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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES
(MONEYVAL)

**Written Progress Report submitted to MONEYVAL
by Latvia¹**

¹ Adopted by MONEYVAL at its 25th Plenary meeting (Strasbourg, 3-6 December 2007). For further information on the examination and adoption of this report, please refer to the Meeting Report 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

Latvia has continued the improvement and development of its AML/CFT systems since the IMF evaluation in 2006.

In order to insure the transposing of the EU Third AML Directive in due time Latvia has drafted a brand new AML/CFT (hereinafter - AML/CFT law or the full text of the title – Law On the Prevention of Laundering of Proceeds derived from Criminal Activity and the Financing of Terrorism) Law to be enforced in mid December 2007. The Law has been drafted taking into consideration all the recommendations of the third round joint IMF and *Moneyval* evaluation for further improvement of the existing AML/CFT system.

Alongside with working on the draft law, it is planned to amend the Criminal Procedure Law (hereinafter – the CPL), with the aim to prevent, for example, the doubling of the definition of proceeds of crime in laws and regulations, as well as to create a joint terminology regarding proceeds of crime, financial resources or other property in accordance with the Convention for the Suppression of the Financing of Terrorism. Also, beside the draft law, the draft Cabinet Regulation “Regulations regarding List of Elements of Unusual Transactions and Procedures for Reporting” is being elaborated.

25.01.2005 the Council for Prevention of Laundering of Proceeds derived from Criminal Activity chaired by the Prime Minister was created. Among its tasks were : setting of money laundering prevention priorities, further coordination of the work of state authorities, organization of the law drafting process. The Council began by a whole range of measures of organizational nature, including critical amendments to normative acts (a new Criminal Procedure entered into force, amendments were made to the Criminal Law, AML law and other laws. The FIU was tasked with the fulfilment of 3 priorities, a register of bank accounts of legal persons was created.

Taking into account the way the situation developed, including Moneyval/IMF evaluation and recommendations, on 03.04.2007 the said Council was transformed to Finance Sector Development Council which is still chaired by the Prime Minister. The authority of the new Council has been extended under the Cabinet of Ministers Regulation # 233. The Regulation also gives more details on the authority of the Council by providing a list of tasks to be accomplished in the whole of financial sector. The Council now also has more members, including the President of the Association of Commercial Banks of Latvia, the Board Chairman of the Latvian-American Finance Forum.

The new AML law also legally establishes the status of the new Council by stipulating that the Council is the coordinating body the objective of which the harmonization and improvement of the cooperation between state authorities and the private sector in order to prevent money laundering and terrorist financing.

Among the most important decisions of the Council is the creation of a comprehensive plan in order to improve correspondent banking relationships with US banks. Another key decision has been the entrusting of the State Revenue Service with a task to supervise non-financial institutions that has also been put into the new AML law draft.

Among the other specific measures that have been taken is the following:

Financial and Capital Market Commission has organized a workshop in September 2007 in Riga where Latvian bank representatives had an opportunity to meet with their correspondent banks from Europe and USA. The main objective of the workshop was to encourage further inter-bank cooperation, exchange of information, and to receive the recent information about best AML/CFT practice and standards paying special attention to monitoring high risk customers.

The Association of Commercial Banks of Latvia, in addition to the 3rd EU Directive, FATF Recommendations and Moneyval/IMF recommendations, on 11.10.2007 created and approved the Action Plan to Enhance Transparency of the Offshore Customers Serviced by Banks in Latvia.

The action plan lists a number of steps that banks in Latvia have agreed to take as a voluntary private sector initiative aimed at strengthening the relationship with correspondent banks, particularly in the United States. Those steps would have an overall positive impact on the market by increasing the resilience of the whole banking sector against money laundering threats, and contribute to the reputation of the Latvian financial sector as a high quality, stable innovative provider of financial services to residents of Latvia and customers from the neighboring countries.

The action plan is composed to two parts. The first part deals with the issues that are the competence of the Association of Commercial Banks. The second part deals with commitments at the level of individual banks.

The draft Law on the Declaration of Property owned by Natural Persons is currently reviewed by the Parliament of Latvia. The draft stipulates that persons will be obliged to declare their property, vehicles, securities, monetary assets of any kind, loans. It is envisaged under the said draft that the inhabitants of Latvia will be obliged to keep for 5 years documents that prove any purchase the value of which exceeds 50 minimum wages. Moreover, it is planned to establish liability for the use of property the legal origin of which cannot be proved. It is possible that the reversal of the burden of proof from the state to the individual concerned will be instituted and the possible penalty might be the confiscation of property.

Further to the issues of the confiscation of criminal proceeds and the reversal of the burden of proof one has to note that the new possibilities offered by the new Criminal Procedure (Art. 355) are actively used in practice. When it comes to money laundering cases, it is possible to recognize a given property as criminal proceeds and to confiscate it on behalf of the state under separate court proceedings even before the guilty person has been found and sentenced. It is particularly useful in cases when there are no specific victims or forged documents figure in the case concerned or the possible offender has used false identity data.

Over 2007 (10 months) 12 persons have been sentenced for money laundering in 8 cases, in 14 cases assets that figured in the cases were recognized as proceeds from crime and confiscated (total amount 1,8 million EU) and the issue of sentencing the possible offenders postponed (to be resumed in the future should that be necessary).

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).

PO: Though legislation does not specifically provide for the prosecution on ML without prior conviction of predicate offence such prosecution is theoretically possible. Nevertheless, the criminal origin of the proceeds laundered must be established by the ruling of foreign or local officials. Such ruling might be, for instance, the decision on termination of the case on non-exonerating basis.

Recommendation 1 (Money Laundering offence)	
Rating: Largely compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Take appropriate measures to ensure that prosecutions can be commenced without the need for a conviction of a predicate offence</i>
Measures taken to implement the Recommendation of the Report	In Latvia, a person responsible for the laundering of criminally acquired proceeds or other property is held liable according to the constituent elements of a criminal offence as set out in Article 195 of the CL. In order to hold a person criminally liable in accordance with the said article, it has to be ascertained that the financial resources have been acquired as a result of committing criminal offences as set out in the Criminal Law (hereinafter also CL); namely, a person cannot be held criminally liable without knowing the criminal offence as a result of which these resources have been acquired. Only after ascertaining that the financial resources or other property has been acquired as a result of committing a criminal offence, it can be decided on starting a criminal prosecution against the person suspected of the laundering of illegally acquired proceeds.
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Provide explicitly in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (to supplement Articles 6 and 7 of the AML Law relating to opening an account).</i>
Measures taken to implement the Recommendation of the Report	The new AML Law establishes the obligation to identify client when establishing a business relationship (Article 11), and undertake CDD measures before establishing business relationship. Business relationship is defined in the Article 1 of the same law as professional, commercial and business relationship of the subject of the law and a client connected with the commercial and professional activity of the subject of the law being targeted as long-term relations at the starting point.
Recommendation of the IMF / MONEYVAL Report	<i>Provide explicitly in law or regulation that financial institutions must verify customers' identity.</i>
Measures taken to implement the Recommendation of the Report	<p>In accordance with the Article 12 of the AML Law the identity of a natural person can be verified by personal identification document – for locals that is a document containing person's name, surname and personal identity number, but for non residents arriving in person to the subject of the law this can be only document valid for entering Latvia.</p> <p>The identity of the non-face-to-face customers is verified according to a domestic passport or any other identification document accepted for use in the relevant country of residence or it can be done according to document valid for entering the country where the person is identified.</p> <p>The identity of the legal person is verified in accordance with the Article 13 of the AML Law, where it is stated that the subject of the law before establishing the relationship obtains documents proving the establishment or legal registration and the legal address of the legal person including actual address for non-residents.</p> <p>The aforementioned article of the AML Law states also duty to identify persons authorized to represent a legal person in relations with the subject of the law and the duty to obtain documents for such authorization. The subject of the Law may identify a legal person by obtaining the information mentioned in the Article 13 from European Business Registry or any other public, reliable and independent source.</p>
Recommendation of the IMF / MONEYVAL Report	<i>Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares.</i>
Measures taken to implement the Recommendation of the Report	Article 17 and paragraph 3 of Article 22 provides that FCMC defines minimum scope for enhanced CDD for different customer categories, enhanced customer transaction monitoring, and defines scope of products and services of the credit and financial institutions and customer transactions when there are indications for the duty to conduct enhanced CDD. Regulations drafted by FCMC define the duty for banks and other financial institutions to conduct enhanced CDD for all customers that are legal entities that may issue bearer shares.
Recommendation of the IMF / MONEYVAL Report	<i>Amend Article 7 paragraph 3 of the AML Law to provide a specific direct requirement for financial institutions to identify the client, irrespective of any exemption or threshold, when there is a suspicion of terrorist financing.</i>
Measures taken to implement the	Article 11 (point 2 of the paragraph 2) provides requirement for identification in cases when the transaction matches up with at least one of the unusual transaction indicators or there is a

Recommendation of the Report	suspicion of possible money laundering or terrorist financing or an attempt for such actions.
Recommendation of the IMF / MONEYVAL Report	<i>Clarify, in law or regulation, that identification of non-resident customer of the Latvian Post Office and the bureaux de change be performed on the basis of reliable, independent source documents, data or information, such as, for example, valid passports.</i>
Measures taken to implement the Recommendation of the Report	Latvian Post Office and the bureaux de change are subjects of the AML Law and are obliged to observe the requirements of the law for identification of customers relying on certain documents (Articles 12 and 13).
Recommendation of the IMF / MONEYVAL Report	<i>Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons.</i>
Measures taken to implement the Recommendation of the Report	<p>Article 18, paragraph 2 provides the procedure for obtaining information from a customer on its actual beneficiary(ies).</p> <p>The subject of the Law determines the actual beneficiary(ies) by obtaining information on the customer identity in accordance with the requirements of the Law (verifying customers identity by a valid identification document) in one of the following manners:</p> <ol style="list-style-type: none"> 1) obtaining application for actual beneficiary signed by the customer; 2) relying on information or documents from state public registers; 3) determining the actual beneficiary on its own in cases when it is impossible to information on the actual beneficiary otherwise. <p>When conducting the enhanced CDD the Article 22 (point 1 of the paragraph 1) requires banks and financial institutions to obtain additional information to ensure that a person indicated or determined as actual beneficiary of the customer is the real beneficiary of the customer.</p>
Recommendation of the IMF / MONEYVAL Report	<i>Amend the AML Law or relevant regulation in order to clearly require the financial institutions that are not covered by the FCMC Regulation to obtain information on the purpose and intended nature of the business relationship.</i>
Measures taken to implement the Recommendation of the Report	Article 19 of the AML Law requires that "Starting business relationship the subject of the law relying on the obtained money laundering and terrorism financing risk assessment obtains and documents information on the business objectives and the intended purpose including the range of services the customer plans to use, the origin of funds, the planned volume and number of transactions, customer business and personal activities for which the customer is going to use the respective services". This requirement now is applicable to all the institutions, not only those subject to FCMC supervision.
Recommendation of the IMF / MONEYVAL Report	<i>Enhance current practice by requiring explicitly, in law or regulation, the financial institutions to ensure that documents, data and information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, in particular for higher risk categories of customers or business relationships.</i>
Measures taken to implement the Recommendation of the Report	<p>Required by Article 17 (point 4 of paragraph 1) stating that CDD process includes also keeping and regular updating the documents, data and information collected under the CDD process.</p> <p>Article 36 of the AML Law requires that the subject of the law maintains and keeps copies of documents verifying the identity of the customer, information on the customer and its accounts, application for actual beneficiary, correspondence (including electronic correspondence) as well as other documents (including electronic ones) obtained under the CDD process for at least five years. This article defines also the rights of the subjects of the law to process electronically data obtained under the identification and the CDD process of the</p>

	customers, their representatives and actual beneficiaries (paragraph 4 of the article 36). Paragraph 3 of the aforementioned article stipulates that in some cases when required by the FIU this term may be extended for more than five years.
Recommendation of the IMF / MONEYVAL Report	<i>Require, in law, regulation or other enforceable means, the bureaux de change and the Post Office to identify high-risk categories of clients and transactions and, for all financial institutions, to perform enhanced due diligence. Define the additional measures to be taken under the enhanced due diligence.</i>
Measures taken to implement the Recommendation of the Report	The law defines cases when the subject of the law is required to perform enhanced CDD (article 22). This article states categories of customers for which it applies – entering business relations with non-face-to-face customers, politically exposed persons, starting cross border relations with credit institutions in the third countries, as well as in other cases stated in other normative acts. This requirement applies to all subjects of the law and includes Latvian Post Office and bureaux de change as well.
Recommendation of the IMF / MONEYVAL Report	<i>Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9.</i>
Measures taken to implement the Recommendation of the Report	<p>The automatic exemption from CDD requirements previously provided in Article 9 of the AML Law is removed from the new AML Law.</p> <p>The new law defines exemptions from CDD in conformity with the EU Third AML Directive. Article 26 of the law defines categories of customers which the subject of the law may exempt from CDD:</p> <ol style="list-style-type: none"> 1) credit and financial institutions registered in the Republic of Latvia except entities dealing with cash buying and selling, and money remitters and transaction services providers; 2) credit and financial institution (except entities dealing with cash buying and selling, and money remitters and transaction services providers) registered in countries with AML/CFT requirements similar to EU AML/CFT requirements; 3) Republic of Latvia or the domestic public authorities, or entities controlled by Republic of Latvia or the domestic public authorities representing low risk of money laundering or terrorist financing; 4) Companies whose securities are admitted to trading in regulated market in one or several member states or in a regulated market of the third country if company is subject to disclosure of information consistent with EU legislation; 5) Person who is represented by a notary or other independent legal services provider in member state or a country consistent with EU AML legislation and supervised for such consistency as well as in cases when information on such person is available upon the request of the subject of this law which is entering into business relations with such person; 6) Other person representing low AML/CFT risk. <p>Customers mentioned in points 3 and 6 of paragraph 1 of the aforementioned article are considered to represent low AML/CFT risk if they meet several criteria. Such criteria are defined in the paragraph 2 of this article:</p> <ol style="list-style-type: none"> 1) customer has been acting in state administration under the EU legislation; 2) customer identification information is publicly available, transparent and secure; 3) customer activities and accounting methods are transparent; 4) there exist EU or Member state procedures for supervising and controlling customer activities. <p>Paragraph 3 of Article 26 in its turn sets out the criteria to be exempted from CDD in all other</p>

	<p>cases:</p> <ol style="list-style-type: none"> 1) all the subjects of the AML/CFT Law; 2) the identifying information is publicly available, transparent and secure; 3) person providing the financial services is licensed for such activities; 4) person is subject to compliance supervision of government authorities.
Recommendation of the IMF / MONEYVAL Report	<i>For customers (and beneficial owners of the funds) of financial institutions that are not covered by the FCMC Regulation, clarify, in law or regulation or other enforceable means, the timing of verification in accordance with FATF criteria 5.13, 5.14 and 5.14.1</i>
Measures taken to implement the Recommendation of the Report	<p>Requirement for timing of verification is now included not only in FCMC Regulations but also in the AML Law. The subjects of the Law are all financial institutions under definition in Article 1 paragraph 6. Thus timing of verification requirement now is in conformity with FATF criteria 5.13., 5.14. and 5.14.1.</p> <p>The subjects of the law have duty to identify customer before starting the business relations, before each transaction above EUR 15.000 or its equivalent in other currencies, and in all other cases when transaction matches up with at least one of the unusual transaction indicators or there is a suspicion for money laundering or terrorist financing or an attempt for such actions.</p> <p>When AML/CFT risk is low and customer is not subject for enhanced CDD according to the law in order not to interrupt normal business customer and actual beneficiary may identified at the moment of beginning the business relationship as soon as it is possible, but before the first transaction (article 11, paragraph 4).</p> <p>Article 7 in point 3 of paragraph 1 sets out an obligation for the subjects of the law to establish CDD procedure and scope relying upon AML/CFT risk assessment done in compliance with the minimum criteria set out in the AML Law and other legislative acts.</p>
(Other) changes since the last evaluation	The new AML/CFT Law is completely harmonized with the Third EU AML Directive. According to the requirements of the law FCMC has drafted and enforced new updated AML/CFT Regulations binding to all the financial market participants supervised by the FCMC.
Recommendation 5 (Customer due diligence) II. Regarding DNFBP²	
Recommendation of the IMF / MONEYVAL Report	<i>Broaden the provisions in the AML Law of the circumstances under which DNFBPs are subject to AML/CFT preventive measures requirements. The AML Law should apply to all DNFBPs identified in the FATF Recommendations when they engage in the activities specified in the FATF Recommendations.</i>
Measures taken to implement the Recommendation of the Report	The new AML/CFT Law applies to all DNFBPs identified in the FATF Recommendations (Article 3).
Recommendation of the IMF / MONEYVAL Report	<i>Broaden the specification of the circumstances under which DNFBPs are required to undertake CDD to conform with the FATF Recommendations, including eliminating the provision that professionals are only required to identify clients when they engage in transactions of EUR15,000 or more or when they are arranging for safekeeping or opening accounts. A requirement to identify PEPs should be included.</i>
Measures taken to implement the	Section III of the AML/CFT Law "Customer identification and CDD" requires all the subjects

² i.e. part of Recommendation 12.

Recommendation of the Report	of the law (including also DNFBPs) to identify customer and undertake CDD when beginning the business relationship, before each transaction above EUR 15.000 or its equivalent in other currencies as well as in cases when there is suspicion for money laundering or terrorist financing or an attempt for such actions (article 11). Regarding CDD the law sets out minimum criteria for enhanced CDD (article 22). Relations with politically exposed persons are regulated in Article 25 of the law.
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Require, in law or regulation, financial institutions to keep records of the account files and business correspondence.</i>
Measures taken to implement the Recommendation of the Report	<p>Article 36 of the AML Law regulates keeping the records of account files and business correspondence:</p> <ul style="list-style-type: none"> (1) The subject of the law documents customer identification and CDD measures and presents upon request these documents to the supervisory and control authority or provides copies of the documents upon request of the FIU. (2) The subject of the law maintains and keeps for at least five years <ul style="list-style-type: none"> 1) copies of the documents verifying the identity of the customer, 2) information on the customer and its accounts, 3) application on actual beneficiary, 4) correspondence (including electronic correspondence) 5) other documents (including electronic ones) obtained under the CDD process. (3) When required by the FIU in some cases this term may be extended for more than five years. (4) The subjects of the law have the right of to process electronically data obtained under the identification and the CDD process of the customers, their representatives and actual beneficiaries.
Recommendation of the IMF / MONEYVAL Report	<i>Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the Article 36 paragraph 3 when required by the FIU in some cases the term for record keeping may be extended for more than five years.
(Other) changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP³	
Recommendation of the	<i>Broaden the provisions in the AML Law of the circumstances under which DNFBPs are subject to</i>

³ i.e. part of Recommendation 12.

IMF / MONEYVAL Report	<i>AML/CFT preventive measures requirements, including for record keeping.</i>
Measures taken to implement the Recommendation of the Report	The record keeping requirements mentioned before are applicable also to the DNFBPs, except notaries as record keeping requirements for this category of DNFBPs are set in the Law on Notaries.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Provide clarification and guidance to the reporting entities in order to increase the emphasis ensuring that suspicious transactions are reported promptly to the FIU.</i>
Measures taken to implement the Recommendation of the Report	<p>Para. 1 of the Article 20 of the draft stipulates that following the beginning of business relationships the subjects of the law, based on a money laundering and terrorist financing risk evaluation, carry out continuous monitoring of transactions in order to make sure that the transactions are not unusual or suspicious transactions.</p> <p>Para. 2 of the Article 20 stipulates that the subjects of the law, while carrying out the supervision of business transactions, should pay special attention to 1) complicated and large transactions which are not typical to the client or mutually linked transactions which have no apparent economic reason or explicitly clear legal justification; 2) transactions with the involvement of persons from third countries which are considered as non-cooperative countries or territories (that fail to cooperate in the areas of money laundering and terrorist financing) by the FATF.</p> <p>Article 22 of the draft obliges the subjects of the law to conduct deeper analysis in specific cases (PEPs, cross-border relationships, etc) which can also be looked at as a guideline for detecting suspicious transactions. One has to note that Art. 30 of the draft continues to stipulate that suspicious transactions are to be reported immediately.</p>
Recommendation of the MONEYVAL Report	<i>Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU.</i>
Measures taken to implement the Recommendation of the Report	<p>Firstly, see the reply to the previous question. Secondly, in late 2005, early 2006 the Council for Prevention of Laundering of Proceeds derived from Criminal Activity chaired by the Prime Minister (the current name - Finance Sector Development Council) set 3 priorities for the FIU – 1) freezing of huge amount financial resources; 2) the detection of large scale laundering schemes; 3) provision of valuable information (that would substantially foster preliminary investigation) to law enforcement authorities.</p> <p>The practical application of the said priorities by the FIU has led to the following: in 2006 125 freezing orders (suspending debit operations in accounts) were issued and 12,8 million LVL frozen. Out of the 155 cases sent to law enforcement in 2006 9 cases contained information on large schemes involving 20 and more transaction participants in each scheme.</p>

	Following the recommendation both the new draft (see previous answer) and the training activities focus on the reporting on suspicious transactions for the purpose of enforcing the above said priorities. More information in this subject under 4.4. below. Moreover, the FIU, by using a special software, regularly carries out statistical analysis on both the proportion of suspicious transactions from the total number of reports and the number of reports received based on each specific indicator. As a result, the information on the analyses carried out, including the number of reports included in the cases sent to law enforcement, is made available to the staff in charge representing financial and non-financial institutions. This way feedback is ensured.
Recommendation of the IMF / MONEYVAL Report	<i>Specifically require, in law or regulation, the reporting of suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organisations or those who finance terrorism, without limiting the scope of the requirement to designated persons.</i>
Measures taken to implement the Recommendation of the Report	The provisions of the draft (Art. 1-17, Art. 3, Art. 30-1-3) oblige all subjects of the law to immediately report about any transaction which may cause suspicion of TF or attempt of TF or another criminal activity linked to TF. The above said is a general type of requirement which does not apply to terrorist lists because reporting on subjects from such lists is made mandatory under the Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure (Para. 6.1.7.). Hence, there are two types of reporting on possible terrorists.
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP⁴	
Recommendation of the IMF / MONEYVAL Report	<i>Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF recommendations.</i>
Measures taken to implement the Recommendation of the Report	Art. 3 of the draft provides a full list of the subjects of the law, including DNFBPs. Art. 30-1-3 stipulates that all the listed subjects are obliged to immediately report any suspicious transaction to the FIU. Art. 1-17 of the draft defines suspicious transactions as transactions which cause suspicion of ML or TF or an attempt of such activities or a criminal activity linked to the said activities.
Recommendation of the IMF / MONEYVAL Report	<i>Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs.</i>
Measures taken to implement the Recommendation of the Report	<p>Currently, yet for a short while, the Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure is in force.</p> <p>The annotation of the draft says that under its Art. 1-14 new Regulation is to be elaborated.</p> <p>In view of the above said and based on the authority granted to the FIU by the currently effective Law On the Prevention of Laundering of Proceeds derived from Criminal Activity (Art. 11-1, 37) the FIU carried out an analysis of how practically the indicators listed under the said Regulation 127 work (for the period 2001-2006). As a result, a new draft regulation was</p>

⁴ i.e. part of Recommendation 16.

	<p>produced (new contents) and the non-functional indicators excluded and new indicators were elaborated based on the latest laundering trends. The indicators now also cover the non-financial sector – DNFBPs that was previously not covered by the Regulation.</p> <p>The new draft regulation was, as far as its competence reaches, evaluated by the FIU Advisory Board on 25.05.2007.</p> <p>Following the entrance into force of the draft law the said draft regulation will also be immediately sent to the Cabinet of Ministers for approval.</p>
Changes since the last evaluation	

Special Recommendation II (Criminalise terrorist financing)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Define “financial resources” in accordance with the Terrorist Financing Convention.</i>
Measures taken to implement the Recommendation of the Report	<p>Currently, according to Paragraph 3 of Article 1 of the law “On the Prevention of Laundering of Proceeds Derived from Criminal Activity”, financial resources are payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments.</p> <p>At the same time the drafted law “On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism” provides a definition of the term “resources (property)”, namely, financial resources or any other form of corporeal or incorporeal, movable or immovable property. In the drafted law provides a definition of the term “financial resources”, namely, payments assets in way of cash or money clearings, precious metal, as well as any kind of form of financial instruments or documents (also digital or electronic), that certify the right of a person to these assets or property or confer a right to benefit from it.</p>
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting)	
I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The authorities should amend the AML Law to provide specifically that financial institutions are required to report suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the reporting to cases where potential terrorists have been designated</i>
Measures taken to implement the Recommendation of the	<p>The AML Law now in article 1, point 17 defines a suspicious transaction as follows:</p> <p>The transaction causing suspicion for money laundering or terrorist financing or any attempt for such actions or other criminal actions in connection with such actions.</p>

Report	The article 30 sets out an obligation for subjects of the law to report to FIU immediately on every suspicious transaction (article 30, point 3 of paragraph 1).
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
(Other) changes since the last evaluation	The new AML/CFT Law applies to all DNFBPs identified in the FATF Recommendations (Article 3).

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 IMF / MONEYVAL Report	<i>Require, in law, regulation or other enforceable means, the bureaux de change and the Latvian Post Office to put in place appropriate risk management systems to determine whether a potential customer, an existing customer or the beneficial owner is a PEP; to take reasonable measures to establish the source of wealth and the source of the funds of customers and beneficial owners identified as PEPs; and to conduct enhanced ongoing monitoring on the relationship with PEPs.</i>
Measures taken to implement the Recommendation of the Report	As the Latvian Post Office and the bureaux de change are now the subjects of the law the requirement of the article 25 of the law is applicable to them as well. Article 25 requires all the subjects of the law to determine before entering the business relations whether the customer or its actual beneficiary is a politically exposed person and undertake and document procedures for obtaining information on the origin of funds or other means used in conducting the transactions. Entering into business relations with PEPs all institutions have to obtain senior management approval for establishing such relations. When continuing relations with such customers, subjects of the law are obliged to conduct ongoing monitoring of such customer transactions and internal control system must ensure possibility to detect customers and the actual beneficiaries that become PEPs later in the course of the business relationship.
Recommendation of the IMF / MONEYVAL Report	<i>Require in law, regulation or other enforceable means, all financial institutions to obtain senior management approval for establishing business relationships with PEPs or continuing a relationship with a customer or beneficial owner who subsequently becomes a PEP.</i>
Measures taken to implement the Recommendation of the Report	When entering into business relations with PEPs all institutions have to obtain senior management approval for establishing such relations before starting business relations, but in the course of continuing relations with such customers, subjects of the law are obliged to conduct ongoing monitoring of such customer transactions (Article 25, paragraph 4). Paragraph 2 of the aforementioned article requires that internal control system of the subject of the law based on the risk assessment ensures possibility to detect customers and the actual beneficiaries that become PEPs later in the course of the business relationship.

	The law requires that when detecting that a customer or its actual beneficiaries become PEPs later in the course of the business relationship all institutions have to act according to the requirements of article 25 of the law, i.e., obtain senior management approval for continuing such relations, undertake and document procedures for obtaining information on the origin of funds or other means used in conducting the transactions in the course of continuing relations with such customers. Besides subjects of the law are obliged to conduct ongoing monitoring of such customer transactions in accordance with paragraph 4 of the article 25.
(Other) changes since the last evaluation	

Recommendation 7 (Correspondent banking)	
Rating: Non compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The blanket exemption for correspondent banks from OECD countries under Article 5¹ of the AML Law should be removed.</i>
Measures taken to implement the Recommendation of the Report	Removed. The new AML Law is consistent with the EU Directive in this respect. See Article 26 of the law.
Recommendation of the IMF / MONEYVAL Report	<i>Require, in law, regulation or other enforceable means, that banks must obtain senior management's approval before establishing the new correspondent relationship.</i>
Measures taken to implement the Recommendation of the Report	Article 24 of the AML Law requires obtaining senior management approval for entering into cross-border relations with credit institutions (Article 24, point 3 of paragraph 1).
Recommendation of the IMF / MONEYVAL Report	<i>Enhance the current requirements for banks to gather sufficient information to understand fully the nature of the respondent's business, to determine its reputation and the quality of supervision; to assess the adequacy and the effectiveness of the correspondent's controls; and to document the respective AML/CFT responsibilities of each institution.</i>
Measures taken to implement the Recommendation of the Report	This requirement is now included in the Law. Article 24, paragraph one sets out obligations for procedures when establishing cross-border relations, namely, institutions are obliged to obtain information on the nature of the respondent's business, as well as determine correspondent's reputation from publicly available information and the quality of the supervision, and assess the adequacy of correspondent's AML systems, and document responsibilities of the correspondent institution for AML/CFT.
(Other) changes since the last evaluation	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Require, in law, regulation or other enforceable means, the financial institutions to have policies or take measures to address the additional risks that may arise from new and developing technologies.</i>
Measures taken to	Article 8 of the AML Law provides that the subject of the law assess on a regular basis the

implement the Recommendation of the Report	effectiveness of the internal control system observing additional risks that may arise from developments and introduction of new technologies and improve the internal control systems accordingly.
(Other) changes since the last evaluation	

Recommendation 12 (DNFBPs)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Extend Article 20 paragraph 1¹ of the AML Law on the monitoring of transactions to apply also to DNFBPs.</i>
Measures taken to implement the Recommendation of the Report	<p>According to the new AML/CFT Law DNFBPs are subjects of the law. Thus all the requirements set out in the law apply to this category as well. Articles 17 and 22 include requirements for conducting CDD that were expressed in the previous AML Law in Article 20 paragraph 1¹, namely,</p> <ol style="list-style-type: none"> (1) Customer due diligence is a set of risk based measures that subject of the law has a duty to conduct: <ol style="list-style-type: none"> 1) Determine information on the actual beneficiary; 2) Obtain information on the purpose and the intended nature of the business relationship; 3) Conduct ongoing monitoring of the business relationship after entering in business relationship; 4) Ensure that documents, data and information obtained in the course of CDD is maintained and kept up-to-date. (2) When stating the scope and measures of CDD the subject of the law considers AML/CFT risks that may arise from customer's country of residence (registration), legal form of the customer, scope of activities, services used and transactions performed. <p>The necessity for monitoring business relations is required by Article 20:</p> <ol style="list-style-type: none"> (1) After entering the business relations the subject of the law based on the AML/CFT risk assessment performs the following: <ol style="list-style-type: none"> 1) Updates the information on customer's business or personal activities; 2) Conducts ongoing monitoring of transactions to find out any suspicious or unusual transaction. (2) When monitoring the business relations the subject of the law pays special attention to: <ol style="list-style-type: none"> 1) Complicated and large transactions or several connected transactions that are not typical for the customer and that has no apparent economic or legal objectives; 2) Transactions that involve persons from the third countries, which according to the FATF are non-cooperative countries and territories. <p>Article 22 of the Law defines procedures for enhanced CDD:</p> <ol style="list-style-type: none"> (1) Enhanced CDD is an additional risk based measure in order to: <ol style="list-style-type: none"> 1) Ensure that a person identified as actual beneficiary according to the requirements of the law is a real and actual beneficiary of the customer;

	2) Ensure enhanced monitoring of customer's transactions.
(Other) changes since the last evaluation	

Recommendation 16 (DNFBPs)	
Rating: Non compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means.</i>
Measures taken to implement the Recommendation of the Report	The minimum criteria for establishing internal control systems defined in the law apply to DNFBPs as well.
Recommendation of the IMF / MONEYVAL Report	<i>A supervisory and control authority should be designated for each DNFBP sector with authority to monitor and enforce compliance with AML/CFT requirements. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements</i>
Measures taken to implement the Recommendation of the Report	Article 44 of the AML/CFT Law designates supervisory and control authorities for the subjects of the law and in Article 45 the Law defines the monitoring compliance with AML/CFT requirements as a duty for each of the designated authority. Both articles include also DNFBPs.
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Require financial institutions that are not subject to FCMC supervision to pay special attention not only when the customer is a resident of a country listed by FATF, but also to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF standard.</i>
Measures taken to implement the Recommendation of the Report	The law requires that all the subjects of the law conducting CDD and defining the scope and procedure of CDD consider also risk that arises from the country of residence (registration) of a customer (Article 17, paragraph 2).
Recommendation of the IMF / MONEYVAL Report	<i>Establish a mechanism that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.</i>
Measures taken to implement the Recommendation of the Report	03.04.2007 the Cabinet of Ministers of Latvia issued the Regulation # 233 On the Charter of the Finance Sector Development Council. The Council is chaired by the Prime Minister and among the functions and tasks of the Council are the following: <ol style="list-style-type: none"> 1. Fostering of cooperation with foreign public and private institutions (Art. 2.5); 2. Evaluation of the possibility of ML and TF risks (Art. 3.2); 3. Elaboration of working plans (3.3) 4. Other powers which specifically focus on the drafting of normative acts, the coordination of the cooperation of state and private sectors.

	Moreover, the Anti-corruption Bureau and the FIU have produced a common Informative Report on the Amelioration of the legal regulation of the activities of subjects registered in offshore, no tax or low tax countries and territories. The conclusions of the Paper provide 5 specific measures that could be taken, including specific amendments to several normative acts.
(Other) changes since the last evaluation	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that AML/CFT measures applied are consistent with the Latvian law in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs.</i>
Measures taken to implement the Recommendation of the Report	Article 3, paragraph 2 determines that the subjects of the law ensures that their foreign structural units, branches, representative offices and subsidiaries in the third countries, when providing financial services observe the requirements for customer identification, CDD and record keeping as set out in the Latvian AML/CFT Law as far as it does not contradict with the local legislative norms and overall practice.
Recommendation of the IMF / MONEYVAL Report	<i>The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations for financial institutions to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country.</i>
Measures taken to implement the Recommendation of the Report	In accordance with article 3, paragraph 3 of the AML/CFT Law in cases when normative acts of the third country is an obstacle for observing the requirements of the Latvian AML/CT Law for identification of the customer, CDD and record keeping, the subjects of the law are obliged to inform its supervisory and control authority in the Republic of Latvia and ensure additional measures for minimizing money laundering and terrorist financing risk.
(Other) changes since the last evaluation	

Recommendation 24 (DNFBPs – regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The arrangements for oversight of DNFBPs should be restructured to provide effective systems for monitoring and ensuring their compliance with AML/CFT requirements. A supervisory and control authority should be designated for each DNFBP sector. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements.</i>
Measures taken to implement the Recommendation of the Report	Supervisory and control authorities are designated by the article 44 of the AML/CFT Law and include all DNFBPs, namely: Sworn lawyers (Latvian Council of Sworn Lawyers), sworn notaries (Latvian Council of Sworn Notaries), certified auditors (Latvian Association of Certified Auditors), Latvian Post Office (Ministry of Transport), companies that have been licensed by the Bank of Latvia for

	<p>selling and purchasing of foreign cash currency (Bank of Latvia), organizers of lottery and gambling (Lotteries and Gambling Supervisory Inspection), individuals and legal entities trading precious metals, precious stones and jewellery and providing intermediation for such trading (State Assay Supervisory Inspection), individuals and legal entities trading art cultural valued goods and providing intermediation for such trading (Public Administration of Cultural Heritage).</p> <p>The subjects of the law not mentioned before are controlled and supervised by State Revenue Office (tax advisors, external accountants, independent legal service providers when representing their clients in any deal or advising to plan or execute a deal, or accepting a deal on behalf of their clients (in relation to buying or selling real property, legal entity, managing client's money, financial instruments, or other assets, opening or managing all types of accounts in credit or financial institutions, investments necessary for establishing, managing or conducting legal entities, establishment, management or conducting of such entities), company registering service providers, persons acting as intermediaries in real property deals, other individuals and legal entities trading real property and vehicles, as well as intermediation in the mentioned deals and service providing when deal is made in cash amount and on the date of transaction is equal or above EUR 15,000 in lats or any other currency according to the exchange rate stated by the Bank of Latvia for the date of the deal, notwithstanding whether the deal is made as one or several mutually connected deals (Article 44, paragraph 2).</p>
Recommendation of the IMF / MONEYVAL Report	<i>Agencies assigned oversight responsibility should have adequate legal authority, resources and capacity to monitor and enforce compliance with AML/CFT requirements.</i>
Measures taken to implement the Recommendation of the Report	In 2007 a draft Law On the Prevention of laundering of Proceeds derived from Criminal Activity and the Financing of Terrorism was prepared to meet the requirements of the EU 3 rd Directive. Section 8 of the Law lists the rights and responsibilities of supervisory and control authorities. The annotations of the said draft Law specifically include information on the funding necessary to ensure supervision. E.g., concerning the State Revenue Service and its duty to supervise the non-financial sector a concrete number of staff and funding required has been indicated for the coming years. To ensure training of control and supervisory authorities by the FIU 3 new staff positions have been allotted to the FIU (including the funding for salaries, working places and equipment for the 3 new staff members).
Recommendation of the IMF / MONEYVAL Report	<i>The assessors recommended the selection of a governmental agency, appropriately authorized and adequately resourced, to act as the default supervisor to ensure AML/CFT compliance by those DNFBPs that are not effectively supervised by some other governmental agency or SRO. This includes lawyers who are not sworn advocates, independent accountants who are not sworn auditors, tax advisors, antique dealers, transport dealers, and real estate agents.</i>
Measures taken to implement the Recommendation of the Report	Article 44, paragraph 2 defines that all the subjects of the Law that are not supervised and controlled by other governmental or self-regulatory institutions, are supervised by State Revenue office.
Recommendation of the IMF / MONEYVAL Report	<i>The powers, duties and functions of the supervisory and control authority should be set out in the AML Law or in the relevant law for each DNFBP.</i>
Measures taken to implement the Recommendation of the Report	Article 45 defines AML/CFT duties and functions for supervisory authorities. Article 46 in its turn defines powers for the supervisory authorities.
Recommendation of the IMF / MONEYVAL	<i>Where applicable, the law(s) should override confidentiality provisions to allow supervisory and</i>

Report	<i>control authorities to monitor and enforce compliance with AML/CFT requirements</i>
Measures taken to implement the Recommendation of the Report	<p>Supervisory and control authorities duties and functions include exchange of information on their own initiative and under requests of foreign authorities with similar duties provided that data confidentiality is ensured and the use of the data is possible only for mutually agreed purposes, exchange information with other supervisory and control authorities with similar functions in their own country in order to act towards minimizing money laundering and terrorist financing possibility. The duty of the institutions is to provide necessary administrative, technical and organizational measures to ensure information obtained for the purposes of observing the AML Law protection, ensure unauthorized access of such information, prevent its possible amending, distributing or destroying. The procedure for registration, processing, keeping and eliminating the information is defined by the manager of the supervisory and control institution. The information is maintained by the supervisory and control institution for at least five years (article 45, paragraph 1, points 8, 10, 11).</p> <p>Supervisory and control institutions has the right to visit and examine entities under their supervision and control at the places of their activities they own or rent (Article 46, point 1), as well as obtain from the entities under supervision and control information connected to the observing the AML/CFT Law, demand to present original documents, review and receive copies of them, receive relevant explanations, as well as act to preclude or minimize possibilities for money laundering or terrorist financing (Article 46, point 2).</p>
(Other) changes since the last evaluation	

Recommendation 25 (Guidelines and feedback)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Issue regulations or guidelines appropriate to the categories of DNFBP under legal authority sufficient to qualify as enforceable means.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the article 45, point 3 of paragraph 1 one of the duties of the supervisory and control authorities is to create regulations for AML/CFT supervising and control, binding the subjects of the law to observe the requirements of the law. So now the regulations and guidelines issued by these institutions may qualify as enforceable means.
(Other) changes since the last evaluation	

Recommendation 33 (Legal Persons)	
Rating: Non compliant	
Recommendation of the IMF / MONEYVAL Report	<p><i>The authorities should amend the law to:</i></p> <ul style="list-style-type: none"> • <i>ensure that information on the ownership of all bearer shares is available.</i>
Measures taken to implement the Recommendation of the Report	<p>Article 228 of the Commercial Law stipulates that stock may be registered stock or bearer stock. The rights arising from registered stock belong to the person who, as a stockholder, is recorded in the register of stockholders. The rights arising from bearer stock, on their part, belong to the person who owns such stock. Part one of Article 236 of the Commercial Law provides that stockholders, members of the board of directors and of the council, the auditor, and competent State authorities have the right to become acquainted with</p>

	<p>the register of stockholders. Thus any competent State authority is entitled, basing upon a reasonable necessity, to become acquainted with the register of stockholders and the persons registered therein, as well as to obtain information on the number of shares of stock belonging to stockholders.</p> <p>As regards the bearer stock not registered in the register of stockholders, as a result of which it is impossible to promptly obtain information on the owners of the stock, we have to point out that amendments are being made to the Commercial Law, providing for the creation of a separate register, in which bearer stock issued by a stock company will be registered. At the same time, the said amendments will provide that the bearer stock in paper format will be eliminated. As regards the legal situation before the entrance into force of the said amendments to the Commercial Law, it should be noted that, although the bearer stock is not registered in the register of stockholders or in any other public register, documentation has to be available at the stock company attesting the number of shares of stock the company has issued. The aforesaid information may be provided to the competent State authority pursuant to a duly reasoned request of the latter.</p>
Recommendation of the IMF / MONEYVAL Report	<p><i>The authorities should amend the law to:</i></p> <ul style="list-style-type: none"> • <i>require that all legal persons collect and keep information on beneficial ownership and control and ensure that adequate, accurate, and timely information on the beneficial ownership and control of a legal person can be obtained by the competent authorities.</i>
Measures taken to implement the Recommendation of the Report	<p>Part five of Article 6 and Part two of Article 8 of the Group of Companies Law provides for the obligation of the participant to indicate the true beneficiary to the capital company; the capital company, on its part, has the obligation to hand this information over to the Enterprise Register.</p> <p>The Enterprise Register has not encountered a case of being informed about a stock company shareholder acting on behalf of another person – the true beneficiary. Moreover, the implementation of the said legislative provision, which would impose the obligation to register in the stock company register of stockholders or in any other public register also the true beneficiary of the stock, does not guarantee the conditions of the proper person being indicated. In the CL, criminal liability is provided for such criminal offences as document counterfeiting and different fraudulent actions.</p>
Recommendation of the IMF / MONEYVAL Report	<p><i>The authorities should amend the law to:</i></p> <ul style="list-style-type: none"> • <i>Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration.</i>
Measures taken to implement the Recommendation of the Report	<p>The Group of Companies Law lays down a demand to provide information on stockholders whose participation in the commercial company starts from 10 per cent of the stock. The Group of Companies Law provides that commercial companies are obliged to disclose both the nominal participants (stockholders) who own at least 10 per cent of the stock and the actual participants (if the nominal participants act on behalf some other person), yet in practice this requirement is rather seldom observed. In most cases the Enterprise Register has no information on individual stock company stockholders who own at least 10 per cent of the capital. Thus this information is unavailable also to third parties.</p> <p>Several solutions are being considered to eliminate this problem. One of the solutions discussed is transferring the provisions of notifying about participation from the Group of Companies Law to the Commercial Law, about the requirements of which users of law are</p>

	<p>rather well informed. Thus the Commercial Law would include both the requirement to disclose the holders of the biggest shares and the requirement to notify about the true beneficiaries.</p> <p>In order to carry out more effectively the obligations set out in laws and regulations, proper sanctions are provided for in cases of non-compliance with these obligations. Currently Article 166.³ of the Administrative Violations Code of Latvia provides for general administrative responsibility for not submitting information to the Enterprise Register. However, the Enterprise Register has difficulty in controlling the compliance with the Group of Companies Law and finding out about the possible violations of compliance with the said law. Therefore a requirement could be provided for in the Commercial Law to indicate in the minutes of plenary meetings of stockholders every stockholder present who represents at least 10 per cent of the voting equity capital. This information would enable the Enterprise Register to maintain a certain control over the compliance with the requirements of the Group of Companies Law. In case such stockholders' names appear in the minutes on which no previous notification has been provided, it would give ground for drawing up an administrative violation report. In addition, this would provide a reason for suspending registration, as the documents submitted would be inconsistent with the documents present in the registration file.</p> <p>The drafting of a new law, "On Groups of Companies", is planned in Latvia in 2008.</p>
Recommendation of the IMF / MONEYVAL Report	<p><i>The authorities should amend the law to:</i></p> <ul style="list-style-type: none"> • <i>Enhance powers to investigate and monitor compliance with these requirements.</i>
Measures taken to implement the Recommendation of the Report	<p>The monitoring of the submission of information by legal persons to the Enterprise Register and the veracity of the information submitted is carried out by the Enterprise Register. According to Paragraph four of Article 4 of the law "On the Enterprise Register of the Republic of Latvia", the Enterprise Register reports to the appropriate authorities (investigating authorities, a.o.) about the possible violations of laws and regulations and draws up administrative violation reports on the detected violations of laws and regulations. The liability for not complying with the provisions regarding accounting as set out in the laws and regulations, not submitting annual reports, statistical reports or statistical information by the due dates specified in the laws and regulations, or incomplete submitting to the appropriate State authorities or evading from the submission of the said information or documents is provided for in Article 166.⁶ of the Administrative Violations Code of Latvia.</p> <p>In Article 217 of the CL, "Violation of Provisions Regarding Accounting and Statistical Information" the liability is laid down for committing violations of provisions regarding the conducting of accounting documentation or of procedures regarding compilation of annual reports or statistical reports, prescribed by law for an undertaking (company), institution or organisation, or late or incomplete submitting of annual reports, statistical reports or statistical information to the appropriate State authorities. Moreover, the same article sets the liability for concealing or forging accounting documents, annual reports, statistical reports or statistical information required by law regarding an undertaking (company), institution or organisation. The investigation of such offences in Latvia is basically carried out by the Financial Police and the Economic Police.</p> <p>No changes to the laws and regulations are needed to increase the efficiency of investigation as, according to the CPL, the investigating bodies have broad authorities to carry out investigation. The efficiency of investigation should be increased by deepening the knowledge of investigation officers.</p>

(Other) changes since the last evaluation	

Recommendation 38 (MLA on confiscation and freezing)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The authorities should include in the Criminal Procedure Law the grounds on which enforcement of foreign requests for seizure of property can be executed or refused rather than leaving it to the discretion of the competent authority.</i>
Measures taken to implement the Recommendation of the Report	<p>According to Article 785 of the CPL, the request of a foreign state for the confiscation of property is to be executed, if the CL of Latvia provides for such confiscation as a basic penalty or additional penalty regarding the same offence, or if property would be confiscated in criminal proceedings taking place in Latvia on grounds provided for in another law. However, if the CL of Latvia does not provide for the confiscation of property, confiscation is to be applied only in the amount determined in the judgment of the foreign state, that the asset to be confiscated is a tool of the committing of the offence or has been obtained by criminal means.</p> <p>According to Article 780 of the CPL, a request for the execution of a sentence imposed in a foreign state (including also confiscation of property) may be rejected, if:</p> <ol style="list-style-type: none"> 1. There are grounds for believing that the sentence has been specified due to the race, religious affiliation, nationality, gender, or political views of the person, or if the order is recognised as political or expressly military. 2. The execution of the sentence would be in contradiction to the international obligations of Latvia toward another state. 3. The execution of the sentence would be in contradiction to the basic principles of the Latvian legal system. 4. Criminal proceedings regarding the same offence regarding which the sentence has been imposed in a foreign state are taking place in Latvia or have been completed with a final adjudication. 5. The execution of the sentence in Latvia is not possible. 6. A competent institution of Latvia finds that the foreign state is capable of executing the judgment itself. 7. The offence was not committed in the foreign state that imposed the sentence to be executed. <p>Thus it has to be concluded that the CPL lays down specific provisions where the request of a foreign state for the execution of the confiscation of property may be refused and the competent authority has no right to refuse the execution of the request on the grounds of any other provisions. The decision to execute the request of a foreign state to confiscate property or to refuse from executing such request is taken by the competent authority in strict correspondence to the procedures provided for in the CPL; namely, it is possible to refuse from executing the imposed sentence only on the grounds of the provisions laid down in Article 780 of the CPL.</p> <p>In addition, as regards the co-operation with the European Union Member States, we inform that Latvia is currently adopting the Council Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders. The purpose of</p>

	<p>this Framework Decision is to facilitate cooperation between Member States as regards the mutual recognition and execution of orders to confiscate property so as to oblige a Member State to recognise and execute in its territory confiscation orders issued by a court competent in criminal matters of another Member State. The due date for the implementation of the Framework Decision is November 24, 2008.</p> <p><u>In the aforesaid Framework Decision, confiscation order is defined as a final penalty or measure imposed by a court following proceedings in relation to a criminal offence or offences, resulting in the definitive deprivation of property.</u></p>
Recommendation of the IMF / MONEYVAL Report	<p><i>Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefore.</i></p>
Measures taken to implement the Recommendation of the Report	<p>According to Article 355 of the CPL, property shall be recognised as criminally acquired, if such property has come into the property or possession of a person as a result of a criminal offence. If the opposite has not been proved, property and financial resources shall be recognised as criminally acquired if such property or resources belong to a person who: is a member of an organised criminal group, or supports such group; has him or herself engaged in <u>terrorist activities, or maintains permanent relations with a person who is involved in terrorist activities</u>; has him or herself engaged in the trafficking of human beings, or maintains permanent relations with a person who is engaged in the trafficking of human beings; or has him or herself engaged in criminal activities with narcotic or psychotropic substances, or maintains permanent relations with a person who is engaged in such activities. Moreover, Article 358 of the CPL stipulates that if an accused does not have property that may be subjected to confiscation, among the property confiscated may be also the property that the accused person has alienated to a third person after the committing of the criminal offence and without corresponding consideration; the property of the spouse of the accused person, if separate ownership of the property of the spouses was not specified during a term of the last three years before the commencement of the criminal offence; the property of another person, if the accused has a common (undivided) household with such person.</p> <p>If criminally acquired property has not been confiscated in accordance with Article 548 of the CPL, it is to be confiscated in accordance with Article 240 of the CPL, which stipulates that a judgment or decision regarding the termination of criminal proceedings shall indicate what is to be done with material evidence and documents, namely:</p> <ol style="list-style-type: none"> 1) materials, documents, and valuable shall be returned to the owner or lawful possessor thereof; 2) the tools of a criminal offence owned by a suspect or accused shall be confiscated; 3) criminally obtained valuable, materials, and documents shall be confiscated; 4) materials the circulation of which is forbidden shall be transferred to the relevant institutions, or destroyed; 5) materials that do not have any value shall be issued to interested person on the basis of a request thereof, or destroyed. <p>At the same time it should be noted that the draft law “On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism” provides for the harmonization of the term “proceeds”, as well as the term “financial resources”, with the Convention for the Suppression of the Financing of Terrorism.</p> <p>In addition, we also note that the Ministry of Justice has completed a draft law</p>

“Amendments to the Criminal Procedure Law” in order to implement the European Union Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property (2005/212/JHA). The purpose of the Framework Decision is to ensure effective cross-border co-operation regarding confiscation. The draft law is intended to supplement Part two of Article 355 of the CPL with actions the property resulting from which, if the opposite has not been proved, is considered to be criminally acquired in accordance with the Council Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, the Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence, and the Council Framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography. It is planned that soon the draft law will be submitted to the Cabinet of Ministers for reviewing.

Article 1 of the draft law “Amendments to the Criminal Procedure Law”:

“1. Part two of Article 355 shall be supplemented with Paragraphs 5, 6 and 7 in the following wording:

5) has him or herself engaged in criminal activities with counterfeit currency, State financial instruments or maintains permanent relations with a person who is engaged in such activities;

6) has him or herself engaged in criminal activities with the aim of crossing the State border or facilitating the transportation of another person across the State border, or providing other persons with the possibility to illegally reside in the Republic of Latvia, or maintains permanent relations with a person who is engaged in such activities;

7) has him or herself engaged in criminal activities related to the circulation of materials containing child pornography or has involved children into prostitution or the performing of sexual activities, or has committed actions of sexual or pornographic character with children, or maintains permanent relations with a person who is engaged in such activities.”

As regards the confiscation of instrumentalities, we inform that in accordance with the aforementioned Article 240 of the CPL, also the tools of a criminal offence owned by a suspect or accused are to be confiscated.

In addition, as regards the identification of instrumentalities to be confiscated, we inform that, according to Article 361 of the CPL, an attachment is imposed on property in order to ensure the solution of a financial matter in criminal proceedings, as well as the possible confiscation of property. An attachment may be imposed on the property of an arrested person, suspect, or accused, and also on property due to such person from other persons, or the property of persons who are materially liable for the actions of the suspect or accused. An attachment may also be imposed on criminally acquired property, or property related to criminal proceedings that is located with other persons.

At the same time we consider that currently there is a sufficiently effective mechanism developed as to the execution of requests of foreign states regarding the identification of proceeds to be confiscated, which is being carried out in the framework of Division Eighteen of the CPL, “Assistance in the Performance of Procedural Actions”. According to Article 812 of the CPL, “Competent Institutions in the Examination of a Request of a Foreign State”, in the pre-trial proceedings stage a request of a foreign state is examined and decided by the

	Office of the Prosecutor General, and up to the commencement of criminal prosecution – the Ministry of the Interior. In the trial stage, a request of a foreign state is examined and decided by the Ministry of Justice. A request of a foreign state regarding the provision of assistance in the performance of a procedural action is decided immediately, but not later than within a term of 10 days after the receipt thereof. If additional information is necessary for the deciding of a request, such information is requested from the state that submitted the request.
Recommendation of the IMF / MONEYVAL Report	<i>A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered.</i>
Measures taken to implement the Recommendation of the Report	<p>In Latvia, there is no specific asset forfeiture fund and mechanism for the sharing of confiscated assets. According to Part three of Article 785 of the CPL, in Latvia a foreign state may submit a request for the issuance of the confiscated property or part of such property. The question of returning a confiscated property to a foreign state in each particular case is decided by the competent authority (the Ministry of Justice).</p> <p>“Article 785. Determination of a Confiscation of Property to be Executed in Latvia (3) A competent institution shall decide, in each concrete case, a request regarding the return of confiscated property, or a part thereof, to a foreign state.”</p>
(Other) changes since the last evaluation	

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Define “financial resources” and “property” in accordance with the Terrorist Financing Convention.</i>
Measures taken to implement the Recommendation of the Report	<p>The draft law “On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism” provides for the harmonization the definition of the term “proceeds”, as well as “financial resources”, with the Convention for the Suppression of the Financing of Terrorism.</p> <p>At the same time the drafted law “On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism” provides a definition of the term “resources (property)”, namely, financial resources or any other form of corporeal or incorporeal, movable or immovable property. In the drafted law provides a definition of the term “financial resources”, namely, payments assets in way of cash or money clearings, precious metal, as well as any kind of form of financial instruments or documents (also digital or electronic), that certify the right of a person to these assets or property or confer a right to benefit from it.</p>
Recommendation of the IMF / MONEYVAL Report	<i>Implement a national mechanism to give effect to requests for freezing assets and designations from other countries and to enable freezing funds of EU internals (citizens or residents)</i>
Measures taken to implement the Recommendation of the Report	<p>Division Eighteen of the CPL provides for the procedures of international co-operation regarding the assistance in the performance of procedural actions, including also an attachment of property. According to Article 813 of the CPL, the request of a foreign state regarding the provision of assistance in the performance of a procedural action is to be fulfilled in</p>

	<p>accordance with the procedures specified in the CPL.</p> <p>According to Article 361 of the CPL, an attachment on property is imposed in order to ensure the solution of a financial matter in criminal proceedings, as well as the possible confiscation of property. An attachment may be imposed on the property of an arrested person, suspect, or accused, and also on property due to such person from other persons, or the property of persons who are materially liable for the actions of the suspect or accused. An attachment may also be imposed on criminally acquired property, or property related to criminal proceedings, that is located with other persons. In pre-trial proceedings, an attachment is imposed on property with a decision of a person directing the proceedings that has been approved by an investigating judge, but during a trial the decision is taken by a court.</p> <p>In Latvia, when executing the request of a foreign state regarding the provision of assistance, no distinguishment is made as to foreign nationals, citizens or permanent residents of the European Union or citizens of Latvia. We consider that no specific regulation is necessary regarding citizens or permanent residents of the European Union, as such regulation might be discriminating.</p>
Recommendation of the IMF / MONEYVAL Report	<i>Develop a clearly defined procedure for de-listing of suspected terrorists listed by Latvia (apart from those on the EU List for whom a procedure already exists)</i>
Measures taken to implement the Recommendation of the Report	<p>There is no national list containing terrorist names or names of terrorist organizations. Such a list has been made in the frame of EU Common Foreign Policy and Security based on the Council Regulation (EC) # 2580/2001 from 27.12.2001. The Council, by unanimous decision, and in accordance with the Common Position 2001/931/CFSP Art. 1 (p. 4,5,6) creates, reviews and amends the list of persons, their groups and organizations to which the said regulation applies. The EU has a clear procedure according to which terrorists or terrorist groups are included in the said list or de-listed. Decisions are taken in the frame of EC Working Group CP 931 (Clearing House). Latvia is represented in the group by the Ministry of Foreign Affairs. Information on the necessity to include or de-list a person or an organization is provided to the Working Group by the Foreign Affairs Ministry based on reports provided by the Security Police or the Constitutional Defense Bureau. Decision on the inclusion or de-listing, as already mentioned above, is taken by a unanimous consent from the part of the representatives of all 27 EU member states.</p>
Recommendation of the IMF / MONEYVAL Report	<i>Provide for access to funds for basic living expenses and legal costs.</i>
Measures taken to implement the Recommendation of the Report	<p>According to Part eight of Article 361 of the CPL, it is not allowed to impose attachment on basic necessity objects used by the person upon whose property the attachment is being imposed, or by the family members of such person and the persons dependent on such person. The list of such objects is determined in Annex 1 of the CPL. It stipulates that the following property of persons shall not be subject to an arrest: domestic furnishings, household objects, and clothing that are necessary for the accused, his or her family, and the persons who are his or her dependents; food products that are necessary for the subsistence of an accused and his or her family; money whose total sum does not exceed the subsistence minimum specified by the government for one month, for an accused and each of his or her family members, a.o.</p>

(Other) changes since the last evaluation	
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Special Recommendation V (International Co-operation)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The authorities should include in the Criminal Procedure Law the grounds on which enforcement of foreign requests for seizure of property can be executed or refused, rather than leaving it to the discretion of the competent authority.</i>
Measures taken to implement the Recommendation of the Report	Please see the answer to Question R-38.
Recommendation of the IMF / MONEYVAL Report	<i>Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefore.</i>
Measures taken to implement the Recommendation of the Report	Please see the answer to Question R-38.
(Other) changes since the last evaluation	

Special Recommendation VI (AML/CFT requirements for money/value transfer services)	
Rating: Partially compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the new AML/CFT Law the Latvian Post Office is a subject of the law and have a designated supervisory and control authority – Ministry of Transport (Article 44, paragraph 1, point 5). The Latvian Post Office being money transfer provider falls under the definition of financial institution as defined in the law. Financial institutions are subjects of the law according to article 3, paragraph 1, point 2. Besides Government of Latvia has conceptually agreed to establish Postal bank. After the establishment of such bank it will be supervised and controlled by Financial and Capital Market Commission.
(Other) changes since the last evaluation	

Special Recommendation VII (Wire transfer rules)	
Rating: Non compliant	
Recommendation of the IMF / MONEYVAL Report	<i>Require financial institutions to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, as set out under Special Recommendation VII and to conduct enhanced scrutiny of, and monitor for suspicious activity, funds transfers which do not contain complete originator information in compliance with Special Recommendation VII</i>

Measures taken to implement the Recommendation of the Report	The requirements of Special Recommendation VII are observed in Latvia through 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". With regard to the sanctioning and supervision stipulated by this regulation the Bank of Latvia is payment system supervisor according to the Law "On Bank of Latvia", but Financial and Capital Market Commission supervises and sanctions financial market participants according to the law "On Credit Institutions".
(Other) changes since the last evaluation	

Special Recommendation IX (Cash border declaration & disclosure)	
Rating: Non compliant	
Recommendation of the IMF / MONEYVAL Report	<i>The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.</i>
Measures taken to implement the Recommendation of the Report	29.03.2007 a new law was adopted – Law On Cross Border Cash Declaration which replaces the previous text of the law from 13.10.2005. The new law stipulates that a natural person, who is obliged to declare cash on the border according to the EP Regulation of 26.10.2005 # 1889/2005 on cash control, i.e., cash which is imported into/exported out of the territory of the community (Art. 3), must declare cash by filling in a special cash declaration form in writing. The information that needs to be filled into the declaration form is defined under the Art. 3, Para.2 of the EP Regulation of 26.10.2005 # 1889/2005 on cash control. A natural person filling in the declaration form acknowledges the truthfulness of the information provided by personally signing the declaration form and hands in the declaration to the competent authority on the border. 19.06.2007 the Cabinet of Ministers Regulation # 414 On Cash Declaration Form, its Filling and Handing in and Verification Procedure was adopted. It approves the cash declaration form sample and defines the procedure according to which it must be filled and handed in and how the information included therein it is to be verified. Over 9 months of 2007 103 cash declarations for the total amount of 15,25 million EUR have been handed in by border crossers.
(Other) changes since the last evaluation	

4. Specific Questions

1. Criminalization of ML and FT offences

- a) *Are the authorities still of the view that that a prior conviction for the predicate offense is needed to pursue a prosecution for money laundering or has there been further clarification of the Criminal Law provisions in that regard?*

According to the criminal law system of Latvia, persons are held criminally liable pursuant to the incriminations as provided for in Article 195 of the CL. This article lays down the liability for the laundering of criminally acquired proceeds or other property. The latest amendments to the article have been entailed in April 28, 2005, and thus no changes of the legal order have taken place. Similarly, Latvia has not changed its position that in order to convict a person for the laundering of criminally acquired proceeds, it has to be ascertained that the proceeds have been acquired by way of crime, committing any of the criminal offences set out in the CL. Such position is based upon the assumption that as long the criminal acquisition of the proceeds has not been proved, it cannot be claimed that a person has committed the laundering of criminally acquired proceeds. This has to be viewed in relation to the general principle of the “Presumption of Innocence”, which is provided for in Section 19 of the CPL, namely, it states that no person shall be considered guilty until their guilt in the committing of a criminal offence has been determined in accordance with the procedure specified in the CPL. It has to be concluded that it cannot be claimed a person has laundered criminally acquired proceeds if it is not proven that these proceeds have been acquired by crime.

Article 195 of the CL – “Laundering of the Proceeds from Crime”

- (1) For a person who commits laundering of criminally acquired financial resources or other property, the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property.
- (2) For a person who commits the same acts, if the commission thereof is repeated or if committed by a group of persons pursuant to prior agreement, the applicable sentence is deprivation of liberty for a term of not less than three and not exceeding eight years, with confiscation of property.
- (3) For a person who commits the acts provided for by Paragraphs one or two of this Article, if commission thereof is on a large scale, or if commission thereof is in an organised group, the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property.

- b) *Has the definition of the FT offence been amended to covers all elements under the International Convention for the Suppression of the Financing of Terrorism, including that the definition of financial resources should include all forms of “funds”?*

We inform that it is not planned to amend the definition of the financing of terrorism, namely, the direct or indirect collection or transfer of any type of acquired funds or other property for the purposes of utilising such or knowing that such will be fully or partially utilised in order to commit one or several acts of terror or in order to

transfer such to the disposal of terrorist organisations or individual terrorists. The wording of the said Section has not been amended since April 28, 2005.

As regards the definition of the term “proceeds”, please see Question SR11.

It has to be noted that the Parliament of Latvia (the Saeima) has adopted in the second reading the draft law “Amendments to the Criminal Law”, according to which the word “organizations” in Part one of Article 88.¹ of the Criminal Law has been changed to “groups”. Moreover, by this draft law it is intended to supplement the Criminal Law with Articles 88.² and 88.³ in the following wording:

“Article 88.². Incitement to terrorism and threats of terrorism

For a person who commits incitement to terrorism or threats to carry out a terrorist act, if there are grounds to believe that such could be carried out, the applicable sentence is deprivation of liberty for a term not exceeding eight years.

Article 88.3. Recruiting and training a person for committing terrorist acts

For a person who commits the recruiting or training of another person for carrying out terrorist acts, the applicable sentence is deprivation of liberty for a term not exceeding ten years, with or without confiscation of property.”

2. AML/CFT investigations

Describe Latvia’s experience over the last 18 months in the use of the powers under the Criminal Procedure Law, 2005, to conduct investigations in AML/CFT as well as to seize and freeze assets?

Though legislation does not specifically provide for the prosecution on ML without prior conviction of predicate offence such prosecution is theoretically possible. Nevertheless, the criminal origin of the proceeds laundered must be established by the ruling of foreign or local officials. Such ruling might be, for instance, the decision on termination of the case on non-exonerating basis.

Additionally, please see the table under 5a.

3. Deficiencies in the AML Law

Have amendments been drafted or enacted with regard to the AML Law to introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations for preventive measures, as needed to achieve full compliance with the relevant FATF Recommendations?

A brand new AML/CFT Law was drafted in Latvia by enforcing of which clearer and unambiguous language is introduced. All the obligations for preventive measures set out in the law are now clear and unequivocal.

4. Reporting of (real) suspicious transactions

What steps have been taken to increase the focus on improving the reporting of transactions that the reporting entities determine to be suspicious, as distinct from transactions identified by reference to a set of indicators, and please distinguish clearly both types of reporting in the statistics provided elsewhere in this progress report?

Draft law On the Prevention of Laundering of Proceeds derived from Criminal Activity and terrorist Financing (Art. 30-1-3) obliges all subjects of the law to immediately report about unusual transactions as well as any suspicious transaction. Art. 1-17 of the draft law gives a definition of a suspicious transaction – it is “a transaction which causes suspicion of ML or TF or an attempt of such activities or another criminal activity linked to the said activities”.

The Law does not list specific indicators of suspicious transactions. Hence, the subjects of the Law are obliged to carry out transaction analyses by themselves.

At the moment specific indicators are given under the currently effective Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure (effective as of 30.03. 2001).

The recommendation has also found practical application – the subjects of the law received training where the issues are explained. Trainings have been organized both for individual banks and whole sectors, e.g., tax consultants. The Association of Commercial Banks regularly (11.2006, 01-03.2007 as well as 10-11.2007) organize 5 day seminars which also includes the certification of the attending staff. Detailed explanations on the said issues are provided.

5. DNFBPs

- a) *What steps have been taken to extend the AML/CFT requirements to all categories of DNFBP, to designate a competent authority for them, and to issue the necessary requirements and guidance?*

When drafting the new AML/CFT law the recommendation to extend its requirements to all categories of DNFBPs has been taken to consideration (harmonizing them to the third EU AML Directive). According to article 45 paragraph 1, point 3 the duty of each supervisory and control authority to work out regulations for AML/CFT supervising and control, binding the subjects of the law to observe the requirements of the law.

- b) *The report provides that there are no sanctions for non compliance with CDD requirements applicable to all the DNBBPs in the AML law nor in the Administrative Violations Code. Have there been any steps taken to address this issue?*

Article 165.⁴ of the Administrative Violations Code of Latvia, “Not Notifying about Unusual or Suspicious Financial Transactions”, provides for administrative responsibility for not notifying the Prevention of the Laundering of Proceeds from Crime Service about an unusual or suspicious financial transaction, if this is committed by an employee whose duties include notifying about such.

Section II “Internal control” of the drafted law “On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism” provides liability of the subject of law – legal person – to create and document, when developing appropriate policy and procedure, system of internal control that corresponds as far as prevention of laundering illegally acquired proceeds and financing terrorism. System of internal control is a body of concrete measures that include activities for performance of law, providing adequate resources and performing training of employees with a purpose to prevent the subject of

law to get involved in the laundering of illegally acquired proceeds and financing terrorism. With creating system of internal control credit institutions and investment broker companies **take into account requirements of Credit Institution Law and Financial Instrument Market Law and other requirements that are based on these normative acts concerning** creating a system of internal control. In relation to provision of internal control it is planned to draft amendments in the Administrative Violations Code of Latvia providing a responsibility for a legal person for not fulfilment of draft law II section "Internal control".

In addition, it should be noted that in the legal system of Latvia the sentences (sanctions) for committing violations or criminal offences are laid down only in the Administrative Violations Code and the Criminal Law. Other laws, for example, the law "On the Prevention of Laundering of Proceeds Derived from Criminal Activity", do not provide for any sentences.

5. Statistics

It has to be noted that the figures in section 5a reflect only money laundering cases. The figures in section 5b relate to the number of cases which have been sent by the FIU to law enforcement authorities based on suspicion of both money laundering and predicate offenses (materials on money laundering plus predicate and also predicate offenses only).

a. Money Laundering and Financing of terrorism cases

2004												
	Investigations		Prosecutions		Convictions		Frozen		Seized		Confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	10	- ⁵	2	4	1	1	4	250,670	2	20,524,492	1	18,497,333 ⁶
FT	-	-	-	-	-	-	-	-	-	-	-	-

2005												
	Investigations		Prosecutions		Convictions		Frozen		Seized		Comfiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	76	-	10	14	5	6	56	3,414,892	12	1,260,961	1	174,000
FT	-	-	-	-	-	-	-	-	-	-	-	-

⁵ Cases often are initiated on the basis of facts that might constitute a crime, initially with no person behind very often, therefore not each case involves a definite person.

⁶ Repatriation of assets to United Kingdom in a bank fraud case.

2006												
	Investigations		Prosecutions		Convictions		Frozen		Seized		Confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	15	-	10	47	3	4	125	17,216,846	6	460,051	3	17,676
FT	-	-	-	-	-	-	-	-	-	-	-	-

2007 (10 months)												
	Investigations		Prosecutions		Convictions		Frozen		Seized		Confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	28	-	11	40	8	12	80	8,709,237	12	20,503,830	16 ⁷	3,130,383
FT	-	-	-	-	-	-	-	-	-	-	-	-

b. STR/CTR

2004 (for comparison purposes)									
Statistical Information on reports received by the FIU									
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		Police investigations	
		ML	FT	ML	FT	ML	FT	ML	FT
Commercial banks	6118	12376	4	110 cases/ 4105 transactions*	-	110 cases/ 4105 transactions*	-	34/12***	-
Insurance companies	1100	22	0						
Notaries	2	7	0						
Currency exchange	175	2	0						
Broker companies	1	0	0						
Securities' registrars	-	-	-						
Lawyers	0	1	0						
Accountants/auditors	0	0	0						
Company service providers	-	-	-						
Others (please specify)**	383	404	0						
Total 16,479 reports	7779	12812	0						

Explanatory note:

* The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns “cases opened by FIU” and “notifications to law enforcement/prosecutors” are identical and

⁷ Out of 16 court decisions in 14 cases the court ruled that criminal proceeds for the total amount of EUR 1,83 million are to be confiscated before the final reviewing of cases in the court /following the sentencing of the guilty persons.

indicate that the FIU has sent 110 cases covering 4105 transactions which were sent to the FIU by reporting institutions.

** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and Car sellers.

*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

2005									
Statistical Information on reports received by the FIU									
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		Police investigations	
		ML	FT	ML	FT	ML	FT	ML	FT
Commercial banks	7402	15492	30	155 cases/ 3791 transactions*	-	155 cases/ 3791 transactions*	-	107/8***	-
Insurance companies	2330	14	0						
Notaries	12	0	0						
Currency exchange	1576	6	0						
Broker companies	0	0	0						
Securities' registrars	-	-	-						
Lawyers	0	2	0						
Accountants/auditors	3	2	0						
Company service providers	-	-	-						
Others (please specify)**	203	718	0						
Total 26,302 reports	11526	16234	0						

Explanatory note:

* The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU" and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 155 cases covering 3791 transactions which were sent to the FIU by reporting institutions.

** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and Car sellers.

*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

2006									
Statistical Information on reports received by the FIU									
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		Police investigations	
		ML	FT	ML	FT	ML	FT	ML	FT
Commercial banks	7142	12845	6	155 cases/ 3714 transactions*	-	155 cases/ 3714 transactions*	-	68/6***	-
Insurance companies	3855	140	0						
Notaries	23	4	0						
Currency exchange	4553	27	0						
Broker companies	0	0	0						
Securities' registrars	-	-	-						
Lawyers	0	0	0						
Accountants/auditors	0	0	0						
Company service providers	-	-	-						
Others (please specify)**	227	918	0						
Total 27,479 reports	15800	13934	0						

Explanatory note:

* The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns “cases opened by FIU” and “notifications to law enforcement/prosecutors” are identical and indicate that the FIU has sent 155 cases covering 3714 transactions which were sent to the FIU by reporting institutions.

** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and Car sellers.

*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

2007 (1 January – 30 October)

Statistical Information on reports received by the FIU

Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		Police investigations	
		ML	FT	ML	FT	ML	FT	ML	FT
Commercial banks	5534	12317	2	126 cases/ 1604 transactions*	-	126 cases/ 1604 transactions*	-	26/9***	-
Insurance companies	5655	59	0						
Notaries	13	5	0						
Currency exchange	3811	105	0						
Broker companies	0	0	0						
Securities' registrars	-	-	-						
Lawyers	0	12	0						
Accountants/auditors	0	1	0						
Company service providers	-	-	-						
Others (please specify)**	336	835	0						
Total 27,389 reports	15349	13334	0						

Explanatory note:

* The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns “cases opened by FIU” and “notifications to law enforcement/prosecutors” are identical and indicate that the FIU has sent 126 cases covering 1604 transactions which were sent to the FIU by reporting institutions.

** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and Car sellers.

*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

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

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2 & 32)	Take appropriate measures to ensure that prosecutions can be commenced without the need for a conviction of a predicate offence.
Criminalization of Terrorist Financing (SR.II & R.32)	<p>Define “financial resources” in accordance with the Terrorist Financing Convention.</p> <p>JM: Currently, according to Paragraph 3 of Article 1 of the law “On the Prevention of Laundering of Proceeds Derived from Criminal Activity”, financial resources are payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments.</p> <p>At the same time the drafted law “On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism” provides a definition of the term “resources (property)”, namely, financial resources or any other form of corporeal or incorporeal, movable or immovable property. In the drafted law provides a definition of the term “financial resources”, namely, payments assets in way of cash or money clearings, precious metal, as well as any kind of form of financial instruments or documents (also digital or electronic), that certify the right of a person to these assets or property or confer a right to benefit from it.</p>
Confiscation, freezing and seizing of proceeds of crime (R.3 & 32)	<p>Extend forfeiture to property that is intended for use in the commission of a criminal offence.</p> <p>Define “property” and “assets” for the purposes of the Criminal Law and Criminal Procedure Law.</p> <p>Amend definition of “proceeds of crime” to reflect</p>

Freezing of funds used for terrorist financing (SR.III & R.32)	<p>definition of property for the purposes of the Criminal Law and the Criminal Procedure Law.</p> <p>Amend definition of illegally acquired property to ensure that it would cover property obtained directly and indirectly as a result of the commission of an offence.</p> <p>Define “financial resources” and “property” in accordance with the Terrorist Financing Convention.</p> <p>Implement a national mechanism to give effect to requests for freezing assets and designations from other countries and to enable freezing funds of EU nationals (citizens or residents).</p> <p>Develop a clearly defined procedure for de-listing of suspected terrorists listed by Latvia (apart from those on the EU List for whom a procedure already exists).</p> <p>Provide for access to funds for basic living expenses and legal costs.</p>
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<p>Address the contradiction in the AML Law regarding dissemination, for example by providing that the FIU disseminates its information to the Prosecutor’s Office (and not law enforcement).</p> <p>Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU.</p> <p>Latvia should also consider requiring the FIU to publish an annual report.</p> <p>Provide the FIU with additional staff in view of the expected increased workload.</p>
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	<p>Specialized training needed for police and other law enforcement officers responsible for AML/CFT.</p> <p>Specialized training needed for the Prosecutor’s Office in AML/CFT.</p> <p>Provide the FIU with additional staff in view of the increased workload to come.</p>
3. Preventive Measures– Financial Institutions	
Risk of money laundering or terrorist financing Customer due diligence, including	The authorities should amend the AML Law to

<p>enhanced or reduced measures (R.5– 8)</p>	<p>introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations.</p> <p><i>Recommendation 5</i></p> <p>Provide explicitly in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (to supplement Articles 6 and 7 of the AML Law relating to opening an account).</p> <p>Provide explicitly in law or regulation that financial institutions must verify customers' identity.</p> <p>Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares.</p> <p>Amend Article 7 paragraph 3 of the AML Law to provide a specific direct requirement for financial institutions to identify the client, irrespective of any exemption or threshold, when there is a suspicion of terrorist financing.</p> <p>Clarify, in law or regulation, that identification of nonresident customer of the Latvian Post Office and the bureaux de change be performed on the basis of reliable, independent source documents, data or information, such as, for example, valid passports.</p> <p>Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons.</p> <p>Amend the AML Law or relevant regulation in order to clearly require the financial institutions that are not covered by the FCMC Regulation to obtain information on the purpose and intended nature of the business relationship.</p> <p>Enhance current practice by requiring explicitly, in law or regulation, the financial institutions to ensure that documents, data and information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, in particular for higher risk categories of customers or business relationships.</p>
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	<p>Require, in law, regulation or other enforceable means, the bureaux de change and the Post Office to identify high-risk categories of clients and transactions and, for all financial institutions, to perform enhanced due diligence. Define the additional measures to be taken under the enhanced due diligence.</p> <p>Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9.</p> <p>For customers (and beneficial owners of the funds) of financial institutions that are not covered by the FCMC Regulation, clarify, in law or regulation or other enforceable means, the timing of verification in accordance with FATF criteria 5.13, 5.14 and 5.14.1.</p> <p><i>Recommendation 6</i></p> <p>Require, in law, regulation or other enforceable means, the bureaux de change and the Latvian Post Office to put in place appropriate risk management systems to determine whether a potential customer, an existing customer or the beneficial owner is a PEP; to take reasonable measures to establish the source of wealth and the source of the funds of customers and beneficial owners identified as PEPs; and to conduct enhanced ongoing monitoring on the relationship with PEPs.</p> <p>Require in law, regulation or other enforceable means, all financial institutions to obtain senior management approval for establishing business relationships with PEPs or continuing a relationship with a customer or beneficial owner who subsequently becomes a PEP.</p> <p><i>Recommendation 7</i></p> <p>The blanket exemption for correspondent banks from OECD countries under Article 5¹ of the AML Law should be removed.</p> <p>Require, in law, regulation or other enforceable means, that banks must obtain senior management's</p>
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	<p>approval before establishing the new correspondent relationship. Enhance the current requirements for banks to gather sufficient information to understand fully the nature of the respondent's business, to determine its reputation and the quality of supervision; to assess the adequacy and the effectiveness of the correspondent's controls; and to document the respective AML/CFT responsibilities of each institution.</p> <p><i>Recommendation 8</i></p> <p>Require, in law, regulation or other enforceable means, the financial institutions to have policies or take measures to address the additional risks that may arise from new and developing technologies .</p>
Third parties and introduced business (R.9)	N/A
Financial institution secrecy or confidentiality (R.4)	—
Record keeping and wire transfer rules (R.10 & SR.VII)	<p><i>Recommendation 10</i></p> <p>Require, in law or regulation, financial institutions to keep records of the account files and business correspondence.</p> <p>Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases.</p> <p><i>Special Recommendation VII</i></p> <p>Require financial institutions to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, as set out under Special Recommendation VII and to conduct enhanced scrutiny of, and monitor for suspicious activity, funds transfers which do not contain complete originator information in compliance with Special Recommendation VII.</p>
Monitoring of transactions and relationships (R.11 & 21)	<p>Require information to be made available to all authorities relevant in the fight against money laundering and the fight against terrorist financing,</p>

<p>Suspicious transaction reports and other reporting (R.13, 14, 19, 25 & SR.IV)</p>	<p>not only to the supervisors.</p> <p>Require financial institutions that are not subject to FCMC supervision to pay special attention not only when the customer is a resident of a country listed by FATF, but also to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF standard.</p> <p>Establish a mechanism that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.</p> <p><i>Recommendation 13</i></p> <p>Provide clarification and guidance to the reporting entities in order to increase the emphasis ensuring that suspicious transactions are reported promptly to the FIU. Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU.</p> <p>Specifically require, in law or regulation, the reporting of suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the scope of the requirement to designated persons.</p> <p><i>Recommendation 14a</i></p> <p>In order to fill the gap in the AML Law, the authorities should limit the scope of the waiver to reporting of suspicions transactions made in good faith. This can be done by amending the law which grants exemption from liability by adding that the exemption is limited to cases where disclosure is made “in good faith”.</p> <p><i>Special recommendation IV</i></p> <p>The authorities should amend the AML Law to provide specifically that financial institutions are required to report suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the reporting to cases where</p>
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<p>Cross Border Declaration or disclosure (SR IX)</p> <p>Internal controls, compliance, audit and foreign branches (R.15 & 22)</p> <p>Shell banks (R.18)</p> <p>The supervisory and oversight system—competent authorities and SROs</p> <p>Role, functions, duties and</p>	<p>potential terrorists have been designated.</p> <p>The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.</p> <p>The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations:</p> <ul style="list-style-type: none"> • for financial institutions (other than banks, electronic money institutions, and insurance companies) where warranted by size and risk of the business, to establish an independent audit function. • for financial institutions to develop appropriate compliance management arrangements e.g. at a minimum the designation of an AML/CFT compliance officer at management level. • for financial institutions (other than bureaux de change) to put screening procedures in place when hiring employees. • for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that AML/CFT measures applied are consistent with the Latvian law in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs. • for financial institutions to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country. <p>Make more explicit the current measures to ensure that shell banks could not be established in Latvia.</p> <p>Require financial institutions to take measures in order to satisfy themselves that their correspondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</p> <p>The Latvian Post Office should be made subject to appropriate supervision for AML/CFT purposes.</p> <p>There should be appropriate sanctions that apply to</p>
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powers (including sanctions) (R.23, 30, 29, 17, 25 & 32)	directors and senior staff of bureaux de change.
Money value transfer services (SR.VI)	Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.
4. Preventive Measures Nonfinancial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	<p>Broaden the provisions in the AML Law of the circumstances under which DNFBPs are subject to AML/CFT preventive measures requirements. The AML Law should apply to all DNFBPs identified in the FATF Recommendations when they engage in the activities specified in the FATF Recommendations.</p> <p>Broaden the specification of the circumstances under which DNFBPs are required to undertake CDD to conform with the FATF Recommendations, including eliminating the provision that professionals are only required to identify clients when they engage in transactions of EUR15,000 or more or when they are arranging for safekeeping or opening accounts. A requirement to identify PEPs should be included.</p> <p>Extend Article 20 paragraph 1¹ of the AML Law on the monitoring of transactions to apply also to DNFBPs.</p>
Suspicious transaction reporting (R.16)	<p>Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF Recommendations.</p> <p>Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs.</p> <p>Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means.</p> <p>A supervisory and control authority should be designated for each DNFBP sector with authority to monitor and enforce compliance with AML/CFT requirements. All</p>

<p>Regulation, supervision, monitoring, and sanctions (R.17, 24 & 25)</p> <p>Other designated nonfinancial businesses and professions (R.20)</p>	<p>DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements.</p> <p>The arrangements for oversight of DNFBPs should be restructured to provide effective systems for monitoring and ensuring their compliance with AML/CFT requirements. A supervisory and control authority should be designated for each DNFBP sector. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements.</p> <p>Agencies assigned oversight responsibility should have adequate legal authority, resources and capacity to monitor and enforce compliance with AML/CFT requirements. The assessors recommended the selection of a governmental agency, appropriately authorized and adequately resourced, to act as the default supervisor to ensure AML/CFT compliance by those DNFBPs that are not effectively supervised by some other governmental agency or SRO. This includes lawyers who are not sworn advocates, independent accountants who are not sworn auditors, tax advisors, antique dealers, transport dealers, and real estate agents. The powers, duties and functions of the supervisory and control authority should be set out in the AML Law or in the relevant law for each DNFBP. Where applicable, the law(s) should override confidentiality provisions to allow supervisory and control authorities to monitor and enforce compliance with AML/CFT requirements.</p> <p>—</p>
<p>5. Legal Persons and Arrangements & Nonprofit Organizations</p>	
<p>Legal Persons—Access to beneficial ownership and control information (R.33)</p>	<p>The authorities should amend the law to:</p> <ul style="list-style-type: none"> • ensure that information on the ownership of all bearer shares is available. <p>JM: Article 228 of the Commercial Law stipulates that stock may be registered stock or bearer stock. The rights arising from registered stock belong to the person who, as a stockholder, is recorded in the</p>

	<p>register of stockholders. The rights arising from bearer stock, on their part, belong to the person who owns such stock. Part one of Article 236 of the Commercial Law provides that stockholders, members of the board of directors and of the council, the auditor, and competent State authorities have the right to become acquainted with the register of stockholders. Thus any competent State authority is entitled, basing upon a reasonable necessity, to become acquainted with the register of stockholders and the persons registered therein, as well as to obtain information on the number of shares of stock belonging to stockholders.</p> <p>As regards the bearer stock not registered in the register of stockholders, as a result of which it is impossible to promptly obtain information on the owners of the stock, we have to point out that amendments are being made to the Commercial Law, providing for the creation of a separate register, in which bearer stock issued by a stock company will be registered. At the same time, the said amendments will provide that the bearer stock in paper format will be eliminated. As regards the legal situation before the entrance into force of the said amendments to the Commercial Law, it should be noted that, although the bearer stock is not registered in the register of stockholders or in any other public register, documentation has to be available at the stock company attesting the number of shares of stock the company has issued. The aforesaid information may be provided to the competent State authority pursuant to a duly reasoned request of the latter.</p> <ul style="list-style-type: none"> • require that all legal persons collect and keep information on beneficial ownership and control and ensure that adequate, accurate, and timely information on the beneficial ownership and control of a legal person can be obtained by the competent authorities. <p>JM: Part five of Article 6 and Part two of Article 8 of the Group of Companies Law provides for the obligation of the participant to indicate the true beneficiary to the capital company; the capital company, on its part, has the obligation to hand this</p>
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	<p>information over to the Enterprise Register.</p> <p>The Enterprise Register has not encountered a case of being informed about a stock company shareholder acting on behalf of another person – the true beneficiary. Moreover, the implementation of the said legislative provision, which would impose the obligation to register in the stock company register of stockholders or in any other public register also the true beneficiary of the stock, does not guarantee the conditions of the proper person being indicated. In the CL, criminal liability is provided for such criminal offences as document counterfeiting and different fraudulent actions.</p> <ul style="list-style-type: none"> • Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration. <p>JM: The Group of Companies Law lays down a demand to provide information on stockholders whose participation in the commercial company starts from 10 per cent of the stock. The Group of Companies Law provides that commercial companies are obliged to disclose both the nominal participants (stockholders) who own at least 10 per cent of the stock and the actual participants (if the nominal participants act on behalf some other person), yet in practice this requirement is rather seldom observed. In most cases the Enterprise Register has no information on individual stock company stockholders who own at least 10 per cent of the capital. Thus this information is unavailable also to third parties.</p> <p>Several solutions are being considered to eliminate this problem. One of the solutions discussed is transferring the provisions of notifying about participation from the Group of Companies Law to the Commercial Law, about the requirements of which users of law are rather well informed. Thus the Commercial Law would include both the requirement to disclose the holders of the biggest shares and the requirement to notify about the true beneficiaries.</p> <p>In order to carry out more effectively the</p>
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	<p>obligations set out in laws and regulations, proper sanctions are provided for in cases of non-compliance with these obligations. Currently Article 166.³ of the Administrative Violations Code of Latvia provides for general administrative responsibility for not submitting information to the Enterprise Register. However, the Enterprise Register has difficulty in controlling the compliance with the Group of Companies Law and finding out about the possible violations of compliance with the said law. Therefore a requirement could be provided for in the Commercial Law to indicate in the minutes of plenary meetings of stockholders every stockholder present who represents at least 10 per cent of the voting equity capital. This information would enable the Enterprise Register to maintain a certain control over the compliance with the requirements of the Group of Companies Law. In case such stockholders' names appear in the minutes on which no previous notification has been provided, it would give ground for drawing up an administrative violation report. In addition, this would provide a reason for suspending registration, as the documents submitted would be inconsistent with the documents present in the registration file.</p> <p>The drafting of a new law, "On Groups of Companies", is planned in Latvia in 2008.</p> <ul style="list-style-type: none"> • Enhance powers to investigate and monitor compliance with these requirements. <p>The monitoring of the submission of information by legal persons to the Enterprise Register and the veracity of the information submitted is carried out by the Enterprise Register. According to Paragraph four of Article 4 of the law "On the Enterprise Register of the Republic of Latvia", the Enterprise Register reports to the appropriate authorities (investigating authorities, a.o.) about the possible violations of laws and regulations and draws up administrative violation reports on the detected violations of laws and regulations. The liability for not complying with the provisions regarding accounting as set out in the laws and regulations, not submitting annual reports, statistical</p>
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	<p>reports or statistical information by the due dates specified in the laws and regulations, or incomplete submitting to the appropriate State authorities or evading from the submission of the said information or documents is provided for in Article 166.⁶ of the Administrative Violations Code of Latvia.</p> <p>In Article 217 of the CL, “Violation of Provisions Regarding Accounting and Statistical Information” the liability is laid down for committing violations of provisions regarding the conducting of accounting documentation or of procedures regarding compilation of annual reports or statistical reports, prescribed by law for an undertaking (company), institution or organisation, or late or incomplete submitting of annual reports, statistical reports or statistical information to the appropriate State authorities. Moreover, the same article sets the liability for concealing or forging accounting documents, annual reports, statistical reports or statistical information required by law regarding an undertaking (company), institution or organisation. The investigation of such offences in Latvia is basically carried out by the Financial Police and the Economic Police.</p> <p>No changes to the laws and regulations are needed to increase the efficiency of investigation as, according to the CPL, the investigating bodies have broad authorities to carry out investigation. The efficiency of investigation should be increased by deepening the knowledge of investigation officers.</p>
Legal Arrangements–Access to beneficial ownership and control information (R.34)	N/A
Nonprofit organizations (SR.VIII)	—
6. National and International Cooperation	
National cooperation and coordination (R.31 & 32)	The authorities should reconsider the procedure for information exchange between the FIU and LEAs and seek to simplify the process to improve efficiency.

<p>The Conventions and UN Special Resolutions (R.35 & SR.I)</p>	<p>Property should be defined for the purposes of the Criminal Law and the Criminal Procedure Law to comply fully with the Vienna and Palermo Convention</p> <p>The legislation should be amended to include a definition of “proceeds of crime/illegally acquired property” that includes property obtained indirectly to comply fully with the Palermo Convention.</p> <p>The legislation should be amended to ensure that forfeiture includes property that is “intended” for use in the commission of an offence to fully comply with the Vienna Convention.</p> <p>For the purposes of complying with the Terrorist Financing Convention, the definition of funds needs to be amended to include legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.</p>
<p>Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)</p>	<p>The authorities should include in the Criminal Procedure Law the grounds on which enforcement of foreign requests for seizure of property can be executed or refused rather than leaving it to the discretion of the competent authority.</p> <p>Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefore.</p> <p>A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered.</p> <p>Each competent authority should keep statistics on numbers of requests refused and grounds of refusal and the Ministry of Justice should keep separate statistics for civil and criminal matters.</p>
<p>Extradition (R. 39, 37, SR.V & R.32)</p>	<p>Introduce specific provision dealing with “extradite or prosecute” principle.</p> <p>Introduce mechanism for consolidation of statistics relating to extradition.</p> <p>Introduce a time frame by which Cabinet of Minister have to make a ruling on appeals.</p>

Other Forms of Cooperation (R. 40, SR.V & R.32)	<p>Amend the AML Law to specifically provide that the FIU can requests information from credit and financial institutions and other relevant institutions and to access information from its databases in response to requests from the foreign FIUs.</p> <p>Amend the AML Law to specifically allow the FIU to request information from nonFIU foreign competent authorities.</p>
7. Other Issues	
Other relevant AML/CFT measures or issues	The Latvian authorities should assess the AML/CFT risks of domestic reinsurance business and introduce appropriate risk-based measures to supervise the sector.