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MONEYVAL (2008) 28

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

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

**Written progress report submitted to MONEYVAL**  
**by Liechtenstein <sup>1</sup>**

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<sup>1</sup> As adopted by MONEYVAL at its 28th Plenary Meeting (Strasbourg, 8-12 December 2008). For further information on the examination and adoption of this report, please refer to the Meeting report (ref. MONEYVAL (2008) 40 at <http://www.coe.int/moneyval>)

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## 1. General overview of the current situation and developments relevant to the AML/CFT field since the last assessment

Liechtenstein's crime rate is still low, with a total of 1075 recorded crimes in 2007, of which 550 were economic crimes. About 36 percent of these cases were solved. The major criminal activities identified by the authorities as predicate offenses for money laundering are economic offenses, in particular fraud, criminal breach of trust, asset misappropriation, embezzlement and fraudulent bankruptcy, as well as corruption and bribery.

The Liechtenstein FIU received 205 SARs in 2007, representing an increase of 25.8% relative to the number of SARs submitted in the previous year. The increase in SARs during the reporting year is due to several reasons. A few groups of interconnected cases triggered SARs by several financial intermediaries, while in some areas, a sustainable implementation of monitoring of ongoing business relationships can be observed, which is a welcome development in the fight against money laundering and to combat terrorist financing.

From the perspective of the law enforcement authorities, the abuse of corporate vehicles and financial services in Liechtenstein represents the main risk in the money laundering area. No particular vulnerability to misuse by terrorist financing has been identified in Liechtenstein.

As shown in the statistics below, the first domestic money laundering conviction has proven the effectiveness of Liechtenstein's efforts to strengthen its prosecution process.

## 2. Key recommendations

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

<b>Recommendation 1 (Money Laundering offence)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>Amend the law to extend the list of predicate offenses for money laundering to offenses in the categories of environmental crimes, smuggling, forgery, and market manipulation.</i>
Measures taken to implement the Recommendation of the Report	Environmental crimes, smuggling, forgery, and market manipulation are currently not included in the list of predicate offenses set out in § 165 of the Criminal Code.
Recommendation of the MONEYVAL Report	<i>Amend the law to extend the offenses of converting, using, or transferring criminal proceeds to include criminal proceeds obtained through the commission of a predicate offense by the money launderer.</i>
Measures taken to implement the Recommendation of the Report	To implement this recommendation, paragraph 2 of § 165 in Report and Application No. 124/2008 eliminates the phrase "by another person". The first reading of the amendment to the Criminal Code took place in the session of Parliament from 22 to 24 October 2008.

Recommendation of the MONEYVAL Report	<i>Amend the law to eliminate Article 165.5 StGB to permit the prosecution for money laundering also in cases where the offender has been punished for the predicate offense.</i>
Measures taken to implement the Recommendation of the Report	Report and Application No. 124/2008 proposes an amendment of § 165 to Parliament in which paragraph 5 is eliminated. The proposal is currently being considered by Parliament.
Recommendation of the MONEYVAL Report	<i>Amend the law to criminalize the association or conspiracy of two persons to commit money laundering.</i>
Measures taken to implement the Recommendation of the Report	According to Liechtenstein's conception of the law, the direction of a punishable act or the attempt to commit a punishable act within the meaning of §§ 12 and 15 in conjunction with § 165 of the Criminal Code also encompasses behavior covered by "association or conspiracy of two persons to commit money laundering". According to current jurisprudence, "to direct" a punishable act means the willful direct or indirect inducement of the commission of the act by triggering the decision to commit the act. Accordingly, no amendment of the law is planned.
Recommendation of the MONEYVAL Report	<i>Develop jurisprudence on Article 165 StGB autonomous money laundering.</i>
Measures taken to implement the Recommendation of the Report	Since the last Report in autumn 2007, the Liechtenstein Office of the Public Prosecutor has submitted 4 indictments for money laundering to the Liechtenstein Criminal Court. In one of these proceedings, a German citizen was sentenced to imprisonment in a final judgment. The Liechtenstein Office of the Public Prosecutor makes every effort to give the Liechtenstein courts the opportunity to develop a practice as to money laundering by submitting the suitable applications. However, the Office of the Public Prosecutor will continue transferring prosecution to the proper authorities in the defendants' home countries where foreign authorities so request for reasons of concentrating proceedings and where this appears necessary to avoid limitation. This happens in Liechtenstein where proceedings are running in several jurisdictions at the same time and the foreign defendant cannot be tried before the Criminal Court. It is not possible to conduct a trial before the Criminal Court in the absence of the defendant. It is the rule that before transferring prosecution, all evidence is investigated and analyzed in Liechtenstein. As to the proceeds of the offences, domestic proceedings are continued in all cases with the objective of forfeiture of the assets. For example, in a large-scale international money laundering case in July 2008, the prosecution for money laundering of the foreign defendant was transferred to his home country; however, the blocked assets of up to EUR 190 million were seized by the Criminal Court for the benefit of the State in separate proceedings in a judgment that is not yet final. After this judgment has become final, the Principality of Liechtenstein will start negotiations for the return of these funds to the injured parties.
(Other) changes since the last evaluation	

## Recommendation 5 (Customer due diligence)

### I. Regarding financial institutions

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

Recommendation of the MONEYVAL Report	<i>Strengthen legislative requirements for obtaining beneficial ownership information: for all business relationships financial institutions should be required to (i) always determine the natural person who is the beneficial owner (or owns or controls the customer); and (ii) understand the ownership and control structure of their customer.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The proposed new definition of the beneficial owner in the bill to parliament is regulated in article 7 of the draft law as well as in the draft ordinance and is in accordance with the Third EU

Report	AML/CFT Directive. The new definition provides that the beneficial owner may only be a natural person. Direct identification of the beneficial owner is according to the new definition mandatory, encompassing verification on a risk based approach and with adequate measures.
Recommendation of the MONEYVAL Report	<i>Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately managed registers and databases.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein has already implemented a high standard with respect to measures against money laundering, organized crime, and terrorist financing. Additionally, the new risk-based approach is now strongly implemented in the DDA (article 9 DDA Draft). By incorporating the risk-based approach in the law, clear requirements concerning the treatment of high-risk customers are given. On a supplemental note, it should be mentioned that FMA Guideline 2005/1 is being revised with a view to the legal incorporation of the risk-based approach. In addition, the FMA will work together with the individual industry associations to develop specific interpretation aids in the form of best practices with all interested associations and a number of guidelines aimed to provide assistance concerning the application of the risk-based approach. Potential risks shall also be managed by the publication of a country list by FMA, which adequately applies to the EU-Directive.
Recommendation of the MONEYVAL Report	<i>Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. As mentioned above, the risk-based approach shall be incorporated in the draft law. At the same time, the enhanced due diligence shall be clearly defined by article 11 DDA Draft and it shall apply explicitly to high-risk customers. The DDO Draft contains a series of criteria for measures for transactions and business relations with enhanced due diligence and higher risks. Additionally the DDA Draft explicitly requires enhanced due diligence in the following three scenarios,: 1) if the contracting party was not personally present for identification and verification of identification, the identity of the contracting party must be proven by means of additional measures; 2) for business relationships and transactions with politically exposed persons; 3) for cross-border correspondent banking relationships. In these cases, the business relationships and transactions have to be classified as high risk.
Recommendation of the MONEYVAL Report	<i>Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners and authorized parties.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The identification and verification is explicitly defined in the Articles 5-7 DDA Draft and in the DDO Draft. Articles 5-7 of the draft law stipulate explicitly that additional risk-based measures must be taken to verify the identification of the customer (Articles 5-6 DDA Draft) and the beneficial owner (Articles 5 and 7 DDA Draft). In addition, according to the DDO Draft financial institutions have to identify and verify the identity of any person purporting to act on behalf of a legal person or legal entity (contracting party). So, additional steps on a risk based approach are required to adequately respond to the risk and nature of the business and the customer.
Recommendation of the MONEYVAL Report	<i>Require financial institutions to provide customer information when making domestic wire transfers and align threshold in the DDA and DDO for due diligence on wire transfers with the minimum set out in SR.VII of EUR/USD 1,000.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this in the context of the implementation of the Third EU AML/CFT Directive. The new article 12 DDA Draft in conjunction with the DDO Draft will now govern wire transfers. Additionally, Regulation (EC) 1781/2006 applies. The new rules provide that all payments, whether domestic or cross-border, will now be governed without exception, even those of less than EUR/USD 1,000. Article 6 para. 1 (b) DDA (current version) and its threshold of CHF 5'000 will therefore be deleted without replacement.

Recommendation of the MONEYVAL Report	<i>Bring the current exceptions to identification requirements into line with Recommendation 5.2 which requires at a minimum reduced or simplified measures.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The customer due diligence requirements will now be governed by article 5 paragraph 2 DDA Draft. The previous exceptions under articles 6 and 8 (current version) will be deleted without replacement and placed under simplified measures. Only article 4 DDA Draft contains three exceptions within a very limited framework and minimal risk of money laundering, organized crime, and terrorist financing, for example clearly defined cases in the field of social security, asset management and low-risk financial services.
Recommendation of the MONEYVAL Report	<i>The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence.</i>
Measures taken to implement the Recommendation of the Report	The FMA considered the abovementioned issues but decided to make no changes due to the new implementation of the risk-based approach in article 9 DDA Draft. See reply above on “risk-based approach”.
(Other) changes since the last evaluation	

**Recommendation 5 (Customer due diligence)**  
**II. Regarding DNFBP<sup>2</sup>**

Recommendation of the MONEYVAL Report	<i>Strengthen legislative requirements to cover the formation of all kinds of companies: TCSPs should conduct CDD and ascertain the beneficial owner when forming commercially-active entities and holding companies that contain commercially-active entities.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this in the context of the implementation of the Third EU AML/CFT Directive. The draft law no longer distinguishes between due diligence treatment of commercially active companies and domiciliary companies. The establishment of a commercially active legal entity and performance of the function of a partner, governing body, or general manager of such an entity is subject to due diligence, to the extent that the activity is carried out on the account of a third party. See also the response on recommendation 5 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately-managed registers and databases.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners, and authorized parties.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.

<sup>2</sup> i.e. part of Recommendation 12.

Report	
Recommendation of the MONEYVAL Report	<i>The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
(Other) changes since the last evaluation	

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

**Rating: Compliant**

Changes since the last evaluation

**Recommendation 10 (Record keeping)  
II. Regarding DNFBP<sup>3</sup>**

**Rating: Compliant**

Changes since the last evaluation

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

**Rating: Partially compliant**

Recommendation of the MONEYVAL Report

*To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting.*

Measures taken to implement the Recommendation of the Report

Liechtenstein is addressing these issues in the context of the implementation of the Third EU AML/CFT Directive. The freezing of assets is qualified in two ways: If denial of a transaction is impossible or if this would interfere with prosecution of a person allegedly involved in money laundering or terrorist financing, the persons subject to due diligence must submit a SAR immediately after carrying out the transaction (article 18 paragraph 1 DDA Draft, implementing article 24(2) of Directive 2005/60/EC). Even after submitting a SAR, transactions may be carried out pursuant to approval by the FIU (article 18 paragraph 2 DDA Draft). Furthermore, the SAR reporting requirement has been simplified. The conducting of simple and special enquiries to form suspicion has been removed (article 17 paragraph 1 DDA Draft).  
There is no pre-clearance system for SARs applied by the FIU. The FIU in its authority as central body to receive SARs is assisting reporting entities on their reporting obligations to enhance the effectiveness of the system of SAR reporting.

<sup>3</sup> i.e. part of Recommendation 12.

Recommendation of the MONEYVAL Report	<i>Extend the SAR reporting requirement to include attempted transactions.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted transactions (article 17 paragraph 1 DDA Draft).
Recommendation of the MONEYVAL Report	<i>Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
(Other) changes since the last evaluation	

### **Recommendation 13 (Suspicious transaction reporting)**

#### **II. Regarding DNFBP<sup>4</sup>**

Recommendation of the MONEYVAL Report	<i>Conduct outreach to non-reporting TCSPs and take other appropriate measures to increase the breadth of DNFBP reporting.</i>
Measures taken to implement the Recommendation of the Report	The FIU regular conducts trainings at the University and the Institute for Compliance and Quality Management especially targeting the TCSP sector. Additionally, in-house trainings are conducted at TCSPs.
Recommendation of the MONEYVAL Report	<i>To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing these issues in the context of the implementation of the Third EU AML/CFT Directive. The freezing of assets is qualified in two ways: If denial of a transaction is impossible or if this would interfere with prosecution of a person allegedly involved in money laundering or terrorist financing, the persons subject to due diligence must submit a SAR immediately after carrying out the transaction (article 18 paragraph 1 DDA Draft, implementing article 24(2) of Directive 2005/60/EC). Even after submitting a SAR, transactions may be carried out pursuant to approval by the FIU (article 18 paragraph 2 DDA Draft). Furthermore, the SAR reporting requirement has been simplified. The conducting of simple and special enquiries to form suspicion has been removed (article 17 paragraph 1 DDA Draft). There is no pre-clearance system for SARs applied by the FIU. The FIU in its authority as central body to receive SARs is assisting reporting entities on their reporting obligations to enhance the effectiveness of the system of SAR reporting.
Recommendation of the MONEYVAL Report	<i>Extend the SAR reporting requirement to include attempted occasional transactions.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted transactions (article 17 paragraph 1 DDA Draft).

<sup>4</sup> i.e. part of Recommendation 16.



Recommendation of the MONEYVAL Report	<i>Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations, in addition to those who finance terrorism.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
(Other) changes since the last evaluation	

### Special Recommendation II (Criminalisation of terrorist financing)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Amend the law to criminalize the financing of individual terrorists.</i>
Measures taken to implement the Recommendation of the Report	Report and Application No. 124/2008 proposes an amendment to § 278d of the Criminal Code ensuring criminal liability for financing of individual terrorists. The proposal is currently being considered by Parliament.
Recommendation of the MONEYVAL Report	<i>Amend Article 278d StGB to provide for “any act” committed with the required intent, not only criminal offenses, to constitute a terrorist act.</i>
Measures taken to implement the Recommendation of the Report	§ 278d paragraph 1(h) of the Report and Application No. 124/2008 takes account of this by proposing deletion of the word "criminal".
Recommendation of the MONEYVAL Report	<i>Provide for a definition of “Terrorist organization” in line with the FATF standard.</i>
Measures taken to implement the Recommendation of the Report	This recommendation has been taken up and implemented. Please refer to existing §§ 278b, 278c, and 278d of the Criminal Code. An amendment is also being proposed to § 278d paragraph 1(1)(h) and paragraph 2 in Report and Application No. 124/208, by expressly no longer relying on commission of a "criminal" act but rather of "any act" intended to cause death or serious bodily injury to a civilian or another person. The word "criminal" has been struck from subparagraph (h) (see also preceding response). Moreover, criminal liability for punishing an individual terrorist has been expressly included in paragraph 2, in such a way that the legislative text expressly contains the phrase "by a person". The first reading of this legislative amendment already took place in the October session of the Liechtenstein Parliament. The second and third readings are scheduled for the December session.
(Other) changes since the last evaluation	

### Special Recommendation IV (Suspicious transaction reporting)

#### I. Regarding Financial Institutions

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Extend the SAR reporting requirement to include attempted transactions.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted transactions (article 17 paragraph 1 DDA Draft).

Recommendation of the MONEYVAL Report	<i>Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
(Other) changes since the last evaluation	

### Special Recommendation IV (Suspicious transaction reporting)

#### II. Regarding DNFBP

Recommendation of the MONEYVAL Report	<i>Extend the SAR reporting requirement to include attempted occasional transactions.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted occasional transactions (article 17 paragraph 1 DDA Draft).
Recommendation of the MONEYVAL Report	<i>Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations, in addition to those who finance terrorism.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
(Other) changes since the last evaluation	

### 3. Other Recommendations

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

#### Recommendation 6 (Politically exposed persons)

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

Recommendation of the MONEYVAL Report	<i>Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 11 paragraph 4 DDA Draft, business relationships with PEPs are explicitly subject to enhanced due diligence. Business relationships and transactions with PEPs thus always constitute higher risks, which must be monitored more intensively. Article 11 paragraph 4 DDA Draft regulates measures to be taken in connection with PEP business relationships.

Recommendation of the MONEYVAL Report	<i>Require financial institutions to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Article 11 paragraph 4 (b) and (c) DDA Draft govern the approval procedure by the general management in respect of PEP business relationships. According to this procedure, at least one member of the general management must agree to a PEP business relationship. Additionally, approval to continue PEP business relationships must be obtained each year.
Recommendation of the MONEYVAL Report	<i>Provide for an explicit obligation by financial institutions to determine the source of wealth of customers and beneficial owners identified as PEPs.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. No explicit rule in this regard is contained in the draft law, but, according to article 5 paragraph 1 DDA Draft in conjunction with article 11 paragraphs 1 and 4 DDA Draft, PEP business relationships are subject to enhanced due diligence and thus constitute business relationships with higher risks. According to article 11 paragraph 1 DDA Draft, business relationships with higher risks are subject to more intensive monitoring, which includes clarifying the origin of the assets. Additionally, the Report and Application on the implementation of the 3rd Money Laundering Directive states “that the clarification of the origin of the assets is already contained in the business profile (article 8 DDA Draft and DDO Draft). In addition, it should be noted that this obligation also applies mutatis mutandis to the execution of occasional transactions with politically exposed persons.”
Recommendation of the MONEYVAL Report	<i>Consider applying similar measures to domestic PEPs.</i>
Measures taken to implement the Recommendation of the Report	This issue was considered in the context of the implementation of the Third EU AML/CFT Directive but there are no changes planned.
(Other) changes since the last evaluation	

### **Recommendation 7 (Correspondent banking)**

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

Recommendation of the MONEYVAL Report	<i>Provide an explicit requirement for financial institutions providing correspondent services to determine whether the respondent has been the subject of a money laundering or terrorist financing investigation or regulatory action.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 11 DDA Draft, the persons subject to due diligence under article 3 paragraph 1 (a) to (h) DDA Draft must ensure in the case of cross-border correspondent banking relationships with respondent institutions outside the EEA that they have sufficient information about the respondent institution to understand the nature of the respondent’s business and to determine the reputation of the institution and the quality of supervision. This includes the determination of whether the respondent has been subject of an investigation or regulatory action. Additionally, since the previous restriction contained in article 10 DDA (current version) was too narrow, article 11 paragraph 5 DDA Draft now provides for an extension to all relevant persons subject to due diligence. Accordingly, article 11 paragraph 5 (1) now covers all persons subject to due diligence under article 3 paragraph 1 (a) to (h) DDA Draft.

Recommendation of the MONEYVAL Report	<i>Amend the current provisions to provide explicitly for the documenting of the respective AML/CFT responsibilities of the respondent and correspondent bank.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 11 paragraph 5 (d) DDA Draft. According to this provisions, persons subject to due diligence under article 3 paragraph 1 (a) to (h) must document the respective responsibilities concerning the fulfillment of due diligence requirements by the two institutions involved.
Recommendation of the MONEYVAL Report	<i>Regarding payable-through transactions, require Liechtenstein financial institutions to obtain a confirmation from the correspondent financial institution that all CDD requirements of Recommendation 5 have been complied with and that the correspondent financial institution is able to provide relevant customer identification data upon request.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by the DDO Draft, which will exactly correspond to the wording of article 13 paragraph 3 (e) of the 3rd Money Laundering Directive.
Recommendation of the MONEYVAL Report	<i>For the sake of completeness, revise the DDA and DDO provisions for correspondent banking relationships and similar relationships to cover all relevant categories of financial institutions.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. See reply above (first item of RC 7).
(Other) changes since the last evaluation	

### Recommendation 8 (New technologies and non face-to-face business)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Require financial institutions to take measures to address the risk of misuse of new technologies for ML or FT purposes, particularly for internet banking.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 9 paragraph 2 DDA Draft. According to article 9 paragraph 2 DDA Draft, persons subject to due diligence must pay special attention to threats emanating from the use of new technologies as part of their risk-adequate monitoring.
Recommendation of the MONEYVAL Report	<i>Require financial institutions to take measures expressly to address the risk of non-face to face business.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 11 paragraph 3 DDA Draft, business relationships where the contracting party was not personally present for identification (non-face to face business) are subject to enhanced due diligence. According to article 11 paragraph 1 DDA Draft, these business relationships have higher risks and must be monitored more intensively. Article 11 paragraph 3 DDA Draft moreover requires that the identity of the contracting party must be proven by means of additional measures.
(Other) changes since the last evaluation	

### Recommendation 9 (Third parties and introducers)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 14 paragraph 1 DDA Draft, only due diligence measures referred to in article 5 paragraph 1 (a) to (c) may now be delegated to third parties. The ongoing monitoring of business relationships can therefore no longer be delegated to third parties.
Recommendation of the MONEYVAL Report	<i>Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The exculpatory possibility under article 30 paragraph 2 DDA (current version) was deleted without replacement. According to article 14 paragraph 2 DDA Draft, the persons subject to due diligence remain responsible for compliance with due diligence requirements even in cases of delegation.
Recommendation of the MONEYVAL Report	<i>The authorities should determine countries in which third parties who conduct due diligence on behalf of Liechtenstein financial institutions can be based, by reference to the adequacy of their application of the FATF Recommendations, and require financial institutions to check that such third parties have appropriate preventive measures in place.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 14 paragraph 3 in conjunction with article 14 paragraph 1 DDA Draft, the FMA will issue a list of countries with equivalent regulation and supervision.
(Other) changes since the last evaluation	

### Recommendation 11 (Unusual transactions)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Provide explicitly that financial institutions be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Persons subject to due diligence must pay special attention to all complex and unusual transactions as well as threats arising from the use of new technologies (article 9 paragraph 2 DDA Draft).
(Other) changes since the last evaluation	

### Recommendation 12 (DNFBP – concerning Rec. 6, 8 – 11; concerning Rec. 5 see above)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.

Recommendation of the MONEYVAL Report	<i>Require DNFBSs to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Provide for an explicit legal obligation by DNFBSs to determine the source of wealth of customers and beneficial owners identified as PEPs.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Consider applying similar measures to domestic PEPs.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Require DNFBSs to take measures to address the risk of misuse of new technologies for ML or FT purposes.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 8 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Require DNFBSs to take additional measures to expressly address the risk of non-face to face business.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 8 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>The authorities should determine countries in which third parties who conduct the due diligence on behalf of Liechtenstein DNFBSs can be based, by reference to the adequacy of their application of the FATF Recommendations.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.

Recommendation of the MONEYVAL Report	<i>Provide explicitly that DNFBPs be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.
(Other) changes since the last evaluation	

### Recommendation 14 (Protection and no tipping-off)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Include provisions extending protection on reporting in good faith to directors, officers and employees.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Persons subject to due diligence and their general managers or employees submitting a report to the FIU under article 17 paragraph 1 are exempt from all civil and criminal liability if it turns out that the report was not justified, provided that they did not act willfully (article 19 DDA Draft).
Recommendation of the MONEYVAL Report	<i>Remove the time limit on the prohibition of tipping off.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The persons subject to due diligence may not inform the contracting party, the beneficial owner, or third parties that they have submitted a report to the FIU pursuant to article 17 paragraph 1. This prohibition of tipping off is unlimited in time (article 18 paragraph 3 DDA Draft).
(Other) changes since the last evaluation	

### Recommendation 16 (DNFBP concerning R. 15 & 21; concerning R. 13 see above)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 21 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Introduce effective measures to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries.</i>
Measures taken to implement the Recommendation of the Report	See the response on recommendation 21 regarding financial institutions.
Recommendation of the MONEYVAL Report	<i>Introduce a requirement that DNFBPs examine the background and purpose of such transactions with no apparent economic or visible lawful purpose, with findings documented and available to assist competent authorities and auditors.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 5 paragraph 1 (c) DDA Draft in conjunction with the DDO Draft, DNFBPs must clarify the intended purpose of the assets as part of the business profile. According to

	<p>article 5 paragraph 1 (d) in conjunction with article 9 DDA Draft, DNFBPs have to monitor the business relationships using a risk-based approach and undertake adequate clarifications if necessary. They must pay special attention to complex and unusual transactions (article 9 paragraph 2 DDA Draft). According to article 9 paragraph 3 DDA Draft, they must also carry out simple clarifications with reasonable effort when fact patterns or transactions occur that deviate from the business profile. According to article 9 paragraph 4 DDA Draft, DNFBPs must carry out special clarifications when fact patterns or transactions occur giving rise to suspicion that assets are connected with money laundering, predicate offenses of money laundering, organized crime, or terrorist financing. The results of the clarifications must be documented in the due diligence files (article 9 paragraph 5 DDA Draft). Moreover, FMA Guideline 2005/1 provides DNFBPs with further information on the scope of the clarifications and general indicators of money laundering: “General indicators of money laundering: Particular risks with regard to money laundering attach to transactions the design of which indicates an illegal purpose, the financial purpose of which is not apparent, or which even appear financially counterproductive.”.</p>
(Other) changes since the last evaluation	

### Recommendation 17 (Sanctions)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Enlarge the definition of administrative offenses to cover all appropriate DDA requirements and establish a continuum of sanctions from minor to serious DDA violations to ensure that cases are processed in a timely, effective and proportionate manner.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive in so far as a new sanction was included in article 31 paragraph 1 (d) DDA Draft, according to which anyone who, in violation of articles 5 to 14 of Regulation (EC) No. 1781/2006 fails to collect, keep, verify, or transmit the required information, carries out or receives financial transfers, or breaches record-keeping or reporting duties shall be punished by a fine of up to CHF 100,000 for committing an administrative offense.
Recommendation of the MONEYVAL Report	<i>Define sanctions with regard to criminal liability of legal persons.</i>
Measures taken to implement the Recommendation of the Report	By the end of October 2008, the Ministry of Justice will receive a draft prepared by an external expert on implementation of the criminal liability of legal persons under Liechtenstein law. Parliamentary consideration is scheduled for 2009.
(Other) changes since the last evaluation	

### Recommendation 21 (Special attention for higher risk countries)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 10 paragraph 5 DDA Draft, the FMA will issue a list of countries with equivalent regulation and supervision (White List). Additionally, the FMA publishes country warnings in the form of communications (E.g., Communication of 1 July 2008, Country Warning FATF).
Recommendation of the MONEYVAL Report	<i>Introduce effective measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.</i>
Measures taken to	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT



implement the Recommendation of the Report	Directive. According to article 10 paragraph 5 DDA Draft, the FMA will issue a list of countries with equivalent regulation and supervision (White List). Additionally, the FMA publishes country warnings in the form of communications (E.g., Communication of 1 July 2008, Country Warning FATF).
(Other) changes since the last evaluation	

### Recommendation 22 (Foreign branches and subsidiaries)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations in countries which do not or insufficiently apply the FATF Recommendations.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 16 paragraph 1 DDA Draft.
Recommendation of the MONEYVAL Report	<i>Where home and host country AML/CFT measures differ, require branches and subsidiaries to apply the higher standard.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 16 paragraph 1 DDA Draft.
Recommendation of the MONEYVAL Report	<i>Require financial institutions to inform the FMA of any local laws or regulations preventing them from monitoring AML/CFT risk on a global basis.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Article 16 paragraph 2 DDA Draft in conjunction with the DDO Draft provides that the FMA must be informed by persons subject to due diligence under article 3 paragraph 1 (a) to (i) DDA Draft if a branch or subsidiary is unable to apply the required measures to combat money laundering, organized crime, and terrorist financing due to limitations by foreign law or if the persons subject to due diligence under article 3 paragraph 1 (a) to (i) DDA Draft determine that access to information concerning contracting parties and beneficial owners is ruled out or interfered with in certain countries for legal or practical reasons.
Recommendation of the MONEYVAL Report	<i>The FMA should take steps to improve implementation of appropriate group-wide AML/CFT measures for Liechtenstein financial institutions.</i>
Measures taken to implement the Recommendation of the Report	As regards group-wide AML/CFT measures, the FMA has been promoting such measures in co-operation with all relevant authorities hosting subsidiaries or branches of Liechtenstein financial institutions. Recently the FMA held meetings with MAS, HKMA and DFSA in order to discuss group-wide AML/CFT issues. The FMA has received from its overseas counterparts detailed AML/CFT audit reports concerning subsidiaries of Liechtenstein financial institutions. Remedial actions have been mapped out and monitored jointly with the respective host authority. In this regard, the FMA benefits from valuable contacts stemming from co-operation at the CEBS and CEIOPS level.
(Other) changes since the last evaluation	

### Recommendation 33 (Legal persons – beneficial owners)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The definition of “beneficial owner” should be amended and brought in line with the FATF standard to cover the control structure of legal persons.</i>
Measures taken to	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT

implement the Recommendation of the Report	Directive. The DDO Draft provides a new definition of beneficial owner. This definition corresponds to the FATF standard.
Recommendation of the MONEYVAL Report	<i>Intermediaries should be required by law to verify beneficial ownership information.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 5 paragraph 1 (b) and (d) in conjunction with articles 7 DDA Draft. The persons subject to due diligence must verify the identity of the beneficial owner by means of risk-based and appropriate measures.
Recommendation of the MONEYVAL Report	<i>Although in practice beneficial ownership information of commercially-active companies is available in a large number of cases, the authorities should put in place measures to ensure that information on beneficial ownership and control of legal entities that are commercially-active in the domiciliary state is obtained, verified, and kept.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The new law no longer distinguishes between due diligence treatment of commercially active companies and domiciliary companies. The establishment of a commercially active legal entity and performance of the function of a partner, governing body, or general manager of such an entity is also subject to due diligence, to the extent that the activity is carried out on the account of a third party. See also reply RC 5.
(Other) changes since the last evaluation	

#### **Recommendation 34 (Legal arrangements – beneficial owners)**

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

Recommendation of the MONEYVAL Report	<i>The definition of “beneficial owner” should be amended and brought in line with the definition of the FATF standard to ensure that there is adequate transparency concerning the control structure of legal arrangements.</i>
Measures taken to implement the Recommendation of the Report	See reply above concerning Rec. 33.
Recommendation of the MONEYVAL Report	<i>Intermediaries should be required by law to verify beneficial ownership information.</i>
Measures taken to implement the Recommendation of the Report	See reply above concerning Rec. 33.
Recommendation of the MONEYVAL Report	<i>Although the number of “private trustees” active in Liechtenstein seems to be marginal, such persons should be under a legal obligation to obtain, verify, and record beneficial ownership information.</i>
Measures taken to implement the Recommendation of the Report	No changes, since these persons are not operating commercially, but rather for private purposes, and are not acting for third parties as trustees. For this reason, there is no need to capture these persons within the scope of the DDA Draft.
(Other) changes since the last evaluation	

<b>Recommendation 35 (Conventions) and Special Recommendation I (Implement UN instruments)</b>	
<b>Rating: R 35 – partially compliant; SR. I - partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented.</i>
Measures taken to implement the Recommendation of the Report	With regard to a more comprehensive implementation of the Vienna and Palermo Conventions, the Government in September 2008, after having concluded a consultation process, submitted a bill to Parliament to amend § 20b and § 26 of the Criminal Code (seizure and confiscation of laundered assets as object of the ML offense, confiscation of all instrumentalities; see also Rec. 3), § 165 (criminalisation of self-laundering, see also Rec. 1) and §278d of the Criminal Code (criminalisation of terrorist financing, i.e. financing of individual terrorists, definition of terrorist organisation, coverage of any acts committed with the intent to be terrorist acts, see also SR II). It may be expected that the amendments will be approved by Parliament by the end of 2008.
Recommendation of the MONEYVAL Report	<i>The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented.</i>
Measures taken to implement the Recommendation of the Report	The necessary amendments are covered in the above mentioned bill (amendment of §278d of the Criminal Code).
Recommendation of the MONEYVAL Report	<i>Implementation of the relevant UNSCRs needs further refining to expressly cover the assets under the indirect control or ownership of terrorists, and to fully criminalize terrorism financing.</i>
Measures taken to implement the Recommendation of the Report	See above.
(Other) changes since the last evaluation	Liechtenstein has ratified the Palermo Convention, the Protocol on Trafficking in Persons and the Protocol on Smuggling of Migrants in February 2008. Convention and Protocols entered into force for Liechtenstein on 21 March 2008.

<b>Recommendation 36 (Mutual Legal assistance)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.</i>
Measures taken to implement the Recommendation of the Report	To implement this recommendation, the Government has decided to accelerate the mutual legal assistance procedure by introducing a new article 58c of the Mutual Legal Assistance Act, according to which it will only be possible at the end of the mutual legal assistance procedure to appeal the decisions of the Court of Justice – together with the final judgment of the Court of Justice. Consequently, this will eliminate up to four appeals possibilities in the seizure proceedings of mutual legal assistance procedure. In September, the Government sent Report and Application No. 124/2008 to Parliament, which was discussed in Parliament (1st reading) in its October session 2008. Parliament is scheduled to discuss this matter in its December session (2nd and 3rd reading). If this will be the case, the reform of the MLA Act may enter in force very soon (probably in the first months of 2009).
Recommendation of the MONEYVAL Report	<i>Serious and organized fiscal fraud should be excluded from the fiscal exemption.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein Law Gazette 2007 No. 186 inserts paragraph 3a into the money laundering provision contained in § 165 of the Criminal Code. Offenses under article 76 of the Value Added Tax Act are predicate crimes of money laundering if they are connected with damage to the budget of the European Communities and if the evaded tax or unlawful benefit exceeds CHF 75,000. In parallel, Liechtenstein

	Law Gazette 2007 No. 189 introduced a new article 51 paragraph 1a into the Mutual Legal Assistance Act waiving the fiscal exemption for such offenses (see article 51 paragraph 1a MLA Act).
Recommendation of the MONEYVAL Report	<i>The deficiencies in the ML and FT offense should be remedied to enable full compliance with dual criminality- ruled requests.</i>
Measures taken to implement the Recommendation of the Report	Please see statements on Rec. 1 and 2.
(Other) changes since the last evaluation	

### Recommendation 39 (Extradition)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.</i>
Measures taken to implement the Recommendation of the Report	Due to the fact that the ongoing reform of the MLA Act (see above: comment on Rec. 36) also concerns matters of extradition, the extradition proceedings may also accelerate once the reform of the MLA Act enters into force (probably in the first months of 2009).
(Other) changes since the last evaluation	

### Recommendation 40 (Other forms of co-operation)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>FIU access to confidential financial information held by DDA subjects, including at the request of foreign counterparts, should be expressly provided for.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein has implemented this recommendation by amending the FIU Act. The new article 6 FIU Act Draft provides access to confidential financial information held by DDA subjects through the FMA.
Recommendation of the MONEYVAL Report	<i>To reflect relevant jurisprudence, provide in legislation an explicit exclusion from secrecy provisions for all categories of financial institutions and DNFBPs to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes.</i>
Measures taken to implement the Recommendation of the Report	<p>Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive in article 14 Banking Act and article 37 DDA Draft.</p> <p>Furthermore, the most important secrecy provision is stipulated in article 14 of the Liechtenstein Banking Act. As recommended in the last assessment report, this provision has recently been amended. Article 14 Banking Act now specifies explicitly that the legal provisions on the obligation to give testimony or information to supervisory bodies as well as the provisions on cooperation with other supervisory authorities shall override the banking secrecy provision.</p> <p>However, it should be noted that even before this legal amendment, banking secrecy never constituted a barrier to international information exchange, provided that the requesting authority was covered by official secrecy provisions. This applies to secrecy provisions in other national laws (e.g. Investment Undertakings Act, Due Diligence Act, etc.) as well.</p> <p>As mentioned above in more detail, the legal provisions in the Liechtenstein Banking Act concerning international information exchange have been amended substantially due to the implementation of Basel II and MiFID into national law. In order to ensure consistency with the information exchange provisions of all relevant laws, the FMA is determined to prepare a draft law unifying the information</p>

	sharing provisions of all relevant laws in one single Act. At this opportunity, all the information sharing standards and processes will be brought to the same level. A working group has been already mandated with the drafting of this Information Sharing Act. This Act will also contain unified and consistent secrecy provisions which will be applicable to all relevant laws.
Recommendation of the MONEYVAL Report	<i>Reconsider the current appeals procedure regarding orders under the Administrative Proceedings Law with a view to improving the efficiency and effectiveness of information-sharing measures.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein Administrative Law (like most national administrative laws) stipulates that any administrative action has to be subject to appeal (Administrative Proceedings Law). According to the Liechtenstein Superior Administrative Court this also applies to administrative actions taken in the field of information exchange. According to expert opinions, an amendment of this provision of the Administrative Proceedings Law would infringe basic rights guaranteed by the constitution. An abolishment of the right to appeal would therefore require an amendment of the Constitution.
(Other) changes since the last evaluation	

### Special Recommendation III (Freezing and confiscating terrorist assets)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Liechtenstein needs to review its response to UNSCR 1373 and address the requirements accompanying a balanced freezing system outside the context of UNSCR 1267. It should elaborate a procedure covering all specific aspects required by the standards of the exceptional freezing regime in respect of suspected terrorism related assets.</i>
Measures taken to implement the Recommendation of the Report	Report and Application No. 124/2008 proposes amendments to §§ 20b and 26 of the Criminal Code clarifying that everything deemed an object of money laundering is in principle subject to "confiscation" through absorption of enrichment. Under the proposed § 26 paragraph 1 of the Criminal Code, the court may – irrespective of the punishability of a given person – order the confiscation of objects which were used to commit the punishable act or which were designated for use in the commission of the act or which have arisen from a punishable act, if these objects endanger the safety of persons, morality, or the public order. This ensures that the direct confiscation of assets of a terrorist group is possible. The principle of unrestricted confiscation was taken into account so that, once this legislative amendment enters into force, the system can indeed be deemed balanced with respect to the seizure and confiscation of terrorist assets.
Recommendation of the MONEYVAL Report	<i>As for the Taliban Ordinance procedure, it should be clarified that the measures also target assets indirectly controlled and partially or jointly possessed by the designated persons. Review of the measure or other appellate possibilities should also be provided for, when challenged by the affected persons or in case of confusion of identity.</i>
Measures taken to implement the Recommendation of the Report	See preceding response.
(Other) changes since the last evaluation	

### Special Recommendation V (International Co-operation)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.</i>
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Measures taken to implement the Recommendation of the Report	Please see statements on Rec. 36 and Rec. 39.
Recommendation of the MONEYVAL Report	<i>The deficiencies in the ML and FT offense should be remedied to enable full compliance with dual criminality- ruled requests.</i>
Measures taken to implement the Recommendation of the Report	Please see statements on Rec. 1 and 2
Recommendation of the MONEYVAL Report	<i>The limited confiscation possibility for instrumentalities, also relevant in the MLA context, should be addressed.</i>
Measures taken to implement the Recommendation of the Report	Please see statement on Rec. 3
(Other) changes since the last evaluation	

### Special Recommendation VII (Wire transfer rules)

#### **Rating: Non compliant**

Recommendation of the MONEYVAL Report	<i>Provide in law or regulation that, for wire transfers of EUR/USD1,000 or more, banks should be required to obtain and transmit full originator information with the wire transfer.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 12 DDA Draft in conjunction with the DDO Draft. Additionally, Regulation (EC) 1781/2006 applies. Regulation (EC) 1781/2006 is an EU/EEA regulation directly applicable in Liechtenstein. Accordingly, all payments, whether domestic or cross-border, will now be subject to the DDO Draft without exception, even those of less than EUR/USD 1,000.
Recommendation of the MONEYVAL Report	<i>Require financial institutions to always include the originator's account number or reference number in cross-border wire transfers.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. See reply above.
Recommendation of the MONEYVAL Report	<i>Require inclusion of originator information in domestic wire transfers.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. See reply above.
Recommendation of the MONEYVAL Report	<i>Require that financial institutions treat wire transfers between Liechtenstein and Switzerland as international wire transfers.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Due to the comprehensive new regulations in article 12 DDA Draft in conjunction with the DDO Draft and the direct application of Regulation (EC) 1781/2006, there is no difference between cross-border and domestic electronic payments with respect to the transmission of information on the payer. For this reason, this recommendation is implemented.

Recommendation of the MONEYVAL Report	<i>Limit or repeal the DDO “legitimate reason” provision under which banks can currently avoid transmitting customer information with certain wire transfers.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Article 15 paragraph 2 DDO (current version) will be deleted without replacement. No exceptions will henceforth be granted. Article 12 DDA Draft in conjunction with the DDO Draft applies (see reply above).
Recommendation of the MONEYVAL Report	<i>Require each intermediary financial institution in the payment chain to maintain all the required originator information with the accompanying wire transfer.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 12 DDA Draft in conjunction with the DDO Draft and the direct application of Regulation (EC) 1781/2006. According to these provisions, any intermediary payment service provider for the wire transfer must ensure that all information on the payer that accompanies a transfer of funds is kept with the transfer.
Recommendation of the MONEYVAL Report	<i>Introduce risk-management requirements for Liechtenstein financial institutions where they are beneficiaries of wire transfers that are not accompanied by full originator information.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 12 DDA Draft in conjunction with the DDO Draft and the direct application of Regulation (EC) 1781/2006. According to these provisions, the payment service provider of the payee must detect whether the information on the payer required under the DDO Draft is missing or incomplete and, where applicable, shall either reject the transfer or ask for complete information on the payer as required under the DDO Draft.
Recommendation of the MONEYVAL Report	<i>The FMA should introduce additional measures as needed to effectively monitor compliance with the requirements in relation to wire-transfers.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. A new sanction was included in article 31 paragraph 1 (d) DDA Draft, according to which anyone who, in violation of articles 5 to 14 of Regulation (EC) No. 1781/2006 fails to collect, keep, verify, or transmit the required information, carries out or receives financial transfers, or breaches record-keeping or reporting duties shall be punished by a fine of up to 100,000 francs for committing an administrative offense. Sanctions in article 31 paragraph 1 (d) DDA Draft.
(Other) changes since the last evaluation	

### **Special Recommendation VIII (Non-profit organizations)**

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

Recommendation of the MONEYVAL Report	<i>Liechtenstein should conduct a review of its NPO laws and regulations.</i>
Measures taken to implement the Recommendation of the Report	Liechtenstein is expected to put its new foundation law into force on 1 April 2009, upon which charitable foundations will be subject to mandatory foundation supervision. By establishing a research focus area, the University will also play an important role. Liechtenstein's engagement can be linked to the already launched initiative to strengthen microfinance.
Recommendation of the MONEYVAL Report	<i>Liechtenstein should conduct outreach with the NPO sector on the risks of FT abuse.</i>
Measures taken to implement the Recommendation of the Report	See statement above.

(Other) changes since the last evaluation	
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### Special Recommendation IX (Cash couriers)

#### Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Liechtenstein should put into place a disclosure or declaration system to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing.</i>
Measures taken to implement the Recommendation of the Report	<p>Since the conclusion of the Customs Treaty with Switzerland in 1923, Switzerland and Liechtenstein form a Customs Union without any border controls at the internal borders, while the external borders of both countries are being controlled by the Swiss authorities.</p> <p>Due to Liechtenstein's accession to the Schengen System, Liechtenstein and Switzerland have been negotiating a new treaty regarding the legal mandate of the Swiss Border Guard on the Liechtenstein Territory beyond the past delegations on the basis of the 1923 Treaty on Customs Union, in particular regarding the police powers of the Swiss Border Guard. Negotiations regarding this new draft treaty have been finalised by the end of September this year. This draft treaty does provide for the possibility to delegate controls of cash couriers to the Swiss Border Guards in an analogous way as SR IX will be complied with by Switzerland. Liechtenstein is in constant and close contact with Switzerland with regard to establishment of a declaration system.</p>
(Other) changes since the last evaluation	

## 4. Specific Questions

### 1. Have there been changes regarding competencies, resources, staffing etc. of the FIU?

In the course of implementation of the Third AML/CFT Directive, the FIU Act will be amended to include the offense of terrorist financing. The resources and staffing of the FIU have not been changed since the Evaluation.

### 2. Have there been changes in the competencies, resources, staffing etc. of supervisory authorities?

#### *Competencies*

The FMA has basically the same competencies as at the time of the last assessment. As already mentioned above, Basel II (more precisely EC Capital Requirements Directive) as well as MiFID (EC Markets in Financial Instruments Directive) had to be implemented into national law. As a consequence of this implementation, the FMA has been provided with certain new supervisory and sanctioning powers.

The implementation of Basel II and MiFID required substantial amendments to the information sharing provisions included in the Liechtenstein Banking Act. The respective provisions have now been brought fully in line with the respective EEA standards. These provisions may also affect the exchange of AML/CFT information as far as such information is relevant to the consolidated supervision of banks or investment firms. International requests for information can only be refused in those cases which are stipulated in the respective European directives.



Additional supervisory and sanctioning powers have been introduced with the implementation of the new EC Prospectus Directive into national law.

### *Staffing*

Since the last assessment, the FMA has continued to increase its staff remarkably. While the FMA had a workforce of 29 persons at the time of the last assessment, the FMA's duties and powers are carried out by more than 60 highly qualified employees as of the end of 2008. The workforce has more than doubled in size. A majority of the FMA's workforce has a background in law, but the proportion of economists within the FMA has increased significantly.

It should also be noted that the FMA has drawn extensively on external experts and consultants over the course of the last year in order to address issues arising beyond the ordinary scope of business of the FMA. This strategy guaranteed that the FMA staff could focus fully on its core tasks, particularly in the field of AML/CFT.

### *Financing*

The FMA is financed by the State budget and by fees levied upon supervised entities. In its November 2006 session, Parliament approved the FMA's budget for the 2007 business year in the amount of CHF 7,270,000. According to article 29 of the FMA Act, the State contribution was CHF 3,950,000. As in the first two business years of the FMA, the 2007 budget was met. In comparison with the previous year, the State contribution was reduced, and the self-financing level was increased to 55%. The FMA has recently presented plans to the Government and financial market participants aimed at increasing further the self-financing level of the FMA.

### *Greater involvement of FMA supervisors in on-site inspection work*

The greater involvement of FMA supervisors in on-site inspection work was made a top priority during the last year (as recommended in the last assessment report). Staff members of the Division for Banking Supervision have conducted several on-site inspections in the last twelve months. Four of these on-site inspections very specifically related to AML issues. In addition, staff members of the Division for Securities Supervision have accompanied several on-site reviews concerning investment undertakings and asset management companies.

The Division of DNFBP supervision strengthened also its frequency and intensity to conduct on-site inspections. In addition, the auditors in charge of regular on-site inspections with DNFBP were regularly accompanied by staff members of the FMA. The accompanied on-site inspections (recommendation of the IMF) enhanced the dialogue with the auditors and the supervised parties, staff members of DNFBP Division were trained on the job and sensitized for due diligence duties. By these measures, the efficiency and effectiveness of Liechtenstein's supervision system was regularly monitored and evaluated.

The Division for Insurance Supervision conducted also several on-site inspections in 2007 and 2008. Whenever a life-insurance company was inspected, AML/CFT measures were a key issue. One extraordinary on-site inspection was carried out in 2008.

### *Consolidation of integrative functions*

In order to combine AML/CFT efforts and to make sure that compliance with AML/CFT measures is improved evenly across all categories of reporting institutions (as recommended in the last assessment report) the FMA has established an internal AML/CFT committee, consisting of representatives of all supervisory departments of the FMA. This committee regularly examines AML/CFT audit reports concerning market participants from different financial sectors. The results of these examinations are discussed jointly in order to determine possible sanctions and/or remedial measures to be taken by the respective financial institution. The work of the committee has contributed significantly to the FMA's objective that the same supervisory standards be applied across all sectors and to transfer AML/CFT know-how between all supervisory departments.

### *Training for AML/CFT auditors*

Cases dealt with by the AML/CFT committee have also been presented to external auditors across all sectors (in anonymized form) on the occasion of “auditors’ workshops”, which are conducted by the FMA on an annual basis. In this context, deficiencies observed are explicitly pointed out to the auditors, particularly in the processes of suspicious activities detection, identification of beneficial owners, verification of customers’ and beneficial owners’ identity, definition of high-risk customers, etc. Diagnosed deficiencies have also been addressed on the occasion of the annual meetings between the FMA and the management board of each supervised institution. During the last year, all the efforts described above have been streamlined and significantly intensified across all supervisory departments.

### **3. Liechtenstein signed a Schengen-related association with the European Union in February 2008 - have there been changes in the AML/CFT legislation because of this agreement (particularly with regard to Special Recommendation IX)?**

Schengen has no additional relevance for the AML/CFT legislation with regard to the Third Directive and does not cover Special Recommendation IX.

### **4. The evaluation team noticed a general tendency of transferring money laundering cases to the authorities of the jurisdiction where the predicate offence occurred rather than taking up the investigation and prosecution in Liechtenstein which kept the judiciary from developing its own experience and jurisprudence in money laundering matters. Have there been any changes or initiatives in this regard?**

Since the last Report in autumn 2007, the Liechtenstein Office of the Public Prosecutor has submitted 4 indictments for money laundering to the Liechtenstein Criminal Court. In one of these proceedings, a German citizen was sentenced to imprisonment in a final judgment. The Liechtenstein Office of the Public Prosecutor makes every effort to give the Liechtenstein courts the opportunity to develop a practice as to money laundering by submitting the suitable applications. However, the Office of the Public Prosecutor will continue transferring prosecution to the proper authorities in the defendants' home countries where foreign authorities so request for reasons of concentrating proceedings and where this appears necessary to avoid limitation. This happens in Liechtenstein where proceedings are running in several jurisdictions at the same time and the foreign defendant cannot be tried before the Criminal Court. It is not possible to conduct a trial before the Criminal Court in the absence of the defendant. It is the rule that before transferring prosecution, all evidence is investigated and analyzed in Liechtenstein. As to the proceeds of the offences, domestic proceedings are continued in all cases with the objective of forfeiture of the assets. For example, in a large-scale international money laundering case in July 2008, the prosecution for money laundering of the foreign defendant was transferred to his home country; however, the blocked assets of up to EUR 190 million were seized by the Criminal Court for the benefit of the State in separate proceedings in a judgment that is not yet final. After this judgment has become final, the Principality of Liechtenstein will start negotiations for the return of these funds to the injured parties.

**5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)<sup>5</sup>**

<b>Implementation / Application of the provisions in the Third Directive and the Implementation Directive</b>	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Legislation to implement the Third Directive and the Implementation Directive will be approved by the Liechtenstein Parliament by the end of this year. These laws are expected to enter into force on 1 March 2009.

<b>Beneficial Owner</b>	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3 <sup>rd</sup> Directive <sup>6</sup> (please also provide the legal text with your reply)	<p>The new definition corresponds to the definition of BO in the 3rd Directive: The proposed new definition of the beneficial owner in the proposal to Parliament provides that the beneficial owner may only be a natural person.</p> <p>The relevant legal text will read as follows: "[...] 'beneficial owner' means a natural person on whose initiative or in whose interest a transaction or activity is carried out or a business relationship is ultimately constituted. In the case of legal entities, the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated."</p>

<b>Risk-Based Approach</b>	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	<p>The extent of the permission to use a risk-based approach is defined as follows. With the exception of the cases when there is suspicion of money laundering, a predicate offense of money laundering, organized crime, or terrorist financing, regardless of any derogation, exemption or threshold, the persons subject to due diligence are exempt from due diligence (i.e. identification and verification of the identity of the contracting party and of the beneficial owner; establishment of a business profile; and risk-adequate monitoring of the business relationship) where:</p> <ul style="list-style-type: none"> <li>a) the contracting party is a listed company whose equity papers are admitted to trading on a regulated market within the meaning of Directive 2004/39/EC in one or more EEA Member States or a listed company from a third State with equivalent disclosure requirements;</li> <li>b) the contracting party is a domestic authority;</li> <li>c) the contracting party is a person subject to due diligence referred to in article 3 paragraph 1 (a) to (h) that is subject to Directive 2005/60/EC or equivalent regulation and supervision;</li> <li>d) in the case of life insurance policies, the annual premium is no more than 1,500 francs or the single premium is not more than 4,000 francs;</li> <li>e) in the case of life insurance policies for pension schemes, there is no surrender clause and the policy cannot be used as collateral;</li> <li>f) in the case of insurances by way of old age provision benefits, the contributions are deducted by the employer and the beneficiaries cannot transfer their rights;</li> <li>g) a rental deposit account for rental property located in an EEA Member State or Switzerland is established, provided the deposit is not more than 25,000 francs;</li> <li>h) electronic money as defined in article 3 (a) of the E-Money Act is spent or managed, provided that:</li> </ul>

<sup>5</sup> For relevant legal texts from the EU standards see Appendix II

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

	<p>1. if the device cannot be recharged, the maximum amount stored in the device is no more than 250 francs; or</p> <p>2. if the device can be recharged, a limit of 4,000 francs is imposed on the total amount spent or managed in a calendar year, except when an amount of 1,500 francs or more is redeemed in that calendar year by the bearer as referred to in article 10 paragraphs 2 to 4 of the E-Money Act;</p> <p>i) the contractual relationship is in the form of an exclusive asset management mandate with limited power of attorney for an individual client bank account or custody account kept at a bank subject to Directive 2005/60/EC or equivalent regulation and supervision. A power of attorney is considered limited especially if both the possibility of direct investments and – except for charging reasonable management fees – debiting or closing the account or custody account is excluded by the principal;</p> <p>k) the transactions constitute external accounting and auditing with respect to a legal entity whose business relationships and transactions are already fully monitored within the meaning of risk-adequate monitoring of the business relationship by a natural or legal person who, on a professional basis and on the account of a third party, acts as a partner of a partnership or a governing body or general manager of a legal entity or carry out a comparable function on the account of a third party.</p> <p>Credit and financial institutions are exempt from the due diligence requirement of identification and verification of the identity of the beneficial owner where the contracting party is a notary, lawyer, or legal agent domiciled in an EEA Member State or Switzerland who, for the account of his clients, keeps an account or custody account within the scope of a forensic activity or in the capacity of an executor, escrow agent, or similar capacity.</p> <p>Persons subject to due diligence are exempt from the due diligence requirement of identification and verification of the identity of the contracting party where the contracting party has already been identified in an equivalent manner within the same undertaking, group, or conglomerate. In such a case, copies of the documents upon which the original identification were based must be included in the due diligence files.</p> <p>The Financial Market Authority of the Principality of Liechtenstein will establish a list of countries with equivalent regulations as referred to in paragraph 1 (a), (c), and (i). (article 10 DDA Draft)</p>
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<b>Politically Exposed Persons</b>	
<p>Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive<sup>7</sup> are provided for in your domestic legislation (please also provide the legal text with your reply).</p>	<p>In accordance with the provisions in the Third Directive and the Implementation Directive, article 2 paragraph 1(h) DDA Draft defines PEPs as follows: "politically exposed persons" means natural persons who are or have, until a year ago, been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons.</p> <p>Article 1 of the Due Diligence Ordinance further specifies the term "PEP" as follows: For purposes of the Act and this Ordinance, "politically exposed persons" means:</p> <ol style="list-style-type: none"> <li>1. natural persons who are entrusted with prominent public functions in a foreign country or have been entrusted with such functions until a year ago: <ol style="list-style-type: none"> <li>a) heads of State, heads of government, ministers and deputy or assistant ministers;</li> <li>b) members of parliaments;</li> <li>c) members of supreme courts, of constitutional courts and of other high-level judicial bodies whose decisions are not generally subject to further appeal, except in exceptional circumstances;</li> <li>d) members of courts of auditors and of the boards of central banks;</li> <li>e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;</li> <li>f) members of the administrative, management or supervisory bodies of State-owned enterprises.</li> </ol> </li> <li>2. Immediate family members of the persons referred to in point 1:</li> </ol>

<sup>7</sup> Please see Article 3(8) of the 3<sup>rd</sup> Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	<ul style="list-style-type: none"> <li>a) the spouse;</li> <li>b) any partner considered by national law as equivalent to the spouse;</li> <li>c) the children and their spouses or partners;</li> <li>d) the parents.</li> </ul> <p>3. Persons known to be close associates of the persons referred to in point 1:</p> <ul style="list-style-type: none"> <li>a) any natural person who is known to have joint beneficial ownership of legal entities and legal arrangements, or any other close business relations, with a person referred to in point 1;</li> <li>b) any legal entity or legal arrangement whose beneficial owner is the person referred to in point (a) alone and which is known to have been set up for the benefit of the person referred to in paragraph 1.</li> </ul>
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**“Tipping off”**

<p>Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.</p>	<p>Under existing law, the prohibition of tipping off applies for 20 working days after submission of a SAR. Afterwards, the competent investigating judge may order a prohibition of tipping off.</p> <p>Pursuant to implementation of the Third AML/CFT Directive, the prohibition against tipping off will be unlimited in time: The persons subject to due diligence may not inform the contracting party, the beneficial owner, or third parties that they have submitted a report to the FIU pursuant to article 17 paragraph 1. This prohibition of tipping off is unlimited in time (article 18 paragraph 3 DDA Draft).</p>
<p>With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.</p>	<p>Other than the exceptions set forth in the Third AML/CFT Directive (article 28 paragraphs 3 to 5), no further circumstances are contemplated under which the prohibition shall be lifted. The exceptions contained in the Third AML/CFT Directive (article 28 paragraphs 3 to 5) will be implemented as follows: Several persons subject to due diligence involved in one and the same fact pattern may mutually inform each other of submission of a SAR if all involved persons subject to due diligence are subject to the DDA or equivalent obligations and belong to the same group, the same legal person, the same network, or the same professional category (article 18 paragraph 3 DDA Draft).</p>

**“Corporate liability”**

<p>Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.</p>	<p>By the end of October 2008, the Ministry of Justice will receive a draft prepared by an external expert on implementation of the criminal liability of legal persons under Liechtenstein law. Parliamentary consideration is scheduled for 2009.</p> <p>Additionally, the DDA draft will include the joint and several liability of the legal person or trust fund. Article 33 DDA Draft reads: “If any violation is committed in the course of the business operations of a legal person or a trust, the penal provisions shall apply to the persons who acted or should have acted on behalf of such legal person or trust; the legal person or the trust fund shall, however, be jointly and severally liable for criminal fines, administrative fines, and costs.”</p>
<p>Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.</p>	<p>See preceding response.</p>

**DNFBPs**

<p>Please specify whether the obligations apply to all natural and legal persons trading in all</p>	<p>Article 3 paragraph 1(q) DDA Draft reads: “The Due Diligence Act particularly shall apply to natural and legal persons trading in goods on a professional basis, to the extent that payment is made in cash in an amount of CHF 25,000 [equivalent to EUR 15’000] or more, whether the transaction is executed in a single operation or in several operations which appear connected.”</p>
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goods where payments are made in cash in an amount of € 15 000 or over.

## 6. Statistics

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

2005												
	Investigations		Indictments		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	35	-	1	4	0	0	46	-	-	-	10	EUR 53'511'743.-, and CHF 7'228'153.-, USD 1'255'190.-
<b>FT</b>	0	0	0	0	0	0	0	0	-	-	0	0

2006												
	Investigations		Indictments		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	42	-	1	1	0	0	16	-	-	-	14	EUR 1'182'073.- and CHF 1'646'301.- and USD 1'394'500.-
<b>FT</b>	0	0	0	0	0	0	0	0	-	-	0	0

2007												
	Investigations		Indictments		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	49	-	1	1	0	0	28	-	-	-	10	EUR 4'103'891.-, CHF 7'318'279.-
<b>FT</b>	0	0	0	0	0	0	0	0	-	-	0	0

1.1. – 30.09.2008												
	Investigations		Indictments		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	63	-	4	5	1	1	35	-	-	-	2	EUR 197'901'971.- CHF 31'314'558.30.-
<b>FT</b>	0	0	0	0	0	0	0	0	-	-	0	0

## b. STR/CTR

Explanatory note:

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

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

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

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

**2005**

Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
								cases	persons	cases	persons	cases	persons	cases	persons
commercial banks		104	1	192	1	138	1	1	4	0	0	0	0	0	0
insurance companies		1													
Notaries															
Currency exchange															
broker companies															
securities' registrars															
lawyers		8													
accountants/auditors															
company service providers															
fiduciaries		74													
Postal Service		1													
Public Authorities		4													
<b>Total</b>		<b>192</b>	<b>1</b>												

**2006**

Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
								cases	persons	cases	persons	cases	persons	cases	persons
commercial banks		84		161	2	111	2	2	2	0	0	0	0	0	0
insurance companies															
Notaries															
Currency exchange															
broker companies															
securities' registrars															
lawyers		9													
accountants/auditors															



company service providers															
investment companies		1													
fiduciaries		63	2												
Postal Service		1													
Public Authorities		3													
<b>Total</b>		<b>161</b>	<b>2</b>												

**2007**

Statistical Information on reports received by the FIU								Judicial proceedings								
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions				
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT		
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons			
commercial banks		130														
insurance companies		3														
Notaries																
Currency exchange																
broker companies																
securities' registrars																
lawyers		6		205		141		0	0	0	0	0	0	0	0	0
accountants/auditors																
company service providers																
fiduciaries		64														
Postal Service		1														
Public Authorities		1														
<b>Total</b>		<b>205</b>														

**1.1.-30.09.2008**

Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons		
commercial banks		101		154		136		4	5	0	0	1	1	0	0
insurance companies		4													
Notaries															
Currency exchange															
broker companies															
securities' registrars															
Lawyers		1													
accountants/auditors															
company service providers															
Fiduciaries		50													
Postal Service		1													
Public Authorities															
<b>Total</b>		<b>157</b>													

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

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2, & 32)	<ul style="list-style-type: none"> <li>• Amend the law to extend the list of predicate offenses for money laundering to offenses in the categories of environmental crimes, smuggling, forgery, and market manipulation.</li> <li>• Amend the law to extend the offenses of converting, using, or transferring criminal proceeds to include criminal proceeds obtained through the commission of a predicate offense by the money launderer.</li> <li>• Amend the law to eliminate Article 165.5 StGB to permit the prosecution for money laundering also in cases where the offender has been punished for the predicate offense.</li> <li>• Amend the law to criminalize the association or conspiracy of two persons to commit money laundering.</li> <li>• Develop jurisprudence on Article 165 StGB autonomous money laundering.</li> <li>• Amend the law to provide for criminal liability of corporate entities.</li> </ul>
Criminalization of Terrorist Financing (SR.II & R.32)	<ul style="list-style-type: none"> <li>• Amend the law to criminalize the financing of individual terrorists.</li> <li>• Amend Article 278d StGB to provide for “any act” committed with the required intent, not only criminal offenses, to constitute a terrorist act.</li> <li>• Provide for a definition of “Terrorist organization” in line with the FATF standard.</li> </ul>
Confiscation, freezing, and seizing of proceeds of crime (R.3 & 32)	<ul style="list-style-type: none"> <li>• The criminal seizure and confiscation of the laundered assets as the object of the autonomous money laundering offense needs to be formally covered.</li> <li>• All (intended) instrumentalities must be made subject to seizure and confiscation, irrespective of their nature.</li> <li>• Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds.</li> </ul>
Freezing of funds used for terrorist financing (SR.III & R.32)	<ul style="list-style-type: none"> <li>• Liechtenstein needs to review its response to UNSCR 1373 and address the requirements accompanying a balanced freezing system outside the context of UNSCR 1267. It should elaborate a procedure covering all specific aspects required by the standards of the exceptional freezing regime in respect of suspected terrorism related assets.</li> <li>• As for the Taliban Ordinance procedure, it should be clarified that the measures also target assets indirectly controlled and partially or jointly possessed by the designated persons. Review of the measure or other appellate possibilities should also be provided for, when challenged by the affected persons or in case of confusion of identity.</li> <li>• Maintain more comprehensive statistics on seizure and confiscation of criminal proceeds.</li> </ul>
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<ul style="list-style-type: none"> <li>• In terms of efficiency, while direct access would be preferable, at a minimum the law should expressly provide for indirect access of the FIU, through the FMA, to financial and other relevant information held by the non-disclosing entities subject to the DDA.</li> <li>• The FIU Act needs to be brought in line with the DDA in respect of its terrorism financing remit.</li> </ul>

	<ul style="list-style-type: none"> <li>• Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds, and on spontaneous referrals to foreign counterparts.</li> </ul>
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	<ul style="list-style-type: none"> <li>• The Public Prosecutor should endeavor to take on more autonomous money laundering investigations, especially where no foreign proceedings have been instituted.</li> <li>• Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds.</li> </ul>
3. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5–8)	<ul style="list-style-type: none"> <li>• Strengthen legislative requirements for obtaining beneficial ownership information: for all business relationships financial institutions should be required to (i) always determine the natural person who is the beneficial owner (or owns or controls the customer); and (ii) understand the ownership and control structure of their customer.</li> <li>• Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately managed registers and databases.</li> <li>• Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers.</li> <li>• Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners and authorized parties.</li> <li>• Require financial institutions to provide customer information when making domestic wire transfers and align threshold in the DDA and DDO for due diligence on wire transfers with the minimum set out in SR.VII of EUR/USD1,000.</li> <li>• Bring the current exceptions to identification requirements into line with Recommendation 5.2 which requires at a minimum reduced or simplified measures.</li> <li>• The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence.</li> <li>• Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein.</li> <li>• Require financial institutions to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP.</li> <li>• Provide for an explicit obligation by financial institutions to determine the source of wealth of customers and beneficial owners identified as PEPs.</li> <li>• Consider applying similar measures to domestic PEPs.</li> <li>• Provide an explicit requirement for financial institutions providing correspondent services to determine whether the respondent has been the subject of a money laundering or terrorist financing investigation or regulatory action.</li> <li>• Amend the current provisions to provide explicitly for the documenting of the respective AML/CFT responsibilities of the respondent and correspondent bank.</li> </ul>

	<ul style="list-style-type: none"> <li>• Regarding payable-through transactions, require Liechtenstein financial institutions to obtain a confirmation from the correspondent financial institution that all CDD requirements of Recommendation 5 have been complied with and that the correspondent financial institution is able to provide relevant customer identification data upon request.</li> <li>• For the sake of completeness, revise the DDA and DDO provisions for correspondent banking relationships and similar relationships to cover all relevant categories of financial institutions.</li> <li>• Require financial institutions to take measures to address the risk of misuse of new technologies for ML or FT purposes, particularly for internet banking.</li> <li>• Require financial institutions to take measures expressly to address the risk of non-face to face business.</li> </ul>
Third parties and introduced business (R.9)	<ul style="list-style-type: none"> <li>• Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties.</li> <li>• Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements.</li> <li>• The authorities should determine countries in which third parties who conduct due diligence on behalf of Liechtenstein financial institutions can be based, by reference to the adequacy of their application of the FATF Recommendations, and require financial institutions to check that such third parties have appropriate preventive measures in place.</li> </ul>
Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> <li>• To reflect relevant jurisprudence, provide in legislation an explicit exclusion from secrecy provisions to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes.</li> <li>• Reconsider the current appeals procedure regarding orders under the Administrative Proceedings Law with a view to improving the efficiency and effectiveness of information-sharing measures.</li> <li>• Grant criminal prosecution access to customer information from insurance, asset management, or investment undertakings.</li> </ul>
Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> <li>• Provide in law or regulation that, for wire transfers of EUR/USD1,000 or more, banks should be required to obtain and transmit full originator information with the wire transfer.</li> <li>• Require financial institutions to always include the originator's account number or reference number in cross-border wire transfers.</li> <li>• Require inclusion of originator information in domestic wire transfers.</li> <li>• Require that financial institutions treat wire transfers between Liechtenstein and Switzerland as international wire transfers.</li> <li>• Limit or repeal the DDO "legitimate reason" provision under which banks can currently avoid transmitting customer information with certain wire transfers.</li> <li>• Require each intermediary financial institution in the payment chain to maintain all the required originator information with the accompanying wire transfer.</li> <li>• Introduce risk-management requirements for Liechtenstein financial institutions where they are beneficiaries of wire transfers that are not accompanied by full originator information.</li> <li>• The FMA should introduce additional measures as needed to effectively monitor compliance with the requirements in relation to wire-transfers.</li> </ul>
Monitoring of transactions and	<ul style="list-style-type: none"> <li>• Provide explicitly that financial institutions be required to pay special attention to all complex, unusual large transactions, or unusual</li> </ul>

relationships (R.11 & 21)	<p>patterns of transactions, that have no apparent or visible economic or lawful purpose.</p> <ul style="list-style-type: none"> <li>• Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.</li> <li>• Introduce effective measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.</li> </ul>
Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)	<ul style="list-style-type: none"> <li>• To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting.</li> <li>• Extend the SAR reporting requirement to include attempted transactions.</li> <li>• Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism.</li> <li>• Include provisions extending protection on reporting in good faith to directors, officers and employees.</li> <li>• Remove the time limit on the prohibition of tipping off.</li> <li>• To supplement its current efforts, the FIU should develop and circulate written guidelines to assist reporting entities to implement their SAR reporting requirement.</li> </ul>
Cross Border Declaration or disclosure (SR.IX)	<ul style="list-style-type: none"> <li>• Liechtenstein should put into place a disclosure or declaration system to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing.</li> </ul>
Internal controls, compliance, audit and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> <li>• Require financial institutions to have in place screening procedures to ensure high standards when hiring employees.</li> <li>• Require financial institutions to ensure that internal audit function is adequately resourced.</li> <li>• Require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations in countries which do not or insufficiently apply the FATF Recommendations.</li> <li>• Where home and host country AML/CFT measures differ, require branches and subsidiaries to apply the higher standard.</li> <li>• Require financial institutions to inform the FMA of any local laws or regulations preventing them from monitoring AML/CFT risk on a global basis.</li> <li>• The FMA should take steps to improve implementation of appropriate group-wide AML/CFT measures for Liechtenstein financial institutions.</li> </ul>
Shell banks (R.18)	<ul style="list-style-type: none"> <li>• Include as a prerequisite for licensing that banks must engage in substantive business activities in Liechtenstein or, alternatively, the authorities could opt to explicitly prohibit shell banks.</li> </ul>
The supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29,	<ul style="list-style-type: none"> <li>• Enlarge the definition of administrative offenses to cover all appropriate DDA requirements and establish a continuum of sanctions from minor to serious DDA violations to ensure that cases are processed in a timely, effective and proportionate manner.</li> <li>• Define sanctions with regard to criminal liability of legal persons.</li> <li>• The FMA should further develop its Guideline on Monitoring of</li> </ul>

17, 25, & 32)	<p>business relationships as part of the strengthening of requirements for enhanced due diligence.</p> <ul style="list-style-type: none"> <li>• Guidelines should be established to provide financial institutions and DNFBPs with specific guidance on CFT issues.</li> <li>• Introduce a specific provision to allow the FMA to ensure that financial institutions apply AML/CFT measures consistent with FATF Recommendations across financial groups.</li> <li>• Consider providing additional resources to allow FMA supervision staff to participate directly in the AML/CFT on-site inspection program.</li> <li>• Ensure that staff resources are adequate to address the AML/CFT risks of the insurance sector.</li> </ul>
Money value transfer services (SR.VI)	<ul style="list-style-type: none"> <li>• Reduce the legal threshold for MVT CDD to conform to the FATF wire-transfer threshold (USD/EUR1,000).</li> </ul>
<b>4.Preventive Measures–Nonfinancial Businesses and Professions</b>	
Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> <li>• Strengthen legislative requirements to cover the formation of all kinds of companies: TCSPs should conduct CDD and ascertain the beneficial owner when forming commercially-active entities and holding companies that contain commercially-active entities.</li> <li>• Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately-managed registers and databases.</li> <li>• Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers.</li> <li>• Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners, and authorized parties.</li> <li>• The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence.</li> <li>• Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein.</li> <li>• Require DNFBPs to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP.</li> <li>• Provide for an explicit legal obligation by DNFBPs to determine the source of wealth of customers and beneficial owners identified as PEPs.</li> <li>• Consider applying similar measures to domestic PEPs.</li> <li>• Require DNFBPs to take measures to address the risk of misuse of new technologies for ML or FT purposes.</li> <li>• Require DNFBPs to take additional measures to expressly address the risk of non-face to face business.</li> <li>• Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties;</li> <li>• Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements.</li> <li>• The authorities should determine countries in which third parties who conduct the due diligence on behalf of Liechtenstein DNFBPs can be based, by reference to the adequacy of their application of the FATF</li> </ul>

	<p>Recommendations.</p> <ul style="list-style-type: none"> <li>• Provide explicitly that DNFBPs be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.</li> </ul>
Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> <li>• Conduct outreach to non-reporting TCSPs and take other appropriate measures to increase the breadth of DNFBP reporting.</li> <li>• To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting.</li> <li>• Extend the SAR reporting requirement to include attempted occasional transactions.</li> <li>• Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations, in addition to those who finance terrorism.</li> <li>• Include provisions extending protection to directors, officers, and employees;</li> <li>• Remove the time limit on the prohibition of tipping off.</li> <li>• Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.</li> <li>• Introduce effective measures to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries.</li> <li>• Introduce a requirement that DNFBPs examine the background and purpose of such transactions with no apparent economic or visible lawful purpose, with findings documented and available to assist competent authorities and auditors.</li> </ul>
Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	<ul style="list-style-type: none"> <li>• Expand administrative offenses in order to establish a continuum of sanctions from minor to serious DDA violations and to ensure that cases are processed in a timely, effective and proportionate manner.</li> <li>• The FMA should further develop its Guideline on Monitoring of business relationships as part of the strengthening of requirements for enhanced due diligence.</li> <li>• Guideline should be issued with regard to CFT requirements.</li> <li>• Consider increasing the frequency of DDA audits for TCSPs.</li> <li>• Consider more direct involvement of FMA staff in DDA audits.</li> </ul>
Other designated non-financial businesses and professions (R.20)	
5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> <li>• The definition of “beneficial owner” should be amended and brought in line with the FATF standard to cover the control structure of legal persons.</li> <li>• Intermediaries should be required by law to verify beneficial ownership information.</li> <li>• Although in practice beneficial ownership information of commercially-active companies is available in a large number of cases, the authorities should put in place measures to ensure that information on beneficial ownership and control of legal entities that</li> </ul>



	are commercially-active in the domiciliary state is obtained, verified, and kept.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> <li>• The definition of “beneficial owner” should be amended and brought in line with the definition of the FATF standard to ensure that there is adequate transparency concerning the control structure of legal arrangements.</li> <li>• Intermediaries should be required by law to verify beneficial ownership information.</li> <li>• Although the number of “private trustees” active in Liechtenstein seems to be marginal, such persons should be under a legal obligation to obtain, verify, and record beneficial ownership information.</li> </ul>
Nonprofit organizations (SR.VIII)	<ul style="list-style-type: none"> <li>• Liechtenstein should conduct a review of its NPO laws and regulations.</li> <li>• Liechtenstein should conduct outreach with the NPO sector on the risks of FT abuse.</li> </ul>
<b>6. National and International Cooperation</b>	
National cooperation and coordination (R.31 & 32)	
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> <li>• The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented.</li> <li>• The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented.</li> <li>• Implementation of the relevant UNSCRs needs further refining to expressly cover the assets under the indirect control or ownership of terrorists, and to fully criminalize terrorism financing.</li> </ul>
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	<ul style="list-style-type: none"> <li>• The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.</li> <li>• Serious and organized fiscal fraud should be excluded from the fiscal exemption.</li> <li>• The deficiencies in the ML and FT offense should be remedied to enable full compliance with dual criminality- ruled requests.</li> <li>• The limited confiscation possibility for instrumentalities, also relevant in the MLA context, should be addressed.</li> <li>• The government should decide on the desirability of the establishment of an asset forfeiture fund.</li> </ul>
Extradition (R. 39, 37, SR.V & R.32)	<ul style="list-style-type: none"> <li>• The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.</li> <li>• The refusal grounds for extradition should exclude serious and organized fiscal fraud.</li> <li>• The deficiencies in the ML and FT offenses need to be addressed so as not to pose a potential obstacle to extradition in the light of the dual criminality principle.</li> </ul>
Other Forms of Cooperation (R. 40, SR.V & R.32)	<ul style="list-style-type: none"> <li>• FIU access to confidential financial information held by DDA subjects, including at the request of foreign counterparts, should be expressly provided for.</li> <li>• To reflect relevant jurisprudence, provide in legislation an explicit exclusion from secrecy provisions for all categories of financial institutions and DNFBSs to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes;</li> </ul>

	<ul style="list-style-type: none"> <li>Reconsider the current appeals procedure regarding orders under the Administrative Proceedings Law with a view to improving the efficiency and effectiveness of information-sharing measures.</li> </ul>
7. Other Issues	
Other relevant AML/CFT measures or issues	<ul style="list-style-type: none"> <li>Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds.</li> </ul>

## APPENDIX II

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

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

(a) in the case of corporate entities:

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

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

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

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

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

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

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

Article 2

Politically exposed persons

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

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;

(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

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

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

(a) the spouse;

(b) any partner considered by national law as equivalent to the spouse;

(c) the children and their spouses or partners;

(d) the parents.

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

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

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

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