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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 Lithuania[1]

[1] Adopted by MONEYVAL at its 26th Plenary meeting (Strasbourg, 31 March – 4 April 2008). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2008)19) at http://www.coe.int/moneyval

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

The 3rd round evaluation of Lithuania by MONEYVAL took place from 8 -14 January 2006. The final report was adopted by the MONEYVAL Committee at its 21st Plenary meeting in Strasbourg on 30 November 2006.

The 3rd round detailed assessment report on Lithuania was discussed in the Working group on coordination of activities to fight against money laundering established by the Prime Minister. The competent state institutions were informed about the MONEYVAL report and asked to take into account and implement recommendations provided in the report. It was agreed that recommendations of the MONEYVAL experts will be implemented together with the implementation of provisions of the 3rd EU money laundering directive.

The Parliament (Seimas) adopted the Law on the Prevention of Money Laundering and Terrorist Financing (hereafter – the AML/CFT Law) on 17 January 2008. The AML/CFT Law entered into force on 24 January 2008.

After the adoption of the AML/CFT Law, as well as the 5 Resolutions of the Government of the Republic of Lithuania provided by the Law, the guidelines for the financial institutions and other entities shall be adopted, by which it is sought to preclude money laundering and terrorist financing. Through the above mentioned Law, resolutions of the Government and the guidelines the large part of the recommendations indicated in the MONEYVAL report shall be implemented. One of the resolutions was specially drafted to implement the MONEYVAL recommendations which are not covered by the new Law.

The task of the AML/CFT Law is to amend and specify the provisions of the previous version of the Law on Prevention of Money Laundering, seeking to implement:

1. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on prevention of the use of the financial system for the purpose of money laundering (OL L 309, 2005, p. 15).

2. Directive 2005/60/EC of the European of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (OJ L 214, 2006, p. 29).

3. Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 2005 p. 1).

4. Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 2005, p. 9).

The AML/CFT Law provides new definitions of shell bank, politically exposed persons, family members, close associates, company service providers, the third parties as well as specifies valid definitions of the Law.

New competent authorities under the AML/CFT Law are:

- the Lithuanian Assaying and Hallmarking Laboratory
- the Chamber of Auditors
- the Chamber of Notaries
- the Department of Heritage of Culture under the Ministry of Culture
- the Chamber of Bailiffs

New obligations of financial institutions and other subjects under the AML/CFT Law:

- identify not only the customer, but the beneficial owner as well;
- obtain information on the purpose and intended nature of the business relationship;
- identify the customer and verify the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
- conduct ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relations;
- keep information about the customer up-to-date.

According to the provisions of the AML/CFT Law subjects apply customer due diligence measures in the following cases:

- before establishing a business relationship;
- before carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- before foreign exchange operations if the amount of single operation is above EUR 6 000 or it equivalent in foreign currency;
- before carrying out internal and foreign money transfer by post if it is above EUR 600
- there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;
- there are doubts about the veracity or adequacy of previously obtained customer identification data.

The AML/CFT Law introduces new special customer due diligence procedures:

- simplified customer due diligence (in cases of minor threat of money laundering or financing of terrorism);
- enhanced customer due diligence (in cases of major threat of money laundering or financing of terrorism).

The AML/CFT Law extends of the period of suspension of suspicious and unusual transactions from 48 hours till 5 working days.

The subjects of the AML/CFT AML Law are not liable for the disclosure of information to the FCIS in accordance with the AML/CFT Law.

The disclosure in good faith by the subject or by an employee or director of such subject of the information shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the subject or its directors or employees in liability of any kind.

If the subject of the draft Law is unable to identify the customer and the customer does not provide the requested information about the source of the money or property, other additional documents the subject of the draft Law shall terminate the transaction or the business relationship, and shall consider making a report to the Financial Crime Investigation Service (hereafter – the FCIS).

The new obligations of the subjects of the AML/CFT Law:

- ensure participation of their relevant employees in special ongoing training programmes to help them recognise operations which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases;
- establish adequate and appropriate policies and procedures of customer due diligence, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication in order to forestall and prevent operations related to money laundering or terrorist financing;
- communicate relevant policies and procedures and other requirements of the AML Law where applicable to branches and majority owned subsidiaries in third countries;
- establish adequate internal systems, allowing to react to the inquiries of the FCIS concerning the information provided in the AML Law immediately.

The AML/CFT Law allows exchange of information between the subjects: financial institutions, auditors, accounting undertakings or undertakings providing tax advice services, notaries and persons licensed to perform notarial acts, lawyers and lawyers assistants.

In cases related to the same customer and the same transaction involving two or more institutions or persons, provided that they are situated in a Member State, or in a third country which imposes requirements equivalent to those laid down in the AML/CFT Law, and that they are from the same professional category and are subject to equivalent obligations as regards professional secrecy and personal data protection.

Presently the drafts of the resolutions of the Government have been prepared, which shall regulate the implementation of the AML/CFT Law.

According to the recommendations of the MONEYVAL experts the Parliament (Seimas) adopted the Law on Amendment of Article 3 of the Law on Payments (5 December 2007 No X-1351). It abolishes the different approach of internal and cross-border payments. This Law entered into force on 15 December 2007.

Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds entered into force from the beginning of 2007 in Lithuania. This Regulation implements requirements of the Special Recommendation VII on wire transfers (SR VII) of the FATF and it's provisions are applicable directly in all the EU member states.

Working group at Ministry of Justice prepared a draft Law on the amendment and supplementation of the Lithuanian Criminal Code which should fully implement recommendations of the MONEYVAL experts. Currently the mentioned draft Law is under discussion. With the request for response the draft Law was sent to a number of state institutions (Ministry of Internal Affairs, Unit of Financial Crimes Investigation Service under the Ministry of Internal Affairs, Prosecutor General's Office, State Security Department) and to scientific institutions (Mykolas Romeris University, Vilnius University, Institute of Law).

The proposed amendments should fully cure shortcomings of the current definition of terrorism financing and fully implement recommendations of the MONEYVAL experts. It is proposed to introduce separate offence of terrorism financing (Art. 250^2 of the Criminal Code Code).

2 Key recommendations

Please indicate which improvements 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).

Recommendation 1 (Money Laundering offence)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To unify the two ML definitions.*
Measures taken to implement the Recommendation of the Report	There have been no changes in the statutory definitions of ML since the last evaluation. However, working group at Ministry of Justice prepared a draft of Law of amendment and supplementation of Lithuanian Criminal Code (further – the Draft) which should fully implement recommendations of the committee of experts. Currently the Draft is under discussion. With the request for response the Draft was sent to a number of state institutions (Ministry of Internal Affairs, the Financial Crimes Investigation Service under the Ministry of Internal Affairs, Prosecutor General's Office, State Security Department) and to scientific institutions (Mykolas Romeris University, Vilnius University, Institute of Law). In the Draft it is proposed to abolish the Article 189 and to amend the Article 216 so that this Article would unify two ML definitions and would cover all elements of ML. Further citations from the Draft are provided: Article 4. Abolishing of Article 189 Article 189 shall be abolished. Article 5. Amendment of Article 216 Article 216 shall be amended and shall be written out so: "Article 216. Legalization of money or property 1. Any person who carries out financial operations with his own or another person's property or with proceeds from such property in the perception that the property acquired in a criminal way, or concludes agreements, uses them in economic or commercial activity, makes fraudulent declaration that they are derived from legal activity or in any other way aims to conceal origin, location, movement or ownership of such property or proceeds, also who acquires, uses or realizes property in the perception that this property proceeds from criminal offences shall be punished by imprisonment for a term for up to 7 years. 2. Any person who acquires, uses or realizes property of value equal to 10 MLS* or less in the perception that this property proceeds from criminal offences, commits a misdemeanor, and shall be punished by community service, or a fine, or detention. 3. Legal entities shall also be held liable for the acts specified in this Article". *- Currently MLS (minimal life standard) is equal
Recommendation of the MONEYVAL Report	*Money laundering should be criminalized more strictly and the legal incrimination should follow Article 3(1)(b)&(c) Vienna Convention and Article 6(1) Palermo Convention, so as to cover also conversion, transfer of property or concealment, disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, if such conduct is carried out outside of a financial operation, conclusion of an agreement, an economic or commercial activity, or by means of a fraudulent declaration.*
Measures taken to implement the	It is proposed to amend the description of ML in the Article 216 so that it would cover not only conduct

Recommendation of the Report	that is carried out in the context of a financial operation, conclusion of an agreement, an economic or commercial activity, or by means of a fraudulent declaration but also conduct that is not related with the activities mentioned above. More over an open definition of ML is proposed, including aiming to conceal origin, location, movement or ownership of such property or proceeds in any other way and thus not restricting ML on activities explicitly mentioned in the Article 216.
Recommendation of the MONEYVAL Report	*To provide for the applicability of Art. 21 also to the various offences contained in art. 189.*
Measures taken to implement the Recommendation of the Report	Article 21 is applicable to Article 216. As it is proposed to amend the Criminal Code so that Article 216 would cover offences contained in Art. 189, Article 21 would be applicable to these offences. Article 21 would be inapplicable only to the minor offences of ML provided in the 2nd paragraph of Art. 216: acquisition, usage or realization of property of value equal to 10 MLS or less in the perception that this property proceeds from criminal offences.
Recommendation of the MONEYVAL Report	*To review the effectiveness and the dissuasive character of the criminal sanctions under art. 189.*
Measures taken to implement the Recommendation of the Report	As it is proposed to abolish Article 189 and to amend Article 216 so that it would cover all elements of ML, any case of ML would be punishable by imprisonment for a term of up to 7 years. Only some minor cases of ML (using, acquiring, realization of property that proceeds from criminal offences when value of property equal to 10 MLS or less) would constitute a misdemeanour and would be punishable by community service, or a fine, or detention.
Recommendation of the MONEYVAL Report	*To consider making an explicit provision, as necessary, specifying that the laundering offence applies to both direct and indirect proceeds.*
Measures taken to implement the Recommendation of the Report	It is proposed to provide in Art. 216 that laundering offence applies not only to money and property acquired in a criminal way, but also to proceeds of such property. This provision fully implements recommendation as money and property acquired in a criminal way should be understood as direct proceeds and proceeds of money or property acquired in a criminal way should be understood as indirect proceeds.
(Other) changes since the last evaluation	It is proposed to reduce standard of mental element for ML and to provide that perpetrator commits an ML offence "in the perception that the property acquired in a criminal way" instead of "knowing that the property acquired in a criminal way". Perception is wider notion than knowledge and it covers both knowledge and suspicion that property was acquired in a criminal way.

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To include in the AML Law a specified reference to the full CDD measures as opposed to identification procedures which, in themselves, are part of the CDD process and provide for the independent verification of the identification information obtained.*
Measures taken to implement the Recommendation of the Report	- The new AML/CFT Law incorporates full customer due diligence measures, which contains the obligation of financial institutions and other subjects of the Law to conduct customer due diligence procedures in cases mentioned in Article 9 of the AML/CTF Law (always by establishing a new business relationship, by conducting occasional transactions (single or several linked operations) over 15 000 EURO, in case of doubts about the accuracy or veracity of previously obtained customer information, in case of suspicion, on entering the casino and on exchange of money to chips, in case of currency exchange in cash when the amount is above 6000 euros, in case of internal or cross-border postal money transfers above 600 euros). The AML/CFT Law provides new obligations for financial institutions and other subjects: - must identify the customer and beneficial owner; - must receive information from the customer about the purpose of his business relations and their intended character;

	- must check identity of the customer and beneficial owner following the documents, data and information, received from the reliable and independent source; - must conduct ongoing monitoring of the customers business relationship and ensure that the data about client and beneficial owner must be reviewed and kept up-to-date. Implementing requirements of the III Directive the new AML/CFT Law introduces cases when simplified and enhanced customer due diligence procedures applies. The detailed procedure will be established by the resolution of the Government and it will cover: - identification and verification of the customer and beneficial owner, - determination of beneficial owner including verification (risk-based approach), - asking the information on the substance of the business relationship (e. g. a business plan), - conducting on-going monitoring of a client activities, whether they are in line with his proclaimed business plans, whether his risk profile is showing substantial changes, including the flow of up-dated information on his activities, etc.
Recommendation of the MONEYVAL Report	*To provide for a specific inclusion in the AML Law for identification requirements in the case of suspicion irrespective of the LTL50,000 (Euro 15,000) threshold.*
Measures taken to implement the Recommendation of the Report	The new AML/CTF Law lists cases when customer due diligence procedures must be conducted by financial institutions and other subjects of the Law. Article 9 of the Law provides that financial institutions and other subjects of the Law must conduct due diligence procedures in other cases when there is a suspicion of money laundering or terrorist financing activities, regardless of any derogation, exemption or threshold. This provision of the Law implements above mentioned recommendation of the MONEYVAL experts.
Recommendation of the MONEYVAL Report	*To revise Article 3 of the Law on Payments with regards to customer details for cross-border payments.*
Measures taken to implement the Recommendation of the Report	Implementing the recommendation of the 3rd MONEYVAL report the Law on Payments was amended. This amendment of Article 3 of the Law abolishes the different approach of internal and cross-border payments. The amendment of the Law on Payments provides that credit institutions must apply the same requirements as regards customer's identification details for internal and cross-border payments. In both cases (internal and cross-border payments) financial institutions are required to obtain and maintain the following information on: the name of originator; the originator's account numberand the originator's address or identity number.
Recommendation of the MONEYVAL Report	*To ensure that the Register of Legal Persons records information on shareholding changes in legal persons following registration.*
Measures taken to implement the Recommendation of the Report	The Draft Law amending Article 12 and supplementing Article 41 of the Law on Companies (No. IX-1594) has been prepared and presented for the coordination among institutions concerned. More detailed information is presented commenting the implementation of R.33.
Recommendation of the MONEYVAL Report	*As part of the CDD process, financial institutions should be required to draw up customer acceptance policies and business profiles with an obligation for on-going due diligence procedures.*
Measures taken to implement the Recommendation of the Report	This recommendation was implemented through the provisions of Article 19 of the AML/CFT Law which states that financial institutions and other subjects must establish appropriate internal control procedures related with due diligence of client and beneficial owner, reporting and providing of information to the FCIS, as well as record keeping, assessment of clients risk, management of the risk, other measures which will prevent money laundering and terrorist financing. These procedures cover customer acceptance policies and business profiles. According to the new provisions of the AML/CFT Law financial institutions and other subjects in all cases must conduct ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, where necessary, the source of funds. Financial institutions and other subjects must ensure that the documents, data or information held are

	revised and kept up-to-date. More detailed procedures will be implemented through the Instructions for financial institutions which will be adopted after the adoption of the Government resolutions.
Recommendation of the MONEYVAL Report	*To introduce a specific obligation for financial institutions to consider reporting where the ID procedures cannot be completely and satisfactorily fulfilled.*
Measures taken to implement the Recommendation of the Report	Implementing abovementioned recommendation of the MONEYVAL experts the AML/CFT Law was amended and now provides that it is prohibited for financial institutions and other subjects of the Law to establish business relationship or perform the transactions in case due diligence can not be completed and in case beneficial ownership can not be determined. The Law provides that in such cases when it is impossible completely and satisfactorily fulfil identification procedures the financial institutions and other subject of the Law are prohibited to establish business relationships and perform transactions and obliged to report such cases to the FCIS immediately.
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP[2]	
Recommendation of the MONEYVAL Report	*To address CDD including identification issues, the provision of a legal basis to certain key elements of the ID process, and the timing and basis of the applicability of the ID process.*
Measures taken to implement the Recommendation of the Report	The AML/CFT Law stipulates the verification as a component of due diligence procedures; meaning it has to be done together with identification by all obliged entities; by all means it has to be finished before the establishment of the business relationship or before the business transaction is being executed.
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Compliant	
Recommendation of the MONEYVAL Report	
Measures taken to implement the Recommendation of the Report	
(Other) changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	
Measures taken to implement the Recommendation of the Report	
(Other) changes since the last evaluation	

[2] i.e. part of Recommendation 12.
[3] i.e. part of Recommendation 12.

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	In general the obligation to report suspicious transactions is adequately covered through the AML/CFT Law and the Government Resolution 929. It is however not clear whether the obligation applies to attempted transactions or to cases where an institution has reasonable grounds to suspect that a transaction may be related to money laundering. For the financial sector the obligation is restricted to the carrying out of a "financial operation" as defined in the Act and would therefore exclude other transactions not necessarily involving a financial content (contrary to the requirements also of the 2nd EU Directive). *The Lithuanian authorities may wish to reconsider the Law in this regard.*
Measures taken to implement the Recommendation of the Report	The above mentioned obligation to report cases of attempted transactions or cases where an institution has reasonable grounds to suspect that transaction may be related to money laundering will be covered through provisions of the Government resolutions concerning unusual and suspicious transaction. On the basis of mentioned draft resolution, the obliged entity is required to report without delay to the FCIS not only unusual and suspicious transactions but also attempt to do so. The new AML/CFT Law extends the reporting obligation of financial institutions and now according to the provisions of the new AML/CFT Law financial institutions and other subjects must report to the FCIS about all the suspicious or unusual financial operations and transactions regardless the amount of the operation or transaction.
Recommendation of the MONEYVAL Report	*The FT reporting should be directly addressed through specific provisions in the AML Law that are not restricted to information on international lists.*
Measures taken to implement the Recommendation of the Report	According Article 1 of the AML/CFT Law, one of the purposes of the AML/CFT Law is to establish the measures for prevention of money laundering and terrorist financing. One of the measures listed in Chapter 3 of the AML/CFT Law is report on suspicious or unusual financial operations or transactions. By all means such measure involves FT reporting. More detailed instructions in this regard will be determined by the Government resolution.
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*DNFBPs should be made more aware of their important role in the AML/CFT regime of Lithuania thus ensuring that, in understanding their role better DNFBPs acknowledge and implement the AML obligations further*. In this regard the *Lithuanian Authorities may wish to revisit the AML Law accordingly*.
Measures taken to implement the Recommendation of the Report	The Culture Heritage Department under the Ministry of Culture of the Republic of Lithuania, Insurance Supervisory Commission of the Republic of Lithuania, the Securities Commission of the Republic of Lithuania, the State Gaming Supervisory Commission, the Chamber of Notaries, the Chamber of Auditors, the Lithuanian Chamber of Bailiffs, the Assaying and Hallmarking Laboratory of Lithuania and the Lithuanian Bar Association according to their competence, is responsible for the prevention of money laundering and terrorism financing stipulated the AML/CFT Law and are obliged to approve instructions aimed at prevention of money laundering and terrorist financing, supervise the activity of entities, related to the implementation of preventive measures against money laundering and terrorist financing, consult on the issues of the implementation of the abovementioned instructions. Close cooperation on awareness programs are in process between the entities and the FCIS.
Changes since the last evaluation	

[4] i.e. part of Recommendation 16.

Special Recommendation II (Criminalise terrorist financing)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To introduce a separate offence of terrorist financing, independently from art. 250 which deals with terrorist activities involving criminal groups, in line with the requirements of SR.II and according to Art.2 of the 1999 UN Convention for the Suppression of the Financing of Terrorism, with a view in particular to: a) include the collection of funds; c) refer to individual terrorists; d) state that in order to be criminally liable it is not necessary that funds were actually used to carry out terrorist acts or be linked to a specific terrorist act.*
Measures taken to implement the Recommendation of the Report	There have been no changes in the statutory definitions of terrorism financing since the last evaluation. However, working group at Ministry of Justice prepared the Draft, mentioned above, which currently is under discussion. With the request for response the Draft was sent to a number of State institutions (Ministry of Home Affairs, Unit of Financial Intelligence at Ministry of Home Affairs, Prosecutor General's Office, State Security Department) and to scientific institutions (Mykolas Romeris University, Vilnius University, The Institute of Law). The proposed amendments should fully cure shortcomings of the current definition of terrorism financing and fully implement recommendations of the committee of experts. It is proposed to introduce separate offence of terrorism financing (Art. 250^2 of Penal Code). It is also proposed to provide that an offence of terrorism financing includes the collection of funds or any other property and refers to support to individual terrorists. In order to be criminally liable it would not be necessary that funds or property were actually used to carry out terrorist acts or be linked to a specific terrorist act. It would be sufficient that perpetrator perceived (knew or suspected) that funds, property or support may be used to carry out a terrorist act or to commit other criminal offence related with terrorist act or to support an individual terrorist or a group of terrorists. The offence of financing terrorism would be listed in Article 7 of Penal Code, which provides universal penal jurisdiction of the State for the crimes, specified in international agreements. Further citations from the Draft are provided: Article 1. Amendment and supplementation of the 7^{th} Article The 7th Article shall be supplemented with the new 7^{th} sub-paragraph: „7) financing of terrorism (Article 250^2)" Article 6. Amendment of the 5th and 6th paragraphs of the 250^{th} Article 1. Words "also financed or gave material or other support to such group" shall be deleted from the 5^{th} paragraph of the 250^{th} Article and this paragraph shall be written out so: "5. Any person, who created a group of accomplices or organised group for the commitment of the acts mentioned in this Article or participated in its activities, shall be punished by imprisonment from 4 to 10 years." 2. Words "also financed or gave material or other support to such group" shall be deleted from the 6^{th} paragraph of the 250^{th} Article and this paragraph shall be written out so: "6. Any person, who created a terrorist group with an objective to threat people or illegally demand from state, its institution or international organisation to perform specified actions or to restrain from them or participated in its activities, shall be punished by imprisonment from 10 to 20 years." Article 7. Supplementation of the Code with the Article 250^2 The Code shall be supplemented with the Article 250^2 "Article 250^2. Financing of terrorism 1. Any person, who collects funds, any other property or provides material or any other support to other person, in the perception that these funds, property or support may be used to carry out a terrorist act or to commit other criminal offence related with terrorist act or to support an individual terrorist or a group of terrorists, shall be punished by imprisonment from 4 to 10 years.

	2. Any person, who provides material or any other support to a terrorist group or collects funds or any other property in the perception, that it may be used to support terrorist group, shall be punished by imprisonment from 10 to 20 years. 3. Legal entities shall also be held liable for the acts specified in this Article."
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*The obligation to report suspected FT transactions is only restrictively addressed through Government Resolution 929.*
Measures taken to implement the Recommendation of the Report	See answer for recommendation 13.
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	
Measures taken to implement the Recommendation of the Report	
(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 which 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	*To provide for rules regarding PEPs under the AML Law with specific enhanced customer due diligence requirements.*
Measures taken to implement the Recommendation of the Report	Implementing this recommendation of the MONEYVAL 3rd round evaluation report the Law was amended accordingly and now the new AML/CFT Law contains definitions of politically exposed persons, their immediate family members and close associates as well as prominent public functions. Financial institutions and other subjects have an obligation to conduct enhanced due diligence in case when the transactions or business relations are being conducted with politically exposed persons. The new AML/CFT Law provides obligations for financial institutions and other subjects, including the approval of senior management for establishing business relationship with such person, taking adequate

	measures to establish the source of wealth and the source of funds and conduct enhanced ongoing monitoring of such business relationship. According to the provisions of the new AML/CTF Law provides that financial institutions and other subjects must establish appropriate internal control procedures related with due diligence of client and beneficial owner, as well as assessment of clients risk, management of the risk, other measures which will prevent money laundering and terrorist financing. These measures include the requirement to have appropriate risk-based procedures to determine whether the client is a politically exposed person.
(Other) changes since the last evaluation	

Recommendation 11 (Unusual Transactions)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*The Recommendation should be readdressed and covered through legal provisions or through the respective Resolutions in accordance with the established criteria.* For the sake of uniformity and consistency, the Lithuanian authorities may also wish to consider addressing this Recommendation through a Government Resolution applicable to both the financial and non-financial sectors.
Measures taken to implement the Recommendation of the Report	According to the provisions of the new AML/CFT Law financial institutions and other subjects, conducting the permanent supervision of the customer's business relations, including the investigation of transactions established in the period of such relations, must pay special attention to such activity, which in their opinion because of its nature can be related to money laundering or terrorist financing, and the structures of the especially complicated and unusually large transactions and all the suspicious transactions, which do not have the obvious economic or visually legal purpose, and business relations or financial operations with the customers from the third countries, in which the preventive measures of money laundering and terrorist financing are not enough or do not correspond to the international standards. The new AML/CFT Law requires that financial institutions and other subjects must keep the investigation results of the evidence and purpose of the establishment of such financial operations or transactions for 10 years. During this period of time these documents could be available for competent authorities and auditors. Detailed requirements for implementation of these provisions of the AML/CFT Law will be implemented through the instructions to different subject of the Law.
(Other) changes since the last evaluation	

Recommendation 12 (DNFBP)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*PEPs are not addressed through legal provisions and hence no awareness within some sectors of the DNFBPs.*
Measures taken to implement the Recommendation of the Report	The new AML/CFT Law contains a definition of politically exposed persons. The FCIS provides systematic education of obliged entities about trends and typologies in money laundering and financing of terrorism as a part of the awareness programs each year. On 2007 the FCIS organized 17 seminars on money laundering and terrorist financing issues. Seminars were provided for auditors and notaries.
Recommendation of the MONEYVAL Report	*More awareness on threats arising from technological developments and large complex transactions is needed.*

Measures taken to implement the Recommendation of the Report	The FCIS provides systematic education of obliged entities about trends and typologies in money laundering and financing of terrorism as a part of the awareness programs each year. Above mentioned subjects are included in program as well. On 2007 the FCIS organized 17 seminars on money laundering and terrorist financing issues. Seminars were provided for all (11) commercial banks of Lithuania.
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To reconsider the exceptions in the AML Law for the legal profession.* To a lesser extent, this may also be true of the gaming sector which believes that in implementing the AML measures it may be losing business.
Measures taken to implement the Recommendation of the Report	Current MONEYVAL recommendation in this regard was reviewed on the AML/CFT Law adjustment stage with responsible institutions. Concerning gaming sector issues close cooperation on awareness programs are in process between the State Gaming Supervisory Commission and the FCIS.
(Other) changes since the last evaluation	

Recommendation 22 (Foreign branches & subsidiaries)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To review the implementation of Recommendation 22 so that the essential criteria 22.1 and 22.2 are specifically addressed, formulated and implemented.*
Measures taken to implement the Recommendation of the Report	Implementing this recommendation of the 3rd MONEYVAL evaluation report the Law was amended accordingly and now the new AML/CFT Law provides that financial institutions and other subjects must apply requirements provided in the Law in the branches and majority owned subsidiaries in the third countries. The financial institutions and other subjects must inform the FCIS immediately if the third country legal acts do not allow to apply adequate AML/CFT measures and in coordination with the FCIS take additional measures allowing to reduce the threat of money laundering and terrorist financing. The draft Instructions of the BoL provides that credit institutions must pay particular attention that requirements of the AML/CFT Law are observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations as well as in the case when the minimum MAL/CTF requirements of the home and host countries differ, branches and subsidiaries in host countries must apply the higher standard, to the extent that local legal acts permit.
(Other) changes since the last evaluation	

Recommendation 24 (DNFBP – regulation, supervision and monitoring)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To immediately review the legal contradictions concerning FCIS' supervisory powers vis a vis lawyers and lawyers' assistants and to put in place appropriate procedures as detailed under Section 3 to ensure appropriate ongoing monitoring and supervision.*
Measures taken to implement the Recommendation of the Report	According to the provisions of the new AML/CFT Law the Lithuanian Bar Association will approve instructions for lawyers and lawyers' assistants aimed at prevention of money laundering and terrorist financing, supervises the activities of lawyers and lawyers' assistants related to the implementation of preventive measures against money laundering and terrorist financing, consult lawyers and lawyers'

	assistants on the issues related with the implementation of abovementioned instructions.
(Other) changes since the last evaluation	

Recommendation 27 (Law enforcement authorities)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To ask the police to also take responsibility for investigations of ML and FT in their own field of competence, and to take awareness-raising measures on/and continue to provide training on methods to target the proceeds from crime.*
Measures taken to implement the Recommendation of the Report	While carrying out pre-trial investigation in the criminal case, the police officers, depending on the scope of their competence and within the limits of the law, may appeal to the prosecutor who has the right to temporarily encumber the property received or acquired in a criminal way by its ruling. While carrying out pre-trial investigation with an aim to ensure a possible civil lawsuit or possible property confiscation, police officers collect materials about property held by the suspect, money in the bank accounts, immovable property, also look for the property acquired, things that may have an effect on investigating or hearing the case in all pre-trial investigation cases. These materials are submitted to the prosecutor who decides whether it is expedient to temporarily encumber the suspect's property. Professional skills of the criminal police officers are regularly advanced, as well as training is arranged. For example, seminars titled "Fight with terrorism", "Investigation of crimes and criminal offences against economics and business order" were held in 2007. Number of awareness trainings to Police department was provided by the FCIS concerning needs to investigate financial side of the crime and money laundering, introducing cooperation possibilities. Also see information bellow.
Recommendation of the MONEYVAL Report	*To clarify/amend as appropriate the legal framework for the use of special investigative techniques also in ML and FT cases, and to ensure that the provisions of the Law on Operational Activities and the Code of Criminal Procedure are consistent.*
Measures taken to implement the Recommendation of the Report	There have been no changes in the legal framework for the use of special investigative techniques in ML and FT cases since the last evaluation as well as amendments of provisions of the Law on Operational Activities and the Code of Criminal concerning consistency between these two acts.
Recommendation of the MONEYVAL Report	*To review the effectiveness of efforts of the criminal police and prosecution services, together with their needs, in particular the services dealing with FT and predicate crimes which are important from the perspective of AML (e.g. department dealing with organised crime and terrorism, department dealing with counterfeited currencies and credit cards etc.).*
Measures taken to implement the Recommendation of the Report	Regular cooperation is maintained with the General Prosecutor's Office while carrying out pre-trial investigation in criminal cases, preparing common recommendations. In August 2007, a seminar "Strengthening of criminal prosecution for fraud" was held where experts from Great Britain and Ireland presented recommendations regarding strengthening of criminal prosecution for fraud, confiscation of means and profit, also discussed recommendations on expediency of confiscating indirect income. This project is intended for adoption of positive practice of the law-enforcement institutions of the EU Member States in the field of fight against fraud, also for strengthening the efficiency of prosecution and inter-institutional co-operation in this field. Within the framework of the said project the analysis of inter-institutional co-operation gaps was conducted, a reliable control system is being developed so as to ensure a closer inter-institutional co-operation.

	Moreover, experts indicated that when investigating cases of fraud it is always important to conduct a financial investigation as well. All cases should be investigated whether they have the signs of money laundering. Founding of a central financial investigations subdivision or forming such subdivisions in each institution should be considered. Work group concluded that financial investigation is necessary and it is partially conducted, however, it was supposed that the officers conducting pre-trial investigation should also conduct a financial investigation. A common opinion was that separate posts of financial investigations would actually be necessary if a law providing for a possibility of forfeiture of property acquisition legitimacy of which can not be proven was not adopted. The police, as a universal pre-trial investigation institution, investigate more than 80 per cent of all crimes and criminal offences against economics, business order and the financial system registered in the country. (In 2005-90 per cent, in 2006- 86.7 per cent), therefore the police units are strengthened. For example, by Order No. 5-V-505 of the Lithuanian Police General Commissar of 27 July 2007 an operational plan of "Measures for Implementing the Development of the Lithuanian Police System" was approved on which basis a specialized crime investigation institution – the Lithuanian Criminal Bureau was strengthened. From 20 August 2007, a division for fight with terrorism (5 positions of officers) within the Chief Board No. 2 of the Organized Crime Investigation Service of the Lithuanian Criminal Police Bureau was established. Number of awareness trainings to Police department was provided by the FCIS concerning needs to investigate financial side of the crime and money laundering, introducing cooperation possibilities.
(Other) changes since the last evaluation	

Recommendation 32 (Statistics)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*Statistics on temporary measures and confiscation should be kept.*
Measures taken to implement the Recommendation of the Report	Information related to temporary limitation of ownership are accumulated in the IT and Communications Department under the Ministry of Interior of the Republic of Lithuania. Information related to forfeiture of property is accumulated in the National Courts Administration.
Recommendation of the MONEYVAL Report	*To improve the collection of statistics, with several breakdowns which would enable also the authorities to review the effectiveness of their international cooperation in the field of AML/CFT.*
Measures taken to implement the Recommendation of the Report	In October 2007 a new computer informational system of prosecution service (IPS) was installed and started functioning in order to optimize the activity coordination in the Prosecution system. Besides other information the said system shall accumulate the data on execution of requests for legal assistance, European Arrest Warrants, extraditions on the grounds of a separate article of the Criminal Code.
Recommendation of the MONEYVAL Report	*To improve the collection of statistics, with several breakdowns which would enable also the authorities to review the effectiveness of their ability to cooperation in the field of extradition in relation with AML/CFT.*
Measures taken to implement the Recommendation of the	See information above.

Report	
(Other) changes since the last evaluation	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*As a minimum, current qualifying shareholders (10% and more) should be recorded in the Register of Legal Persons and such information should be made available to the relevant competent authorities. It should be a statutory obligation to keep the Register up to date in this way.*
Measures taken to implement the Recommendation of the Report	The Draft Law amending Article 12 and supplementing Article 41 of the Law on Companies (No. IX-1594) (hereinafter – the Draft Law) has been prepared and presented for the coordination among institutions concerned in January 2007. According to the Draft Law, Art. 12 of the Law on Companies (which specifies what type of information should be recorded in the Register of Legal Persons) should be supplemented by the provision that *the data of shareholders of a company having not less than 1/20 of the shares of a company, the number and class of such shares are recorded in the Register of Legal Persons.* The draft provision supplementing Art. 41 of the Law on Companies sets out the procedure for presenting data on shareholders having not less than 1/20 of the shares of a company to the Register of Legal Persons: *account managers and (or) private companies that have issued shares and are responsible for the accounts of the shares shall present information regarding shareholders, having not less than 1/20 of the shares of a company, the number of shares and their class to the Register of Legal Persons according to the rules, laid down by the Government.* Currently the Draft Law is being discussed by the appropriate committees in the Seimas of the Republic of Lithuania (Parliament). The Draft Law has been criticized by the relevant institutions, the Government of the Republic of Lithuania and some committees of the Seimas (Law Department of Seimas Chancellery, Budget and Finance Committee) for the following reasons: - the purpose of the Law on Companies is to regulate the incorporation, management, activities, reorganisation, transformation, division and liquidation of companies having the legal form of a public and private limited liability company, the rights and duties of the shareholders as well as the establishment of branches of foreign companies and termination of their activities. Thus, the proposal to include a rule to indicate in the Register of Legal Persons shareholders of a company having not less than 1/20 of the shares of a company is not in conformity with the aim of the Law on Companies. Furthermore, such an obligation is not envisaged in EU company law – i.e. in the Twelfth Council Company Law Directive 89/667/EEC. Taking into consideration the purpose of the Draft Law, namely that competent authorities could use such information for the prevention of corruption and money laundering, such a requirement could be contained in other laws, e.g. the Law on the Prevention of Money Laundering, etc., as company law and financial offences are distinguished in EU law; - considering provisions of Art. 27 and 28 of the Law on Companies, 1/20 part of the shares of a company is not decisive in the decision making process (at the general meeting of shareholders of a company). Moreover, under Article 2.89 of the Civil Code a member of a legal person may transfer his right to vote at the general meeting of members of a legal person to other persons and establish the procedure and modes of exercising the voting right for 10 years – in such a case important decisions concerning companies activities shall be taken by other person, not the actual shareholder; - in accordance with Art. 2.71 of the Civil Code data of the Register of Legal Persons, documents stored in the Register of Legal Persons as well as any information supplied to the Register of Legal Persons shall be made public. The purpose of providing information on shareholders is that competent authorities (including financial institutions) could obtain or have access in a timely fashion, to adequate, accurate and current information on the shareholders of a company, but as a result, such information will be available for everyone. Such disclosure of shareholders information is not in

	conformity with the principle of disclosure applicable in EU company law; - under Art. 37 (11) of the Law on Companies the manager of a private limited liability company is responsible for keeping the register of owners of shares in the company except for cases when the record of shares is a responsibility of the administrators of accounts. According to Art. 41 of the Law on Companies, personal securities accounts of shareholders of a public limited liability company shall be operated according to the procedure laid down in the legal acts regulating the securities market, i.e. by the administrators of accounts (financial brokerage companies). Therefore, the liability of presenting such data on shareholders to the Register of Legal Persons is not clearly settled: according to Art. 2.82 of the Civil Code a managing body shall be responsible for presentation of documents and data to the Register of Legal Persons, but such liability is not imposed on other administrators of accounts, i.e. financial brokerage companies. It must be noted that the discussions on the Draft Law have not been completed in the Seimas yet. However, the alternative way of implementing R.33 has been discussed during the meeting of the representatives of the institutions concerned (which was organized by the Ministry of Economy of the Republic of Lithuania in February 2007). In order for competent authorities (including financial institutions) to obtain or have access, in a timely fashion, to adequate, accurate and current information on the beneficial ownership and control of legal persons, the following steps could be taken: - revoking the right of private limited liability companies to keep personal securities accounts of shareholders; personal securities accounts of shareholders of a private limited liability company shall be operated in the same manner as public limited liability companies, i.e. by the administrators of accounts (financial brokerage companies) (amendment of the Law on Company and relevant laws, regulating securities market would be necessary); - establishing a specialised database (register) for information and data regarding shareholders of a company having not less than 1/20 of the shares of a company, the number and class of such shares; such database will be available only for competent authorities (including financial institutions); - the administrators of accounts (financial brokerage companies) should be made obliged to present information regarding the shareholders of their administrated accounts (setting the procedure for presenting information and their liability for not presenting such information). It should be remarked that the above-mentioned alternative way should be further examined only following the completion of discussions regarding the Draft Law have been be finalized in the Seimas (on estimate by the end of 2007).
(Other) changes since the last evaluation	

Recommendation 40 (Other forms of cooperation)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*The issue of co-operation and exchange of information in the Law on the FCIS should be further clarified as in other laws by the inclusion of a specific reference to the exchange of information. This may also require an amendment to paragraph 5 of Article 5 of the AML Law.*
Measures taken to implement the Recommendation of the Report	Implementing this recommendation of the MONEYVAL experts Article 5 of the Law was amended and now it states that the FCIS shall have competence not only to co-operate but to exchange information with foreign state institutions and international organizations implementing the measures for the prevention of money laundering and terrorist financing as well.
Recommendation of the MONEYVAL Report	*To consider the extent to which financial supervisory authorities directly co-operate and exchange information <u>in relation to both money laundering and the underlying predicate offences</u>, as opposed to these functions being vested within the competences of the FCIS, and Lithuanian authorities should legislate accordingly.*
Measures taken to implement the	The new AML/CFT Law provides that competent and supervisory institutions and the FCIS cooperate and exchange the information in accordance with the procedure agreed between them about the results

Recommendation of the Report	of performed inspections of the activities related with implementation of the measures of prevention of money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*The above should be similarly addressed for the State Gaming Control Commission.*
Measures taken to implement the Recommendation of the Report	The abovementioned provision applies to the State Gaming Control Commission as well.
(Other) changes since the last evaluation	

Recommendation SR I (Implement UN instruments)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*Many uncertainties remain as to whether all efforts have been made to ensure that UNSC Resolutions are adequately known and implemented; results appear to be very modest.*
Measures taken to implement the Recommendation of the Report	Lithuania has continued and stepped up its efforts to ensure adequate awareness and implementation of international sanctions, including relevant UNSC Resolutions. Internet website has been launched (http://www.urm.lt/index.php?104724489) to promote wider awareness of the implementation of international sanctions in general public as well as business community. It provides relevant information on: a. nature of international sanctions and their objectives; b. relevant legal framework, in particular, international, European and national legislation applicable with respect to implementation of international sanctions; c. list of all currently applicable international sanctions, including financial sanctions; d. updates on current developments. A seminar to representatives of commercial banks was organized in Vilnius, which included a presentation of the legal framework for implementation of international sanctions, sharing of experience and best-practices. Series of seminars on export controls to state authorities and business community in May and June 2007 included presentations by MFA officials of a system for implementation of international sanctions in Lithuania.
(Other) changes since the last evaluation	

Recommendation SR III (Freeze and confiscate terrorists assets)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To make sure*: • *Lithuania can act in relation to European Union internals and on behalf of other jurisdictions*[5] • *all entities bound to apply international sanctions have been given adequate information about their duties and communication mechanisms exist with all financial intermediaries and DNFBP* • *a clear and publicly known procedure is in place for de-listing and unfreezing in appropriate cases in a timely manner.*
Measures taken to implement the Recommendation of the Report	• With regard to EU internals, on 9 February 2006, the Government adopted Decree N°137 on measures implementing international sanctions aiming at EU internals (persons and entities), which ensures that international sanctions are equally applied to EU internals (persons and entities). The Decree was renewed on 18 October 2006 by the Decree No. 1027. A renewed decree is currently under preparation. • In relation to action on behalf of other jurisdictions, the Decree of the Government of Lithuania N° 1411 of 6 September 2006 provides for such action. According to para. 1.20 of the Decree, a financial transaction is to be considered suspicious if data of the client or its proxy corresponds, inter alia, with the data in the list submitted by responsible foreign state institutions. • Regarding the de-listing procedure, Lithuania: o for the persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban - will make use of the Focal Point established by the United Nations Security Council Resolution No 1730(2006) o for the persons and entities to whom European Union Council Common Position on the application of specific measures to combat terrorism applies – will use the standard EU procedure.
Recommendation of the MONEYVAL Report	*To ensure adequate monitoring of compliance is taking place in practice.*
Measures taken to implement the Recommendation of the Report	Ministry of Foreign Affairs is responsible for overall coordination of implementation of international sanctions in Lithuania through making necessary changes to national legislation, participation in drafting international and European legislation and contributing to raising awareness of general public and business community.
(Other) changes since the last evaluation	

Recommendation SR VII (Wire Transfers)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	The provisions of SR VII on wire-transfers are not directly addressed but various pieces of legislation seem to be relevant to different aspects. The Lithuanian authorities acknowledge this and expect to fully comply with SR VII once the relevant EU-Regulation is adopted. *This notwithstanding, it was*

[5]In the week of the adoption of the report, the Lithuanian authorities advised that on 9 February 2006, the Government adopted Decree N°137 on measures implementing international sanctions aiming at EU internals (persons and entities). A list of EU internals (persons and entities) subject to financial sanctions is attached to the Decree. In relation to action on behalf of other jurisdictions, the Decree of the Government of Lithuania N° 1411 of 6 September 2006 provides for such action. According to para. 1.20 of the Decree, a financial transaction is to be considered suspicious if data of the client or its proxy corresponds, inter alia, with the data in the list submitted by responsible foreign state institutions.

	recommended that the new regulations be made applicable to the Post Office as a provider of wire-transfer services.
Measures taken to implement the Recommendation of the Report	The EU Regulation No 1781/2006 on information on the payer accompanying transfers of funds is in force since 1 January 2007 in Lithuania. This legal act fully implements the requirements of SR VII and applies directly in all the EU member states, including Lithuania. Implementing abovementioned recommendation of the MONEYVAL experts the AML/CFT Law was amended and now states that postal services providers performing internal or international money transfers when an amount of money transfer (incoming or outgoing) is above 600 euros or its equivalent in foreign currency must apply customer due diligence procedures and identify the client and the beneficial owner. The postal services providers are obliged to report the FCIS about the cases of suspicious and unusual financial operations and transactions.
(Other) changes since the last evaluation	

Recommendation SR VIII (Non-profit organisations)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*To re-consider the oversight procedures for non-profit organisations to ensure that mechanisms are in place to avoid the use of such organisations for the financing of terrorism.*
Measures taken to implement the Recommendation of the Report	This issue will be covered by the Government resolution on implementation of the MONEYVAL recommendations. The State Tax Inspectorate will be responsible institution for oversight of activities of non-profit organisations. According to the provisions of the AML/CFT Law, law enforcement and other state institutions must report to the FCIS about any indications of suspected money laundering and terrorist financing, the violations of this Law and the measures taken against the perpetrators**.**
(Other) changes since the last evaluation	

Recommendation SR IX (Cross border declaration & disclosure)	
Rating: Partially Compliant	
Recommendation of the MONEYVAL Report	*The implementation of SR.IX as a whole needs to be reconsidered in order to address a number of issues, in particular:* • *to extend the scope of the reporting duty to bearer negotiable instruments* • *to make the Customs and Border Guard more aware of, and involved in AML/CFT issues* • *to review, ideally in consultation with other EU countries, the EU exception to SR. IX* • *to review the time limit for reporting to FCIS movements above LTL 50,000* • *to extend the existing national cooperation mechanisms to AML/CFT.*
Measures taken to implement the Recommendation of the Report	As of June 15, 2007, travelers entering or leaving the EU customs territory and carrying cash of a value of EUR 10 000 or more are obliged to declare that sum at the border customs posts on the Cash declaration form. The said declaration form in Lithuanian, English or Russian as well as the procedure for its completion and customs clearance has been approved by Order No 1B-891 of 29 December 2006 of the Director General of the Customs Department. This Order complies with the provisions of Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community. According to the provisions of the new AML/CFT Law customs offices shall undertake control of the sums of cash brought in to the European Community via the Republic of Lithuania from the third

	countries as they are regulated in the Law on the Customs of the Republic of Lithuania (hereinafter in this Article referred to as 'the third countries'), and taken out from the European Community via the Republic of Lithuania to the third countries, incompliance with Regulation (EC) No 1889/2005 of the European Parliament and the Council of 26 October 2005 on controls of cash entering or leaving the Community (hereinafter referred to as Regulation (EC) No 1889/2005). Customs offices must promptly, but not later than within 7 working days, notify the Financial Crimes Investigation Service if a person brings in to the European Community via the Republic of Lithuania from the third countries or takes out from the European Community via the Republic of Lithuania to the third countries a single sum of cash in excess of the amount indicated in part 1, Article 3 of Regulation (EC) No 1998/2005. The Customs Department under the Ministry of Finance of the Republic of Lithuania is one of the institutions which, according to their competence, is responsible for the prevention of money laundering and terrorism financing. Also, according to the provisions of the Criminal Code sums of cash means payment instruments, having the monetary expression as well. Entering to Lithuania Republic without declaring sums of cash is a criminal offence (smuggling). In case of false declaration or a failure to declare criminal investigation to be started and currency seized. One of institutions which deals with cash smuggling is Customs Criminal Service (the CCS) The main task of the CCS is to disclose crimes and other violations of legal acts related to customs activities and to investigate them. The Service also carries out international and interdepartmental co-operation in investigating cash smuggling, organizes and performs the prevention of violations of legal acts. The collection and analysis of information on the development of smuggling tendencies, evaluation of economical, social and criminogenic reasons of the existence and development of smuggling, operational activities on disclosing smuggling, and performance of the pre-trial investigations of criminal activities could be mentioned among the most important functions of the CCS. It also collects and analyses information on cash smuggling, applies preventive and operational measures in combating the smuggling The CCS co-operates with the enforcement and other institutions of the Republic of Lithuania and EU countries in the areas of the prevention of violations of legal acts regulating customs activities and their investigation. It also co-ordinates and organizes the implementation of national and international enforcement projects within the Customs, develops, participates in the development of draft legal acts related to the prevention of violations, harmonizes them in the established order, provides proposals and comments.
(Other) changes since the last evaluation	

4 Specific Questions

• *Have procedures been established so that the Register of Legal Persons keeps record of movements in shareholding?*
The Draft Law amending Article 12 and supplementing Article 41 of the Law on Companies (No. IX-1594) has been prepared and presented for the coordination among institutions concerned. More detailed information is presented commenting the implementation of R.33.

- *Has adequate protection in line with the requirements in criterion 14.1 been introduced?*

These provisions of the new AML/CFT Law introduce adequate protection of the financial institutions and other subjects as well as their managers and employees.
The AML/CFT Law provides that financial institutions and other subjects are not liable to client for breach of any contractual obligation or any damage caused of performing reporting obligations provided in the AML/CFT Law. The employees of financial institutions or other subjects who disclose in good faith the information to the FCIS shall not be liable of any kind of liability.
The communication of the information specified in the Law to the FCIS shall not be qualified as disclosure of an industrial, commercial or bank secret.

- *Has arrangements for coordinating seizure and confiscation with other countries been adopted?*

There have been no arrangements for coordinating seizure and confiscation with other countries adopted in 2007.

- *Does the legal framework for confiscation explicitly cover indirect proceeds such as income, profits or other benefits form the proceeds of crime?*

There have been no changes in the statutory regulation for confiscation since the last evaluation. However, working group at Ministry of Justice prepared the Draft, mentioned earlier, which currently is under discussion.
It is proposed to amend Article 72 so that confiscation would explicitly cover indirect proceeds of crime.
Article 3. Amendment of the 2nd paragraph of the 72nd Article
1. In the 2nd paragraph of the 72nd Article the words "criminal offence" shall be written instead the word "crime", words "also in respect of any property of any description which was directly or indirectly acquired from criminal offence" shall be written instead of words "or which is acquired as the result of a criminal act", also the 3rd sub-paragraph shall be amended and this paragraph shall be written out so:

"2. Confiscation of property is applicable only in respect of property used as an instrument or a means to commit the criminal offence and also in respect of any property of any description which was directly or indirectly acquired from criminal offence. The court shall confiscate:

1) money or other property that has material value, which was delivered to the defendant or his accomplice for the purpose of commission of a criminal offence;

2) money or other property that has material value, which was used in committing criminal offence;

3) any property of any description which was directly or indirectly acquired from criminal offence."

5 Statistics

a. Money Laundering and Financing of terrorism cases

2004 (for comparison purposes)												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized (investigation process)		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	10	13	4	5	0	0			3	310 880		
FT	1	0	0	0	0	0			0	0		

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized (investigation process)		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	8	10	4	8	3	1 successful, 2 acquitted			4	653 835	1	Confiscated property : car as tool of crime, 10 980EUR in account
FT	1	0	0	0	0	0			0	0		

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized (investigation process)		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	23	21	1	1	1	1 (acquitted)			8	**13 367 430**	0	0
FT	0	0	0	0	0	0			0	0	0	0

2007 (1 January – 1 October)												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized (investigation process)		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	7	10	2	5	2	5 (cases in Court of Appeal at the moment)			2	148 409	0	0
FT	1	0	0	0	0	0			0	0	0	0

b. STR/CTR

2004 (for comparison purposes)											
Statistical Information on reports received by the FIU								**Judicial proceedings**			
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**		**convictions**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**
commercial banks	1 077 574	47									
insurance companies											
Notaries	18 588										
casino	932										
broker companies											
securities' registrars						90	0				
lawyers											
accountants/auditors											
company service providers											
State and other institutions		11									
Total	**1 097 094**	**58**									

2005											
Statistical Information on reports received by the FIU								**Judicial proceedings**			
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**		**convictions**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**
commercial banks	1 342 894	64									
insurance companies											
Notaries	34 385										
Currency exchange											
broker companies											
Securities, credit unions Leasing companies	47 235					74	0				
lawyers											
accountants/auditors											
company service providers											
State institutions Other subjects under AML Law	3 925 49 094	5									
Total	**1 477 535**	**69**									

2006											
Statistical Information on reports received by the FIU								**Judicial proceedings**			
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**		**convictions**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**
commercial banks	2 752 390	112	1								
insurance companies											
Notaries	38 173										
Currency exchange											
broker companies											
Securities, credit unions, Leasing companies	58 921										
lawyers						71	0				
accountants/auditors											
company service providers											
Other subjects under AML Law State institutions	58 777 6 160	23 18									
Total	**2 914 421**	**153**	**1**								

2007 (1 January – 1 October)											
Statistical Information on reports received by the FIU								**Judicial proceedings**			
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**		**convictions**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**
commercial banks	3 174 734	76									
insurance companies											
Notaries	37 811										
Currency exchange											
broker companies											
Securities, credit unions, Leasing companies	84 214										
lawyers						40	0				
accountants/auditors											
company service providers											
other subjects under AML Law State institutions	91 894 53 750	27 12									
Total	**3 442 403**	**115**									

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

AML/CFT System	Recommended Action (listed in order of priority)
1. General	**No text required**
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1, 2 & 32)	- to unify the two ML definitions; - money laundering should be criminalised more strictly and the legal incrimination should follow Article 3(1)(b)&(c) Vienna Convention and Article 6(1) Palermo Convention, so as to cover also conversion, transfer of property or concealment, disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, if such conduct is carried out outside of a financial operation, conclusion of an agreement, an economic or commercial activity, or by means of a fraudulent declaration; - to provide for the applicability of Art. 21 also to the various offences contained in art. 189; - to review the effectiveness and the dissuasive character of the criminal sanctions under art. 189; - to consider making an explicit provision, as necessary, specifying that the laundering offence applies to both direct and indirect proceeds;
Criminalisation of Terrorist Financing (SR.II, R.32)	- to introduce a separate offence of terrorist financing, independently from art. 250 which deals with terrorist activities involving criminal groups, in line with the requirements of SR.II and according to Art.2 of the 1999 UN Convention for the Suppression of the Financing of Terrorism, with a view in particular to: a) include the collection of funds; c) refer to individual terrorists; d) state that in order to be criminally liable it is not necessary that funds were actually used to carry out terrorist acts or be linked to a specific terrorist act
Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)	- to cover explicitly indirect proceeds such as income, profits or other benefits from the proceeds of crime; - provisional measures for serious crimes such as ML should be regulated as not to be subject to a short time limit, as far as the conduct incriminated in art.189 of the Criminal Code is concerned; - the Police, which deals with other major assets-generating crimes should be encouraged to apply as much as possible for temporary measures with a view to confiscation of criminal assets and therefore, to look more

	systematically at the financial dimension/wealth of criminals / criminal groups. - Statistics on temporary measures and confiscation should be kept - Lithuania may also wish to reconsider the opportunity of softening the standard of evidence for the purpose of confiscation (sharing or reversing the burden of proof) post conviction;
Freezing of funds used for terrorist financing (SR.III, R.32)	- to make sure: • Lithuania can act in relation to European Union internals and on behalf of other jurisdictions[6] • all entities bound to apply international sanctions have been given adequate information about their duties and communication mechanisms exist with all financial intermediaries and DNFBP • a clear and publicly known procedure is in place for de-listing and unfreezing in appropriate cases in a timely manner. - to ensure adequate monitoring of compliance is taking place in practice.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	- to strengthen the autonomy and identity of the MLPD - within the FCIS – for it to become the Lithuanian FIU; it should be granted its own powers, an IT system protected by adequate regulations in order to ensure that STRs and CTRs are primarily used for AML/CFT purposes independently from the FCIS' own competencies, and in accordance with the Egmont principles; - the electronic reporting system, with adequate security/safety measures, needs to be completed for all the obliged entities, given the deadlines provided for in the LPML and to avoid unnecessary logistical constraints for the industry. - furthermore, the annual report that the Lithuanian authorities have now decided to produce at regular intervals should be the occasion to publish information on

1. [6]In the week of the adoption of the report, the Lithuanian authorities advised that on 9 February 2006, the Government adopted Decree N°137 on measures implementing international sanctions aiming at EU internals (persons and entities). A list of EU internals (persons and entities) subject to financial sanctions is attached to the Decree. In relation to action on behalf of other jurisdictions, the Decree of the Government of Lithuania N° 1411 of 6 September 2006 provides for such action. According to para. 1.20 of the Decree, a financial transaction is to be considered suspicious if data of the client or its proxy corresponds, inter alia, with the data in the list submitted by responsible foreign state institutions.

	ML/FT which would clearly be specific to Lithuania.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	- to ask the police to also take responsibility for investigations of ML and FT in their own field of competence, and to take awareness-raising measures on/and continue to provide training on methods to target the proceeds from crime; - to review and clarify in legislation, as needed, access by the SSD to information held by obliged entities; - to clarify/amend as appropriate the legal framework for the use of special investigative techniques also in ML and FT cases, and to ensure that the provisions of the Law on Operational Activities and the Code of Criminal Procedure are consistent; - to review the effectiveness of efforts of the criminal police and prosecution services, together with their needs, in particular the services dealing with FT and predicate crimes which are important from the perspective of AML (e.g. department dealing with organised crime and terrorism, department dealing with counterfeited currencies and credit cards etc.).
Cross Border declaration or disclosure (SR.IX)	- The implementation of SR.IX as a whole needs to be reconsidered in order to address a number of issues, in particular: • to extend the scope of the reporting duty to bearer negotiable instruments • to make the Customs and Border Guard more aware of, and involved in AML/CFT issues • to review, ideally in consultation with other EU countries, the EU exception to SR. IX • to review the time limit for reporting to FCIS movements above LTL 50,000 • to extend the existing national cooperation mechanisms to AML/CFT
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	- to include in the AML Law a specified reference to the full CDD measures as opposed to identification procedures which, in themselves, are part of the CDD process and provide for the independent verification of the identification information obtained; - to revise Article 3 of the Law on Payments with regards to customer details for cross-border payments;

	- to provide for a specific inclusion in the AML Law for identification requirements in the case of suspicion irrespective of the LTL50,000 (Euro 15,000) threshold; - to ensure that the Register of Legal Persons records information on shareholding changes in legal persons following registration; - as part of the CDD process, financial institutions should be required to draw up customer acceptance policies and business profiles with an obligation for on-going due diligence procedures; - to introduce a specific obligation for financial institutions to consider reporting where the ID procedures cannot be completely and satisfactorily fulfilled. - to provide for rules regarding PEPs under the AML Law with specific enhanced customer due diligence requirements. - provisions similar to those in Resolution 20 of the Bank of Lithuania should be extended to other financial sectors, covering threats from new or developing technologies.
Third parties and introduced business (R.9)	- the concept of the customer/agent relationship in the identification process should be re-addressed.
Financial institution secrecy or confidentiality (R.4)	- irrespective of the perceived effectiveness of the system, there is a need to readdress the issue to align the various legal provisions for the sake of consistency
Record keeping and wire transfer rules (R.10 & SR.VII)	- The provisions of SR VII on wire-transfers are not directly addressed but various pieces of legislation seem to be relevant to different aspects. The Lithuanian authorities acknowledge this and expect to fully comply with SR VII once the relevant EU-Regulation is adopted. This notwithstanding, it was recommended that the new regulations be made applicable to the Post Office as a provider of wire-transfer services. - the Lithuanian authorities may wish to consider an electronic, secure system of submitting data to the FCIS.
Monitoring of transactions and relationships (R.11 & 21)	- both Recommendations should be readdressed and covered through legal provisions or through the respective Resolutions in accordance with the established criteria. For the sake of uniformity and consistency, the Lithuanian authorities may also wish to consider addressing these Recommendations through a Government Resolution applicable to both the financial and non-financial sectors.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	- In general the obligation to report suspicious transactions is adequately covered through the AML Law and the Government Resolution 929. It is however not clear whether the obligation applies to attempted transactions or to cases where an institution has reasonable grounds to suspect that a transaction may be

	related to money laundering. For the financial sector the obligation is restricted to the carrying out of a "financial operation" as defined in the Act and would therefore exclude other transactions not necessarily involving a financial content (contrary to the requirements also of the 2nd EU Directive). The Lithuanian authorities may wish to reconsider the Law in this regard. - the FT reporting should be directly addressed through specific provisions in the AML Law that are not restricted to information on international lists. - to insert, in line with the requirements of criterion 14.1, a clearer protection of entities, their directors, officers and employees from any civil or criminal liability when they report and disclose information in good faith to the authorities. - Although the FCIS has informed that it provides feedback to the industry the Lithuanian Authorities may wish to consider strengthening Article 5 of the AML Law to this effect. - Article 13 of the AML Law is comprehensive in covering the currency transaction reporting by financial institutions and other entities. The Lithuanian Authorities may however wish to re-visit the exemption of lawyers and lawyers' assistants from such obligation, even though it has been claimed that lawyers' rarely handle cash transactions.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	- certain elements need to be addressed further to enhance the existing framework. The powers of the compliance officer for timely access to information could be better reinforced if established through rules or regulations rather than through reliance on institutions themselves. - to review the implementation of Recommendation 22 so that the essential criteria 22.1 and 22.2 are specifically addressed, formulated and implemented.
Shell banks (R.18)	-
The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)	- procedures should be put in place whereby the FCIS, apart from retaining its right of undertaking its own focused examinations, takes control by: • planning and preparing in collaboration with the supervisory authorities annual inspection programmes; • still leaving the prerogative for the supervisory competent authorities, on their own initiative, to undertake focused examinations and/or to include an AML/CFT component in their prudential examinations;

	• ensuring that in all the above instances the FCIS is informed and involved in the ongoing examinations; and that it receives examination reports in all instances irrespective of the type of findings. (This may require an amendment to Article 8 of the AML Law). - procedures should be gradually established so that the Register of Legal Persons keeps record of movements in shareholding - to reconsider the provisions on sanctions for non compliance in the AML Law - As regards guidance to the industry, the procedures should be put in place to ensure consistency.
Money value transfer services (SR.VI)	The Lithuanian Authorities may wish to consider placing the authorisation and supervision of this financial service under the competence of the Bank of Lithuania for the sake of consistency and continuity.
4. Preventive Measures –Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	- to address CDD including identification issues, the provision of a legal basis to certain key elements of the ID process, and the timing and basis of the applicability of the ID process; PEPs are not addressed through legal provisions and hence no awareness within some sectors of the DNFBPs; more awareness on threats arising from technological developments and large complex transactions is needed.
Suspicious transaction reporting (R.16)	- DNFBPs should be made more aware of their important role in the AML/CFT regime of Lithuania thus ensuring that, in understanding their role better DNFBPs acknowledge and implement the AML obligations further. In this regard the Lithuanian Authorities may wish to revisit the AML Law accordingly. - to reconsider the exceptions in the AML Law for the legal profession. To a lesser extent, this may also be true of the gaming sector which believes that in implementing the AML measures it may be losing business.
Regulation, supervision and monitoring (R.24-25)	In addition to recommendations under Section 3: - to immediately review the legal contradictions concerning FCIS' supervisory powers vis a vis lawyers and lawyers' assistants and to put in place appropriate procedures as detailed under Section 3 to ensure appropriate ongoing monitoring and supervision. - to have procedures in place that ensure consistency and applicability.
Other designated non-financial	-

businesses and professions (R.20)	
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	- As a minimum, current qualifying shareholders (10% and more) should be recorded in the Register of Legal Persons and such information should be made available to the relevant competent authorities. It should be a statutory obligation to keep the Register up to date in this way.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	-
Non-profit organisations (SR.VIII)	- to re-consider the oversight procedures for non-profit organisations to ensure that mechanisms are in place to avoid the use of such organisations for the financing of terrorism.
6. National and International Co-operation	
National co-operation and coordination (R.31 & 32)	- there is a need to better share information on activities on the supervisory side taken by each institution and the Coordination Working Group needs to be invigorated, efficiently chaired, and FCIS "ownership" more firmly established. One way of achieving this would be to schedule regular meetings – say, 4 per year – and a forward agenda of key issues to discuss and take forward.
The Conventions and UN Special Resolutions (R.35 & SR.I)	(major deficiencies are addressed in earlier recommendations)
Mutual Legal Assistance (R.36-38, SR.V, and R.32)	- to improve the collection of statistics, with several breakdowns which would enable also the authorities to review the effectiveness of their international cooperation in the field of AML/CFT. - to adopt arrangements for coordinating seizure and confiscation actions with other countries. - Lithuania may wish to establish an assets forfeiture fund to which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education and other purposes.
Extradition (R.39, 37, SR.V & R.32)	- to improve the collection of statistics, with several breakdowns which would enable also the authorities to review the effectiveness of their ability to cooperation in the field of extradition in relation with AML/CFT.

Other Forms of Co-operation (R.40, SR.V & R.32)	- the issue of co-operation and exchange of information in the Law on the FCIS should be further clarified as in other laws by the inclusion of a specific reference to the exchange of information. This may also require an amendment to paragraph 5 of Article 5 of the AML Law. - to consider the extent to which financial supervisory authorities directly co-operate and exchange information in relation to both money laundering and the underlying predicate offences, as opposed to these functions being vested within the competences of the FCIS, and Lithuanian authorities should legislate accordingly. - the above should be similarly addressed for the State Gaming Control Commission.
7. Other Issues	
Other relevant AML/CFT measures or issues	Lithuanian authorities are advised to be more careful and more accurate when drafting pieces of legislation and regulations or other texts and to specify clearly to what other legal or other texts they refer.
General framework – structural issues	-

6 ANNEXES

LAW OF THE REPUBLIC OF LITHUANIA ON AMENDING THE LAW ON PREVENTION OF MONEY LAUNDERING

1997 June 19 No VIII-275
Vilnius

(A new version 2008 January 17 No X-1419)

Article 1. New version of the Law of the Republic of Lithuania on Prevention of Money Laundering

The Law of the Republic of Lithuania on Prevention of Money Laundering shall be amended and set forth to read as follows:

”LAW OF THE REPUBLIC OF LITHUANIA ON THE PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purpose of the Law

1. The purpose of this Law is to establish the measures for the prevention of money laundering and/or terrorist financing and designate the institutions responsible for the implementation of the money laundering and terrorist financing prevention measures.
2. This Law is intended for ensuring the implementation of the legal acts of the European Union specified in the Annex to this Law.

Article 2. Definitions

1. **Close associate** shall mean :
1) a natural person who, together with the person who is or has been performing the duties indicated in paragraph 17 of this Article, is or has been participating in the same legal person or maintains other business relationship;
2) a natural person who is the only owner of the legal person set up or operating *de facto* with the aim of acquiring property or some other personal benefit for the person who is or has been performing the duties indicated in paragraph 17 of this Article.
2. **Close family members** means the spouse, the persona with whom partnership has been registered (hereinafter referred to as cohabitant), the parents, brothers, sisters, grandparents, grandchildren, children and children’s spouses, children’s cohabitants.
3. **A person** means a natural or legal person of the Republic of Lithuania or a foreign state, an undertaking of a foreign state.
4. **Business relationship means** business, professional or commercial relationship of a customer and the persons indicated in paragraphs 7, 8 of this Article, which is connected with the professional activities of the persons and which is expected, at the time when the contact is established, to have an element of duration.
5. **The European Union member state** means a European Union member state and a member state of the European Economic Area.
6. **Shell bank** means a legal person having the right to engage in the activities of a credit institution or in equivalent activities, who does not perform factual activities, has no managerial bodies and does not belong to any governed financial group.
7. **Financial institutions** means credit institutions and financial undertakings as well as investment companies with variable capital.
8. **Other entities**:
1) auditors;
2) insurance undertakings and insurance broking undertakings;

3) bailiffs or persons entitled to perform actions of the bailiffs;
4) undertakings providing accounting or tax advisory services;
5) notaries and other independent legal professionals, as well as advocates and advocate's assistants, when they are acting on behalf of and for the customer and by assisting in the planning or execution of transactions for their customer concerning the buying or selling of real property or business entities, managing of customer money, securities or other assets, opening or management of bank, savings or securities accounts, organisation of contributions necessary for the creation, transaction or management of companies or trusts, and\or similar structures; ;
6) trust or company service providers not already covered under subparagraphs 1, 4 and 5 of this Article;
7) persons, who carry on business covering trade in immovable properties, precious stones, precious metals, cultural goods, antiques or other assets the value whereof exceeds EUR 15 000 or a corresponding sum in foreign currency, to the extent that payments are made in cash;
8) companies offering gaming;
9) postal services providers, who provide internal and international postal order services (hereafter referred to as postal services providers);
10) open-ended investment companies.
9. **Customer** means a person performing monetary transactions or concluding contracts with a financial institution or other entity save for state or municipal institutions, other budgetary institutions, the Bank of Lithuania, State or municipal funds, foreign state diplomatic missions or consular posts .
10. **Beneficial owner** means a natural person who ultimately owns the customer (a legal person or foreign undertaking) or controls the customer and/or the natural person on chose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:
1) in the case of corporate entities: - the natural person 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); the natural person(s) who otherwise exercises control over the management of a legal entity;
2) in the case of the legal entity which administers and distributes funds: the natural person(s) who is the beneficiary of 25% or more of the property of a legal arrangement or entity (where the future beneficiaries have already been determined); where the individuals that benefit from 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; the natural person(s) who exercises control over 25% or more of the property of a legal arrangement or entity.
11. **Trust and company service provider** means natural or legal person which by way of business provides any of the following services to third parties:
1) forming of companies or other legal persons;
2) acting as or arranging for another person to act as a director or secretly of a company, a partner of a partnership or a similar position in relation to other legal persons (natural person) or arrangement;
3) providing a registered office, business address, correspondence or administrative address or other related services for a company, a partnership or any other legal person or arrangement;
4) acting as or arranging for another person to act as a trustee of an express trust or a similar legal arrangement;
5) acting as a nominee shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in conformity with Community legislation or subject to equivalent International standards or arranging for another person to act as a nominee shareholder.
12. **Money** means banknotes, coins issued by the Bank of Lithuania and funds in accounts, banknotes issued by other states, treasury notes, coins and funds in accounts which are legal tender.
13. **Monetary transactions** means depositing or accepting, withdrawal or payment of money, exchange of currency, lending, donation and any other type of payment or receipt of money in civil transactions or in any other manner other than payments to state and municipal institutions, other institutions maintained from the budget, the Bank of Lithuania and state and municipal funds, diplomatic missions or consular posts of foreign countries or settlement with said entities.
14. Money laundering means**:**
1) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising

the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
2) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
3) the acquisition, possession or use of property, knowing at the time of receipt/transfer, that such property was derived from criminal activity or from an act of participation in such activity;
4) preparation, attempts to commit and aiding and abetting in the commission of any of the activities mentioned in subparagraphs 1 to 3 of this paragraph.
15. **Prevention of money laundering and/or terrorist financing** means implementation of measures specified in this Law.
16. **Politically exposed natural persons** means foreign state citizens who are or have been entrusted with prominent public functions and the citizens' immediate family members or persons known to be close associates of such persons
17. **Prominent public functions** means functions, including the functions in the European Community, international or foreign state institutions.:
1) Head of the State, minister, vice minister or deputy minister;
2) member of the parliament;
3) member on the Supreme Court, the Constitutional Court or any other judicial authority, whose decisions are not subject to appeal;
4) member of the managing body of the professional organisation of auditors or of the board of the central bank;
5) the ambassador, the chargé d'affaires ad interim of the Republic of Lithuania or the high-ranking military officer;
6) member of the managerial or supervisory body of the publicly administered undertaking.
18. **Terrorist financing** means the provision or collection of funds, by any means, with the intention that they should be used (or in the knowledge that they are to be used) in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ 2004 special edition, chapter 19, volume 6, p. 18).
19. **Third party** means financial institution, other entity or person who is registered in another EU member state or a state that is not an EU member state (hereafter referred to as the third state), who meets the following requirements:
1) they are subject to mandatory professional registration, recognised by law;
2) they apply customer due diligence requirements and record keeping requirements as laid down or equivalent to those laid down in this Directive or they are situated in a third country which imposes equivalent requirements to those laid down in this Law.
20. **Property** means assets, funds, securities, other financial instruments, other assets whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets.

CHAPTER TWO
INSTITUTIONS RESPONSIBLE FOR THE PREVENTION OF MONEY LAUNDERING AND/OR TERRORIST FINANCING

Article 3. Institutions Responsible for the Prevention of Money Laundering and/or Terrorist Financing
The Government of the Republic of Lithuania (hereinafter referred to as the Government), the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (hereafter - the Financial Crime Investigation Service), the State Security Department of the Republic of Lithuania (hereafter - the State Security Department), the Bank of Lithuania, the Customs Department under the Ministry of Finance of the Republic of Lithuania, the Department of Cultural Heritage Protection under the Ministry of Culture of the Republic of Lithuania (hereafter the Department of Cultural Heritage Protection), the Insurance Supervision Commission of the Republic of Lithuania, the Securities Commission of the Republic of Lithuania, the State Gaming Control Commission, the Chamber of Notaries, the Chamber of Auditors, the Lithuanian Chamber of Bailiffs, the Lithuanian Assay Office and the Lithuanian Bar

Association shall be the institutions responsible according to their competence for the prevention prescribed by this Law of Money Laundering and/or Terrorist Financing.

Article 4. Obligations of the Institutions Responsible for the Prevention of Money Laundering and/or Terrorist Financing

1. The Bank of Lithuania shall approve instructions issued to credit institutions aimed at prevention of money laundering and/or terrorist financing, shall supervise the activities of credit institutions on the prevention of money laundering and/or terrorist financing, shall consult credit institutions on the implementation of the instructions.

2. The Department of Cultural Heritage Protection shall approve instructions issued to persons engaged in commercial activities related to trade in movable cultural properties and/or antiques aimed at prevention of money laundering and terrorist financing, shall supervise the activities of the entities related to the implementation of measures for preventing money laundering and/or terrorist financing, shall consult the entities on the issues relating to the implementation of the instructions.

3. The Insurance Supervisory Commission of the Republic of Lithuania shall approve instructions issued to insurance undertakings and insurance broking undertakings aimed at preventing money laundering and/or terrorist financing, shall supervise the activities of said companies aimed at implementing measures to prevent money laundering and terrorist financing, shall consult the entities on the issues relating to the implementation of the instructions.

4. The Securities Commission of the Republic of Lithuania shall adopt instructions intended for financial brokerage firms, investment companies with variable capital, management companies and the depository aimed at preventing money laundering and/or terrorist financing, shall supervise the activities of said companies aimed at implementing measures to prevent money laundering and terrorist financing, shall consult the entities on the issues relating to the implementation of the instructions.

5. The State Gaming Control Commission shall adopt instructions intended for gaming companies aimed at preventing money laundering and/or terrorist financing, shall supervise the activities of said companies aimed at implementing measures to prevent money laundering and terrorist financing,, shall consult the companies on the issues relating to the implementation of the instructions.

6. The Lithuanian Bar Association shall approve instructions intended for advocates and advocate's assistants aimed at preventing money laundering and/or terrorist financing, shall supervise the activities of advocates and advocate's assistants aimed at preventing money laundering and/or terrorist financing, shall consult the advocates and advocate's assistants on the issues relating to the implementation of the instructions.

7. The Chamber of Notaries shall approve the instructions issued to notaries aimed at preventing money laundering and/or terrorist financing, shall supervise the notaries' activities related to prevention of money laundering and/or terrorist financing, shall consult the notaries on the issues relating to the implementation of the instructions.

8. The Chamber of Auditors shall approve the instructions issued to auditors aimed at preventing money laundering and/or terrorist financing, shall supervise the auditors' activities aimed at preventing money laundering and/or terrorist financing, shall consult the auditors on the issues relating to the implementation of the instructions.

9. The Chamber of Bailiffs of Lithuania shall approve the instructions issued to bailiffs or persons authorised to perform the bailiffs' activities in order to prevent money laundering and/or terrorist financing, shall supervise the activities of the bailiffs or persons authorised to perform the bailiffs' activities related to implementing money laundering and/or terrorist financing prevention, shall consult the bailiffs on the issues relating to the implementation of the instructions.

10. The Lithuanian Assay Office shall approve instructions issued to persons in the course of their business engaged in trade in precious stones and/or precious metals, in order to prevent money laundering and/or terrorist financing, shall supervise the entities' activities related to prevention of money laundering and/or terrorist financing, shall consult the entities on the issues relating to the implementation of the instructions.

11. The Financial Crime Investigation Service shall approve instructions for other entities not specified in paragraphs 1 to 10 of this Article, intended for prevention of money laundering and/or terrorist financing, shall supervise the activities of financial institutions and other entities aimed at implementing measures to prevent money laundering and terrorist financing, afford them methodological assistance.

12. The institutions referred to in paragraphs 1-10 of this Article must designate senior employees for organising the implementation of measures for the prevention of money laundering provided for in this Law and for liaising with the Financial Crime Investigation Service.
13. The Financial Crime Investigation Service shall be within 7 working days notified in writing of the designation as well as replacement of the employees specified in paragraph 12 of this Article.
14. The institutions specified in paragraphs 1 to 10 of this Article and the Financial Crime Investigation Service shall cooperate according to the mutually established procedure and shall exchange information on the results of the performed inspections of the entities' activities related to prevention of money laundering and/or terrorist financing.

Article 5. Functions of the Financial Crimes Investigation Service in Implementing Measures for Prevention of Money Laundering and/or Terrorist Financing

1. The Financial Crimes Investigation Service shall, according to its competence:

1) collect and record the information set out in this Law about the monetary transactions and transactions of the customer and about the customer carrying out such transactions and transactions;

2) collect, analyse and publish according to the procedure established by legal acts the information relating to the implementation of prevention of money laundering and/or terrorist financing and the effectiveness of their systems to combat money laundering and/or terrorist financing (as well as the information on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing as specified in paragraph 2 of Article 33 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;

3) communicate, to the law enforcement and other state institutions according to the procedure established by the Government, the information about the monetary transactions and transactions carried out by the customer;

4) conduct pre-trial investigation of legalisation of the money and assets from crime;

5) co-operate and exchange information with foreign state institutions and international organisations implementing measures for the prevention of money laundering and terrorist financing;

6) provide to financial institutions and other entities information about the criteria for identifying possible money laundering and/or terrorist financing and suspicious or unusual monetary transactions or transactions;

7) submit proposals about the improvement of the system of prevention of money laundering and/or terrorist financing to other institutions responsible for the prevention of money laundering and /or terrorist financing;

8) notify the financial institutions and other entities, law enforcement and other public bodies about the results of analysis of or investigation into their reports on suspicious or unusual monetary transactions and transactions, on the observed indications of possible money laundering and/or terrorist financing or violations of this Law.

Article 6. The Functions of the State Security Department in Implementing the Measures for Preventing Terrorist Financing

1. The State Security Department shall:

1) gather and examine intelligence relating to terrorist financing;

2) co-operate with foreign institutions and international organisations which are gathering intelligence about terrorist financing;

3) provide information to the institutions specified in Article 4 of this Law about the possible criteria for identification of terrorist financing.

2. The State Security Department and the Financial Crime Investigation Service shall co-operate and exchange information according to the procedure established by the Government in implementing the measures for the prevention of terrorist financing.

Article 7. Rights of the Financial Crime Investigation Service in Implementing Measures for the Prevention of Money Laundering and/or Terrorist Financing

1. The Financial Crime Investigation Service shall have the right within its competence:

1) to obtain from the institutions referred to in paragraphs 1 to 10 of Article 4 of this Law, other state institutions (hereinafter referred to as institutions), financial institutions, other entities, except

advocates and advocates' assistants, data and documents about monetary transactions and transactions, necessary for the performance of its functions;

2) to obtain from institutions, financial undertakings and other entities information relating to the implementation of measures for the prevention of money laundering and/or terrorist financing;

3) to co-ordinate the activities of institutions (except for the State Security Department) related to the implementation of measures for the prevention of money laundering and/or terrorist financing;

4) to instruct the institutions, financial undertakings, and other entities about the circumstances and conditions providing possibilities for violating laws and other legislative acts related to the implementation of money laundering and/or terrorist financing prevention measures. The institutions, financial undertakings, and other entities must study the instructions of the Financial Crime Investigation Service, and not later than within seven working days following the receipt of the instruction, report to the Financial Crime Investigation Service about the measures taken;

5) to instruct the financial institutions and other entities except for notaries or persons authorised to perform notarial actions, advocates or advocate's assistants and bailiffs or persons authorized to perform to the bailiffs' activities to suspend suspicious monetary transactions for up to 48 hours.

2. The rights of the officers of the Financial Crime Investigation Service who conduct pre-trial investigation into legalisation of money or assets derived from crime shall be regulated by the Code of Criminal Procedure.

Article 8. Co-transaction between State Institutions

Law enforcement and other state institutions must report to the Financial Crime Investigation Service about any indications of suspected money laundering and/or terrorist financing indications, the violations of this Law and the measures taken against the perpetrators. The information which must be communicated by state institutions to the Financial Crime Investigation Service, and the procedure for communicating this information shall be established by the Government.

CHAPTER THREE
MONEY LAUNDERING AND/OR TERRORIST FINANCING PREVENTION MEASURES

Article 9. Identifying the Customer and Beneficiary Identity

1. Financial institutions and other entities must take all the measures to identify the customer and beneficiary identity:

1) before establishing a business relationship;

2) when carrying out occasional transactions amounting to EUR 15000 or more, where the transaction is carried out in a single transaction or in several transactions in foreign currency, whether the transaction is carried out in a single transaction or in several transactions which appear to be linked' except in cases when the customer and beneficiary identity has already been established;

3) when exchanging cash, when the amount exchanged exceeds EUR 6 000 or the corresponding amount in foreign currency;

4) performing internal and international remittance transfer services, when the sum of money sent or received exceeds EUR 600 or the corresponding amount in foreign currency;

5) performing and accepting remittance transfers in compliance with the provisions of Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds;

6) when there are doubts about the veracity or authenticity of previously obtained customer or beneficiary identification data;

7) in any other case when there are suspicions that the activities of money laundering and/or terrorist financing is, has been or will be performed.

2. If during the performance of monetary operation the final amount of the monetary operations not known, the financial institutions and other entities must establish the identity of the customer immediately after establishing that the amount of monetary transactions exceeds EUR 15 000 or the corresponding amount in foreign currency. In case of several mutually linked monetary transactions the customer identity must be established immediately after establishing that several monetary transactions are mutually linked.

3. Life insurance undertakings and insurance broking undertakings must establish the identity of the customer and the insured person's identity, if the amount payable by the customer is in excess of EUR

1000 or the amount payable at a time exceeds EUR 2 500 or the corresponding amount in foreign currency. The life insurance undertaking may verify the identity of the beneficiary specified in the contract of insurance after commencing the business relationship. In all cases the identity must be verified when paying the amount or before it or when the beneficiary states his wish to avail himself of the rights provided for in the insurance certificate or before that.

4. The companies organising gaming must verify the identity of the customer entering the casino and register him when he exchanges the chips into cash.

5. The financial institutions and other entities must take all corresponding and proportionate measures in order to establish whether the customer is operating on his own behalf or he is controlled and to establish the beneficiary.

6. It shall be prohibited to perform the transactions specified in paragraphs 1 to 4 of this Article, if the customer does not submit the documents in the cases established by this Law confirming his identity, if he submits not all the data or if the data is incorrect, or if the customer or his representative avoids submitting the data required for establishing his identity, conceals the identity of the beneficiary or avoids submitting the information required for establishing the identity of the beneficiary or the submitted data is insufficient for that.

7. In all cases when the identity of the customer and the beneficiary is established, the financial institutions and other entities must obtain from the customer information about the purpose of business relationship and its intended character.

8. In all cases when the identity of the customer and the beneficiary is established, the financial institutions and other entities must verify the customer's and beneficiary's identity based on the documents, data or information received from a reliable and independent source.

9. Financial institutions and other entities must in all cases perform ongoing monitoring of the customer's business relationship, including the investigation of the transactions concluded during such relationship, seeking to ensure that the performed transactions would correspond to the information about the customer, his business and the information possessed by financial institutions or other entities about the customer, his business and the type of risk, as necessary – information about the source of funds.

10. The information about the identity of the customer and the beneficiary must be on a regular basis reviewed and updated.

11. The financial institutions and other entities shall be prohibited to perform transactions through bank accounts, to conclude business relations, to perform transactions, when they have no possibilities to fulfil the requirements established in this Article. Notice of such instances must be immediately reported to the Financial Crime Investigation Service.

12. Paragraph 11 of this Article shall not apply to advocates and advocate's assistants when they give full legal assessment of their customer's legal position or defend the customer or represent him in the court proceedings or act due to him, including the provided consultations on the commencement of legal proceedings or its avoidance..

13. Paragraphs 7–10 of this Article shall not be applied when the customer of the financial institution or the customer of another entity is another financial institution.

14. The procedure for verification of the customer's and the beneficiary's identity and establishing several mutually related monetary transactions shall be established by the Government.

Article 10. Simplified Verification of the Customer's Identity

1. Simplified verification of the customer's identity shall be carried out:

1) for companies, trading in whose securities has been allowed in one or several regulated markets of EU member states, and other foreign state companies, whose stock are traded in the regulated market and to which the requirements corresponding to the European Community legal acts to disclose information about their activities is applied;

2) joint accounts managed by the notaries and other persons providing legal services from the EU member states or from third states, to beneficiaries, if the requirements of combating money laundering and/or terrorist financing, corresponding to international standards, are applied to them and they are monitored by competent institutions for compliance with the requirements, if information on the identity of the beneficiary is submitted at the request of the financial institutions which have such joint accounts;

3) in case of life insurance contracts when annual payment does not exceed EUR 1000 or one-time payment is not more than EUR 2 500 or the corresponding amount in foreign currency;

4) in the cases of pension programme insurance certificates, if there is no provision concerning their pre-term termination and it the insurance certificates cannot be used as objects of pledge;

5) in cases of pensions, old-age pensions or other systems, which provide for pensions to the employees, when payments are withdrawn at source and the legal acts regulating the functioning of the systems do not allow transferring to another person the share of the system member;

6) in case of E-Money, when electronic media cannot be supplemented, and the largest amount kept in the media doe not exceed EUR 150 or the corresponding amount in foreign currency, or in case the electronic media may be supplemented, but the total value of transactions performed in the calendar year is subject to the limit of EUR 2 500 or the corresponding amount in foreign currency, except in cases, where in the same calendar year the holder on electronic media takes EUR 1 000 or the corresponding amount in foreign currency or a larger amount.

7) for the customer, if the customer is a financial institution covered by this law, or the financial institution registered in another EU member state or in a third country, which sets the requirements equivalent to those of this law, and monitored by the competent institutions because of the compliance with theses requirements;

8) for the customer which poses a small threat of money laundering and/or terrorist financing.

2. It shall be prohibited to perform a simplified verification of the customer identity, if a separate decision of European Commission has been adopted on the issue.

3. The simplified procedure of customer identity verification and the criteria based whereon the customer is considered as posing small threat of money laundering and/or terrorist financing shall be established by the Government.

Article 11. Customer Due Diligence Measures Verifying his Identity

1. Customer due diligence measures verifying his identity shall be performed:

1) when the transactions of business relations are performed through the representative or the or the customer does not participate in verifying his identity;

2) when the cross-border correspondent banking relationship is performed with third country credit institutions;

3) when transactions or business relationship are performed with the politically exposed natural persons;

4) where there is a great threat of money laundering and/or terrorist financing.

2. When applying customer due diligence measures to verify the customer identity when the transactions or business relationship is performed through the representative or the customer does not participate in verifying the customer identity or when there is a great threat of money laundering and/or terrorist financing, the financial institutions and other entities must apply one or several additional measures:

1) to use additional data, documents and information for verifying the customer identity;

2) to use additional measures to verify or certify the submitted documents whereby the financial institution is requested to submit the certificate confirming the data;

3) to guarantee that the first payment is made through the account, opened in the customer name in the credit institution.

3. When performing due diligence measures to verify the customer identity, when correspondent banking relationship is performed with third country credit institutions, the credit institutions must:

1) collect sufficient information about the credit institution receiving funds so that it would be possible to better understand the type of its business and to establish from the publicly accessible information the repute of the institution and the quality of supervision;

2) assess the money laundering and/or terrorist financing prevention control mechanisms;

3) before establishing correspondent banking relationship be granted the approval of the authorised manager;

4) substantiate by documents the appropriate obligations of each credit institution;

5) get convinced that funds receiving credit institution has identified the customer and verified the identity of the customers having direct access to correspondent accounts, performed an ongoing customer identification and that such institution at the request of a correspondent institution may submit appropriate data for identifying the customer.

4. When applying customer due diligence requirements, when transactions or business relationship are performed with politically exposed natural persons, financial institutions and other entities must:

1) receive the approval of the authorised manager to conclude business relationship with such customers;

2) take appropriate measures to establish the source of property and funds connected with business relationship or transaction;

3) perform ongoing monitoring of the business relationship of the politically exposed natural persons.

5. If the person stops for at least one year to perform the duties specified in paragraph 17 of Article 2 of this Law, financial institutions and other entities, having assessed the threat of money laundering and/or terrorist financing, may refrain from treating him as a politically exposed natural person. Financial institutions and other entities must set internal procedures, based whereon it shall be established whether the customer and the beneficiary is the politically exposed natural person.

6. Credit institutions shall be prohibited to commence and proceed with the correspondent banking relationship or other relationship with shell bank or bank, when it is known, that it permits shell banks to make use of its accounts.

7. Financial institutions and other entities must pay attention to any threat of money laundering and/or terrorist financing which may arise due to transactions, where it is sought to conceal customer's or beneficial owner's identity, as well as due to business relationship or transactions with the customer, whose identity has not been verified, and if necessary, immediately take measures to put an end to using money to money laundering and/or terrorist financing.

8. Customer due diligence measures for identifying the customer and verifying the customer identity, and the criteria based whereon it is believed that there is a great threat of money laundering and/or terrorist financing, shall be established by the Government.

Article 12. Opening of Accounts or Performance of other Monetary Transactions through the Representative

When the customer opens an account or performs other transactions specified in paragraphs 1 to 4 of Article 9 of this Law not in his own name, financial institutions and other entities must verify the customer's identity and that of the person on whose behalf the customer is acting.

Article 13. Third Parties

1. Financial institutions and other entities, when identifying the customer or beneficial owner, may make use of the information of the third parties about the customer or beneficial owner.

2. Financial institutions and other entities may verify the customer and beneficial owner identity without his direct participation, making use of the information about the customer or beneficial owner from financial institutions or other entities of their representations abroad, when they comply with the requirements set for third party in paragraph 19 of Article 2 of this Law.

3. When the financial institution registered in the Republic of Lithuania or any other entity operates as a third party and meets the customer or beneficial owner identification requirements, he shall be permitted to request from the customer other data or other information, required by the ES member state.

4. When requested the third parties must immediately submit to the requesting financial institution or any other entity all the requested information and data, which has to be possessed when complying with the requirements laid down in this law.

5. Third parties must immediately submit to the requesting financial institution or any other entity copies of documents relating to identifying the customer or beneficial owner.

6. It shall be prohibited to make use of third party information about the customer or beneficial owner, if a separate decision of the European Commission is passed.

7. This Article shall not cover the relations of mediation and representation, if the provider under contract of the services, the beneficiary or representative is to be considered a part of the financial institution or other entity (legal person).

8. Liability for the compliance with the customer or beneficial owner identification requirements established in this law shall rest with third country information about the customer and financial institutions which have made use of the information about the customer or other entities.

Article 14. Report of the Suspicious or Unusual Monetary Transactions and Transactions

1. Financial institutions and other entities must report to the Financial Crime Investigation Service about the suspicious or unusual monetary transactions performed by the customer. Such transactions and

transactions shall be objectively established by financial institutions and when other entities perform the ongoing monitoring of the customer business relations, including the investigation of the customer transactions, concluded during the relationship as established in paragraph 9 of Article 9 of this Law.
2. Financial institutions and other entities, except notaries or persons entitled to perform notarial actions, the advocates and advocates' assistants, bailiffs or persons having the right to perform the bailiffs' actions, that their customer performs a suspicious transaction or transaction, must stop the transaction or transaction and not later than within 3 working hours report of the transaction or transaction to the Financial Crime Investigation Service, regardless of the amount of the monetary operation or transaction.
3. The Financial Crime Investigation Service shall within 5 working days from the receipt of the information specified in paragraph 2 of this Article or from the giving of instruction specified in paragraph 5 of this Article immediately perform actions, necessary to justify or negate the doubts about the criminal activities allegedly performed by the customer.
4. From the moment the legality of funds or assets is justified or doubts about possible links with terrorist financing are negated, the Financial Crime Investigation Service must immediately report in writing to the financial institution or another entity, that monetary transactions or transactions may be resumed.
5. The financial institutions and other entities, except notaries or persons, having the right to perform notarial actions, advocates or advocates' assistants, bailiffs or persons or persons entitled to perform actions of the bailiffs, having received from the Financial Crime Investigation Service a written instruction to stop the suspicious or unusual monetary transactions or suspicious or unusual transactions performed by the customer must from the time specified therein or from the moment of emergence of specific circumstances suspend the transactions or transactions for up to 5 working days.
6. If the financial institutions and other entities within 5 working days from the submission of the report or receipt of the instruction are not obligated to perform temporary restriction of ownership rights according to the procedure established by the Code of Criminal Procedure, the monetary operation or transaction must be resumed.
7. If the suspension of the monetary operation or transaction may interfere with the investigation of the legalisation of money or assets acquired in a criminal way, terrorist financing or other criminal activity relating to money laundering and/or terrorist financing, the Financial Crime Investigation Service must report to the financial institution and other entity thereof.
8. The notaries or persons entitled to perform notarial actions, and bailiffs or persons entitled to perform the actions of bailiffs, when it is suspected that the transaction performed by their customer may be related to money laundering and/or terrorist financing, must submit to the Financial Crime Investigation Service **the data confirming the customer's identity and other information specified in paragraph 1 of Article 17 of this Law immediately after the conclusion of the transaction, regardless of the amount of money received by the customer under the transaction, regardless of the amount of money received or paid by the customer under the transaction.**
9. The advocates and advocate's assistants, when it is suspected that the transaction concluded by their customer may be linked to money laundering and/or terrorist financing, must submit the data certifying the customer's identity and other data specified in paragraph 1 of Article 17 of this Law to the Lithuanian Bar Association immediately after the conclusion of the transaction, regardless of the amount of money received or paid by the customer under the transaction, except in the cases established in paragraph 11 of this Article.
10. The Lithuanian Bar Association shall no later than within 3 working hours after the receipt of the information specified in paragraph 9 of this Article transfer the information to the Financial Crime Investigation Service.
11. Paragraph 9 of this Article shall not cover the advocates and advocate's assistants when they assess their customer's legal position or defend their customer, or represent him in the legal process or on his behalf, including the provided consultations for the commencement of the legal process or its avoidance.
12. When the monetary operation or transaction may be linked to terrorist financing, the Financial Crime Investigation Service shall no later then within 24 hours from the receipt of the information about the monetary operation or transaction submit it to the State Security Department according to the procedure established by the Government.
13. Under the circumstances established in paragraph 3 of thus Article the financial institutions and other entities must submit the information requested by the Financial Crime Investigation Service within 1 working day from the moment of receipt of the application.

14. The financial institutions and other entities, performing ongoing monitoring of the customer's business relationship, including investigation of the transactions concluded during the relationship, must take into account such activity which in their opinion due to its type may be related to money laundering and/or terrorist financing, and especially to complicated or especially very large transactions and all unusual structures of transactions, which have no manifest economic or visibly lawful purpose, and business relations or monetary transactions with the customers from third parties, in which the money laundering and/or terrorist financing prevention measures are insufficient or do not correspond to the international standards. The results of investigating the performing of such transactions or transactions and of investigating the purpose must be substantiated by documents and must be kept for 10 years.
15. The financial institutions and other entities shall not be responsible to the customer for the non-fulfilment of contractual obligations and for the damage, caused in the fulfilment of duties and actions set in this Article. The employees of financial institutions and other entities who of their own free will report to the Financial Crime Investigation Service of the suspicious or unusual monetary transactions or transactions performed by the customer shall not be held liable either.
16. The criteria on the basis whereof monetary operation or transaction are considered suspicious or unusual shall be established by the Government.
17. The procedure for suspension of suspicious monetary operations and transactions and about submitting the information to the Financial Crime Investigation Service shall be established by the Government.

Article 15. Termination of Transactions or Business Relations with the Customer
If the customer avoids or refuses to submit information to the financial institution or another entity at his request and within the time limits about the origin of the monetary resources or assets, other additional data, the financial institutions and other entities may terminate the transactions or business relations with the customer.

Article 16. Keeping of Information
1. The financial institutions must keep the register of monetary transactions and suspicious and unusual monetary transactions and transactions specified in subparagraphs 2 to 5 of paragraph 1 of Article 9 performed by the customer, except in cases when the customer of the financial institution is another financial institution or the financial institution of another European Union member state.
2. Notaries and persons entitled to perform notarial actions, as well as bailiffs and persons entitled to perform the actions of the bailiffs must keep the register of the customer's suspicious and unusual transactions and transactions under which the amount of cash received or paid exceeds EUR 15 000 or the corresponding amount in foreign currency.
3. Entities performing internal and international remittance transfer services, when the sum of money sent or received exceeds EUR 600 or the corresponding amount in foreign currency, must keep the register of monetary transactions specified in subparagraph 4 of paragraph 1 of Article 9 performed by the customer and suspicious and unusual monetary transactions and transactions.
4. Other entities, except for notaries or persons entitled to perform notarial actions, advocates and advocate's assistants, bailiffs or persons entitled to perform actions of the bailiffs must keep the register of monetary transactions and suspicious and unusual monetary transactions specified in paragraph 3 of Article 17 of this Law under which the amount of cash received or paid exceeds EUR 15 000 or the corresponding amount in foreign currency.
5. Companies offering gaming must keep the register of the persons specified I paragraph 4 of Article 9 of this Law.
6. The Lithuanian Bar Association must keep the register of the suspicious and unusual transactions performed by the customs, notified by the advocates or advocates' assistants.
7. The financial institutions and other entities must keep the register of the customers with whom the transactions or business relations have been terminated under the circumstances specified in Article 15 of this Law or under other circumstances of violation of the procedure of money laundering and/or terrorist financing.
8. The register data shall be kept for 10 years from the day of termination of transactions or other business relationship with the customer. The rules for keeping the registers shall be established by the Government.
9. Copies of documents certifying the customer's identity must be kept for 10 years from the day of termination of the transactions or business relationship with the customer.

10. The documents confirming the monetary operation or transaction or other documents having legal force, related to the performance of monetary transactions or conclusion of transactions must be kept for 10 years from the day of performance of the monetary operation or conclusion of the transaction.

Article 17. Provision of Information to the Financial Crime Investigation Service

1. The financial institutions, performing a monetary transaction, must submit to the Financial Crime Investigation Service data and information confirming the customer's identity, if the total amount of the customer's single transaction with cash or of several interrelated transactions with cash exceeds EUR 15 000 or the corresponding amount in foreign currency. The data certifying the customer's identity shall be specified in the information submitted to the Financial Crime Investigation Service, and if the monetary operations performed through the representative – also the data confirming the identity of the representative, the amount of monetary transaction, the currency use to performed monetary transaction, the data of performance of the monetary operation he type of performance of monetary transaction, the entity on whose behalf the monetary operation has been performed.

2. The notaries or persons entitled to perform notarial actions, the bailiffs or persons having the right to perform the bailiffs' actions must report to **the** Financial Crime Investigation Service the data confirming the customer's identity and the information about the transaction concluded by the customer if the amount of cash received or paid under the transaction exceeds EUR 15 000 or the corresponding amount in foreign currency.

3. Other entities, except for notaries or persons entitled to perform notarial actions, advocates or advocates' assistants shall notify the Financial Crime Investigation Service of the date confirming customer's identity and information about the single payment in cash, if the amount of the received or paid cash exceeds EUR 15 000 or the corresponding amount in foreign currency.

4. The information specified in paragraphs 1 to 3 of this Article shall be submitted to the Financial Crime Investigation Service immediately, not later than within 7 working days from the day of performance of the monetary operation or conclusion of the transaction.

5. The information presented in paragraph 1 of this Article shall not be submitted to the Financial Crime Investigation Service, if the customer of the financial institution is another financial institution or the financial institution of another EU member state.

6. The Financial Institution may refrain from submitting to the Financial Crime Investigation Service the information specified in paragraph 1 of this Article, if the customer's activity is characterised by ongoing permanent and regular monetary transactions, corresponding to the criteria established by the Government.

7. The exemption referred to in paragraph 6 of this Article shall not be applied, if the customer of the financial institution is an undertaking of a foreign state, its subsidiary or its representation or he is engaged in:

1) the provision of legal advice, is a practicing advocate, is engaged in a notary's business;

2) organises and runs lotteries and gambling;

3) carries out activities involving ferrous, non-ferrous or precious/rare metals, precious stones, jewellery, works of art;

4) is a car dealer;

5) is in the real estate business;

6) is an auditor;

7) provides individual health care;

8) organises and holds auctions;

9) organises tourism and travels;

10) is a wholesaler in spirits and alcohol products, tobacco goods;

11) is a dealer in oil products;

12) is a dealer in medicinal products.

Article 18. Activities of Customs Offices

1. Customs offices shall undertake in the manner prescribed by the Government control of the sums of cash brought into the European Community through the Republic of Lithuania from the third countries within the meaning used in the Law on Customs (hereinafter - third countries) and taken out from the Republic of Lithuania to third countries in compliance with Regulation (EC) No 1889/2005 of the European Parliament

and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (hereinafter Regulation (EC) No 1889/2005).

2. In the cases established by the Regulation (EC) No 1889/2005, when the European Union member states are granted the right of decision making, the decisions shall be made and the procedure for applying in the Republic of Lithuania the appropriate provisions of the Regulation (EC) No 1889/2005 shall be established by the Government or the institution authorised by it, except in cases, when otherwise established by this or other laws.

3. Customs offices must promptly, not later than within 7 working days, report to the Financial Crime Investigation Service each case of cash incoming into the Republic of Lithuania from third countries or outgoing from the Republic of Lithuania to third countries, if the value of a single sum of the incoming or outgoing cash is not less than the amount specified in paragraph 1 of Article 3 of the Regulation (EC) No 1889/2005.

Article 19. Duties of Financial Institutions and other Entities

1. The financial institutions and other entities, except for advocates and advocates' assistants, must establish appropriate internal control procedures, connected with the identification of customers and beneficiaries, submission of reports and information to the Financial Crime Investigation Service, keeping of information specified in this Law assessment of risks, risk management (taking into account the type of the customer, business relations, products, transaction, etc.), management of enforcement of the requirements and communication, which would prevent monetary transactions and transactions related to money laundering and/or terrorist financing, and ensure, that the employees of financial institutions and other entities would be duly prepared and acquainted with money laundering and/or terrorist financing prevention measures, specified in this Law and other legal acts.

2. The financial institutions and other entities, except for advocates and advocates' assistants, must appoint management staff who would organise the enforcement of money laundering and/or terrorist financing prevention measures established in this law and would maintain relations with the Financial Crime Investigation Service. The appointment of such staff must be reported in writing to the Financial Crime Investigation Service.

3. The financial institutions and other entities, except for advocates and advocates' assistants, must take relevant measures shall include participation of their relevant employees in special ongoing training programmes to help them recognise transactions which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases.

4. The financial institutions and other entities must apply in their branches and majority-owned subsidiaries located in third countries measures at least equivalent to those laid down in this Directive. Where the legislation of the third country does not permit application of such equivalent measures, the financial institutions and other entities shall immediately inform the Financial Crime Investigation Service thereof and having agreed with it take additional measures to effectively handle the risk of money laundering and/or terrorist financing.

5. The financial institutions and other entities must introduce internal systems that would enable them to respond fully and rapidly to enquiries from the Financial Crime Investigation Service about the submission of the information specified in this Law and ensure the submission of the information within 14 working days (if in appropriate cases this law establishes shorter time limits for submitting the information specified in this Law to the Financial Crime Investigation Service – such information shall be submitted within shorter time limits).

6. The financial institutions shall be prohibited from issuing anonymous passbooks, from opening anonymous accounts or accounts in a fictitious name, as well as opening accounts without requesting the customer to submit documents confirming his identity or if there is a justified suspicion that the data recorded in the documents is false or fraudulent.

Article 20. Keeping the Information Submitted to the Financial Crime Investigation Service

1. The information specified in this Law, submitted to the Financial Crime Investigation Service, may not be announced or transferred to other state management, control or law enforcement institutions, other persons, except in the cases established by this and other laws.

2. Persons who violate the procedure of information keeping and use specified in this law shall be held liable according to the procedure established by laws.

3. The institutions specified in paragraphs 1 to 10 of Article 4 of this Law, their employees, financial institutions and their employees, other entities shall be prohibited from notifying the customer or other persons, that the information about the monetary transactions or transactions performed by the customer, or the investigation related thereto has been submitted to the Financial Crime Investigation Service. The prohibition set in this paragraph shall not be applied to advocates and advocates' assistants, when they attempt to convince the customer not to pursue unlawful activity.

4. The prohibition set out in paragraph 3 of this Article shall not prohibit:

1) to exchange information between credit institutions, insurance undertakings and insurance financial brokerage firms, investment companies with variable capital, registered within the territory of the European Union member states, as well as registered in the territory of third states, which impose requirements equivalent to those laid in this Law, provided that they meet the conditions belonging to the same group composed of the parent company, its subsidiaries and undertakings where the parent company and its subsidiaries have a share of capital as well as undertakings, which draw up consolidated accounts and annual accounts ;

2) to exchange information between the undertakings of auditors, accountants or tax advisors, notaries and persons entitled to perform notarial actions as well as advocates and advocates' assistants, registered in the territory of the European Union member states , as well as registered in the territories of third counties, in which equivalent requirements have been laid down, if the said entities have been performing their professional activities as one legal person or as several persons which share common ownership, management or compliance control.;

3) to exchange information between financial institutions, auditors, accountants or tax advisors, notaries and persons entitled to perform notarial actions as well as advocates and advocates' assistants in the cases connected with the same customer and with the same transaction, covering two or more said entities, if they are registered in the EU member state territory or third state territory which has established requirements equivalent to this law and if they are from the same professional category and are subject to equivalent obligations as regards professional secrecy and personal data protection.

5. In the cases specified in paragraph 4 of this Article the information exchanged shall be used exclusively for the purposes of the prevention of money laundering and/or terrorist financing.

6. The exemptions set in paragraph 4 of this Article concerning the disclosure of information shall be invalid if a separate decision of the European Commission is passed on it concerning the financial institutions and other entities to which this law is applied and financial institutions and other entities from the European Union member states or related third state.

7. In the cases referred to in paragraph 4 of this Article, when, during exchange of information with the entities registered in third countries, the entities are disclosed personal data, the personal data disclosed must correspond to the requirements of the Law of the Republic of Lithuania on Legal Protection of Personal Data.

8. The exchange of information with financial institutions and other entities and persons from a third state shall be prohibited if a separate decision of the European Commission has been adopted thereon.

9. Submission of the information specified in this Law to Financial Crime Investigation Service shall not be viewed as disclosure of industrial, commercial or bank secret.

Article 21. The Scope of Data of the Customer Performing Monetary Transactions and Transactions, of his Representative and Natural Person the Beneficial Owner

1. The data of the customer, performing monetary transactions and transactions, his representative and natural person the beneficial owner shall comprise:

1) name;

2) surname

3) personal code number or other unique sequence of symbols intended for the identification of a person;

4) other data established by this law in the cases prescribed by the Government.

2. The data specified in paragraph 1 of this Article shall be submitted and kept in the cases referred to in this Law:

1) by notifying or providing information to the Financial Crime Investigation Service;

2) by identifying by the financial institutions and other entities the customer and the beneficial owner;

3) by receiving by the financial institutions and other entities the information from the third countries in the cases set in Article 13 of this Law;

4) by keeping the information by financial institutions and other entities in the cases established by Article 16 of this Law.

CHAPTER FOUR
FINAL PROVISIONS

Article 22. Monetary Unit

The amounts specified in this Law in EURO shall be expressed in LTL or any other currency according to the official exchange rate of the litas against the EURO or any other currency on the basis of official currency exchange rates announced by the Bank of Lithuania.

Article 23. Submitting Information to other EU Member States and the European Commission

1. The Government or the institution authorised by it shall inform the European Commission about the application of this Law to the entities specified in subparagraphs 3 and 9 of paragraph 8 of Article 2 of this Law.

2. The Government or the institution authorised by it shall inform other EU member states and the European Commission about the cases when:

1) the third state complies with the requirements established by subparagraph 2 of paragraph 19 of Article 2 of this Law;

2) the third state complies with the requirements set in subparagraphs 1, 2, 7 and 8 of paragraph 1 of Article 10 of this Law;

3) the legal acts of the third state do not permit to apply the requirements set paragraph 4 of Article 19 of this Law;

4) the third state complies with the requirements set in paragraph 4 of Article 20 of this Law.

Article 24. Appealing against the Actions of the Officers of the Financial Crime Investigation Service

The actions of the officers of the Financial Crime Investigation Service may be appealed against according to the procedure established by laws.

Article 25. Procedure of Compensation for Damage

The damage which is caused by unlawful actions of the officers of the Financial Crime Investigation Service performing their official duties shall be compensated according to the procedure established by laws.

Article 26. Liability

Officers and persons who violate the requirements of this Law shall be liable according to the procedure established by laws.

Annex to the Law of the Republic of Lithuania on the Prevention of Money Laundering

IMPLEMENTED LEGAL ACTS OF THE EUROPEAN UNION

1. Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ 2005, L 309, p. 9).

2. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and/or Terrorist Financing (OJ 2005, L 309, p. 15).

3. Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (OJ 2006, L 214, p. 29).

4. Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (Text with EEA relevance) (OJ 2006, L 345, p. 1).

Article 2. Application of the Law

The provisions of Article 9 to 11 of the Law on Prevention of Money Laundering and Terrorist Financing set forth in Article 1 of this Law shall also be applied by financial institutions and other entities with respect to customers existing at the moment of entry into force of this Law.

Article 3. Suggestion to the Government and other Institutions Responsible for the Prevention of Money Laundering and/or Terrorist Financing

The Government as well as other institutions responsible for the prevention of money laundering and/or terrorist financing shall draw up and approve the legal acts required for the implementation of this Law.

Article 4. Entry into Force of this Law

Paragraph 4 of Article 9 and paragraph 5 of Article 16 set forth in Article 1 of the Law on the Prevention of Money Laundering and/or Terrorist Financing shall enter into force on 1 June 2008.

I promulgate this Law passed by the Seimas of the Republic of Lithuania

PRESIDENT OF THE REPUBLIC VALDAS ADAMKUS