the possibility to apply broad range of sanctions against the supervised financial institutions.</li> <li>The supervisory authorities have just started to undertake efforts in the AML/CFT sphere and there are no sufficient results which would allow for assessing effectiveness of the undertaken measures (does not apply to the banking sector).</li> </ul>

### **3.11 Money or Value Transfer Services (SR.VI)**

#### **3.11.1 Description and Analysis**

##### ***Special Recommendation VI***

733. Money transfers via the officially regulated financial system in the Republic of Uzbekistan can be carried out only through banks and the Post. Any funds transfer activities carried outside the formal banking system are subject to criminal prosecution under Article 190 (Unlicensed Performance of Economic Activity) of the Criminal Code of the Republic of Uzbekistan. Notably, all banks and the Post already fall under the requirements of the AML/CFT legislation, and all flaws and deficiencies pointed out with regard to AML/CFT measures in the banking system are applicable to banks in the context of money transfers.

734. There are significant risks in Uzbekistan related to MVT service operators acting outside the formally regulated financial system (e.g. hawala, fei chen). However, the assessors were advised that no such operators had been identified. At the same time, no information on comprehensive measures taken by the designated authorities to detect such facts was provided.

### 3.11.2 Recommendations and Comments

735. Uzbekistan should take measures to prevent MVT related activities carried outside the formal financial system. It is also necessary to correct all flaws and deficiencies in the AML/CFT measures in the banking and postal system, which are also applicable in the context of bank and postal money transfers.

### 3.11.3 Compliance with Special Recommendation VI

	<b>Rating</b>	<b>Summary of factors underlying overall rating</b>
<b>SR.VI</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• No information is available on legislative or other measures taken in relation to MVT service operators acting outside the formal financial system.</li> <li>• All flaws and deficiencies noted in relation to the AML/CFT measures in the banking and postal system sector are also applicable in the context of money transfer.</li> </ul>

## **4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

### *Preamble: types of DNFBPs subject to AML/CFT measures*

736. The requirements of AML/CFT Law No.660-II (Article 12) cover the following types of DNFBPs:

- dealers in precious metals and precious stones;
- persons providing services and engaged in transactions related to purchase and sale of real estate (real estate agents);
- notary offices (notaries) and law firms (lawyers);
- audit organizations – when preparing and carrying out transactions on behalf of customers.

737. Pursuant to Resolution No.176 “On Further Regulation of Organization and Operation of Gambling Activities” adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 16.08.2007 organization and operation of gambling activities and other risk based games (including betting activities) are prohibited on the territory of Uzbekistan, except for drawing, instant and numerical lotteries.

738. It is also noteworthy that in Uzbekistan audit organizations are the only entities that provide independent accounting services to other companies. Notably, these services are consultative in nature and the ultimate responsibility for maintaining accountant records is born by a respective officer of a company. Therefore, Uzbekistan does not have independent accountants. In this regard for the purpose of the Report auditors will be referred to as accountants.

739. Uzbekistan does not have trust service providers. Registration of almost all legal entities is carried out by the respective local authorities (khokimiyats). The assessors were advised that the registration authorities are aware of the AML/CFT issues: in particular, the Department provides them with lists of terrorists and non-cooperative countries.

740. For the purpose of the Report those DNFBPs who are subject to the AML/CFT legislation will be referred to as the “covered DNFBPs”.

### **4.1. Customer Due Diligence and Record-Keeping (R.12)**

(applying R.5, 6 and 8-11)

#### **4.1.1 Description and Analysis**

##### *Recommendation 12*

741. The following Internal Control Rules have been developed and adopted in respect of organizations specified in the Law:

- Internal Control Rules for dealers in precious metals and precious stones. (Adopted by Order No.36 dated October 13, 2009 of the Department, hereinafter ICR for dealers in precious metals and precious stones);
- Internal Control Rules for persons providing services and engaged in transactions related to purchase and sale of real estate. (Adopted by Order No.35 dated October 13, 2009 of the Department, hereinafter ICR for real estate agents);

- Internal Control Rules for notary offices and law firms. (Adopted by Resolution No.10 dated October 13, 2009 of the Ministry of Justice of the Republic of Uzbekistan and Order No.39 dated October 13, 2009 of the Department, hereinafter ICR for notary offices and law firms);

- Internal Control Rules for audit organizations. (Adopted by Resolution No.102 dated October 13, 2009 of the Ministry of Finance of the Republic of Uzbekistan and Order No.42 dated October 13, 2009 of the Department, hereinafter ICR for audit organizations).

742. Under AML/CFT Law No.660-II, the same norms and requirements apply to DNFBPs as those applicable to financial institutions. In all cases the Internal Control Rules prescribe to carry out CDD measures if there is any suspicion of association of performed transactions with laundering of criminal proceeds and terrorist financing and also if there is any doubt about veracity and adequacy of previously obtained identification data. The Internal Control Rules also require in all cases to carry out CDD measures in the process of establishing business relations. Obligation to undertake CDD measures when carrying out occasional transactions are imposed only on persons providing services and engaged in transactions related to purchase and sale of real estate (paragraph 11 of the Rules) and on dealers in precious metals and precious stones (paragraph 11 of the Rules).

743. The CDD measures envisage identification of beneficial owner. According to the DNFBP Internal Control Rules identification and verification of identity of beneficial owner is one of the objectives of internal control. However, not all Internal Control Rules specify this obligation in a clear and explicit manner. For example, the most frequently established obligation envisages that for identification of a beneficial owner it is necessary to find out if a customer acts on behalf of another person and after that to carry out identification and CDD measures in respect of the person on behalf of whom he/she acts. The Internal Control Rules for notary offices and law firms (paragraph 18) and the Internal Control Rules for audit organizations (paragraph 17) include a separate provision obligating them to identify beneficial owner: in case of occasional or multiple contacts with a customer these entities shall identify this customer or beneficial owner (beneficiary) involved in a transaction.

744. The Internal Control Rules also impose obligation to take reasonable and available measures for identification of actual owners of a customer, inter alia, through examining ownership structure of a customer.

745. In all cases it is required to verify identity and authority of a customer and persons on whose behalf he/she acts through examining relevant documents. For example, all Rules require that along with identification of a customer or a beneficial owner it is necessary to verify their authority to conduct a transaction by examining documents provided by them in compliance with the law.

746. However, a requirement for examining previous transactions of a customer as well as for determining type of transaction and degree of its consistency with objectives and/or types of customer's activities is established only in the Internal Control Rules for notary offices and law firms (paragraph 18) and for audit organizations (paragraph 17). At the same time, AML/CFT Law No.660-II obligates all organizations engaged in transactions with funds or other assets to conduct ongoing due diligence on the business relationship and scrutiny of transactions with funds or other assets undertaken by a customer to verify their consistency with the available knowledge of such customer and his/her activities (Article 7).

747. There is no requirement to carry out enhanced CDD measures with regard to high-risk customers (transactions) and there is no indication of measures to be undertaken in response to unsatisfactory findings (including filing suspicious transaction reports (STRs)).

748. Despite the fact that there is no direct indication that CDD measures should be undertaken before or during the course of establishing a business relationship or conducting transactions, the wording of AML/CFT Law No.660-II and the Internal Control Rules (“during the course of establishing”, “during the course of conducting”, etc.) allows for making a conclusion that CDD measures shall be carried out before (during) conducting transactions (establishing business relationships).

749. With regard to verification, as in case of financial institutions, the DNFBP Internal Control Rules grant the right to verify provided information with the use the same information sources.

750. There is a requirement for all DNFBPs to undertake CDD measures at all stages of interaction with a customer. However, the AML/CFT legislation of the Republic of Uzbekistan does not regulate implementation of CDD measures including identification of customers with whom business relations had been already established at the moment the AML/CFT legislation came into effect (existing customers).

751. Requirement to update identification data (at least once a year) is established only for dealers in precious metals and precious stones and for persons providing services and engaged in transactions related to purchase and sale of real estate.

752. There is a requirement for all organizations not to perform transactions of a customer (not to establish business relationship with a customer) if such customer fails to provide documents needed for identification.

753. There are no requirements to implement Recommendation 6 in the AML/CFT legislation of the Republic of Uzbekistan. Besides that, the AML/CFT legislation does not specially regulate issues related to the use of new technologies in the DNFBP’ activities, in particular, there is no prohibition to conduct transactions (establish business relationship) without personal physical presence of a customer (his/her representative).

754. The DNFBP Internal Control Rules do not contain special provisions obligating DNFBPs to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose and to document, retain and provide information obtained as a result of such control (Recommendation 11).

755. Criteria for and indicators of suspicious transactions listed in the Internal Control Rules for persons providing services and engaged in transactions related to purchase and sale of real estate (paragraph 18), for notary offices and law firms (paragraph 23) and for audit organizations (paragraph 23) include such indicator as no apparent economic purpose, inconsistency with objectives of customer’s activities. In case of dealers in precious metals and precious stones the respective Internal Control Rules contain such criterion for flagging suspicious transactions as large amount – total amount of some transactions is equal to or exceeds 1000 minimum wages (paragraph 18).

756. A transaction may (but not necessarily) be considered suspicious against these criteria with the follow-on legal implications envisaged by the law concerning suspicious transactions. However, it is insufficient for complying with Recommendation 11.

757. AML/CFT Law No.660-II (Article 21) and the DNFBP Internal Control Rules establish obligation to keep information on transactions with funds or other assets as well as identification data and information obtained through CDD process for a time period established by the law but for not less than five years after transactions are completed or business relationships with customers are ended. Besides that, the Department is entitled to request and receive relevant information from all organizations engaged in transactions with funds or other assets.

758. In the DNFBP Internal Control Rules (except for the Internal Control Rules for audit organizations) contents of information to be documented are specified for transactions that should be reported to the Department. In all other respects, deficiencies in regulation of appropriate record-keeping revealed with regard to financial institutions are “inherent” in DNFBPs. In particular, the “customer due diligence information” concept is not clearly defined; there are no rules and regulations for keeping information (including its contents), so as to provide this information to the competent authorities in a timely manner as well as to reconstruct relevant transactions and use this information as evidence for prosecution.

**Effectiveness**

759. At the time of the on-site visit not all DNFBPs have completed establishment of the internal control system including development and implementation of internal control rules. However, the representatives of the Department and supervisory authorities repeatedly reported that these efforts had been nearly completed.

**4.1.2. Recommendations and Comments**

760. DNFBPs should comply with all requirements of Recommendations 5, 6, 8, 10 and 11. It is necessary to complete establishment of internal control system in these organizations.

**4.1.3. Compliance with Recommendation 12**

	<b>Rating</b>	<b>Summary of factors underlying overall rating</b>
<b>R.12</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• As regards to R.5 it is not required to:               <ul style="list-style-type: none"> <li>- undertake CDD measures with regard to occasional transactions and deals (for all DNFBPs),</li> <li>- examine previous transactions of a customer and determine type of transaction and degree of its consistency with the objectives and/or types of customer’s activities (except for notary offices and law firms),</li> <li>- update identification data (except for dealers in precious metals and precious stones and persons providing services and engaged in transactions related to purchase and sale of real estate),</li> <li>- undertake CDD measures with regard to existing customers (for all DNFBPs).</li> </ul>               It is also necessary to consider undertaking enhanced CDD measures with regard to high-risk customers (transactions) and to more clearly fix the obligation to identify and <i>verify identity</i> of a beneficial owner.             </li> <li>• R.6, R.8. The legislation contains no provisions for DNFBPs to comply</li> </ul>



		<p>with the requirements of these Recommendations.</p> <ul style="list-style-type: none"> <li>• R.10. It is necessary to establish rules for keeping information obtained as a result of internal control, to specify its contents, so as to ensure its possible utilization for reconstruction of transactions (including its use as evidence for prosecution) and provision to competent authorities in a timely manner.</li> <li>• R.11. Special regulations should be established for DNFBPs envisaging obligation to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose and to register document, retain and provide information obtained as a result of such control.</li> <li>• Since the internal control system in the DNFBPs sector is under development (testing) it is difficult to assess the undertaken AML/CFT measures.</li> </ul>
--	--	---

## 4.2. Suspicious Transaction Reporting (R.16)

(applying R.13-15 and 21)

### 4.2.1. Description and Analysis

#### *Recommendation 16*

761. In the Republic of Uzbekistan the provisions set forth in AML/CFT Law No.660-II in relation to Recommendations 13, 14, 15 and 21 also apply to DNFBP's activities. Besides that, the Regulation on Reporting Procedure is also applicable to DNFBPs.

762. Criteria for and indicators of suspicious transactions are set forth in the Internal Control Rules and are permissive rather than mandatory but are more thoroughly elaborated. The list of criteria includes unusual large transactions which have no apparent economic purpose and other criteria, e.g. recurrence, unusual behavior of a customer, third parties' transactions, certain cash transactions and location (residence) in a country not participating in international AML/CFT cooperation (except for dealers in precious metals and precious stones). Notably, the list of these criteria is publicly available.

763. The DNFBP Internal Control Rules do not specify a clear mechanism for determining whether a transaction is suspicious (coordination between various structural departments and internal control) and do not regulate issues related to determining if an attempted transaction is suspicious (although the Law allows to report attempted transactions).

764. Article 18 of the AML/CFT Law stipulates that provision, in a prescribed manner, of information on transactions with funds or other assets performed by legal and natural persons or other information to the FIU is not a violation of commercial, bank or other secrets protected by the law. The DNFBP Internal Control Rules impose the obligation to keep information confidential and clarify this obligation (Recommendation 14). For example, according to the Rules DNFBPs shall limit access to the AML/CFT related information, shall not disclose it and shall not tip-off legal and natural persons about filing STRs with the FIU. Besides that, DNFBPs shall ensure that their staff do not disclose (or use in personal or third party's interests) information obtained in the process of internal control.

765. DNFBPs are subject to the requirements of AML/CFT Law No.660-II which impose obligation to implement and perform the internal control procedures (Article 15) which are defined as “activity of organizations carrying transactions with funds or other assets aimed at detecting transactions that shall be reported to the specially designated authority”. List of internal control procedures set out in the Law is also applicable to DNFBPs.

766. It should be noted that the Internal Control Rules developed and adopted for each type of DNFBPs (see Recommendation 12) contain more detailed regulations for arrangement and implementation of internal control.

767. The DNFBP Internal Control Rules set out the same objectives of internal control as those specified in the Internal Control Rules for the financial sector. Additional objectives set forth in most of the DNFBP Internal Control Rules (except for the Internal Control Rules for dealers in precious metals and precious stones) are the same as those established for the banking sector (see Recommendation 15).

768. DNFBPs shall appoint a compliance officer (Internal Control Rules compliance officer). Notably, a requirement to appoint a compliance officer by a manager’s order is set out in the Internal Control Rules for audit organizations (paragraph 5) and for notary offices and government owned law firms. Information on appointing a designated officer is filed with the supervisory authority or, whether it does not exist, with the Department.

769. The legislation of the Republic of Uzbekistan does not contain requirements for conducting audits of internal control systems, ongoing training and do not specify screening procedures when hiring certain employees.

770. Despite the fact that AML/CFT Law No.660-II (Article 13) requires to report transaction with funds or other assets to the FIU if one of the parties to a transaction resides, is located or registered in a country not participating in the AML/CFT cooperation (non-cooperative country), the DNFBP Internal Control Rules do not contain such obligation (Recommendation 21). For DNFBPs it is a criterion for suspicious transaction set out in the respective Internal Control Rules, which is permissive rather than mandatory. However, the Internal Control Rules for dealers in precious metals and precious stones do not contain this criterion for suspicious transaction. Therefore, there is discrepancy in regulatory methods set out in the Law and Regulations for the non-banking financial sector. Besides that, the Internal Control Rules do not contain special requirements for documenting results of examination of history and purposes of business relationships, keeping the obtained results and providing access thereto in all cases of interaction with persons who reside, are located or registered in a country not participating in the international AML/CFT cooperation (non-cooperative country).

771. Procedure for providing list of non-cooperative countries to DNFBPs is the same as that established for the financial sector. List of countries not participating in the international AML/CFT cooperation are drawn by the Department and provided to the relevant organizations with the follow-on notification about changes made thereto (paragraph 24 of the Regulation on Reporting Procedure). On March 2, 2010, the Department sent this list including the FATF statement adopted at the Plenary Meeting held in Abu Dhabi in February 2010 to all supervisory authorities and supervised institutions.

## *Effectiveness*

772. At the time of evaluation practice of filing STRs by DNFBPs with the designated authority almost did not exist and the internal control system was still under development in those organizations. Nevertheless, the FIU provided the statistics on STR filed from November 1, 2009 till April 30, 2010 (i.e. after reactivation of the AML/CFT regime):

Institutions	Number of Filed Reports
Notary Offices (Notaries)	2
Law Firms (Lawyers)	1
Audit Organizations	1
Persons Providing Services and Engaged in Transactions Related to Purchase and Sale of Real Estate	6
Dealers in Precious Metals and Precious Stones	2
<b>TOTAL</b>	<b>12</b>

773. Despite a relatively small number of filed reports (although comparable with those filed by some financial institutions), this statistics indicate that the DNFBP sector in general understands its obligations related to filing STRs.

### **4.2.2. Recommendations and Comments**

774. The Republic of Uzbekistan should address of shortcomings in the implementation of Recommendations 13-15 and 21 in relation to DNFBPs, in particular:

- establish procedure for determining whether attempted transactions are suspicious,
- consider arrangement of training and screening of employees,
- develop and provide DNFBPs with a list of countries not participating in the international AML/CFT cooperation (non-cooperative countries), ensure examination of history and purposes of business relations with persons from such countries, and also introduce norms in the Internal Control Rules for filing information on transactions with such persons.

### **4.2.3. Compliance with Recommendation 16**

	<b>Rating</b>	<b>Summary of factors underlying overall rating</b>
<b>R.16</b>	<b>PC</b>	<ul style="list-style-type: none"><li>• Difficulties in evaluation of effectiveness due to insufficient practice</li></ul> <p><b>P. 13</b></p> <ul style="list-style-type: none"><li>• Mechanism for reporting attempted transactions does not exist.</li><li>• Deficiencies in criminalization of ML/FT impair effective implementation of R.13 requirements.</li></ul> <p><b>P. 15.</b></p> <ul style="list-style-type: none"><li>• Not all DNFBPs are obligated to appoint a compliance officer by a manager's order.</li><li>• No requirement for training and screening DNFBP employees</li></ul> <p><b>P. 21.</b></p> <ul style="list-style-type: none"><li>• No requirement to examine history and purposes of business</li></ul>

		<p>relationships, retain examination results and provide access thereto during interactions with persons residing, located or registered in a non-cooperative country.</p> <ul style="list-style-type: none"> <li>• Discrepancies in regulations for reporting transactions with persons residing, located or registered in non-cooperative countries set out in the Law and Internal Control Rules.</li> </ul>
--	--	---

### 4.3. Regulation, Supervision and Monitoring (R.24-25)

#### 4.3.1. Description and Analysis

##### *Recommendation 24*

775. Pursuant to Resolution No.176 “On Further Regulation of Organization and Operation of Gambling Activities” adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 16.08.2007 organization and operation of gambling activities and other risk based games (including betting activities) are prohibited on the territory of Uzbekistan, except for drawing, instant and numerical lotteries. Therefore, casino operations are prohibited in the country.

776. The supervisory functions pertaining to monitoring and overseeing compliance by real estate agents and dealers in precious stones with the ICR are assigned to the Department. The functional responsibilities of the Financial Transactions Monitoring and System Analysis Office of the AML/CFT Directorate of the Department, approved by General Prosecutor’s Order No.3-OR dated 12.11.2009, include monitoring of compliance with the AML/CFT internal control rules by the supervised institutions.

777. According to division of responsibilities among the employees of the Office, approved by Department Manager’s Order No.4-OR dated 01.12.2009, these functions are assigned to 3 employees of the Office. These three officers are in charge of monitoring dealers in precious metals and precious stones, persons providing services and engaged in transactions related to purchase and sale of real estate (real estate agents) and institutions providing leasing services.

##### *Supervision of dealers in precious metals and precious stones*

778. The State Assay Office of the Precious Metals Agency with the Central Bank of the Republic of Uzbekistan licenses and supervises activities involving precious metals and stones. However, the functions of oversight over precious metals and stones dealers within the context of AML/CFT legislation, including inspections, and imposition of sanctions for violations is assigned to the Department which has already developed the Internal Control Rules for this sector, but, de facto, has no resources to perform these functions.

779. Given the low level of awareness in this sector about the AML/CFT legislation requirements, the absence of appropriate monitoring raised ML/FT risks.

##### *Lawyers, Notaries*

780. The Ministry of Justice licenses and regulates the activity of lawyers (law firms) and notaries (notary offices). The powers of the Ministry of Justice boil down to controlling compliance of persons subject to supervision with the legal practice laws, license requirements

and conditions; obtaining information on the observance of the legislation; submitting proposals on disciplining lawyers to the bar associations.

781. The Ministry of Justice has general powers to issue compliance orders, suspend licenses and annul licenses for violations of sector-specific licensing legislation or requirements and conditions in place for the licensed activity. However, the legislation does not contain requirements to apply sanctions for AML/CFT violations. The assessors were advised that in case of detection of violations of the AML/CFT Law an internal investigation is conducted, after which the information is submitted to a bar association. Sanctions are imposed directly on a lawyer or a notary and include: suspension of a license or cancellation of a license. There were cases of application of sanctions in form of withdrawal and suspension of licenses, inter alia, for non-compliance by notaries with the customer identification requirements. Decision in such cases is made by the head of a territorial department of the Ministry of Justice.

782. The following statistical data on supervision and sanctions with regard of this category were presented:

- in 2008 for violations by lawyers of the legislation requirements and non-compliance with the professional code of ethics disciplinary sanctions were imposed on 44 lawyers, of which 10 – cautions, 12 – suspension of license, 21 – withdrawal of license;
- during 9 months of 2009 for violations by notaries of the licensing requirements licenses of 37 notaries were suspended and licenses of 12 notaries were cancelled.

783. Provided data indicate certain effectiveness of the system in general but not in the AML/CFT area.

#### *Auditors*

784. The Ministry of Finance licenses and supervises auditing activities and also issues, terminates and annuls auditors' qualification certificates. The Ministry of Finance is empowered to conduct inspections (audits) in audit organizations to verify compliance with the licensing requirements and conditions set out in licensing agreements. However, the Ministry of Justice is not vested with powers related to supervision of compliance with the AML/CFT legislation.

785. The assessors were also advised that there is the auditor code of ethics and that a self-regulatory organization may control compliance of its members with the code of ethics and inform the licensing authority about revealed violations. Licenses are withdrawn through a court of law; payment of fines is not envisaged.

#### *Real estate agents*

786. At the time of evaluation there was no licensing in place in the real estate agents sector. The supervisory function for controlling compliance of real estate agents with the AML/CFT legislation, including inspections and imposition of sanctions for violations, is assigned to the Department, which has already developed the IRC for this sector but, de facto, has no resources to perform these functions. Given the low level of awareness in this sector about the AML/CFT legislation requirements, the absence of appropriate supervision raised ML/FT risks.

#### ***Recommendation 25***

787. The basic AML/CFT guidelines for DNFBPs are standard Internal Control Rules which, according to Article 3 of the AML/CFT Law, are developed and approved by the respective

regulatory, licensing and registration authorities jointly with the FIU or, whether they do not exist, by the FIU. These Internal Control Rules regulate the customer identification process and also contain a set of criteria for suspicious transactions with due consideration for the specificities of each sector. At present 12 standard Internal Control Rules are issued for each type of organizations covered by the AML/CFT Law.

788. Besides that, Resolution No.272 adopted by the Cabinet of Ministers on 12.10.2009 specifies a procedure for submitting information to the FIU and presents a standard STR template.

789. At the same time, the supervisory authorities and the FIU have not issued any guidelines describing ML and FT methods and techniques.

#### 4.3.2. Recommendations and Comments

##### Recommendation 24

790. It is necessary to effectively monitor the activities of dealers in precious metals and precious stones and other DNFBPs for compliance with AML/CFT measures. The Department should have adequate resources for performing the supervisory functions.

##### Recommendation 25

791. The supervisory authorities should issue sector-specific guidelines for DNFBPs, which will facilitate more effective compliance with their respective obligations, including description of new ML/FT trends and typologies. Such guidelines should be developed with due consideration for the specificities of activities of the supervised persons.

#### 4.3.3. Compliance with Recommendations 24 and 25 (criteria 25.1, DNFBPs)

	Rating	Summary of factors underlying overall rating
<b>R.24</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Lack of effective monitoring of compliance by DNFBPs with the AML/CFT measures (except for Ministry of Justice in certain aspects).</li> <li>• The designated authority for monitoring dealers in precious metals and stones and real estate agents does not have adequate resources for performing its functions.</li> </ul>
<b>R.25</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Special guidelines for the private sector facilitating more effective compliance by financial institutions with their respective obligations including description of new ML/FT trends and typologies have not been issued.</li> </ul> <p>See other factors underlying rating in Sections 3.7 and 3.10 of this Report.</p>

#### **4.4. Other Non-Financial Businesses and Professions. Modern Secure Transaction Techniques (R.20)**

##### **4.4.1. Description and Analysis**

###### ***Recommendation 20***

792. Besides financial institutions and DNFBPs, AML/CFT measures also apply to pawnshops and organizations operating lotteries and other risk-based games. These organizations are covered by the same AML/CFT Law requirements as financial institutions.

793. Standard Internal Control Rules have been developed and adopted for organizations operating lotteries. In particular, these Internal Control Rules set out requirements for appointing a compliance officer by a manager's order, examining previous transactions of customers, determining type of transaction and degree of its consistency with types and/or purposes of customers' activities, and contain a list of suspicious transactions. The Internal Control Rules for pawnshops still have to be developed and approved.

794. Pursuant to the "Additional Measures for Further Attraction of Free Funds of Population and Business Entities to Deposits of Commercial Banks" Initiative approved by Resolution of the President of the Republic of Uzbekistan No.PP-1090 dated April 6, 2009 "On Additional Measures on Stimulation of Attraction of Free Funds of Population and Business Entities to Deposits of Commercial Banks" measures have been adopted to further develop the non-cash payment system and to extend the use of plastic card payment terminals. The Central Bank of Uzbekistan does not issue bank notes denominated in a value over 1000 soums (about 67 US cents at the exchange rate of the Central Bank of Uzbekistan at the time of evaluation).

##### **4.4.2. Recommendations and Comments**

795. This Recommendation is fully observed.

##### **4.4.3. Compliance with Recommendation 20**

	<b>Rating</b>	<b>Summary of factors underlying overall rating</b>
<b>R.20</b>	<b>C</b>	This Recommendation is fully observed.

## **5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS**

### **5.1 Legal Persons - Access to Beneficial Ownership and Control Information (R.33)**

#### **5.1.1 Description and Analysis**

##### ***Recommendation 33***

796. Registration of legal persons in the Republic of Uzbekistan is carried out under Resolution of the Cabinet of Ministers of Uzbekistan No.357 dated 20.08.2003 “On Principal Improvement of Registration System for Organization of Business Activities”, which adopted the Regulation on Procedure of State Registration and Recording of Business Entities and Issuance of Permits, and also in compliance with Resolution of the President of the Republic of Uzbekistan No.PP-357 dated 24.05.2006 “On Introduction of Application Based State Registration and Recording of Business Entities”.

797. The said documents specify in detail the procedure for submitting the required documents and also procedure for making decision based on review of the submitted documents on registration or on refusal of registration by the designated government authorities. State registration of business entities is conducted in parallel with their registration with the government tax and statistics authorities. According to the Regulation on Application Based State Registration and Recording of Business Entities the registration authorities include:

- the Ministry of Justice of the Republic of Uzbekistan – for audit organizations, insurers and insurance brokers, and economic management agencies in form of joint-stock companies (including government-owned joint-stock companies and holdings) established by the decisions of the President and the Government of Uzbekistan and also for companies with foreign investments/capital (authorized capital is not less than 150 thousand US dollars, at least 30% of which are foreign investments, and one of the founders is a foreign legal entity) and markets established in Tashkent city;

- local departments of the Ministry of Justice – for companies with foreign investments/capital and markets established in the regions;

- inspectorates with the district and city authorities (khokimiyats) responsible for registration of business entities – for other business entities.

798. The Uniform State Register of Companies and Organizations is kept and maintained by the State Statistics Committee of the Republic of Uzbekistan using the registration forms completed by the local statistics authorities.

799. In order to obtain state registration of a business entity as a legal person an applicant shall, personally or by mail, submit an application with the following documents attached thereto:

- originals of the constituent documents;

- document certifying payment of the state registration fee;

- original certificate confirming that the business names are unique and without confusingly similar equivalents;

- three copies of seal and stamp designs.

800. To obtain state registration of companies with foreign investments and other companies with foreign capital in addition to the above mentioned documents it is necessary to submit a legalized



extract from the trade register of a foreign founder in a country where a legal entity is registered. Extract from the trade register a foreign founder shall contain: name of a foreign legal entity, its location, authorized capital, form of incorporation, date of registration, duration and information on a person entitled to sign for and on behalf of a foreign legal entity. A natural person – non-resident of the Republic of Uzbekistan shall submit a copy of his/her passport and documents confirming that each founder has contributed 30% of his/her share in the authorized capital of a company.

801. Analysis of provisions of the legal entities registration legislation allows to make a conclusion that at the time of submission of documents for registration the designated government authorities do not take measures to identify beneficial ownership and control of legal persons.

802. State registration may be denied only on formal grounds:

- application to an irrelevant registration authority;
- presentation of an incomplete set of documents;
- business name in the constituent documents or stamp and seal designs do not correspond to the name specified in the certificate confirming its uniqueness;
- form of incorporation declared in the constituent documents or the stamp and seal designs do not correspond to the forms of incorporation provided by the legislation of the Republic of Uzbekistan;
- constituent documents include types of activities prohibited by the legislation of the Republic of Uzbekistan;
- authorized capital specified in the constituent documents does not match the authorized capital size established by the legislation of the Republic of Uzbekistan for given types of business entities.

803. In addition to the above, grounds for refusal of state registration of companies with foreign capital/investments include:

- share of foreign investments does not correspond to the share size established by the legislation of the Republic of Uzbekistan for entities with foreign capital/investments;
- list of founders of a company with foreign investment (capital) does not include a foreign legal entity.

804. A time period for making a decision on state registration is short enough – not longer than 2 days from the documents submission date. The legislation of Uzbekistan does not set any limitations on re-registration of legal entities by founders if earlier established legal entities have been liquidated by court ruling or by other administrative decision for violation of the legislation including violation of the AML/CFT legislation.

805. All the above indicates that Uzbekistan has not implemented measures aimed at identification of beneficial ownership and control of legal persons.

806. The assessors have been convinced that the Department has access to the database containing information on registered legal persons, however, such access does not allow for identifying beneficial ownership of legal persons.

807. Pursuant to the Law “On Joint Stock Companies and Protection of Shareholders’ Rights” (Article 24) shares may be only registered ones.

### 5.1.2. Recommendations and Comments

808. Uzbekistan should apply the existing system of legal entities registration for the AML/CFT purposes.

809. Uzbekistan should establish measures for identifying and verifying information on of beneficial ownership of legal persons.

### 5.1.3 Compliance with Recommendation 33

	Rating	Summary of factors underlying overall rating
R.33	PC	<ul style="list-style-type: none"><li>• No measures for identifying and verifying information on beneficial ownership of legal persons are in place.</li><li>• The legal entities registration system is not used for AML/CFT purposes.</li></ul>

## 5.2. Legal Arrangements - Access to Beneficial Ownership and Control Information (R.34)

### 5.2.1. Description and Analysis

#### *Recommendation 34*

810. Legal arrangements cannot be created in the Republic of Uzbekistan, including trusts, as the term is used in the FATF Recommendations. This is due to the fact that the legal system of Uzbekistan, like other countries of the continental legal tradition (civil law), does not allow for the separation of the right of ownership into a legal title, which is given to the trustee along with the responsibilities of proprietorship, and an equitable title, which is given to the beneficiary.

811. There is a concept of trust management in the Republic of Uzbekistan, which is different from the trusts set up under Anglo-Saxon (common law) systems, because it is solely based on liability. According to Article 849 of the Civil Code of Uzbekistan the transfer of property into trust management does not lead to a transfer of ownership to the trust manager. Transactions with property transferred into trust management are carried out by a trust manager on his/her/its own behalf with indication that he/she/it acts as such manager. If there is no indication that a trust manager acts in this capacity the trust manager is personally obligated to third parties and is liable to them only to the extent of all his/her/its property. The objects for trust management may include enterprises and other economic entities, separate real estate objects, securities, exclusive rights and other property. Money cannot be the sole object of trust management. A commercial entity or an individual may carry out trust management. Property may not be transferred into trust management of a government authority. Any person, except for a trust manager, may be a beneficiary.

812. Uzbekistan's legislation does not contain any impediments for Uzbekistan's citizens to participate in trusts created abroad. The applicable law is the law chosen by the parties or, if none has been chosen, that with which the trust shows the closest connection.

### 5.2.2 Recommendations and Comments

813. Not applicable.

### 5.2.3 Compliance with Recommendation 34

	Rating	Summary of factors underlying overall rating
R.34	N/A	Not applicable

## 5.3 Non-Profit Organizations (SR.VIII)

### 5.3.1 Description and Analysis

#### *Special Recommendation VIII*

814. Uzbekistan has established a comprehensive integrated system of monitoring and oversight over the NPO sector, however, its functions does not include the AML/CFT issues. At the same time, one can state that this system can be used for, inter alia, protection of the sector from FT or ML risks. This conclusion is also corroborated by the fact that at the time of evaluation on a single case of abuse of NPOs for FT or ML purposes has been detected.

815. A NPO is created by a decision of its founders (members) in accordance with the legislation and is considered established from the moment of its state registration. Besides that, a NPO is to be registered with the tax and state statistics authorities.

816. State registration of a non-governmental non-profit organization is performed by the justice authorities. International NPOs and representative offices and branches of foreign NPOs operating in Uzbekistan as well as national and inter-regional NPOs are registered with the Ministry of Justice of Uzbekistan, while other NPOs are registered with the territorial departments of the MOJ. The Ministry of Justice, in compliance with the established procedure, performs accreditation of employees of representative offices and branches of international and foreign non-governmental non-profit organizations, who are foreign citizens, as well as their dependant family members.

817. According to the Law “On Non-Governmental Non-Profit Organizations”, a non-governmental non-profit organization can be established in the following legal forms of incorporation:

- Public association (group of individuals);
- Social fund (possesses property);
- Establishment.

818. The Law specifies the basic duties and responsibilities of NPOs:

- to adhere to the legislation;
- to provide access to information on the use of their property and financial resources;
- to provide access for authority registering NPOs to events carried out by them;
- to provide reports on the results of their activities to the tax and statistics authorities.

819. A NPO may be engaged in any type of activities which are not prohibited by the law and correspond to the purposes specified in its constituent documents. A NPO may conduct commercial activities only within the limits corresponding to its statutory objectives.

820. A NPO pays taxes and other mandatory fees to the budget and off-budget funds. A NPO keeps records of the results its activity and presents reports to the registration, statistics and tax authorities in a prescribed manner.

821. Operation of NPOs without registration is a criminally and administratively punishable offence. This is stipulated, in particular, in the Criminal Code of the Republic of Uzbekistan (Article 216), which criminalizes illegal establishment of public associations and religious organizations. Sanction under this Article includes imposition of a fine from fifty to one hundred minimum wages, or administrative arrest for up to six month, or imprisonment up to five years.

822. State registration of a non-governmental non-profit organization is performed in compliance with Article 22 of the Law “On Non-Governmental Non-Profit Organizations” and in compliance with the “Rules of processing applications for charter registration of public associations operating on territory of the Republic of Uzbekistan” approved by the Resolution N.132 adopted by the Cabinet of Ministers on 12.03.1993.

823. In order to obtain state registration of a non-governmental non-profit organization the following documents shall be submitted to the registering authority:

- an application signed by members of the governing body of a given non-governmental non-profit organization specifying first name, family name, middle name (patronymic), place and date of birth, place of residence and address of every member;
- two copies of a charter of a non-governmental non-profit organization;
- minutes of foundation convention (conference) or general meeting that is to contain the information on establishment of non-governmental non-profit organization, its founders, approval of its charter, establishing governing and other bodies;
- information on persons on whose initiative a non-governmental non-profit organization is established (founder of NPO) (natural persons shall indicate first name, family name, middle name (patronymic), year of birth and place of residence; public associations shall indicate name of non-governmental non-profit association, location of the governing body and charter registration date and place);
- information on members of the governing body specifying first name, family name, middle name (patronymic), elected office and year of birth, address and telephone number;
- statement on sources of funding of activity, including publishing activity, and funding of publishing facilities.

824. According to Article 17 of the Law “On Non-Governmental Non-Profit Organizations”, a charter of a non-governmental non-profit organization shall indicate the following:

- name, purposes and objectives of non-governmental non-profit organization, its form of incorporation, territory where it operates;
- structure and governing bodies of non-governmental non-profit organization, its control and audit bodies (mandatory for social funds), where necessary, or obligation to attract auditors (audit companies);
- procedure for establishing governing bodies, their authority, terms of their power, place of location of the permanent governing body;
- terms and procedure for obtaining and losing membership, rights and obligations of members - for associations with defined membership;
- sources of funds and other assets, rights of non-governmental non-profit organization and of its structural divisions pertaining to asset management;
- reorganization and liquidation procedure;
- charter amendment procedure.

825. Upon submission of constituent documents, as required above, an application for registration of a charter of a non-governmental non-profit organization is processed within two-months period from a date of receipt of all necessary documents submitted in the Uzbek and Russian languages.

826. The justice authorities have established a procedure for verifying information provided by NPO at the registration stage, i.e.: information on founders and managers is provided to the interior ministry agencies for a criminal record check. If any suspicions arise, the Ministry of Justice may, during the two-months application processing period, request the relevant ministries and agencies to provide information on certain persons.

827. A non-governmental non-profit organization shall, no later than on February 1, submit annual reports on its activities to the registering authority. This report shall include information on activities carried out during a reporting period (year), sources of funds and fund spending declaration, and also information on number of existing members.

828. Furthermore, the governing bodies of duly and properly registered non-governmental non-profit organizations shall submit to the registering authority quarterly reports on passed decisions (copies) and planned activities and events. In case of failure to provide such information, the registering authority is authorized, after issuing a warning letter, to submit (to the court) a proposal on liquidation of respective non-governmental non-profit organization.

It should be noted that pursuant to Article 25 of the Law “On Social Funds” of the Republic of Uzbekistan, a social fund shall publish a annual report on its activities, including:

- overview of fund activities carried out during a reporting period indicating compliance of such activity with its statutory purposes and objectives;
- annual financial report with the opinion of an audit organization;
- information on donations received by a fund;
- information on income (profit) from commercial activities of fund with breakdown by sources of origin;
- total amount of expenses incurred with breakdown per types of activities of a fund and separately by administrative expenses;
- information on amendments to fund charter and changes in its governing bodies;
- other information as prescribed by charter or a board of trustees of a fund.

829. Besides that, pursuant to Article 25 of the Law “On Social Funds” of the Republic of Uzbekistan, social funds shall establish an audit commission of a fund for exercising control over financial activity, proper spending of funds and use of other assets of fund. This commission shall consist of at least three persons who may not simultaneously be the members of board of trustees and board of directors of a fund.

830. Based on the results of audit of financial activity of a fund the audit commission draws up a report, which shall include:

- assessment of reliability of information contained in reports and other financial documents;
- information on violation of the accounting and financial reporting procedure;
- recommendations on elimination of revealed violations and proposals on enhancement of effectiveness of financial activity of a fund.

831. NPOs are furthermore obligated to provide access for the representative of the MOJ to events held by them. Should any events be held by NPOs, their representative offices and branches without consultation with and approval by the MOJ, and should access be denied for the MOJ representative to attend events held by NPOs, a fine in amount of from one hundred up to one hundred and fifty minimum wages is to be imposed on NPO executive officers. (Article 239 of the Code of Administrative Offences of the Republic of Uzbekistan).

832. It is important to note that the government committee for supervision of the NPO sector has been established. This committee is chaired by the vice-premier of the Republic of Uzbekistan, and its members include the representatives of the Department, Ministry of Justice, National Security Service and other competent authorities. The committee controls and approves receipt and spending of grant funding (including foreign grants) by NPOs as well as provision of technical assistance. The committee is also tasked with identifying sources of funds and purposes they are spent for (inter alia, for the CFT purposes). The committee issues its conclusion on whether or not each grant is in line with the statutory objectives of NPO. Should it be impossible to determine that funds are to be used for intended purposes, the committee is authorized to deny receipt of grant funding by NPO.

833. As of January 1, 2010, being registered with the justice authorities were 5103 NPOs. Notably, 452 NPOs were registered with the Ministry of Justice, i.e. in terms of scope of activities these NPOs operate throughout the country. The Ministry of Justice, being the registering authority, is empowered to inspect compliance of NPOs activities with their statutory goals and objectives.

834. Such inspection includes examination of presented reports, identifying NPO funding sources and purposes these funds are spent for. If there are reasons to believe that funds are misused, such information is provided to the prosecution authorities. Besides that, the Ministry of Justice is tasked with verification of compliance of NPOs activities with the legislation of Uzbekistan in general and with the AML/CFT legislation in particular. The following sanctions may be imposed on NPOs for violation of the legislation of Uzbekistan:

- compliance orders filed by the prosecution and justice authorities on detected violation of the NPO legislation and on actions inconsistent with statutory objectives;
- suspension of NPO activity (by court ruling based on a recommendation filed by prosecution and justice authorities);
- liquidation of NPOs by court ruling based on a recommendation filed by prosecution and justice authorities.

835. For example, in 2009 the justice authorities performed 860 inspections of NPO activities. Bases on the inspection results 645 compliance orders regarding revealed violations were issued. The compliance order describes the revealed violations, soundness of findings with reference to a particular law or regulation and specifies a timeline for elimination of the revealed violations. It is noteworthy that compliance order is submitted to a NPO designated body along with the requirement to convene a meeting of elected governing body and discuss the received order. A representative of the justice authority should participate in such meeting and substantiate the requirement of the registering authority as well as provide assistance by clarifying how to eliminate the detected violations. Notably, 593 compliance orders were fulfilled, and the specified violations were fully eliminated.

836. Besides that, in 2009 at the request of the justice authorities administrative proceedings were instituted against 30 executive officers of NPOs for violation of tax legislation, failure to provide annual report, etc. Besides that, in 2009 sanctions, including liquidation of organization, were imposed against 70 NPOs.

837. At the same time, in 2009 the justice authorities held over 1426 outreach events with participation of representative of non-governmental non-profit organizations to clarify requirements of particular laws including the AML/CFT legislation.

838. All existing mechanisms of investigation and cooperation among the law enforcement agencies and other authorities in this respect are examined in R.27, 28 and 31 and are equally applied to NPOs.

### 5.3.2 Recommendations and Comments

839. Uzbekistan should review effectiveness of the established system of control and monitoring of the NPO sector for the AML/CFT purposes.

840. Uzbekistan should include the issues related to abuse of the sector for ML/FT purposes in the regular outreach programs to the NPO sector.

841. Uzbekistan should establish special mechanism for exchanging information on NPOs at the international level in case of AM/FT suspicions arise.

### 5.3.3 Compliance with Special Recommendation VIII

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>SR.VIII</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• No reviews of the NPO legislation for the AML/CFT purposes are carried out.</li> <li>• No periodic review of the NPO sector to identify FT risk was conducted, and no review of AML/CFT outreach events was performed.</li> <li>• No special mechanisms are in place for exchanging information on NPOs at the international level in case of ML/FT suspicions arise.</li> </ul>

## 6. NATIONAL AND INTERNATIONAL COOPERATION

### 6.1 National Cooperation and Coordination (R.31)

#### 6.1.1 Description and Analysis

842. Pursuant to Article 3 of the AML/CFT Law the specially designated governmental authority (the Department) is authorized to coordinate the efforts of the agencies and authorities engaged in combating laundering of criminal proceeds and terrorist financing. In practice it is implemented through participation of the Department representatives in inter-agency investigation teams and also through arranging for and providing training to the personnel of the law enforcement and supervisory agencies.

843. Pursuant to the classified Order the AML/CFT Coordination Committee was established to provide for cooperation among all involved agencies. However, due to a non-public nature of this authority it is impossible to obtain more detailed information on its activities and to assess its effectiveness.

844. A number of agencies (General Prosecutor's Office, Department, State Tax Committee, Ministry of Internal Affairs, Central Bank, Center for Coordination and Control of Securities Market) mentioned the existence of bilateral agreements with other agencies, information on which is typically not publicly available. Representatives of the Ministry of Internal Affairs stated that they actively cooperate with the Department in investigation of ML offences and more than 6 thousand times used special equipment and techniques jointly with the Department. During investigation of offences related to terrorist financing a joint team consisting of investigators from the prosecutor's office and the National Security Service is always established.

845. One of forms of cooperation is provision of access for the Department to databases of other agencies and authorities, which is described in more detail in Section 2.5.

#### 6.1.2. Recommendations and Comments

846. Non-public nature of the activity of the Coordination Committee and classified nature of inter-agency agreements does not allow to fully assess their effectiveness.

#### 6.1.3. Compliance with Recommendation 31

	<b>Rating</b>	<b>Summary of factors underlying overall rating</b>
<b>P.31</b>	<b>LC</b>	<ul style="list-style-type: none"><li>• Non-public nature of the activity of the Coordination Committee and classified nature of inter-agency agreements does not allow to fully assess their effectiveness.</li></ul>

### 6.2 The Conventions and UN Special Resolutions (R.35 and SR.I)

#### 6.2.1. Description and Analysis

##### *Recommendation 35*

847. The Republic of Uzbekistan acceded to the Vienna Convention (the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988) under Resolution of Oliy



Majilis of the Republic of Uzbekistan No.32-I dated February 24, 1995; to the Palermo Convention (the UN Convention against Transnational Organized Crime of 2000) under Resolution of Oliy Majilis of the Republic of Uzbekistan No.536-II dated August 30, 2003 (with reservations: for Uzbekistan the competent authority responsible for mutual legal assistance is the General Prosecutor's Office); and to the UN International Convention for the Suppression of the Financing of Terrorism of 1999 under Resolution of Oliy Majilis of the Republic of Uzbekistan No.225-II dated May 12, 2001.

848. Effective implementation of the Conventions is impaired by deficiencies in criminalization of ML and FT described in detail in the relevant Sections of the Report (see Recommendation 1 and Special Recommendation II).

849. At the same time, certain aspects of the Palermo Convention related to identification of beneficial ownership and record keeping have not been fully implemented.

850. Detailed analysis of the status of implementation of these Conventions is presented in Annex 5.

#### *Additional Elements*

851. The issue of acceding to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) and to the Inter-American Convention against Terrorism (2002) has not been considered.

852. The Republic of Uzbekistan has not yet signed and ratified the Agreement of the Member States of the Commonwealth of Independent States on Countering Money Laundering and Financing of Terrorism signed on October 5, 2007 in Dushanbe city.

#### *Special Recommendation I*

853. The Republic of Uzbekistan acceded to the UN International Convention for the Suppression of the Financing of Terrorism of 1999 under Resolution of Oliy Majilis of the Republic of Uzbekistan No.225-II dated May 12, 2001. However, effective implementation of the Convention is affected by deficiencies in criminalization of FT described in detail in the relevant Sections of the Report (see Special Recommendation II).

854. As for implementation of UN Security Council Resolutions No.1267, 1373 and successor Resolutions, Uzbekistan has failed to comply with Resolution 1452 as regards granting access to funds required for basic vital needs.

855. Overview of progress in implementation of the UN International Convention for the Suppression of the Financing of Terrorism is presented in the review of R.35. Detailed analysis of the status implementation of the UN Security Council Resolutions is presented in Annex 6.

### **6.2.2. Recommendations and Comments**

#### Recommendation 35

856. The Republic of Uzbekistan should criminalize ML in compliance with the requirements of the Palermo and Vienna Conventions.

857. The Republic of Uzbekistan should fully implement provisions of:

- article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of acts of theft of nuclear material and unlawful acts against the safety of fixed platforms located on continental shelf;

- the Vienna and Palermo Conventions and the UN International Convention for the Suppression of the Financing of Terrorism as regards the international cooperation.

858. The Republic of Uzbekistan should modify the description of the offence in Article 155 such as to comply with the provisions of the UN International Convention for the Suppression of the Financing of Terrorism.

859. The Republic of Uzbekistan should ratify the Agreement of the Member States of the Commonwealth of Independent States on Countering Money Laundering and Financing of Terrorism signed on October 5, 2007 in Dushanbe city.

#### Special Recommendation I

860. The Republic of Uzbekistan should implement the requirements of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of acts of theft of nuclear material and unlawful acts against the safety of fixed platforms located on continental shelf;

861. The Republic of Uzbekistan should take appropriate measures to fully meet the requirements of UN Security Council Resolution 1267 (1999), 1333(2000), 1363(2001), 1390(2002), 1455(2003), and 1526(2004).

#### 6.2.3. Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying overall rating
<b>R.35</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>• Description of the offence in Article 243 of the Criminal Code (ML) does not cover act of possession or use of property obtained through commission of offence, being one of the elements of ML in compliance with the Vienna and Palermo Conventions.</li> <li>• Requirements of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of seizure of nuclear materials as well as unlawful acts against the safety of fixed platforms located on continental shelf are not provided for.</li> <li>• No information was provided on implementation of the requirements of the Vienna and Palermo Conventions and the UN International Convention for the Suppression of the Financing of Terrorism as regards the international cooperation for combating offences specified in these Conventions.</li> </ul>
<b>SR. I</b>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Requirements of 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of seizure of nuclear materials as well as unlawful acts against the safety of fixed platforms located on continental shelf are not provided for.</li> </ul>

		<ul style="list-style-type: none"> <li>Lack of sufficient information on measures undertaken to comply with UN Security Council Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1390 (2002), 1455 (2003) and 1526 (2004).</li> </ul>
--	--	---

### 6.3 Mutual Legal Assistance (R.36-38, SR.V)

#### 6.3.1. Description and Analysis

##### *Recommendation 36*

862. Throughout its history as the independent state Uzbekistan has signed 17 bilateral agreements on legal assistance and legal relations, 7 agreements on extradition, 3 agreements on transfer of convicted offenders for serving the sentences and 31 agreements on cooperation in combating organized crime, international terrorism and other especially dangerous crimes. Besides that, Uzbekistan has signed a number of memoranda and agreements related to combating organized crime, terrorism, extremism, illicit trafficking of narcotic drugs and psychotropic substances. Full list of the signed agreements is presented in Annex 7.

863. Application of the aforementioned agreements in each particular case depends on a specific request submitted by a requesting party and on availability of valid regulatory documents.

864. The primary legislative act that governs the issues of mutual legal assistance is the Criminal Procedure Code. For example, pursuant to Article 3 criminal proceedings shall be conducted in accordance with the law in effect at the moment of the inquiry, pretrial investigation and trial, irrespective of the place of the commission of an offence, unless otherwise is stipulated by agreements signed by the Republic of Uzbekistan with other countries. Article 5 of the Criminal Procedure Code stipulates that communication of courts, prosecutors, and investigators with the respective agencies of foreign countries on requests of the extradition and other criminal procedures shall be conducted in accordance with the law of the Republic of Uzbekistan and the agreements signed by the Republic of Uzbekistan with other countries.

865. Under Article 6 of the Criminal Procedure Code the courts and investigating agencies of the Republic of Uzbekistan shall grant the requests of foreign agencies for conducting judicial or investigating procedures, such as interrogation of a witness, accused, forensic examiner, and other persons, as well as view, examination, search, seizure, and transfer of physical evidence, preparation and sending of documents and others. Request of the foreign agencies sent directly to the court or investigating agencies shall be granted only upon the approval of the Ministry of Justice of the Republic of Uzbekistan or the Prosecutor's Office of the Republic of Uzbekistan respectively. Requests of foreign agencies on the territory of the Republic of Uzbekistan shall be granted in accordance with Article 3 of this Code. The Supreme Court of the Republic of Uzbekistan enjoys a direct communication with relevant foreign agencies on the above matters.

866. The described and "other" investigative actions undertaken in the course of providing mutual legal assistance fully comply with the respective requirements of Recommendation 36.

867. The Criminal Procedure Code offers sufficiently detailed regulations for each step of various MLA procedures, thereby ensuring timeliness, constructiveness, and effectiveness of the relevant measures. These efforts are among other things foreseen in the organizational and staff structure of the General Prosecutor's Office where international cooperation is handled under strict control of

the international law department. The fact that the Department is established with the General Prosecutor's Office undoubtedly helps to ensure that due attention is paid to ML requests and they are granted in a prompt manner.

868. On 27.11.2006, the General Prosecutor of the Republic of Uzbekistan issued Order No.65 to approve the "Instruction on arrangement of record management and control over handling of documents in the prosecution authorities of the Republic of Uzbekistan". This Instruction stipulates that documents (including international requests) that do not require additional examination and checking shall be executed (granted) no later than in 15 days, while the period of execution of documents requiring additional examination and checking shall be up to 1 month. Should it be necessary, the head of the prosecution authority that processes a document may extend the period of its execution for another 1 month. A time period for conducting investigation and taking other procedural actions is specified in the Criminal Procedure Code of the Republic of Uzbekistan.

869. The legislation of the Republic of Uzbekistan does not contain any conditions that would excessively restrict the provision of mutual legal assistance. Since tax crimes are predicate offences for money laundering there are no impediments for granting MLA requests on cases involving fiscal matters. At the same time it is necessary to note that the mechanism of identifying the best venue for prosecution is not determined.

870. The legislation of the Republic of Uzbekistan provides for disclosure of confidential information in the process of investigation. For example, pursuant to Article 118 of the Criminal Procedure Code a witness or a victim may not refuse to testify on the grounds that the circumstances questioned by the inquiry officer, investigator, or the court are related to the state or trade secrets, or to the intimacy of the suspect, accused, defendant, or other persons.

871. Besides that, pursuant to Articles 9 and 10 of the Law "On Bank Secrecy" information constituting the bank secrecy may be provided to the prosecution, investigating and inquiring authorities if criminal proceedings have been instituted, and also may be provided to the court against its written request on cases considered by the court. Therefore, this procedure is fully applicable to the actions undertaken for execution of international requests.

872. The procedural legislation envisages the possibility to use the powers of the law enforcement agencies pursuant to Recommendation 28.

873. It is worth mentioning that deficiencies in criminalization of ML and FT noted in the respective Sections of the Report do not affect the capacity of executing international requests since dual criminality is not a prerequisite for providing mutual legal assistance (see also Recommendation 37).

### ***Recommendation 37***

874. Since pursuant to Article 3 of the Criminal Procedure Code of Uzbekistan criminal proceedings are conducted in accordance with the law in effect at the moment of the inquiry, pretrial investigation and trial, irrespective of the place of the commission of an offence, a unilateral recognition of a act as a crime by a requesting country is a sufficient condition for Uzbekistan for rendering mutual legal assistance. In other words, the absence of dual criminality is not an impediment for the Republic of Uzbekistan to grant MLA requests and, therefore, technical

discrepancies in the legislation of various countries are not a barrier for providing mutual legal assistance.

875. According to Article 6 of the Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Cases (Chisinau Convention) the parties shall provide MLA by carrying out procedural and other actions envisioned by the legislation of the requesting party. The parties may also provide MLA in other forms given the specific circumstances, interests of justice and public at large, and in accordance with internal legislations of the parties.

### ***Recommendation 38***

876. International investigative requests for procedural actions on the territory of the Republic of Uzbekistan, including seizure and confiscation of assets/property, are executed in accordance with and in a manner prescribed by the Criminal Procedure Code. In particular, pursuant to the Criminal Procedure Code assets are seized on the grounds of a resolution of an inquiry officer or investigator, or finding of a court. Money, securities, foreign currency, jewelry and other items, made of precious metals, or their scrap, included in the criminal case file as physical evidence, if found, shall be transferred for safekeeping in accordance with the established procedure – they shall be transferred to the deposit account of an inquiry or investigation agency or a court no later than three days from the moment of seizure or acceptance thereof (Article 209 of the Criminal Procedure Code).

877. Therefore, when rendering mutual legal assistance Uzbekistan fully execute requests in terms of recovery of damages/losses and seizure of assets/property for securing a civil suit. Moreover, Article 284 of the Criminal Procedure Code stipulates the following: property that has been an instrument of offense, if it is not subject to return to the previous proprietor, shall be transferred to government revenue pursuant to a sentence of court. If the property has not been discovered, the cost of the property shall be recovered to government revenue pursuant to a judgment of court rendered by way of civil proceedings or, in the instance when the criminal case has been dismissed, by the sentence rendered by court. In general, provisions of the Criminal Procedure Code related to confiscation are applicable in the context of granting international requests (see also Section of the Report which addresses Recommendation 3).

878. Uzbekistan has not considered the issue of creating a centralized asset forfeiture fund since frozen, seized or confiscated assets are transferred to appropriate institutions, or destroyed irrespective of their belonging (instruments of offence and items of no value), and money and other valuables, alienated from legal ownership as the result of a crime or other unlawful actions, are be returned to their legal owners or their legal successors or heirs of the latters, and criminally acquired money and other valuables are transferred to the compensation for pecuniary damage caused by a crime or, when a person suffered pecuniary damage is not identified, are transferred to government revenue pursuant to the court sentence thereon.

879. Pursuant to Resolution No. 499 “On regulation of contributions to non-budgetary funds of ministries and agencies” adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 25.10.2004 the Department on Combating Tax and Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor’s Office and other law enforcement agencies established special non-budgetary funds for accumulating money additionally accrued to the budget as a result of efforts undertaken by the Department and respective authorities.

880. In coordination with the Ministry of Finance and the State Tax Committee of the Republic of Uzbekistan, being adopted was a procedure of contribution and use of money accumulated in the special non-budgetary fund primarily for upgrading infrastructure of the Department structural divisions.

881. According to this procedure 10 percent of the total amount of funds accrued to the government budget, including proceeds from sales of confiscated property, is contributed to the special fund. Eighty percent of the accrued funds is transferred to the state budget, and the remaining 10 percent is transferred to the law enforcement authority.

882. Should additional funds be accrued to the budget as a result of coordinated efforts undertaken jointly with other law enforcement or oversight authorities, 10-percent contribution is shared on a pro rata basis among authorities taking part in such efforts. Thus, though there is no centralized fund for confiscated property in Uzbekistan, the existence of these funds in all of competent bodies makes it possible to say that the requirements of the relevant FATF recommendations are fulfilled.

883. The Republic of Uzbekistan has not considered the issue of sharing confiscated property with competent authorities of foreign countries when confiscation is directly or indirectly a result of coordinated law enforcement actions.

884. It should be noted that deficiencies in criminalization of ML and FT mentioned in the respective Sections of the Report do not affect the capacity of executing international requests since dual criminality is not a prerequisite for providing mutual legal assistance (see also Recommendation 37).

### *Effectiveness*

885. In 2006-2009, Uzbekistan received 2 MLA requests related to Article 243 (ML), one of which was submitted in 2008 and the second – in 2009. Both requests were satisfied. During the same period of time Uzbekistan forwarded 1 MLA request related to Article 155 in 2009, which was granted.

886. Besides that, Uzbekistan presented general statistics on MLA in relation to all categories of crimes:

Country	Period	MLA in relation to criminal cases	
		Received	Sent
Russian Federation	2006	138	92
	2007	109	148
	2008	122	165
	2009	149	141
	Total	518	546
Kazakhstan	2006	80	35
	2007	78	90
	2008	81	132
	2009	75	124
	Total	314	381
Other CIS Countries	2006	40	41
	2007	38	43
	2008	47	52
	2009	43	52

	Total	168	188
Other Foreign Countries	2006	14	17
	2007	7	28
	2008	24	13
	2009	40	14
	Total	85	72
TOTAL	2006	272	185
	2007	232	389
	2008	274	362
	2009	307	331
	Total	1085	1187

887. The above data indicate that the MLA system is effective enough.

### 6.3.2 Recommendations and Comments

888. Uzbekistan should introduce a mechanism to determine the best venue for the prosecution of defendants in the interests of justice related to cases subject to prosecution in more than one country.

889. Uzbekistan should keep statistics on MLA requests in relation to ML, TF and the predicate offences, and also on the nature of the requests, their results and response time.

890. Uzbekistan should consider the issue related to permission for sharing confiscated property with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions.

### 6.3.3 Compliance with Recommendations 36-38 and Special Recommendation V

	Rating	Summary of factors underlying overall rating
<b>R.36</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>No mechanism is in place to determine the best venue for the prosecution of defendants.</li> </ul>
<b>R.37</b>	<b>C</b>	This Recommendation is fully observed.
<b>R.38</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>Issue related to sharing confiscated property with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions has not been considered.</li> <li>It is hard to assess the effectiveness of the system since the evaluation team did not have any opportunity have a detailed analysis of authority of competent bodies RUz regarding search for property subject or possible subject for confiscation since the authority issues are stipulated by classified documentation</li> </ul>
<b>SR.V</b>	<b>LC</b>	<ul style="list-style-type: none"> <li>No mechanism is in place to determine the best venue for the prosecution of defendants.</li> <li>Issue related to sharing confiscated property with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions has not been considered.</li> <li>It is hard to assess the effectiveness of the system since the</li> </ul>

		evaluation team did not have any opportunity have a detailed analysis of authority of competent bodies RUz regarding search for property subject or possible subject for confiscation since the authority issues are stipulated by classified documentation
--	--	---

## 6.4. Extradition (R.37, 39 and SR.V)

### 6.4.1 Description and Analysis

891. Under the criminal legislation of Uzbekistan, money laundering, terrorist acts and financing of terrorism are the crimes that warrant extradition in the relevant cases. Procedure of extradition of a person by a foreign country is regulated by Article 8 of the Criminal Procedure Code of Uzbekistan and is performed in cases and in a manner envisaged by the international treaties and agreements. According to this procedure the Prosecutor’s Office of the Republic of Uzbekistan makes a request to extradite a person who has committed a crime on the territory of Uzbekistan, if criminal proceedings are instituted or conviction is sustained with regard to such person. A request to extradite a person is attached with a copy of the sentence or the resolution on recognizing a person as an accused in the criminal case. However, pursuant to Article 9 of the Criminal Procedure Code a person extradited to the Republic of Uzbekistan by a foreign country may not be prosecuted as a defendant, subjected to a penalty, or extradited to a third country for the crime committed before the extradition and for which the person was not extradited, without the consent of the extraditing country.

892. The Criminal Procedure Code does not specify conditions under which Uzbekistan may extradite a person to other country, but just set out the grounds under which extradition of a person to other country is not permitted. According to Article 10 of the Criminal Procedure Code of the Republic of Uzbekistan the grounds for denial are as follows:

- person, who is requested to be extradited, is a national of the Republic of Uzbekistan, unless otherwise provided by the international treaties and agreements between the Republic of Uzbekistan and the other countries;
- crime in question has been committed on the territory of the Republic of Uzbekistan;
- for the same crime a sentence has been rendered and taken legal effect, or the criminal proceedings have been discontinued in respect to the person, who is requested to be extradited;
- according to the laws of the Republic of Uzbekistan, a proceedings may not be instituted nor a sentence may be executed due to the expiration of the statutory time limit or on any other legal ground;
- act underlying the extradition request is not recognized as a criminal offense under the law of the Republic of Uzbekistan.

893. Pursuant to the Criminal Code of the Republic of Uzbekistan (Article 12) – a national of the Republic of Uzbekistan, as well as stateless persons permanently residing in Uzbekistan, shall be liable under the Criminal Code of Uzbekistan for crimes committed on the territory of another country, if they have not been sentenced by a court of the country, on whose territory the crime was committed. An Uzbek national may not be extradited for a crime committed on the territory of a foreign country, unless otherwise is not envisaged by international treaties or agreements. Foreign nationals, as well as stateless persons, not permanently residing in Uzbekistan, for crimes committed outside its territory, shall be liable under the Criminal Code of Uzbekistan, if otherwise is envisaged by international treaties or agreements.



894. Under multiple valid bilateral agreements on cooperation - 180 multilateral Conventions and Protocols thereto, 17 agreements on legal assistance and legal relations, 7 agreements on extradition, 3 agreements on transfer of convicted offenders for serving the sentences – Uzbekistan may extradite its nationals to many foreign countries. Where there is no international treaty or agreement persons who have committed crimes, including ML or FT offences, on the territory of another country are liable in Uzbekistan under the Criminal Code of the Republic of Uzbekistan.

895. Procedures ensuring that extradition requests are granted in a timely manner are specified in General Prosecutor's Order No.26 dated 22.06.2004 "On improvement of prosecutor's supervision of law enforcement in international legal cooperation sphere".

896. In particular, this order stipulates that issues pertaining to extradition to foreign countries and criminal prosecution as well as other issues related to enforcement of sentences issued by court with respect to detained foreign nationals and persons without citizenship shall be handled only in compliance with the international legal regulations. Such persons may be extradited only upon permission of the senior management of the General Prosecutor's Office of the Republic of Uzbekistan.

897. Upon detention of foreign nationals and persons without citizenship, public prosecutors shall:

- ensure that within 24 hours the General Prosecutor's Office is informed about such detention by a special written message or via communication means (fax, telegraph, teletype, e-mail); inform the relevant authority or the office of a foreign country, that put a detained person on the wanted list, and request a copy of a procedural document for arrest of such person;

- if no extradition request is received within one month, forward, via the General Prosecutor's Office, a repeated report to the relevant authority or the office of a foreign country, that put a detained person on the wanted list, and ensure that detention period is extended.

898. Public prosecutor shall perform supervision over observance of the international legal regulations and time of keeping a detained person in a temporary detention facility, till a copy of an order for his/her arrest is received from the relevant authority or the office of a foreign country, that put a detained person on the wanted list. After receiving a copy of the aforementioned order public prosecutor shall perform supervision over detention of this person in a pretrial detention facility.

899. Public prosecutor shall, within 10 days, obtain documents specifying citizenship of a detained person and grounds for his/her detention from the relevant authority and ensure that these documents are submitted to the General Prosecutor's Office for making decision on his/her extradition abroad.

900. Should the fact that a detained person is the Uzbek citizen be established and documentarily proven, public prosecutor shall arrange, via the General Prosecutor's Office, for sending a request to the relevant authority of a foreign country asking it to provide the existing documents on criminal proceedings instituted against a detained person.

901. After receiving a criminal proceedings file from the relevant authority of a foreign country public prosecutor shall, acting in compliance with the legislation of the Republic of Uzbekistan, perform supervision over the investigation process.

902. Upon receipt of information from a foreign country on detention of a person wanted by the law enforcement agencies of the Republic of Uzbekistan, public prosecutor shall ensure that necessary measures are undertaken to extradite such person from abroad.

903. The International Legal Cooperation Department of the General Prosecutor's Office shall, within the specified time period and in compliance with the international legal regulations, ensure that a request for extraditing a detained person signed by the senior managers of the General Prosecutor's Office is forwarded to a respective foreign country.

904. Attached to a request shall be the following documents: copies of orders on institution of criminal proceedings against a detained person, on bringing him/her to justice as accused person, on measure of restraint against him/her, on issuing arrest warrant, on escorting accused person under guard, and also a copy of a passport or other ID document (Form F-1), letter confirming that a detained person has not applied for renunciation of Uzbek citizenship, extract from article(s) of the Criminal Code and information on place and time of detention of a wanted person.

905. Pursuant to the international legal regulations the aforementioned documents shall be drawn up in two copies with translation into a respective language, and each page of both copies shall bear an official seal of the investigative authority.

906. If an act committed by a detained person is not considered to be dangerous for public any more, reasoned decree of termination of criminal proceedings against such person shall be issued in compliance with the requirements of the Criminal Procedure Code. Information on this along with a copy of issued decree shall be provided to the General Prosecutor's Office to be further communicated to the relevant authority of a foreign country where such person has been detained.

907. If a detained person is to be pardoned, the General Prosecutor's office shall ensure that a separate instruction is sent to the relevant authority of a foreign country.

### ***Recommendation 37***

908. A unilateral recognition of an act as a crime by a requesting country is a sufficient grounds for Uzbekistan to extradite a person, i.e. the absence of dual criminality is not an impediment for the Republic of Uzbekistan to extradite persons.

### ***Effectiveness and Statistics***

909. In 2006 -2009, Uzbekistan has not received any extradition requests in connection with ML/FT cases.

910. During the same period of time Uzbekistan has forwarded extradition requests to other countries. See statistic below:

<b>YEARS</b>	2006		2007		2008		2009	
	Granted	Denied	Granted	Denied	Granted	Denied	Granted	Denied
ML (Article 243)	1		1	2	4	1	3	
FT (Article 155)	1	2	2	1	3	2	1	1

911. Besides that, Uzbekistan presented general statistics on extradition related to all categories of crimes:

Country	Period	Extradition Requests (persons extradited)	
		to Uzbekistan	from Uzbekistan
Russia	2006	180	2
	2007	185	3
	2008	153	3
	2009	335	4
	Total	853	12
Kazakhstan	2006	48	4
	2007	68	2
	2008	77	0
	2009	84	1
	Total	277	7
Other CIS Countries	2006	5	4
	2007	17	6
	2008	19	6
	2009	22	19
	Total	63	35
Other Foreign Countries	2006	-	1
	2007	-	-
	2008	-	-
	2009	2	-
	Total	2	1
TOTAL	2006	213	11
	2007	270	11
	2008	249	9
	2009	443	24
	Total	1175	55

912. The above data indicate that the extradition system is effective enough.

#### 6.4.2 Recommendations and Comments

913. Uzbekistan should keep centralized annual statistics on extradition requests including those related to ML and FT, predicate offences and also on the nature of the requests, their results and response time.

#### 6.4.3 Compliance with Recommendations 39, 37 and Special Recommendation V

	Rating	Summary of factors underlying rating
<b>R.37</b>	<b>C</b>	This Recommendation is fully observed.
<b>R.39</b>	<b>C</b>	This Recommendation is fully observed.
<b>SR.V</b>	<b>LC</b>	See other factors underlying rating in Sections 6.3 and 6.5 of this Report.

## **6.5. Other Forms of International Cooperation (R.40 and SR.V)**

### **6.5.1 Description and Analysis**

914. The prosecution, investigating and judicial authorities cooperate with their foreign counterparts under ratified Conventions, signed and concluded multilateral and bilateral international treaties, agreements and memoranda; procedure and terms and conditions of such cooperation are specified by these treaties/agreements and also by the national legislation of Uzbekistan. All law enforcement bodies of Uzbekistan can perform the full range of legal proceedings concerning on the request (on behalf) of foreign counterparts including the performance of joint investigations. The representatives of Uzbekistan announced that the activities mentioned are usual practice of law enforcement bodies. The law enforcement bodies of Uzbekistan can also send similar queries to foreign counteragents both based on bilateral agreements and on mutuality principles.

915. Pursuant to the Law on Anti-Money Laundering and Combating Financing of Terrorism (Article 22): International cooperation on anti-money laundering and combating the financing of terrorism is carried out in accordance with the legislation and international treaties of the Republic of Uzbekistan. In this context the FIU of Uzbekistan is authorized to send requests for providing the required information to the competent authorities of foreign countries and to respond to request forwarded by the competent authorities of foreign countries. When responding to a request the Department, as a rule, indicates that information (primarily from its own database and databases of other agencies) contained in a response is confidential, is owned by the Department and may not be disclosed to their parties, attached to a criminal proceedings file or used as evidence in court proceedings without permission of the Department. At the same time, no information is available on agreement signed by the FIU with foreign partners.

916. The Ministry of Internal Affairs of Uzbekistan is the party to 40 inter-agency agreements signed among the CIS countries. In this context, see Section 6.3 and Annex 8.

917. The documents on cooperation among the supervisory authorities include the Memorandum of Understanding between the Central Bank of the Republic of Uzbekistan and the Central Bank of the Arab Republic of Egypt and the Memorandum of Understanding signed between the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan and the Securities and Commodities Authority of the United Arab Emirates. At the same time, no information of mutual cooperation with other supervisory authorities and relevant statistics is available.

918. The aforementioned international treaties and agreements as well as terms and conditions specified in the national legislation of Uzbekistan indicate the absence of unreasonable or unduly restrictive conditions and reasons to deny requests on the sole ground that they involve fiscal matters.

919. The procedures for providing and receiving information prescribed in the treaties/agreements and specified in the legislative acts of Uzbekistan allows the competent authorities (judicial, law enforcement, tax, customs and other agencies) in certain cases to disclose confidential information protected by the law (bank, tax, commercial secrets, etc.) as well as guarantees non-disclosure of obtained information and maintaining secrecy or confidentiality and also provides that this information may be used only in clearly specified authorized manner.

### *Effectiveness and Statistics*

920. The assessors were provided with the following statistics on international cooperation of the Department being the law enforcement agency (inter alia on issues pertaining to predicate offences and AML/CFT):

Country	Requests	Period			
		2007	2008	2009	Total
Kazakhstan	Received	17	17	23	57
	Sent	1	2	2	5
Russia	Received	5	2	2	9
	Sent	4	4	5	13
Kyrgyzstan	Received	4	4	3	11
	Sent	-	-	-	-
Moldova	Received	3	2	-	5
	Sent	-	-	-	-
Belarus	Received	1	2	-	3
	Sent	-	-	-	-
Ukraine	Received	3	1	4	8
	Sent	-	-	-	-
Armenia	Received	-	-	-	-
	Sent	-	1	-	1
Canada	Received	-	-	1	1
	Sent	-	-	-	-
Latvia	Received	1	-	-	-
	Sent	-	-	-	-
Portugal	Received	1	-	-	-
	Sent	-	-	-	-
Turkey	Received	-	-	1	1
	Sent	-	-	-	-
Czech Republic	Received	-	-	-	-
	Sent	-	1	-	1
Total	Received	35	28	35	98
	Sent	5	8	7	20

921. The aforementioned data also include statistics on FIU international exchange:

YEARS	2006		2007		2008		2009	
	Granted	Denied	Granted	Denied	Granted	Denied	Granted	Denied
<b>Requests received by the FIU</b>								
ML (Article 243)	2		1				1	1
FT (Article 155)								
<b>Requests forwarded by the FIU</b>								
ML (Article 243)	2						2	
FT (Article 155)								

922. The presented statistics indicates that international cooperation of the FIU is not effective enough.

### **6.5.2 Recommendations and Comments**

923. Uzbekistan should enhance the international AML/CFT cooperation of the supervisory authorities and the FIU.

924. The existing mechanisms of international cooperation are not actively used.

### 6.5.3 Compliance with Recommendation 40 and Special Recommendation V

	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>R.40</b>	<b>PC</b>	<ul style="list-style-type: none"><li>• Low level of cooperation in the supervisory field</li><li>• Low effectiveness of the system as regards to international cooperation and information exchange of the FIU</li></ul>
<b>SR.V</b>	<b>LC</b>	<ul style="list-style-type: none"><li>• Low level of cooperation in the supervisory field</li><li>• Low effectiveness of the system as regards to international cooperation and information exchange of the FIU</li></ul> <p>See other factors underlying the rating in Sections 6.3 and 6.4</p>

## 7. OTHER ISSUES

### 7.1. Resources and Statistics (R.30 and 32)

925. The text of the description, analysis and recommendations for improvement that relate to Recommendations 30 and 32 is contained in all the relevant sections of the Report i.e. in Section 2, parts of Sections 3 and 4, and in Section 6. There is a single rating for each of these Recommendations, even though the Recommendations are addressed in several Sections of the Report. Section 7.1 of the Report primarily contains the boxes showing the rating and the factors underlying the rating.

	Rating	Summary of factors underlying overall rating
<b>R.30</b>	<b>PC</b>	<ul style="list-style-type: none"><li>• Supervisory agencies (except for the Central Bank of the Republic of Uzbekistan) are not yet adequately staffed and structured for AML/CFT supervision purposes.</li><li>• Supervisory agencies have not yet received training on AML/CFT supervisory techniques (does not apply to the Central Bank of the Republic of Uzbekistan).</li><li>• No specialized AML/CFT units in the Ministry of Internal Affairs, the Customs and the National Security Service.</li><li>• The Department staff require training in financial investigations</li><li>• No supervisory unit in the Department.</li></ul>
<b>R.32</b>	<b>PC</b>	<ul style="list-style-type: none"><li>• No statistics available regarding the amount of property frozen under the UN Security Council Resolutions</li><li>• No separate statistics are maintained regarding the offence described in Article 155 “Terrorist Financing”.</li><li>• No statistics available regarding inspections conducted and sanctions applied by the supervisory authorities (does not apply to the Central Bank).</li></ul>

### 7.2 Other Relevant AML/CFT Measures or Issues

926. There are no other relevant AML/CFT measures or issues.

### 7.3. General Framework of the AML/CFT System (see also Section 1.1)

927. There are no other issues relating to the general framework of the AML/CFT system.

## TABLES

**Table 1. Ratings of Compliance with FATF Recommendations**

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (NA). These ratings are based only on the essential criteria, and defined as follows:

<b>Compliant</b>	The Recommendation is fully observed with respect to all essential criteria.
<b>Largely compliant</b>	There are only minor shortcomings, with a large majority of the essential criteria being fully met.
<b>Partially compliant</b>	The country has taken some substantive action and complies with some of the essential criteria.
<b>Non-compliant</b>	There are major shortcomings, with a large majority of the essential criteria not being met.
<b>Not applicable</b>	A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country.

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating<sup>9</sup></b>
<b>Legal systems</b>		
1. ML offence	<b>LC</b>	<ul style="list-style-type: none"> <li>Provisions of Article 243 of the Criminal Code (ML) do not cover the activities involving possession and use of property obtained by criminal means and which, under the Vienna and Palermo Conventions, constitute one of the elements of ML</li> <li>Under the Criminal Code, such types of "designated categories of offences" as insider trading and market manipulation are not criminalized</li> </ul>
2. ML offence – mental element and corporate liability	<b>LC</b>	<ul style="list-style-type: none"> <li>Insufficient effectiveness of application of sanctions against legal entities for ML offences.</li> </ul>
3. Confiscation and provisional measures	<b>LC</b>	<ul style="list-style-type: none"> <li>The on-site mission was unable to analyze thoroughly powers of competent authorities RUz to trace assets</li> </ul>

<sup>9</sup> These factors are only required to be set out when the rating is less than Compliant.



		which are subject or can be subject to seizure, because these powers are envisaged in the classified documents.
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>LC</b>	<ul style="list-style-type: none"> <li>• The current wording of Article 8 of the Law on Bank Secrecy may potentially create obstacles for the FIU to obtain information other than STRs from financial institutions.</li> </ul>
5. Customer due diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• The list of cases for application of the CDD measures to certain financial institutions is not sufficient. <ul style="list-style-type: none"> <li>▪ commercial banks are not required to apply the CDD measures to certain foreign exchange transactions (changing money and conversion);</li> <li>▪ members of stock exchange are not required to apply the CDD measures when establishing business relations;</li> <li>▪ professional participants of the securities market are not required to apply the CDD measures when conducting one-off transactions;</li> </ul> </li> <li>• The list of identity data to be requested from customers of financial institutions (except credit institutions) is not extensive enough;</li> <li>• Credit institutions are not required to apply any CDD measures in respect to government agencies and regulatory bodies.</li> <li>• There is no mechanism for applying the CDD measures to cases involving attempts to execute transactions;</li> <li>• Not all financial institutions in Uzbekistan are required to ascertain whether a customer is acting on its own behalf or not, as well as clarify the ownership and management structures of customers (legal entities).</li> <li>• Financial institutions are not required to request their customers to provide data as to the objective and intended nature of business relations, as well as information about the origin of funds (when necessary).</li> <li>• There are no clear rules for the application of the CDD measures (monitoring customers' transactions) on an ongoing basis in the non-bank financial sector;</li> <li>• The requirements to apply special CDD measures to high-risk customers does not apply to all institutions of the financial sector (except credit institutions and stock exchange);</li> <li>• There are no clear rules in the non-bank financial sector as to what actions the institutions involved in conducting transactions with monetary and other assets should take in the event of a negative CDD result (except non-presentation of documents for identification);</li> </ul>

		<p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• The IRC requirements often limit the requirements of the AML/CFT law, which may complicate its implementation;</li> <li>• Not all subordinate acts regulating other relations (e.g. currency exchange transactions) are aligned with existing AML/CFT Law, which may cause certain implementation problems.</li> <li>• The short duration of the adopted rules and requirements on CDD, as well as the lack of oversight practice make it impossible to estimate their effectiveness at this stage;</li> <li>• The absence of an oversight body in the leasing sector makes it impossible to guarantee the effectiveness of the AML/CFT measures taken by these financial institutions;</li> <li>• Due to the fact that the list of transactions commercial banks are allowed to conduct is open, the application of the mandatory CDD measures to only a limited number of one-off transactions, in particular foreign exchange and securities transactions, may also adversely affect the effectiveness.</li> <li>• There is no requirement to carry out verification (check) of data submitted by the client, except for checking the identity card;</li> <li>• There is no clarity for the non-bank financial sector on the issue of registering the results of the applied CDD measures;</li> <li>• The advisory nature of the IRC terminology used in addressing the issues of the impossibility of application of the CDD measures (despite the stern wording used in the AML/CFT Law) may adversely affect the practical application of the relevant rules.</li> <li>• Professional participants of the securities market, members of stock exchange and operators of postal services are not required to update customer information;</li> <li>• The mechanism for submitting STR to the FIU when it is not possible to complete the CDD measures is indirect;</li> <li>• There is no clarity on the issue of applying the CDD measures to persons who were already clients of financial institutions at time of introduction of the AML/CFT measures.</li> </ul>
6. Politically exposed persons	NC	The legislative and other measures required by the Recommendation 6 are missing.
7. Correspondent banking	LC	<ul style="list-style-type: none"> <li>• The mechanism used for evaluating the data supplied by correspondent banks and the procedure for recording</li> </ul>

		<p>the results of such evolutions need to be clarified.</p> <ul style="list-style-type: none"> <li>• There is no clear requirement for division/sharing of AML/CFT responsibilities with correspondent banks.</li> </ul>
8. New technologies & non face-to-face business	<b>PC</b>	<ul style="list-style-type: none"> <li>• No system for regulating transactions involving new technologies is developed for financial institutions of the non-bank sector.</li> <li>• There are no requirements for non-bank financial institutions to manage the AML/CFT-related risks when using new technologies and carrying out non-face to face transactions.</li> </ul>
9. Third parties and introducers	<b>n/a</b>	Not applicable.
10. Record keeping	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement for maintaining information in scope sufficient for its use as evidence in criminal or civil proceedings (does not apply to credit institutions).</li> <li>• A 3-years retention period is set by certain laws and regulations, which is inconsistent with the AML/CFT Law</li> </ul>
11. Unusual transactions	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no obligation to pay special attention to complex, large and unusual transactions in the non-banking sector.</li> <li>• Unclearly established special obligation with regard to complex, large and unusual transaction to examine their background and purpose, and ambiguously defined rules for recording examination findings, maintaining and providing access thereto for the competent authorities and auditors.</li> <li>• Since the measures have been implemented just recently, it is difficult to assess their effectiveness.</li> </ul>
12. DNFBP – R.5, 6, 8-11	<b>PC</b>	<ul style="list-style-type: none"> <li>• As regards to R.5 it is not required to: <ul style="list-style-type: none"> <li>- undertake CDD measures with regard to occasional transactions and deals (for all DNFBPs),</li> <li>- examine previous transactions of a customer and determine type of transaction and degree of its consistency with the objectives and/or types of customer’s activities (except for notary offices and law firms),</li> <li>- update identification data (except for dealers in precious metals and precious stones and persons providing services and engaged in transactions related to purchase and sale of real estate),</li> <li>- undertake CDD measures with regard to existing customers (for all DNFBPs).</li> </ul> </li> </ul> <p>It is also necessary to consider undertaking enhanced CDD measures with regard to high-risk customers (transactions) and to more clearly fix the obligation to identify and <i>verify identity</i> of a beneficial owner.</p> <ul style="list-style-type: none"> <li>• R.6, R.8. The legislation contains no provisions for</li> </ul>

		<p>DNFBPs to comply with the requirements of these Recommendations.</p> <ul style="list-style-type: none"> <li>• R.10. It is necessary to establish rules for keeping information obtained as a result of internal control, to specify its contents, so as to ensure its possible utilization for reconstruction of transactions (including its use as evidence for prosecution) and submission to competent authorities in a timely manner.</li> <li>• R.11. Special regulations should be established for DNFBPs envisaging obligation to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose and to register, retain and provide information obtained as a result of such control.</li> <li>• Since the internal control system in the DNFBPs sector is under development (testing) it is difficult to assess the undertaken AML/CFT measures.</li> </ul>
13. Suspicious transaction reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• Deficiencies in criminalization of ML/FT impair effectiveness of implementation of requirements of Recommendation 13.</li> <li>• Low STR filing effectiveness in the securities, stock exchange and postal remittance sectors</li> </ul>
14. Protection & no tipping-off	<b>LC</b>	<ul style="list-style-type: none"> <li>• It is difficult to assess effectiveness due to insufficient practice.</li> </ul>
15. Internal controls, compliance & audit	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to communicate internal control rules to employees of leasing companies and postal service operators.</li> <li>• There is no requirement to appoint AML/CFT compliance officer at the management level (does not apply to banks).</li> <li>• There is no requirement to have an independent AML/CFT audit system in financial institutions (does not apply to banks).</li> <li>• There is no requirement for leasing companies and postal service operators to provide AML/CFT training for their personnel.</li> <li>• No sufficient requirement for financial institutions (except for some positions in banks and professional securities market participants) to put in place screening procedures when hiring employees</li> <li>• The effectiveness of internal control measures cannot be assessed since they were just recently implemented</li> </ul>
16. DNFBP – R.13-15 & 21	<b>PC</b>	<ul style="list-style-type: none"> <li>• Difficulties in evaluation of effectiveness due to insufficient practice</li> </ul> <p><b>P. 13</b></p> <ul style="list-style-type: none"> <li>• Mechanism for reporting attempted transactions does not exist.</li> </ul>

		<ul style="list-style-type: none"> <li>Deficiencies in criminalization of ML/FT impair effective implementation of R.13 requirements.</li> </ul> <p><b>P. 15.</b></p> <ul style="list-style-type: none"> <li>Not all DNFBPs are obligated to appoint a compliance officer by a manager's order.</li> <li>No requirement for training and screening of DNFBP employees</li> </ul> <p><b>P. 21.</b></p> <ul style="list-style-type: none"> <li>No requirement to examine history and purposes of business relationships, retain examination results and provide access thereto during interactions with persons residing, located or registered in an AML/CFT non-cooperative country.</li> <li>Discrepancies in regulations for reporting transactions with persons residing, located or registered in non-cooperative countries set out in the Law and Internal Control Rules.</li> </ul>
17. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>The possibility to apply a broad range of sanctions against all types of financial institutions (except for the banking sector) has not been established.</li> <li>Article 179-3 covers a narrow list of violation types and does not provide for effective, proportionate and dissuasive sanctions.</li> <li>Except for the banking sector, it impossible to assess effectiveness of sanctions</li> </ul>
18. Shell banks	<b>C</b>	This Recommendation is fully observed.
19. Other forms of reporting	<b>C</b>	This Recommendation is fully observed.
20. Other NFBP & secure transaction techniques	<b>C</b>	This Recommendation is fully observed.
21. Special attention for higher risk countries	<b>LC</b>	<ul style="list-style-type: none"> <li>Unclearly established special obligation with regard to complex, large and unusual transaction to examine their background and purpose, and ambiguously defined rules for recording examination findings, maintaining and providing access thereto for the competent authorities and auditors.</li> <li>No possible counter-measures have been developed against countries that do not participate in the international AML/CFT cooperation, except for filing STRs.</li> <li>It is hard to assess the effectiveness of the measures taken since the arrangement of necessary informational support of the reporting organizations was finished in the Republic of Uzbekistan during the on-site mission.</li> </ul>
22. Foreign branches & subsidiaries	<b>LC</b>	<ul style="list-style-type: none"> <li>Requirements concerning foreign subsidiaries, branches and representative offices apply only to banks and non-bank credit institutions.</li> </ul>

23. Regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• The AML/CFT supervision and monitoring regime does not cover institutions, which accept payments from population through unattended payment terminals.</li> <li>• Leasing companies are, de facto, not subject to supervision and monitoring.</li> <li>• The supervision and monitoring regulatory framework for the AML/CFT purposes is not yet established for all types of financial institutions.</li> <li>• No information is available on application of the Core Principles for the AML/CFT purposes in the banking, insurance and securities sectors.</li> <li>• The market entry procedures are specified in detail only for the banking sector.</li> <li>• The AML/CFT supervision and monitoring system is under development and lack of sufficient results does not allow for assessing its effectiveness (does not apply to the banking sector).</li> </ul>
24. DNFBP - regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• Lack of effective monitoring of compliance by DNFBPs with the AML/CFT measures (except for Ministry of Justice in certain aspects).</li> <li>• The designated authority for monitoring dealers in precious metals and stones and real estate agents does not have adequate resources for performing its functions.</li> </ul>
25. Guidelines & Feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>• No guidelines or recommendations describing ML/FT methods and techniques have been issued for institutions engaged in transactions with funds or other assets.</li> <li>• Insufficient information on results of financial investigations conducted by the FIU is available to financial institutions.</li> <li>• Detailed guidelines for the private sector which would facilitate a more effective performance of obligations by financial institutions, including description on new ML/FT trends and typologies, have not been issued.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	<b>LC</b>	<ul style="list-style-type: none"> <li>• The scope of the authority vested in the Head of the Directorate raises question about operational independence of the FIU.</li> <li>• The Directorate does not publish regular reports on its activities.</li> </ul> <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• The absence of a clearly defined provision in the legislation with regard to the FIU's powers to request additional information may result in a denial of the request.</li> </ul>

27. Law enforcement authorities	<b>C</b>	This Recommendation is fully observed.
28. Powers of competent authorities	<b>C</b>	This Recommendation is fully observed.
29. Supervisors	<b>PC</b>	<ul style="list-style-type: none"> <li>• The Communication and Information Agency of the Republic of Uzbekistan is not authorized to perform AML/CFT supervision.</li> <li>• Only the Central Bank has the possibility to apply broad range of sanctions against the supervised financial institutions.</li> <li>• The supervisory authorities have just started to undertake efforts in the AML/CFT sphere and there are no sufficient results which would allow for assessing effectiveness of the undertaken measures (does not apply to the banking sector).</li> </ul>
30. Resources, integrity and training	<b>PC</b>	<ul style="list-style-type: none"> <li>• Supervisory agencies (except for the Central Bank of the Republic of Uzbekistan) are not yet adequately staffed and structured for AML/CFT supervision purposes.</li> <li>• Supervisory agencies have not yet received training in AML/CFT supervisory techniques (does not apply to the Central Bank of the Republic of Uzbekistan).</li> <li>• No specialized AML/CFT units in the Ministry of Internal Affairs, the Customs and the National Security Service.</li> <li>• The Department staff require training in financial investigations</li> <li>• No supervisory unit in the Department</li> </ul>
31. National co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>• Non-public nature of the activity of the Coordination Committee and classified nature of inter-agency agreements does not allow to fully assess their effectiveness.</li> </ul>
32. Statistics	<b>PC</b>	<ul style="list-style-type: none"> <li>• No statistics available regarding the amount of property frozen under the UN Security Council Resolutions</li> <li>• No separate statistics are maintained regarding the offence described in Article 155 “Terrorist Financing”.</li> <li>• No statistics available regarding inspections conducted and sanctions applied by the supervisory authorities (does not apply to the Central Bank)</li> </ul>
33. Legal persons – beneficial owners	<b>PC</b>	<ul style="list-style-type: none"> <li>• No measures for identifying and verifying information on beneficial ownership of legal persons are in place.</li> <li>• The legal entities registration system is not used for AML/CFT purposes.</li> </ul>
34. Legal arrangements – beneficial owners	<b>n/a</b>	Not applicable
<b>International Co-operation</b>		

35. Conventions	<b>LC</b>	<ul style="list-style-type: none"> <li>• Description of the offence in Article 243 of the Criminal Code (ML) does not cover act of possession or use of property obtained through commission of offence, being one of the elements of ML in compliance with the Vienna and Palermo Conventions.</li> <li>• Requirements of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of unlawful acts against the safety of fixed platforms located on the continental shelf are not provided for.</li> <li>• No information was provided on implementation of the requirements of the Vienna and Palermo Conventions and the UN International Convention for the Suppression of the Financing of Terrorism as regards the international cooperation for combating offences specified in these Conventions.</li> </ul>
36. Mutual legal assistance (MLA)	<b>LC</b>	<ul style="list-style-type: none"> <li>• No mechanism is in place to determine the best venue for the prosecution of defendants.</li> </ul>
37. Dual criminality	<b>C</b>	This Recommendation is fully observed.
38. MLA on confiscation and freezing	<b>LC</b>	<ul style="list-style-type: none"> <li>• Issue related to sharing confiscated property with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions has not been considered.</li> <li>• It is hard to assess the effectiveness of the system since the evaluation team did not have any opportunity have a detailed analysis of authority of competent bodies RUz regarding search for property subject or possible subject for confiscation since the authority issues are stipulated by classified documentation.</li> </ul>
39. Extradition	<b>C</b>	This Recommendation is fully observed.
40. Other forms of co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>• Low level of cooperation in the supervisory field</li> <li>• Low effectiveness of the system as regards to international cooperation and information exchange of the FIU</li> </ul>
<b>Nine Special Recommendations</b>		
SR.I Implement UN instruments	<b>PC</b>	<ul style="list-style-type: none"> <li>• Requirements of 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of unlawful acts against the safety of fixed platforms located on the continental shelf are not provided for.</li> <li>• Lack of sufficient information on measures undertaken to comply with UN Security Council Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1390 (2002), 1455 (2003) and 1526 (2004).</li> </ul>
SR.II Criminalize TF	<b>LC</b>	<ul style="list-style-type: none"> <li>• The Law of Uzbekistan does not explicitly criminalize seizure, theft and use of nuclear materials as well as</li> </ul>



		unlawful acts against the safety of fixed platforms located on the continental shelf which may compromise the effectiveness of law application.
SR.III Freeze and confiscate terrorist assets	<b>PC</b>	<ul style="list-style-type: none"> <li>• The current regime for suspension of transactions and application of criminal-procedural mechanisms in respect to individuals listed as terrorists raises questions as to the effectiveness of the implementation of Resolutions 1267 and 1373</li> <li>• There are no necessary mechanisms for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures.</li> <li>• Uzbekistan has no procedures for processing/considering de-listing requests.</li> <li>• Uzbekistan has no mechanisms authorizing access to a portion of funds necessary for basic expenses, as required by the UN Security Council Resolutions 1452.</li> </ul>
SR.IV Suspicious transaction reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• It is impossible to assess effectiveness of the system of filing reports on transactions suspected to be carried out for terrorist financing.</li> <li>• Deficiencies in criminalization of ML/FT impair effectiveness of implementation of requirements of Recommendation 13.</li> </ul>
SR.V International co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>• No mechanism is in place to determine the best venue for the prosecution of defendants.</li> <li>• Issue related to sharing confiscated property with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions has not been considered.</li> <li>• It is hard to assess the effectiveness of the system since the evaluation team did not have any opportunity have a detailed analysis of authority of competent bodies RUz regarding search for property subject or possible subject for confiscation since the authority issues are stipulated by classified documentation</li> <li>• Low level of cooperation in the supervisory field</li> <li>• Low effectiveness of the system as regards to international cooperation and information exchange of the FIU</li> </ul>
SR.VI AML requirements for money/value transfer services	<b>PC</b>	<ul style="list-style-type: none"> <li>• No information is available on legislative or other measures taken in relation to MVT service operators acting outside the formal financial system.</li> <li>• All flaws and deficiencies noted in relation to the AML/CFT measures in the banking and postal system sector are also applicable in the context of money transfer.</li> </ul>
SR.VII Wire transfer rules	<b>LC</b>	<ul style="list-style-type: none"> <li>• The banks are not obliged to consider the issue of limiting or breaking business relations with the</li> </ul>

		<p>counterparts not meeting the requirements of SR VII.</p> <ul style="list-style-type: none"> <li>• There are no specific means for carrying out the monitoring of compliance of financial institutions with the rules of electronic wire transfer</li> <li>• The drawbacks mentioned can affect the effectiveness of the measures taken in relation to SR VII.</li> </ul>
SR.VIII Non-profit organizations	<b>PC</b>	<ul style="list-style-type: none"> <li>• No reviews of the NPO legislation for the AML/CFT purposes are carried out.</li> <li>• No periodic review of the NPO sector to identify FT risk was conducted, and no review of AML/CFT outreach events was performed.</li> <li>• No special mechanisms are in place for exchanging information on NPOs at the international level in case ML/FT suspicions arise.</li> </ul>
SR.IX Cross Declaration Disclosure	<b>PC</b>	<ul style="list-style-type: none"> <li>• The Customs system as a whole is not used for AML/CFT-related purposes.</li> <li>• Customs authorities do not have powers to obtain information about the origin of funds/bearer instruments and their intended use.</li> <li>• The customs authorities do not have sufficient authority to freeze and seize any funds suspected to be involved in money laundering or terrorist financing.</li> </ul>

**Table 2: Recommended Action Plan to Improve the AML/CFT System**

AML/CFT System	Recommended Action
<b>1. General</b>	
<b>2. Legal System and Related Institutional Measures</b>	
2.1 Criminalization of ML (R.1 & 2)	<p>Uzbekistan should make the necessary changes to the wording of Article 243 of the Criminal Code to make it more specific and bring it in line with the provisions of the Vienna and Palermo Conventions; i.e., include possession and use of property obtained through illegal means into the list of ML-related crimes and specify the purposes of ML.</p> <p>It is necessary for Uzbekistan to criminalize the following types of "designated categories of offences" (provided for in the FATF Recommendations): insider trading and market manipulation.</p> <p>Uzbekistan (Supreme Court) is recommended to issue a clarification pertaining to examining ML-related criminal cases (in particular, to determine revenues obtained through commission of a predicate offence).</p> <p>In order to concretize the extent of liability of legal entities, Uzbekistan is recommended to introduce into the Law of Uzbekistan "On AML/CFT" provisions specifying the liability of legal entities for involvement in ML-related crimes (similar to Article 28 and 29 of the Law of Uzbekistan "On Combating Terrorism")</p>
2.2 Criminalization of TF (SR.II)	<p>Uzbekistan should explicitly criminalize seizure, theft and use of nuclear materials as well as unlawful acts against the safety of fixed platforms located on the continental shelf.</p> <p>The country is also recommended to compile detailed statistical data on FT-related criminal cases and take measures to improve the effectiveness of the application of Article 155 of the Criminal Code of Uzbekistan, including by providing training to the employees of the Prosecutor's Office and judiciary.</p>
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<p>It should be noted that unlike other EAG countries, the Criminal Code of Uzbekistan does not provide for any additional punishment, such as confiscation of property, for committing a criminal offence.</p> <p>Uzbekistan is recommended through its legislative acts (in addition to the CPC, e.g. in Law "On Operational and Search</p>

	<p>Activity") and in more detail consolidate the powers of the competent and law-enforcement authorities of Uzbekistan, including the FIU, in the domain of identifying and searching for the property which is subject to, or may be subject to confiscation, or when the said property is suspected to constitute the proceeds from crime.</p>
<p>2.4 Freezing of funds used for TF (SR.III)</p>	<p>The current regime for freezing transactions applied to individuals listed as terrorists does not meet the requirements of Resolutions 1267 and 1373, nor the Special Recommendation III as a whole. It is necessary to develop a full range of administrative measures for indefinite and immediate freezing of assets belonging to such individuals, as well as provide detailed instructions to financial institutions and the DNFBP sector. It is also advisable to introduce specific mechanisms for reviewing and utilizing the information received from foreign countries in respect of entities subject to freezing measures. It is necessary to establish procedures for reviewing petitions to remove individuals from the lists. It is necessary to develop and implement mechanisms for granting access to the part of the funds needed to satisfy a person's basic living requirements, as required by the terms of the UN Security Council Resolution 1452.</p>
<p>2.5 The Financial Intelligence Unit and its functions (R.26)</p>	<p>It is necessary to better specify the powers of the FIU when it comes to requesting additional information from financial institutions, given that the existing provisions may result in the denial of the request.</p> <p>The FIU should devote more attention to a proactive approach to financial investigations, as this will result in higher value of the materials being submitted to the law enforcement authorities.</p> <p>It is also necessary to raise the FIU's work effectiveness in the field of FT combating.</p> <p>It is necessary for the Head of the FIU to have greater authority when it comes to cooperating with various national and international partner agencies.</p> <p>The FIU should regularly (at least once a year) publish its performance reports that should include among other things the description of the AML/CFT-related typologies and trends.</p>
<p>2.6 Law enforcement, prosecution and other competent authorities (R.27 &amp; 28)</p>	<p>It is necessary to have a law regulating operational-search activities and clearly defining the scope of authority of various law enforcement agencies.</p> <p>The statistical data on criminal cases, including those examined by courts (with guilty verdicts), compiled by the Interior Ministry should be segregated into a separate category that covers ML and FT-related offences. The value of seized or</p>

	<p>confiscated in the course of investigations assets should also be reflected.</p> <p>Recommendations indicated above concern additional elements of Recommendation 27 and don't have an impact on rating.</p>
2.7 Cross Border Declaration & Disclosure (SR.IX)	<p>It is necessary to give the customs authorities the power to freeze and seize any funds suspected of being involved in money laundering or terrorist financing, as well as obtain information about the origin of funds/ bearer instruments and their intended use. Besides, it is necessary to designate AML/CFT as one the functions of the customs authorities.</p>
<b>3. Preventive Measures – Financial Institutions</b>	
3.1 Risk of ML or TF	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p>Recommendation 5</p> <p>Uzbekistan should consider the possibility of extending the list of cases when mandatory CDD measures for commercial banks, members of stock exchange and professional participants of the securities market are obligatory.</p> <p>The country should also consider extending the list of the necessary identity documents required by financial institutions (except credit institutions).</p> <p>It is also necessary to ensure that the CDD measures are applied to government agencies and regulatory bodies of credit institutions.</p> <p>The mechanism for conducting the CDD measures when attempts to perform transactions are being made should be developed in by-laws to the fullest extent possible.</p> <p>It should be made mandatory for financial institutions to carry out verification (check) of the data submitted by customers.</p> <p>It should also be made mandatory for financial institutions in Uzbekistan to ascertain whether a customer is acting on his own behalf or not. Financial institutions should be required to request their customers to provide data as to the objective and intended nature of business relations, as well as information about the origin of funds (when necessary).</p> <p>The incorporated in the Law provision for permanent verification of customers should be more clearly communicated to members of stock exchange, insurers and insurance brokers, professional participants of the securities market. The contained in their Internal Control Rules requirement to apply the CDD measures at all stages of service delivery is too general.</p>

With respect to professional participants of the securities market, members of stock exchange and operators of postal services, the mandatory update of customer information should be considered. For non-bank financial sector, one should examine the procedure for registering the results of the applied CDD measures using the provisions of the AML / CFT Law.

The work on the risk-based approach is still in its infancy (except banking and exchange sectors). In this regard, more specific rules for the application and implementation of the enhanced CDD measures (particularly for non-banking sector) would have a positive impact on the development of the AML/CFT system.

The issue of applying enhanced CDD measures to clients belonging to the high-risk category and registering them should be elaborated in greater detail for all organizations of the financial sector.

The periods of time allowed for identification and verification of identification data must leave no room for different interpretations.

The implications of a negative CDD result affect only such procedures as identification. Steps to be taken by financial institutions in the event of a negative result of application of other (besides identification) CDD measures should be considered. The non-binding requirements to deny the right to carry out transactions (establish business relations) when application of the CDD measures is not possible should be made binding.

The requirement to submit STR when it is impossible to complete the CDD measures should be set out as part of separate entry, eliminating any doubts as to its existence and making it more understandable to all parties.

The rules for applying the CDD measures to persons who had already been clients (beneficiaries, representatives) of financial institutions (predominantly non-banking sector) at the time of entry into force of the rules of internal control should be laid out more clearly.

#### Recommendation 6

Uzbekistan should adopt regulatory legal acts requiring financial institutions to establish whether a customer is a politically exposed person (PEP) and seek the approval of the management of a financial institution before establishing

	<p>relations with such PEP. Financial institutions should be obliged to establish the origin of a PEP's funds and pay extra attention to all transactions conducted by such person.</p> <p>Recommendation 7</p> <p>For more effective application of the AML/CFT measures in establishing correspondent relations, one should consider refining the assessment mechanism for the application of the AML/CFT measures by correspondent banks and the process of recording the results of such assessment.</p> <p>The issue of documenting the responsibilities of each correspondent institution is not subject to separate regulative measures and is addressed within the frameworks of the general CDD requirements and civil legal relations. These responsibilities should be specified when addressing the issue of establishing correspondent relations.</p> <p>Recommendation 8</p> <p>The responsibility for devising measures to prevent the use of technological developments for money laundering and terrorism financing needs to be developed further in greater detail and on an on-going basis to keep pace with the development of such technologies in the financial sector. Moreover, this provision applies only to the banking sector and does cover other financial institutions. As the financial markets continue to develop, there will a greater need to regulate both the CDD procedures and the measures to reduce the risks of using new technologies, including those enabling remote access transactions.</p>
3.3 Third parties and introduced business (R.9)	Not applicable.
3.4 Financial institution secrecy or confidentiality (R.4)	The Republic of Uzbekistan should eliminate ambiguities with regard to determining information to be reported to the FIU stipulated in Article 8 of the Law on Bank Secrecy.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<p>Recommendation 10</p> <p>Periods of retention of documents related to business transactions and customer correspondence should be extended to be in line with the requirements set out in the AML/CFT Law and Recommendation 10.</p> <p>It is necessary to introduce a clear requirement for financial institutions to retain information in a scope sufficient to provide evidence for criminal and civil prosecution.</p> <p>Special Recommendation VII</p>

	<p>Since wire transfers play significant role for the economy of Uzbekistan, the supervisory authorities should ensure strict compliance by financial institutions with all requirements of Special Recommendation VII.</p>
<p>3.6 Monitoring of transactions and relationships (R.11 &amp; 21)</p>	<p>Recommendation 11</p> <p>It is necessary to clearly and explicitly lay down the obligation for institutions operating in the non-bank financial sector to pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.</p> <p>It is necessary to envisage, as clearly as possible, examination of background and purposes of all complex, large and unusual transactions and recording of findings of such examinations in writing (including findings on transactions not qualified as suspicious ones) and results of their analysis. Consideration should be given to the issue of extension of authority of insurers and insurance brokers to qualify complex, large and unusual transactions and to increase their obligations when carrying out such transactions.</p> <p>As regards all financial institutions, there should be clear understanding that the list of complex, large and unusual transactions is not exhaustive, and that control over them is not limited to suspicious transaction control.</p> <p>Legislative recognition of the right of the competent authorities and auditors to have access to information on complex, large and unusual transactions and a corresponding obligation to transfer such information, inter alia, upon individual requests will help to raise effectiveness.</p> <p>It is recommended for all financial institutions (primarily for the non-bank financial sector) to develop detailed procedures of handling complex, large and unusual transactions.</p> <p>Recommendation 21</p> <p>Clear instructions should be given to all financial institutions (primarily for the non-banking sector) describing a mechanism of their actions in a situation when a transaction with persons from countries that participate in the international AML/CFT cooperation is not qualified as suspicious one. In this context it is necessary to clarify in more detail the “special control” concept, i.e. not just examination of background and purposes of transactions with persons from such countries but also recording, retention and providing access to the examination findings for competent authorities and supervisory agencies</p>



	<p>(mainly in the non-banking sector). For the insurance and stock exchange sectors it is necessary, in addition to the above, to extend the obligation to exercise special control over persons residing, located or registered in a country that does not participate in the international AML/CFT cooperation.</p> <p>Besides that, in addition to filing STRs, Uzbekistan should consider application of additional counter measures against countries that do not participate in the AML/CFT cooperation.</p>
<p>3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 &amp; SR.IV)</p>	<p>Recommendation 13</p> <p>Since it is for the first time when the non-banking financial sector faces many issues pertaining to organization of the AML/CFT efforts, the supervisory authorities of the Republic of Uzbekistan should pay special attention to practice of compliance by the non-banking financial sector institutions with the adopted regulations.</p> <p>Special Recommendation IV</p> <p>The legislative measures should be taken to extend the STR requirement so that it covers attempted transactions related to terrorist financing.</p> <p>Recommendation 14</p> <p>The Republic of Uzbekistan has taken all necessary measures under Recommendation 14. However, due to insufficient practice it is difficult to assess effectiveness of these measures.</p> <p>Recommendation 25</p> <p>The FIU should provide financial institutions and DNFBPs with more information on progress in and results of financial investigations conducted based on reports submitted by them, and also extend the feedback taking into account cases and examples listed in the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.</p> <p>Uzbekistan should hold ML/FT typology workshops with participation of the FIU, supervisory authorities and private sector representatives. Taking into account the fact that DNFBPs in the Republic of Uzbekistan are less prepared for the AML/CFT measures compared to the banking sector, special attention should be paid to the outreach activities for DNFBPs.</p>
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 &amp; 22)</p>	<p>Recommendation 15</p> <p>It is necessary to establish requirements for communicating the internal control rules to employees of financial institutions.</p>

	<p>Requirements should be introduced to the legislation obligating financial institutions to establish screening procedures when hiring all employees.</p> <p>It is necessary to impose obligation to appoint a (AML/CFT) compliance officer at the management level (does not apply to banks).</p> <p>The legislation should include the requirement for carrying out independent audit of internal control systems in financial institutions (does not apply to banks).</p> <p>Requirements for AML/CFT training and education of personnel should be established for all financial institutions (does not apply to banks).</p> <p>Requirements obligating all financial institutions to establish screening procedures when hiring all employees should also be introduced (does not apply to banks).</p> <p>Recommendation 22</p> <p>Uzbekistan shall extend the requirements of Recommendation 22 to other financial sector institutions.</p>
3.9 Shell banks (R.18)	Requirements of this Recommendation are fully implemented.
3.10 The supervisory and oversight system - competent authorities and SROs: role, functions, duties and powers (including sanctions) (R. 23, 30, 29, 17 & 25).	<p>Recommendation 17</p> <p>It is necessary to ensure direct application of the entire range of sanctions (starting from fines through withdrawal of licenses) to all noncredit financial institutions for AML/CFT violations, inter alia, through adopting individual regulations by the competent authorities.</p> <p>It is also necessary to extend the scope of application of Article 179-3 (its current wording envisages sanctions only for failure to undertake measures for arranging internal control) and to consider possibility of applying tougher sanctions for violation of provisions of this Article.</p> <p>Recommendation 23</p> <p>The AML/CFT supervision and monitoring system in the Republic of Uzbekistan is under development, there is no practice of application of sanctions and therefore it is impossible to assess effectiveness of these sanctions.</p> <p>It is necessary to extend the regime of supervision and monitoring of compliance with the AML/CFT legislation requirements to leasing companies and also to institutions</p>

	<p>which accept payments from population through unattended payment terminals.</p> <p>All supervisory and oversight authorities should develop regulations governing the issues of performing the AML/CFT supervisory functions.</p> <p>The market entry rules are specified in detail only for the banking sector. Therefore, it is necessary to develop similar requirements for senior managers of other financial institutions.</p> <p>It is necessary to ensure appropriate application by financial institutions of the Core Principles for the AML/CFT purposes.</p> <p>Recommendation 25</p> <p>The supervisory authorities should issue special guidelines for the private sector which would facilitate a more effective performance of obligations by financial institutions, including description on new ML/FT trends and typologies. Such guidelines should take into account the specificities of the activity of supervised entities.</p> <p>Recommendation 29</p> <p>All supervisory and oversight authorities should develop regulations governing the application of sanctions for violation of the AML/CFT requirements (does not apply to the Central Bank).</p> <p>The Communication and Information Agency of the Republic of Uzbekistan should be clearly and explicitly authorized to perform supervision in the AML/CFT area.</p> <p>In order to implement the AML/CFT measures the oversight authorities of the Republic of Uzbekistan should ensure application of the broadest possible range of sanctions against financial institutions and their managers (except for the banking sector).</p>
<p>3.11 Money or value transfer services (SR.VI)</p>	<p>Uzbekistan should take measures to prevent MVT related activities carried outside the formal financial system.</p> <p>It is also necessary to correct all flaws and deficiencies in the AML/CFT measures in the banking and postal system, which are also applicable in the context of bank and postal money transfers.</p>
<p><b>4. Preventive Measures – Non-Financial Businesses and Professions</b></p>	

4.1 Customer due diligence and record-keeping (R.12)	DNFBPs should comply with all requirements of Recommendations 5, 6, 8, 10 and 11. It is necessary to complete establishment of internal control system in these organizations.
4.2 Suspicious transaction reporting (R.16)	The Republic of Uzbekistan should address of shortcomings in the implementation of Recommendations 13-15 and 21 in relation to DNFBPs, in particular: <ul style="list-style-type: none"> <li>- establish procedure for determining whether attempted transactions are suspicious,</li> <li>- consider arrangement of training and screening of employees,</li> <li>- develop and communicate to DNFBPs a list of countries not participating in the international AML/CFT cooperation (non-cooperative countries), ensure examination of history and purposes of business relations with persons from such countries, retention of examination findings and access thereto and also introduce requirements in the Internal Control Rules for filing information on transactions with such persons.</li> </ul>
4.3 Regulation, supervision and monitoring (R. 24-25)	<p>Recommendation 24</p> <p>It is necessary to effectively monitor the activities of dealers in precious metals and precious stones and other DNFBPs for compliance with AML/CFT measures. The Department should have adequate resources for performing the supervisory functions.</p> <p>Recommendation 25</p> <p>The supervisory authorities should issue sector-specific guidelines for DNFBPs, which will facilitate more effective compliance with their respective obligations, including description of new ML/FT trends and typologies. Such guidelines should be developed with due consideration for the specificities of activities of the supervised persons.</p>
4.4 Other non-financial businesses and professions (R.20)	This Recommendation is fully observed.
<b>5. Legal Persons and Arrangements &amp; Non-Profit Organizations</b>	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<p>Uzbekistan should apply the existing system of legal entities registration for the AML/CFT purposes.</p> <p>Uzbekistan should establish measures for identifying and verifying information on beneficial ownership of legal persons.</p>
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	Not applicable.
5.3 Non-profit organizations	Uzbekistan should review effectiveness of the established

(SR.VIII)	<p>system of control and monitoring of the NPO sector for the AML/CFT purposes.</p> <p>Uzbekistan should include the issues related to abuse of the sector for ML/FT purposes in the regular outreach programs to the NPO sector.</p> <p>Uzbekistan should establish special mechanisms for exchanging information on NPOs at the international level in case AM/FT suspicions arise.</p>
<b>6. National and International Co-operation</b>	
6.1 National co-operation and co-ordination (R.31)	Non-public nature of the activity of the Coordination Committee and classified nature of inter-agency agreements does not allow to fully assess their effectiveness.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<p>Recommendation 35</p> <p>The Republic of Uzbekistan should criminalize ML in compliance with the requirements of the Palermo and Vienna Conventions.</p> <p>The Republic of Uzbekistan should fully implement provisions of:</p> <ul style="list-style-type: none"> <li>- article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of acts of theft of nuclear material and unlawful acts against the safety of fixed platforms located on the continental shelf;</li> <li>- the Vienna and Palermo Conventions and the UN International Convention for the Suppression of the Financing of Terrorism as regards the international cooperation.</li> </ul> <p>The Republic of Uzbekistan should modify the description of the offence in Article 155 such as to comply with the provisions of the UN International Convention for the Suppression of the Financing of Terrorism.</p> <p>The Republic of Uzbekistan should ratify the Agreement of the Member States of the Commonwealth of Independent States on Countering Money Laundering and Financing of Terrorism signed on October 5, 2007 in Dushanbe city.</p> <p>Special Recommendation I</p> <p>The Republic of Uzbekistan should implement the requirements of Article 2 (1) (a) of the International Convention for the Suppression of the Financing of Terrorism as regards criminalization of acts of theft of nuclear material and unlawful acts against the safety of fixed platforms located on the</p>

	<p>continental shelf;</p> <p>The Republic of Uzbekistan should take appropriate measures to fully meet the requirements of UN Security Council Resolution 1267 (1999), 1333 (2000), 1363 (2001), 1390 (2002), 1455 (2003), and 1526 (2004).</p>
6.3 Mutual Legal Assistance (R. 36-38, SR.V)	<p>Uzbekistan should introduce a mechanism to determine the best venue for the prosecution of defendants in the interests of justice related to cases subject to prosecution in more than one country.</p> <p>Uzbekistan should consider the issue related to permission for sharing confiscated property with other countries when confiscation is directly or indirectly a result of coordinated law enforcement actions.</p>
6.4 Extradition (R.37 & 39, & SR.V)	<p>These requirements are fully complied with.</p>
6.5 Other Forms of International Co-operation (R.40, & SR.V)	<p>Uzbekistan should enhance the international AML/CFT cooperation of the supervisory authorities and the FIU.</p> <p>The existing mechanisms of international cooperation are not actively used.</p>
<b>7. Other Issues</b>	
7.1 Resources and statistics (R. 30 & 32)	<p>The supervisory agencies should be adequately staffed for performing the AML/CFT supervision functions.</p> <p>Specialized AML/CFT units should be established in the Ministry of Internal Affairs, the Customs and the National Security Service.</p> <p>Uzbekistan should hold ML/FT typology workshops with participation of the FIU, supervisory authorities and private sector representatives. Taking into account the fact that DNFBPs in the Republic of Uzbekistan are less prepared for the AML/CFT measures compared to the banking sector, special attention should be paid to the outreach activities to DNFBPs.</p> <p>Investigators, prosecutors and judges working on ML and FT cases should be trained on a regular basis.</p> <p>It is necessary to maintain statistics on the amount of property frozen under the UN Security Council Resolutions.</p> <p>A separate statistics on offences described in Article 155 “Terrorist Financing” should be maintained.</p> <p>Statistical data on criminal cases, including those considered by courts (with guilty verdicts), compiled by the Interior Ministry</p>

	<p>should be segregated into a separate category that covers ML and FT-related offences. The value of assets seized or confiscated in the course of investigations should also be reflected.</p> <p>It is necessary to maintain statistics on MLA requests in relation to ML, TF and the predicate offences, and also on the nature of the requests, their results and response time.</p> <p>It is necessary to maintain statistics on inspections conducted and sanctions applied by the supervisory authorities (does not apply to the Central Bank).</p>
--	---

**Table 3. Authorities' Response to the Evaluation (if necessary)**

Relevant sections and paragraphs	Country comments
Overall Report	

## ANNEXES

### Annex 1. List of Abbreviations

AML	Anti-Money Laundering
CB	Central Bank
CC	Criminal Code
Center	Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan
CIVC	Civil Code
CDD	Customer Due Diligence
CIS	Commonwealth of Independent States
Conventions	Vienna and Palermo Conventions
CPC	Criminal Procedure Code
CSTO	Collective Security Treaty Organization
Department	Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office
Directorate	AML/CFT Directorate of the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office
DNFBP	Designated Non-Financial Businesses and Professions
EAG	Eurasian Group on Combating Money Laundering and Financing of Terrorism
FATF	Financial Action Task Force
FI	Financial Institution
FIU	Financial Intelligence Unit
GDP	Gross Domestic Product
Goscomimuschestvo	State Property Committee of the Republic of Uzbekistan
ICR	Internal Control Rules
IMF	International Monetary Fund



IMU	Islamic Movement of Uzbekistan
LRU	Law of the Republic of Uzbekistan
MER	Mutual Evaluation Report
MFA	Ministry of Foreign Affairs
MIA	Ministry of Internal Affairs
ML	Money laundering
MLA	Mutual Legal Assistance
MOF	Ministry of Finance
MOJ	Ministry of Justice
NSS	National Security Service
NPO	Non-Profit Organization
OSCE	Organization for Security and Cooperation in Europe
PEP	Politically Exposed Persons
RUz	Republic of Uzbekistan
RUzC&IA	Communication and Information Agency of the Republic of Uzbekistan
RLA	Regulatory Legal Acts (Regulations)
SCC	State Customs Committee
SCO	Shanghai Cooperation Organization
STC	State Tax Committee of the Republic of Uzbekistan
STR	Suspicious Transaction Report
TF	Terrorist Financing/Financing of Terrorism
TIN	Taxpayer Identification Number
UN	United Nations Organization
UNSCR	United Nations Security Council Resolution
USRCO	Uniform State Register of Companies and Organizations

## **Annex 2. Details of all Bodies Met on the On-Site Mission**

### **Ministries and other Government Authorities**

Ministry of Finance of the Republic of Uzbekistan

Ministry of Justice of the Republic of Uzbekistan

Ministry of Foreign Affairs of the Republic of Uzbekistan

Supreme Court of the Republic of Uzbekistan

### **Investigation and Law Enforcement Bodies and Public Prosecutor's Office**

Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the Uzbekistani General Prosecutor's Office

General Prosecutor's Office of the Republic of Uzbekistan

Ministry of Internal Affairs of the Republic of Uzbekistan

National Security Service of the Republic of Uzbekistan

State Tax Committee of the Republic of Uzbekistan

State Customs Committee of the Republic of Uzbekistan

### **Financial Sector Bodies**

Central Bank of the Republic of Uzbekistan

Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan

### **Other Government Bodies**

Communication and Information Agency of the Republic of Uzbekistan

National Information and Analytical Center on Drugs Control under the Cabinet of Ministers of the Republic of Uzbekistan

Sate Assay Office of the Precious Metals Agency with the Central Bank of the Republic of Uzbekistan

### **Private Sector Representatives and Associations**

Banking Association of the Republic of Uzbekistan

Commercial Banks

Credit Unions

National Stock Exchange

Uzbekiston Pochtasi company

Notaries

Insurance Companies

Auditors

Lotteries

### **Annex 3. Key Laws, Regulations and other Documents**

**LAW  
OF THE REPUBLIC OF UZBEKISTAN  
No.660-II Dated 26.08.2004**

**ON COUNTERACTING LEGALIZATION  
OF PROCEEDS FROM CRIME AND  
FINANCING OF TERRORISM**

This Law is effective since January 1, 2006  
pursuant to RUz Oliy Majlis Resolution No.661-II dated 26.08.2004

As amended by RUz Law No.ZRU-212 dated 22.04.2009

- I. General Provisions (Articles 1–3)
- II. Organization of anti-money laundering and combating the financing of terrorism (Articles 4–10)
- III. Transactions with funds or other assets and institutions carrying out such transactions (Articles 11-17)
- IV. Information related to anti-money laundering and combating the financing of terrorism (Articles 18-21)
- V. Closing provisions (Articles 22-24)

#### **I. GENERAL PROVISIONS**

Article 1. Goal of the Law

Article 2. Legislation on Anti-Money Laundering and Combating the Financing of Terrorism

Article 3. Money Laundering and Financing of Terrorism

##### **Article 1. Goal of this Law**

The goal of this Law is to regulate relations arising in the area of anti-money laundering and combating the financing of terrorism.

##### **Article 2. Legislation on Anti-Money Laundering and Combating the Financing of Terrorism**

The legislation on anti-money laundering and combating the financing of terrorism consists of this Law and other laws and regulations.

When an international treaty of the Republic of Uzbekistan sets rules different from those provided for by the legislation of the Republic of Uzbekistan on anti-money laundering and combating the financing of terrorism, the international treaty's rules shall apply.

##### **Article 3. Money Laundering and Financing of Terrorism**

Money laundering is a socially malign action, subject to criminal prosecution, which legitimates the origin of property (funds or other assets) through its transfer, conversion, exchange

as well as the concealment or withholding of a true nature, source, location, way of disposal, movement, genuine rights with regard to funds or other assets or with regard to their owner when the funds or other assets were obtained through criminal activities.

Financing of terrorism is a socially malign action, subject to criminal prosecution, which is aimed at supporting the existence and activities of a terrorist organization, preparing and committing terrorist acts and providing or raising, in direct or indirect manner, funds, material resources and other services to terrorist organizations or to individuals who support or are involved in terrorist activities (as amended by RUz Law No.ZRU-212 dated 22.04.2009).

## **II. ORGANIZATION OF ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM**

Article 4. Measures Aimed at Anti-Money Laundering and Combating the Financing of Terrorism

Article 5. Control Exercised by Specially Designated Government Agency

Article 6. Internal Control

Article 7. Customer Due Diligence Measures

Article 8. Specially Designated Government Agency

Article 9. Powers of Specially Designated Government Agency

Article 10. Binding Nature of Decisions Made by Specially Designated Government Agency

### **Article 4. Measures Aimed at Anti-Money Laundering and Combating the Financing of Terrorism**

The measures aimed at anti-money laundering and combating the financing of terrorism include the following:

control exercised by the specially designated government agency (as amended by RUz Law No.ZRU-212 dated 22.04.2009).;

internal control;

identification customer due diligence measures (as amended by RUz Law No.ZRU-212 dated 22.04.2009).

### **Article 5. Control Exercised by Specially Designated Government Agency**

Control exercised by the specially designated government agency is a combination of measures undertaken by the specially designated government agency to verify the information submitted by institutions engaged in transactions with funds or other assets as well as to exercise other powers in accordance with this Law.

### **Article 6. Internal Control**

Internal control is the activities performed by the institutions engaged transactions with funds or other assets in order to detect transactions subject to mandatory reporting to the specially designated government agency (as amended by RUz Law No.ZRU-212 dated 22.04.2009).

The internal control activities shall include determining the procedure for recording the required information, ensuring its confidentiality, qualification requirements to staff training and education, as well as criteria for detecting and identifying signs of the transactions with funds or other assets subject to mandatory reporting to the specially designated government agency (as amended by RUz Law No.ZRU-212 dated 22.04.2009).

The internal control rules for institutions engaged in transactions with funds or other assets shall be developed and approved by respective oversight, licensing and registration authorities jointly with the specially designated government agency or, whether they do not exist, by the specially designated government agency (as amended by RUz Law No.ZRU-212 dated 22.04.2009).

Monitoring and control over compliance with the internal control rules shall be exercised by the authorities that have adopted these rules and also by the specially designated government authority (paragraph is added by RUz Law No.ZRU-212 dated 22.04.2009).

### **Article 7. Customer Due Diligence Measures** (as amended by RUz Law No.ZRU-212 dated 22.04.2009)

Institutions engaged in transactions with funds or other assets shall independently undertake due diligence measures with respect to customers when:

establishing business and civil relations in cases specified in the internal control rules;  
carrying out occasional transactions with funds or other assets in cases specified in the internal control rules;

carrying out suspicious transactions;

having doubts about veracity of previously obtained customer identification data.

Customer due diligence measures undertaken by institutions engaged in transactions with funds or other assets shall necessarily include:

verification of the identity and authority of a customer and persons represented by him based on the appropriate documents;

identification of beneficial owner or a person controlling a customer – a legal entity – through examination of the ownership and management structure based of constituent documents;

conducting ongoing due diligence of the business relations and transactions with funds or other assets carried out by a customer in order to verify their consistency with in information on such customer and his activities.

### **Article 8. Specially Designated Government Agency**

The specially designated government agency appointed by the Cabinet of Ministers of the Republic of Uzbekistan shall exercise control over the transactions with funds or other assets for the purposes of anti-money laundering and combating the financing of terrorism in accordance with the procedure established by this Law

Article 9 was suspended from 28.04.2007 till 23.04.2009 by RUz Law No.ZRU-94 dated 27.04.2007 (the said Law ceased to be in force since 23.04.2009 in compliance with RUz Law No.ZRU-212 dated 22.04.2009)

### **Article 9. Powers of Specially Designated Government Agency**

The specially designated government agency shall:

coordinate the work of institutions involved in transactions with funds or other assets and authorities engaged in anti-money laundering and combating the financing of terrorism;

analyze the data on transactions with funds or other assets obtained in accordance with this Law;

when there are sufficient grounds, forward information on transactions with funds or other assets related to money laundering and financing of terrorism to the appropriate authorities

engaged in anti-money laundering and combating the financing of terrorism (as amended by RUz Law No.ZRU-212 dated 22.04.2009);

send warrants to suspend transactions with funds or other assets for not more than two business days, if obtained information, based on results of verification, is considered justified (as amended by RUz Law No.ZRU-212 dated 22.04.2009);

request and obtain, free of charge, information necessary for counteracting money laundering and terrorist financing, including information from computer databases and information systems (as amended by RUz Law No.ZRU-212 dated 22.04.2009);

exercise other powers in accordance with the legislation.

#### **Article 10. Binding Nature of Decisions Made by Specially Designated Government Agency**

Decisions made by the specially authorized government body with regard to anti-money laundering and combating the financing of terrorism shall be mandatory for execution for ministries, government committees and agencies, local public authorities, companies, institutions, organizations, as well as for officers and individuals.

### **III. TRANSACTIONS WITH FUNDS OR OTHER ASSETS AND INSTITUTIONS CARRYING OUT SUCH TRANSACTIONS**

Article 11. Transactions with Funds or Other Assets

Article 12. Institutions Engaged in Transactions with Funds or Other Assets

Article 13. Transactions with Funds or Other Assets Subject to Reporting to Specially Designated Government Agency

Article 14. Transactions with Funds or Other Assets Subject to Reporting to Specially Designated Government Agency in Special Circumstances

Article 15. Obligations of Institutions Engaged in Transactions with Funds or Other Assets

Article 16. Refusal to Perform Transactions with Funds or Other Assets

Article 17. Transactions with Funds or Other Assets in Foreign Currency

#### **Article 11. Transactions with Funds or Other Assets**

Actions taken by legal and natural persons with regard to funds or other assets aimed at establishing, modifying or terminating their property rights and obligations constitute transactions with money or other property.

#### **Article 12. Institutions Engaged in Transactions with Funds or Other Assets**

(as amended by RUz Law No.ZRU-212 dated 22.04.2009)

The institutions performing transactions with funds or other assets shall be the following:

banks, credit unions, and other credit institutions;

professional securities market participants;

stock exchange members;

insurers and insurance brokers;

institutions providing leasing services;

institutions conducting funds transfers, payments and settlements;

pawnshops;

institutions conducting lotteries and other risk-based games;

dealers in precious metals and precious stones

persons providing services and engaged in transactions related to purchase and sale of real estate;

notary offices (notaries), law firms (lawyers) and audit organizations – when preparing and carrying out transactions on behalf of clients.

**Article 13. Transactions with Funds or Other Assets Subject to Reporting to Specially Designated Government Agency**

(as amended by RUz Law No.ZRU-212 dated 22.04.2009)

Transactions with funds or other assets in the course of their preparation and execution shall be subject to reporting to the specially designated government authority if institutions engaged in transactions with funds or other assets qualify such transactions suspicious when performing internal control.

Suspicious transaction shall mean a transaction with funds or other assets being in the process of preparation, implementation or that has already been carried out, which in compliance with the criteria and indicators specified in the internal control rules raised suspicions as being conducted for money laundering or terrorist financing purposes.

Transaction with funds or other assets where one of the parties of transaction is a person residing, located or registered in a country that does not participate in the international AML/CFT cooperation shall also be subject to reporting to the specially designated government agency.

**Article 14. Transactions with Funds or Other Assets Subject to Reporting to Specially Designated Government Agency in Special Circumstances**

(as amended by RUz Law No.ZRU-212 dated 22.04.2009)

Transactions with funds or other assets shall be subject to reporting to the specially designated government agency and to suspension under this Law when there is information obtained in the established manner that one of the parties to such transactions is:

a legal or natural person engaged or suspected to be engaged in terrorist activities;

a legal or natural person which, directly or indirectly, owns or controls an institution engaged or suspected to be engaged in terrorist activities;

a legal person owned or controlled by a natural person or institution that is engaged or suspected to be engaged in terrorist activities.

**Article 15. Obligations of Institutions Engaged in Transactions with Funds or Other Assets**

(as amended by RUz Law No.ZRU-212 dated 22.04.2009)

Institutions engaged in transactions with funds or other assets shall:

undertake customer due diligence measures;

upon detection of suspicious transactions with funds or other assets subject to reporting to the specially designated government agency, provided this agency with the information on such transactions in an established manner not later than one business day following the detection day;

suspend transactions with funds or other assets specified in Article 14 hereof, except for transactions on depositing funds on the account held by a legal or natural person, for three business days from the day when such transaction must have been performed and inform the specially designated government agency about such transaction on the day of its suspension. When the specially designated government agency does not issue a warrant to suspend the transaction with funds or other assets upon the expiry of the specified period, the institution



carrying out transactions with funds or other assets shall resume performance of the suspended transaction;

introduce and implement internal control procedures.

Article 16 was suspended from 28.04.2007 till 23.04.2009 by RUz Law No.ZRU-94 dated 27.04.2007 (the said Law ceased to be in force since 23.04.2009 in compliance with RUz Law No.ZRU-212 dated 22.04.2009)

#### **Article 16. Refusal to Perform Transactions with Funds or Other Assets**

Institutions carrying out transactions with funds or other assets shall refuse to legal or natural persons to perform their transactions when such legal or natural persons failed to submit the documents required for identification, except for the transactions on depositing money received for the account of such legal or natural person.

#### **Article 17. Transactions with Funds or Other Assets in Foreign Currency**

When transactions with funds or other assets are carried out in foreign currency, the amount of such transactions shall be determined in the national currency in accordance with the procedure established by the legislation.

### **IV. INFORMATION RELATED TO ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM**

Article 18. Provision of Information Related to Anti-Money Laundering and Combating the Financing of Terrorism

Article 19. Ensuring Information Confidentiality and Security

Article 20. Restricted Access to the Information Related to Anti-Money Laundering and Combating the Financing of Terrorism and Non-Disclosure of Such Information

Article 21. Retention of Information on Transactions with Funds or Other Assets and Identification Data and Customer Due Diligence Records

#### **Article 18. Provision of Information Related to Anti-Money Laundering and Combating the Financing of Terrorism**

The procedure for providing information related to anti-money laundering and combating the financing of terrorism to the specially designated government agency as well as the procedure for informing institutions carrying out transactions with funds or other assets about legal or natural persons engaged or suspected to be engaged in terrorist or other criminal activities shall be established by the Cabinet of Ministers of the Republic of Uzbekistan.

Disclosure, in the established manner, of information on transactions with funds or other assets of legal and natural persons to the designated government agency shall not constitute a violation of commercial, bank or other secrecy protected by the law (paragraph is added by RUz Law No.ZRU-212 dated 22.04.2009)

#### **Article 19. Ensuring Information Confidentiality and Security**

The specially designated government agency and its staff shall ensure confidentiality and security of data constituting commercial, bank or other secrets that have become known to them.

The staff of the organizations engaged in transactions with funds or other assets, the specially designated government agency, and other authorities engaged in anti-money laundering and combating the financing of terrorism shall have no right to tip-off legal and natural persons about control performed in relation to them (as amended by RUz Law No.ZRU-212 dated 22.04.2009).

#### **Article 20. Restricted Access to the Information Related to Anti-Money Laundering and Combating the Financing of Terrorism and Non-Disclosure of Such Information**

Institutions engaged in transactions with funds or other assets, the specially designated government agency, and other authorities engaged in anti-money laundering and combating the financing of terrorism shall, in a manner established by the legislation, restrict access to the information related to anti-money laundering and combating the financing of terrorism and shall ensure non-disclosure of such information.

#### **Article 21. Retention of Information on Transactions with Funds or Other Assets and Identification Data and Customer Due Diligence Records**

Institutions engaged in transactions with funds or other assets shall retain information on transactions with funds or other assets as well as identification data and customer due diligence records for a time period established by the legislation, but for not less than five years from a date of completion of such transactions or termination of business relations with customers.

### **V. CLOSING PROVISIONS**

Article 22. International Cooperation on Anti-Money Laundering and Combating the Financing of Terrorism

Article 23. Dispute Settlement

Article 24. Liability for Breaching the Legislation on Anti-Money Laundering and Combating the Financing of Terrorism

#### **Article 22. International Cooperation on Anti-Money Laundering and Combating the Financing of Terrorism**

International cooperation on anti-money laundering and combating the financing of terrorism shall be carried out in accordance with the legislation and international treaties of the Republic of Uzbekistan.

The specially designated government agency shall be authorized to request the competent authorities of foreign countries to share the required information and also to respond to inquiries of the competent authorities of foreign countries (paragraph is added by RUz Law No.ZRU-212 dated 22.04.2009)

#### **Article 23. Dispute Settlement**

Disputes in the area of anti-money laundering and combating the financing of terrorism shall be settled in accordance with the procedure established by the legislation.

#### **Article 24. Liability for Breaching the Legislation on Anti-Money Laundering and Combating the Financing of Terrorism**

Persons found guilty for breaching the legislation on anti-money laundering and combating the financing of terrorism shall be held liable in accordance with the established procedure.

President of the Republic of Uzbekistan

I.Karimov

“Corpus of Legislative Acts of the Republic of Uzbekistan”  
2004, No.43, page 451

Vedomosti of Oliy Majlis of the Republic of Uzbekistan  
2004, No.9, page 160

## **STATUTE**

### **on Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the General Prosecutor's Office of Republic of Uzbekistan**

As amended by Decree of the President  
of Republic of Uzbekistan No.UP-4148 dated 12.10.2009

#### **I. GENERAL**

1. This Statute specifies legal framework for the activities, objectives and functions, system and organizational structure, powers and responsibilities of the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the General Prosecutor's Office of Republic of Uzbekistan.

2. The Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the General Prosecutor's Office of Republic of Uzbekistan (hereinafter – the Department) is:

independent specialized law enforcement agency under the General Prosecutor's Office of Republic of Uzbekistan, the main goal of which is to arrange for and implement operational, analytical and detective efforts aimed at combating fiscal and foreign currency crimes and offences, money laundering and terrorist financing, as well as to undertake efforts for recovering economic damages caused by such crimes;

designated state authority on counteracting legalization of proceeds from criminal activities and financing of terrorism (AML/CFT). The resolutions passed by the Department within its terms of reference as established by the law are binding upon the ministries, government committees, agencies, local authorities, businesses, institutions and organizations as well as upon officials and citizens.

3. The Department activity is governed by the Constitution of Republic of Uzbekistan, Decrees, Resolutions and Orders of the President of Republic of Uzbekistan, Resolutions and Decrees of the Government of Republic of Uzbekistan, Resolutions of the Chambers of the Oliy Majlis (Parliament) of Republic of Uzbekistan as well as by this Statute.

4. Continuity and consistency of legal proceedings aimed at detection and deterrence of fiscal and foreign currency crimes, starting from institution of criminal proceedings through criminal court proceedings, is ensured by close cooperation and coordination between the Department and its territorial divisions and the prosecution authorities of all levels involved in investigation of economic, fiscal and foreign currency crimes and crimes associated with legalization (laundering) proceeds from criminal activities and financing of terrorism, as well as in pressing official charges in court.

5. The Department divisions are staffed with highly skilled and qualified experts (economists, legal experts and IT specialists) who have practical experience of working in law enforcement, supervision and oversight agencies and have analytical capabilities, information analysis skills, high integrity and other professional and personal qualifications necessary for working in the financial intelligence.

6. The Department is an independent legal entity, has its own settlement, current and other bank accounts and seal with the national emblem of Republic of Uzbekistan and full name of the Department.

## **II. MAIN OBJECTIVES OF THE DEPARTMENT**

7. The main objectives of the Department are:

detecting, deterring and preventing fiscal and foreign currency crimes and offences in a timely manner, monitoring compliance with the AML/CFT legislation;

enforcing the state fiscal policy, broadening the taxation base, increasing the coverage of taxpayers and completeness of taxpayer records, timely detecting and eliminating possible channels and mechanisms for tax avoidance and evasion, shadow economy mechanisms, and corruption;

monitoring completeness and objectivity of accounting for and reporting of foreign currency transactions; preventing smuggling, illegal importation or exportation of foreign currencies, their illicit circulation, and other foreign exchange offences;

establishing a modern financial intelligence system; arranging for and conducting monitoring of transactions with funds and other assets detect possible channels and mechanisms for money laundering and terrorist financing; efficient reporting to the relevant law enforcement units on detected crimes and offences for purposes of criminal prosecution and imposition of administrative sanctions;

establishing and maintaining a unified computer database containing information on detected fiscal and foreign exchange crimes and offences, cash or asset transactions subject to mandatory control under the AML legislation, as well as on entities and persons engaged in such criminal activities;

cooperating and exchanging information with competent authorities of other countries, international specialized foreign exchange regulators in matters of AML/CFT pursuant to the international commitments and agreements/treaties of Republic of Uzbekistan;

conducting a wide-reaching information (outreach and awareness) and prevention campaign on issues of the fiscal policy and foreign exchange regulation as well as on prevention of violation of the AML legislation.

## **III. MAIN FUNCTIONS AND AREAS OF ACTIVITY OF THE DEPARTMENT**

8. In compliance with the tasks assigned to it, the Department performs the following functions:

### **8.1. Combating fiscal crimes and offences**

reviewing and detecting mechanisms (schemes) of concealment of production output, profits (revenues), underreporting of volumes of sold products, goods (work, services), sales of unaccounted (without supporting documents) products (goods) by business entities, avoidance of registration with the state tax authorities responsible for registration legal and natural persons engaged in commercial activities;

verifying correctness of calculation, completeness and timeliness of payment of taxes and other budget payments by business entities.

### **8.2. Combating foreign currency crimes**

taking actions to detect, deter and prevent foreign currency transaction offences;

reviewing and detecting illegal circulation of foreign currencies, their concealment and smuggling channels, as well as avoidance/evasion of mandatory sale of foreign currency;

detecting and deterring instances of payment of wages and making settlements in foreign currencies by residents and non-residents on the territory of the Republic.

### **8.3. Anti-money laundering and combating of terrorist financing**

monitoring, as envisaged by the law, transactions with funds or other assets;

coordinating activities of organizations carrying out transactions with funds or other assets and authorities engaged in the AML/CFT efforts;

arranging for and conducting review and analysis of reports filed by credit and other financial institutions on transactions with funds or other assets carried out by legal and natural persons to detect their possible implication in money laundering and financing of extremism (terrorism);

analyzing forms and methods used for legalization (laundering) proceeds from criminal activities and rendering financial and other support to terrorist organizations, as well as data and information on natural and legal persons suspected to be engaged in terrorist activity;

ensuring monitoring of compliance by legal and natural persons with the AML/CFT legislation;

#### ***classified information;***

cooperating and exchanging information with competent authorities of other countries in matters of AML/CFT pursuant to the international agreements/treaties of Republic of Uzbekistan.

### **8.4. Detective activities**

arranging for information and analytical support and coordination of detective efforts undertaken by the Department;

monitoring organization of detective activities of the territorial divisions of the Department.

### **8.5. Investigation**

instituting criminal proceedings, arranging for and conducting pre-prosecutorial investigations of financial, economic and fiscal crimes and offences as well as money laundering and terrorist financing cases;

monitoring the investigative efforts undertaken by the territorial divisions of the Department.

### **8.6. Organizational support, monitoring and coordination of activities**

arranging for the development and implementation of scheduled, unscheduled (ad-hock) and other actions to detect, deter and prevent fiscal and economic offences, including foreign currency transaction offences, and money laundering;

coordinating and monitoring (inter alia through departmental inspections) activities carried out by the territorial divisions of the Department to ensure proper fulfillment of their respective functions and duties;

providing methodological guidance for enhancing effectiveness of the efforts undertaken by the Department and its territorial divisions, developing relevant methodological guidelines and proposals;

summarizing legislative practice aimed at ensuring economic security of Republic of Uzbekistan, developing and submitting proposals to the General Prosecutor on improvement of laws and other regulations of Republic of Uzbekistan;

keeping statistics and accounting records on the matters related to the activities of the Department and its territorial divisions;

providing information and analytical support of the operational efforts;

collecting information about, conducting in-depth analysis of, and assessing violations of the fiscal, foreign currency and AML/CFT legislation, submitting proposals to the relevant authorities on improvement of the financial, economic and tax regulatory and legal framework and

also on elimination of root causes and environment that facilitate economic, fiscal and foreign currency crimes;

informing the management of the General Prosecutor's Office about the results achieved and problems faced in combating economic crime and in the AML/CFT efforts.

#### **8.7. Human resources**

arranging for selection and assignment of personnel and establishment of a succession pool of the Department and its local divisions; monitoring proper performance of duties, observance of discipline and current law abidance by the employees of the Department and its territorial divisions;

undertaking administrative measures to ensure healthy staff morale in the Department and its territorial divisions, arranging for professional training, re-training and social protection of the employees;

arranging for personnel training, including training in new advanced technologies.

#### **8.8. Information and analytical support**

maintaining a unified centralized computer database containing information on AML/CFT, fiscal and foreign exchange crimes and offences, as well as on persons committed them;

#### **8.9. Awareness and outreach**

undertaking systematic efforts to raise the level of knowledge of law and legal awareness of the population, and to promote understanding by people the need to comply with the constitutional provisions and current financial and economic legislation.

### **IV. RIGHTS AND OBLIGATIONS OF THE DEPARTMENT AND ITS TERRITORIAL DIVISIONS**

9. In compliance with the assigned tasks and performed functions the Department and its territorial divisions have authority to:

request in an established manner and obtain free of charge from the ministries, government committees, agencies, local authorities, businesses, institutions and organizations, irrespective of form of ownership and subordination, officials, citizens and persons involved in foreign economic activities located on the territory of Republic of Uzbekistan data, information, records and documents required by the Department for performing the functions assigned to it, unless a special procedure of obtaining such information is established by the law. Information received by the Department is used only for authorized purposes and may not be disclosed;

summon citizens of Republic of Uzbekistan, foreign nationals and persons without citizenship for taking statements, explanations and receiving information on matters within its terms of reference from such persons;

check and verify, in an established manner, relevant documents of citizens and officials, if there are reasonable grounds to suspect them in committing fiscal and foreign currency crimes and crimes associated with money laundering and terrorist financing;

obtain, in a manner established by the law, access to telecommunications facilities and computer databases of institutions engaged in transactions with funds or other assets, as well as obtain access to documents of taxpayers, if distortion of information in the tax and other compulsory budget payment accounting and reporting documents is revealed, or if such persons are implicated in money laundering and financing of terrorism;

conduct inspections of compliance with the AML/CFT legislation of Republic of Uzbekistan by legal and natural persons;

conduct, in a manner established by the legislation, ad-hock audits of the financial and business operations carried out by business entities possibly implicated in money laundering and

financing of terrorism – in exceptional reasonably justified situations, upon approval by the Republic Council for Coordination of Oversight Authorities Activities;

if there is reliable information on committed fiscal and foreign currency crimes, participate jointly with the state tax authorities in inspections and audits of financial and business operations of business entities listed in the Plan of the Republic Council for Coordination of Oversight Authorities Activities;

inspect production, warehousing, commercial and other premises and facilities of business entities (taxpayers) used for deriving profits (revenues) or for supporting taxable objects irrespective of form of their ownership and location, take inspection measurements of performed work and rendered services, and conduct physical inventory of commodities and materials;

take samples of goods, materials, products, raw materials and semi-fabricated products and also documents for conducting analysis, examinations and expert evaluations and assessments;

perform, in compliance with the legislation, functions assigned to the foreign currency control authorities and agents;

pass resolutions on suspension of transactions with funds or other assets for a time period and in a manner specified in the legislation;

if there are reasonable grounds, file information on funds or other assets transactions associated with money laundering and terrorist financing with the relevant AML/CFT authorities for, inter alia, institution of criminal proceedings or imposition of administrative sanctions;

conduct pre-prosecutorial investigations and institute criminal proceedings;

consider, in a manner established by the legislation, administrative offence cases and impose administrative penalties;

give instructions to the ministries, government committees, agencies, local authorities, companies, institutions and organizations to eliminate root causes and environment that facilitate violation of the law;

cooperate and exchange information with foreign organization on issues related to combating foreign currency, financial and economic offences, including the AML/CFT issues, pursuant to the international agreements/treaties of Republic of Uzbekistan;

***classified information;***

submit proposals to the General Prosecutor on establishing, if necessary, permanent or temporary interagency AML/CFT expert groups;

engage, inter alia on a contractual basis, research and other organizations and specialist for conducting relevant expert evaluations, developing training programs, methodological guidelines, software and information support, creating financial monitoring information systems, subject to keeping state and other legally protected secrets confidential;

the Department employees also have other rights envisaged by the legislation of Republic of Uzbekistan.

AML/CFT information is obtained, summarized, analyzed, verified and stored, and orders on suspension of transactions with funds or other assets are issued only by the Directorate on Counteracting Legalization of Proceeds from Criminal Activities and Financing of Terrorism (AML/CFT Directorate).

Territorial divisions of the Department are not authorized to receive reports, issue orders and requests concerning funds or other asset transactions related to AML/CFT.

***10. Classified information***

11. The Department staff shall keep the state, official, commercial secrets, information of deposits of natural persons and other information obtained by them in course of performance of their duties confidential. An employee shall be held liable in accordance with the law for disclosing secrets.



12. The General Prosecutor and prosecutors subordinated to him ensure monitoring of compliance by the Department and its territorial divisions with the established procedure of registration and consideration of incoming reports and statements, conducting inspections, investigations and associated legal proceedings, legitimacy of decisions taken following tax audits and other issues falling within the prosecutor's terms of reference.

## **V. STRUCTURE AND ORGANIZATION OF ACTIVITY OF THE DEPARTMENT**

13. The Department is headed by the Department Head appointed by the President of Republic of Uzbekistan. The status of the Department Head is equal to that of a Deputy General Prosecutor.

The Department Head has three Deputies including one First Deputy. The First Deputy is at the same time the head of General Information and Analytical Directorate (GIAD). The main functions of GIAD include planning of the main activities of the Department; routine monitoring of their implementation; summarizing materials for submission to the Department management.

Deputy Department Heads are appointed by the General Prosecutor as advised by the Department Head and upon approval by the President of Republic of Uzbekistan.

Heads of the territorial (local) departments and their deputies as well as heads of district (city) divisions are appointed by the General Prosecutor as advised by the Department Head.

14. The structural divisions of the Department constitute a unified centralized system and operate on the basis of subordination and reporting of lower level officers to the higher level officers and to the General Prosecutor of Republic of Uzbekistan.

In compliance with the powers vested in it, the Department performs monitoring of the entire range of activities and operations carried out by its territorial divisions.

## **VI. COOPERATION WITH THE PROSECUTION AUTHORITIES**

15. The General Prosecutor's Office and its local offices are assigned with the following tasks:

timely investigation of criminal cases related to violation of the economic, fiscal and foreign currency legislation and the ML/FT crimes and their earliest possible submission to court with the purpose of minimization of a time period of consideration of a criminal case, starting from its initiation through court ruling;

supervision of law abidance and compliance with the provisions of the Criminal, Criminal Procedure, Civil and Civil Procedure Codes and other regulations in course of combating economic, fiscal, foreign currency, money laundering and terrorist financing crimes.

16. Within a time period established by the General Prosecutor of Republic of Uzbekistan, the Department ensures submission of reporting, information and statistical documents on the results of the activities of the Department and its territorial divisions and on legality in the taxation and foreign currency spheres, and also the AML/CFT-related information.

17. The Department current and long-term actions plans are developed in coordination with the General Prosecutor of Republic of Uzbekistan based on the information on legality in the foreign currency regulation, taxation and budget payment areas and also with consideration for the information filed in compliance with the AML/CFT legislation.

18. Orders and directives of the General Prosecutor issued within the terms of his reference as well as resolutions passed by the Board of the General Prosecutor's Office of Republic of Uzbekistan on matters related to organization of activities of the Department and its territorial divisions are binding upon all employees of the Department and its territorial divisions.

19. Procedure for coordination of the efforts undertaken jointly by the Department and its territorial divisions and the prosecution authorities to enhance rule of law in the fiscal, budget and foreign currency regulation areas as well as to prevent ML/FT crimes and ensure inevitability of punishment for crimes and offences in these spheres is approved by the General Prosecutor of Republic of Uzbekistan.

## **VII. COOPERATION WITH STATE TAX AUTHORITIES AND FOREIGN CURRENCY CONTROL AUTHORITIES AND AGENTS**

20. The Department cooperates with the state tax authorities and foreign currency control authorities and agents in the following areas:

detecting, preventing and deterring fiscal and foreign currency offences, arranging for audits in line with monthly, quarterly and annual preventive action plans;

assisting the state tax inspectorates in achieving the planned targets, recovering arrears in respect of taxes and other compulsory payments to the budget;

providing the foreign currency control authorities and agents with information on foreign currency offences;

conducting joint surprise inspections to detect, prevent and deter fiscal and foreign currency offences;

provision by the tax authorities information on detected offences and other critical information to the Department divisions;

21. Cooperation is also carried out in other areas in an established manner with consideration for the objectives, functions and duties of the Department.

## **VIII. COOPERATION WITH AUTHORITIES AND AGENCIES ENGAGED IN AML/CFT EFFORTS**

22. The Department cooperates with the authorities and agencies engaged in the AML/CFT efforts in the following areas:

detecting, preventing and deterring ML/FT-related offences and implementing appropriate preventive measures;

obtaining from credit and other financial institutions, in a manner established by the law, information on transactions with funds or other assets for detecting their possible implication in financing of extremism (terrorism);

providing, in a prescribed manner, institutions carrying out transactions with funds or other assets and authorities engaged in AML/CFT efforts with information on legal or natural persons involved or suspected in ML/FT activities;

implementing joint actions aimed at detection, prevention and deterrence of ML/FT activities;

exchanging critical information.

23. Cooperation is also carried out in other areas in an established manner with consideration for the objectives, functions and duties of the Department.

## **IX. COOPERATION WITH OTHER LAW ENFORCEMENT AGENCIES**

24. As part of coordination of the law enforcement efforts aimed at consolidation of legality and combating crime, the Department Head with the approval by the General Prosecutor of Republic of Uzbekistan:

interacts with the relevant departments of other law enforcement agencies, develops and implements current and long-term programs for combating fiscal and foreign currency crimes, money laundering and terrorist financing;

ensures cooperation with other prosecution departments in the entire range of issues to procedurally support investigation of instituted criminal proceedings in connection with fiscal, foreign currency, money laundering and terrorist financing crimes;

in cooperation with the prosecution authorities, oversees criminal proceedings instituted by the Department and its territorial divisions starting from their institution and investigation through consideration in court and court ruling;

jointly with other law enforcement agencies, takes efforts to share operational information, as well as to detect and detain persons who evaded taxes, committed fiscal and foreign currency crimes and are implicated in ML/FT activities;

exchanges information with the law enforcement agencies on offences in this area.

## **X. LIABILITY OF DEPARTMENT EMPLOYEES**

25. The Department employees are held liable, in a manner established by the legislation of the Republic of Uzbekistan, for non-performance or improper performance of their functional duties.

26. Imposition of disciplinary sanctions on the Department employees is governed by the law of the Republic of Uzbekistan and the Regulation on Service in the Department on Combating Fiscal & Foreign Currency Crimes and Money Laundering under the General Prosecutor's Office of the Republic of Uzbekistan.

## **XI. ESTABLISHMENT AND LIQUIDATION OF THE DEPARTMENT**

27. The President of Republic of Uzbekistan establishes and liquidates the Department.

## **Annex 4. List of Key Law, Regulations and Other materials Provided to Evaluation Team**

### **Constitution and Codes**

1. Constitution of Uzbekistan
2. Civil Code
3. Administrative Liability Code
4. Criminal Code
5. Criminal Procedure Code
6. Customs Code
7. Tax Code

### **Laws**

8. Law of the Republic of Uzbekistan “On Regulatory Legal Acts” No.160-II dated 14.12.2000
9. Law of the Republic of Uzbekistan “On Acceding the United Nations Convention Against Corruption (New York, October 31, 2003)” No.ZRU-158 dated July 7,2008
10. Law of the Republic of Uzbekistan “On Postal Service” No.118-II dated 31.08.2000
11. Law of the Republic of Uzbekistan “On Counteracting Legalization of Proceeds from Crime and Financing of Terrorism” N0.660-II dated 26.08.2004
12. Law of the Republic of Uzbekistan “On the Central Bank of the Republic of Uzbekistan” No.154-I dated 21.12.1995
13. Law of the Republic of Uzbekistan “On Combating Terrorism” No.167-II dated 15.12.2000
14. Law of the Republic of Uzbekistan “On State Customs Service” No.472-I dated 29.08.1997
15. Law of the Republic of Uzbekistan “On Courts of Law” No.924-XII dated 02.09.1993
16. Law of the Republic of Uzbekistan “On Prosecution Office” No.746-XII dated 09.12.1992
17. Law of the Republic of Uzbekistan “On Joint Stock Companies and Protection of Shareholders’ Rights”
18. Law of the Republic of Uzbekistan “On Economic Partnerships”
19. Law of the Republic of Uzbekistan “On Limited and Additional Liability Companies”
20. Law of the Republic of Uzbekistan “On Private Company”
21. Law of the Republic of Uzbekistan “On Credit Unions”
22. Law of the Republic of Uzbekistan “On Microcredit Institutions”
23. Law of the Republic of Uzbekistan “On Farm”
24. Law of the Republic of Uzbekistan “On Dekhan Farm”
25. Law of the Republic of Uzbekistan “On Insurance Activity” (when signing and executing commercial contracts) No. 358-II dated 05.04.2002
26. Law of the Republic of Uzbekistan “On Securities Market”
27. Law of the Republic of Uzbekistan “On Stock Exchanges and Exchange Activity” No. 625-XII dated 02.07.1992
28. Law “On the Central Bank” No. 39/1 dated 29.12.2009
29. Law “On Detective Operations”
30. Law of the Republic of Uzbekistan “On Foreign Currency Regulation”
31. Law of the Republic of Uzbekistan “On Bank Secrecy”

32. Law of the Republic of Uzbekistan “On Banks and Banking Activity”
33. Law “On Accounting”
34. Law “On Credit Unions”
35. Law “On Microcredit Institutions”
36. Law of the Republic of Uzbekistan “On Counteracting Legalization of Proceeds from Crime and Financing of Terrorism”
37. Law on “Insurance Activity”
38. Law of the Republic of Uzbekistan “On Social Funds”

### **Other Regulations**

39. Order of the Uzbekiston Pochtasi company No.307 dated 29.11.05 “On Temporary Procedure for Providing Electronic Wire Transfer Service”
40. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.176 dated 16.08.2007 “On Further Regulation of Organization and Operation of Gambling Activities”
41. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.483 dated 19.10.2004 “On Organization of Activity of the State Committee of the Republic of Uzbekistan on Land Resources, Geodesy, Carthorgaphy and State Cadastre”
42. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.357 dated August 20, 2003 “On Application Based State Registration and Recording of Business Entities”
43. Resolution of the President of the Republic of Uzbekistan No.PP-357 dated May 24, 2006 “On Application Based State Registration and Recording of Business Entities”
44. Resolution of the President of the Republic of Uzbekistan No. PP-331 dated 21.04.2006 “On Enhanced Measures to Combat Financial, Economic and Tax Crimes and Money Laundering”
45. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.553 dated 23.11.1992 “On Approval of Regulation on the Ministry of Finance of the Republic of Uzbekistan”
46. Decree of the President of the Republic of Uzbekistan No.UP-3346 dated 31.10.2003 “On Improvement of Precious Metals Procurement, Storage and Sales System”
47. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.126 dated 30.03.1996 “On Issues Pertaining to Organization of Activities of the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan”
48. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.370 dated 27.08.2003 “On Further Improvement of Activities of the Ministry of Justice of the Republic of Uzbekistan”
49. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.215 dated 07.05.2004 “On Measures to Improve Activities of the Communication and Information Agency of the Republic of Uzbekistan”
50. Resolution of the President of the Republic of Uzbekistan No.PP-335 dated 26.04.2006 “On Measures to Improve Activity of the State Property Committee of the Republic of Uzbekistan”
51. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.278 dated 02.11.1991 “On the national Security Service of the Republic of Uzbekistan”
52. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.270 dated 25.10.1991 “On the Ministry of Internal Affairs of the Republic of Uzbekistan”

53. Resolution of the President of the Republic of Uzbekistan No.PP-458 dated 31.08.2006 “On Further Improvement of the Activities of the Department Related to Enforcement of Court Rulings and Provision of Logistics and Financial Support to Courts under the Ministry of Justice of the Republic of Uzbekistan”
54. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.229 dated 30.04.1994 “On Establishing the State Drugs Control Committee of the Republic of Uzbekistan”
55. Regulation “On Procedure of State Registration and Recording of Business Entities and Issuance of Permits”
56. Resolution of the President of the Republic of Uzbekistan No.PP-357 dated May 24, 2006 “On Application Based State Registration and Recording of Business Entities”
57. Resolution of Oliy Majlis of the Republic of Uzbekistan No.536-II dated 30.08.2003 “On Ratification of the United Nations Convention against Transnational Organized Crime”
58. Resolution of Oliy Majlis of the Republic of Uzbekistan No. ZRU-146 dated 09.04.2008 on Acceding of Uzbekistan to the International Convention for the Suppression of Acts of Nuclear Terrorism
59. Resolution of the President of the Republic of Uzbekistan No.UP-3619 dated 14.06.2005 “On Further Improvement of Legal protection of Business Entities”
60. Resolution of the Cabinet of Ministers No. 272 dated 12.10.2009
61. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.291 dated 06.07.2001 “On Enhanced Measures to Combat Economic and Tax Crimes”
62. Resolution No.86 dated 2004 (the Resolution was not presented)
63. Order of the State Customs Committee No.203 dated 16.06.2008
64. Resolution of the Cabinet of Ministers No.416 dated 30.09.2003 “On Further Improvement of Monitoring of Export-Import Operations”
65. Order of the State Customs Committee No.140 dated 21.05.2009
66. Order No.98 dated 31.03.2003
67. Resolution N.23/6, 32 dated October 13, 2009 as amended by the Resolution of the Board of the Central Bank and the Department No.2023-1 dated 02.02.2010 registered by the Ministry of Justice
68. Resolution N.23/5, 31 dated October 13, 2009 as amended by the Resolution of the Board of the Central Bank and the Department No.2023-1 dated 02.02.2010 registered by the Ministry of Justice
69. Resolution of the Center for Coordination and Control of Securities Market and the Department No.2009-43,83 dated October 13, 2009
70. Resolution of the Ministry of Finance of the Republic of Uzbekistan and the Department No.104,41 dated October 13, 2009
71. Resolution of the State Property Committee of the Republic of Uzbekistan and the Department No.01/19-18/24,43 dated October 13, 2009
72. Resolution of the Department No.34 dated October 13, 2009
73. Resolution of the Communication and Information Agency of the Republic of Uzbekistan and the Department No.10-8/4270 dated October 13, 2009
74. Resolution of the Board of the Central Bank No.1(25/4) dated 06.10.2001 – “Instruction on Bank Accounts Opened in Banks of the Republic of Uzbekistan”
75. Resolution of the Board of the Central Bank No.7/2 dated 16.03.2009 – “Instruction on Bank Accounts Opened in Banks of the Republic of Uzbekistan”
76. Decree of the President of the Republic of Uzbekistan No.UP-2079 dated 23.09.1998
77. Decree of the President of the Republic of Uzbekistan No.UP-3968 dated 20.02.2008

78. Decree of the President of the Republic of Uzbekistan No.UP-4148 dated 12.10.2009 “On Annulment of Decrees No.UP-2079 and No.UP-3968”
79. AML/CFT Internal Control Rules for Commercial Banks No.23/6 and 32 dated October 13, 2009
80. AML/CFT Internal Control Rules for Non-Bank Credit Institutions No.23/5 and 31 dated October 13, 2009
81. Instruction of the Central Bank of the Republic of Uzbekistan “On Bank Accounts Opened in Banks of the Republic of Uzbekistan” approved by Resolution of the Board of the Central Bank No.7/2 dated 16.03.2009
82. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.250 dated June 30, 2000 “On Further Liberalization of Foreign Currency Market and Extension of Currency Exchange Transactions”
83. Resolution of the Central Bank No.505 (No.5/1) dated 20.02.2002
84. Resolution of the Central Bank of the Republic of Uzbekistan No.231 dated 05.09.1998
85. Resolution of the Central Bank of the Republic of Uzbekistan No.11/3 dated 14.04.2007
86. Order of the General Director of the Center for Coordination and Control of Securities Market with the State Property Committee of the Republic of Uzbekistan No.2009-12 dated 11.02.2009
87. Regulation No.1545 dated 14.02.2006 “On Wire Transfers via the Interbank Payment System of the Central Bank”
88. Regulation on procedure for monitoring soundness of foreign currency transactions carried out by legal and natural persons dated 12.09.2003 (approved on 12.09.2009 by Resolution No.2003-67 of the State Tax Committee, Resolution No.01-02/19-36 of the State Customs Committee and Resolution No.240-V of the Central Bank Board).
89. Resolution of the cabinet of Ministers of the Republic of Uzbekistan No.280 “On Further Reduction of Non-Banking Cash Turnover”
90. Regulation “On Procedure of Providing by Commercial Banks of Electronic Information on Large Funds Turnover to the State Tax Committee”
91. Regulation No.1281 dated 04.10.2003 “On Procedure of Monitoring Validity of Foreign Currency Transactions Carried out by Legal and Natural Persons”
92. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.102 dated 24.03.2004
93. Resolution of the Board of the Central Bank No.23/3 dated 15.08.2009
94. Order of the General Prosecutor of the Republic of Uzbekistan No.3-OR dated 12.11.2009
95. Order of the Head of the Department No.4-OR dated 01.12.2009
96. Resolution of the Board of the Central Bank of the Republic of Uzbekistan No. 277 dated 22.05.1999
97. Regulation of the Central Bank No.39/1 dated 29.12.2009 “On Measures and Sanctions Applied by the Central Bank against Banks, Credit Unions, Microcredit Institutions and Pawnshops for Violation of the AML/CFT Legislation”
98. Regulation No.630 dated 11.02.1999 “On Bank Registration and Licensing Procedure”
99. Regulation No.573 dated 19.12.1998 “On Procedure of Changing Size of Authorized Capital, Shareholding Structure, Name and Location, Registration of Modifications in the Charter of a Bank”
100. Regulation No.1641 dated 14.11.2006 “On Procedure of Establishing by the Central Bank of the Republic of Uzbekistan Qualification Requirements for Nominees to the Positions of Top Manager and Chief Accountant and Members of Management Board of

Commercial Banks and their Branches and Senior Managers of Governing Bodies of Credit Unions and Microcredit Institutions”

101. Internal Control Rules for dealers in precious metals and precious stones. (Adopted by Order No.36 dated October 13, 2009 of the Department, hereinafter ICR for dealers in precious metals and precious stones)
102. Internal Control Rules for persons providing services and engaged in transactions related to purchase and sale of real estate. (Adopted by Order No.35 dated October 13, 2009 of the Department, hereinafter ICR for real estate agents)
103. Internal Control Rules for notary offices and law firms. (Adopted by Resolution No.10 dated October 13, 2009 of the Ministry of Justice of the Republic of Uzbekistan and Order No.39 dated October 13, 2009 of the Department, hereinafter ICR for notary offices and law firms)
104. Internal Control Rules for audit organizations. (Adopted by Resolution No.102 dated October 13, 2009 of the Ministry of Finance of the Republic of Uzbekistan and Order No.42 dated October 13, 2009 of the Department, hereinafter ICR for audit organizations)
105. Order of the general Prosecutor No.3-OR dated 12.11.2009
106. Order of the Head of the Department No.4-OR dated 01.12.2009
107. Resolution of the President of the Republic of Uzbekistan No.PP-1090 dated April 6, 2009 “On Additional Measures on Stimulation of Attraction of Free Funds of Population and Business Entities to Deposits of Commercial Banks”
108. Resolution of the Cabinet of Ministers of Uzbekistan No.357 dated 20.08.2003 “On Principal Improvement of Registration System for Organization of Business Activities”
109. Decree of the President of the Republic of Uzbekistan No. UP-3619 dated 14.06.2005 "On Measures of Further Improving the System of Legal Protection of Business Entities"
110. Resolution of Oliy Majlis of the Republic of Uzbekistan No.225-II dated May 12, 2001
111. Order of the General Prosecutor of the Republic of Uzbekistan No.65 dated 27.11.2006 approving the “Instruction on Arrangement of Record Management and Control over Handling of Documents by the Prosecution Authorities of the Republic of Uzbekistan”.
112. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 499 dated 25.10.2004 “On Regulation of Contributions to Non-Budgetary Funds of Ministries and Agencies”
113. Order of the General Prosecutor of the Republic of Uzbekistan No.26 dated 22.06.2004 “On Improvement of Prosecutor’s Supervision of Law Enforcement in International Legal Cooperation Sphere”
114. Instruction of the Central B No.1 (25/4) dated 06.10.2001 “On Bank Accounts Opened in Banks of the Republic of Uzbekistan”



## **Annex 5**

### *Status of Implementation of the Vienna Convention, the Palermo Convention and the UN International Convention for the Suppression of the Financing of Terrorism:*

1) Provisions of Articles 3-11, 15, 17 and 19 of the Vienna Convention are implemented in the following legislative acts and regulations:

a) Article 3 (Offences and Sanctions) – in Articles 12, 30, 64, 73, 243, 246, 270-276 of the Criminal Code of the Republic of Uzbekistan.

All offences and crimes covered by the above mentioned Articles are punishable by imprisonment from 6 months up to 25 years.

Circumstances aggravating punishment provided for in the above Articles of the Criminal Code of Uzbekistan are consistent with the provisions of Part 3 of Article 3 of the Vienna Convention.

b) Article 4 (Jurisdiction) – in Articles 11-13 of the Criminal Code of the Republic of Uzbekistan.

c) Article 5 (Confiscation):

- with regard to confiscation of proceeds derived from offences involving illicit trafficking of narcotic drugs or psychotropic substances – in Articles 211, 284 and 285 of the Criminal Procedure Code of the Republic of Uzbekistan;

- with regard to seizure of property (assets) – in Article 290 of the Criminal Procedure Code of the Republic of Uzbekistan;

- with regard to rendering mutual legal assistance – in Articles 5-10 of the Criminal Procedure Code of the Republic of Uzbekistan and in the international MLA agreements signed by the Republic of Uzbekistan;

d) Article 6 (Extradition) – in Articles 8-10 of the Criminal Procedure Code of the Republic of Uzbekistan.

e) Article 7 (Mutual Legal Assistance) - in the international MLA agreements signed by the Republic of Uzbekistan.

f) Article 8 (Transfer of Proceedings) - in the international MLA agreements signed by the Republic of Uzbekistan.

g) Article 9 (Other Forms of Cooperation and Training) - in the international MLA agreements signed by the Republic of Uzbekistan.

h) Article 10 (International Cooperation and Assistance for Transit States) - in the international MLA agreements signed by the Republic of Uzbekistan.

i) Article 11 (Controlled Delivery) – in Section VIII of the Customs Code of the Republic of Uzbekistan, in the Law On Narcotic Drugs and Psychotropic Substances, and in the international MLA agreements signed by the Republic of Uzbekistan.

j) Article 15 (Commercial Carriers) – in Article 246 of the Criminal Code and in Articles 9-10 of the Customs Code of the Republic of Uzbekistan.

k) Article 17 (Illicit Traffic by Sea) – in the current legislation of the Republic of Uzbekistan.

l) Article 19 (The Use of the Mails) – in Articles 166, 167 of the Criminal Procedure Code of the Republic of Uzbekistan.

2) Provisions of Articles 5-7, 10-16, 18-20, 24-27, 29-31 and 34 of the Palermo Convention are implemented in the following legislative acts and regulations:

a) Article 5 (Criminalization of Participation in an Organized Criminal Group) – in Articles 28, 29, 30 and 56 of the Criminal Code of the Republic of Uzbekistan.

b) Article 6 (Criminalization of the Laundering of Proceeds of Crime) – in Article 243 of the Criminal Code of the Republic of Uzbekistan.

c) Article 7 (Measures to Combat Money-Laundering) – in the AML/CFT Law of the Republic of Uzbekistan.

d) Article 10 (Liability of Legal Persons) – in Article 53 of the Civil Code and in Article 29 of the Law on Combating Terrorism of the Republic of Uzbekistan.

e) Article 11 (Prosecution, Adjudication and Sanctions) – in Articles 11-13 of the Criminal Code of the Republic of Uzbekistan.

f) Article 12 (Confiscation and Seizure) – in Articles 211, 284, 285, 289, 290-295 of the Criminal Procedure Code of the Republic of Uzbekistan.

g) Article 13 (International Cooperation for Purposes of Confiscation) - in the international MLA agreements signed by the Republic of Uzbekistan.

h) Article 14 (Disposal of Confiscated Proceeds of Crime or Property) - in the international MLA agreements signed by the Republic of Uzbekistan.

i) Article 15 (Jurisdiction) – in Articles 11-13 of the Criminal Code of the Republic of Uzbekistan.

j) Article 16 (Extradition) – in Articles 8-10 of the Criminal Procedure Code and in the international MLA agreements signed by the Republic of Uzbekistan.

k) Article 18 (Mutual Legal Assistance) - in the international MLA agreements signed by the Republic of Uzbekistan.

l) Article 19 (Joint Investigations) – in Article 5 of the Criminal Procedure Code and in the international agreements signed by the Republic of Uzbekistan.

m) Article 20 (Special Investigative Techniques) – in the current legislation of the Republic of Uzbekistan.

n) Article 24 (Protection of Witnesses) – in Article 19 of the Criminal Procedure Code of the Republic of Uzbekistan.

o) Article 25 (Assistance to and Protection of Victims) – in the Criminal Procedure Code of the Republic of Uzbekistan.

p) Article 26 (Measures to Enhance Cooperation with Law Enforcement Authorities) – in Article 5 of the Criminal Procedure Code of the Republic of Uzbekistan and in the international MLA agreements.

q) Article 27 (Law Enforcement Cooperation) – in Article 5 of the Criminal Procedure Code of the Republic of Uzbekistan and in the international MLA agreements.

r) Article 29 (Training and Technical Assistance) – in the legislative acts and regulations of the Republic of Uzbekistan.

s) Article 30 (Other Measures: Implementation of the Convention through Economic Development and Technical Assistance) - in the legislative acts and regulations of the Republic of Uzbekistan.

t) Article 31 (Prevention) - in the legislative acts and regulations of the Republic of Uzbekistan.

u) Article 34 (Implementation of the Convention) – in Articles 28, 29, 30 и 56, 210-214, 236 (partially with regard to judges) and 243 of the Criminal Code of the Republic of Uzbekistan.

3) Provisions of Articles 2-18 of the UN International Convention for the Suppression of the Financing of Terrorism (1999) are implemented in the following legislative acts and regulations:

a) Article 2 – in Article 155 of the Criminal Code of the Republic of Uzbekistan; see also review of SR.II.

- b) Article 3 – in Articles 11-13 of the Criminal Code of the Republic of Uzbekistan.
- c) Article 4 – in Article 155 of the Criminal Code of the Republic of Uzbekistan; see also review of SR.II.
- d) Article 5 – in Article 29 of the Law on Combating Terrorism of the Republic of Uzbekistan.
- e) Article 6 - in Articles 51, 53 of the Criminal Code and in Article 20 of the Law on Combating Terrorism of the Republic of Uzbekistan.
- f) Article 7 - in Articles 11-13 of the Criminal Code of the Republic of Uzbekistan.
- g) Article 8 - in Articles 9 and 15 of the AML/CFT Law of the Republic of Uzbekistan; see also review of R.3.
- h) Article 9 – in the Criminal Procedure Code of the Republic of Uzbekistan.
- i) Article 10 - in Articles 6-10 of the Criminal Procedure Code of the Republic of Uzbekistan.
- j) Article 11 - in Articles 6-10 of the Criminal Procedure Code of the Republic of Uzbekistan.
- k) Article 12 – in the international MLA agreements of the Republic of Uzbekistan.
- l) Article 13 - in the international MLA agreements of the Republic of Uzbekistan.
- m) Article 14 - in Article 10 of the Criminal Procedure Code and in the international MLA agreements of the Republic of Uzbekistan.
- n) Article 15 - in the international MLA agreements of the Republic of Uzbekistan.
- o) Article 16 – in the Criminal Procedure Code and in the international MLA agreements of the Republic of Uzbekistan.
- p) Article 17 - in the Criminal Procedure Code and in the international MLA agreements of the Republic of Uzbekistan.
- q) Article 18 – in the AML/CFT Law of the Republic of Uzbekistan.

## **Annex 6**

### *Status of Implementation of the UN Security Council Resolutions:*

#### *Resolution 1267 (1999):*

No information related to subparagraph “a” of paragraph 4 is available.

Provisions of item “b” of paragraph 4 are implemented under Article 14 of the AML/CFT Law according to which transactions with money or other property shall be reported to the designated governmental authority and shall be suspended when there is information obtained in the established manner that one party to these transaction is:

a legal entity or an individual engaged or suspected to be engaged in terrorist activities;

a legal entity or an individual that, directly or indirectly, owns or controls the organization engaged or suspected to be engaged in terrorist activities;

a legal entity owned or controlled by an individual or organization that is engaged or suspected to be engaged in terrorist activities.

#### *Resolution 1333 (2000):*

Information related to subparagraphs “a”, “b”, and “c” of paragraph 5, paragraph 7, subparagraphs “a” and “b” of paragraph 8, and paragraphs 10, 11 and 14 is not available.

Provisions of subparagraph “c” of paragraph 8 are implemented under Article 14 of the AML/CFT Law.

#### *Resolution 1363 (2001):*

Information related to paragraph 8 is not available.

#### *Resolution 1373 (2001):*

Provisions of subparagraph “a” of paragraph 1 are implemented under the AML/CFT Law.

Provisions of subparagraphs “b” and “d” of paragraph 1 are implemented under Article 155 of the Criminal Code of the Republic of Uzbekistan.

Provisions of subparagraph “c” of paragraph 1 are implemented under Articles 9 and 14 of the AML/CFT Law.

Provisions of paragraph 2 are implemented under the Law on Combating Terrorism, the AML/CFT Law and Article 155 of the Criminal Code of the Republic of Uzbekistan.

Provisions of paragraph 2 are implemented under the Law on Combating Terrorism, Criminal Procedure Code and the international agreements of the Republic of Uzbekistan.

#### *Resolution 1390 (2002):*

Provisions of subparagraph “a” of paragraph 2 are implemented under Article 14 of the AML/CFT Law.

Information related to subparagraphs “b” and “c” of paragraph 2 and paragraph 8 is not available.

#### *Resolution 1455 (2003):*

Information related to paragraphs 1, 5 and 6 is not available.

#### *Resolution 1526 (2004):*

Information related to paragraphs 4, 5, 17 and 22 is not available.

## Annex 7

Uzbekistan has signed:

17 bilateral agreements on mutual legal assistance and legal relations with: Azerbaijan, Bulgaria - 2, Georgia, India, Pakistan, Kazakhstan, China, Korea, Kyrgyzstan, Latvia, Lithuania, Malaysia, Turkey, Turkmenistan, Ukraine, and Czech Republic.

7 bilateral agreements on extradition with: Bulgaria, India, Iran, China, Korea, Pakistan, and Tajikistan.

3 bilateral agreements of transfer of convicted offenders for serving the sentences with: Azerbaijan, Georgia, and Ukraine.

31 agreements on cooperation in combating organized crime, international terrorism and other especially dangerous crimes: with the Government of the Russian Federation on cooperation in combating crime (Tashkent, July 27, 1995) and on cooperation in combating illicit trafficking of narcotic drugs and psychotropic substances (Moscow, March 12, 1997); with the Government of Ukraine on cooperation in combating crime (Tashkent, July 20, 1995) and with the Cabinet of Ministers of Ukraine on cooperation in combating illicit trafficking of narcotic drugs, psychotropic substances and precursor (Tashkent, October 12, 2000); with the Government of Kyrgyz Republic on cooperation in combating crime (Tashkent, July 9, 1999) and on cooperation in combating illicit trafficking of narcotic drugs, psychotropic substances and precursor (Tashkent, July 9, 1999); with the Government of the Islamic Republic of Pakistan on cooperation in combating illicit trafficking of narcotic drugs, psychotropic substances and chemical precursor (Tashkent, October 19, 1996) and with the Government of the Islamic Republic of Pakistan on cooperation in combating terrorism (Tashkent, October 19, 1996).

Besides that, Uzbekistan signed the memorandum with the Government of the Islamic Republic of Iran on cooperation in combating organized crime and terrorism (Teheran, 11 June 2000) and on cooperation in combating illicit trafficking narcotic drugs and psychotropic substances (Teheran, 11 June 2000).

Uzbekistan also signed agreements: with the Government of the Republic of Turkey on cooperation in combating illicit trafficking narcotic drugs, psychotropic substances and terrorism (Tashkent, April 5, 1993); with the Government of the Republic of Georgia on cooperation in combating crime (Tashkent, September 4, 1995); with the Government of the Federal Republic of Germany on cooperation in combating organized crime, terrorism and other especially dangerous crimes (Bonn, November 16, 1995); with the Government of Turkmenistan on cooperation in combating illicit trafficking narcotic drugs, psychotropic substances and their abuse (Tashkent, November 27, 1996); with the Government of the Czech Republic on cooperation in combating crime (Tashkent, June 17, 1998); with the Government of the Republic of Kazakhstan on cooperation in combating crime (Tashkent, October 10, 1998); with the Government of the Republic of Bulgaria on cooperation in combating crime (Tashkent, May7, 1999) and on cooperation in combating illicit trafficking of narcotic drugs, psychotropic substances, their abuse and illicit trafficking of precursors (Sofia, November 24, 2003); with the Government of the Republic of Tajikistan on cooperation in combating terrorism, political, religious and other extremism, illicit trafficking of narcotic drugs and psychotropic substances (Khojkiyent, May 26, 1999); with the Government of the Republic of Azerbaijan on cooperation in combating crime (Baku, July 25, 2000); with the Government of the Italian Republic on cooperation in combating organized crime, terrorism and illicit trafficking of narcotic drugs and psychotropic substances (Rome, November 21, 2000); with the Government of the Republic of Moldova on cooperation in combating crime (Chisinau, December 19, 2000); with the Government of the Republic of Poland on cooperation in combating organized crime (Tashkent, October 21, 2002); with the Government

of the Republic of Austria on security cooperation and cooperation in combating crime (Tashkent, November 2, 2001); with the Government of the Republic of Lithuania on cooperation in combating crime (Tashkent, February 18, 2002); with the People's Republic of China on cooperation in combating terrorism, separatism and extremism (Tashkent, September 4, 2003); with the Government of the Republic of India on cooperation in combating international terrorism (New Delhi, February 3, 2003); with the Government of the State of Kuwait on cooperation in combating crime (Al Kuwait, January 19, 2004). Uzbekistan also signed the Memorandum for security cooperation in combating terrorism (Kuala Lumpur, October 2005). Besides that, Uzbekistan signed the agreement with the Government of the United Arab Emirates on cooperation in combating organized crime, terrorism and other dangerous crimes (Abu Dhabi, March 17, 2008, ratified by Law No.ZRU-173 dated 09.04.2008) and agreement with the Government of the Arab Republic of Egypt on cooperation in combating organized crime and terrorism (Cairo, April 18, 2007).

## **Annex 8**

The Law Enforcement Agencies of Uzbekistan signed 20 inter-agency agreements:

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Azerbaijan dated June 18, 1997;

Protocol of coordination and interaction between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Azerbaijan dated September 6, 2007, Baku;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Armenia dated February 17, 1995, Minsk;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Belarus dated June 4, 1998, Tashkent;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of Georgia dated May 23, Tashkent;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Kazakhstan dated April 24, 1995, Bishkek;

Agreement between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Kazakhstan on cooperation, coordination and interaction in border regions dated September 8, 2000, Cholpon-Ata;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Kyrgyzstan dated May 13, 1992, Osh;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Kyrgyzstan dated April 24, 1995, Bishkek;

Agreement between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Kyrgyzstan on cooperation, coordination and interaction in border regions dated January 15, 1998, Andijan;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Russian Federation dated June 4, 1998, Tashkent;

Agreement between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Federal Drug Control Service of the Russian Federation on cooperation in combating illicit trafficking of narcotic drugs, psychotropic substances and control of precursors dated November 14, 2005, Tashkent;

Protocol of coordination and interaction between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Russian Federation dated September 6, 2007, Baku;

Protocol of intent on extension of cooperation between the Chief Investigations Directorate of the Ministry of Internal Affairs of the Republic of Uzbekistan and the Investigative Committee of the Ministry of Internal Affairs of the Russian Federation dated May 22, 2001;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Tajikistan dated February 26, 1993, Tashkent;

Agreement between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Tajikistan on cooperation in combating crime on transport dated February 4, 1998;

Agreement between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Tajikistan on cooperation in combating illicit trafficking of narcotic drugs and psychotropic substances dated February 4, 1998, Dushanbe;

Agreement between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of the Republic of Tajikistan on cooperation in border regions dated February 4, 1998, Dushanbe;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of Turkmenistan dated February 17, 1994, Ashkhabad;

Agreement on cooperation between the Ministry of Internal Affairs of the Republic of Uzbekistan and the Ministry of Foreign Affairs of Ukraine dated October 21, 1992, Kiev;

Besides that, Uzbekistan is the party to 20 agreements signed under the auspices of the Council of Ministers of Internal Affairs of the CIS Member States:

Agreement on coordination and interaction among the Ministries of Internal Affairs of the CIS Member States in combating crime dated April 24, 1992, Alma-Ata;

Agreement of cooperation among the Ministries of Internal Affairs in the area of logistics support dated August 3, 1992, Cholpon-Ata;

Agreement on interrelations among the Ministries of Internal Affairs in information exchange area dated August 3, 1992, Cholpon-Ata;

Agreement on cooperation among the Ministries of Internal Affairs in combating illicit trafficking of narcotic drugs and psychotropic substances dated October 21, 1992, Kiev;

Agreement on cooperation among the Ministries of Internal Affairs in forensic support of operations dated May 13, 1993, Yerevan;

Agreement on traffic safety dated September 24, 1993, Volgograd;



Agreement on cooperation among the Ministries of Internal Affairs in returning minor children to their home countries dated September 24, 1993, Volgograd;

Agreement on cooperation among the Ministries of Internal Affairs in combating organized crime dated February 17, 1994, Ashkhabad;

Agreement on procedure of extradition and transit of detained persons dated February 17, 1994, Ashkhabad;

Agreement of cooperation in en route escort and protection by the internal affairs (police) personnel of high-value and special cargoes in transit through the territory of other countries dated February 17, 1994, Ashkhabad;

Agreement among the Ministries of Internal Affairs on medical services and health resort treatment dated February 17, 1995, Minsk;

Standard agreement on cooperation between the internal affairs agencies in border regions dated February 17, 1995, Minsk;

Agreement on cooperation among the Ministries of Internal Affairs in ensuring fire safety dated June 16, 1995, Tbilisi;

Agreement on cooperation among the Ministries of Internal Affairs in the economic area dated June 16, 1995, Tbilisi;

Agreement on cooperation among the Ministries of Internal Affairs in combating crime on transport dated October 25, 1995, Yerevan;

Agreement of among the Ministry of Justice of the Republic of Azerbaijan, the Ministry of Internal Affairs and National Security of the Republic of Armenia, the Ministries of Internal Affairs of the Republic of Belarus, Georgia, the Republic of Kazakhstan, Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and Turkmenistan in the penitentiary sphere dated September 12, 1997, Baku;

Agreement of cooperation in special support of detective operations dated December 18, 1998, Moscow;

Agreement of cooperation in combating illicit trafficking of alcohol products dated June 5, 1999, Astana;

Agreement on cooperation among the Ministries of Internal Affairs in combating terrorism dated September 8, 2000, Cholpon-Ata;

Resolution of the CIS Council of Ministers of Internal Affairs “On Approval of Instruction on Uniform Procedure of Inter-State Search for Wanted Persons” dated April 21, 2006, Dushanbe