

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED  
BY MOLDOVA**

**ARTICLE 14 UNCAC**

**PREVENTION OF MONEY-LAUNDERING**

**MOLDOVA (SIXTH MEETING)**

The money laundering offence was introduced in September 2002 and was subsequently repealed with the entry into force of a new Criminal Code on 12 June 2003. The provision which is now in force - article 243 of the Criminal Code - adequately reflects the moral and material elements required by international standards. All designated predicate offences are covered in the Criminal Code, except for the offence of insider dealing (penalized since 24/11/2006). Penalties, which apply to both natural and legal persons, are in line with international practices; however the scope of corporate criminal liability is limited to commercial legal entities. The Republic of Moldova has developed the criminal legislation since the 3rd round evaluation by bringing the money laundering offence more in line with the Vienna and Palermo Conventions. The money laundering offence, which was reformulated according to this standard, is generally understood and actually interpreted by practitioners so as to cover the laundering by the author of the predicate offence (self-laundering).

Article 279 of the Criminal Code on “financing of and materials support for terrorist acts” covers both domestic and international terrorism. The terrorism financing offence now addresses the general concept of financing of terrorist organisations and individual terrorists. It was also positively noted that the Moldovan criminal substantive law appears to cover all offences within the scope of the nine treaties listed in the Annex to the TF convention. Provisional measures and confiscation are provided for in the newly adopted Criminal Procedure Code, which entered into force in June 2003. The fundamental principles of the constitution are thus unchanged and so is the structure by which the general rules of confiscation are provided in the Criminal Code (CC). Sequestration (i.e. seizure of goods) as the main provisional measure is prescribed in the Code of Criminal Procedure (CCP).

Articles 7 and 9 of the AML Law provided that the Centre for Combating Economic Crimes and Corruption (CCCEC), now re-named as National Anticorruption Center (NAC), had the overall responsibility for the enforcement of the law, for the co-ordination of activities conducted by the AML/CFT authorities, as well as for international co-operation in this field. In 2003, the Office for Prevention and Control of Money Laundering (OPCML), a specialized section of the CCCEC, took over the function of Financial Intelligence Unit, which was exercised since November 2001 by a special section of the Public Prosecutor’s Office. The OPCML was officially established on 15 September 2003 and at the moment has a staff of 17 permanent officials. Notwithstanding the fact that the OPCML continues to be situated within the operational structure of the NAC, the AML/CFT Law now provides for the establishment of the

OPCML as an independent subdivision with powers and functions which are clearly distinct from those of the NAC.

Several authorities have responsibilities in the field of investigation and prosecution of money laundering and the financing of terrorism offences, namely the CCCEC, the Ministry of Internal Affairs, the Information and Security Service (SIS), the Prosecutor's Office. The CCCEC investigates laundering cases uncovered as part of its own inquiries into predicate offences and may place an important role in ML offences launched by the Police. The Ministry of Internal Affairs and the SIS mainly retain responsibility for terrorist financing cases. The Prosecutor's Office directs and supervises criminal investigations carried out by the law enforcement agencies and has exclusive responsibility for investigating money laundering cases committed by specific categories of persons (president, members of Parliament, members of Government, judges, prosecutors, generals, criminal prosecution officers). Adequate powers are available to the law enforcement to conduct searches, hear witnesses, seize documents and perform all the typical investigative activities aimed at collecting evidence and tracing criminal assets. Financial information held by the financial institutions is also accessible through the intervention of the judiciary authorities and no particular difficulties were voiced in the use of the above-mentioned powers.

*b. Show that, at minimum, banks and non-bank financial institutions ensure effective customer and beneficial owner identification, monitoring of transactions accurate record/keeping, and have in place a reporting mechanism on suspicious transactions*

The preventive side of the AML/CFT system is based on the AML Law, which defines the "organizations which perform financial transactions" that are subject to AML/CFT obligations and the Recommendations of the National Bank of Moldova (NBM) on developing programs on prevention and combat of money laundering and the financing of terrorism, applicable to the banking sector and other entities licensed by the NBM. The National Commission on Financial Market (NCFM) was established in 2007 and is the supervisory authority for the non-banking financial market. Both the NBM and the NCFM apply on-site and off-site supervisory measures. By amending the AML/CFT Law, were listed all the DNFBP as reporting entities. The AML law lists the following financial institutions: banks, subsidiaries of foreign banks, peoples savings and loans associations, bureaus of change, the stock exchange of Moldova, professional participants on the securities market (independent recorders, brokerage companies, investment funds, underwriting companies, fiduciary administrators, depositories of investment funds, audit companies, dealers, self-regulatory organizations), independent accountants, insurance companies.

According to the legal requirements, reporting entities are obliged to establish due diligence procedures. The identification and verification of the identity of natural or legal person and of the beneficiary owner on the basis of the identity documents, as well as data or information obtained from a reliable and independent source is required by the AML/CFT Law. Enhanced CDD is required by law for relationships established with

politically exposed persons (PEPs), correspondent current accounts and non-face to face relationships.

The record keeping requirements are largely in line with the FATF standards. According to the AML/CFT Law, the Financial Institutions (FI) are required to keep records of the information and documents of the natural and legal persons, of the beneficial owner, the registers of identified natural and legal persons and the archive of accounts and primary documents, including business correspondence, for a period of least 5 years after the business relationship ends or bank account closes. Upon supervisory authorities' request, the reporting entities are required to prolong the record keeping period.

Moldova has put in place a reporting system. The AML law requires the institutions concerned to report transactions likely to be linked to money laundering and suspicious transactions related to terrorism.

The AML/CFT Law requires that the reporting entities shall adopt enhanced due diligence measures when natural or legal persons receive or send funds from/to countries that lack norms regarding money laundering and financing of terrorism. Furthermore, lists of countries which are considered to pose a higher risk of ML/FT are annexed to the Guide to Suspect Activities or Transactions under the Law on Prevention and Combating of Money Laundering and Terrorism Financing. However, no requirement to pay special attention to transactions performed by customers from countries that do not apply or insufficiently apply FATF Recommendation is to be found in the Moldovan legislation. For the non-banking FIs, the counter measures for countries that do not apply or insufficiently apply the FATF Recommendations are limited to enhanced CDD.

The requirement to report suspicions of ML/FT is primarily set out under the AML/CFT Law. This obligation is supplemented by various provisions under other laws and regulations. It has to be noted that the reporting obligation provided by the AML/CFT legislation refers to transactions which are suspected to be linked or related to or are used for terrorism, terrorist acts of by terrorism organisations.

The Orders issued by the NAC provide an extensive list of criteria and indicators of suspect ML/FT activities or transactions within both the financial and non-financial sector. The AML/CFT Law requires the reporting entities to adopt proper programmes on prevention and combating money laundering and financing terrorism (PCMLTF), according to the recommendations and normative acts approved by the supervising authorities. FIs are obliged to include in their PCMLTF the name of a managerial employee responsible for ensuring the compliance of the policies and procedures with the AML/CFT legal requirements.

*c. Extend the requirements mentioned above to other bodies particularly susceptible of money laundering.*

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obligations and the Recommendations of the National Bank of Moldova (NBM) on developing programs on prevention and combat of money laundering and the financing of terrorism, applicable to the banking sector and other entities licensed by the NBM. The National Commission on Financial Market (NCFM) was established in 2007 and is the supervisory authority for the non-banking financial market. Both the NBM and the NCFM apply on-site and off-site supervisory measures. By amending the AML/CFT Law, were listed all the DNFBP as reporting entities.

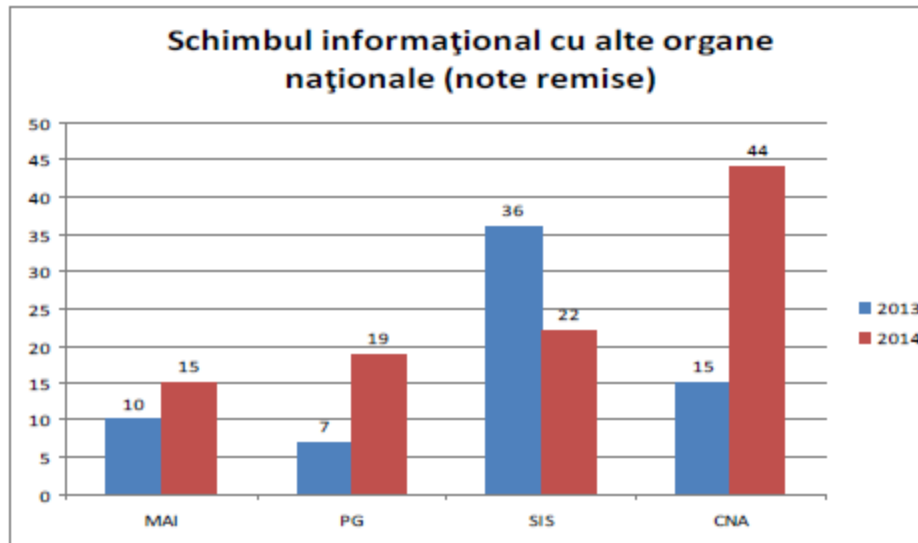
The AML law lists the following financial institutions: banks, subsidiaries of foreign banks, peoples savings and loans associations, bureaus of change, the stock exchange of Moldova, professional participants on the securities market (independent recorders, brokerage companies, investment funds, underwriting companies, fiduciary administrators, depositories of investment funds, audit companies, dealers, self-regulatory organizations), independent accountants, insurance companies.

*d. Ensure that agencies involved in anti-money laundering can cooperate and exchange information at national and international levels.*

The National Strategy sets out the basis for coordination between all authorities involved in the AML/CFT sphere and sets the NAC as the authority responsible for its monitoring. The authorities which are required to contribute towards the implementation of the strategy are the National Bank of Moldova, the National Commission for Financial Markets, the Ministry of Justice, the Ministry of Information Technology and Communications, the Ministry of Finance, the Customs Service the General Prosecutor Office, Ministry of Interior, Ministry of Finance, Chamber of License, Ministry of Economy and National Bureau of Statistics.

The National Strategy is also intended to create a forum for consultation between the various authorities involved in the prevention of ML/FT.

On a practical level, the OPCML cooperates with law enforcement authorities, on a daily basis. In the course of an ML/FT investigation the CID and the Anti-corruption Prosecutor Office cooperate closely with the OPCML.



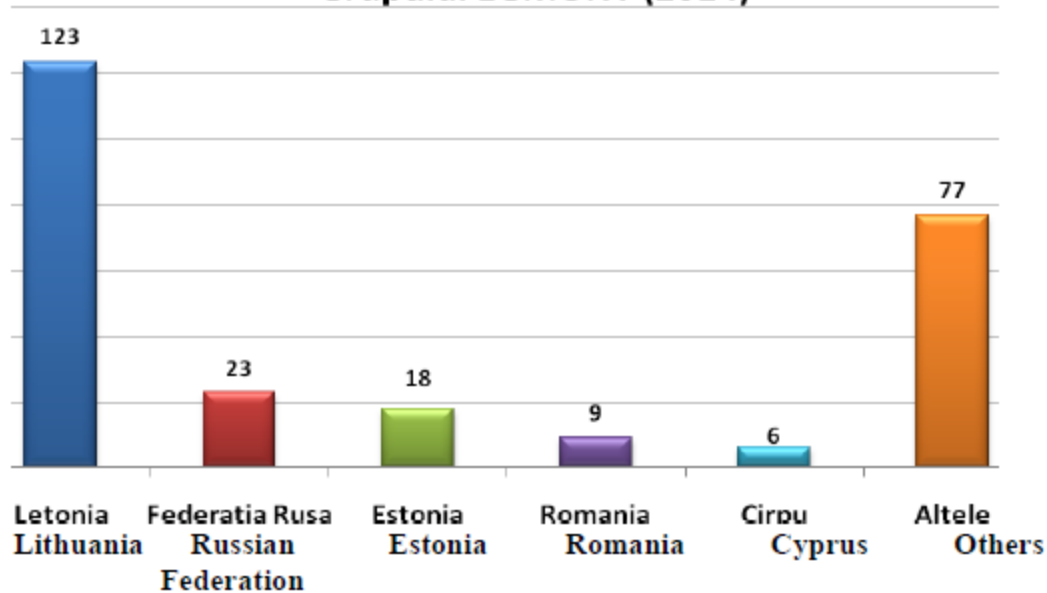
The Republic of Moldova is a party to international agreements, such as the 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its additional protocol, the 1957 Council of Europe Convention on Extradition and its two protocols and the 1990 Strasbourg Convention. Furthermore, the Republic of Moldova signed and ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198) as well.

Neither the CCP nor the MLA Law allow for the refusal of MLA requests on the grounds of secrecy or confidentiality requirements. In the Moldovan law, no financial institution secrecy law appears to inhibit the implementation of the FATF Recommendations and this general approach must be followed when executing foreign letters rogatory.

Pursuant to the provisions of the AML/CFT Law, the OPCML, on its own initiative or on the basis of a request, can send, receive or exchange information and documents with foreign authorities having similar functions to the OPCML. Such exchange of information shall be subject to the conclusion of a memorandum of understanding (*cooperation agreement*). The law enforcement authorities use informal channels, such as Interpol and Europol, for the exchange of information in the course of criminal investigations.

### **Inquiries through EGMONT Group in 2014**

### Interpelari remise prin intermediul Grupului EGMONT (2014)



The NBM is empowered to represent the Republic of Moldova in all intergovernmental meetings, councils and organizations concerning monetary policy, bank licensing and supervision, and other matters that are within its fields of competence. According to the NCFM Law, the Commission is legally empowered to cooperate with the corresponding specialized international organizations and to be their member, as is the case of the IAIS.

#### *d. Consider or establish financial intelligence units (FIUs)*

In 2003, the Office for Prevention and Control of Money Laundering (OPCML), a specialized section of the CCCEC, ), now re-named as National Anticorruption Center (NAC), took over the function of Financial Intelligence Unit, which was exercised since November 2001 by a special section of the Public Prosecutor's Office. The OPCML was officially established on 15 September 2003 and at the moment has a staff of 17 permanent officials. Notwithstanding the fact that the OPCML continues to be situated within the operational structure of the NAC, the AML/CFT Law now provides for the establishment of the OPCML as an independent subdivision with powers and functions which are clearly distinct from those of the NAC.

The office performs the following main tasks:

- prevention and fight against money laundering and financing of terrorism;
- elaboration and implementation of policies and strategies in prevention and fight against money laundering and financing of terrorism in the Republic of Moldova;
- coordination and implementation of applicable international standards.

The staff of the OPCML have the rights, obligations, interdictions and restrictions provided by the laws for the employees of the CCECC, as well as by the Law no. 190-

XVI of 26 July 2007 on the prevention and combating of money laundering and financing of terrorism. The OPCML publishes annual reports containing the overall analysis and evaluation of the received data, as well as the tendencies in money laundering and financing of terrorism which are presented to the authorities and institutions involved in the monitoring and control in this field.

*d. Consider or become part of anti-money laundering (AML) networks (such as FATF, FSRBs, Egmont Group)*

Republic of Moldova is a member of MONEYVAL Committee of Experts under the Council of Europe and maintains the status of observer within the Eurasian Group, both FSRBs being responsible for the implementation and enforcement of the FATF Recommendations.

After a long procedure of harmonization of legislation in accordance with the EGMONT GROUP principles and with the support of the sponsored agencies of FIU of Ukraine, Russian Federation and Bulgaria, OPCML was accepted as a member of the Egmont Group during the plenary meeting held in Seoul, Republic of Korea, on 27 May 2008, which offers the possibility to cooperate and exchange information with Financial Intelligence Units through a secured system. A series of memorandums of understanding with similar authorities were concluded.

*g. Require individuals and businesses to declare/disclose cash border transportation and other negotiable instruments.*

The import and export of currency and cheques above a threshold of the equivalent of 10.000 € is subject to mandatory declaration to the Customs. According to the provisions of AML/CFT Law, the Customs Service is required to provide the OPCML with all the information on the currency declarations (with the exception of banking cards) made at the border by natural and legal persons in accordance with the provision of the art. 33 and 34 of the Law nr.62/XVI from 21 March 2008 on the currency regulation. The Customs Service will also inform the OPCML, within 24 hours, on the information linked to identified cases of introduction of foreign currency or/and illegal expedition of currency.

*h. Require financial institutions, including money remitters to meaningfully identify originator of electronic transfer of funds, maintain such information throughout the payment chain and apply enhanced scrutiny to transfers lacking complete information on originator or beneficiary*

For the banks, the originator information for wire transfers is provided in the Regulation “on the activity of banks within the international money transfer systems” which came into force on 1<sup>st</sup> of July 2011. The Regulation contains a special chapter “Prevention of money laundering and combating the financing of terrorism by means of international money transfers systems” that provides the relevant provisions required by SRVII in relation to the originator’s information

with respect to international transfers performed through international money transfer systems. The provisions of this Regulation are applied to banks participating in the international money transfer systems through which money are transferred to/from abroad by/for individuals from the Republic of Moldova.

According to this Regulation, the participating bank shall develop and implement effective mechanisms for establishing the identity of the payer/beneficiary before providing the international money transfer service; the identity of the payer/beneficiary shall be made, at least, based on the identification documents, and if an empowered person makes the transfer, based on the identification documents and letter of attorney which shall be presented. The ordering participating bank shall ensure that the message accompanying the international money transfer shall include at least the following information on the payer:

- first and last name;
- unique reference number of the money transfer;
- address or national identity number, or date and place of birth.

The representatives of the “Posta Moldovei” in practice perform CDD for all customers regardless of the amount. Also, it was mentioned that when performing out-going transfers (payments) copies of the identifications documents are sent together with the money to the receiving institutions and this obligations is provided in “*Quality Assurance Plan No. 3 for Policy of Prevention and Fight Against Money Laundering and Financing of Terrorism*” issued internally and approved by the General Manger of the “Posta Moldovei”. This plan provides a general explanation and definition of money laundering and terrorism financing and indicates that the method for performing money transfers abroad applicable for “Posta Moldovei” is the «*Instruction on the international postal money transfers*» approved by the Administration Council of the National Bank of the Republic of Moldova no. 129 of 6th June 2002.

According to the “*Quality Assurance Plan*”, when sending an international money transfer (notwithstanding the amount transferred) the postal servant shall provide complete name (name, surname, patronymic) and address of sender, sender’s telephone number (if the sender has a telephone number) and to indicate the beneficiary’s full name (name, surname, patronymic), address and telephone number (if the beneficiary has a telephone number) and other detailed information (series, number, where and when issued) on the sender’s ID document (with the sender’s photograph). Also, the purpose of money transfer and sender’s signature shall be included.

In case of incoming payments, the reference number of the transfer executed via any money transfer system must be indicated together with the beneficiary’s full name, address and telephone, the number and series of ID document with photograph, country/state that has issued the document, date of issue. The sender’s name and amount of transfer must be added. According to art. 4.41. of the Regulation on credit transfers No. 373 of 15 December 2005, the paying bank ensures that the electronic message accompanying the ordinary credit transfer includes, besides other information needed for its execution, the following information regarding the payer:



- 1) name/ first and last name;
- 2) bank account number;
- 3) address or fiscal code (IDNO/IDNP), or date and place of birth (except for the payment order used for performing the credit transfer in national currency, where the inclusion of “fiscal code” element is mandatory, in case the payer has a fiscal code).

Art. 6, para. 6 (b) of the AML/CFT Law requires that reporting entities should apply enhanced due diligence measures, in the case of wire transfers, if there is lack of sufficient information about identification of the sender as well as during transactions encouraging anonymity. *Regulation on the Activity of Banks within the International Money Transfer Systems* stipulates in Art. 35 that the lack of complete information about the person who initiated the international money transfer will be considered by the beneficiary bank as a factor in assessing whether the respective international money transfer is suspicious.

*i. Refer to or use as a guideline regional or multilateral anti-money laundering initiatives*

Republic of Moldova ratified the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) in 1995, signed the United Nations Convention against Transnational Organised Crime (Palermo Convention) and its two protocols in 2000 and ratified it on 16 September 2005 while the 1999 International Convention for the Suppression of the Financing of Terrorism (FT Convention) was signed in 2001 and ratified in 2002.

While the ratification of the Vienna and Palermo Conventions took place without reservations, the FT Convention was ratified with two limiting declarations one of which had a direct impact on its actual scope of implementation. According to this declaration, the Republic of Moldova did not consider treaties, to which it had not been party, as being included in the Annex of the FT Convention. On the one hand, this limitation was undoubtedly in line with the derogation provided by Art. 2(2) of the FT Convention but, on the other, it was not sufficient to meet SR.II which required the FT offence to extend to all treaty offences listed in the Annex (regardless of whether the country is a party to those treaties or not) and therefore it was recommended that the FT offence should expressly cover all these offences.

As for the transposition of the Vienna and Palermo Conventions, as discussed above, the Republic of Moldova has made significant progress in bringing its anti-money laundering criminal legislation in line with these conventions. Specifically, it is Art. 243 CC as amended in 2007 and 2008 that follows more closely the standards set by these international legal instruments.

Republic of Moldova had already ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141). It also ratified (2007) the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198) which entered in force as of May 2008. Both these conventions were ratified with declarations concerning the Transnistrian region such

as the one attached to CETS 198 according to which the provisions of the said convention would only be applied “on the territory effectively controlled by the authorities of the Republic of Moldova”.

| 2013             |          |             |         |             |         |             |          |             |                                 |             |                         |
|------------------|----------|-------------|---------|-------------|---------|-------------|----------|-------------|---------------------------------|-------------|-------------------------|
|                  | Received |             | Pending |             | Refused |             | Executed |             | Average time of execution(days) |             | Refusal grounds applied |
|                  | ML A     | Extradition | ML A    | Extradition | ML A    | Extradition | ML A     | Extradition | ML A                            | Extradition |                         |
| Money laundering | 3        |             | 1       |             |         |             | 2        |             |                                 |             |                         |

*j. Demonstrate use of mutual legal assistance, administrative or judicial cooperation in cases of money laundering among law enforcement, judicial authorities and financial regulatory authorities.*

**Mutual legal assistance and extradition requests – outgoing requests**

| 2014 (9 months)  |          |             |         |             |         |             |          |             |                                 |             |                         |
|------------------|----------|-------------|---------|-------------|---------|-------------|----------|-------------|---------------------------------|-------------|-------------------------|
|                  | Received |             | Pending |             | Refused |             | Executed |             | Average time of execution(days) |             | Refusal grounds applied |
|                  | ML A     | Extradition | ML A    | Extradition | ML A    | Extradition | ML A     | Extradition | ML A                            | Extradition |                         |
| Money laundering | 4        |             | 3       |             | 1       |             |          |             |                                 |             |                         |

**FIU to FIU co-operation**

| <b>International co-operation</b>                               | <b>2012</b> | <b>2013</b> | <b>September<br/>2014</b> | <b>Total</b> |
|---|-------------|-------------|---------------------------|--------------|
| <b>INCOMING REQUESTS</b>  |             |             |                           |              |
| Foreign requests received by the FIU                            | 19          | 21          | 14                        | 54           |
| Foreign requests executed by the FIU                            | 19          | 21          | 14                        | 54           |
| Foreign requests refused by the FIU                             | 0           | 0           | 0                         | 0            |
| Spontaneous sharing of information received by the FIU          | 0           | 2           | 2                         | 4            |
| <b>TOTAL (incoming requests and information)</b>                | <b>19</b>   | <b>23</b>   | <b>16</b>                 | <b>58</b>    |
| Average number of days to respond to requests from foreign FIUs | 6           | 5           | 4                         | 15           |
| Refusal grounds applied   | 0           | 0           | 0                         | 0            |
| <b>OUTGOING REQUESTS</b>  |             |             |                           |              |
| Requests sent by the FIU  | 57          | 257         | 311                       | 625          |
| Spontaneous sharing of information sent by the FIU              | 1           | 3           | 1                         | 5            |
| <b>TOTAL(outgoing requests and information)</b>                 | <b>58</b>   | <b>260</b>  | <b>312</b>                | <b>630</b>   |

**Supervisory authorities international cooperation**

| <b>International co-operation</b>   | <b>2012</b> |   | <b>2013</b> |   | <b>September 2014</b> |   |
|---|-------------|---|-------------|---|-----------------------|---|
| <b>ML/FT INCOMING REQUESTS</b>  |             |   |             |   |                       |   |
| <b>Foreign requests received by supervisory authorities related to ML/FT specifically</b> | 7           | 0 | 0           | 0 | 1                     | 0 |
| <b>Foreign requests executed</b>  | 7           | 0 | 0           | 0 | 1                     | 0 |
| <b>Average time of execution (days)</b>   | 30          | - | -           | - | 30                    | - |
| <b>Foreign requests refused</b>   | 0           | 0 | 0           | 0 | 0                     | 0 |
| <b>AML/CFT OUTGOING REQUESTS</b>  |             |   |             |   |                       |   |
| <b>Requests sent by supervisory authorities related to AML/CFT specifically</b>           | 6           | 0 | 7           | 0 | 6                     | 0 |
| <b>Number of requests sent and executed by foreign authority</b>                          | 6           | 0 | 7           | 0 | 6                     | 0 |
| <b>Number of requests sent and refused by foreign authority</b>                           | 0           | 0 | 0           | 0 | 0                     | 0 |

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|              |   |   |   |   |   |   |
|--------------|---|---|---|---|---|---|
| <b>TOTAL</b> | 6 | 0 | 7 | 0 | 6 | 0 |
|--------------|---|---|---|---|---|---|

*k. Regulate cooperation and information exchange with relevant agencies (for instance on matters related to asset declarations, real estate transactions, tax matters)*

1. The National Strategy (2010-2012) for the prevention and combating of ML/FT (Decision No. 790, dated 3rd September 2010) sets out the basis for the coordination between all authorities involved in the AML/CFT sphere. It is to be noted that the National Strategy refers to the CCECC, rather than the OPCML, as the authority which is responsible for the monitoring of the strategy for 2010-2012.

The authorities which are required to contribute towards the implementation of the strategy are the National Bank of Moldova, the National Commission for Financial Markets, the Ministry of Justice, the Ministry of Information Technology and Communications, the Ministry of Finance,

the Customs Service, the General Prosecutor Office, Ministry of Interior, Ministry of Finance, Chamber of License, Ministry of Economy and National Bureau of Statistics.

**2. Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.**

Republic of Moldova initiated the necessary procedures in order to perform national assessment of ML/TF risks. The World Bank accepted to offer the financial support to perform according to the World Bank methodology the National Risk Assessment and starting in the second half of the year 2015 until 2016.

**3. Do you require technical assistance in relation to the measures described above? If so, please specify the forms of technical assistance that would be required. In case you have received or are receiving technical assistance to implement these measures, please indicate so in your response.**

There is a need for additional trainings, seminars and programs of exchange of experience with international counterparts for law enforcement and judicial authorities,