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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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

THIRD ROUND DETAILED ASSESSMENT REPORT ON

LATVIA[1]

ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

Memorandum
prepared by the IMF

[1] Adopted by MONEYVAL at its 20th Plenary meeting (12-15 September 2006)

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Acronyms

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
BoL	Bank of Latvia
CDD	Customer due diligence
CIS	Commonwealth of Independent States
EAW	European arrest warrant
EC	European Commission
EMU	European Monetary Union
ERM	Exchange Rate Mechanism
EU	European Union
FATF	Financial Action Task Force
FCMC	Financial and Capital Market Commission
FIU	Financial intelligence unit
LANIDA	Latvian Real Estate Association
ML	Money laundering
MLA	Mutual Legal Assistance
MLRO	Money Laundering Reporting Officer
NPO	Nonprofit organization
NIMA	Corporation of Real Estate Brokers and Dealers
PEP	Politically-exposed person
PIN	Personal identity number
ROSC	Reports on Observance of Standards and Codes
SRO	Self-regulatory organization
STR	Suspicious transaction report
TF	Terrorism financing
UN	United Nations
UNSCR	United Nation Security Council Resolution

PREFACE

1. An assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Latvia was conducted based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004. The assessment considered the laws, regulations and other materials supplied by the authorities, and information obtained by the assessment team during its mission from March 8–24, 2006, and subsequently. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex II of the detailed assessment report.

2. The assessment was conducted by a team of assessors from the International Monetary Fund (IMF). The evaluation team consisted of: Terence Donovan, Cecilia Marian, Nadine Schwarz, and Fitz-Roy Drayton, IMF Legal Department, and John Abbott, consultant. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines, and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated NonFinancial Businesses and Professions (DNFBPs), as well as examining the capacity, the implementation, and the effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Latvia as of March 24, 2006 and immediately thereafter.[2] It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 3). It also sets out Latvia's levels of compliance with the FATF 40+9 Recommendations (see Table 2).

[2] In accordance with the FATF assessment methodology, the assessors took into account further relevant requirements formalized as AML/CFT Regulations by the Latvian authorities within two months of the on-site assessment visit to Riga.

I. EXECUTIVE SUMMARY

4. **Aspects of Latvia's financial services market expose it to a high risk of money laundering but concerted steps are being taken to mitigate those risks.** There are welcome indications that money laundering risks have been reduced substantially due to strong preventive measures being implemented by the authorities and the financial institutions. Latvia is a regional financial center of some significance and acts as an important trade and financial gateway between CIS countries (mainly Russia) and Western countries. The high volume of throughput of transactions in accounts in Latvian banks reflects, in part, the financing of trade, but also contains a substantial component related to capital flows and transactions designed to minimize the impact of tax and currency control requirements in the originating countries, mainly in the CIS. It is difficult to separate out these flows statistically, but they are estimated by the Financial and Capital Market Commission (FCMC) to represent approximately 25 percent of the total assets of the banking system at end-2005, although the level has been dropping somewhat in recent months–a trend that is not unconnected to the AML/CFT measures taken recently.

5. **The authorities and the financial institutions are working to restore the international reputation of the Latvian financial sector, which was damaged by the poor practices and weak AML/CFT controls in the past.** Within the recent past Latvia had a reputation for widespread lax due diligence in relation to the opening and operation of accounts, particularly for nonresident clients, and the use of unregulated intermediaries to source corporate business from CIS countries. Accounts of these corporates were (and still are) typically operated in Latvian banks in the names of shell companies registered in offshore or other jurisdictions, the requirements of which often protected the anonymity of the beneficial owner of the company. It is unclear to what extent the Latvian banks originally knew the identity of the true owners of the funds maintained in or transferred through Latvia. While the international reputation of Latvian banks was questioned, there is little indication that this impacted their domestic business. Nor has there been any impact from a prudential perspective, as resident and nonresident business are perceived to be distinct and independent business lines and the banking system is highly liquid.

6. **International pressure contributed to strengthening the resolve of the authorities to take remedial action.** In a process which has been building in intensity, particularly over the last three to four years, the authorities and financial institutions have acted to clean up the Latvian financial system. Additional momentum was added by the naming of two small Latvian banks by US Treasury in a proposal for rule-making under US law as "financial institutions of primary concern for money laundering". The US announcement had a severe impact on the businesses concerned. Beyond these targeted actions, the informational demands of US-based correspondent banks arising under the US PATRIOT Act probably had an even broader and more sustained impact because Latvian banks depend directly or indirectly on them for US$ clearing and settlement.

7. **Led by the initiative of the Prime Minister, the authorities acted strongly in 2005 to address the deficiencies in the system.** An AML Council was established, chaired by the

Prime Minister, and with representatives from the relevant government ministries and agencies, as well as of the Bank of Latvia (BoL), to decide on a program of legislative, administrative, and other measures to ensure that Latvia put in place a robust AML/CFT regime. This level of political support has proven crucial in achieving amendments of a range of relevant legislative acts in a short period of time. These concerted efforts are now bearing fruit. As a further incentive to the banks to strengthen their due diligence, the FCMC has conducted an extensive range of thorough AML/CFT on-site inspections (including repeat inspections), and applied a range of monetary and other sanctions to banks found not to be fully compliant with AML/CFT requirements. At one point, 13 of Latvia's 23 banks were subject to intensified supervision[3] for AML/CFT deficiencies. Other sanctions included threats to remove all members of the Board of a bank or its AML/CFT compliance officer, and requirements to prohibit certain banks from opening new accounts for nonresidents. Almost all of the deficiencies identified during these inspections were well on the way to being resolved by end-2005.

8. **The response of the banks to the changes in law, requirements, and guidance, while slow in some cases initially, has been dramatic overall.** In accordance with improvements introduced into the AML Law in June 2005, and beginning with the higher-risk accounts (which typically includes nonresident accounts), banks have acted on a large scale to re-identify clients and request documentary evidence to support transactions. They have taken steps to ensure that they have documentation to establish as far as practicable the ultimate beneficial owner of their corporate accounts (including offshore companies) and any cases of accounts being operated by third parties. Where customers were unwilling or unable to provide the requested information, or did not respond in time, the accounts were closed. The banks informed the assessors that, of the total of 250,000 bank accounts closed by banks in 2005 for whatever reason, probably more than 100,000 accounts were closed as a result of the AML/CFT compliance initiative. However, the balances on many of these accounts were low. In accordance with Latvian legal requirements, the balances were transferred to other banks in Latvia or to banks in other European Economic Area countries.

9. **The improvement in the implementation of AML/CFT measures has been substantial, but the task is not yet complete.** Most banks, particularly the larger banks, appear to be well advanced in the reform of their AML/CFT internal control systems and customer due diligence (CDD). Some smaller banks are still in the process of improvement and implementation, though the FCMC indicated that there has been substantial progress in all cases. A concern was expressed to the assessors that some banks, particularly small banks largely dependent on nonresident business, may be focusing excessively on collecting documentation to avoid sanctioning and not giving adequate attention to understanding the true nature and purpose of the accounts or transactions. This is a factor that needs to be taken into account by the FCMC in the conduct of its next round of AML/CFT inspections, many of which should take place during 2006. These inspections should reveal to the supervisors the extent to which banks have successfully followed through on the necessary control

[3] A status provided by the law which is a precursor to a variety of available serious sanctions

measures. Overall, as high-risk nonresident business continues to be a feature of the Latvian financial system (particularly so for more than half of the banks), sustaining ongoing vigilance will be essential to protecting Latvia and its banks from further reputational damage. It is interesting to note that strong growth is being experienced by many of the banks, based on new resident accounts and diversification of business lines, reflecting the strong underlying growth of the Latvian economy.

A. Legal Systems and Related Institutional Measures

10. **The AML/CFT legal framework has been strengthened and expanded over the last two years.** There are three main laws: the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (AML Law), the Criminal Law, and the Criminal Procedure Law. The preventive measures for the financial sector and the designated nonfinancial businesses and professions (DNFBPs), the establishment of the financial intelligence unit (FIU) and its powers, the reporting of suspicious and unusual transactions, and the duties of supervisory and the monitoring authorities are contained in the AML Law, while money laundering and terrorist financing are criminalized in the Criminal Law. The powers to confiscate proceeds of crime and terrorist property and the related provisional measures and the ability to render mutual legal assistance and extradite persons in relation to money laundering and terrorism financing have been included in the Criminal Procedure Law.

11. **The AML/CFT provisions have been amended significantly in 2004 and 2005.** Amendments were adopted in a piecemeal fashion reflecting the need to respond to ongoing developments, deficiencies of the legal framework as they were identified, and evolving international standards. In reviewing the provisions of the various AML/CFT laws there are many indications that the revisions were undertaken in a hurried manner without attempting to reconcile the new provisions with existing provisions or to consistently amend provisions where needed. The fragmented amendments have resulted in gaps in the legal framework. Some of the gaps include the absence of necessary definitions of key terminology for the terrorist financing offences. There has also been a failure to amend the suspicious transaction reporting provision to specifically include the reporting of suspicious transactions relating to terrorist financing.

12. **Law enforcement, the courts, financial institutions, and other covered parties are all having some difficulties implementing and interpreting the new provisions in legislation.** Key difficulties for law enforcement agencies include:

- The position of the authorities that a conviction for money laundering offence requires the conviction for a predicate offence;
- Determining whether confiscation powers extend to all proceeds of crime and terrorist property;
- Determining the extent to which requests for mutual legal assistance can be rendered.

DNFBPs are not covered by the law to the extent needed and differences in the requirements of the AML Law and the laws regulating them result in confusion as to their obligations.

13. **A comprehensive review of the AML/CFT legal framework is needed, with the objective of developing a more consistent, coherent, and comprehensive framework.** Particular attention needs to be placed on amending the AML Law with a view to strengthening preventative measures (as noted in the discussion on financial institutions) and addressing:

- The reporting of suspicious transactions relating to terrorist financing; and
- The need to introduce powers for the relevant monitoring agencies of the DNFBPs to monitor compliance with the law.

Additionally, all the elements necessary for effectively criminalizing money laundering and terrorist financing and confiscating proceeds of crime and terrorist property should be included in the Criminal Law and Criminal Procedure Law. Particular care needs to be taken to ensure that definitions are included that reflect those used in Special Recommendation III on freezing and confiscating terrorist assets, to ensure clarity and fulfillment of international obligations.

14. **Legal persons are subject to a registration system that needs to be strengthened.** Legal persons who can be registered in Latvia include sole proprietorships, partnerships, companies, foundations, and cooperatives. All these entities acquire their status upon registration with the Register of Enterprises. For registration, entities are required to submit a range of documentation and the information is then kept in the Register of Enterprises. However, the arrangements to verify the details provided during the registration process are weak as the Registrar relies entirely on notaries to perform the verification function, but the notaries only conduct a pro-forma review by determining whether the required legal documents are produced or not. Additionally, there is no requirement for the disclosure of beneficial owners, a situation that may hamper efforts by law enforcement agencies to obtain information needed for investigations, as well as pose problems for financial institutions and DNFBPs when complying with customer due diligence requirements under the law. To address these deficiencies, provisions should be included in the law to:

- Require the disclosure of beneficial owners of legal persons as part of the registration process or provide alternative means to ensure transparency regarding the beneficial ownership and control of legal persons;
- Designate and require a competent authority to conduct more due diligence when registering legal persons; and
- Improve the powers to ensure compliance with the commercial law with regard to company registration.

15. **Bearer shares can again be issued in Latvia, increasing the risk of abuse by money launderers.** The law has been amended to once again permit issuance of bearer shares by joint-stock companies. There were provisions in place for the dematerialization of bearer shares prior to the amendments passed to the Commercial Law in 2004. There is no

information on the extent to which bearer shares have been issued. As bearer shares pose a potential risk of abuse by money launderers, the assessors recommended that Latvia dematerialize bearer shares and introduce a mechanism to ensure the effectiveness of this process.

FIU

16. **The effectiveness of the Control Service as Latvia's financial intelligence unit (FIU) continues to improve.** The FIU is established under the AML Law as a central national agency within the Prosecutor's Office's system. It is empowered to receive and analyze suspicious and unusual transactions from financial institutions and DNFBPs, and disseminate its information when it has a reasonable suspicion that a person has committed or is attempting to commit an offence or is laundering the proceeds of crime. It is currently adequately structured and organized and its staff are competent to carry out its role under the law. The head of the FIU provides strong leadership to the national AML/CFT initiative and has spearheaded efforts to create and raise awareness of the risks of ML and TF and the requirements of the AML Law among financial institutions and DNFBPs. The FIU has received substantial numbers of unusual (and some suspicious) transaction reports, mainly from the banks. In 2005, reports relating to 26,302 unusual and suspicious transactions were received by the FIU and, of these, 155 reports were forwarded to law enforcement agencies (relating to 2,561 transactions).

17. **An amendment to the AML Law is needed to eliminate the potential confusion of having two contradictory provisions dealing with the dissemination function of the FIU.** One provision empowers the FIU to disseminate its information to pre-trial investigative agencies while the other requires the FIU to send its analyzed information to the Prosecutor's Office. If the authorities wish to retain the current practice, Latvia should legislate for it unequivocally, by amendment of the AML Law to provide that the FIU disseminates its information to the Prosecutor's Office who will then forward the information to the relevant pre-trial investigative agency.

18. **While the Prosecutor's Office monitors the activities of the FIU, the latter appears to be autonomous in its day-to-day operations**. This monitoring is to ensure that the FIU has complied with legal provisions of the AML Law in the exercise of its powers, and to check the procedures of the FIU to ensure its efficient functioning and proper accountability. However, the role of the Prosecutor's Office is also to supervise pre-trial investigating agencies and, pursuant to this role, the Prosecutor's Office reviews the information of the FIU to determine whether the information is sufficient to indicate a criminal offence and, if so, what would be the suspected offence and, based on that determination, to send it to the relevant pre-trial investigating agency.

19. **The FIU will require more staff and other resources to carry out its role effectively as its workload increases.** The AML Law has recently been applied to DNFBPs and with the awareness-raising efforts of the FIU, it should receive more suspicious and unusual transaction reports in the future. To enable the FIU to deal with the increased volume of reports and to analyze more effectively and efficiently the reports received, and

disseminate the information to law enforcement without delay, there will be a need for increased human and technical resources for the FIU. The assessors welcomed the ongoing interest shown by the AML Council to support the FIU, the Prosecutor's Office, and the law enforcement agencies and provide them with additional resources, where needed.

Law Enforcement

20. **The fight against money laundering and terrorist financing has been greatly assisted in Latvia by the introduction of new investigative, tracing and seizing powers.** These powers were introduced by the Criminal Procedure Law in October 2005. With the introduction of these new powers, the main law enforcement agencies have included money laundering and terrorist financing as part of their core operations in their action plans for 2006. This has led to a number of reorganizations within the law enforcement agencies to include financial investigators as part of the investigative teams.

21. **Since October 2005 there has been a welcome increase in the number of financial investigations and the number of cases that have been passed to the Prosecutor's Office to take to court.** Police departments are currently conducting investigations into underlying predicate offences and tracing the proceeds of crime. The investigative efforts have been concentrated on the main sources of criminal proceeds identified in Latvia, including evasion of duty, drug trafficking, trafficking in human beings, dealing in counterfeit goods, and illegal logging. The investigation of these predicate crimes has led to a number of money laundering investigations. The investigations have not only been local but have also involved cooperation with law enforcement agencies outside Latvia from a wide range of jurisdictions. The investigations have also included the use of special investigative techniques by the law enforcement authorities in Latvia. One technique that has been employed on more than one occasion is the controlled delivery of illicit drugs and counterfeit goods.

22. **The powers under the Criminal Procedure Law have been used to trace and seize assets.** The assets have been seized for the purposes of seeking confiscation in the event of conviction in the criminal courts. There has also been repatriation of assets in at least one case. Assets have been traced to Latvia and seized. Subsequently these assets were sent back to the country where a major fraud had been committed.

23. **The Prosecutor's Office informed the assessors that it has made money laundering and terrorist financing a priority** and has designated prosecutors to deal with specialist issues such as organized crime. There are currently a number of money laundering cases before the courts awaiting sentencing. In these cases, assets have been frozen when they have been identified. The Prosecutor's Office plans to ask for those assets to be confiscated when the matters are finally disposed of by the courts.

24. **The improvements in the effectiveness of the Prosecutor's Office and law enforcement agencies have been achieved only recently and much remains to be done.** The issue of adequate resourcing needs to be kept under ongoing review. There is a need for training for prosecutors and investigators. Training in the areas of identifying proceeds of

crime and tracing and seizing assets for the purposes of money laundering and terrorist financing cases have been identified by the police as priorities.

25. **At the time of the assessment, Latvia had not yet implemented measures to detect physical cross-border transportation of cash** and other bearer negotiable instruments, such as a declaration system or disclosure systems called for under the standard. However, a new piece of legislation, the Law on Cash Declaration at the Border, has been adopted and entered into force on July 1, 2006. The new law sets out an obligation to declare to the State Revenue Service of Latvia all physical transportation, out of or into Latvia, of cash and other financial instruments in an amount equivalent to or exceeding EUR10,000.

B. Preventive Measures—Financial Institutions

26. **The financial sector in Latvia is dominated by the 23 banks,** including one branch of a foreign bank, and includes a small number of insurance companies and brokers, capital-markets firms, as well as bureaux de change and the Post Office. The banks represent more than 90 percent of the total assets of the system. Nonresident business continues to represent close to 50 percent of the total assets of the banks, a few percentage points lower than in 2005.

27. **While, in the recent AML/CFT initiatives, emphasis has been placed appropriately on the banks, AML/CFT requirements are applied also to the other financial institutions, including insurance businesses, except for reinsurance.** There are specific requirements as to the location and/or rating of companies with which Latvian insurance companies may reinsure. However, while there are no rated reinsurance companies in Latvia, a small number of reinsurance businesses operates in Latvia, offering services mainly to clients in CIS countries. The FCMC informed the assessors that these companies are not subject to supervision and the assessors received no indication that they are implementing appropriate AML/CFT measures. Given the potential for abuse of reinsurance contracts for money laundering purposes, this situation could represent a reputational risk for Latvia. The assessors were informed by the authorities that the position is due to be regularized on the implementation by Latvia of the EU Directive on reinsurance.

28. **With regard to the legal basis for AML/CFT preventive measures, the latest amendments in 2005 introduced important new measures, particularly regarding beneficial owners.** However, the drafting of the legal provisions gives rise to some problems of consistency and interpretation, when viewed alongside the earlier provisions. While most of the fundamental preventive measures from the FATF Recommendations feature in the AML Law, a number lack the level of detail and precision needed to determine compliance with the FATF Recommendations. The AML Law is supplemented by the detailed Regulation of May 2006 and other earlier guidance issued by the FCMC, much of which uses wording from the FATF Recommendations and other relevant international source documents.

29. **The practice of the financial institutions (particularly banks), as evidenced to the assessors, appears not to be hampered by any shortcomings in the wording of the AML Law.** The assessors interviewed 13 financial institutions during the on-site visit, including a selection of seven banks from the total of 23. Overall, the level of awareness of AML/CFT risks and practices was found to be very high and the description of AML/CFT measures put in place was comprehensive. Some banks had only recently acted to improve their systems and the process was not complete, while the measures introduced by others were already mature. There was a general pattern of having engaged large accountancy firms as consultants to audit the AML/CFT systems, advise on needed enhancements, and in some cases to develop and implement solutions, including in the information technology area.

30. **Nonetheless, the assessors identified many points of the AML Law where amendments–albeit often technical or minor improvements–are needed to achieve full compliance with the FATF Recommendations.** As the assessors understood that the authorities plan to amend the AML Law in late-2006/early-2007 to fully implement the Third EU AML Directive, this will present an opportunity to address the problems noted. Examples of areas where changes are needed include:

- Convoluted and, in some respects, contradictory text in the provisions for customer identification, when considered alongside the recently-introduced provisions for beneficial owners; the requirements for timing and verification of identification are not sufficiently clear;
- The legislative requirement for enhanced due diligence for higher-risk customers does not meet the international standard, though it was clear to the assessors that this is a particular focus of FCMC supervision and of the supplemental due diligence currently being conducted by the banks;
- The measures specified in law and guidance for the conduct of financial business using new technologies needs to be improved; the assessors noted that, although new accounts cannot now be opened using the internet, the use of the internet for conducting banking business (for nonresident clients in particular) is prevalent. The assessors encountered no indication that, in practice, controls being applied are weak in this area; and
- The requirements for correspondent banking address most of the main points of the FATF Recommendation, but fall short of the detail required.

31. **Other deficiencies in or omissions from the AML Law are more significant, although they do not seem to be interfering with effective implementation.** For example:

- There is a need to clarify the requirements for reporting of suspicious transactions (as distinct from transactions identified by reference to a set of indicators and which may not in reality be regarded as suspicious by the reporting financial institution); also, the timing for reporting of ‘real’ suspicious transactions may need to be enforced more firmly, as the assessors encountered a variety of differing explanations from financial institutions on their practices for reporting to the Control Service, few of which seemed to be consistent with the terms of the AML Law; and

- For wire transfers—a key issue given the extent of the transactions passing through Latvian banks—the assessors could not locate a specific requirement to include originator information with the transfer. The authorities seem to be relying on a construction based on other related provisions. This does not imply that the practices of the banks were found to be deficient in this area.

C. Preventive Measures—Designated Nonfinancial Businesses and Professions and Nonprofit Organizations

32. **The AML/CFT regime for DNFBPs is new and still being bedded down.** While preventive measures obligations for DNFBPs have been in the AML Law for some time, it is only in the last year that organized efforts have been made to implement these requirements. Various organizations in the DNFBP sector have been mobilized to raise awareness of AML/CFT obligations and to promote compliance. Key organizations involved include government agencies (Lottery and Gambling Monitoring Inspectorate, State Assay Supervision Inspectorate), self-regulatory organizations (SROs), which exist for Sworn Advocates, Sworn Notaries, and Sworn Auditors, as well as various trade associations that have issued guidelines or regulations covering AML/CFT preventive measures requirements for the respective covered sector. While the volume of such issuances is substantial, the quality is uneven and most of the guidelines are advisory only, because the legal authority for AML/CFT compliance has not been clarified.

33. **As a result of the awareness-raising campaign, DNFBPs have a reasonably good understanding of their general responsibilities under the law.** However, knowledge of detailed requirements is sketchy and it is difficult to evaluate the degree of compliance.

34. **There are significant gaps in the legal framework for DNFBPs.** In particular:

- The specification of the circumstances under which DNFBPs are subject to the AML Law's requirements for preventive measures is too narrow, leaving out some parties who should be covered and restricting the circumstances in which the requirements apply;
- Several of the specific CDD provisions of the FATF Recommendations are missing or apply at too high a threshold. Requirements for PEPs are missing and most professionals are only required to identify clients when they engage in transactions of EUR15,000 or more or when they arrange safekeeping of financial instruments, or when opening accounts;
- Many of the specific internal control and reporting requirements called for in FATF recommendations are missing or are not legally binding on DNFBPs;
- The transactions monitoring required of financial institutions does not apply to DNFBPs; and
- Essential elements of internal controls have been spelled out only in guidelines or regulations that are purely advisory, with no effective means of enforcement.

35. **The regime for monitoring and ensuring compliance by DNFBPs with their AML/CFT requirements is not well structured.** While numerous government agencies, SROs, and trade associations have been mobilized to promote compliance, in most cases the authority and capacity of these groups to ensure compliance is inadequate:

- None of the groups has been given explicit authority to act as a supervisory and monitoring authority for purposes of implementing the AML Law in its sphere of competence;
- Government agencies (the Lottery and Gambling Monitoring Inspectorate and the State Assay Supervision Inspectorate) have implemented effective compliance supervision regimes, although some clarification of legal authority would be useful;
- SROs (for Sworn Advocates, Sworn Notaries, and Sworn Auditors) have the potential to fulfill the role of supervisory and monitoring authority for purposes of implementing the AML Law but clarification of their legal authority, procedures, and capacity is needed; while
- Trade organizations appear to be unsuitable to take on a role as supervisory and monitoring authority for purposes of implementing the AML Law.

36. **The assessors believe it would be desirable to appoint some governmental agency, appropriately authorized and adequately resourced, to act as the default supervisor to ensure AML/CFT compliance by those DNFBPs that are not supervised effectively by some other governmental agency or SRO.**

37. **Money laundering vulnerabilities are evident in real estate transactions and in the use of corporate entities.** The DNFBP regime should be strengthened to address these vulnerabilities and some modification of market practices in the real estate sector would be desirable:

- Independent accountants and independent lawyers play an active role in organizing real estate transactions and in company formation and management. The AML regime for these professions needs to be strengthened. Independent accountants are not covered by the AML Law and independent lawyers are not subject to SRO oversight; and
- Real estate brokers have only a partial perspective on key components of real estate transactions. More attention needs to be given to the role of various other professionals involved in the financing, settlement, and recording of real estate transactions.

38. **More attention needs to be paid to the role played by lawyers, notaries, accountants and other business advisers, as well as the registry of properties, in the negotiation, settlement, and registration of real estate transactions.** Requiring all property transactions to be settled by bank transfer would be desirable.

39. **The legal framework applicable to nonprofit organizations (NPOs) has recently been amended.** With effect from 2004, a new Associations and Foundations Law

came into force. In accordance with its provisions, all NPOs are required to re-register in a new associations and foundations register. Registration is required whether or not the organization receives outside funding. Annual reports on NPO activities must be filed. As of March 2006, 10,097 NPOs were registered. Religious organizations are recorded separately by the Agency of Religious Issues. Drawing on a wide variety of information systems, the State Revenue Service monitors the financial assets of NPOs as well as donations to NPOs, including for tax compliance, and in case of suspicion of ML or FT, informs the FIU.

40. **Financial data on NPOs is also generated by a range of reporting requirements:** (a) NPO reporting of charitable donations (1,507 cases in 2004); (b) taxpayers' claims for charitable deductions on tax filings (claims regarding about 800 NPOs were filed in 2004); (c) applications from NPOs to be eligible to receive tax deductible charitable contributions (608 cases in 2004); (d) information on payment of social contributions by NPOs; and (e) review of all donations above US$8,000.

41. **In addition to the monitoring carried out by the State Revenue Service, an extensive public awareness campaign has been conducted to inform NPOs of their obligations** to register and to educate the public of its responsibility to know to whom they are donating money and the intended use of the funds.

D. Legal Persons and Arrangements

42. **Legal persons and legal arrangements are subject to a registration system.** The following are the types of legal persons and legal arrangements that can be established or registered in Latvia: a company, a partnership, a sole proprietorship, a cooperative society, a political organization, a trade union, a foundation, an association, a farmstead, a fishing farm, a European commercial company, a European economic interest group, a branch of a foreign merchant, and a representative office of a foreign organization. All the entities except the last two acquire the status of a legal person upon registration with the Register of Enterprises and can own property. There is a central registration system for registration of all entities in the Register of Enterprises which is regulated by the law on the Register of Enterprises.

43. **Companies, including joint-stock companies, cooperative companies and European commercial companies are owned by shareholders where the company has a separate legal personality from its members while all the other entities are owned by their members.** Sole proprietorships, farmsteads, fishing farms, and members of political organizations and trade unions must be owned by natural persons. Founders and shareholders of European commercial companies must be legal persons. For registration with the Register of Enterprises, entities are required to submit different documentation and information but, at a minimum, all entities must submit names of founders, name of entity, members of the administrative institutions, legal address i.e., place of business and, in most cases, the founding documents, and this information is kept in the Register of Enterprises. Entities carrying on commercial activities, except for joint-stock companies, must disclose their shareholders/members/participants. Joint-stock companies and those entities established for nonprofit purposes need not declare their members or shareholders and only information

relating to founders of the entities is kept with the Register of Enterprises. All legal persons including joint stock companies and cooperative companies are required to maintain information about their owners (members or shareholders), although joint stock companies which have issued bearer shares, political organizations, and trade unions are excluded from this requirement. Where information on owners is kept, it must be available to owners and law enforcement agencies. Entities are not required by law to obtain information on their beneficial owners though they may do so. As of March 2006, there were 7,512 individual merchants; 61,911 limited liability companies; 798 joint-stock companies; 204 partnerships; 2,001 cooperative societies; 17,170 proprietorships; 32,880 farmsteads; and 137 fishing farms. All these engage in commercial activities. Of the nonprofit entities, there are 5,432 associations, 394 foundations, 150 trade unions, and 70 political organizations.

E. National and International Cooperation

44. **Latvia is able to provide mutual legal assistance (MLA) in criminal matters on the basis of international, bilateral or multilateral agreements to which Latvia is a party.** Where there is no agreement on MLA, the Criminal Procedure Law provides the legislative basis for providing assistance. It provides that if there is no treaty or agreement with the country, MLA is provided on the basis of reciprocity. The competent authority for international cooperation is the Ministry of Justice or the Prosecutor's Office depending on whether requests relate to pre-trial investigations or criminal proceedings. Latvia can provide assistance on a wide range of matters and MLA requests are not subject to unreasonable restrictions, though the provisions in the Criminal Procedure Law regarding confiscation should be expanded to specifically include the enforcement of foreign confiscation orders relating to all proceeds of crime, intended instrumentalities, and terrorist property.

Money laundering and terrorist financing are extraditable offences in Latvia. Extradition is possible on the basis of treaties and dual criminality is generally required.

II. General

Background information on Latvia

45. **Latvia occupies a strategic geographical position in Eastern Europe**, with its ports on the Baltic Sea providing an important trade route between Russia (and other CIS countries) and Western economies. Latvia has a population of close to 2.3 million and has land borders with Russia, Belarus, Lithuania, and Estonia.

46. **Latvia reestablished its independence in 1991 following the break-up of the Soviet Union.** It joined both NATO and the European Union (EU) in 2004. It is a parliamentary democracy, with a unicameral Parliament (Saeima), the next elections to which are currently scheduled for late-2006.

47. **Latvia has one of the highest economic growth rates in the EU**, with average GDP growth of more than seven percent per annum over the period 2002–2005. The EU is

Latvia's main trading partner, accounting for more than 70 percent of imports and exports. Latvia joined ERM II in May 2005 with the intention of joining the European Monetary Union (EMU) at an early date. The authorities are working towards the replacement of the domestic currency—the lat (LVL)—with the Euro, possibly by 2008 (EUR1 = LVL0.7, March 2006).

General Situation of Money Laundering and Financing of Terrorism

48. **Latvia is vulnerable to being used for money laundering purposes due to number of factors including its geographical location.** It is a major transit point for trade between Western Europe and the CIS countries using its ports on the Baltic Sea and the land borders with the other Baltic States, Russia, and Belarus. The assessors were informed by the authorities that the majority of the serious criminal activity involves Latvia being used as a transit point, for instance in the case of drug trafficking. In cases of human trafficking, Latvia has been used as a gateway into the European Union for persons being transported from the East. There have been recorded cases of smuggling and transshipment of counterfeit luxury goods (e.g., originating in China).

49. **Financial transactions relating to proceeds of crime have been identified passing through the Latvian financial system.** The high volume of transactions creates a challenge for financial institutions in confirming the true purpose of the financial transactions. The main difficulty is that by the time the money arrives in Latvia it is difficult to identify it as the proceeds of crime. In addition, a number of cases have been identified where offences have been committed in countries outside Latvia and the proceeds then sent to Latvia by wire transfer. Frauds that have been identified include credit card fraud and internet phishing. In this regard, the police have identified cases where money has been wired into Latvia from the United States, United Kingdom, and other European countries, and has then been transferred on to Russia. The financial sector in Latvia, therefore, seems to be particularly vulnerable to the layering and integration stages of money laundering, with limited evidence of being used in the placement stage. The police informed the assessors that they have no evidence that organized crime is currently infiltrating the financial sector.

50. **Another vulnerability in Latvia arises from the rapid growth of the real estate sector**, particularly over the last five years as property prices have risen dramatically. The authorities advise that in some cases property development and the purchase of real property in Latvia has been linked to organized crime from outside Latvia. Other methods of money laundering in Latvia have been identified as the purchase of luxury items and, in particular, high value vehicles. These are preferred as they can be readily exchanged for cash. According to law enforcement, some casinos in Latvia have had in the past a close association with organized crime and some such links may still remain.

51. **In general, the recorded crime rate in Latvia is relatively low** with 22,193 serious criminal cases recorded in 2004, of which approximately 40 percent were cleared up. The major criminal activities identified by the authorities as predicate offences for money laundering are drug trafficking, trafficking in human beings, tax evasion, and VAT fraud.

Fraud has also been identified locally ranging from “ponzi” and “pyramid” schemes to internet crimes such as phishing. Illegal logging, mostly for export to Russia, has also emerged as a crime generating significant proceeds. Due to the relatively small domestic market, most drug trafficking in Latvia appears to be destined for larger markets such as Russia. The drugs found in Latvia for transshipment have included cocaine on its way to Russia, and also MDMA, methamphetamine, amphetamines and heroin. There are ongoing allegations of corruption in the public sector, including some highly-publicized cases. In 2005, 76 money laundering cases were investigated resulting in 10 prosecutions and five convictions.

52. **According to the law enforcement agencies, organized crime is not widespread in Latvia,** but some organized criminal activities have been identified. These offences have been committed either by local groups, sometimes acting in collaboration with foreign criminals, or by foreign criminals that have come to Latvia to commit specific criminal offences and then leave the jurisdiction. Currently there are six murders under investigation that are thought to be related to organized crime.

53. **The financing of terrorism has not been identified as a significant concern in Latvia** and there has been only one isolated case of domestic terrorism. The authorities have put a number of measures in place to detect terrorist financing. To date no listed terrorist has been identified as having assets in Latvia.

Financial services sector and DNFBPs in Latvia

54. **The financial sector in Latvia is dominated by the banks, of which there were 22 and one foreign bank branch at end-2005.** This includes eight foreign-owned banks representing more that 40 percent of total bank assets in Latvia, with parent companies from EU countries, Russia, and Ukraine. Banks in Latvia have shown strong balance-sheet growth in recent years, with assets reaching a level equivalent to EUR11.2 billion in 2004. On the credit side, bank financing of the property sector is growing sharply, amid a boom in property prices. In terms of funding, Latvian banks are highly liquid while nonresident deposit sources continue to be significant, though the levels are easing slightly from the previous high of more than 50 percent of total. Closer analysis shows that some banks (particular some of the smaller banks) account for a disproportionate amount of nonresident deposit business. The Latvian banks also have a major transactions-based business with nonresidents, with funds flowing mainly between Russia (and other CIS countries) and Western countries, notable among them being Cyprus and Switzerland. According to the Latvian banks, documentation indicates that this business is predominantly import and export-related. Volumes are equivalent to approximately half of the nonresident deposit balances at any given time.

55. **Among the other financial institutions supervised by the FCMC, there were 34 cooperative credit unions** operating in Latvia at end-2005 (with assets equivalent to EUR8.5 million) and six private pension funds (managing 13 pension plans with assets equivalent to EUR54 million).

56. **There were 17 insurance companies in Latvia at end-2005, of which five were involved in life insurance and 12 in nonlife business**. There were 34 investment brokerage firms, including 238 individuals authorized as investment brokers. In addition, it is understood that there are four Latvian companies providing reinsurance services, though only to nonresident insurance companies. There is currently no basis for licensing or supervision of these reinsurance companies.

57. **The investment services business in Latvia is relatively small but there has been growth in market capitalization.** There were five investment brokerage firms at end-2005 and 10 investment management companies, in addition to the Riga Stock Exchange and the Latvian Central Depositories.

58. **All of the categories of financial institution set out above are authorized and supervised by the FCMC.** All of them are among the entities obliged to meet the requirements of the Latvian AML Law and FCMC Regulation. As the AML/CFT requirements and related supervision by the FCMC apply on the same basis to all of these institutions (with due regard to size and risk characteristics), this report analyses them as a single group, distinguishing between types of financial institution only where differences in requirements apply.

The FCMC's Regulation and Guidelines

59. **Pursuant to the Law on the Financial and Capital Markets Commission (the Law on the FCMC), the FCMC has the authority to issue regulations and directives** that set out requirements for the functioning of the financial and capital markets and that govern the activities of the financial and capital market participants (Article 6 Paragraph 1, and 7 Paragraph 1.1 of the Law). These regulations and directives apply to the following reporting entities: credit institutions, credit unions, investment brokerage companies, investment management companies, insurers, depositories, stock exchange, private pension funds, and insurance intermediaries. The FCMC also has the authority to assess compliance with the laws and its own regulations as well as to sanction noncompliance (Article 6 and 7 of the Law on the FCMC). The law clearly states that the FCMC's regulations and directives are binding. The Law on Credit Institutions mirrors this statement by reconfirming that credit institutions are bound by the regulations and orders issued by the FCMC pursuant to the Law on Credit Institutions and other laws, regarding regulatory requirements for the operations of credit institutions and the procedures for the calculation of indicators characterizing the operation of credit institutions, and for the submission of reports (Article 7 of the Law).

60. **Since the adoption of the AML Law, the FCMC has provided the financial markets participants with regular and updated guidance that specifically addresses their AML/CFT obligations.** In October 2004, it issued Guidelines for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism (hereafter the FCMC Guidelines) and repealed the 2001 Guidelines on the Formulation of Procedures for Identifying Clients and Unusual and Suspicious Financial Transactions. According to the preamble, "these guidelines

determine the core principles which [market] participants shall take into account when formulating and documenting an internal control system for the purpose of identifying clients and beneficiaries as well as unusual and suspicious transactions". The decision 214 of October 1, 2004 by which the FCMC Board approved the Guidelines mentioned that it was "recommendable" for the supervised entities "to formulate internal control procedures in compliance with the Guidelines". The content of the Guidelines was, however, for the most part, drafted in mandatory terms, followed the requirements set out in the AML Law, and provided detailed information on how best to comply with these requirements. On a limited number of issues (such as politically-exposed persons (PEPs), for example), the Guidelines went beyond the dispositions of the AML Law. The assessors noted that, in practice, the industry regarded the Guidelines as mandatory. The FCMC used the Guidelines as a tool in its inspections and referred to the Guidelines when assessing compliance with the requirement to establish an effective internal control system set out in the AML Law and the Law on Credit Institutions. Sanctions for noncompliance were issued on the basis of the AML Law, not the Guidelines.

61. **In May 2006, the FCMC issued a Regulation** for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism (Regulation No. 93) in lieu of the Guidelines, on the basis of Articles 7 and 17 of the Law on the FCMC. The FCMC's intention was to update the AML/CFT framework and to avoid any potential doubt concerning the mandatory nature of the text. With the exception of the changes made in the wording of the text and a limited number of deletions and updates, the content of the Regulation is similar to that of the 2004 Guidelines. The assessors were therefore able to assess in part the effectiveness of the Regulation issued in May 2006 on the basis of the practice developed since October 2004. As the new Regulation entered into force on May 18, 2006 (within eight weeks of the on-site assessment visit), it is therefore part of the legal and regulatory framework to be taken into account in this assessment. It was issued under the FCMC's powers to issue binding regulations and noncompliance with the requirements set out in the Regulation is sanctionable. The assessors therefore considered that, for the purpose of this assessment, the new Regulation constitutes other enforceable means as defined in the FATF Glossary.

62. **The FCMC also provides the financial institutions with further information and guidance** in the form of letters to the relevant participants. These letters constitute best practice and are not enforceable as such.

Bureaux de Change

63. **Only banks or licensed bureaux de change are authorized to provide currency exchange services. The Bank of Latvia (BoL) is responsible for the licensing and supervision of nonbank bureaux de change.** At the time of the assessment, the BoL had licensed 88 companies to operate currency exchanges at 196 locations. Only legal entities are licensed and each location is individually licensed. According to the BoL, total turnover of exchange houses (purchases plus sales) was approximately US$1 billion in 2005. The number of licensed exchange locations has declined from 216 in 2003 to 196 at the end of

2005. These figures reflect new authorizations as well as cancellations of old licenses. Licenses have been cancelled both because the business had been discontinued and for noncompliance with regulations (in 15 cases).

64. **Licensing requirements are set out in BoL Regulation 114/5 of September 9, 2004** which, among other things, includes fit and proper tests for owners and managers. Nonresident companies may be licensed and several license holders are affiliated with exchange dealers from the nearby region. Licensed bureaux de change may only deal in cash purchases and sales and are not permitted to maintain customer accounts, conduct wire transfers, or engage in ancillary nonexchange businesses. The exchange function must be kept physically and financially separate from any other business activity conducted by the license holder.

65. **AML/CFT preventive measures are a primary focus of the BoL regulation of currency exchanges.** Regulations require customer identification procedures, record keeping, written internal controls, appointment of a responsible official for AML/CFT compliance, training, and reporting of unusual and suspicious transactions. CDD is mandatory for transactions of EUR15,000 or more, including identification of beneficial owner. In 2005, 1,488 reports were filed with the Control Service, almost all based on the mandatory requirement to report transactions of EUR15,000 or more. The BoL conducts off-site monitoring and on-site examination of currency exchanges based on documented procedures. Its techniques include controlled purchases to verify that unusual or suspicious transactions are being monitored.

The BoL Regulation and Recommendation

66. In accordance with Article 11 of the Law on the BoL and Article 32 of the Law on Entrepreneurship, **the BoL is the competent authority to license and supervise the exchange activities (operated outside the banking sector) by the bureaux de change.** In September 2004, the BoL issued its Regulation for the Purchase and Selling Cash Foreign Currencies that outlines the licensing procedures for the selling of currencies. The Regulation was subsequently updated and reissued in March 2006. The new version came into force on April 1, 2006. The Regulation was issued in accordance with the requirements set out in the AML Law and the Law on the BoL, as well as other relevant laws. Failure to comply with the requirements set out in the Regulation and the AML Law may be sanctioned, and failures have been sanctioned by the BoL on the basis of Articles 10 and 11 of the Law on the BoL and Chapter 4 of the Regulation. For the purpose of this assessment, the assessors considered that the Regulation constituted other enforceable means, as defined in the FATF Glossary.

67. **In November 2004, the BoL issued Recommendations** to Business Ventures (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for developing an Internal Control System for the Prevention of Laundering of Proceeds Derived from Crime and Financing of Terrorists. These Recommendations provide the bureaux de change with further guidance on how best to comply with the requirements set out in the AML Law. As the Recommendations contain essentially nonbinding guidance, the assessors

considered that, for the purpose of this assessment, they did not constitute other enforceable means, as defined in the FATF Glossary.

DNFBPs

68. The tables that follow summarize the AML/CFT framework for DNFBPs in Latvia and provide some of the key characteristics of each of the DNFBP sectors and activities.

Table 1. AML/CFT Framework for Latvian DNFBPs

Sector	Applicable AML/CFT Requirements					Supervised for AML/CFT (yes/no) Supervisor	Guidance Issued
	Covered by Legislation (Law)	*CDD (yes/no)*	*Record Keeping (yes/no)*	*Compliance Program (yes/no)*	*STR Reporting*		
Lawyers	Yes AML Law	Yes	Yes	Yes	Yes	No	Yes
Notaries	Yes AML Law	Yes	Yes	Yes	Yes	No but oversight regional courts	Yes (for STR reporting only)
Auditors	Sworn Auditors Only, AML Law	Yes	Yes	Yes	Yes	No, but oversight by Sworn Audit Assn	Yes
Accountants	No	No	No	No	No	No	No
Tax Advisors	Yes AML Law	Yes	Yes	Yes	Yes	No	No
Trust and Company Service Providers	Not a distinct profession	n/a	n/a	n/a	n/a	n/a	n/a
Casinos	Yes AML Law	Yes	Yes	Yes	Yes	Yes	Yes
Dealers in Precious Metals and Stones	Yes AML Law	Yes	Yes	Yes	Yes	Yes	Yes
Antique Dealers	Yes AML Law	Yes	Yes	Yes	Yes	No	No
Automobile Dealers	Yes AML Law	Yes	Yes	Yes	Yes	No	Yes
Real Estate Agents	Yes AML/Law	Yes	Yes	Yes	Yes	No	Yes

Table 2. Characteristics of Latvian DNFBPs

Sector	Size and Scope of Sector	Activity Licensed or Registered	Distinctive Financial Practices or Transactions
Sworn Advocates	903 members of Sworn Advocates Assn.	Yes; Licensed Sworn Advocates Assn	Only sworn advocates may represent clients in criminal matters. May provide broad range of business legal services
Lawyers	An unknown number of independent professionals with legal training provide legal services in noncriminal matters	No	No formal requirements govern the activities of nonsworn advocate lawyers. Broad range of business and financial services are provided by lawyers.
Notaries	117 Notaries, organized under Sworn Notaries Council	Yes; Regulated by Min Justice and overseen by Sworn Notaries Council	Authenticate signatures; draw up Notarial Acts. Legal advice limited mainly to real estate transactions, family rights, and inheritance; not active in company formation; may hold client funds.
Sworn Auditors	157 sworn auditors; 124 sworn auditor companies.	Yes; licensed by Assn. of Certified Auditors	Only sworn auditors certify financial statements.
Accountants	Unknown number of independent professionals provide accounting services	No	No formal requirements govern activities of independent accountants. Offer broad range of business consultant services.
Tax Advisors	Not a distinct profession. A private Latvian Association of Tax Advisors includes 100 professionals. An unknown number of independent professionals also offer tax advice.	No	No formal requirements govern activities of tax advisors.
Trust and Company Service Providers	Not a distinct profession. Services providers include sworn advocates, independent lawyers, sworn auditors, accountants and notaries.	n/a	n/a

Casinos	19 licensed gaming operators, with 14 casinos operated by 8 companies.	Yes, by Lotteries and Gambling Supervisory Inspection	Financial transactions limited, no accounts, no credit. Controlled bank transfers allowed for large payouts.
Dealers in Precious Metals and Stones	400 registered to deal in precious metals and stones, with 1,000 places of business. Some nonregistered casual business.	Yes; by State Assay Supervision Inspection	Market limited, few high value transactions.
Antique Dealers	Undetermined number of antique dealers.	No	Market small and items traded typically are of low to moderate value. Controls on export of items of cultural heritage value,
Automobile Dealers	Approximately 42 new car dealers organized under Car Dealers Assn. Undetermined number of used car dealers	No	75 percent of new cars sold under leases provided by banks. Cash payment for new cars is exceptional.
Real Estate Agents	Two significant associations. Latvian Real Estate Dealers Assn (300 members) includes largest companies and most active agents. NIMA (Real Estate Brokers and Agents Corp) 140 membership comprises smaller offices. Unaffiliated and informal agents reportedly account for up to half of all transactions.	No	No formal requirements govern activities of real estate dealers. Dealers are not customarily involved in settlement of transactions and do not hold client funds. Lower valued transactions may be settled in cash but this practice reported to be declining.

AML/CFT preventive measures requirements for DNFBPs

69. **Most DNFBPs are within the scope of the AML Law**, Articles 2, (2) and (4) (b-e)) of which extends preventive measures requirements (CDD, record keeping, internal controls, suspicious transactions reporting) to natural persons and legal persons who perform professional activities associated with financial transactions (provision of consultations, authorization of transactions). Five categories of DNFBPs are specifically identified under the law: (1) organizers and holders of lottery and gambling; (2) tax consultants, sworn auditors, sworn auditor companies, providers of financial services, who are covered "except in cases which are associated with the pre-trial investigation professional activities thereof or

within the scope of court proceedings; (3) notaries, advocates and their employees and self-employed lawyers, who are covered "if they assist their client to plan the management of financial instruments and other resources, the opening or management of various types of accounts, the organization of the necessary investments for the creation, operation and management of entrepreneurs and similar structures, as well as if they represent their client or act on his or her behalf in financial transactions or transactions with immovable property, except in the cases which are associated with the fulfillment of the defense or representation function in court proceedings;" (4) "persons whose professional activity includes trading in immovable property, means of transport, art and cultural objects, as well as intermediation in the referred-to trading transactions"; and (5) "performers of economic activities who are engaged in the trading of precious metals, precious stones and the articles thereof."

70. **With two exceptions, all the major categories of DNFBPs identified in the FATF Recommendations are subject to preventive measures requirements.** Independent accountants who are not also sworn auditors are not covered by the AML Law. Trust and company service providers are not a distinct profession in Latvia and thus are not specifically covered by the AML Law. Such services, however, are covered indirectly and partially through the regime for other DNFBP professions. In most cases, the Latvian requirements apply to a narrower scope of activities than called for in the FATF recommendations. For example, the AML Law only requires identification when DNFBPs open accounts or accept financial instruments for safe keeping, or when conducting financial transactions of EUR15,000 or more. FATF Recommendation 12 does not link the CDD requirement for DNFBPs to the opening of accounts or acceptance of financial instruments for safe keeping, which activities, in any case, are not the primary activities of most DNFBPs. Furthermore, Recommendation 12 generally calls for real estate dealers, lawyers, notaries, and other independent legal professionals to carry out CDD whenever they prepare for or carry out certain transactions, regardless of the size of the transaction. The Latvian requirement to report suspicious transactions, however, is in some aspects broader than called for under FATF Recommendations. Under the AML Law the reporting obligations of lawyers, notaries, other independent legal professionals, and sworn auditors apply when they assist in the planning of financial transactions and are not restricted to circumstances in which they "engage in a financial transaction" "for or on behalf of a client." Also, for casinos and dealers in antiques and precious metals and stones, the AML Law does not establish any minimum cash transaction thresholds that trigger preventive measures requirements. However, as these DNFBPs do not as a rule open accounts or accept financial instruments for safe keeping, preventive measures apply only when they are conducting financial transactions of EUR15,000 or more.

Structure and organization of DNFBP activities

71. **The structure, organization and business practices of designated businesses and professions vary considerably across sectors.** Some sectors are subject to professional licensing or registration; several are not. Where licensing is required, it may apply to only a subsection of a profession. In the case of lawyers, for example, membership in the bar is limited to sworn advocates, i.e., those who have been licensed to represent clients in criminal

matters. No formal authorization is required to advise or represent clients in civil matters and, in practice, a variety of financial and business services are provided by numerous professionals who have legal training but who are not sworn advocates. Similarly, sworn auditors are those accounting professionals who are authorized to certify financial statements and are members of the Association of Certified Auditors. However, independent accountants who are not sworn auditors are active in providing a broad range of accounting, financial, and business services. There are no formal requirements governing the provision of tax advice, although a private Association of Tax Advisors has been organized to establish professional standards, practices, and qualifications. The number and range of services provided by independent legal and accounting professionals is not well documented.

72. **The real estate brokerage sector is highly fragmented.** Several associations of real estate dealers have been formed, with some attempt to introduce conduct of business standards. Of these, the Latvian Real Estate Dealers association includes the largest companies and most active agents. Still, market participants state that more than half of all real estate transactions, particular lower-valued transactions, take place on a private basis with no involvement of a professional real estate broker. The extent to which real estate transactions are settled in cash is unclear but market participants state that this practice is declining, in part because mortgage financing on favorable terms has become readily available. Real estate dealers offer assistance in listing a property and in mediating the buying and selling of property but they are not, as a rule, involved in the contract between buyer and seller, nor do they hold client funds or handle settlement and registration procedures. Transfer and registration of property may be handled privately, or arranged by a notary, or by a lawyer or other legal professional. Property registration requires that the signatures on a purchase/sale agreement be authenticated by a Sworn Notary. While property transfers incur various fees, there is no property tax in Latvia nor is there a capital gains tax.

73. **Dealers in precious metals and stones are required to be registered with the State Assay Supervisory Inspectorate** and the preponderance of dealers appears to have been registered. The Latvian market in precious metals and stones is not highly developed and most transactions appear to be for relatively low or moderate value. The market in antiques is likewise understood to be relatively small although there are no formal procedures for registering or identifying participants in the market. Tight controls on exports of items of cultural significance provide a channel for monitoring some activity in the antiques market.

74. **The automobile sector is highly fragmented and there are no formal requirements governing the activities of car dealers.** Most new car dealers are organized into a trade association, the Car Dealers Association, which promotes the interests of the membership. Used car dealers are less organized and business is frequently conducted on a casual basis. Approximately 70 percent of all new cars are sold to companies, and perhaps 75 percent of all new car sales are sold under leases provided directly by banks. Purchases of new cars with cash are understood to be the exception but this practice appears to be more prevalent for used car purchases.

75. **The gaming sector in Latvia is well developed and subject to a comprehensive regime of licensing and supervision.** Gross annual gaming revenue in 2005 reached EUR145 million, two thirds of which was accounted for by slot machines. Casino table games accounted for approximately 10 percent of total turnover.

Money Laundering Vulnerabilities of DNFBPs

76. Discussions with law enforcement agencies indicate that real estate dealings and misuse of corporate vehicles are two significant areas of money laundering concern which employ the services of DNFBPs.

Systems for monitoring and ensuring compliance with AML/CFT requirements

77. **The AML/CFT regime for DNFBPs is relatively new and systems for monitoring and ensuring compliance are not yet well developed.** For two sectors—casinos and dealers in precious metals and stones—governmental agencies have been assigned oversight responsibility and have established systematic oversight arrangements. For the other DNFBP sectors, to date, Latvia has pursued a strategy of relying primarily on SROs or other professional organizations to monitor and ensure compliance with AML/CFT requirements. Effective implementation has been handicapped by a number of structural weaknesses.

78. *Lack of legal authority.* **Both the Sworn Advocates Council and the Sworn Auditors Council are established under legislation which gives them authority to oversee and discipline their members within their respective areas of competence.** Neither has been specifically authorized to act as a supervisory and control authority for compliance with the AML Law. The Sworn Auditors Council has established an organized program of AML/CFT compliance monitoring, including onsite examinations. The Sworn Advocates, on the other hand, do not have a tradition of routine oversight of their members and have declined to take up this function for AML/CFT purposes, in part because of limited resources. In the case of trade associations, such as the associations of real estate dealers and car dealers, the associations have no legal authority to monitor the activities of members. In other cases, such as for tax advisers and antique dealers, professional associations are not well organized.

79. *Lack of comprehensive membership.* **Established SROs and professional organizations do not comprehensively cover the professions and businesses that are subject to AML/CFT preventive measures requirements.** For example, independent lawyers who are not sworn advocates are not required to be members of any professional association. Similarly, independent accountants who are not sworn auditors need not be members of any professional association, and the same is true for tax advisors. Participation in trade associations such as the real estate dealers associations and the car dealers association is voluntary, so the membership in these groups does not encompass all persons engaging in the covered activities.

80. **Notwithstanding the weaknesses in the oversight framework, the authorities have undertaken awareness-raising campaigns to foster voluntary compliance by all**

DNFBPs. The Control Service has held meetings and organized seminars with all the representative SROs and professional and trade associations. Each of the groups has issued guidance to its members explaining their obligations under the AML Law and outlining the procedures needed to achieve compliance. While these issuances are characterized as "regulations", they are only advisory since the issuing organizations do not have authority to issue enforceable AML/CFT requirements. All DNFBPs visited by the assessment team were familiar with their responsibilities under the AML Law.

81. **To strengthen the oversight regime for DNFBPs, on March 14, 2006 the Prime Minister issued an Order establishing a Working Group to draft legislation** to ensure designated nonfinancial business and professions are subject to effective systems for monitoring and ensuring their compliance with requirements to combat money laundering and terrorist financing. Draft legislation was due to be submitted by June 1, 2006.

Overview of commercial laws and mechanisms governing legal persons and arrangements

82. **The Commercial Law and the Law of Associations govern the activities of the legal persons and arrangements in Latvia.** The legal persons and legal arrangements that can be established or registered in Latvia: a company, a partnership, a sole proprietorship, a cooperative society, a political organization, a trade union, a foundation, an association, a farmstead, a fishing farm, a European commercial company, a European economic interest group, a branch of a foreign merchant, and a representative office of a foreign organization are all subject to registration under these laws. Legal persons who undertake commercial activities are subject to registration under the Commercial Law while the Law of associations and foundations prescribes the registration requirements of associations and foundations. All these entities are registered with the Register of Enterprises. Those undertaking commercial activities are registered in the Commercial Register, while associations are registered in the Register of Associations. All the entities except a branch of a foreign merchant and a representative office of a foreign organization acquire the status of a legal person upon registration with the Registry of Enterprises and can own property. These laws prescribe what is required to be submitted for the registration process, which include at a minimum the founding documents and information on the founders of these entities. There is no requirement to disclose beneficial ownership information to the Register of Enterprises.

83. **A trust as a legal arrangement is not recognized in the Latvian legal system.** The term "trust" nevertheless appears in the Latvian legislation, but it refers to fiduciary relationships and not to the legal arrangement as understood in Common Law systems. The private sector and the authorities further informed the assessors that they were not aware of any trusts being created or established in Latvia under foreign legislation or of any foreign trust being otherwise handled in Latvia. The credit and financial institutions met confirmed that they do not hold accounts for foreign trusts.

Overview of strategies to prevent ML and TF

84. **The Latvian authorities have pursued an active strategy, particularly over the past three years, to achieve compliance with international standards on AML/CFT.** This work has been guided by the FATF Recommendations, the ongoing need to transpose the EU Third Directive on AML/CFT, and the recommendations of the report of the second MONEYVAL mutual evaluation of Latvia, which was completed in 2004.

85. **Latvia's AML/CFT strategy is coordinated at the highest level.** The main responsibility for the coordination of Latvia's AML/CFT efforts is with the AML Council. The membership of the AML Council includes the Prime Minister, Minister of Justice, Minister of Interior, Chairman of the Supreme Court, Prosecutor General, President of the Bank of Latvia, and the Chairman of the FCMC. The AML Council is also responsible for the development of legislation in Latvia addressing AML/CFT issues. The AML Council is particularly concerned with addressing Latvia's international obligations with respect to AML/CFT issues. The fact that the Prime Minister chairs the AML Council is an indication of the political will of the authorities and how seriously the issue of AML/CFT is being taken in Latvia.

86. **The AML/CFT legal framework has been strengthened and expanded over the last two years, albeit in a piecemeal fashion.** While the strategy has been to respond to criticism by amending the legislative framework as quickly as possible, the assessment concludes that there is a need for a more holistic approach at this stage to ensure that, in dealing with the further legislative amendments being recommended, the opportunity is taken to clarify and consolidate existing provisions, to ensure that the overall framework is coherent.

87. **Improving the effectiveness of implementation continues to be another key focus of the AML/CFT strategy in Latvia.** This has been evident in the work of the authorities, and in particular the FCMC, in devoting substantial resources to AML/CFT inspection work and applying a range of sanctions. The private sector, particularly the banks, has also made an important contribution to the implementation of the AML/CFT strategy, through issuing their own industry guidance and acting collectively to improve standards of compliance.

88. **Further action is being taken with regard to DNFBPs**, for which the current strategy is to draft legislation to ensure that they are made subject to effective systems for monitoring and ensuring their compliance with AML/CFT requirements. As noted above, the Prime Minister issued an Order establishing a Working Group to draft such legislation by June 2006.

Approach concerning risk

89. **Latvia has not adopted an overall risk-based approach to the application of AML/CFT requirements**, though the FCMC Regulation includes some references to high-

risk customers. In practice, risk characteristics are taken into account in determining the depth and frequency of supervisory attention given to individual financial institutions.

90. **The Latvian AML Law does not provide as such for the application of reduced AML/CFT measures to low-risk categories of business.** However, the AML Law has gone further in certain cases by providing for complete exemption from AML/CFT requirements of specified categories of business or client (e.g., business conducted with credit or financial institutions in Latvia or in a country which complies with the normative acts of the European Union, business with correspondent banks from OECD countries, and business with states or municipalities, etc.). This approach and its implications for the assessment and ratings are described in more detail in this report in the analysis of the appropriate FATF Recommendations.

Progress since the last MONEYVAL mutual evaluation

91. **The second mutual evaluation of Latvia was completed by MONEYVAL in May 2004. Since then, Latvia has taken considerable action to upgrade its AML/CFT legal framework** both overall and in the banking sector, which was recognized in the MONEYVAL report as a primary vulnerability for money laundering.

92. **The authorities have been successful in addressing several of the MONEYVAL recommendations** and in particular the following:

- The evaluators recommended enacting a legal basis for criminal liability of legal persons:

  The Criminal Procedure Law has subsequently been amended with a view to introducing the possibility to hold legal persons responsible for both money laundering and terrorist financing, as described under Recommendation 2 and Special Recommendations II.

- The evaluators highlighted a number of shortcomings in the Latvian confiscation and provisional measures regime, most of which had already been identified in the first mutual evaluation that took place in 2001. They therefore reiterated the recommendation that the Latvian authorities should carefully and with urgency revisit the confiscation regime, including the issue of the reversal of the burden of proof (post conviction) when establishing what property was unlawfully obtained in some serious proceeds-generating offences and enhance the provisional measures regime:

  The provisional measures have been greatly expanded by the latest amendments to the Criminal Procedure Law. The confiscation regime is now also more comprehensive and the possibility to reverse the burden of proof has been introduced, but only in limited circumstances.

93. **Other shortcomings identified in 2004 have been partially addressed:**

- The evaluators made several recommendations in respect of the preventive measures applicable to the financial sector, in particular in respect of non face-to-face identification, identification of corporate clients, identification of the beneficial owner, nominee and trust accounts, and numbered accounts:

Considerable progress has been seen, both in law and in practice, in respect of identification of the financial institutions' clients and the beneficial owner. This is the result of the strong measures that have been taken by the FCMC and of the overall awareness-raising of the risk posed by insufficient CDD in the banking sector. However, action still needs to be taken in order to implement full CDD measures, in particular in the following instances: suspicion of terrorist financing; higher-risk customers and transactions; and the legal persons that issue bearer shares. Legal measures are also still required in respect of non face-to-face business, even though the risk of misuse seems limited in practice. Contrary to the concerns of the MONEYVAL evaluators, the IMF assessors found no indication that the Latvian financial institutions currently have business relationships with foreign trusts.

94. **Other considerations and recommendations made during the 2004 mutual evaluation, however, have not yet been addressed**, such as:

- One recommendation made by the MONEYVAL evaluators was to give urgent consideration to the possibility of clarifying, if necessary by means of legislation, the evidentiary requirements for a conviction of ML. It was in particular recommended to give consideration to putting beyond doubt in legislation that a conviction for money laundering is possible in the absence of a judicial finding of guilt for the underlying offence, and that this element can be proved by circumstantial or other evidence.

- The evaluators urged the Latvian authorities to consider what regulatory and supervisory structures are required where there were no supervisory bodies (for example, some money transmission service providers and all real estate agents, and other undertakings vulnerable to money laundering).

Although steps have been taken to raise awareness amongst the DNFBPs and to engage them in the AML/CFT efforts, a lot still remains to be done and a clear supervisory structure needs to be implemented with respect to all the DNFBPs (other than casinos, where significant measures are already being taken).

- At the time of the second mutual evaluation, it was unclear what instruction had been given for international wire transfers, leading the evaluators to recommend implementing SR VII:

Other than the requirement to maintain the original information with the wire, the Latvian laws and regulation still do not specifically address wire transfers.

Table 1. Detailed Assessment

1. Legal System and Related Institutional Measures

Laws and Regulations

1.1 Criminalization of Money Laundering (R.1, 2 & 32)
Description and analysis
R. 1, 2 & 32 **1.1 Criminalization of Money Laundering** Money laundering is criminalized by Article 195 of the Criminal Law which came into force on April 30, 1998 and was amended on June, 1 2005. It provides that: (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 commission thereof is repeated, or 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 in Paragraphs one or two of this Section, 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." Article 5 of the AML Law describes the actions that constitute money laundering. The actions that are sanctioned are the conversion of financial resources or property into other valuables, by concealment or disguising of the true nature or origin, acquisition of ownership to, possession of or use of financial resources or other property. The *mens rea* of the offence is the intent to conceal or disguise the criminal origin of financial resources or other property. The inclusion of these elements meets the requirements of the Vienna and Palermo Conventions. The Latvian legislation adopts an all crimes approach. The predicate offences for money laundering are any offences under the Criminal Law. The Criminal Law is comprehensive and covers all of the required predicate crimes. **1.2 Definition of proceeds of crime** Article 4 of the AML Law defines proceeds from crime as financial resources and other property that has been directly or indirectly acquired as a result of the committing of criminal offences provided for in the Criminal Law.

(directly or indirectly) or the owner of which is a person who in connection with suspicion of committing an act of terror or participation therein is included in one of the lists of such persons compiled by a state or international organization in conformity with the criteria specified by the Cabinet of the Republic of Latvia.

In the AML Law "financial resources" are defined as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. Property is not defined in the Criminal Law or the AML Law. The Prosecutor's Office advises that they use the definition of property from the Civil Law. Articles 841–849 of the Civil Law describe property and property rights in Latvia. Property is tangible or intangible. Intangible property consists of various rights regarding obligations, insofar as such rights are constituent parts of property. Tangible property is either moveable or immovable. Tangible property is either fungible or nonfungible.

The practice in Latvia is that the owner or holder of funds must be convicted of a predicate crime before the evidence of proceeds of crime can be introduced in a money laundering case. There is an exception to this in Article 356 of the Criminal Procedure Law. This is detailed in the next section.

1.3 Predicate Crimes

Article 195 of Criminal Law has adopted an "all crimes" approach, so that all the proceeds-generating criminal offences are considered predicate offences to money laundering. The Criminal Law is extensive and covers all the categories of predicate offences referred to in Recommendation 1 and listed in the FATF Glossary.

The legislation does not specifically require the conviction for a predicate crime before there can be a conviction for a money laundering offence. However, the approach adopted by the Prosecutor's Office is that there should first be a conviction for a predicate offence before there can be a prosecution for money laundering. Such an approach limits the possibility of prosecuting of money laundering offences. Until 2005, there was only a small number of money laundering cases that have been prosecuted.

There is a limited procedure in Article 356 Section 2 Subsection 1 of the Criminal Procedure Law, under which a court can find that property is the proceeds of crime, apparently without there first being a conviction. The procedure allows that, in course of pre-trial investigation, a district (city) court upon the claim of prosecutor or investigator can acknowledge property as proceeds from crime if the owner or legal holder of property is unknown, and the prosecutor or investigator produces sufficient evidence of criminal origin of the property in question. This procedure would appear to partially address the problem of needing a prior conviction for a predicate offence before proceeding with a money laundering prosecution.

1.4 Threshold offences

See 1.3 above

1.5 Proceeds of Crime from another country

Article 5 Section 2 of AML Law provides that "the laundering of the proceeds from crime shall be deemed to be such when the criminal offence (...) has been committed outside of the territory of the Republic of Latvia". There must be criminal liability in the place where the offence was committed.

This provision would allow evidence to be admitted from another country that property is the proceeds of crime.

There must be proof that the property is the proceeds of crime. The authorities have stated that the level of proof required is that a person must be convicted of a predicate crime in the other jurisdiction before there can be a prosecution for a money laundering offence in Latvia. The exception to this is where the procedure under Article 356 of the Criminal Procedure Law is used, where the owner or legal holder of property is unknown.

1.6 Self-laundering

Article 195 of the Criminal Law does not prevent a prosecution for self-laundering. This seems to be limited by the requirement to have a conviction for the predicate offence before there is a prosecution for money laundering.

1.7 Ancillary Offences

Articles 15 to 22 of the Criminal Law criminalize the ancillary offences. These ancillary offences are applicable to money laundering offences under Article 195 of the Criminal Law.

Article 15 of the Criminal Law provides for Completed and Uncompleted Criminal Offences. This provides that a criminal offence shall be considered completed if it has all the constituent elements of a criminal offence set out in the Criminal Law. This includes Preparation for a crime and an attempted crime. It also includes the locating of, or adaptation of, means or tools, or the intentional creation of circumstances conducive for the commission of an intentional offence. It shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. Criminal liability results only for preparation for serious or especially serious crimes.

The article provides that liability for preparation for a crime or an attempted crime apply in accordance with the same Section of this Law as sets out liability for a specific offence.

Article 17 of the Criminal Law applies to the Perpetrator of a Criminal Offence and provides that a person, who himself or herself has directly committed a criminal offence or, in the commission of such, has employed another person who, in accordance with the provisions of this Law, may not be held criminally liable, shall be considered the perpetrator of a criminal offence.

Article 18 of the Criminal Law deals with The Participation of Several Persons in a Criminal Offence and provides that the participation by two or more persons knowingly in joint commission of an intentional criminal offence is participation or joint participation.

Article 19 of the Criminal Law deals with participation and provides that criminal acts committed knowingly by which two or more persons (i.e., a group) jointly, knowing such, have directly committed an intentional criminal offence shall be considered to be participation (joint commission). Each of such persons is a participant (joint perpetrator) in the criminal offence.

Article 20 of the Criminal Law deals with Joint Participation and an act or failure to act committed knowingly, by which a person (joint participant) has jointly with another person (perpetrator), participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it. Organizers, instigators and accessories are joint participants in a

criminal offence. A person who has organized or directed the commission of a criminal offence shall be considered to be an organizer. A person who has induced another person to commit a criminal offence shall be considered to be an instigator.

A person who knowingly has promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instruments or means for committing the criminal offence, evidence of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to sell these objects shall be considered to be an accessory.

A joint participant shall be held liable in accordance with the same section of this Law as that in which the liability of the perpetrator is set out.

Article 21 of the Criminal Law deals with Organized Groups. An organized group is an association formed by more than two persons, which has been created for purposes of jointly committing criminal offences or serious or especially serious crimes and whose participants in accordance with previous agreement have divided responsibilities.

Liability of a person for the commission of an offence within an organized group shall apply in the cases set forth in this Law for formation and leadership of a group, and for participation in preparation for a serious or especially serious crime or in commission of a criminal offence, irrespective of the role of the person in the jointly committed offence. This came into force on April 25, 2002.

2.1 Natural persons knowingly engaging in ML activity

Article 195 of the Criminal Law provides for the offence of money laundering and it applies to a "person" only (see 1.1 above).

2.2 Intentional element from objective factual circumstances

The intentional element of the money laundering offence that has to be proved is knowledge. Article 8(2) of the Criminal Law provides that in determining the form of guilt of a person who as committed a criminal offence, the mental state of the person in relation to the objective elements of the criminal offence must be established.

Article 129 of the Criminal Procedure Law also provides rules for the relevance of evidence. It states that evidence is relevant to the specific criminal process if the information about facts directly or indirectly proves the existence or nonexistence of the circumstances in the criminal process or other evidence credibility or noncredibility, its usage possibility or impossibility.

The authorities stated that circumstantial evidence is a rule of evidence that is used in proving criminal cases and that money laundering offences are no exception. Therefore the mental element can be proved by objective factual circumstances.

2.3 Criminal liability extending to legal persons

Chapter VIII[1] of the Criminal Law provides for specific coercive measures (liquidation, limitation of rights, and confiscation of property, monetary levies, and compensation for harm caused) that can be

imposed on legal persons convicted of money laundering. Chapter VIII[1] was enacted on May 5, 2005.

Article12 of the Criminal Law provides for liability of a natural person who commits an offence as the representative or at the instruction or while in the service of the legal person.

2.4 Administrative and civil sanctions

Latvian legislation does not provide for administrative or civil sanctions for ML.

2.5 Sanctions

Criminal liability for a natural person:
The sanctions for the money laundering offences are in the Criminal Law Article 195 and an amendment which was entered into force on June 1, 2005. The sentence for basic money laundering is deprivation of liberty for a term not exceeding three years or a fine not exceeding one hundred times the minimum monthly wage. The minimum monthly wage is currently LVL90 or approximately EUR130. The sentence can be imposed with or without confiscation of property. If the offence is repeated or committed by a group of persons by prior agreement the term of imprisonment becomes a term not less than three years and not exceeding eight years, with confiscation of property. If the offence is committed on a large scale or by an organized group the sentence is deprivation of liberty for a term not less than five and not exceeding twelve years, with confiscation of property.

Corporate criminal liability is covered by Articles 70^1 – 70^8 of the Criminal Law.

For legal persons, who are not public law legal persons, the coercive measures provided for in Chapter VIII[1] of this Law may be applied.

Article 70^1 provides the Basis for the Application of Coercive Measures to Legal Persons if the criminal offence has been committed in the interests of the legal person by a natural person in conformity with the provisions of Article 12, Section 1 of this Law.

Article 70^2 provides the Types of Coercive Measures Applicable to Legal Persons:

- liquidation;
- limitation of rights;
- confiscation of property; or
- monetary levy.

The following additional coercive measures may be specified:

- confiscation of property; and
- compensation for harm caused.

R. 32

The Prosecutor's Office submits data related to investigations relating to all the types of crime, including ML, to the Information Centre of the Ministry of Interior on the following:

- criminal cases initiated;
- location of commission and short description of offence;

- main peculiarities of commission methods;
- data on and number of persons under investigation or prosecution;
- criminal qualification of offences, value of property seized or/and confiscated; and
- number of prosecutions and persons submitted to court.

Statistics on ML cases were as follows:

- In 2002, there were three criminal cases initiated concerning money laundering in which three persons were charged in ML and two convicted (one case is still in a court);
- In 2003, there were three criminal cases initiated concerning money laundering in which four persons were charged in ML. One case is in a court and two are still in Public Prosecutor's Office because of the international search of accused persons;
- In 2004, there were 10 criminal cases initiated concerning money laundering in which 4 persons were charged in ML and one person convicted. Six cases are in the Police; three in Public Prosecutor's Office and are prepared for sending to court; and
- In the first nine months of 2005, there were 22 criminal cases initiated concerning money laundering, 14 persons were charged with ML, 21 cases are with the Police. By the end of 2005, there had been 10 prosecutions for money laundering with five people convicted.

There has been a significant increase in numbers of investigations started in the year 2005 due to the enactment of the Criminal Procedure Law on October 1, 2005.

Year	**Reports from FIU received by Prosecutor's Office:**	**FIU files passed for investigation:**		**Investigations started:**
		Institution	**Number**	
2002	67	Finance Police	49	
		Economic Police	13	
		Organized Crime Combating Department	2	
		Security Police	3	
2003	87	Finance Police	67	9
		Economic Police	14	
		Organized Crime Combating Department	2	
		Corruption Prevention and Combating Bureau	4	
2004	110	Finance Police	80	10
		Economic Police	25	
		Organized Crime Combating Department	1	
		Corruption Prevention and Combating Bureau	3	
		Security Police	1	

2005	155		Finance Police	108	66
			Economic Police	38	
			Organized Crime Combating Department	2	
			Corruption Prevention and Combating Bureau	7	

Analysis

There has been a steady growth in the number of prosecutions for money laundering offences in Latvia. This has risen to 76 cases being investigated in 2005 resulting in 10 people going to trial, of which six were convicted. The Prosecutor's Office has increased the number of prosecutions and this progress is acknowledged.

There is one major problem that needs to be addressed to enable full effectiveness of the money laundering prosecutions, that is the understanding of the judiciary and the Prosecutor's Office that there needs to be a conviction for a predicate offence before there can be a conviction for money laundering. This is not explicit in the legislation and appears to be the authorities' understanding of the law. This issue needs to be resolved as it severely restricts the number of effective cases that can be bought before the courts.

Recommendations and comments

Recommendation

- Take appropriate measures to ensure that prosecutions can be commenced without the need for a conviction of a predicate offence.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.1	LC	The effectiveness of the money laundering offence is limited by the practice in the courts and adopted by the prosecutor's office according to which there needs to be a conviction for a predicate offence before a money laundering charge. This practice also applies to predicate offences committed abroad.
R.2	C	
R.32	LC	(Composite rating)

1.2 Criminalization of terrorist financing (SR.II & R. 32)

Description and analysis

Overview

Article 88[1] of the Criminal Law provides for the offence of the financing of terrorism. This came into force in April 2005.

The Article provides that for a person who, directly or indirectly, performs (a) fund raising or (b) transfer of financial resources obtained in any way for the purpose of (i) utilizing such funds or financial resources, or knowing that they will be used in full or partially in order to commit one or a number of terrorist acts, or in order; or (ii) transferring them to a terrorist organization or an individual

terrorist at their disposal (for financing of terrorism).

Article 88 of the Criminal Law was amended on December 8, 2005 to include a comprehensive list of criminal activities that would constitute terrorism for the purposes of the financing of terrorism. This provision applies to activities carried out by individuals terrorists as well as by terrorist groups (group of persons acting on the basis of a prior agreement).

The terrorism offence covers activities committed with a purpose of intimidating the population or forcing the country, its institutions, or international organizations to undertake certain activities or refrain from them, or to inflict damage upon the interests of the state, an organization of its inhabitants, or an international organization.

The activities that constitute terrorism are listed as: bombing; arson; manufacturing, storing, using, dissemination, scientific research or development of nuclear weapons, chemical, bacteriological, toxic or other mass destruction weapons; kidnapping of a person; capture of hostages; illicit manufacturing, repairs, purchase, storage, carrying, transportation, forwarding, selling, application of firearms, firearm ammunition, pneumatic arms of large capacity, explosives or explosive launching equipment; capture or hijacking of air, land or water means of transport; deliberate activity aimed at extermination of people, infliction of bodily harm or some other harm to human health; destruction or damaging of enterprises, buildings, oil platforms located on continental shelf, oil or gas pipelines, electric lines, roads or vehicles, electronic communication networks, ionizing radiation facilities of national importance; causing of nuclear or radiation accidents; mass-scale poisoning; spreading of epidemics and epizootic; threats to carry out the activities listed in the above points if there are grounds to consider that the threat can be carried out.

Definition of funds
The offence refers to the raising and transfer of "financial resources". The AML Law defines financial resources as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. This definition does not fully comply with the Terrorist Financing Convention because it does not cover legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.

Link to a terrorist act
Article 88^1 does not require that the funds were actually used to carry out or attempt to carry out a terrorist act or be linked to a specific terrorist act. It extends to all transfers of funds to a terrorist organization or an individual terrorist at its disposal.

Attempt
Article 15 of the Criminal Law criminalizes the attempt of an offence and as such would capture an attempt to carry out the financing of terrorism financing.

Ancillary offenses
Articles 17–20 of the Criminal Law provide for ancillary offences of perpetration, participation and joint participation. Article 21 provides for the organized groups. The authorities rely on this for defining a terrorist organization.

Predicate offense for ML
As there is an all-crimes approach to money laundering in Latvia, terrorist financing as a crime under the Criminal Law is a predicate offence for money laundering.

Extraterritoriality of the terrorist offense.
Article 2 of the Criminal Law provides that liability of a person who has committed a criminal offence in the territory of Latvia shall be determined in accordance with this Law.

If the act of financing of terrorism was committed in Latvia, this provision would enable a prosecution for the financing of terrorism to be executed in Latvia notwithstanding that the act of terrorism, the terrorist, or terrorist organization were outside of the jurisdiction of Latvia.

Other elements: Intentional Element
Circumstantial evidence is admissible to prove intent by surrounding factual circumstances. See the reference to this in Recommendation 1 and 2 above.

Liability of Legal Persons
Articles 70.1 to 70.8 of the Criminal Law provide for liability of legal persons and sanctions as described under Recommendation 2 above.

Sanctions
Article 88.1 of the Criminal Law provides that the applicable sentence for terrorist financing is life imprisonment or deprivation of liberty for a term of not less than eight and not exceeding twenty years, with confiscation of property. If the offense was committed by a group of persons pursuant to previous agreement or is committed on a large scale, the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than fifteen and not exceeding twenty years, with confiscation of property.

For heading a terrorist group, the penalty is life imprisonment or imprisonment from fifteen to twenty years, with confiscation of property.

Implementation
To date there have been no prosecutions for the financing of terrorism. The only suspected terrorist incident in Latvia to date has been the bombing of a supermarket. When investigated, this was found to be a local incident that did not involve financing.

Analysis
The terrorist financing offence needs to be amended so that it fully covers all elements under the Terrorist Financing Convention. Whilst most of what is required under the Convention is covered in the legislation, some elements have yet to be included. In particular, the definition of financial resources should be amended to include all forms of "funds" as defined in the Terrorist Financing Convention.

Recommendations and comments

Recommendation

- Define "financial resources" in accordance with the Terrorist Financing Convention

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
SR.II	PC	"Financial resources" has not been defined in accordance with the Terrorist Financing Convention.

		Effectiveness could not be assessed as there has not been any prosecution for terrorism financing.
R.32	LC	(Composite rating)

1.3 Confiscation, freezing and seizing of proceeds of crime (R.3 & 32)

Description and analysis

Confiscation framework

There are a number of measures in the Latvian legislation that provide for the confiscation of property after conviction. Article 42 of the Criminal Law establishes the confiscation of property upon conviction. This is a compulsory transfer to State ownership without compensation of property owned by a convicted person or parts of such. The confiscation of property may be determined only in cases provided for in the Special Part of the Law, this includes terrorist financing under Article 88.1 and money laundering under Article 195.

Property owned by a convicted person that has transferred to another natural or legal person may also be confiscated. Property which is indispensable to the convicted person or his dependents may not be confiscated. The schedule to the Criminal Procedure Law lists the property that is indispensable and not subject to seizure:

- Home furnishings, household items and clothing necessary for the defendant, his family and dependents;
- Groceries, which are necessary for the subsistence of the defendant and his family;
- Money, the sum of which is not to exceed the state's determination of one month's subsistence minimum for the defendant and each member of his family;
- Fuel as necessary for cooking food for the family and heating the home;
- Machinery and equipment, necessary for the defendant to operate his business or exercise his profession, unless the business is adjudicated bankrupt or the defendant is barred by court order stemming from a criminal charge from exercising certain occupations; and
- For people whose occupation is farming: one cow, heifer, goat, sheep, pig, domestic fowl and small livestock, feed for the above livestock until new feed is harvested or the livestock is put out to pasture, as well as seed and planting material.

Article 358 of the Criminal Procedure Law provides that property obtained by unlawful means shall be seized (confiscated) by court ruling and credited to the state budget. This is when the property is no longer required for the purposes of the criminal procedure. Article 358(2) provides that in cases where it is impossible to seize property obtained by unlawful means other property, including funds, to the amount of the value of the property may be liable to seizure or recovery. This Article applies to a conviction for a criminal offence. This provision allows for substitute assets to be confiscated in place of those that could not be seized.

Article 42 of the Criminal Law does provide for the confiscation of property that has been transferred to another natural or legal person.

Article 240(2) provides for the confiscation of the instrumentalities of the criminal offence and 240(3) provides for the confiscation of illegally obtained valuables, objects and documents.

Article 240(2) provides for confiscation of instrumentalities, but does not specifically provide for the confiscation of property intended for use in a criminal offence.

Property derived indirectly from proceeds of crime

Article 355 of the Criminal Procedure Law defines "illegally gained assets" as any asset that comes into ownership or holding of a person as a result of a criminal activity. Illegally gained assets can be made the subject of confiscation under Article 358 of the Criminal Procedure Law.

This provision would not include income or profits from proceeds of crime as these would not be as a result of a criminal activity.

There is no definition of assets in the Criminal Procedure Law.

Article 4 of the AML Law defines proceeds of crime as financial resources and other property, which are controlled (directly or indirectly) by the defendant. Financial resources are defined in Article 1(3) of the AML Law as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments.

Property is not defined in the AML Law, the Criminal Law or the Criminal Procedure Law. The definition of property used by the authorities is that found in the Civil Law which is discussed earlier in the report.

The authorities advise that they have been able to ask for the confiscation of assets that are obtained indirectly from the commission of an offence. They have cited at least one case in which the profits obtained indirectly from the commission of an offence by way of investments were the subject of confiscation.

It would be preferable to amend the legislation to avoid any challenges in future that property acquired was not directly as a result of the offence.

Property held by a third party

Article 42(1) of the Criminal Law provides for the confiscation of property owned by the convicted person that has been transferred to another natural or legal person.

Article 360 of the Criminal Procedure Law provides that where property obtained by unlawful means is found with a third person, the property shall be returned to its owner or lawful possessor.

Provisional measures

Article 179 to 185 of the Criminal Procedure Law deals with searches for property as a coercive measure.

Article 186-192 of the Criminal Procedure Law provides that seizure during an investigation.

Article 361 of the Criminal Procedure Law provides for the seizing of property and includes illegally acquired property related to criminal procedure. The law provides that during the pre trial process the decision to seize property will be that of the police officer. During the pre-trial stage it will be the decision of the court to freeze the property. The decision to seize property will be that of the police officer and the court will then determine if the property should remain seized. This effectively provides for the seizing and freezing of property at an early stage of an investigation and during the pre-trial process.

Article 358 of the Criminal Procedure Law provides that where the accused has no property that might be liable to seizure the following property may be seized:

- Property given by the accused to a third person after committing the criminal offence;
- Property of the spouse, unless separated three years before the offence was committed;
- Property of another person where the accused has joint property with that person.

Ex parte applications

Article 361(4) of Criminal Procedure Law provides that in urgent cases property can be seized with the prosecutor's consent. The person performing the procedure must, at the latest on the next business day, submit a protocol justifying the necessity and urgency of the seizure. Article 362 provides that the protocol must be in writing and must fully describe all of the items seized.

Article 365(1) provides that seized property can be left in possession of its owner or user or his family members, but cannot be left in the possession of the suspect or the accused.

Legal Powers of Authorities to Identify and Seize Assets

Documents can be required to be produced at the pre-trial stage under Article 121(3) (5) of the Criminal Procedure Law; this requires the Investigative judge's approval and will allow for confidential information and documents from a financial institution to be produced

Rights of Bona fide Third Parties

Article 360 of the Criminal Procedure Law provides that where property obtained by unlawful means is found with a third person, the property shall be returned to its owner or lawful possessor. A third party is then entitled to file a claim for the property if it was obtained in good faith. This includes making a claim against the accused or the convict. The legislation does not define what an indemnity is for the purposes of this Article or what the third party can claim for.

This article protects the rights of bona fide third parties

Provisions to Counter Disposal of Assets Subject to Confiscation

There are no measures in the legislation that would allow for the voiding of contracts.

Reversed Burden of Proof

Article 355 of the Criminal Procedure Law provides for the reversal of the burden of proof with respect to the property and financial resources that belong to person who is

- a member of or abettor to criminal organized group;
- involved in or maintains constant relationship with person who is involved in acts of terrorism;
- involved in or maintains constant relationship with person who is involved in illegal drug circulation; and
- involved in or maintains constant relationship with person who is involved in human trafficking.

In those cases unless it is proved wrong, illicitly gained assets shall be considered the assets belonging to the convicted person and thus subject to confiscation.

Additional elements

a) Under Article 355 of the Criminal Procedure Law there is the possibility with the reversal of the burden of proof of confiscating the property of members of an organized criminal group;

b) There is no civil forfeiture in Latvia;

c) Article 355 of the Criminal Procedure Law provides a reversal of the burden of proof for those that are involved in certain offences, such as terrorism, drug trafficking and human trafficking.

Implementation
The authorities in Latvia have been using their powers to seize the proceeds of crime in criminal cases. In 2005, there were 56 freezing orders obtained for the value of LVL2.4 million. In 2006, 16 freezing orders have been obtained to the value of EUR250,000.

Confiscation has also been ordered in a number of cases and in 2005 approximately EUR174,000 was made subject to confiscation orders.

There are a number of money laundering cases waiting sentencing where confiscation is a possibility. Most of these cases involve VAT evasion. There is also a case of illegal logging and a case of fraud from the government. The sums involved range from LVL5,000 to LVL70,477 seized and awaiting the final determination of the court.

In one case the Economic Crime Police seized LVL13 million from a bank account and returned it to the United Kingdom. The money had been obtained as the result of a bank fraud.

The conclusion is that confiscation regime as it currently stands is being implemented by the authorities in Latvia, with cases of seizure being undertaken on a regular basis. The tools available appear to be achieving results. The confiscation regime however does have its limitations that, if addressed by the authorities, could make the system more effective:

- Article 355 of the Criminal Procedure Law does not have a definition of property or assets. The definition used by the authorities is from the Civil Law;
- It is not clear whether Article 355 would apply to property or assets that were indirectly obtained as a result of criminal activity;
- The provisions for seizure also refer to the illegally acquired property, that again may preclude the seizing of property obtained indirectly;
- Forfeiture of instrumentalities does not include those items that are intended for use in criminal activity, except in cases of preparation or attempt to commit a crime;
- There is a need to amend the definition of "proceeds of crime" to reflect definition of property for the purposes of the Criminal Law and the Criminal Procedure Law; and
- There is a need to 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.

R. 32

Comprehensive statistics have been provided by the Prosecutor's Office of the property that has been seized in accordance with the legislation. According to the Prosecutor's Office, LVL121,594 (approximately EUR174,000) was confiscated by court verdicts in ML cases in 2005.

Reports on convicted persons for which judgment of conviction was passed under Article 195 and Article 219 of the Criminal Law in years 2002–2005*

Criminal Law (CL) Article, chapter	Number of persons in case	Number of persons convicted under CL Article 195	Account section in court statistics which bears more severe sanctions	Date of hearing**	Sentence

2002					
CL 195.2	2	1	CL 176.2 (Robbery)	27 May, 2002	Deprivation of liberty for six years, without confiscation of property, and police supervision for two years
2005					
CL 195.2	9	1	LCC 165.2 (Giving of Bribes)	1August, 2005.	Deprivation of liberty for six years, with confiscation of property, and police supervision for two years

* No persons were convicted of property confiscation under CL Articles 88; 88.1; 195[1]; 200; 219 and 329

Information concerning the instances of refraining from executing debit operations by credit institutions and instances when financial resources have been "frozen" as a result of FIU suspension orders.

Year	Amount in millions of LVL	The number of **refraining** and **suspension** instances
2002	11.8	16 *
2003	9.9	14 *
2004	13.64	37 * + 4 **
2005	2.8	56 **

* the number of instances when credit institutions have refrained from executing a transaction(s);
** instances when the FIU suspended debit operations by sending an official order to the institutions. The FIU can suspend transactions as of 2004 when amendments were made to the AML Law. Thus two asterisks stand for the number of instances when the FIU officially suspended the resources credit institutions had initially stopped (refrained from execution). The FIU basically takes over what credit institutions have commenced.

Year	**Amounts of property arrested relating to ML**	**Number of cases**
2004	EUR595,269	1
2005 (first nine months)	US$800,000	1

Recommendations and comments

Recommendations

- Extend forfeiture to property that is intended for use in the commission of a criminal offence.
- Define "property" and "assets" for the purposes of the Criminal Law and Criminal Procedure Law
- Amend definition of "proceeds of crime" to reflect definition of property for the purposes of the Criminal Law and the Criminal Procedure Law.
- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.3	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property needs to be broadened to deal with property obtained directly and indirectly. Forfeiture does not include property that is intended for use in the commission of an offence, except in cases of preparation or attempt to commit a crime. There is no measure that would allow for the voiding of contracts or actions.
R.32	LC	(Composite rating)

1.4 Freezing of funds used for terrorist financing (SR.III & R.32)

Description and analysis

SR III.1.2-3 ***Laws and procedures to freeze funds/assets in accordance with UNSCRs 1267 and 1373***

EC regulations. The obligation to freeze under UNSCR 1267 has been implemented through Council Common Position 2002/402/CFSP, which constitutes the CFSP base to adopt an EC Regulation. The resulting Regulation is Council Regulation (EC) 881/2002. EC Regulation 881 applies to Latvia. Article 2 of this regulation provides for the operative obligation to freeze, as well as the prohibition on making any funds available to any natural or legal person, group or entity targeted by the Regulation. It provides that all funds and economic resources belonging to, or owned or held by a natural or legal person, group or entity designated by the UN Sanctions Committee and listed in Annex 1 of the regulation shall be frozen. Annex 1 contains the same information as that maintained by the UN Sanctions Committee. The Annex is regularly and promptly updated by the Commission when the Sanctions Committee amends its list. The Common Position has been amended on one occasion, through Council Common Position 2003/140/CFSP, in order to implement UNCSR 1452 (2002). Regulation 881 has been amended some 78 times so far.

The European regulations are immediately effective in European national systems without the need for domestic implementing legislation. Financial institutions are therefore required to directly implement this regulation and, as new names are published on the subsequent lists, financial institutions which identify a customer whose name is on the list should immediately freeze the account. Funds must be frozen without prior notification to the persons concerned. Decisions on the freezing of assets taken on the basis of the EC Regulations can be challenged before the European Courts.

The obligation to freeze under UNSCR 1373 has been implemented in the EU through Council Common Positions 2001/930/CSFP and 2001/931/CSFP. The resulting Regulation is Council Regulation (EC) 2580/2001. Article 2 of this Regulation contains the operative obligation to freeze, as well as the prohibition of making any funds available to persons, groups or entities targeted by the Regulation. The targeted persons, groups or entities are determined by the Council acting by unanimity and is listed in a separate Council decision. However, the EC Regulation 2580/2001 does not cover persons, groups or entities having their roots, main activities and objectives within the EU (EU internals). The EU internals are still listed in an Annex to the Common Position 2001/931/CSFP where they are marked with an asterisk signaling that they are not covered by the freezing measures

but only by an increased police and judicial cooperation between the Member States. Latvia does not independently list EU terrorists to supplement the EC Regulations.

Article 17(1) of the AML Law provides that persons referred to under Article 2 of the Act shall refrain from conducting a transaction if there is cause for suspicion that the transaction is associated with terrorist financing.

Article 17(2) of the AML Law provides that the persons referred to in Article 2 of the Act shall immediately report to the Control Service when they refrain from executing the transaction enclosing with the report the available documents associated with the refraining from executing the transaction.

Article 17(3) requires that the Control Service shall issue an order to suspend debit operations with the financial resources in the account of the client or movement of other property for a period not exceeding 45 days or inform the person that additional information is required. The Control Service may inform the supervisory authority about the action taken or inform the pre-trial investigation authorities.

Article 17^1 provides that if financial resources or other property are qualified as proceeds of crime in accordance with Article 4 of the Act, the Control Service may give notice to the financial institution to suspend the debit operation of such financial resource into the account of the client or other movement of property for a period not exceeding six months and Article 4 (1)(1) of the AML Law provides that the section applies to a person suspected of committing an act of terror or participation therein and is included in one of the lists of such persons compiled by a state or international organization.

III.3

There are no provisions for Latvia to freeze on behalf of another country unless there is a connection with an offence in Latvia.

III.4

Definition of funds
Article 1(3) of the AML Law defines financial resources as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments.

The definition of property used by the authorities is that in the Civil Law. There is no definition of funds in the legislation. The Prosecutor's Office advise that they use the definition of property from the Civil Procedure Law. Articles 841–849 of the Civil Law describe property and property rights in Latvia. Property is tangible or intangible. Intangible property consists of various rights regarding obligations, insofar as such rights are constituent parts of property. Tangible property is either moveable or immovable. Tangible property is either fungible or nonfungible.

Taken together these definitions do not fully meet the requirements of Article 1 of the Terrorist Financing Convention. This would not cover legal documents or instruments in any form including electronic or digital, evidencing title to, or interest in such assets.

The verification of terrorist lists under the existing anti-terrorist financing system:
The verification of terrorist lists (consolidated by the FIU) is split into the following stages:

1) The FIU checks the UN/EU terrorists lists on a daily basis with a view to amend if necessary its

own consolidated list and also receives updates of UN/EU lists via the Ministry of Foreign Affairs. The consolidated terrorist list is checked to see whether it complies with the requirements of the Cabinet of Ministers Regulation No 840. On The Countries And International Organizations Whose Lists Include Persons Suspected Of Committing Acts Of Terrorism Or Complicity Therein (Issued in accordance with the Article 4 paragraph 1 of the AML Law):

2) The Regulation provides for the lists including persons suspected of committing acts of terrorism or complicity therein compiled by countries and international organizations (hereinafter—the terrorist lists), which shall be recognized in The Republic of Latvia.
   - The lists of countries meeting at least two criteria from the list below are recognized in Latvia:
     (i) The country is a member of at least one of the organizations referred to below: Member of the United Nations Organization, Member country of the European Union, Member country of the Council of Europe, Member of the Organization for Security and Cooperation in Europe, Interpol member, Europol member; or
     (ii) A country is a party to the International Convention of December 9, 1999 On the Suppression of Terrorist Financing; or
     (iii) A country is a member of the Egmont Group, which unites financial intelligence units.
   - The terrorist lists compiled by UN, EU, OSCE, Interpol and Europol are recognized in Latvia.
   - The practice that has been adopted in Latvia for distribution of the terrorist lists is as follows:
     (i) The FIU puts the information regarding suspected terrorists from international organizations into the Latvian Consolidated Terrorist List of the FIU.
     (ii) The data is matched with the information already contained in the FIU database.
     (iii) The Latvian Consolidated List is sent to all financial institutions and their supervisory authorities for checking.
     (iv) The institutions then check the names from the Latvian Consolidated List with the data from their databases and with the data of each new client.
     (v) In the case of a positive match the institution concerned must immediately make a report to the FIU and refrain from executing financial transactions with the account (Article 17 of the AML Law).
     (vi) The FIU registers the report, and compares the data from the report with the terrorist list, if the match is confirmed, prepares a draft document for freezing the funds is prepared and then also a draft report to the Prosecutor's Office. In case of doubt a request to countercheck is made to the country or organization that included the person concerned into the terrorist list.
     (vii) The head of the FIU then signs the freezing order and it is sent to the respective institution by courier or by fax. A report is also sent to the Prosecutor's Office to decide whether a criminal case should be opened.
     (viii) The country or international organization is then informed about what has been done by the FIU (a letter is sent).

No prior notice should be given to the designated persons involved.

Freezing Actions

Article 17^1 taken together with Article 4(1) (1) of the AML Law provides for the freezing of assets of those who are on the list. Article 17^2 provides for the freezing of assets where there is cause to suspect the financing of terrorism. Freezing is immediate upon identification of an account and this can be for up to six months.

The freezing action is by written order of the head of the FIU that can be distributed immediately. A copy is sent to the Prosecutor's Office for their records. This order initially requires the suspension of debit operations with the financial resources in the account of the client or the movement of other property for a period not exceeding 45 days.

If the order is not revoked within 10 days the FIU is required to notify the investigative services.

Communicating actions to the financial institutions
Article 17(3) of the AML Law provides that the Control Service notify the institution within 14 days following the receipt of a report of its decision to freeze or to continue its investigation.

Guidance to financial Institutions
Guidance has been issued by the Latvian FIU. The notes entitled Guidance for Financial Institutions in Detecting Terrorist Financing Activities were issued on March 25, 2003 and an update was sent to financial institutions and their supervisors on March 2, 2004. The guidance follows the FATF Best Practices Paper for SR III. The guidance deals with such issues as the characteristics of terrorist financing, determining when increased scrutiny is necessary, and the characteristics of transactions that may be a cause for increased scrutiny. The guidance also provides for selected case examples.

Procedure for de-listing
The FIU obtains a list of de-listed persons either directly or via the Ministry of Foreign Affairs in the same way as it receives the lists of the designated persons from the countries and international organizations, and the list is distributed in the same manner as described in III.1. The delisting procedure is not public.

The AML Law Article 17^1 provides that the FIU has the right to revoke its own order to suspend the debit operation of such financial resource into the account of the client or other movement of property before the end of the time period. Under Article 17^2 the FIU shall revoke the order regarding the suspension of the debit operation of financial resources into the account of a client or other movement of property if the client has provided justified information regarding the lawfulness of the origin of the financial resources or other property. The information referred to shall be submitted by the client to the persons referred to in Article 2, Paragraph 2 of the AML Law, who shall transfer such information without delay to the FIU.

The unfreezing procedures provided by the AML Law have not yet been carried out concerning terrorist financing in Latvia.

There is no procedure for de-listing if someone in Latvia were to be listed as a terrorist.

Unfreezing of Assets
The procedure in Latvia is set out above.

The FIU has not yet used the procedures of freezing and unfreezing the funds or other assets of designated persons.

There was one case in 2004 and two cases in 2005 where the banks have frozen the funds of designated persons and reported to the FIU. After obtaining additional information the FIU determined that the matches were "false positives" and therefore recommended the banks to release the frozen funds.

Access to funds
There are no provisions in the law in Latvia that would allow access to frozen funds for the purposes

of basic expenses and payment of fees, expenses and service charges.

Challenges to freeze orders
Article 49^4 of the Law of the Prosecutor's Office provides that the Prosecutor's Office supervises the FIU. This supervision is exercised by the Prosecutor General and Prosecutors specially authorized by the Prosecutor General.

The Prosecutor's Office reviews the information sent from the FIU concerning freeze orders. If the Prosecutor's Office agrees then the freeze order will remain in place. An appeal can be made directly to the Prosecutor's Office by a person affected by an order to have the freeze order removed. If the Prosecutor's Office does not agree to remove the freeze order there is a right to appeal against that decision in court.

There is a right to appeal to the Prosecutors Office and, in the event that the Prosecutor's Office does not agree to release the funds, then an aggrieved party has the right to challenge the decision in court.

Freezing , seizing and confiscation in other circumstances
Article 17(1) of the AML Law provides that persons referred to under Article 2 of the Act shall refrain from conducting a transaction if there is cause for suspicion that the transaction is associated with terrorist financing.

Article 17^2 provides for the freezing of assets where there is cause to suspect the financing of terrorism. Freezing is immediate upon identification of an account and this can be for up to six months. There is nothing in the law to prevent the freezing of nonillegally acquired assets.

Measures to protect bona fide third party interests
As above, the procedure would be to appeal to the Prosecutor's Office and, if funds were not released, to challenge the decision in court.

Measures to monitor compliance
Article 26^1 of the AML Law provides that in order that the supervisory and control authorities in order to perform their duties specified in this Law, have the right to request information from natural and legal persons. This information is associated with the implementation of the requirements of the AML Law. It is also used to perform activities in order to prevent or reduce the possibility of utilizing the financial system and the capital market of the Republic of Latvia for laundering of proceeds derived from crime or terrorist financing.

This means that financial institutions can be asked to provide information that would monitor their compliance with the legislation.

R. 32

The FIU has received the following number of reports from financial institutions:

2002	2
2003	4
2004	4

There are clearly defined procedures for the freezing of terrorist funds and a well established for checking lists and notifying the financial institutions.

Analysis
In practice, there is a comprehensive system for dealing with the freezing of terrorist funds. All parties are aware of their obligations and duties under the legislation. The FIU has a unit dedicated solely to the monitoring of the lists and ensuring that the information is disseminated to the financial institutions promptly.

There are some areas that still need to be addressed. The use of the definitions of financial and other property does not fully meet the requirements of the Terrorist Financing Convention. This would not cover legal documents or instruments in any form including electronic or digital, evidencing title to, or interest in such assets. There should be an amendment to the AML Law to include a definition that would fully meet the requirements as set out above.

There is no recognized system for the de-listing of persons that have been place on the Terrorist List in Latvia. The current system for de-listing only applies to those persons that have been listed by the Ministry of Foreign Affairs as a result of external lists.

There is no provision that allows Latvia to list terrorists from other EU states apart from those on the EU list.

There is no access to funds for the purposes of basic living expenses and legal costs to challenge a freezing order.

Recommendations and comments

Recommendations

- Define "financial resources" and "property" in accordance with the Terrorist Financing Convention.
- 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).
- 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).
- Provide for access to funds for basic living expenses and legal costs.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
SR.III	PC	Financial resources and property are not defined in accordance with the Terrorist Financing Convention. Within the context of UNSCR 1373, Latvia does not have a national mechanism to consider requests for freezing from other countries (outside the EU mechanisms) or to freeze the funds of EU internals (citizens or residents). There is no publicly known and clearly defined procedure for de-listing of suspected terrorists listed by Latvia apart from those on the EU List. There is no access to funds for basic living expenses and legal costs.

R.32	LC	(Composite rating)

Authorities

1.5 The Financial Intelligence Unit (FIU) and its functions (R.26, 30 & 32)
Description and analysis

R. 26

26.1 Establishment of FIU

Article 27 of the AML Law, which came into force in June 1998, established a financial intelligence unit referred to as the Office for Prevention of Laundering of Proceeds derived from Criminal Activity (the FIU, also referred to as the Control Service) within the Prosecutor's Office system. Pursuant to Article 27, the FIU is the national central authority in Latvia to receive, analyze and disseminate information provided by the reporting entities listed in the AML Law on suspicious and unusual transactions (see also Recommendations 13, 16 and Special Recommendation IV below). The FIU is a legal entity monitored by the Prosecutor General and the Division of Prosecutors with Special Powers. The FIU has its own charter (or by-laws) that is approved by the Council of the Prosecutor General and is specifically empowered pursuant to Article 29 of the AML Law to receive and analyze reports by the persons covered by Article 2 paragraph 2 of the AML Law as well as information obtained by other means in order to determine whether the information it has may be related to the laundering or attempted laundering of the proceeds from crime. The Prosecutors Office is an independent office.

The FIU receives suspicious and unusual transactions reports (STRs, UTRs) from the reporting entities in electronic and/or hard copy. The analysis of the reports is conducted by drawing information from the FIU's own database as well as from other databases to which the FIU has access and from responses to the FIU's requests for further information, as described below (26.3, 26.4, 23.9 and 26.10).

26.5 Dissemination

According to Article 32 of the AML Law, the FIU on its own initiative can disseminate information to pre-trial investigation agencies and the court if it has a reasonable suspicion that any criminal offence, including ML or TF has been committed. Article 35 paragraph 3 further clarifies that the FIU shall submit its material to the Prosecutor General or the Prosecutor with Special Powers for transfer to the relevant institutions.

In practice, the FIU analyses the information and if it has a reasonable suspicion of money laundering, terrorist financing or a predicate offence, it sends its analysis and its conclusion as to the suspected offence to the Prosecutors with Special Powers who are responsible for monitoring the FIU. The Prosecutors with Special Powers are a unit of prosecutors within the Prosecutor's Office authorized to undertake the monitoring of the FIU. The Prosecutors with Special Powers send the information to law enforcement agencies. Before forwarding the information to the relevant law enforcement agencies, the Prosecutors with Special Powers check whether the information gathered is in compliance with the laws and whether the information is sufficient to indicate that there is a reasonable suspicion of an offence. They also make a determination as to the suspected offence and if the Prosecutors with Special Powers reach a different conclusion from the FIU as to the suspected offence, both conclusions are sent to law enforcement agencies. They also decide the appropriate law enforcement agency to whom the information is forwarded. It is to be noted that in Latvia, like in many other countries, prosecutors supervise law enforcement agencies in pre-trial investigations. The fact that the

FIU is required to send the STR files to the Prosecutor's Office rather than to the law enforcement agencies directly does not appear in practice to affect the operational independence of the FIU or the effectiveness of the dissemination of STRs to law enforcement agencies.

The provisions of Article 32 and Article 35 paragraph 3 of the AML are potentially in conflict: the former states that the FIU may disseminate information to all pre-trial investigative agencies whilst the latter states that the information is to be sent to the Prosecutor's Office who then sends the information to law enforcement agencies. Article 36 paragraph 2 of the AML Law seems to confirm the second version (i.e. that of Article 35 paragraph 3) by stating that the "information, which has been acquired by the Control Service pursuant to procedures monitored by the Prosecutor-General or specially authorized prosecutors, shall not be transferred to the control of investigative institutions or to the courts or be utilized for their needs". The authorities stressed that these dispositions have had no negative impact in practice. The AML Law is nevertheless unclear and, although they may be relatively minor, the contradiction in the law should be addressed in order to prevent any potential conflict. This could be done, for example, by ensuring that the law reflects the current practice that the FIU submits its information to the Prosecutor's Office.

Pursuant to Article 33 of the AML Law, investigators, those involved in pre-trial investigative institutions and the court, may request information from the FIU and such a request will be evaluated and approved by a Prosecutor with Special Powers. Information can be provided where a criminal investigation or an operative investigation has been initiated. Once approved the FIU shall provide information in relation to ML cases, cases relating to proceed of crimes. Further information is generally requested by the Economic Police, the Organized Crime Prevention Bureau and the regional police. The Financial Police does not send requests for more information since it already has access to most of the relevant databases to which the FIU has access. In 2005, 88 requests were received and responded to.

Article 34 of the AML Law allows the FIU, pursuant to a request from the State Revenue Service that has been reviewed by the Prosecutor-General or a Prosecutor with Special Powers, to provide information at its disposal that is necessary for verifying income declarations of State officials required by the Law On Prevention of Conflict of Interest in Activities of Public Officials, if there is substantiated cause for suspicion that the official has provided false information regarding his or her financial circumstances or income.

In 2004, 110 files, covering 3,821 transactions and a total of 2,294 STRs and 1,229 UTRs, were sent by the FIU to law enforcement agencies, 80 to the Financial Police, 25 to the Economic Police, one to the Organized Crime Prevention Bureau, four to the Anti-Corruption Bureau. In 2005, 155 reports were sent, 108 to the Financial Police, 38 to the Economic Police, two to the Organized Crime Prevention Bureau, and seven to the Anti-Corruption Bureau. Up to March 15, 2006, 30 reports were sent to law enforcement agencies, 21 to the Financial Police, eight to the Economic Police, and one suspected white collar crime to the Prosecutor's Office. See Table in Recommendation 32 below for further statistics.

26.2 Guidance on STR reporting and forms

Pursuant to the AML Law, the FIU has prepared a list of indicators of unusual transactions and STRs and procedures for the reporting of such transactions (Article 11 paragraph 1 (1)). The list was approved by the Advisory Board and the Cabinet of Ministers and issued as a Cabinet of Minister Regulation, Regulation No 127 On the List of Indicators of Unusual Transactions and the Reporting Procedure. The regulation is binding on the reporting entities. The regulation contains a form

according to which reports must be submitted as well as the procedures on how they shall be submitted to the FIU and contains a list of indicators that highlight the unusual nature of a transaction. However, this Regulation only applies to credit and financial institutions and the definition of credit and financial institutions excludes some of the DNFBPs. Excluded DNFBPs will not enjoy protection from liability should they report transactions listed in the list.

In 1998, the FIU has also issued a list of indicators for STRs to the credit and financial institutions. In addition the FCMC and the BoL have issued guidelines to the entities they supervise.

The Advisory Board also tasked the FIU with developing a Model Guideline for DNFBPs based on the FCMC guidelines. The Model Guideline(s) were examined by the Advisory Board in 2005 and approved. The Model has been adopted by the DNFBPs' supervisory agencies or industry associations. The Latvian Sworn Auditors Council, Latvian Sworn Notaries Council, Latvian Sworn Advocates Council, the State Assay Supervision Inspectorate, the Lotteries and Gambling Supervision, LANIDA, NIMA, car dealers association have adapted and issued these Model Guidelines to their supervised entities/members and these guidelines incorporate the list of indicators set out the Cabinet of Ministers Regulation.

Paragraph 3 of Article 29 provides the FIU with the power to analyze the quality of the information reported and the effectiveness of its utilization and to inform the reporting entity of the findings of the quality and effectiveness. The FIU does not provide specific feedback on the STRs but does provide general feedback to the reporting entity on the quality of reports received during training sessions it conducts.

26.3 Access to financial, administrative and law enforcement information

Article 31 of the AML Law and Regulation No 497 On the Procedure according to which State Institutions provide Information to the Office for Prevention of Laundering of Proceeds derived from Criminal Activity dated December 29, 1998 (issued by the Cabinet of Ministers) entitles the FIU to request information from state institutions either in writing or electronically and this information has to be provided within 14 days. The FIU has identified some 500 possible databases of state institutions, of which 350 are used for the analysis of reports. The FIU has signed written agreements with holders of databases on the exchange of information. This enables the FIU to have online access to over 78 various databases most of which are available to the FIU free of charge. Some of the databases include the databases of the Financial Police, the State Police, the Economic Police, the Register of Enterprises, the Land Registry, the Vehicles Registry, the Population Registry, the State Revenue Services, the Register of convictions, and others.

26.4 Requesting additional Information from reporting entities

The FIU is authorized to request in writing additional information and documents about the transaction for which a report has been filed and may request information on other transactions after obtaining the consent of the Prosecutor General or a Prosecutor with Special Powers. Such information has to be provided within 14 days or such longer period as may be approved by the FIU (Article 11, paragraph 2 of the AML Law)

26.6 Operational independence

Article 28 paragraph 2 of the AML Law provides that the FIU shall have its own budget and the FIU has a separate line item in the national budget. According to paragraph 3, Article 28 of the AML Law the structure and the staff of the FIU is determined by the Prosecutor-General in accordance with the

amount of funds allocated from the State budget. In practice the FIU prepares the proposals of its structure and the Prosecutor General generally approves the structure.

The Head of the FIU is appointed for fours years by the Prosecutor General and his tenure is secured as he or she may only be removed from office during his or her term of office for the committing of a criminal offence, an intentional violation of the law, or for negligence which is related to his or her professional activities or has resulted in substantial consequences, or for a shameful offence which is incompatible with his or her status (Article 28 paragraph 4 of the AML Law). The Head of the FIU is responsible for hiring the employees of the FIU but the Cabinet of Ministers determines their salaries (Article 28 paragraph 5 of AML Law).

The FIU is subject to the monitoring by the Prosecutor's Office. This monitoring is exercised in accordance with Article 7 paragraph 7 (5) of the Law on State Administration and Article 5 of the Law on Prosecution. This monitoring consists of ensuring that the FIU has complied with legal provisions of the AML/CFT law in the exercise of its powers, checking the procedures of the FIU to ensure its efficient functioning and proper accountability. The Prosecutor's Office can request information and explanations from the FIU. Since its establishment, the Prosecutor's Office has only requested information once from the FIU and that only in response to a complaint by a financial institution. The other aspect of the monitoring is to review the information disseminated to the Prosecutor with Special Powers before the information is forwarded to law enforcement to ensure that all legalities have been complied with and to ensure the sufficiency of the information provided by the FIU. The review that the Prosecutor with Special Powers exercises in relation to the requests for information of the FIU is to check that the request relates to a specific criminal offence and the person in relation to whom the information is requested is indeed the person involved in the crime and that the request complies with all legal requirements. The review by the Prosecutor with Special Powers takes about one day though it can be done immediately if the case is urgent. This process prevents the FIU from being inundated with requests that are politically motivated or not related to any criminal investigation. The FIU takes between a few days to one week to respond to the requests of the law enforcement agencies. In 2005, 88 requests were made by law enforcement agencies.

The role of the Prosecutor's Office is also to supervise pre-trial investigating agencies but this role is conducted in a separate section. Two orders were issued in October 2005 by the Prosecutor's Office to designate the separate roles of the two relevant sections.

The FIU Advisory Board and, since 2005, the Advisory Council also advise the FIU on its strategic plans and its priorities.

26.7 Security of information

Article 28 paragraph 6 of the AML Law stipulates that the FIU employees must comply with the Law On State Secret that requires that staff of the FIU undergo a security clearance process to enable them to have access to highly confidential information. Article 30 of the AML Law requires the FIU to ensure the protection of information and to prevent unauthorized access to and unauthorized tampering with, or distribution or destruction of such information. The FIU offices can only be accessed by special keys and the information of the FIU is kept securely, whether locked in safes or in databases protected by passwords and other firewalls. Additionally, employees of the FIU who utilize or disclose information that the FIU receives other than as provided in the AML Law are subject to criminal liability (Article 13 of the AML Law).

In exchanging information with the FIU, the database holders are prohibited from disclosing to other

natural or legal persons the information exchange and the contents of the information (Article 31of AML Law). This requirement is incorporated into the agreements the FIU signs with the database holders. To further protect the FIU's information, paragraph 3 of the Regulation No 497 states that the FIU shall not be obliged to explain to the holders of databases why a given piece of information is required by the FIU. The FIU may use the information at its disposal only for the purposes provided for in the Law and in accordance with the procedures prescribed by the Law. Information acquired from the FIU by the Prosecutor General or the Prosecutors with Special Powers shall not be transferred to the investigative institutions or to the courts to be utilized for their needs (Article 36, paragraph 1 and 2 of the AML Law). State institutions are restricted to utilizing the information provided to them by the FIU for the purpose for which it was provided. Article 35 of the AML Law allows information provided by the FIU to be made public only after the relevant person is being prosecuted or subjected to criminal liability.

26.8 Public Reports, including statistics and typologies

The FIU conducts analysis and research on ML and TF methods and typologies (Article 29 (4)) and provides the supervisory and control authorities with information on these typologies, as well as with aggregated statistics of the reports submitted by the supervised entities and reports on the quality and usefulness of the reports made (Article 29 paragraphs(6) and (7)). This information is provided at least once a year or upon request of the supervisory authorities.

The FIU keeps statistics of publications, articles, TV appearances and radio interviews. The combined total of these activities was 162 for the time span between 1998 and 2005 and 29 in 2005 alone. Information and statistics and typologies are also provided during training sessions for the private sector and law enforcement agencies, and 147 training sessions have been organized by the FIU from 1998 to 2005.

26.9 & 26.10

The Latvian FIU has been a member of the Egmont Group since 1999. In 2005, information exchange was conducted with more than 50 foreign FIUs. The Latvian FIU has signed MOUs with the FIUs of the following countries – Finland, Estonia, Lithuania, Russia, Bulgaria, Romania, Czech, Slovenia, Belgium, Canada, Guernsey, Malta, Poland, and Italy. The Latvian FIU is a member of the FIU.NET network for information exchange.

Analysis

The FIU is properly established by law and has the necessary powers to receive, analyze and disseminate financial information. It is empowered to receive STRs and UTRs and it is properly equipped to analyze the information it receives. It also has the power to disseminate the information as relevant and to issue guidance.

The FIU also has operational independence in that it can independently receive, analyze and disseminate its information in accordance with the law. The FIU's operational independence is further secured by the fact that the Head of the FIU is appointed by Prosecutor General who himself is independently appointed and the head of the FIU can only be dismissed on grounds set out in the AML Law. The FIU has its own budget which is prepared by the FIU and submitted directly to the Ministry of Finance. The structure of the FIU is proposed by the Head of the FIU and approved by the Prosecutor General. The information of the FIU is securely protected and the staff of the FIU is subject to confidentiality requirements. The FIU has access to all the necessary databases and is adequately equipped to perform its analysis functions though the number of staff it has to be increased to allow

timely analysis and dissemination of its information.

The FIU conducts research and provides information on typologies. It also provides frequent training and has taken extensive measures to raise awareness of AML/CFT issues. It also provides aggregated information and statistics to the Advisory Board and the Parliament when requested. It does not publish an annual report of its activities and statistics of the relevant information. The publication of an annual report would however provide useful information to both the relevant authorities but also to and the reporting entities and is recommended.

Overall, the FIU appeared to operate in an effective way. Shortcomings have nevertheless been identified and should be addressed. In particular, there are two provisions in the AML Law that deal with the dissemination of the information by the FIU and these two provisions appear to be in conflict. The authorities stressed that these provisions do not conflict but complement one another. The assessors nevertheless consider that the law should be amended to reflect the practice which is that the FIU disseminates its information to the Prosecutor's Office who then reviews this information as part of its monitoring function as well as part of its functions as the supervisor of investigative agencies.

As mentioned under Recommendation 13, refocusing the legal requirements and the FIU guidance on STRs would enable the FIU to concentrate on cases that really are suspicious and enhance its operational effectiveness.

R. 30

30.1 Adequate structure, funds and staff

The FIU consists of the head, the deputy head, a secretary, two computer specialists, five computer operators, and nine financial transactions analysts, and there are four vacancies. Employees of the FIU, other than the Head, shall be hired, as well as dismissed, by the Head of the office (Article 28(5) of the AML Law).

All working places are appropriately equipped in order to fulfill their functions at the FIU. The FIU has developed its own analytical software which can be modified as needed to fulfill the analytical needs of the FIU.

In 2005 the budget of the FIU was LVL224, 306 and the budget for salaries amounted to LVL155,501. For the year 2006 the budget remains unchanged.

30. 2 High Professional Standards and confidentiality

Article 28 paragraph 6 of the AML Law stipulates that employees of the FIU must comply with the requirements of the Law On Official Secrets which means that staff of the FIU are subject to a security screening which allows them to access especially secret information. Article 21 of the AML Law also prohibits the disclosure of information on STRs and UTRs except as provided for by law.

The employees of the FIU come from different backgrounds: the police, the prosecutor's office, and various credit and financial institutions. Of the employees: one has a doctorate degree while another is studying for his doctorate, six have masters degrees, two employees have two professional degrees/diplomas. The Head of the FIU is empowered to hire employees of the FIU, and has, as a matter of policy, required that his employees have professional qualifications. Employees must adhere to the by-laws of the FIU and its Code of Conduct.

30.3 Training

The FIU staff meet three times per week to analyze the FIU work results, changes to the relevant normative acts, the updates and changes concerning the FIU software, ML typologies and other issues. The FIU staff regularly participates in training courses in Latvia and abroad, for example, the USA, UK, Netherlands, Russia, Austria, etc. Baltic FIUs (Latvia, Estonia, and Lithuania) organize meetings each year in one of the Baltic capitals where these issues are discussed: latest legislative amendments, typologies, best practice (regarding TF prevention, freezing of funds, supervision of the DNFBPs). These meetings provide an avenue for training of staff of the FIU. In 2005, the FIU employees have taken part in 25 seminars and workshops/conferences to receive training on the latest developments in AML/CFT measures, and typologies on ML and TF.

The number of UTRs and STRs that the FIU is receiving has been steadily increasing and, with the four existing vacancies, the FIU is hard pressed to undertake it various functions in a timely manner. It is expected that the number of reports will increase as the DNFBPs will report more transactions and reports of the cross border declaration of cash and negotiable instruments will be reported to the FIU. In light of the above, and in particular of the increased number of STRs which is expected to be filed by the DNFBPs, the FIU would require more staff. The proposal for 10 additional staff seems appropriate to address the increased workload. The budget will need to be increased in tandem.

R. 32

The FIU has a system for the gathering and maintaining of statistical data. The data consists of statistics on number of STRs/UTRs received, numbers of reports disseminated, the number of transactions involved in the STRs/UTRs, currencies involved, nationality of persons involved, countries involved etc. The reports received are further broken down into number of STRs /UTRs received by reporting institutions. All STRs/UTRs are analyzed.

In 2005, 26,302 suspicious and unusual transactions were received, and of this, 155 files were disseminated consisting of 2,561 transactions. Of the STRs/UTRs received, 21,539 were submitted by credit institutions, 2,629 by insurance companies, 1,488 by currency exchange offices, 146 by lottery and gambling institutions, 17 by sworn notaries, 1 by a sworn lawyer, 10 by the Enterprise Register, and 482 by the State Revenue Service. The number of reports submitted by the reporting institutions has shown an increase over the years except reports submitted by sworn lawyers which remained the same in the two years of reporting and the Enterprise Register whose number of reports have declined in the last two years.

Latvia has established a well developed system for maintaining statistics. See the Table below for further details.

Year	Reports received	Suspicious/ unusual transactions in the reports	Number of files disseminated by the FIU	Number of transactions in the files disseminated	Of which: suspicious/ unusual
2002	7,902	4,050 / 5,399	67	2,551	1,214/1,337
2003	15,371	12,506/ 7,075	87	4,033	3,265/764
2004	16,479	13,059/ 7,650	110	3,821	2,294/1,229
2005	26,302	15,508/10,729	155	2,561	1,927/634

The number of all transactions in the reports divided by type of reporting institutions:

Category of Institution	2002	2003	2004	2005
Credit Institutions	8,739	17,842	18,357	21539
Insurance companies	27	888	1,256	2629
Currency exchange offices	118	162	210	1488
Lottery and gambling institutions	50	92	272	146
Sworn notaries	38	22	10	17
Sworn lawyers	-	-	1	1
Enterprise Register	23	63	29	10
State Revenue Service	273	320	414	482
Money remittance bureaux, Latvian Post Office, etc)	-	29	8	1
Sworn Auditors	-	-	-	4
Bank of Latvia	1	-	-	6
Finance and Capital Market Commission	164	196	103	73
Lottery and Gambling Inspection	-	-	3	-
Law enforcement authorities	20	20	18	37

Recommendations and comments

Recommendations

- 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).
- Increase the emphasis on STR reporting rather in order to enhance the operational effectiveness of the FIU.
- Latvia should also consider requiring the FIU to publish an annual report
- Provide the FIU with additional staff in view of its expected increased workload.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 1.5 underlying overall rating
R.26	LC	The FIU generally meets the requirements of the standard and appears to function in an effective way but its effectiveness could be enhanced through additional focus on STRs. The AML Law contains two provisions dealing with dissemination of the FIUs information which could potentially conflict with each other.
R.30	LC	More staff needed for the FIU and correspondingly more budget.
R.32	LC	(Composite rating)

1.6 Law enforcement, prosecution and other competent authorities–the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 & 32)

Description and analysis

Overview

The structure of the law enforcement in Latvia for money laundering and terrorist financing cases is set out below.

R. 27.1

Special Investigation Divisions in the Criminal Police
There are seven boards within the Criminal Police:

- Economic Crime Police;
- Organized Crime Police;
- International cooperation;
- Pre-trial investigation support;
- Intelligence—including legislation;
- Investigation support board; and
- Special Operational Activities.

The Economic Crime Board and the Organized Crime Board have the main responsibilities for investigation of money laundering. The other divisions act as support units for these two main divisions.

Economic Crime Police
The Economic Police has one Board and seven units. The Police either receive information from the FIU that they investigate or they conduct their own investigations. These police units are responsible for the investigation of 54 different criminal activities under the Criminal Law.

There are two groups within the Economic Police that investigate money laundering. The groups are divided into those that are investigating money laundering where the predicate crime was committed within Latvia and the second group where the predicate crime was committed in another country.

The main remit of the Economic Police is dealing with the proceeds from fraudulent activities. They report that in 2004 they initiated seven cases from their own activities and received 25 cases to investigate from the FIU. In 2005, the figures were 35 cases from the FIU and six cases from their own investigations.

This resulted in 35 criminal cases being investigated. One person to date has been charged with money laundering.

They identified the following frauds as being most prevalent in Latvia:

- Corruption;
- Credit card fraud;
- Internet fraud; and
- Phishing fraud using the internet.

They identified that in most cases proceeds come into Latvia from the UK, US and other countries in Europe and the funds are sent on to Russia. They reported that LVL13,000,000 was seized in case in 2005 and the funds returned to the UK as the result of a bank fraud.

Organized Crime Police
The main responsibilities of the Organized Crime Board are the investigation of organized crime within Latvia and cooperating with agencies outside of Latvia with respect to organized criminal activities. The Organized Crime Board have identified the major problems within Latvia for the purposes of organized crime as being drug trafficking, trafficking in humans, fraud committed by organized gangs, illegal logging and counterfeit goods.

They have expanded their mandate in February 2006 to include the tracing of assets and investigating money laundering cases. To this end, additional officers have been assigned for the specific purpose of these investigations.

The Organized crime Board has also identified the main risks of money laundering from organized crime in Latvia. They report that the most vulnerable area is real estate. They report that criminal gangs are engaged in the purchase of real estate and also real estate development. In one case that they identified this involved the construction of a shopping mall.

The Organized Crime Police have also identified casinos in Riga Old town as having long standing connections with organized crime that may be possible avenues for laundering the proceeds of crime.

The current structure was established in 2004 with the Economic Police investigating fraud and the Organized Crime Board investigating crimes such as drug trafficking and trafficking in people. The Economic Police and the Organized Crime Police both have money laundering investigations as an integral part of their mandate.

The Security Police
The specific mandate of the Security Police is the investigation of matters of national security and this includes terrorism and terrorist financing. Suspicious transactions concerning terrorist financing will be sent to the Security Police for investigation. To date there has only been one terrorist incident in Latvia. This involved the bombing of a supermarket and when the matter was investigated it was found that there were no international implications.

The Finance Police
The Finance Police have responsibility for the investigation of financial crimes. These include:

- Tax fraud;
- Tax evasion;
- Money laundering;
- Falsification of accounting documents;
- Fiscal losses;
- VAT fraud;
- Fraud on services; and
- EU fraud.

The Finance Police has 196 police officers, including 30 investigators. These officers in the majority are graduates of the Police Academy. Approximately 70 percent of the suspicious transactions that are passed to the Prosecutor's Office for consideration are then sent to the Finance Police for investigation. Within the Financial Police there is a dedicated financial intelligence section that conducts additional analysis work on the reports originating from the FIU. They report that by the end of 2005 they had investigated 980 criminal cases that related to LVL133 Million in lost revenue. They

reported that they currently have frozen LVL2.7 million as a result of their enquiries and would be asking for confiscation in a number of those cases. They commenced 36 criminal proceedings for money laundering in 2005.

Corruption Prevention and Combating Board
The Corruption Prevention and Combating Bureau was established in 2002 and became operational in 2003.

The National Strategy for Corruption Prevention and Combating was adopted by the Government of Latvia on March 8, 2004. This established the Corruption Prevention and Combating Bureau. The legislation that governs the work of the Bureau is the Law on Prevention of Conflict of Interest in Actions of State Officials. The Bureau is well staffed with 120 personnel, 70 of whom are dedicated to preventing corruption and 50 to combating corruption.

The Bureau has responsibilities for preventing corruption by:

- Developing an anti-corruption strategy and establishing an anti-corruption program;
- Monitoring compliance with the Law on Prevention of Conflict of Interest in Actions of State Officials;
- Analyzing existing laws and regulations and recommending changes as necessary;
- Monitoring compliance by political parties with party financing regulations;
- Educating society on corruption issues; and
- Investigating complaints into violations of public procurement procedures.

The Bureau also has a function in the monitoring of political financing and the prevention of conflict of interests by state officials. They also monitor public procurement procedures. All of the 65,000 personnel that are public officials in Latvia have to declare their assets on an annual basis and this information is analyzed by the Bureau for the purposes of detecting corruption.

With respect to the combating of corruption that bureau has the following responsibilities;

- Investigating allegations of corruption and party financing;
- Imposing appropriate sanctions for breaching regulations with respect to party financing; and
- Bringing administrative charges with respect to conflict of interest violations by state officials.

The Bureau operates a hotline service for members of the public to report allegations of corruption. The Bureau reported that in 2005 they received 1,800 written complaints, 2,000 telephone calls and 2,000 e-mails alleging corruption. The Bureau has mounted national campaigns on the dangers of corruption and has made five television films that have been broadcast. The Bureau operates an International Cooperation Division.

Authority to postpone or to waive arrest
Law enforcement authorities may decide to postpone or waive arrest of suspected persons and/or seize money for the purpose of identifying persons who are involved in criminal activities or for evidence gathering.

Controlled delivery of drugs and counterfeit goods has been used by the Latvian authorities in a number of cases. These cases have also involved international cooperation. The statutory framework for this type of investigation is found in Article 227 of the Criminal Procedure Law. It applies to all

criminal offences so whilst it has been used for drugs offences and counterfeit goods, the provision could also be used for money laundering offences.

This facility allows for the monitoring of a continuing offence. This monitoring can be conducted if the immediate interruption of the offence would cause a loss of opportunity to prevent another offence. It is also allowed if needed to identify all persons involved in the crime and, in particular, the organizers of the criminal offence.

The delay is not allowed to continue if there is a threat to a person's life or health, if there would be a spread of a dangerous substance, if there would be an escape of a dangerous criminal, or an ecological disaster or irreversible material damage.

Additional elements

Latvia has a wide range of special investigative techniques available. Articles 215–235 of the Criminal Procedure Law provide for the following techniques;

- Monitoring of correspondence
  - This allows for the opening of mail and packages on the decision of an investigating judge
- Monitoring of means of communication
  - This allows for telephone tapping and the monitoring of other means of communication on the decision of an investigating judge
- Monitoring data in electronic information systems
  - On a judge's decision there can be monitoring of information stored in an electronic information system
- Monitoring of broadcasted data content
- Audio or video monitoring of a place or person
  - This includes the monitoring of persons in publicly inaccessible places if the information required cannot be accessed otherwise
- Audio monitoring of a person
  - This allows for the taping of conversations to gather evidence
- Surveillance and tracking of a person
  - This allows for the tracking of persons under suspicion and also (for up to 48 hours) those that they come into contact with. The surveillance is under the decision of an investigating judge.
- Surveillance of facilities
  - Under the judge's decision premises may be monitored
- Experiments using special investigative techniques
  - These are special operations based on an investigating judge's decision. They do not allow a person to be provoked into committing an offence or for his behavior to be influenced by force or threats of extortion or to exploit a person's helplessness.
- Monitoring of criminal activity
  - This allows for the monitoring of a continuing offence. This monitoring can be conducted if the immediate interruption of the offence would cause a loss of opportunity to prevent another offence. It is also allowed if needed to identify all persons involved in the crime and, in particular, the organizers of the criminal offence.

These techniques can be employed once the investigating authority has obtained the prior approval of

a judge and can only be used for the investigation of serious and especially serious crimes, including money laundering and terrorist financing. A written record has to be kept of the use of the technique whenever it is employed.

R. 28

28.1 Production orders

Article 190 of the Criminal Procedure Law provides that the competent authority is authorized to request in writing from natural and legal persons all documents or objects relevant to criminal proceedings. If the documents are not produced by the natural or legal person there can be a search and seizure in accordance with the Criminal Procedure Law. In the case of a legal person, the responsibility for ensuring that documents are produced lies with its directors.

Search and seizure

The Criminal Procedure Law (Articles 179–185) provides for the coercive searching of premises, an area, transport vehicles, and persons. Searches of premises must be conducted in the owner's presence. If this is impracticable, a search can be conducted with an order to search obtained from an investigating judge.

Articles 186–188 of the Criminal Procedure Law provide for seizure, which is an investigative operation that consists of the removal of objects or documents where a search is not needed to locate the property. A seizure is conducted on decision of the person leading the investigation under a warrant obtained from an investigating judge.

Articles 361–366 of the Criminal Procedure Law also allows for the seizure of property by coercive methods.

28.2 Witness statements

Articles 145–149 of the Criminal Procedure Law deal with the questioning of witnesses and also apply to investigations and prosecutions of ML and FT. Article 149 provides that the testimony may be recorded. If the questioned person requests to make a statement himself then such request shall be granted.

Prosecutor's Office

The Prosecutor's Office is governed by the Law on Prosecution Office. This law was effective from July 1, 1994 and has been amended a number of times.

The functions of the Prosecutor's Office are as follows:

- To supervise investigations;
- To organize and conduct pre-trial investigations;
- To initiate and conduct criminal prosecution;
- To prosecute cases on behalf of the State;
- To supervise the execution of penalties;
- To protect legitimate rights and interests of persons in the State;
- To submit claims and petitions to court; and
- To review cases in court as required by law.

The Prosecutor's Office is independent in accordance with Article 6 of the Law on Prosecution Office. Article 6 (2) states that Parliament, Ministers and other officials shall be prohibited from interfering with the work of the public prosecutor in the investigation of cases or during the performance of any of their other functions.

The Prosecutor's Office in Latvia is divided into territorial districts and there are 604 public prosecutors in Latvia and 82 assistant public prosecutors. The qualifications required for employment are as follows:

- The applicant must be Latvian;
- Have the highest education in Law;
- Have undergone in-house training; and
- Have passed a qualification examination, the standards for which are set by the Council of the Prosecutor's Office.

The Prosecutor's Office has established specialized units that include the Special Authorization Prosecutor's Division. This Division supervises the activities of the FIU in Latvia.

The Serious Crimes Investigation Division has the responsibility for supervising the investigations conducted by the Organized Crime Division. They are also responsible for prosecuting money laundering cases. There is also a specialist division that deals with international cooperation.

The roles and responsibilities of the Prosecutor's Office are well established and can be summarized as follows:

- The financial institutions send suspicious and unusual transaction reports to the FIU.
- The FIU analyses the reports and collects information
- The FIU sends reports to the Prosecutor with Special Powers where the report requires investigation
- The Prosecutor with Special Powers reviews the file and sends it to one of the Special Investigation Divisions in the Police or Customs.
- The Special Division of Police or Customs investigates the case
- The case is then taken to court by the Prosecutor's Office.

Education on the seizing, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism is provided by the Latvian Judicial Training Centre.

Customs Police

The Customs Police have responsibility for control of goods and persons entering Latvia. They concentrate their efforts on the following criminal activities;

- VAT evasion
- Drug trafficking
- Human trafficking

They report that they have been engaged in a number of international operations, two of which involved the controlled delivery of containers of counterfeit products.

Review by Law Enforcement

Money laundering trends are regularly reviewed and typologies identified by the law enforcement agencies in Latvia. The information is shared between law enforcement agencies on a regular basis.

Analysis
There has been a lot of work conducted to establish structures in Latvia to address AML/CFT. The police divisions and other authorities that are assigned to tackle the problem are well staffed and resourced and have business plans that include AML/CFT as part of their core business. The Criminal Procedure Law has greatly extended the ability of the prosecution authorities to conduct investigations and seize and freeze assets. This has led to a large increase in the number of cases under investigation including, at the time of the assessment, 70 suspected money laundering cases.

However, the structures are relatively new and have not been established long enough to judge completely how effective they are. The main issue is training and all of the departments that were interviewed expressed a desire for further training in AML/CFT.

Recommendations and comments

Recommendations

- Specialized training needed for police and other law enforcement officers responsible for AML/CFT.
- Specialized training needed for the Prosecutor's Office in AML/CFT.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 1.6 underlying overall rating
R.27	C	
R.28	C	
R.30	LC	Law enforcement agencies are well staffed and have good structures but training is needed as staff are relatively new. (Composite rating)
R.32	LC	(Composite rating)

1.7 Cross Border Declaration or Disclosure (SR.IX & R.32)

Description and analysis

SRIX.1- SR.IX.6, SR.IX.8- SR.IX.11 At the time of the assessment, there was no law or requirement in force to require either the declaration or disclosure of cross border transportation of cash and negotiable bearer instruments.[4]

SR.IX.7 Latvia as a member state of the European Union has access to the analytical action files of Europol which allows member states to exchange information, including on cross-border movement of funding of organized crime groups. They can also use the Europol analytical database to obtain

[4] However, the Law on Cash Declaration at the Border was adopted on October 13, 2005 and came into force on July 1, 2006. The law obligates any natural person who crosses the state border of Latvia, which is an external border customs territory of the European Community, and imports into or exports from these borders cash and other financial instruments in an amount equivalent or exceeding EUR10,000, to make a declaration to the State Revenue Service of Latvia (Article 5). This obligation extends to the declaration of cash, checks, bills of exchange and other payment orders and financial instruments that are negotiable and/or are bearer instruments (Article 4). The State Revenue Service is the competent authority. At the border of the Republic of Latvia crossing points, where there are no customs control points, the State Border Guard fulfills the functions of the competent authority. However, since the new law came into effect more than two months after the end of the on-site assessment visit to Riga, it cannot be taken into account for the rating of SR IX in the present assessment.

information on other suspicious financial transactions and to identify international money laundering trends and the activities to which they relate.

SR.IX.12 The Regulations of the Cabinet of Ministers No. 669 (September 6, 2005) define the procedure according to which the customs authorities shall ensure the fulfillment of the requirements of the certification system of the Kimberly process which deals with the certification process regarding international trade with unprocessed diamonds. This system requires that a person importing unprocessed diamonds submit a customs declaration and if, unprocessed diamonds are smuggled, the person shall be penalized (Issued in compliance with Part Three of Article 4 of the Law on Customs).

Information exchange takes place in compliance with the EC Regulation No. 515/97 on the mutual assistance of the administration authorities of Member States and cooperation between these institutions and the Commission for the purpose of ensuring correct application of the customs legal acts. Except for the above, where Latvia discovers usual cross border movement of precious metals or stones, there is no system for notifying the competent authorities of the originating or destination country regarding the purpose of such movements.

Recommendations and comments

Recommendation

- The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
SR.IX	NC	No measures were in place at the time of the assessment as the Law on Cash Declaration at the Border came into force after the assessment was conducted.
R.32	LC	No statistics yet on cross-border cash. (Composite rating)

2. Preventive Measures—Financial Institutions

2.1 Risk of money laundering or terrorist financing
Latvia has not adopted an overall risk-based approach to the application of AML/CFT requirements, though the FCMC Regulation includes some references to high-risk customers. In practice, risk characteristics are taken into account in determining the depth and frequency of supervisory attention given to individual financial institutions. The Latvian AML Law does not provide as such for the application of reduced AML/CFT measures to low-risk categories of business. However, the AML Law has gone further in certain cases by providing for complete exemption from AML/CFT requirements of specified categories of business or client (e.g., business conducted with credit or financial institutions in Latvia or in a country which complies with the normative acts of the European Union, business with correspondent banks from OECD countries, states or municipalities, etc.). This approach and its implications for the assessment and ratings are described in more detail in this report in the analysis of the appropriate FATF Recommendations.

Note: *All of the categories of financial institution with the exception of exchange offices and the Post Office are authorized and supervised by the FCMC and are obliged to meet the requirements of the Latvian AML Law and FCMC Regulation. As the AML/CFT requirements and related supervision by the FCMC apply on the same basis to all of these institutions (with due regard to size and risk characteristics), this report analyses them as a single group, distinguishing between types of financial institution only where differences in requirements could apply.*

Customer Due Diligence & Record Keeping

2.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)
Description and analysis
R. 5 ***Introduction*** The customer due diligence (CDD) measures are set out in the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (AML Law) which was adopted in December 1997. The AML Law was amended on several occasions, the last times being in February 2004 (with a view to implement the requirements of the European Directive 2001/97/EC) and in May 2005 (to include new and more explicit requirements, such as in the identification of beneficial owners and record keeping). The two supervisors of the financial sector, the FCMC (for all participants in the financial sector except the bureaux de change) and the BoL (for the bureaux de change), have issued further guidance and recommendations on the CDD measures. The assessors consider that for the purpose of this assessment the FCMC 2006 Regulation and the BoL regulation constitute other enforceable means. The Post Office also provides limited financial services but no particular AML/CFT guidance has been issued in this respect. *Ambit of the AML Law* The AML Law defines both the entities and the type of transactions that it covers. Pursuant to its Article 2 paragraph 2, the AML Law applies to the following persons and entities :

1) Participants in the financial and capital markets, including:

- Credit institutions (as defined in the law);
- Insurers, private pension funds and insurance intermediaries;
- Stock exchanges, depositories and brokers of brokerage companies; and
- Investments companies, credit unions and investment consultants

2) organizers and holders of lotteries and gambling;

3) entrepreneurs who engage in foreign currency exchange;

4) natural and legal persons who perform professional activities associated with financial transactions (provision of consultations, authorization of transactions), including:

- Providers of postal services and other similar institutions, which perform money transfers and transmission;
- Tax consultants, sworn auditors, sworn auditors commercial companies and providers of financial services (to the extent and with the exception described under Chapter 3 below);
- Notaries and advocates (to the extent and with the exception mentioned under Chapter 3 below);
- Persons whose professional activity includes trading in immovable property, means of transport, art and cultural objects, as well as intermediation in the trading transactions (to the extent mentioned under Chapter 3 below); and
- Persons engaged in the trading of precious metals, precious stones and the articles thereof (to the extent described under Chapter 3 below).

Credit institutions, as defined in the AML Law, cover banks registered in the Republic of Latvia, electronic money institutions or branches of a foreign and member country bank or an electronic money institution (Article 1 paragraph 5 of the AML Law). The Law on Credit Institutions further defines banks ("a capital company, which accepts deposits and other repayable funds from an unlimited circle of clients, issues credits in its own name and provides other financial services") and electronic money institution ("a capital company, which emits and services electronic money and which is not a bank"). It also defines member country as a State of the European Union or European Economic Area (which comprises the EU membership, Norway, Iceland and Liechtenstein)

The "financial transaction" referred to in Article 2 paragraph 2 (4) covers the following activities (Article 1 paragraph 1 of the AML Law):

a) Attraction of deposits and other repayable funds;
b) Lending, including financial leasing;
c) Making cash and other than cash payments (confirmed by the authorities to comprise all transfers of money or value);
d) Emitting and servicing of payment instruments other than cash;
e) Trading with foreign currency;
f) Fiduciary transactions (trusts[5]);

[5] The term "trusts" refers to fiduciary activities, not to legal arrangements as understood in Common Law jurisdictions.

g) Provision of investment services and investment noncore services and management of investment funds and pension funds;
h) Issuing of guarantees and other such obligation documents, whereby someone undertakes an obligation to a creditor for the debt of a third person;
i) Safekeeping of valuables;
j) Participation in the issue of stock and the provision of services related thereto;
k) Consultation for the clients regarding services of a financial nature;
l) The provision of such information as is associated with the settlement of the debt liabilities of a client;
m) Insurance;
n) The organization and maintenance of lotteries and gamblings; and
o) Other transactions which essentially are similar to the aforementioned.

In application of Article 1 and 2 of the AML Law, all the relevant entities and financial activities are covered by the Latvian AML/CFT framework.

5.1* Anonymous Accounts

Although not expressly prohibited by law, the opening and maintenance of anonymous accounts is effectively precluded under the provisions of the AML Law. Pursuant to Articles 6 and 7 paragraph 1 of the AML Law, financial institutions must identify the account holder on opening of an account. The original AML Law was adopted in December 1997 and entered in force in June 1998. As regards accounts opened before the AML Law came into force, the law states, under its Transitional Provisions, that "no action, except for closing of the account, may be performed after January 1, 1999 with regard to accounts which were opened prior to January 1, 1997 without identifying the client, until the identification of the account holder has been performed".

The FCMC includes on its website a warning dating from November 2002 that a number of third-party websites included information that anonymous accounts were available from Latvian banks as well as the possibility to receive anonymous debit cards without providing any customer identification. The FCMC stated that the AML Law prohibits such activity and further warned Latvian banks that operating accounts in the name of a company or intermediary without identifying the true beneficiary would be acting illegally.

Latvian financial institutions informed the assessors that they do not open or operate anonymous accounts.

Numbered accounts
There is no legal provision addressing the opening or operation of numbered or coded accounts. The authorities and the financial institutions interviewed informed the assessors that, despite some current indications on some third-party websites, banks were required to close any remaining numbered accounts by 1999, that numbered or coded accounts are no longer available in Latvian financial

[6] BoL Regulation No 114/5 for Purchasing and Selling Cash Foreign Currencies

[7] BoL Recommendations 115/7 to Business Venture (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering the Proceeds Derived from Crime and the Financing of Terrorists.

institutions and that the customer identification requirements of the AML Law apply in all cases. The assessors are not in a position to confirm this independently. The FCMC, by letter to the banks dated May 6, 2005, issued specific instructions that banks should not operate numbered or coded accounts. The FCMC informed the assessors that their recent on-site inspections have not identified cases of numbered or coded accounts.

5.2* (a-e) When CDD is required

Pursuant to Articles 6 and 7 of the AML Law, the persons and entities subject to the law are required to identify the customer when :

- Opening an account or accepting financial resources for safe-keeping;
- Carrying out a single transaction, or several transactions that appear to be linked, equivalent or above EUR15,000 (or its equivalent in LVL);
- If the amount of the transaction is not determinable at the time of its performance, as soon as the amount becomes known and is equivalent to or above the EUR15,000 threshold;
- When one at least of the indicators provided in the list of indicators of unusual transaction (issued by the Cabinet of Ministers in its Regulation No 127) is met;
- When there is a suspicion of money laundering or attempted money laundering; and
- When there is a cause to doubt the veracity of the information acquired during the initial identification.

There is no explicit requirement in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (other than when opening an account, as noted above).

The law does not specifically provide an identification requirement when there is a suspicion of terrorist financing but sets out an indirect requirement by reference to the Cabinet of Ministers Regulation No 127: Article 7 paragraph 3 of the AML Law provides that the persons and entities to which it applies (as defined above under "Ambit of the AML Law") must identify the customer, irrespective of the amount of the financial transaction being carried out, "if the indicators of the transaction conforms to at least one of the indicators included in the unusual transaction element list [i.e. in the Cabinet of Ministers Regulation No 127]", or if due to other circumstances, there is a cause to suspect money laundering or an attempt to launder money. The list of indicators to which the law refers was subsequently issued by the Cabinet of Ministers as Regulation No 127. The Regulation mentions as one of the indicators "a transaction involving a customer who is suspected of being involved in terrorist acts or complicity therein and has been included in the list of persons about which credit and financial institutions have been informed by the [FIU]"(Cabinet of Ministers Regulation No 127 paragraph 6.1.7). In conclusion, although the main requirement is set in the law as required by the FATF criteria 5.2, the reference to the identification of a customer suspected of financing terrorism is indirect (see also Recommendation 13 and Special Recommendation IV).

The identification requirements also apply to transactions that are wire transfers. For wire transfers conducted for an occasional customer, under the EUR15,000 threshold (see Section 2.5 below).

5.3* Required CDD measures

Identification of natural persons

When the customer is a natural person who resides in Latvia, the financial institutions must ensure that the following information is provided: given name, surname and the personal identity number

(PIN; Article 6 paragraph 1 (a) of the AML Law). The AML Law does not refer to the type of documents on which the financial institutions must rely. It refers instead to the PIN which is a unique number issued by the State Population Register to all Latvian residents. Although this constitutes a reliable and independent source of information, there is no explicit requirement in law or regulation for financial institutions to verify the customer's identity.

When dealing with nonresident customers, the financial institutions are required to gather the same information as mentioned above and to indicate the date of issue of the personal identification documents as well as the authority that issued the document (Article 6 paragraph 1 (b) of the AML Law). The law does not however specify the type of documents that this covers. The FCMC Regulation clarifies this point by mentioning that only documents valid for immigration into Latvia may be regarded as identification documents (Article 17).

No further AML/CFT guidance has been issued for the bureaux de change and the Latvian Post.

The assessors were informed that financial institutions rely mainly on passports to perform the necessary customer identification. The FCMC informed the assessors that, in practice, they encounter in their on-site work only rare cases where banks cannot produce documentation to confirm that they have identified the clients using appropriate official documents.

The requirements set out in the AML Law for the identification of natural persons who reside in Latvia is consistent with the standard but the law lacks clarity in respect of the documentation that the bureaux de change and the Latvian Post Office must rely upon when identifying nonresident customers.

5.4 Identification of legal person

When the customer is a legal person, regardless of its place of registration, the following information must be collected: the legal basis for the founding or the legal registration, the address, as well as the "given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents of the authorized person, as well as the authorizations of such natural person and status, and, if necessary—the given name and surname of the manager or the highest official of the administrative body of the legal person" (Article 6 paragraph 2 of the AML Law).

Pursuant to Article 8 paragraph 5 of the AML Law, the financial institutions are also required to identify and collect documentation on the structure of organization of a legal entity as well as the client's property rights and structure of control.

According to the FCMC Regulation (Article 36.6), indicators of high risk, thereby requiring enhanced due diligence measures, include the case where the client is a commercial company in which the actual beneficiary owns a majority of bearer shares. However, the provision includes an exemption where the purpose of establishing the client and its economic activity are known to the reporting entity and properly documented and the actual beneficiary of the client is not a high-risk client. While the FCMC informed the assessors that compliance with this requirement is subject to strict on-site supervision, the exemptions to the provisions of Article 36.6 appear excessive and risk undermining the effectiveness of the measure.

The AML Law therefore requires the financial institutions to verify that any person purporting to act

on behalf of a legal person is so authorized, as well as to verify the legal status of the legal person, in a way which is consistent with the FATF Methodology criterion 5.4. As discussed later under Recommendation 34, there is no basis in Latvian law for the creation of legal arrangements such as trusts. In Latvia, the term 'trust' is used to refer to fiduciary relationships and these are subject to all of the CDD requirements of the AML Law, including as regards the identification of beneficial ownership. The FCMC and banks visited informed the assessors that it is not the practice of Latvian banks to operate accounts on behalf of foreign trusts.

In respect of bureaux de change, the BoL Regulation No. 114/5[6] clearly cross-references the identification obligations set out in the AML Law and calls for the identification whenever the features of a transaction match those set out in the Cabinet of Ministers' Regulation No 127 or there are other suspicious circumstances that indicate that the transaction may be linked to ML or an attempt to launder funds.

Under both the FCMC Regulation and the BoL Recommendations 115/7[7], the industry should have written procedures in place that determine client and beneficiary identification procedures (FCMC Regulation Article 13; BoL Recommendations Article 2.3.1). Both authorities expound the legal requirement to identify the client and the beneficial owner as described below.

5.5* Identification of Beneficial owner

Under Article 8 of the AML Law (as amended in June 2005), all persons and entities subject to the law are required to actively inquire whether the customer is acting on his/her own behalf or on another person's behalf. They must require a signed declaration of the client concerning the beneficiary, including the third persons, as well as conduct purposeful, proportionate and meaningful measures in order to identify the beneficiaries, third persons, and the person submitting the signed declaration.

The AML Law defines a "beneficiary" as a natural person who owns the fixed capital or shares giving the right to vote (including participation obtained directly) or controls (directly or indirectly) the client in whose interests a transaction is conducted. A natural person who owns 25 percent or more of the share capital or shares giving the right to vote (including participation obtained indirectly) is also to be considered the beneficiary of the client entity (Article 1 paragraph 7 of the AML Law). According to the authorities, the definition of beneficiary also covers the beneficiary of life and other investment linked insurance policies.

Article 5^2 of the AML Law also provides that in order to fulfill the requirements set out in the law, the credit institutions and the financial institutions are entitled to ask for and receive further information on the beneficiaries and third persons, current or potential clients and their employees from the Register of Invalid Documents, the Penalty Register and the Population Register.

The FCMC and the BoL both address the identification of the beneficial owner further in their respective Regulation and Recommendations.

According to the FCMC Regulation, when identifying the beneficial owner, the financial institution must make sure that it possesses adequate information on the actual beneficiary as well as on his or her personal or economic activity and the origin of the funds (Article 15).

The assessors discussed in detail with a range of financial institutions the extent of the customer identification being conducted in practice, especially in relation to beneficial owners. The banks in

particular impressed on the assessors the procedures they have developed and the steps they now take to ensure that they understand and document the true purpose of the business relationship and the identity of the ultimate beneficial owner. They explained that, for particular groups of customers, including nonresident corporate account-holders (most of which use offshore company structures), the banks have begun to use the practice "know your customer's customer", and insist that they are in a position to confirm the economic reality behind such corporate structures. Where necessary, they visit the client company at its place of business. It is not unusual in some banks for new accounts to be opened by agents or other intermediaries, and occasionally on a non face-to-face basis. Issues in customer identification arising from these practices are addressed under the appropriate criteria below.

The FCMC informed the assessors that their extensive on-site supervision of banks' AML/CFT practices, particularly over the last two years, identified a significant number of cases where beneficial ownership information was missing or inadequate. However, the deficiencies identified mainly predated the latest amendment to the AML Law in June 2005, and the available recent inspection results now indicate significant improvement–though some deficiencies are still evident.

In the case of bureaux de change, the BoL Recommendations indicate that the bureaux should, if possible, make copies of the beneficial owner's identity documents. In respect of legal entities, it specifies that the enterprises should, if possible, identify and keep documents on the natural persons who actually own the majority of the bearer shares (Article 2.3.4).

5.6 Information on Purpose and Intended Nature of Business

The AML Law does not specifically address the purpose and intended nature of the business. It only entitles the financial institutions to ask their client to provide information and documentation on the beneficiaries (including the third persons) as well as on his/her economic activity, financial standing and the sources of the funds (Article 19^2 (1) of the AML Law). This is supplemented by Articles 14, 15, and 22 of the FCMC Regulation. Article 14 specifies that "prior to commencing cooperation with the client, the Participant shall require information from the client on scheduled transactions of which the Participant shall be involved, as well as types and volumes of transactions". Article 15 calls on the financial institution to make sure that it possesses adequate information on the actual beneficiary as well as on his or her personal or economic activity and the origin of the funds. Article 22 mentions that, in respect of offshore-registered business entities, the financial institutions should ensure that adequate information is available on the purposes for the use of the account and the origin of the funds (Article 22). These provisions meet the requirements of FATF Methodology criterion 5.6 for financial institutions to be required to obtain information on the purpose and intended nature of the customer business relationship.

In practice, the account-opening questionnaires of the banks typically require the provision by the customer of an explanation of the intended use of the account, and the nature of the financial transactions to be conducted. The banks interviewed informed the assessors that these details (and information collected at customer interviews, where applicable) are used to complete a customer profile which forms the basis for ongoing monitoring by the bank of the customer's activities. The collection and maintenance of this documentation is included within the scope of the FCMC's on-site inspections.

5.7* Ongoing CDD

The new paragraph 1^1 of Article 20 of the AML Law in force since June 2005 requires the persons subject to the law to monitor their clients' transactions and to ascertain whether they are in line with

the client's economic activity. It also requires them to document the monitoring and keep the information accessible to the supervisory authorities. Article 19^{2}(1) of the AML Law mentions further that the financial institutions are "entitled to request" from their client information and documents concerning the beneficiary or third party as well as information concerning any transaction conducted by the client, his/her economic activity, the financial standing, and the sources of the funds. According to the FCMC, it is an obligation, not an entitlement, to collect the relevant information. It must be noted that this is one of the cases where the assessors struggled with the wording of the AML Law and the mandatory or discretionary nature of some of its dispositions. As a general rule, it is highly recommended to opt for clearer, unambiguous language in the law.

The FCMC provides further that the procedure and periodicity for ongoing monitoring of the accounts and/or of the transactions should be conducted on a risk-based approach (Article 44 of the FCMC Regulation). It further requires the financial institutions to "determine the procedure and methodology as to how to provide documenting of economic and personal activities of high-risk clients and groups of mutually associated clients" (Article 45 of the FCMC Regulation). It also provides that they should determine the procedure for opening accounts, performing transactions and monitoring transactions of clients who are registered in a country which is on the FATF list of NonCooperative Countries and Territories (Article 47 of the FCMC Regulation). For the purpose of ongoing monitoring, the Regulation establishes a list of specific actions that should be taken by management (Article 48). It requires in particular that management should ensure that:

- the financial institution has a system in place that allows to analyze and control the accounts of clients and transactions conducted by the clients;
- the staff responsible for dealing or cooperating with the clients know the economic and personal activity of the client and pay attention to transactions that appear unusual compared to the client's profile;
- there is a procedure formulated for the identification of unusual and suspicious transactions and reporting thereof to the FIU; and
- there is a procedure formulated for an ongoing monitoring of transactions in an account of a foreign credit institution and for determining the criteria when the financial institution requires additional information from a foreign credit institution about its clients and the transactions conducted.

5.7.2 The AML Law does not specifically require financial institutions to ensure that the documents and information collected be kept up-to-date. Although it would seem difficult to comply with the requirements set out in the law, in particular in Articles 20 paragraph 1^{1} (monitoring) and 8 (identification of beneficial owner), without keeping the files up-to-date, the law falls short of the requirement of FATF Methodology criterion 5.7.2.

Risk

5.8 Higher risk

The AML Law does not provide for enhanced due diligence for higher risk categories of clients or transactions. The requirements of the AML Law are the same in all cases (with the exception of the exemptions mentioned for 5.9 below).

However, Article 36 of the FCMC Regulation provides the financial institutions with a list of 10 indicators that characterize high-risk clients. A client or a transaction would be considered high risk if

one of the following indicators is met:

- the country of registration or residence of the client is included in the internationally recognized lists of countries which are related to money laundering and terrorist financing activities;
- the country of residence of the client is included in the FATF's list of countries not cooperating in the fight against money laundering;
- the client regularly enters into unusual and suspicious financial transactions, of which the FIU has been notified;
- the client, without reason, strives to decrease the amount of information to be provided to the participant regarding verification of the actual beneficiary, (the volume of his or her economic or the personal activity or transactions that he or she has conducted);
- inquiries from law enforcement or judicial authorities have been received regarding the client in relation to the laundering of proceeds derived from criminal activity or financing of terrorism;
- clients that are companies in which the actual beneficiary owns a majority of bearer shares, except in cases where the purpose of establishing the client and its economic activity is known to the participant and properly documented and the actual beneficiary of the client is not a high-risk client;
- client is a person regarding whom no financial statements are available to the participant in cases where such statements should be prepared under the legislative enactments of the state of registration of the client;
- a new client (for a period of three months) who is registered as a business entity in an offshore jurisdiction, where the actual monthly turnover exceeds LVL200,000 or its equivalent in another currency;
- the client's operations materially differ from the general type of operations that he or she declared and the client has not provided a sufficient explanation for these differences; and
- the client is a politically-exposed person (PEP), as defined by the Regulation (see Recommendation 6 below).

The fact of identifying a client as being "high-risk" bears several consequences: the FCMC Regulation states that financial institutions may establish a multi-stage approach in the acceptance process of this type of client and may modulate the procedures for the identification of the beneficial owner and for updating the information collected in respect of the high-risk client's personal and economic activity. It also states that the participant "shall commence providing services to high-risk clients after applying a due-diligence process" (Article 39) and must determine procedures for determining whether a person is politically-exposed (Article 38) and is obliged to verify the managerial structure of high-risk customers that are legal persons (Article 41). The FCMC Regulation further provides that the participants must determine a methodology for visiting high-risk customers as well as a procedure for recording such visits. The financial institutions must determine the necessity and the regularity of these visits taking into account "the client's relevance and importance within a joint client's base" (Article 42 of the FCMC Regulation). Article 43 of the FCMC Regulation provides that they must also determine the procedure for the verification of the veracity and adequacy of the information received regarding the origin of the high-risk client's funds. It further provides that they must determine criteria for the verification of the veracity and adequacy of the information on PEPs and other high-risk customers whose accounts have been used mostly for personal activities, personal investments and saving funds, rather than for economic activities.

The financial institutions that are not subject to the FCMC's supervision, that is Latvian Post Office

and bureaux de change, should also be required, in law, regulation or other enforceable means, to perform enhanced due diligence for higher risk categories of customers, business relationships or transactions. The Latvian authorities should also define, for all financial institutions, the additional measures that must be taken under the enhanced due diligence.

5.9 Low Risks

The AML Law does not provide for reduced or simplified CDD measures for low-risk categories of business. Instead it completely exempts the financial institutions from client identification requirements in specified circumstances. Article 9 of the AML Law states that the identification requirements do not apply when the client or the beneficiary is:

- A credit institution or a financial institution licensed in the Republic of Latvia;
- A credit institution or a financial institution that has been granted a license in a state the normative acts whereof comply with the normative acts of the European Union in the area of prevention of the use of the financial system for the laundering of proceeds derived from a criminal activity and terrorist financing;
- The Latvian state or municipality or a Latvian state or municipal institution or an entrepreneur controlled by the Latvian state or a Latvian municipality;
- A financial instruments market organizer registered in a European Union country or a market organizer which is a member of the International Stock Exchange Federation or an entrepreneur (its subsidiaries) the share capital whereof is listed in the official lists of the said market organizers; and
- "Insurance companies (insurers), if the periodic insurance premium payments of a client within the period of one year do not exceed a total of EUR1,000 (or its equivalent in LVL) (...)— irrespective of the amount of the insurance". The wording of the law is slightly imprecise, at least in the English translation provided: the exemption does not cover the insurance company, but the transactions of less than EUR1,000. In other words, all customers of an insurance company who pay more than EUR1,000 for their annual premium have to be identified in accordance with the AML Law.

The authorities explained that the reason for these exemptions was that in all the exempted cases, either supervision was ensured by other authorities within the European Union, or the information on the identity of the customer and the beneficial owner is publicly available.

Whilst FATF recognizes that simplified measures may be appropriate in circumstances where the risk of money laundering and terrorist financing is lower, it does not provide for a complete exemption from the CDD requirements. In allowing for a complete and automatic exemption from the CDD measures, the Latvian AML Law falls short of the requirement set out in FATF Recommendation 5.

5.10

As mentioned above under 5.9, financial institutions are (unduly) exempted from carrying out CDD when dealing with a credit institution or a financial institution that has been granted a license in a state the normative acts whereof comply with the normative acts of the European Union in the area of prevention of the use of the financial system for the laundering of proceeds derived from a criminal activity and terrorist financing. Irrespective of the fact that this exemption falls short of the standard (see 5.9 above), the Latvian AML Law does not meet the spirit of the simplified or reduced CDD as described under FATF criteria 5.10 for the following reasons: No specific guidance or requirements have been issued by the Latvian authorities with respect to the countries that comply (or not) with the

relevant European regulation. The onus of determining whether the normative acts of a specific country comply with the relevant normative acts of the European Union therefore remains on the financial institutions. The FCMC informed the assessors that the financial institutions may either ask the FCMC to issue a statement in respect of a particular country's compliance (or noncompliance) with the European Union's requirements or mandate one of the large auditing companies to conduct the compliance analysis. This reliance on the financial institutions' discretion is clearly not in line with the standard; the Latvian authorities, not the financial institutions, should determine when simplified or reduced CDD measures are justified. In other words, the Latvian authorities should be the ones that are satisfied that a particular country is in compliance with the FATF Recommendations.

5.11

The exemption from the identification requirements only applies to a limited number of circumstances. According to the law, should a suspicion of money laundering arise, the exemptions listed above no longer apply and the financial institutions are required to carry out the full CDD measures (Article 7 paragraph 3 of the AML Law). As mentioned in paragraph 5.2 above, the law requires to identify the customer "if the indicators of the transaction conforms to at least one of the indicators included in the unusual transaction element list [i.e. in the Cabinet of Ministers Regulation No 127]", or if due to other circumstances, there is a cause to suspect "laundering or attempted laundering of the proceeds of crime". There is no explicit and direct legal requirement to conduct full CDD in case of suspicions of terrorist financing. Terrorist financing is only indirectly covered by reference to the list of indicators which include the fact that a person is a designated terrorist.

5.12

There are no provisions in the AML Law specifically permitting Latvian financial institutions to adopt a risk-based approach. However, the banks interviewed informed the assessors that they use a risk-based approach in allocating clients to the high-risk category, resulting in enhanced due diligence and, potentially, to the termination by the bank of the account relationship for example in cases of:

- unexplained high-risk operations or transactions by the client;
- noncooperation with the bank's requests for further explanation or information regarding transactions;
- doubts about the nature of the client's business; or
- doubts about the true identity of the beneficial owner or cases where a third party may be operating the account.

Timing of verification

5.13 and 5.14

The AML Law does not address the issue of verification and its timing differently than that of identification. According to the authorities, the general understanding is that the identification and verification should take place before the transaction is conducted. There is a specific obligation to re-identify (and thus verify) the customer only when there are causes to suspect the veracity of the information acquired in the initial identification (Article 7 paragraph 4).

Similarly, the law does not specify circumstances in which it might be possible to start the business relationship before having satisfactorily completed the full identification and verification. It does provide some indication as to how to deal with non face-to-face situations, but does not set clear and explicit requirements: Article 10^1 of the AML Law provides that when a client has not personally

appeared before the persons and entities subject to the law, the latter "shall perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose, additional documents may be requested, checks made of the identification data and various types of certifications received". In other words, the financial institutions must take measures to ascertain the veracity of the identification information but are free to take the measures they deem most appropriate: they may call the customer in for identification purposes but are not required to do so. The FCMC confirmed that the financial institutions are expected to deal with non face-to-face business on a risk-based approach.

The new FCMC Regulation now states clearly that the participants are not authorized to start providing financial services to a client until the identification of the client and the verification of the actual beneficiary have been completed in accordance with the law (Article 24 of the FCMC Regulation). The financial institutions interviewed confirmed that client identification is undertaken prior to the commencement of the business relationship and that this was also the case before the entry into force of the new Regulation. A number of banks referred to enhanced monitoring during the first three months of operation of a new account and/or a review at the end of the three-month period as to whether the account was operated in line with the profile information originally provided by the client —if not, the account relationship could be terminated. In documentation seen by the assessors, the FCMC raised some concerns regarding the possibility of lax due diligence during the initial operation of some accounts, or of banks permitting accounts to be opened while awaiting the submission by the client of adequate documentation. This issue is a particular focus of FCMC on-site inspections, which typically include an examination of a sample of recently-opened accounts in each bank. Some third-party websites continue to offer account-opening services with Latvian banks on a provisional basis (i.e., pending submission of full CDD documentation) and indicate that such can be used for transactions for up to three months. The banks interviewed informed the assessors that they do not engage in such a practice, and one bank referred to new accounts as being subject to blocking until the customer has satisfied all requirements.

Whilst the issues of verification and its timing now appear to be clearly set out in the new FCMC Regulation, both are still unclear for the bureaux de change and the Latvian Post.

Failure to satisfactorily complete CDD
5.15 – 5.16

The AML Law does not specifically address the consequences of a failure to satisfactorily complete the CDD. The general understanding is that the financial institutions are only entitled to enter into a business relationship or conduct an occasional transaction above the designated threshold after the full CDD has been conducted. *A contrario*, should the financial institutions be unable to satisfactorily complete the CDD, they should not proceed with the potential relationship or transaction.

The FCMC Regulation goes further by instructing the financial institutions not to provide financial services to a client who has not been fully identified (Article 24).

There are no explicit requirements to consider filing a suspicious transaction report to the FIU in the event that a financial institution is unable to complete CDD. According to the authorities, the financial institutions are nevertheless required to report such an event on the basis of the general requirement set in Article 11 paragraph 2 of the AML Law to report facts that give raise to suspicion of money laundering.

In respect of existing customers, the financial institutions are entitled under the AML Law to decide whether the relationship should be continued or not (Article19[2] paragraph 2). There is no specific legal requirement to put an end to the relationship.

Existing customers
5.17

With the entry into force in June 1998 of the AML Law, all financial institutions are required to identify the account holder (Article 7 paragraph 1 of the AML Law). Pursuant to the transitional provision, they are also required to identify the existing customers: the Transitional Provision mentions that "no action, except for closing of the account, may be performed after January 1, 1999 with regard to accounts which were opened prior to January 1, 1997 without identifying the client, until the identification of the account holder has been performed"

According to the authorities, the financial institutions subject to the FCMC's supervision are required to apply the CDD measures to existing customers on the basis of materiality and risk in accordance with the FCMC Regulation.

5.18
As mentioned above for criterion 5.1, under the Transitional Provisions of the AML Law of 1998, "no action, except for closing of the account, may be performed after January 1, 1999 with regard to accounts which were opened prior to January 1, 1997 without identifying the client, until the identification of the account holder has been performed". Therefore, re-identification in such cases is required.

R. 6

6.1

The AML Law is silent on the issue of politically-exposed persons (PEPs). The FCMC Regulation, however, addresses it, albeit in a limited way: It provides a definition of PEPs that covers foreign PEPs, as well as the members of a PEPs' family (Article 4.3). PEPs are defined as a foreign natural person who holds a position of head of State, head of a government ministry, Chairman of a Supreme Court, Chairman of a Constitutional Court, member of Parliament, their family members (spouse, parents, siblings and children), as well as persons who have left these offices during the past year and their family members. According to Article 36.10, the fact that a person falls under the definition of a PEP automatically puts him/her in the higher risk category of clients. This entails that the banks may only start providing services to the PEP after having conducted a higher level of due diligence, as described under criterion 5.8 above.

There are no similar requirements set out in law, regulation or other enforceable means for the financial institutions that are not subject to the FCMC Regulation (bureaux de change and the Latvian Post).

6.2 and 6.4

There is no specific requirement set out in law, regulation or other enforceable means to obtain senior management approval for establishing a business relationship with a PEP. Similarly, there is no specific requirement for bureaux de change and the Latvian Post Office to perform enhanced ongoing monitoring.

6.3

According to the AML Law, the measures to be taken to establish the source of the wealth or the funds are the same as for the customers that are not deemed of higher-risk: Article 19[2] paragraph 1 of the AML Law only entitles the persons subject to the law to request their clients to inform them of the source of the funds.

The FCMC Regulation sets out however supplementary requirements in respect of PEPs. It states that banks and other financial institutions subject to the Regulation should introduce the following measures in relation to PEPs:

- Procedures on how to ascertain whether a person is a PEP (Article 38 of the FCMC Regulation); and
- Procedures for the verification of the veracity and adequacy of the information on PEPs whose accounts have been used mostly for personal activities, personal investment and savings, rather than for economic activities (Article 43 of the FCMC Regulation).

The banks informed the assessors that they implement enhanced due diligence for foreign (and, up to the entry into force of the new FCMC Regulation, domestic) PEPs of a senior standing, with identification using such products as Worldcheck.

Additional elements
6.5 Coverage of domestic PEPs is no longer included in the FCMC Regulation under the amendments adopted in May 2006.

6.6 The Republic of Latvia has signed the UN Convention Against Corruption on May 19, 2005 and deposited the ratification instruments on January 4, 2006.

R. 7

7.1 – 7.4

According to Article 5[1] of the AML Law, credit institutions shall, while engaging into a correspondent relationship with a foreign bank, conduct purposeful, proportionate and meaningful documented measures in order to ascertain whether the normative acts on the prevention of laundering of proceeds derived from a criminal activity and terrorist financing are in place in the country concerned and whether the given foreign bank complies with the respective normative acts. In addition, the new FCMC Regulation provides that banks should develop a procedure in order to evaluate the "efficiency and sufficiency of the internal control system" of their correspondents in the prevention of AML/CFT (Article 21).

However, the law provides that these requirements do not apply when a correspondent relationship is established with a bank registered in a member country of the Organization for Economic Cooperation and Development (OECD). In the view of the assessors, the FATF Recommendations provide no basis for a blanket exemption of this nature, not even by application of the permitted risk-based approach. Membership of the OECD does not automatically imply that all members have equally low risk or that they have adopted and implemented AML/CFT regimes that comply with the standard—the facts and risks would need to be considered on a country-by-country basis. While the authorities pointed to the similar exemption for EEA member countries in the EU Money Laundering Directive as a precedent, this exemption has been found to be inconsistent with the FATF Recommendations in assessments of

some other countries. Moreover, while the EU approach is based on agreed mutual recognition of Member States' harmonized single-market legislative provisions, no such basis is available for OECD members, as a group.

The FCMC has also clarified their requirements under Article 5^1 of the AML Law, for the purposes of Recommendation 7, in a letter issued to the banks in October 2005, as follows:

Banks should define criteria for cooperation with foreign banks to verify whether AML/CFT legislation exists in the country and whether the foreign bank in question complies to such legislation. Bank should keep proper records of fact-finding. International certified auditor's findings or statement issued by supervising authority in the correspondent bank's country of residence are sufficient to prove compliance of the correspondent bank to the above requirements. Banks also should establish a procedure for checking the adequacy and effectiveness of internal control systems designed to supervise foreign bank correspondent accounts, monitor correspondent account transactions on a regular basis, and request additional information on customers and transactions from foreign banks.

Banks are not explicitly required to obtain senior management's approval before establishing new correspondent relationship. The 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, and to document the respective AML/CFT responsibilities of each institution, though they could be regarded as included to some degree within the range of documented measures required by Article 5^1, need to be strengthened.

7.5

"Payable-through" accounts are not specifically addressed. According to the authorities and the banks interviewed, they are not currently used in Latvia.

Given the high level of international payments passing through the Latvian financial system, the maintenance of efficient correspondent banking relationships for settlement purposes is critical to the banks. Due at least in part to the requirements of the US PATRIOT Act, Latvian banks, like those in other countries, have had to strive to satisfy the information and due diligence requirements of their US correspondents. While the arrangements continue to be volatile, the larger Latvian banks in particular have been successful in maintaining direct correspondent relationships with New York-based banks for US$ clearing and settlement, despite the upheaval in that business. None of the Latvian banks has been without US$ correspondents, whether directly or indirectly. Pressure from US banks has augmented the efforts of the FCMC to achieve the substantially-improved level of AML/CFT compliance evident to the assessors.

Latvian banks provide correspondent bank relationships to other banks, mainly from CIS countries. The number of such accounts has fallen sharply in recent times, and the assessors were informed that the remaining accounts are primarily related to the needs of trading customers from Russia and other CIS countries. Client transactions passing through these accounts are subject to standard due diligence practices in accordance with the banks' internal AML/CFT policies and procedures. These procedures are reviewed in detail offsite by the FCMC to check for compliance, not alone with the relevant laws, but also with the guidance issued by the FCMC (e.g., as quoted above on the subject of correspondent banking).

The blanket exemption for correspondent banks from OECD countries under Article 5^1 of the AML

Law is a concern, and is neither fully consistent with the FATF recommendations nor in keeping with current international market developments. The assessors did not encounter evidence in practice that banks interviewed were not conducting due diligence in such cases. It is nevertheless recommended to remove the exemption to the requirement set out in Article 5^1 of the AML Law in all cases.

"Payable-through" accounts do not appear to be used in Latvia. Criteria 7.5 therefore does not apply to the current situation.

R. 8

8.1 – There are no explicit requirements in the AML Law to address the additional risks posed by new or developing technologies. However, the general requirements of the AML Law (in particular Article 20 on the internal control system) apply equally to business done using new technologies, including the internet. Article 10^1 of the AML Law (see next section) contains some relevant provisions for non face-to-face business that would apply also to internet transactions. The FCMC partly expounded on this by stating, in Article 25 of its Regulation, that "in commencing provision of financial services to a client with whom the Participant establishes transaction relationship remotely through any electronic means of communication or post office services, the Participant may rely on the identification of a client conducted by a public notary. In this case, the public notary shall testify a will of a client to commence business relations with the Participant and a valid copy of document certifying the identity of a person". Nevertheless, the overall requirement (including the recent amendments) do not fully meet the standard according to which the financial institutions should be required to have policies in place or to take measures to prevent the misuse of technological developments in ML and TF schemes.

The authorities and the banks interviewed informed the assessors that Latvian banks no longer allow the opening of new accounts via the internet. It is possible to complete the account opening documentation and questionnaires online, but they must then be printed and brought or forwarded to the bank so that new customer clearance procedures can be conducted—see also the relevant discussion under 8.2 (below). Most Latvian banks have adopted an internet strategy, with some conducting almost all their client business—particularly nonresident business but also increasingly business with residents of Latvia—over the internet. The assessors were informed by the banks that the procedures for ongoing monitoring are no different for internet or conventional business, with the same application of the requirements to understand the nature of the transactions and obtain supporting documentation in cases where the transactions are unclear to the bank or outside the normal pattern of the client's transactions or inconsistent with profile information.

8.2 and 8.2.1

Under Article 10^1 of the AML Law, when entering in a business relationship or conducting a transaction with a client who has not appeared in person before them, the persons and entities subject to the AML Law are required to "perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose, additional documents may be requested, checks made of the identification data and various types of certifications received". In addition, under Article 27 of the FCMC Regulation, a financial institution must determine and document the follow-up measures to be taken for ascertaining the veracity of the client identification data and information on the actual beneficiary provided by a client who has entered into the business relationship remotely. Article 28 provides a list of suggested follow-up measures, according to which the financial institution may:

- request that the client be physically present when entering into the first transaction;

- check the indicated address by sending documents to that address and the telephone number, by contacting the client on that number, or organize face-to-face visits, or otherwise check the information provided;
- check whether a client or actual beneficiary is on one of the international black lists;
- check whether the financial institution has terminated a business relationship with the client in the past;
- check the internet for the client's or the actual beneficiary's home page or e-mail address;
- make use of any other additional actions as defined in the financial institution's procedure.

In practice, banks informed the assessors that they apply enhanced due diligence to non face-to-face business.

Recommendations and comments

Recommendations

The assessors found that, in several instances, the current wording of the AML Law raised questions as to the mandatory or discretionary character of some of its dispositions. The assessors strongly recommended that:

- The authorities should amend the AML Law to introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations.

Recommendation 5

- 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).
- Provide explicitly in law or regulation that financial institutions must verify customers' identity.
- Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares.
- 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.
- Clarify, in law or regulation, that identification of nonresident customers 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.
- Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons.
- Amend the AML Law or relevant regulation in order to clearly require the financial institutions that are not subject to the FCMC Regulation to obtain information on the purpose and intended nature of the business relationship.
- 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.
- 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.

- Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9.
- 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.

Recommendation 6

- 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.
- 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.

Recommendation 7

- The blanket exemption for correspondent banks from OECD countries under Article 5[1] of the AML Law should be removed.
- Require, in law, regulation or other enforceable means, that banks must obtain senior management's 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.

Recommendation 8

- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.5	PC	Although the law broadly meets the substance of the standards, it is insufficiently clear on a number of issues. • Although Latvia has implemented customer identification obligations, not all of the necessary details of CDD are adequately covered. • There is no explicit requirement in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (other than when opening an account).

		• There is no explicit requirement in law or regulation for financial institutions to verify the customer's identity. • In respect of business relationships that are not covered by the FCMC Regulation: the requirements are unclear as regards the timing of verification. • Measures taken to enable financial institutions to conduct full CDD on legal entities that may issue bearer shares need to be strengthened. • There are no specific, direct requirements in law or regulation to identify the customer when there is a suspicion of terrorist financing. • Current requirements to keep the information collected during the CDD up-to-date and relevant and to conduct reviews of existing records, in particular for higher risk categories of customers need strengthening. • There are no requirements, in law or regulation or other enforceable means, for the bureaux de change and the Latvian Post Office to identify high-risk clients or transactions and perform enhanced due diligence. • Exemptions to the identification requirement are not in line with the standard.
R.6	PC	For the bureaux de change and the Latvian Post Office, there are no legal or other enforceable requirements in place. For financial institutions subject to the FCMC supervision: Although customers or beneficial owners identified as PEPs are considered of higher risk, there are no requirements to obtain senior management approval for establishing the business relationship.
R.7	NC	Article 5^1 of the AML Law unduly provides a blanket exemption for correspondent banks from OECD countries. There is no legal, regulatory or other enforceable obligation to obtain senior management's approval before establishing new correspondent relationships. The following current measures need to be enhanced in law or regulation: • To gather sufficient information to understand fully the nature of the respondent's business and to determine its reputation and the quality of supervision; or • To document the respective AML/CFT responsibilities of each institution.
R.8	PC	Although the provisions of the AML Law apply equally to non face-to-face business, there are no supplementary requirements in law, regulation or other enforceable means to address the additional risk associated with new or developing technologies. Nevertheless,

		implementation of AML/CFT preventive measures for such business has improved in practice.

2.3 Third parties and introduced business (R.9)

Description and analysis

The law does not address the situation under which the financial institutions may rely on intermediaries and other third parties to perform elements of the CDD or to introduce business. However, the FCMC introduced relevant restrictions in its Regulation as follows:

Identification of the client or a potential client and verification of an actual beneficiary abroad may be carried out by a staff member of the Participant's representative office which is authorized to operate in the relevant foreign country pursuant to its regulatory enactments, or an intermediary (agent). (Article 26 of the FCMC Regulation).

The FCMC also indicated that for the purpose of ascertaining the veracity of the client identification data and the information on the actual beneficiary, the financial institutions may request that a client who has not appeared in person before the financial institution, be physically present when entering into the first transaction (Article 28 – see also other examples of follow-up measures mentioned under Recommendation 8 above).

A number of banks informed the assessors that they no longer allow accounts to be opened in their banks by intermediaries and they do not delegate the responsibility for conducting CDD. Third-party intermediaries are not commonly used, and where they are, their role is restricted to collecting information and documentation from the prospective client, for transmission to the bank in Latvia for decision.

As a result of the above, and in particular of Article 26 of the FCMC Regulation, the customer identification process may only be conducted by the financial institution itself or by an agent acting under contractual arrangement with the financial institutions, and not by third parties. Therefore, Recommendation 9 does not apply.

Recommendations and comments

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Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.9	N/A	Financial institutions do not rely on third parties intermediaries to perform elements of the customer identification process.

2.4 Financial institution secrecy or confidentiality (R.4)

Description and analysis

It is the legal duty of the credit institutions (i.e. banks and electronic money institutions) to guarantee the confidentiality of the identity, account, deposits and transactions of the client (Article 61.1 of the Law on Credit Institutions). The unauthorized disclosure (be it intentional or unintentional) of information on a client's account or on financial services provided to a client may entail criminal sanctions (Article 64 of the Law on Credit Institutions).

However, the confidentiality is not absolute. There are a number of circumstances in which the confidentiality requirement may be lifted. Pursuant to Article 63 of the Law on Credit Institutions, the information may, in particular, be provided to the following authorities:

- the FCMC, for the exercise of the supervisory functions as specified by law;
- the Office for the Prevention of Laundering Proceeds Derived from Criminal Activity (Control Service), in accordance with the procedures and to an extent as specified by the AML Law;
- the courts, within the framework of matters in adjudication on the basis of a ruling of a court (judge);
- the investigation authorities, within the framework of a pre-trial criminal procedure on the basis of a request of a head of an investigation institution, which is accepted by a judge of district (municipal) court;
- a prosecutor's office, within the framework of pre-trial criminal procedure on the basis of a request of a prosecutor which is accepted by a judge of district (municipal) court;
- operative agents, within the framework of operative registration cases on the basis of a request of an operative agent, which is accepted by the chairman of the Supreme Court or his authorized judge of the Supreme Court; and
- the Corruption Prevention and Combating Bureau (under the circumstances listed in the law).

The law continues the listing of other circumstances under which the information may be disclosed to the authorities and to notaries. In accordance with the procedures set out in the law, the banks are required to provide the authorities with the requested information without delay and no later than within 14 days (Article 63 par. 3).

Similar confidentiality requirements apply to insurance companies (Article 29 paragraph 1 of the law on Insurance Companies and Supervision Thereof) and securities intermediaries (Article 131 of the law on the Financial Instruments Market), but, as with banks, these requirements are not absolute: The FCMC may require from insurance and reinsurance intermediaries information and documents regarding their activities and the insurance and reinsurance intermediaries must submit the requested information within the time period specified by the FCMC. The law clearly specifies that the submission of the requested information to the FCMC may not be refused on the grounds of a commercial confidentiality (Article 41 paragraph 2 and 3 of the law on activities of insurance and insurance intermediaries). According to the law on the Financial Instruments Market, the securities intermediaries' confidentiality duty may also be lifted and the information provided to a range of authorities, including the FIU (Article 131 of the law).

More generally, the AML Law provides that the supervisory authorities are entitled to request from natural and legal person the information which is necessary for them to perform their duties under the AML Law as well as to undertake any other activities that might be necessary to prevent or reduce the risk of misuse of the Latvian financial system and capital markets for money laundering or terrorist financing purposes (Article 26^1 of the AML Law). The AML Law thus ensures that the confidentiality or professional secrecy may not be opposed to the competent authorities when they perform their functions in combating money laundering and terrorist financing.

Pursuant to the AML Law, the confidentiality duty may even be lifted between financial institutions: Article 19^2 paragraph 4 entitles the financial institutions to exchange information on persons with whom business relations have not been initiated or have been terminated because the person did not provide the information required by the financial institution in accordance with the AML Law. The banks visited informed the assessors that they use the opportunity to exchange information amongst themselves.

Recommendations and comments

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Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.4	C	

2.5 Record keeping and wire transfer rules (R.10 & SR.VII)

Description and analysis

R. 10

10.1

Article 10 of the Law on Accounting (to which all financial institutions are subject) sets out that all "corroborative documents" must be maintained for five years in respect of all transactions of an enterprise. Corroborative documents include identification data, title, number and date of the document, description and basis of the transaction, quantifiers (volumes, amounts), participants (persons directly engaged in the transaction) and signatures. It is unclear if this requirement would also include the identification documents related to the beneficial owner. Although Article 10(2) of the AML Law includes a specific requirement to maintain documentation regarding beneficial owners for at least five years following a transaction, by linking this requirement to Article 7 of the AML Law (and not referring also to Article 6), this appears to limit its application to cases of occasional and suspicious transaction, with at best a tenuous link to covering identification documentation for beneficial owners of accounts.

The law on the Financial Instrument Market Law is more precise and more in line with the standard in the sense that it sets out a requirement to "ensure that the documents evidencing transactions in respect of financial instruments are stored for 10 years" (Article 124). However, the scope of this requirement is limited to investment brokerage companies and credit institutions that provide investment services or noncore investment services.

The new FCMC Regulation requires the financial institutions to establish the record keeping procedure for the documents related to their clients, but does not provide further details (Article 9 of the FCMC Regulation).

Overall the requirements are not sufficiently detailed or direct in their application to provide the required assurance that all financial institutions are obliged (by law or regulation) to maintain all necessary information that would be sufficient to permit reconstruction of individual transactions. In practice, financial institutions interviewed by the assessors confirmed that they maintain fully-documented records of transactions for at least five years–some have a 10-year policy of retention; at least one keeps records indefinitely.

10.2

Article 10 of the AML Law requires that identification data must be kept for at least five years after the business relationship has ended (for regular customers) or after the transaction has been conducted (for occasional customers).

There are, however, no obligations specified to keep records of the account files and business correspondence. Furthermore, no provision is included to ensure that the mandatory record-keeping period may be extended in specific cases on request of an authority. These are shortcomings that the authorities need to address in law or regulation.

In respect of beneficial owners and third parties, the following documents must be retained for at least five years after the transaction was conducted: a copy of the declaration concerning the beneficiaries signed by the client in accordance with Article 8 of the AML Law and copies of the documents that attest "the performance of transactions" (Article 10 paragraph 2 of the AML Law), but only in cases where the client is identified pursuant to the procedure set out in Article 7 which, as noted above, could be interpreted as only applicable to cases of occasional and suspicious transactions and not to account-holders.

10.3

Article 8 of the AML Law requires financial institutions to provide to the "supervisory and control authorities" upon request the information on the identification of the beneficiary, the structure of organization of the client (legal entity), the characteristic features of the client's economic activity, and the identification of the client's property rights and the control structure of the client. A similar approach is set out in Article 20 paragraph 1^1 of the AML Law. When asked whether "supervisory and control authorities" included the Control Service (i.e. the FIU), the authorities answered that it did not. Although the requirement is clear in respect of the supervisory authorities, it does not address the other authorities competent in the fight against money laundering and terrorist financing and does not explicitly require the financial institutions to ensure that customers and transactions records and information are available to all relevant authorities on a timely basis. The Credit Institution Law broadens the scope of authorities to which the information must be disclosed upon request: Articles 62 and 63 state that the information gathered by the credit institutions in providing financial services must be made available to "State institutions and State officials" which, according to the law, include the FCMC, the Office for the Prevention of the Laundering of the Proceeds Derived from Crime, courts, investigative institutions, the Prosecutor's Office, the Corruption Prevention and Combating Bureau, bailiffs, the State Treasury, the State Audit Office, the State Revenue Service.

None of the relevant competent authorities, including law enforcement and the Control Service, reported to the assessors having had any difficulty in getting current information they needed from the financial institutions for duly-authorized purposes. Delays and limitations have arisen from time to time when very old records were being sought and needed to be retrieved manually. Although the limitations in Articles 8 and 20 of the AML Law do not seem to have prevented the competent authorities from having access to the necessary information, all financial institutions should be clearly required to make the information available to all competent authorities in the fight against money laundering and terrorist financing on a timely basis.

SR. VII

Interbank payment systems in Latvia are operated by two systems that are monitored by the BoL (BoL Resolution 89/10 of September 13, 2001 on the BoL payment system policy; Regulation 65502), real-time gross-settlement system (RTGS) known as SAMS[8], and an interbank retail payments system known as EKS[9]. In both systems, data exchange is effected using SWIFT data transmission infra-

[8] The BoL's interbank automated payment system (SAMS), which functions as the core mechanism of the entire payment system. It ensures the settlement of large-value interbank payments and the BoL's monetary policy operations, as well as the final settlement of other payment systems. Banks may also use this system for their customers' payments, but, because of the system's costs, the SAMS is predominantly used for processing large-value or urgent payments. The SAMS is a real-time gross settlement system.

[9] The BoL's electronic clearing system (EKS), an interbank retail payment system. The EKS is the only clearing (net settlement) system in Latvia that ensures the settlement of bulk customers' credit transfers among banks in

structure. All fields of the SWIFT messages must be filled in order for the payment to be transferred. All Latvia's 23 banks are direct participants to both systems.

VII.1

Financial institutions are required under the general identification requirements set out in the AML Law to obtain and maintain originator information. However, there is no specific legal requirement as to the originator information that has to be included in the order for the transfer of the funds. The only clear requirement in respect of wire transfers is that all payments orders to be executed during a credit transfer must contain identical information on the originator, the originator's institution, the beneficiary and the beneficiary's institution (Article 2.6 of the BoL Regulation for credit transfers). The information must therefore remain with the transfer or related message throughout the payment chain. According to the authorities, separating the originator information from the transfer in any way would not meet the requirements set out in the BoL Regulation.

In practice, banks informed the assessors that the SWIFT message fields are typically populated automatically for account customers from the client database, and that all fields are completed so that full originator information is included. According to the banks interviewed, incoming wire transfers with incomplete originator information would be queried with the originator bank, and incoming transfers with incomplete recipient information would be rejected.

VII.2 and VII.3

There are no clear requirements under the Latvian laws or regulations to include full originator information in the domestic or cross-border transfers or the related messages.

VII.5

The only clear requirement in respect of wire transfers is that all payments orders to be executed during a credit transfer must contain identical information on the originator, the originator's institution, the beneficiary and the beneficiary's institution (Article 2.6 of the BoL Regulation for credit transfers). The information must therefore remain with the transfer or related message throughout the payment chain.

VII.4, VII.6, VII.7, VII.8 and VII.9

Other than maintaining the information with the wire, the Latvian laws and regulation do not specifically address wire transfers. There are therefore no distinctions made between batched and nonbatched transfers. There is no *de minimis* threshold.

There are no specific measures specified to monitor the compliance of financial institutions with the rules recommended under SR VII and to sanction the failure to comply with these rules. The BoL is the competent authority to monitor the payment system overall, but it does not monitor the individual transactions. As an important part of the normal operations of a bank, wire transfers are covered within the scope of FCMC supervision. Sample on-site transaction testing for AML/CFT compliance includes wire transactions. Wire transfers are not expressly covered by the FCMC's on-site inspection procedures.

Latvia. The EKS is an automated clearing house system, in which the processing of payments is fully automated and only electronic payment instructions are accepted and processed. The EKS also uses SWIFT infrastructure.

Recommendations and comments
Recommendation 10 • Require, in law or regulation, financial institutions to keep records of the account files and business correspondence. • Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases. **Special Recommendation VII** • 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.

Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.10	PC	Record-keeping requirements, though they meet core aspects of R.10, lack the detail and clarity to oblige all financial institutions to be able to reconstruct individual transaction data. No explicit requirement in law or regulation to maintain records of accounts files and business correspondence.
SR.VII	NC	Other than the requirement to maintain the originator information with the wire, the Latvian laws and regulations do not specifically address wire transfers.

Unusual and Suspicious Transactions

2.6 Monitoring of transactions and relationships (R.11 & 21)

Description and analysis

R. 11

11.1 and 11.2

The financial institutions are required to pay special attention to all complex, unusual transactions or patterns of transactions in a way that largely complies with the standard. Article 20 of the AML Law requires all reporting entities to establish and document an internal control system for the prevention of money laundering and terrorist financing. Clear internal procedures for the identification of clients and the oversight of their economic activity should be established in that respect (idem). Article 20 paragraph 1^1 (in force since June 2005) of the AML Law further imposes an obligation on all reporting entities to carry out "purposeful, proportionate and meaningful measures in order to monitor the transactions of the clients as well as to ascertain whether the transaction conducted by the client corresponds with the actual specifics of the client's economic activity" (Article 20 paragraph 1^1). The Cabinet of Ministers established a list of elements that, when met, define a transaction as being unusual (Regulation No 127 List of Indicators Pertaining to Unusual Transactions and the Reporting Procedures, of March 20, 2001). The financial institutions must report to the Control Service all

transactions that meet at least one of the elements listed. In accordance with Article 20 paragraph 4 of the AML Law, the reporting entities must "register the reports provided to the Control Service and ensure the accessibility of such reports to the supervisory and control authorities". The FCMC Regulation states that the financial institutions to which it applies must determine and document the procedure for the identification of suspicious transactions (Article 30). They must determine indicators of suspicious transactions when assessing risks which arise from the structure of their clients and economic activities carried out by the clients (Article 31 of the FCMC Regulation). They must also establish what actions must be undertaken when it appears that a client conducts a transaction that is untypical for the economic or personal activity of the client, or otherwise raises suspicion of money laundering or terrorist financing (Article 32). The Regulation also provides two lists of indicators that may attest the suspicious nature of a transaction conducted by a) the client of a credit institution, a credit union, an investment brokerage company, an investment management company, the Latvian Central Depository, an organizer of a regulated market and a pension fund (Article 33); and b) the client of an insurance company and insurance intermediary (Article 34).

The requirements set out in the AML Law broadly comply with the standard but it would preferable if the current focus on the economic aspect of a transaction were extended to mention specifically transactions that have no apparent or visible lawful purpose.

11.3 (and documentation requirement of 11.2)

All actions taken in order to monitor the client's transactions in accordance with Article 20 paragraph1[1] of the AML Law must be documented and the documents must be made available to the supervisory authorities. Under the standard, all relevant authorities, and not only the supervisors, should be able to have access to the information. Although the assessors were not informed of particular problems encountered by the FIU and the law enforcement agencies to access the information they need to carry out their functions, it is recommended that the text of Article 20 paragraph 1[1] of the AML Law be amended in order to include all competent authorities. Transaction records must be maintained for five years as described under Recommendation 10 above but there are no specific requirements in the AML Law to maintain their findings on a specific transaction that appears unusual.

A major investment of time and effort has been made by the FCMC and the financial institutions over the past two years or more to achieve much-needed improvement in the ongoing monitoring of transactions for AML/CFT purposes. Frequent on-site inspections by the FCMC had revealed serious deficiencies in ongoing monitoring, mainly by the banks and particularly in relation to nonresident customers. Where necessary, the FCMC imposed sanctions for continuing noncompliance, particularly where banks were found not to have adequate information to explain the purpose of transactions passing through their accounts or where they could not identify the ultimate beneficial owner of the funds or the account. Banks were required to retroactively fill any gaps in their client files by contacting the client and requesting all additional information and documentation needed to satisfy the bank that it had a good understanding of the business of the client, and of the purpose of the account and/or transactions, supported by verifiable documentary evidence. While many customers cooperated with these efforts, some refused or did not respond. As one result of these efforts, many thousands of nonresident (and some resident) accounts were closed. Some 250,000 accounts in total were closed by Latvian banks in 2005.[10] Of these, it is estimated that more than 100,000 were closed due to

[10] although a much larger number of new accounts were opened in the same period

compliance difficulties. Many of these accounts already had zero or minimal balances at the time of closing, but some could nonetheless have previously been actively used for substantial transfers, particularly between CIS and western countries.

Many banks engaged consultants (from the 'Big 4' accountancy firms) to assess their systems, advise them on AML/CFT compliance matters and, in some cases, redesign their IT and other compliance systems and procedures. This process is recent in some banks and ongoing in others. The typical pattern is to reclassify the customer base into a number (four or five) levels based on risk, and to begin with the high-risk clients in terms of building profiles of typical patterns of operation, linking information on connected-company structures (particularly involving offshore companies), and obtaining from the client written explanations and supporting documentation (copies of contracts, agreements, invoices, customs documentation, etc.) to substantiate large transactions the purpose of which is unclear to the bank.

While the assessors are not in a position to conclude that the process is fully effective at this stage, the extent of the investment was clearly evident in all banks visited, the awareness levels of the reputational risks of poor AML/CFT practices were high both among management and staff, and the commitment to have effective systems in place was strongly expressed by all banks. Some banks are more advanced in the process than others and there is a need for these efforts to be sustained. A number of banks informed the assessors that they have withdrawn from some higher-risk business lines for nonresident customers (e.g., funds transmission business for nontrade-related business) to concentrate on services and clients whose business they understand and where the underlying transaction can be evidenced where appropriate by documentary evidence of the transfer of goods. Other (smaller) banks still seem to accept clients, types of payment (e.g., payment for consultancy), and corporate structures which are inherently risky from an AML/CFT perspective and very difficult to substantiate independently. Even in these cases, the banks concerned pointed to the extent to which they had cleaned out the customer base, and explained the efforts they were making to ensure they had documented explanations for large and unusual transactions. Banks reported that they are starting to get improved cooperation from customers as requests for explanations and supporting documentation from banks in Latvia become the norm. Certain types of nonresident client and transaction will present an ongoing challenge to effective implementation of monitoring measures, and the danger remains that some banks will concentrate mainly on building files to satisfy the FCMC's inspectors rather than genuinely seek to understand the clients' business. There is a continuing need for vigilance.

The FCMC has provided further guidance to its requirements in this area in its letter to the banks of October 2005, by stating that banks should develop procedures and methodology for monitoring of corporate and private transactions of companies and corporations not included in the high-risk category to detect ML and TF cases, and that this would entail regular compliance checks to verify the client's initial information against actual profile and business relationship.

R. 21

21.1- 21.2

According to Article 11 of the FCMC Regulation, the country of residence or of registration of a client is one of the elements that the financial institutions must take into account when determining eligible potential clients. Article 36 of the same Regulation provides that the fact that the country of residence of a customer is one of the countries listed by FATF as being noncooperative in the fight against money laundering or is a country included in one of the international lists of countries which are

related to money laundering or terrorist financing activities is an element that characterizes the client as being of higher risk. As a consequence, the customer is subject to a higher level of scrutiny (Articles 20 paragraph 1^1 of the AML Law, 39 to 45 of the FCMC Regulation). If it is then determined that a client conducts transactions which, according to the evaluation of the client, are untypical, the compliance officer of the financial institution has to be informed (Articles 20 paragraph 1^1 of the AML Law). As mentioned above under 11.3, all actions taken in order to monitor the client's transactions in accordance with Article 20 paragraph 1^1 of the AML Law must be documented and the documents must be made available to the supervisory authorities.

The FCMC issued guidance in its letter to the banks of October 2005 advising banks to develop procedures for opening accounts, carrying out transactions and monitoring of transactions of clients of countries in noncompliance with FATF Recommendations, other states under sanctions of the EU or UN, and countries with potentially harmful tax regimes identified in OECD countries. Banks are also entitled to decide for themselves what procedures shall apply to clients from countries recently removed from the FATF's NCCT list.

21.1.1

Financial institutions are provided on a regular basis by the FCMC and the Control Service with information regarding countries with weak AML/CFT systems. They also have online access to the US OFAC list, EU, and other lists. Banks visited during the assessment confirmed that they automatically check proposed transactions against these lists, and either stop payments or conduct enhanced due diligence for proposed transfers to/from such listed countries.

21.2

Under the assessment of Recommendation 11, the legal and operational basis for ongoing monitoring was explained and found to be largely in compliance with the standard. In the case of proposed transactions with residents of uncooperative countries or others appearing on lists, banks reported to the assessors that they have had a small number of hits (including some false positives) and that they have made appropriate reports to the Control Service.

21.3

The Latvian authorities did not identify to the assessors any mechanisms that may be in place that would enable the authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.

Recommendations and comments

Recommendations

- Require information to be made available to all authorities relevant in the fight against money laundering and terrorist financing, not only to the supervisors.
- 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.
- 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.

Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.11	LC	AML Law seems to limit access to information to supervisory authorities, rather than provide that the information should be made available to all relevant authorities.
R.21	PC	Other than the situation where the customer is a resident of a country listed by FATF or included in other international lists, there are no requirements in respect of business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF standard. There are no mechanisms in place that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.

2.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25 & SR.IV)

Description and analysis[11]

R. 13

13.1

Article 11 of the AML Law sets out a reporting obligation for both suspicious and unusual transactions:

a) The law first sets out an obligation to report "without delay" to the FIU any unusual transaction (Article 11 paragraph 1 (1) of the AML Law). The unusual character of a transaction is based on a series of indicators designated by the Cabinet of Ministers as being potential signs of money laundering activities (Regulation 127 of March 20, 2001 on the List of Indicators pertaining to Unusual Transactions and the Reporting Procedure). The presence of at least one of the indicators within a specific transaction entails a mandatory reporting. Most of the indicators are threshold-based. Some indicators apply to all transactions[12], whilst the others are specific to the gambling business[13], investments in securities[14] and the insurance industry.[15]

b) There is also an obligation to report "immediately" to the FIU all "discovered facts that do not conform to the list of indicators of unusual transactions, but which due to other circumstances cause suspicion regarding the laundering or attempted laundering of the proceeds derived from crime" (Article 11 paragraph 2 of the AML Law).

[11] The description of the system for reporting suspicious transactions in section 2.7 is integrally linked with the description of the FIU in section.1.5, and the two texts need to be complementary and not duplicative.

[12] For example, a cash transaction of or above LVL40,000, other than payments of salaries, pensions and social benefit payments and credit; or a transaction involving a person who is suspected of being involved in terrorist activities

[13] (e.g., Collection of winnings in an amount of or above LVL5,000).

[14] (e.g., The number of customers is low–up to five clients–and they represent any institutions registered in "no-tax or low-tax countries and zones that have been declared as such by the Cabinet of Ministers").

[15] (e.g. Premium life insurance contract or part of it is paid in cash in an amount equal to or above LVL25,000).

The AML Law provides a definition of "proceeds of crimes" that largely complies with the standard: Pursuant to Article 4 of the AML Law, must be acknowledged as proceeds of crime "financial resources and other property, which have been directly or indirectly acquired as a result of the committing of the criminal offences provided for in the Criminal Law". Under the current Latvian legislation, this covers proceeds derived from all designated categories of predicate offences listed in the FATF Glossary. According to the AML Law, shall also qualify as proceeds of crime financial resources and other property, which are owned or controlled (directly or indirectly) by: 1) a person who is included in one of the lists of terrorists "compiled by a state or international organization in conformity with the criteria specified by the Cabinet of the Republic of Latvia", or 2) a person against whom the law enforcement agencies, the public prosecutor or the FIU hold information "which gives sufficient grounds to hold such person under suspicion regarding the committing of a crime—terrorism or participation therein".

In respect of money laundering, the reporting requirement set out under the AML Law is a direct, mandatory obligation and applies to funds derived from all the FATF categories of predicate offences.

In order to assist the credit institutions comply with the requirements to report suspicious transactions, the FIU issued a list of "indicators pertaining to suspicious transactions". The FIU list constitutes guidance and is only intended to provide examples of what may raise some suspicion. The indicators/examples given in the FIU list pertain to the customer's behavior (e.g., the customer appears nervous for no apparent reason or supplies uncounted money), the transaction (e.g., purchase of real estate for apparently incoherent price), the account (e.g., money is deposited with a foreign bank), the bank notes (e.g. denomination of banknote is unusual for the customer) or the direct transaction between private persons without using a bank account (e.g., the participants to the transactions have the same address).

The FCMC Regulation provides further that the financial institutions to which it applies must determine the procedure for the identification of suspicious transactions and must establish the indicators of suspicious transactions when assessing risks which arise from the structure of their clients and economic activities carried out by the clients (Articles 30 and 31 of the FCMC Regulation). The procedures in place must also indicate the type of action that must be undertaken when it appears that a client conducts a transaction which is untypical for his or her economic or personal activity or otherwise raises suspicion of money laundering or terrorist financing (Article 32). The Regulation also provides two lists of indicators that may attest the suspicious nature of a transaction conducted by a) the client of a credit institution, a credit union, an investment brokerage company, an investment management company, the Latvian Central Depository, an organizer of a regulated market and a pension fund (Article 33); and b) the client of an insurance company and insurance intermediary (Article 34).

The vast bulk of the reports filed with the FIU are based on the Cabinet of Ministers' list of indicators of unusual transactions and the FIU list of indicators/examples. Only a very small minority of the reports are based on suspicions formed under other circumstances. The assessors were informed that the financial institutions follow the FIU list and automatically report transactions that meet at least one of the examples (although the indicators are only examples). This would suggest that the financial institutions may be relying too heavily on the lists provided and might not be exercising appropriate discretion on the circumstances that are not covered by the lists of indicators. This could result in over-dependence on the indicators/examples results and submission to the Control Service of significant numbers of reports with little or no value for FIU analytical purposes. While it is useful that the indicators are provided as examples, the obligation is to exercise sufficient discretion in each case and,

regardless of whether the circumstances match or not a specific indicator/example, to be able to identify the facts and circumstances which give cause for suspicion and to report them immediately. It was not possible for the assessors to determine whether or not financial institutions were giving sufficient attention to identifying and reporting real (as distinct from indicator-based) suspicious transactions, as there were some conflicting indications. While all of the institutions interviewed expressed strongly the position that they report every suspicious transaction without delay, the confusion in terminology (e.g., that indicator-based transactions also count by definition as suspicious, whether the institution really regards them as such) makes it difficult to interpret the responses. The assessors were not provided by the Control Service with statistics separating indicator-based STRs from reports based on direct suspicion. According to the Control Service, of the total number of reports received in the past three years, some 50-60 percent were STRs. In 2005, 26,302 unusual and suspicious transactions were reported to the Control Service. The Control Service informed the assessors that, overall, it regards the current system as effective as all forms of reporting are providing valuable information for analysis, as evidenced by the fact that it was able to forward 155 files (via the Prosecutor's Office) for investigation by law enforcement, relating to more than 2,000 transactions. According to the banks interviewed, the number of nonindicator-based STRs for each bank per annum was in single digits, suggesting a total of less than 100 per annum. Increasing the emphasis on STR reporting is important in order to enhance the effectiveness of the reporting system and the operational effectiveness of the FIU.

13.2

The reporting of suspicious transactions related to terrorist financing is not fully consistent with the standard (see SR IV below).

13.3

The reporting requirement for suspicious transactions covers attempted money laundering and is not limited by the amount of the transaction. (The *de minimis* threshold set in the Cabinet of Ministers Regulation only applies to the reporting of unusual transactions and not that of suspicious transactions. One of the indicators/examples listed by the FIU is based on a threshold, but as mentioned above, the list is not mandatory and therefore cannot limit the scope of the requirement set in the law.)

13.4

There are no further obstacles to the reporting requirement such as the transactions involving tax matters.

SR. IV

IV.1

As mentioned under Recommendation 13 above, the reporting requirements are set out in Article 11 of the AML Law. In accordance with Article 11, financial institutions are required to report unusual as well as suspicious transactions, which are defined as follows:

- Are considered unusual and therefore subject to reporting, the transactions where at least one of the indicators of unusual transactions listed by the Cabinet of Ministers in its Regulation 127 is met (Article 11 paragraph 1 of the AML Law). One of these indicators refers to the persons whose name appear on the list of terrorist issued by the Latvian authorities (Article 6.1.7 of the Cabinet of Ministers Regulation 127);

- Are considered suspicious, transactions which "due to other circumstances cause suspicion regarding the laundering or attempted laundering of proceeds derived from crime"(Article 11 paragraph 1 and 2 of the AML Law). As defined under Article 4 of the AML Law, the proceeds of crime cover financial resources and property owned or controlled by a person listed by a state or an international organization in conformity with the criteria set out buy the Cabinet of Ministers of Latvia, or a person on whom the law enforcement agencies "have information which gives sufficient grounds to hold such person under suspicion regarding the committing of a crime, terrorism or participation therein" (Article 4 paragraph 2 (2) of the AML Law).

Terrorist financing is not explicitly mentioned in Article 11. It is included in the reporting requirement by reference to either the list of indicators of unusual transactions or the definition of proceeds of crime, which only refer to designated persons. This raises two concerns: Firstly, whilst the reporting of designated persons may be technically covered in practice, it does not comply with the FATF criterion IV.1, which requires a direct mandatory obligation to report suspicious transactions related to terrorism. Secondly, both the list of indicators and the definition of proceeds of crime only refer to designated persons whilst the standard does not provide for such a limitation. This is also inconsistent with the Latvian legislation since terrorist financing, as criminalized in the Latvian Criminal Code, is not limited to those persons whose name appears on one of the lists.

Another disposition of the Latvian AML Law must be mentioned: Article 17 paragraph 1 requires financial institutions to refrain from conducting a transaction when there is cause to suspect that it is associated with money laundering (or attempted money laundering) or "with terrorist financing". Article 17 paragraph 2 of the AML Law further requires financial institutions to immediately report to the Control Service the fact that they have refrained from executing a transaction and to provide all relevant information. Paragraph 2 therefore imposes a direct mandatory obligation to report transactions which have been suspended on the basis of a suspicion of terrorist financing without limiting the scope of the reporting to persons who have been designated in the lists. However, whilst this could constitute a reporting requirement in line with the standard for transactions that have not yet been executed, it appeared to the assessors that the reporting requirements were implemented as defined under Article 11 of the AML Law. Furthermore, because the main purpose of Article 17 is to prevent the execution of transactions that appear unusual or suspicious, the scope of the reporting requirement does not cover transactions which have already been executed.

Article 32 of the new FCMC Regulation broadly requires the financial institutions to determine the type of action that must be taken when a transaction raises suspicion of terrorist financing. This requirement does not however rely on a clear definition of terrorist financing, nor does it entail an obligation to report the transaction to the Control Service. It is furthermore only applicable to the financial institutions that are under the supervision of the FCMC.

As a result of the above, the reporting requirement set out in the AML Law is broadly in line with the standard but does not fully comply with it. The authorities should address this by clearly requiring in law the reporting of suspicious transactions on 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 limitation to the lists of designated persons.

IV.2

The limited reporting requirement may indirectly cover attempted transactions under the Article 11 paragraph 2 of the AML Law (reporting of suspicious transactions of money laundering and definition of proceeds of crime) as well as in application of the Cabinet of Ministers Regulation 127 under Article 11 paragraph 1.

There are no further limitations to the reporting requirement such as the fact that a transaction may involve tax issues.

R. 14

14a Protection from Liability

The reporting entities, their officials and employees who have filed a report to the FIU in accordance with the law are protected from "legal" liability for breach of any restriction on disclosure of information imposed by law or by contract, regardless of whether an illegal activity actually occurred or not (Article 16 of the AML Law). The protection granted is not limited to the reporting made in good faith. The waiver may thus include reporting made in "bad faith" and therefore be too broad in comparison with the standard.

However, Article 298 of the Criminal Law criminalizes the provision of false information "for purposes of causing initiation of criminal proceedings against a person". This takes care of the case of disclosures made in bad faith, but only in an indirect way.

14b Tipping-off

Pursuant to Article 14 of the AML Law, the officials and the employees of the persons and entities subject to the law are prohibited from informing a client or a third party of the fact that a client or a transaction has been reported to the FIU. According to the authorities, this also applies to the information related to the STR.

R. 19

19.1

As described above (Recommendation 13), the AML Law sets out a requirement to report unusual transactions on the basis of a list of indicators issued by the Cabinet of Ministers (Regulation 127 on the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure). Most of the indicators are based on thresholds that range from a LVL1,000 (for transactions involving exchange of coins or small denomination banknotes for other banknotes of larger denomination, or vice versa, or for other banknotes of equivalent denominating), to LVL100,000 (for property insurance contract whereby the policy holder appears to be any natural person or a legal entity registered in a no-tax or low-tax country designated by the Cabinet of Ministers). The indicators apply to domestic and international transactions equally. Latvia has recently adopted the Law on Cash Declaration at the Border which entered into force on July 1, 2006 and which entails an obligation to declare cross-border transport of cash and other financial instruments in an amount equivalent or exceeding EUR10,000 (see Special Recommendation IX above).

R.25

The FCMC and BoL provide detailed feedback to supervised financial institutions relating to the results of their off-site and on-site supervision. See also the section on the role of the FIU.

Recommendations and comments
Recommendation 13 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. 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. **Recommendation 14a** • 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". **Special Recommendation IV** • 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.

Compliance with FATF Recommendations		
	Rating	Summary of factors relevant to section 2.7 underlying overall rating
R.13	LC	The legal requirement for reporting of suspicious transactions related to terrorist financing is not fully consistent with the standard (see SR IV below). Additional focus needed on STR reporting
R.14	C	
R. 19	C	
R.25	PC	(Composite rating, see section on DNFBPs)
SR IV	PC	Although the AML Law contains some measures on FT reporting, they are not sufficiently explicit, direct, and complete. Need for additional focus on suspicion.

Internal Controls and Other Measures

2.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)
Description and analysis
R. 15 **15.1**

Article 20 of the AML Law requires all persons and entities subject to the law to have an internal control system in place and procedures for the oversight of economic activity of the client. As amended in May 2005, the AML Law also requires financial and credit institutions to carry out purposeful, proportionate and meaningful measures in order to monitor the transactions of their clients and to ascertain whether a specific transaction corresponds with the client's economic activities. All actions taken must be documented and the documents made available to the supervisory authorities (Article 20 paragraph 1^1).

The law also calls for the designation of a specific unit, or the appointment of one or several employees directly responsible for the observance of the requirements set out in the AML Law. Both the supervisory authority and the FIU must be informed of the designation of the relevant unit and the appointment of the compliance officers (Article 20 paragraph 3 of the AML Law). Timely access to all relevant information is not specifically addressed in the law but the FCMC Regulation provide that the compliance officer must be granted "an authorization to familiarize himself or herself" with all the client identification information as well as with the information concerning his or her economic and personal activity (Article 52 of the FCMC Regulation). There is no explicit requirement that the compliance officer must be at the management level.

For financial institutions supervised by the FCMC, the requirement of Article 20 for an internal control system is a key element in the AML/CFT preventive measures. The FCMC Regulation draws its title from this requirement and sets out the core principles to be taken into account when formulating and documenting an internal control system for the purpose of identifying clients and actual beneficiaries as well as unusual and suspicious transactions. As part of its off-site AML/CFT supervision, FCMC staff require institutions to submit their AML/CFT internal control policies and procedures documentation, which are then analyzed line-by-line for compliance with the requirements of the law and the FCMC Regulation. Follow-up action is taken by the FCMC to require financial institutions subject to its supervision to amend and improve their AML/CFT policies and procedures to correspond with Latvian requirements.

In practice, all financial institutions interviewed by the assessors have in place documented AML/CFT policies and procedures that cover, in greater or lesser detail, the main components needed as a basis for an effective internal control system.

For bureaux de change, the BoL adopted in November 2004 recommendations on the development and implementation of internal control procedures on AML/CFT.

15.2

The Law on Credit Institutions (as last amended June 2005), which applies to banks and electronic money institutions, contains numerous references to the internal audit function and its important role in the overall governance structure. The internal audit function is among those to which the FCMC applies a fit and proper test in accordance with Article 24. With respect to insurance companies, Articles 20 and 21 of the Law on Insurance Companies and Supervision Thereof also contain requirements in relation to internal audit. Under Article 53 of the FCMC Regulation, which applies to all financial institutions other than the Latvian Post Office and the bureaux de change, the internal audit service of a financial institution shall include the assessment of AML/CFT policies and procedures and evaluate their day-to-day implementation. Article 53 further requires that, where the internal audit service determines that the board of directors does not pay proper attention to AML/CFT compliance, it shall notify without delay the financial institution's board and shareholders.

All of the financial institutions interviewed by the assessors confirmed that their internal audit functions involve themselves actively in evaluating the quality of AML/CFT compliance, particularly in the last 2–3 years. Internal audit findings are available to and reviewed by the FCMC as part of their on-site inspections. In addition, partly in response to the challenges and reputational risk to Latvian financial institutions in recent years arising from AML/CFT issues, compliance has also been tested extensively as part of the work of external auditors.

15.3

Employee training on AML/CFT is explicitly required under the law. Financial institutions are required to conduct regular training of their staff "in the determination of the indicators of unusual transactions or suspicious financial transactions and the implementation of the activities provided for in the internal control regulations"(Article 20 paragraph 2 of the AML Law). The FCMC Regulation provides further that the credit institutions should ensure continuous training and regular improvement of the professional skills of their staff, and they should ensure that all staff members understand the policies and procedures formulated for governing the prevention of the laundering of proceeds derived from criminal activity in substance (Article 54 of the FCMC Regulation). The financial institutions are also required to document training programs for their staff and to keep copies of the training course and training aids (Article 55 of the FCMC Regulation).

The persons subject to the AML Law must ensure that their employees are familiar with the obligations that result from the AML Law and must conduct regular training in the application of the list of indicators of unusual/suspicious transactions and the internal control regulations (Article 20 par. 2 of the AML Law).

All financial institutions interviewed could demonstrate to the assessors that they had active employee training programs in place. Training has also been provided directly by the FIU and the BoL (for the bureaux de change). Moreover, the Association of Latvian Commercial Banks conducts AML/CFT training courses for its members, at three different levels of complexity related to the needs of the staff and their role in dealing with AML/CFT issues.

15.4

A requirement for financial institutions to put in place screening procedures to ensure high standards when hiring staff is not specifically mentioned in the Latvian legislation, except in relation to fit and proper tests for owners, management, and the internal audit function under the Law on Credit Institutions. In the case of the bureaux de change, owners and managers have to be of "impeccable reputation"(Article 2.1 of the BoL Regulation for Purchasing and Selling Cash Foreign Currencies). The assessors confirmed that financial institutions apply their own internal vetting procedures when recruiting staff.

R. 22

The AML Law provides that the requirements of the AML Law also apply to the "structural units and foreign subsidiaries of the persons referred to in Article 2, Paragraph two" of the same law (Transitional provisions, paragraph 2).

According to the Law on Credit Institutions, banks and electronic money institutions are required to obtain a authorization from the FCMC prior to opening a branch in a foreign State (Article 12 of the

Law on Credit Institutions). The law also provides (in Article 100) that :

(1) "The Finance and Capital Market Commission shall conduct supervision of credit institutions if not otherwise specified by law.

(2) The Finance and Capital Market Commission in accordance with this Law and other laws shall perform the supervision of a branch of the credit institution in a foreign state if it is not specified otherwise in the regulatory enactments of the relevant foreign state."

There are therefore some requirements that address the necessity to apply the Latvian AML/CFT measures abroad in accordance with the Methodology Criterion 22.1.

However, there are no specific requirements in respect of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differ, nor are financial institutions required to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.

Similarly, the FCMC Regulation does not specifically address these points. The only relevant reference is found in industry guidance prepared by the Association of Latvian Commercial Banks and approved by the Board of the FCMC in May 2004, which commits the banks to applying equivalent AML/CFT measures to their subsidiaries and branches abroad, of which there are few and none of material size. A number of banks interviewed confirmed to the assessors that they subscribe to and abide by the industry guidance.

Recommendations and comments

Recommendations

While there is good implementation in the banking sector, the authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations:

- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating

R.15	LC	There are no legal or regulatory requirements to establish an adequately resourced and independent audit function for financial institutions other than banks, electronic money institutions, and insurance companies, even where warranted by size and risk. There is no explicit requirement that the compliance officer should be at management level. Only bureaux de change are required to introduce screening procedures to ensure high standards when hiring employees.
R.22	PC	Whilst the AML measures do apply to foreign branches or subsidiaries, there are no specific requirements in respect of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs, nor are financial institutions required to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.

2.9 Shell banks (R.18)

Description and analysis

The AML Law gives a broad definition of shell banks that complies with the standard and which reads as follows: "a bank, the management, staff or the place where the financial services are provided of which are not located in the country in which it is registered and which has no supervisory institution – a shell bank shall also be a commercial company which conducts noncash transfers on behalf of the third persons except for cases where such transfers are carried out by an electronic money institution or they are carried out among companies (participants) of a single concern registered according to the procedure established by the law".

Article 5^3 of the AML Law clearly forbids any of the persons and entities subject to the Law to conduct transactions with shell banks.

The FCMC clarified its requirements in the guidance letter to the banks of October 2005, by stating that banks must define criteria and set procedures to identify shell banks and that they should avoid establishing any correspondent banking relations with shell banks. However, the measures in place do not require the financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their account to be used by shell banks.

Although there is no explicit requirement that banks have a physical presence in Latvia, to ensure that they must do so the FCMC relies on a construction based on a number of its licensing requirements (Part 2 and point 6.7 of the Regulations on the Issue of Credit Institution and Credit Union Operating Licences, May 24, 2002) and also on the requirements of the Commercial Law (Articles 8 and 139) relating to the need for all companies to have a registered address in Latvia, which is the address at which the Board is to be located. The assessors are of the view that a more explicit text would be preferable to ensure that all banks are clearly obliged to have a physical presence and center of operations in Latvia. In practice, the assessors have no basis to indicate that any of the banks currently authorized and operating in Latvia have any characteristics of shell banks. All indications are that they all have a physical presence in Latvia, with mind and management based there. However, considering the lack of clear prohibition to establish a shell bank in Latvia and the absence of a clear requirement on the financial institutions to ensure that their correspondent institutions do not permit their accounts to be used by shell banks, the Latvian legislation does not fully comply with the standard.

Recommendations and comments

Recommendations

- Make more explicit the current measures to ensure that shell banks could not be established in Latvia.
- Require financial institutions to take measures in order to satisfy themselves that their respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.18	LC	Measures to prevent the establishment of shell banks are not sufficiently explicit. No specific requirement to check that foreign respondents ensure that they are not used by shell banks.

Regulation, Supervision, Guidance, Monitoring and Sanctions

2.10 The supervisory and oversight system–competent authorities and SROs: Role, functions, duties and powers (including sanctions) (R.17, 23, 25, 29, 30 & 32)

Description and analysis

R. 23

With the exception of the Latvian Post Office and the re-insurance business, all relevant financial institutions are subject to adequate AML/CFT regulation and supervision.

Since the entry into force of the Law on the Financial and Capital Market Commission (Law on the FCMC), in July 2001, the licensing and supervision of the financial institutions covered by the AML Law have been divided between the FCMC and the BoL; only the Latvian Post Office remains outside this general framework and is supervised by the Ministry of Transport and Communication.

23.2

FCMC

The FCMC is the competent authority for the licensing and supervision of all the financial institutions except the bureaux de change (Articles 2, 4, 6 and 7 of the Law on the FCMC; Article 99^1, 100 of the Law on Credit Institutions: Article 26^1 of the AML Law). More specifically, the FCMC licenses and supervises the activities of banks, insurance companies, investment management companies, the Latvian Central Depository, private pension funds, credit unions, insurance brokerage firms, investment brokerage firms and the Riga Stock Exchange (Article 4 of the Law on the Financial and Capital Market Commission, Law on the FCMC). The FCMC does not however supervise the re-insurance business in Latvia.

BoL

The BoL is the central bank of Latvia (Article 1 of the law on the BoL). It is also the competent authority to issue licenses for the purchase and sale of foreign currency (as a commercial activity) to legal persons other than credit institutions (Article 11 paragraph 1 of the law on the BoL), in other

words, to the bureaux de change. Article 10 of the law on the BoL gives mandate to the BoL to assess compliance with the regulation that it (i.e., the BoL) has issued. The law does not mention that the BoL is responsible for the supervision of the implementation of AML/CFT measures—this was addressed in the BoL Regulation for Purchasing and Selling cash Foreign Currencies (which was adopted by BoL Resolution 114/5 of September 9, 2004, and, BoL Resolution No 125/6 of March 14, 2006).

The Latvian Post Office operates under the supervision of the Postal Division of the Ministry of Transport and Communication but there is no specific supervision for AML/CFT purposes.

23.3

Founding persons of a credit institution must have an "unimpeachable reputation" and free capital (Article 16 paragraph 2 of the Law on Credit Institutions). When assessing a person's reputation, the FCMC has the right to examine that person's identity as well as criminal records. It may examine documents in order to determine whether "the invested funds have been acquired in unusual or suspicious transactions" (Article 16 paragraph 3 of the Law on Credit Institutions). The FCMC also has the right to request additional information regarding these persons "in order to evaluate their financial condition and reputation when investigating (...) 1) the adequacy of their financial resources, 2) the operations and management plans of the credit institutions, and 3) their previous activities, competence and experience (Article 17 of the Law on Credit Institutions).

The BoL has also taken measures in order to prevent criminals from owning or holding management functions of the bureaux de change by requiring that "owners of the enterprises and representatives of the executive body shall be of impeccable reputation". When considering granting a license for the purchase and selling of foreign currency, the BoL verifies that the relevant persons do not have criminal records.

23.4

All financial institutions in Latvia subject to the Core Principles are regulated by the FCMC. Latvia's compliance with the Core Principles was assessed as part of the IMF/World Bank Financial Sector Assessment Program (FSAP) in 2001, at which time the banks were still supervised by the BoL and the FCMC had yet to be created as the unified regulatory authority. The FSAP findings in relation to the Core Principles was generally favorable, particularly for those principles of relevance in supporting effective AML/CFT measures.[16]

23.5 and 23.6

Money transfer services may only be provided by banks and electronic money institutions (Article 9 paragraph 5 of the Law on Credit Institutions) or the Latvian Post Office (Articles 6 and 22 paragraph 3. 4 of the Postal Law). They are not subject to separate licensing or registration requirements but are authorized activities of credit institutions and the Post Office (see also Special Recommendation VI below). Supervision of the remittance services performed by credit institutions is conducted by the FCMC in the same way as other services and activities performed by the credit institutions. No

[16] The Core Principles specifically related to AML/CFT such as BCP 15, were an exception to this statement in 2001; however, in this aspect, the FSAP assessments have been overtaken by subsequent events and the current comprehensive AML/CFT assessment presents the up-to-date picture.

separate or additional measures are applied.

23.7

The only financial institutions that are not subject to licensing or registration requirements and that are not subject to adequate supervision are the reinsurers. The assessors were informed that (three or four) reinsurance businesses operate in Latvia. Latvian insurance companies are restricted in their choice of reinsurer, which must either meet a minimum rating standard or be EU insurance companies. The Latvian reinsurance companies do not qualify under either heading. However, the assessors learned that the Latvian reinsurance companies are of some significance regionally, offering services mainly to insurance companies in other CIS countries. At least one of the reinsurance companies is of a substantial size, and another is a member of a locally-owned financial conglomerate which includes a Latvian bank within its structure. While reinsurance is not currently addressed by the FATF Recommendations, considering the potential for misuse of reinsurance contracts for money laundering purposes, the authorities should ensure that reinsurance activities are made subject to the general AML/CFT framework as soon as possible and duly supervised. The authorities informed the assessors that they expect the issue to be addressed in the context of the implementation of the EU Directive on reinsurance.

R. 17

Under the Latvian legislation the employee (including directors and senior management) of a financial institution may be held personally responsible for failure to comply with the reporting and customer identification requirements and be punished by a fine of LVL250 (Articles 165-4 and 164-5 of the law on Administrative Violations Code). The supervisors may apply sanctions to the financial institutions they supervise set out below.

FCMC

The FCMC has the authority to apply sanctions set forth by the regulatory requirements to the financial institutions that it supervises (Article 7 paragraph 5 of the Law on the FCMC). According to the gravity of the violation, it may apply a range of sanctions that appear effective, proportionate and dissuasive.

The FCMC is specifically entitled to impose fines ranging from LVL5,000–100,000 for failure to comply with the requirements set out in the AML Law (Article 198 of the Law on Credit Institutions). The maximum fine was increased in 2005 from LVL5,000 to LVL100,000. On a number of occasions over the past two years, the FCMC applied the maximum fine of LVL5,000 to banks in which weaknesses in their AML/CFT control systems has been identified in the course of on-site inspections. For the most part, the deficiencies related to missing or inadequate customer or transaction documentation, but some cases were more serious in nature. Since the legislative amendment to increase the fine ceiling, there has been one fine applied to a bank at a level substantially above the previous maximum, for ongoing weaknesses in AML/CFT procedures.

In more severe cases (defined under Article 102 of the Law on Credit Institutions), the FCMC may apply the procedures of the so-called intensified supervision. The intensified supervision constitutes the general framework of a higher level of scrutiny and on-going supervision. It is also the pre-requisite to impose more severe sanctions. If the intensified supervision procedures are applied, the

[17] This case is understood to be for issues other than AML/CFT

FCMC is entitled:

- to warn the credit institution;
- to request the Bank of Latvia to suspend the granting of its credits to the credit institution;
- to prohibit the credit institution from investing funds in illiquid assets;
- to restrict the acceptance of deposits or to prohibit the bank from accepting deposits;
- to restrict the granting of credits or to prohibit the bank from granting credits;
- to request the Bank of Latvia to suspend the accounts of the credit institution which are utilized as correspondent accounts at the Bank of Latvia;
- to prohibit the credit institution from conducting accounts and payments in cash which are utilized in correspondent accounts in other credit institutions and financial institutions;
- to suspend, partially or fully, the provision of other financial services; and
- to give the supervisory institutions and executive institutions of credit institutions, as well as the heads and members of such institutions, justified written orders, which are necessary in order to restrict or suspend the operations of a credit institution that threatens or may threaten the stability, solvency, or reputation of this credit institution.

At one point in 2005, 13 of the 23 Latvian banks were subject by the FCMC to the legal status of intensified supervision due to deficiencies in their AML/CFT systems, as the FCMC pursued strong measures to clean up the banking system. The status was imposed in each case based on the results of on-site inspections, and progress was reviewed periodically on-site. As this is an enabling power, it permitted the FCMC to apply sanctions which ranged in individual cases to threats to require the replacement of AML/CFT compliance officers or, in some cases, entire boards of directors, restrictions (or the threat of restriction) on the acceptance of further nonresident business. In a small number of cases, the FCMC threatened banks with a prohibition on conducting any further business with nonresidents. The impact of these sanctions on the banks has been dramatic—AML/CFT policies and procedures have been updated; huge number of accounts have had their documentation reviewed and updated; and, where this proved impossible, large numbers of accounts have been closed (reportedly more than 100,000 in 2005 for inadequacy of documentation). As a result of these improvements, all but one bank[17] had been removed from the status of intensified supervision by the time of the assessment. However, the FCMC is aware that certain ongoing implementation issues remain in some banks and will reassess these institutions during the upcoming program of on-site inspections. The FCMC retains the power to apply fines for breaches of requirements, even without availing of the intensified supervision status.

Sanctions for noncompliance with the requirements set out in Articles 8 (identification of beneficial owner), 9 (exemption to identification requirements), and 20 (internal control system) of the AML Law, may be applied in accordance with Article 198 of the Law on Credit Institutions.

BoL

The BoL is entitled to suspend for a limited period of time or revoke the license granted for the buying and selling of foreign currencies if a bureau de change fails to comply with the requirements set out in the laws and regulation of the Republic of Latvia, including the failure to comply with the reporting and identification requirements set out in the AML Law (Law on the BoL, Article 11 paragraph 2, BoL Regulation No 114/5, Articles 2.9 and 4.4). Since the license to operate a bureau de change may only be granted to a legal person (Article 11 paragraph 1 of the law on the BoL), the sanctions only apply to the legal entity that holds the license, and thus not to its directors or senior management.

R. 25

The FCMC Guidelines of 2004 and Regulation of 2006 both impose requirements on financial institutions and provide detailed guidance. They include (in Article 3.5 of the 2004 Guidelines and Articles 33 and 34 of the 2006 Regulation) listings of indicators of suspicious transactions. The FCMC has supplemented and updated these requirements by issue of a series of guidance letters, the most significant of which was issued to banks in October 2005. Matters covered included measures in relation to implementation of the requirements for assessing the standing of correspondent banks in line with FATF Recommendation 7, guidance on documentation in relation to implementing the legislative requirements to identify beneficial owners, non face-to-face business, and practical guidance on reporting unusual and suspicious transactions.

In addition, the Association of Latvian Commercial Banks issued its own guidance in 2004, which was endorsed by the Council of the FCMC, and which covers many aspects of the FATF Recommendations. This industry guidance is in need of updating, and it would be useful for the banks and the FCMC to consider incorporating this material into officially-issued guidance or, to the extent appropriate under the FATF Recommendations, into an FCMC regulation.

The BoL issued in November 2004 the Recommendations to Business Ventures (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for developing an Internal Control System for the Prevention of Laundering of Proceeds Derived from Crime and Financing of Terrorists. These Recommendations provide the bureaux de change with further guidance on how best to comply with the requirements set out in the AML Law.

R. 29

FCMC

29.1. and 29.2

The FCMC has the authority to examine compliance of the activities of all financial institutions that operate under its supervision with the legislation and the regulation issued by the FCMC (Article 7 of the Law on the FCMC). Under Article 106 of the Law on Credit Institutions, the FCMC has the right to perform an examination of the operations of a credit institution, it is required to prepare a report of the examination under Article 108, and the institution has a statutory power of appeal against the examination findings.

The FCMC has conducted frequent, lengthy, and detailed AML/CFT inspections of all banks in recent years. Coverage included reviews of policies and procedures, practical implementation of the requirements of the AML Law and FCMC Guidelines (as evidenced by retained documentation), with sample testing of customer files and transactions. Particular emphasis was placed on nonresident business, and on the many thousands of accounts held in the names of companies registered in offshore centers, to determine if the banks had taken sufficient steps to identify the beneficial owner in each case. From 2004 to late-2005, the FCMC identified significant incidence of weaknesses in AML/CFT policies and implementation, sought remedial action, and sanctioned widely. Recent on-site inspections indicate that there has been a remarkable improvement in levels of compliance, though residual problems remain in the course of being addressed in certain banks. The FCMC plans to continue its AML/CFT on-site inspection program.

The BoL has similar powers to monitor the activities of the bureaux de change and to conduct on-site inspections (Article 4.11 of the BoL Regulation for Purchasing and Selling cash Foreign Currencies in force until April 2006 and Article 6.1 of the current Regulation). The inspections include examination

of the books and records (cash register data) as well as review of the procedures on client identification and suspicious/unusual transactions reporting.

29.3

The FCMC is entitled to request from the financial institutions and receive information necessary to execute its functions (Article 7 of the Law on the FCMC). It also has specific access rights to all documentation related to the reporting, by the financial institutions, of unusual or suspicious transactions to the FIU (Article 20 paragraph 4 of the AML Law). The powers of the FCMC to compel production of documents is not predicated on the need to require and obtain a court order. As noted, the FCMC requires institutions to submit to it for off-site review its AML/CFT policies and procedures documentation. The FCMC has unrestricted access to all documentation and systems during its on-site inspections.

According to the authorities, the BoL enjoys similar rights in the ambit of its supervision of bureaux de change.

29.4

The FCMC has adequate powers of enforcement and sanction against the financial institutions. While, with the exception of the removal of the board members and the threat thereof, the sanctions available seem to be limited to the legal persons and not be applicable to their directors or senior managers, the FCMC has, in a number of cases as outlined earlier, successfully combined its power to place a bank under intensified supervision with the formal threat of removal from office of a director or senior officer, to provide a further effective basis for achieving corrective action.

The BoL's powers to sanction the bureaux de change are specified under Article 2.9 of the BoL Regulation for Purchasing and Selling Cash Foreign Currencies. They apply only to the legal persons.

R. 30

The FCMC is adequately resourced, both in terms of the numbers and experience of its supervisory staff and in availability of IT systems and other support, to carry out its duties, including in the area of AML/CFT. As set out in Section VII of the Law on the FCMC, the FCMC is financed from payments of the participants of the financial and capital markets and there is scope for additional contributions, should they be required. The FCMC employs close to 100 staff, of which 27 are in the Banking and Securities Market Division and seven in the Insurance Division. Staff turnover has been relatively low. Many of the supervisory staff have been with the FCMC since it was created in 2001, and some had worked previously for the BoL.

The BoL also appears to be adequately resourced to conduct its supervisory role in relation to the bureaux de change. A total of six staff have been assigned to this area.

The Post Office is not currently subject to the type of prudential supervision applied to other financial institutions. A suitable form of supervision in the AML/CFT area should be devised and applied.

R. 32

The FCMC is entitled by Article 6 paragraph 5 of the Law on the FCMC to collect and analyze information related to the financial and the capital market, as well as to publish it.
The BoL is not specifically empowered to maintain and publish statistics on the operations of the

bureaux de change.

Statistics maintained by the FCMC and BoL include numbers of on-site inspections conducted and numbers of sanctions imposed, as follows:

	FCMC		BoL	
	2004	**2005**	**2004**	**2005**
AML/CFT on-site inspections	35	21	24	39
Sanctions	9	14	–	15 licenses revoked

Recommendations and comments

Recommendations

- The Latvian Post Office should be made subject to appropriate supervision for AML/CFT purposes.
- There should be appropriate sanctions that apply to directors and senior staff of bureaux de change.

Comment

The Latvian authorities should assess the AML/CFT risks of domestic reinsurance business and introduce appropriate risk-based measures to supervise the sector.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 2.10 underlying overall rating
R.17	PC	(Composite rating)
R.23	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
R.25	PC	(Composite rating, see section on DNFBPs)
R.29	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
R.30	LC	(Composite rating)
R.32	LC	No power for BoL to publish AML/CFT statistics on bureaux de change (Composite rating)

Money or Value Transfer Services

2.11 Money or value transfer services (SR.VI)

Description and analysis

Under Latvian legislation, money transfer services may only be provided by banks and electronic money institutions (Article 9 paragraph 5 of the Credit Institution Law) or the Latvian Post Office (Articles 6 and 22 paragraph 3. 4 of the Postal Law. (N.B.: Although the English version of Article 9 paragraph 5 of the Credit Institution Law refers to "noncash means of payment" without defining the term, the original Latvian version refers to "payment instruments" which, as defined under Article 1 paragraph 38 of the same law, includes a broad range of cash and noncash instruments). The combination of the requirements set out in the Credit Institutions Law and the Postal Law leaves no gap in the system in respect of stand-alone remitters: they are not entitled to operate. Should money remittance outside the authorized system be encountered, a fine could be imposed by the FCMC on the basis of its general powers to sanction unauthorized credit institution activities (under Chapter VII of the Credit Institutions Law). The law enforcement authorities (in particular the economic police)

would also be informed by the FCMC in order to shut down the illegal business. Money remittance services are authorized activities for banks and the Post Office; they are not subject to specific licensing or registration requirements. Compliance with all AML/CFT requirements in respect of remittance activities is the responsibility of the bank or the Post Office.

Banks which offer money remittance services do so primarily as licensed agents for either Western Union or MoneyGram. One bank participates in a money remittance network named PrivateMoney. PrivateMoney operates a remittance network for account holders at banks that are members of a bank holding company with banks in Ukraine, Russia, Latvia, and Cyprus. Only banks that are part of the holding company may use the PrivateMoney network. The organization and operating practices of PrivateMoney are similar to those of MoneyGram, including software filtering of all transactions for completeness of information and screening for prohibited or suspect transactions. Under each of these arrangements, all transactions are cash-in-cash-out. No transfers are deposited directly to bank accounts.

The Post Office operates a nationwide giro payments service which handles a large volume of small payments (typically utility bills, distribution of pensions and social welfare payments, etc). Noninterest-bearing current accounts are maintained but no credit is extended. As part of its payments activities the Post Office offers postal money orders, including international postal money orders. Both are paper based, with only 10 percent of postal transfers handled electronically. In addition, the Post Office is an agent for Western Union.

Customer identification procedures and documentation for Western Union and MoneyGram transactions follow these organizations standardized internal procedures, which conform to Latvian requirements. The requirements for PrivateMoney reportedly satisfy the same requirements. The identification requirements and documentation procedures for postal money orders is set out in Postal regulations and is substantially equivalent to those required under Western Union or MoneyGram.

The Post Office is organized as a state enterprise with the shares held by the Ministry of Transport. The Ministry has supervisory responsibility for postal activities but it has not exercised an oversight function with respect to AML compliance by the Post Office. The Post Office is expressly subject to the AML Law. It is categorized as a financial institution and is thus subject to the unusual transactions reporting procedures of Cabinet Regulation 127. The Post Office has detailed internal AML controls, including for client identification, risk rating of clients and transactions, monitoring of transactions, identification of unusual or suspicious transactions, appointment of a senior official responsible for AML compliance, training of staff, and reporting of unusual or suspicious transactions to the Control Service. Operation of the AML internal control regime is a topic specifically reviewed by the Post Office's internal auditors and external auditors. However, there do not appear to be any explicit sanctions applicable to the Post Office for noncompliance with AML obligations.

Analysis

The FCMC, the Post Office, and banks indicate that few anomalies have been encountered in operating money transfer arrangements and this area is believed to be well-controlled in Latvia and not a significant vulnerability for money laundering. Neither the FCMC, the banks, nor the Post Office were aware of any informal remittance activities in Latvia.

As the AML supervisor for banks, the FCMC has oversight and compliance enforcement responsibility for bank money remittance services. FCMC includes money remittance services within the scope of its overall examination procedures but has not singled out money remittance services for

targeted examination. The operating practices of PrivateMoney have not been specifically examined by the FCMC. While the Ministry of Transport has overall responsibility for the Post Office it does not have policies and procedures to oversee the AML arrangements of the Post Office. Nor is there any other external competent authority with a mandate to monitor and ensure compliance by the Post Office with its AML responsibilities.
Recommendations and comments
Recommendation • Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
SR.VI	PC	The remittance services are adequately monitored and supervised when they are provided by banks and electronic money institutions, although a closer review of PrivateMoney appears to be warranted. The Post Office is not subject to monitoring and supervision by a competent authority to ensure AML compliance of its money transfer business.

3. Preventive Measures–Designated NonFinancial Businesses and Professions

3.1 Customer due diligence and record-keeping (R.12) (applying R.5, 6, 8 to 11, & 17)
Description and analysis

R. 12.1

In addition to the financial institutions described in Section 2 of this report, the provisions of the AML Law apply to the following designated nonfinancial businesses and professions (DNFBPs):

- organizers and holders of lotteries and gambling;
- professionals providing services associated with financial transactions (consultants and those who authorize transactions);
- tax consultants, sworn auditors and providers of financial services;
- notaries, advocates and their employees where they assist clients in managing or planning the management of financial instruments and other resources, the opening and management of all types of accounts, the creation, operation, and management of any person carrying out commercial activities and representing clients in any transaction relating to real estate;
- dealers in real estate;
- dealers in any means of transport; and
- dealers in precious metals and precious stones and dealers in art and cultural objects.

Accountants who are not sworn auditors and company service providers (other than sworn auditors and lawyers, advocates and notaries who provide this service) are not subject to the AML Law. Legally it is not possible to create a trust in Latvia and as such there are no trust service providers. Sworn auditors are not subject to the AML Law in relation to cases associated with pre-trial investigation and court proceedings and those from the legal profession are not subject to the AML Law when defending a client or representing a client in court proceeding.

R. 5: CDD

The description and analysis in Section 2.2 (Recommendation 5) of this report in relation to the AML Law applies to the following DNFBPs: Lawyers, advocates, sworn auditors, dealers in precious metals and precious stones, casinos, and tax consultants, when opening an account or accepting other financial instruments for safe keeping (Article 6 of AML Law). For all other activities of these DNFBPs and for all other DNFBPs the description and analysis of the CDD requirements of Recommendation 5 described in Section 2.2 of the report apply when these entities are conducting financial transactions of the equivalent of EUR15,000 and more, whether as a single transaction or several related transactions. If the threshold is determined at any time after the transaction is conducted the CDD obligations apply as soon as the threshold is determined or reached (Article 7 of the AML Law).

In addition to the CDD requirements of the AML Law, the following specific CDD requirements apply.

Casinos

Article 39 of the Law on Lotteries and Gambling (2006) provides that all persons entering a casino have to register each time they visit the casino by showing their identity document and the casino has to register the following information into the visitors register: name and surname of the visitor;

identity number (persons to whom identity number is issued, title, number, issuing date and name of issuing authority of the identity document), date and time when person entered into premises, and where the casino is located. In case of subsequent visits, the visitor can produce a special casino visitor's card issued by the owner of the casino, by which the visitor shall be clearly identified.

Article 36 paragraph 2(2) also requires identification of all persons buying or changing for money the funds for participating in the game at the casino amounting to EUR1,000 or higher. Information on the player and documents confirming transactions carried out must be kept by the casino for at least five years.

Procedures reviewed by the assessors indicate that casinos are applying the identification requirements of the Law on Lotteries and Gambling, which is triggered at a lower threshold (EUR1,000) than required by R 12 (EUR3,000).

Notaries

Sworn notaries are also required to identify their clients according to the Law on Notaries (Articles 75, 76, 77, 83, 113,117, 132, 134, 139, 140). These identification requirements cover the circumstances set out in Article 2 paragraph 2 of the AML Law but are not as prescriptive or detailed as the identification requirements set out in the AML Law.

Notaries are complying with the identification requirement of the Law on Notaries but do not systematically extend their due diligence to the additional CDD requirements of Chapter Two of the AML Law. Notaries appear to focus primary attention on identifying the contractual parties to an agreement, with less attention to identifying beneficial owners.

Dealers in precious metals and precious stones

Regulation 367 (August 20, 2000) on Procedures for the Registration of Places of Economic Activity with Precious Metals, Precious Stones and Articles Thereof, Procedures for their Mandatory Assaying and Marking and Procedures for the Safe-keeping of Unassayed Precious Metals, Precious Stones and Articles Thereof, imposes a requirement that dealers in precious metals and stones, when accepting precious metals or stones for repair, manufacture, or safekeeping, or who buy them, have an obligation to issue and keep copies of receipts of their transactions. These receipts must contain at a minimum the name, address and, in some cases, the identification number of the commissioning party or the seller or buyer as the case may be (Articles 54, 55, 56, 63, 64, 65).

Based on information provided by the State Assay Supervision Inspectorate, dealers in precious metals and precious stones, who are required to be registered and supervised by the Inspectorate, appear to be complying with the requirements under the AML Law to identify customers when engaging in transactions of EUR15,000 or more, as well as the more stringent identification requirements for those circumstances covered by Regulation 367.

Guidelines

A number of organizations have issued "guidelines" or "regulations" elaborating on the AML/CFT obligations of DNFBPs, including CDD requirements. These guidelines/regulations are adapted from the ***Model Regulation on the Internal Control System of the Prevention of the Laundering of the Proceeds from Crime and the Financing of Terrorism*** prepared by the FIU and endorsed by the Advisory Board of the FIU. These guidelines/regulations generally set out requirements for customer identification, record keeping, and internal controls, and incorporate the requirements to report STRs

and UTRs as set out in the Cabinet of Ministers Regulation No 127 of March 20, 2001 "Regulations on the List of Indications of Unusual Transactions and Procedure of their Reporting." Nevertheless, the content and legal status of these guidelines/regulations varies considerably from sector to sector, and they are almost all advisory in nature and, therefore, do not qualify as "other enforceable means". In addition, it should be noted that the provisions of Cabinet of Ministers Regulation 127 itself are applicable to "credit and financial institutions" and do not explicitly apply in all circumstances to all DNFBPs.

Some of the groups issuing AML/CFT guideline/regulations could qualify as "supervisory and control" agencies under the AML Law. This includes the Lotteries and Gambling Monitoring Inspectorate and the State Assay Supervision Inspectorate, and three recognized SROs: the Latvian Council of Sworn Advocates, the Sworn Notaries Council, and the Latvian Council of Sworn Advocates. However, while these supervisory and control agencies and SROs may be supervisory and control agencies for monitoring and enforcing compliance with their own applicable statutes, they have not been designated as supervisory and control authorities for purposes of implementing the AML Law. A Working Group was established, based on an Order of the Prime Minister, to bring forward legislative proposals to establish effective systems for monitoring and ensuring compliance with AML requirements. The Working Group was required to make its recommendations no later than June 1, 2006.

Nonenforceable, advisory AML/CFT guidelines/regulations have also been issued by various trade associations, including the Latvian Car Dealers Association (LAPPA), the Corporation of Real Estate Brokers and Dealers (NIMA) and the Latvian Real Estate Association (LANIDA). None of these organizations has the status of an SRO.

While these various guidelines/regulations have had the salutary effect of raising awareness of AML/CFT obligations among DNFBPs, they are relatively new and implementation of these guidelines is hard to gauge.

Criteria 12.2

R. 6: PEPs
There are no CDD obligations in relation to PEPs in the AML Law. The guidelines issued by the Lottery and Gambling Monitoring Inspectorate, by NIMA, and by the Latvian Car Dealers list PEPs as high-risk clients requiring enhanced identification procedures.
.
R. 8: Modern technologies and Non face-to-face
Article 10 of the AML Law relating to measures to be applied for non face-to-face dealings apply to DNFBPs and the description and analysis in Section 2.2 of the report applies to DNFBPs.

R. 9: Third party intermediaries
There are no specific CDD requirements in relation to the use of third party intermediaries in the AML Law and similarly there are no CDD requirements in the guidelines issued to the DNFBPs that relate to the use of third party intermediaries.

R. 10 (record keeping)
Article 10 of the AML Law applies to DNFBPs and the description and the analysis in Section 2.5 of the report applies to them in relation to requirements of record keeping set out in Recommendation 10.

According to Article 2.3.2 of the Statutes of the Latvian Collegium of Sworn Advocates a sworn advocate shall organize record keeping and book keeping accounts in accordance with the laws of the Republic of Latvia and conditions set by the Latvian Council of Sworn Advocates. Sworn advocates as a matter of practice keep records indefinitely.

Organizer of Lotteries and Gambling

Article 39 paragraph 4 of the Law on Lotteries and Gambling (2006) requires that the identification information be stored electronically until submitted to the Lotteries and Gambling Supervisory Inspectorate and such information should be secured against loss or damage, unauthorized access by third parties and a summary of that information should be kept for five years (paragraph 5).

R. 11

Article 20 paragraph 1^1 of the AML Law on the monitoring of transactions only applies to financial and credit institutions. As a result, there are no explicit requirements in law for DNFBPs to monitor the transactions of their clients.

R. 17.1

Sanctions for noncompliance with AML Law

There are no sanctions in the AML Law for noncompliance with CDD requirements applicable to all the DNFBPs nor are there any sanctions for noncompliance with CDD requirements by DNFBPs in the Administrative Violations Code.

Lawyers and Notaries

Sanctions in Law on Bar

For violations of laws, including the AML Law and as well as for violating the instructions regulating the activities of sworn advocates and the norms of professional ethics of advocates, the Latvian Council of Sworn Advocates may initiate disciplinary proceedings upon the recommendation of the court or the prosecutor, as well as upon complaints from persons or upon its own initiative (Article 71, Law on the Bar). The Disciplinary Commission of the Council reviews these cases.

The Latvian Council of Sworn Advocates can issue a warning, issue a reprimand, or explain to the sworn advocates the impropriety of their actions (Article 73 of the Law on the Bar) or dismiss the sworn advocate (intentional violation of the law-Article 74 of the Law on the Bar)

Sanctions in Law on Notaries

According to Article 180 of the Law on Notaries, the Council of Sworn Notaries of Latvia or the Ministry of Justice may initiate a disciplinary matter for violations of laws or other regulatory enactments pursuant to a proposal by the court, prosecutor or a complaint or on its own initiative and according to Article 183 it has the right to explain to the sworn notary the wrongfulness of its actions. The Council of Sworn Notaries has the right to issue a reprimand or reproof while the Ministry of Justice may dismiss or suspend the sworn notary (Articles 183, 212, 213). The Minister of Justice also has the right to dismiss from office a sworn notary who has been sentenced for an intentional crime or who has committed an intentional crime (Article 212).

Auditors

According to Article 23 of the Law on Sworn Auditors, **t**he Latvian Association of Sworn Auditors is entitled to cancel a license issued to a commercial company of sworn auditors where it repeatedly

violates other laws and regulatory enactments. This includes a violation of the AML Law.

Organizers of Lotteries and Gambling
Articles 86 and 87 of the Law on Lotteries and Gambling provide for the suspension and withdrawal of the license of organizers of gambling games and lotteries when it is established that the organizer of gambling games or lotteries regularly infringes statutory acts and other laws and regulations governing gambling and lotteries. Additionally Article 204.5 of the Administrative Violations Code imposes a fiscal penalty in the amount of up to LVL200 in relation to natural entities and in the amount of up to LVL500 in relation to legal entities for breaches of the law of organizers and arrangers of lotteries or gambling. If the same acts have been committed repeatedly within a year following the application of the administrative penalty the fiscal penalty amounting to up to LVL250 shall be applied to natural entities and the fiscal penalty amounting to LVL1000 shall be applied to legal entities.

When the Lotteries and Gambling Supervisory Inspection passes a resolution on the cancellation of the license or suspension of the company operations the sanction applies to the legal entity, however the natural or legal entity can also be punished according to the Administrative Violations Code (Article 204.5 of the Administrative Violations Code).

Dealers in precious metals and stones
The State Assay Supervision Inspectorate can provide directions to rectify within a specified period of time the shortcomings and violations of regulatory enactments (Article 15.5 Regulation No. 547 of June 21, 2004, State Assay Supervision Inspectorate By-Law).

Analysis
The circumstances in which the AML Law requires Latvian DNFBPs to identify customers are narrower that those called for in Recommendation 12. The AML Law only requires identification when DNFBPs open accounts or accept financial instruments for safe keeping, or when conducting financial transactions of EUR15,000 or more. Recommendation 12 does not link the CDD requirement for DNFBPs to the opening of accounts or acceptance of financial instruments for safe keeping, which activities, in any case, are not the primary activities of most DNFBPs. Further, Recommendation 12 generally calls for real estate dealers, lawyers, notaries, and other independent legal professionals to carry out CDD whenever they prepare for or carry out certain transactions, regardless of the size of the transaction.

In addition, several specific CDD provisions that are called for in the FATF Recommendations are missing from the CDD requirements imposed on Latvian DNFBPs. Except for casinos, there are no requirements dealing with PEPs. The transactions monitoring requirements applicable to financial institutions have not been carried over to DNFBPs. For several sectors (real estate agents, car dealers, and antique dealers) no supervisory authority has been designated with the authority to monitor and enforce compliance with CDD requirements, including the power to impose sanctions for noncompliance. In other cases (Sworn Advocates, Sworn Notaries), a legally established SRO is in place but the SRO has not been given responsibility for AML/CFT monitoring and compliance. Furthermore, many legal and accounting professionals (i.e., independent lawyers who are not sworn advocates; independent accountants who are not sworn auditors) are formally subject to CDD requirements of the AML Law but are not subject to oversight because they do not come under the jurisdiction of any professional SRO.

Over the last two years there has been an extensive official campaign to raise awareness among DNFBPs of their obligations to apply preventive measures under the AML Law, including for CDD.

The numerous guidelines/regulations issued by various organizations are testimony to the scope of this effort. Nevertheless because of the significant gaps in the legal framework for CDD by DNFBPs, and the lack of systematic compliance monitoring, the CDD regime for DNFBPs falls well short of international standards.

Recommendations and comments

Recommendations

- 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.
- 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.
- Extend Article 20 paragraph 11 of the AML Law on the monitoring of transactions to apply also to DNFBPs.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 3.1 underlying overall rating
R.12	PC	Incomplete specification of scope and detail of circumstances in which CDD is required. PEP identification not generally required. No requirement for DNFBPs to monitor transactions for CDD compliance. No steps taken to implement CDD regime in important classes of DNFBPs (independent lawyers who are not sworn advocates, independent accountants who are not sworn auditors) Lack of effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors. Indications of gaps in CDD practices among DNFBPs. Comprehensive program of outreach to DNFBP sectors to raise awareness of CDD requirements and to introduce effective compliance practices.

3.2 Suspicious transactions reporting (R.16) (applying R.13 to 15, 17 & 21)

Description and analysis

R. 16.1

According to Article 11 of the AML Law, all the persons subject to the law have the obligation to report immediately to the FIU all transactions that "cause suspicion regarding the laundering or attempted laundering of the proceeds derived from crime". This requirement applies to all DNFBPs as

described under criterion 12.1. Further description and analysis of the reporting requirements are provided under Recommendation 13 (Section 2.7 of this report).

As mentioned under Recommendation 13, the Cabinet of Ministers has set out, in its Regulation No 127, a list of indicators of unusual transactions and the reporting procedures. This Regulation applies to "credit institutions" and "financial institutions". According to the definition provided in the AML Law, "financial institutions" covers the conduct of financial transactions, including consultations or approval of such transactions (Article 1 paragraph 2). Many of the services provided by DNFBPs fall within this category. However, the definition of "financial transactions" in the AML Law creates uncertainty as to whether all the activities required to be covered under Recommendation 16 are indeed covered.

Nevertheless, the Latvian Council of Sworn Advocates, the State Assay Supervision Inspectorate, the Lotteries and Gambling Monitoring Inspectorate, the Latvian Council of Sworn Notaries, the Latvian Council of Sworn Auditors, LANIDA, NIMA and the Latvian Car Dealers Association have issued guidelines/regulations that incorporate many of the procedures and indicators set out in Cabinet Regulation No 127. While these guidelines/regulations vary considerable across sectors, they typically incorporate elements of the *Model Regulation on the Internal Control System of the Prevention of the Laundering of the Proceeds from Crime and the Financing of Terrorism* prepared by the FIU. The guidelines/regulations generally include suspicious transactions indicators relevant for the specific profession or business, a specification of the main elements of internal control policies and procedures, a requirement to appoint an official responsible for AML/CFT matters and a requirement to train staff. The regulations issued by the Latvian Council of Sworn Notaries cover identification and reporting of UTRs and STRs, although formal internal control procedures are not addressed, in part because all notaries operate as sole proprietorships.

As noted above in Section 3.1 of the report, and further discussed in Section 3.3 below, the guidelines/regulations issued by the DNFBPs are advisory and do not constitute other enforceable means.

16.2

UTRs and STRs are reported directly to the FIU and do not have to be submitted to the SRO of the DNFBP before being reported to the FIU.

16.3

Description and analysis in Section 2.7 and 2.8 apply to DNFBPs as described under criterion 12.1.

R. 15: Internal Controls

Sworn Advocates The guidelines/regulations for sworn advocates enumerate advocates' responsibility to identify clients and risky transactions, and to report unusual and suspicious transactions, but they do not prescribe written internal policies and procedures for internal control and monitoring, nor the appointment of a responsible AML/CFT official, nor requirements for training.

Sworn Advocates The guidelines/regulations for sworn auditors call for internal policies and procedures with respect to: client acceptance, identification of clients and their risks, identification of unusual and suspicious transactions, risk management, an audit function, training and reporting procedures. Indicators of transactions to be reported are provided.

Sworn Notaries The guidelines/regulations for sworn notaries do not specifically address internal controls, in part because notaries all operate as sole proprietorships.

Casinos The guidelines issued by the Lottery and Gambling Monitoring Inspectorate require casinos to have written internal policies and procedures that cover: (a) identification of the scope of potential customers, (b) identification of customers and establishment of their true business, (c) identification of suspicious transactions (indicators included), (d) refraining from transactions that are possibly linked with legalization of criminal proceeds, (e) ongoing monitoring, (f) authorization of a responsible AML/CFT official, (f) training of staff, (g) an audit function, and (h) reporting procedures.

LANIDA The guidelines/regulations issued by LANIDA spell out the customer identification requirements (including for beneficial owners) and documentation procedures for real estate agents, including those for high risk clients. The guidelines call for written internal control policies and procedures to implement the identification procedures and to provide for ongoing monitoring of transactions, to appoint a responsible AML/CFT official, to train staff, to establish an audit function to monitor the effectiveness of the internal control regime, and to report to the Control Service. The guidelines mandate that the responsible AML/CFT official have access to all customer information (Criteria 15.1.2) but do not address employee screening procedures (Criteria 15.4).

NIMA The guidelines/regulations issued by NIMA closely follow those of LANIDA

LPPA (Car dealers). The guidelines/regulations issued by LAPPA closely follow those of LANIDA

R. 21

There is no binding requirement to pay special attention to business relationships and transactions from countries which do not or insufficiently apply FATF Recommendations. In the Guidelines/Regulations of the Lotteries and Gambling Monitoring Inspectorate, Latvian Council of Sworn Advocates, LANIDA, NIMA and the Latvian Car Dealers Association there is a requirement to report transactions with persons who are on the FATF NCCT list and a country which, in accordance with the requirements of the US PATRIOT Act has been included in the list of countries in relation to whom there are concerns on ML. As noted, however, these guidelines/regulations do not qualify as "other enforceable means" for purposes of this assessment.

R. 17.1

Sanctions for noncompliance with AML Law
Article165-5 of the Administrative Violations Code provides for administrative liability for failure to report unusual or suspicious financial transactions. Punishments may be imposed by the court or the respective supervisory authority if such actions fall under the competence of the respective authority. If a person knows that a serious crime or a serious crime in aggravating circumstances is to be or has been committed (crimes which are punished by deprivation of liberty for five or more years) then the failure to report about such crimes is subject to criminal liability under Article 315 of the Criminal Law. ML and TF fall under that category of crimes. There are no sanctions specified in the AML Law. See industry specific sanctions in the laws regulating the operations and activities of the DNFBPs in Section 3.1 of this report.

Analysis
The AML/CFT preventive measures regime for DNFBPs is relatively new, with most of the (advisory)

guidelines/regulations issued beginning in 2004. The FIU has undertaken an active outreach program to familiarize DNFBPs with their obligations under the AML Law, including their responsibility to establish effective internal controls to ensure that these responsibilities are met and that reports of unusual and suspicious transactions are filed with the Control Service. The numerous guidelines/regulations issued by various organizations are testimony to the scope of this awareness raising campaign. As note, however, these regulations are almost all advisory rather than binding.

Gaps in the legal framework mean that many of the specific internal control and reporting requirements called for by the FATF recommendations are not legally binding on DNFBPs. For example, the mandatory reporting of unusual transactions spelled out in Regulation No 127 does not appear to be binding on all DNFBPs and (for those DNFBPs for which they are binding) not all activities of those DNFBPs are covered. While the internal control and reporting regulations/guidelines that have been issued to DNFBPs generally cover the essential criteria of the FATF Recommendations, they are not binding, either because the issuing agency has not been designated as a supervisory and control authority for purposes of implementation of the AML Law, or the guidelines/regulations were not issued under the supervisory powers of one of the SROs, or because the issuing organization (a trade association) has no legal authority to issue binding regulations. Furthermore, only the Lottery and Gambling Monitoring Inspectorate, the Latvian Council of Sworn Auditors, and the State Assay Monitoring Inspectorate actively monitor the activities of their membership for compliance with internal control and reporting requirements.

Based on discussions with supervisors and individual DNFBPs, it appears that awareness of AML obligations among the DNFBPs is high across all sectors. However, with the exception of casinos, sworn auditors, and dealers in precious metals and stones, many DNFBPs appear uncertain of the specific internal control measures they need to establish. Compliance with internal control procedures appears to be improving, although most reporting to the FIU appears to be based on threshold reports. In practice, the distinction between unusual and suspicious transactions is blurred and, in general, DNFBP reporting parties appear to submit reports to the FIU based primarily on financial thresholds or by reference to the indicators of unusual transactions in Regulation No 127 and only to a lesser extent based on the suspicious transactions indictors in guidelines/regulations.

Recommendations and comments

Recommendations

- Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF Recommendations.
- Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs.
- Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means.
- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 3.2 underlying overall rating
R.16	NC	Awareness of general AML/CFT obligations is high but knowledge of

		detailed requirements is limited. Because of gaps in the legal framework, the activities in relation to which DNFBPs are required to report suspicious transactions are significantly narrower than that required under the Recommendation 16 Compliance programs for DNFBPs set out in various guidelines/regulations generally conform well to the criteria for Recommendation 16 but, in most cases, such instructions are not enforceable means. Monitoring and enforcement of the internal controls and reporting requirements of DNFBPs is very limited. Many independent lawyers and independent accountants as well as a large number of car dealers and antique dealers are outside the oversight regime for DNFBPs because they are not members of an SRO or cooperating trade association.

3.3 Regulation, supervision and monitoring (R.17, 24-25) (applying criteria 25.1, DNFBP)

Description and analysis

R. 24

The AML Law is silent as to who monitors and ensures compliance of DNFBPs in respect of their AML/CFT obligations.

R. 24.1. **Regulatory and supervisory regime for casinos**

The operation of casinos is regulated by the Law on Lotteries and Gambling (valid until December 31, 2005) and the Law on Lotteries and Gambling (valid as from January 1, 2006). The Law on Lotteries and Gambling (valid as from January 1, 2006) empowers the Lotteries and Gambling Supervision Inspection to set out requirements for the organizers of casinos who wish to operate in Latvia - requirements with respect to the officials, owners, proof of the source of funding. According to the Law, only the following types of gambling will be allowed in Latvia: slot machine games, roulette, card games, dice, betting, totalizators, bingo, and interactive games. It is prohibited to operate casinos within, *inter alia*, state institutions, buildings of medical and educational institutions, drug stores, post offices and credit institutions, places granted the status of a market place, bars and cafeterias (except for betting and totalizators), stores, cultural institutions, railway stations, bus stations, airports, and ports (except for gambling halls which are separated by building structures and have a separate entrance from outside). Internet gaming is legally permissible but no internet licenses have been granted.

According to Article 9 of the Law on Lotteries and Gambling, a casino should ensure that at least one half of the members of council and board of directors of the gambling organizer are domestic taxpayers (residents). The member of council and board of directors and auditor of the gambling organizer should be a person having unblemished reputation; and not having been deprived of a right to engage in business activities. A person of unblemished reputation shall exclude any person sentenced for malicious crime or against whom criminal procedures for malicious crime are terminated on non-vindicatory grounds

According to Article 11 of the Law on Lotteries and Gambling, a person applying for a license shall submit, amongst other things: an annual report; the information proven by transaction documents about the origination of money and property contributed to the stock capital of capital company, and information about the holders of shares and stock of the capital company stock capital–natural persons. According to Article 15, the Lotteries and Gambling Supervisory Inspection may refuse a license if the applicant is in violation of laws or regulations of the Cabinet of Ministers established for the company's activities.

Supervision is performed by the Lotteries and Gambling Supervision Inspectorate which has the Control and Supervision Department, Licensing and Legal Department and Analytical Department in its structure. There are 32 employees in the Lotteries and Gambling Supervision Inspection. The Lotteries and Gambling Supervision Inspection is entitled to cancel the license, suspend the operations of the casino, or impose administrative penalties set out in the Administrative Violations Code. The Lottery and Gambling Supervision Inspection also undertakes examinations of casinos according to the requirements set out in Regulation No. 435 (December 19, 2000) on the Procedure of organization and maintenance of gambling and lotteries.

***Implementation*.**
Casino organizers are subject to detailed licensing requirements and each gaming hall is individually licensed. Fit and proper tests apply to both the owner and the responsible officials of the casino. Due diligence is carried out by the Lotteries and Gambling Supervision Inspection to identify the owners, including the beneficial owners, both natural persons and legal entities. For background checks, the Licensing and Legal department has access to Ministry of Interior databases and may request the assistance of the Control Service in collecting information on nonresidents. The authorities report that individuals have been denied licenses when background checks revealed such things as forged documents, fake credit agreements, or patterns of suspicious activities. As of 2005, 14 casinos were licensed, down from 22 in 2000.

Inspectors from the Supervision Department are on-site in casinos daily, primarily for purposes of financial control. Periodically, AML controls are subject to systematic examination following specific examination procedures. The examinations are undertaken pursuant to powers given to the Lotteries and Gambling Supervision Inspection under Article 39 of the Lotteries and Gambling Act. This includes a review of internal controls, verifying the appointment of a money laundering control officer, verifying training of personnel, review of the client identification information collected on entry and for purchases of chips worth EUR1,000 or more, cage procedures and record keeping for sales and redemption of chips, and electronic surveillance systems, including for the identification and reporting of suspicious transactions. Examiners also monitor risk mitigation procedures. For example, receipts for payouts may be given but are not volunteered. Transfer of large payouts via bank transfers may be arranged under controlled procedures but these are discouraged. Casinos may not provide credit and no accounts may be maintained at a casino nor are wire transfers authorized. Currency exchange is only permitted subject to licensing and supervision of a bureaux de change function by the Bank of Latvia.

24.2 .1

Dealers in Precious metals and stone
Regulations No. 547 of June 21, 2004 of the State Assay Inspectorate Supervision By-Law provides that the State Assay Supervision Inspectorate shall have the function of fulfilling the requirements

prescribed in the AML Law. Officers of the Market Supervision Department are authorized in Article 4.1 of the by-law to inspect the place of business to ensure these dealers observe the requirements of regulatory enactments.

Implementation

Dealers in precious metals and precious stones, including sole proprietorships, are required to register with the State Assay Supervision Inspectorate. 300 companies with 1,000 places of business have been registered, a total which is believed to encompass the preponderance of the market. The Inspectorate includes a market surveillance department which carries out on-site examinations of registered dealers, including for AML/CFT compliance. These examinations are carried our pursuant to the State Assay Inspectorate Supervision By-Law, which provides a power of inspection for compliance with regulatory enactments, which would include AML/CFT obligations (Articles 3.1 and 4.1). Visits are scheduled to take place at least once every two years. Inspection visits review internal control systems for identifying clients and reporting of suspicious or unusual transactions, appointment of a responsible official for AML/CFT controls, as well as staff familiarity with their responsibilities under the AML Law. For dealers in precious metals and stones, the threshold for undertaking CDD or for reporting suspicious transactions is reached when, (a) a safe keeping arrangement is established, or (b), transactions are conducted in excess of EUR15,000. In practice, given the limited scale of the market in Latvia, these thresholds are only reached on an occasional basis. The authorities report that few problematic issues have been encountered during their examinations. In addition to on-site visits, the Inspectorate, with cooperation form the Control Service, engages in outreach activities to raise awareness among the industry of money laundering vulnerabilities and AML/CFT responsibilities.

Lawyers

According to the Law on the Bar, The Latvian Council of Sworn Advocates is the managerial, control and executive body of the Latvian Collegium of Sworn Advocates. According to Article 34 of the Law on the Bar, the Latvian Council of Sworn Advocates has the power to review the activities of sworn advocates. For violations of laws, including the AML Law and as well as for violating the instructions regulating the activities of sworn advocates and the norms of professional ethics of advocates, the Latvian Council of Sworn Advocates may initiate disciplinary proceedings upon the recommendation of the court or the prosecutor, as well as upon complaints from persons or upon its own initiative (Article 71, Law on the Bar). However the council currently only reacts to complaints and does not have adequate resources to undertake the monitoring of compliance with the AML Law. There seems uncertainty as to whether the council can actually monitor compliance by sworn advocates in view of the confidentiality requirements in the Law on the Bar and the guarantee in the Law on the Bar that sworn advocates should be able to undertake their responsibilities without interference.

Lawyers who are unsworn advocates are not subject to any monitoring or review by any SRO.

Implementation

Although the Council of Sworn Advocates has the authority to act as a supervisor and controller for some purposes, it has not been designated as a supervisor and control authority for purposes of implementation of the AML Law. The Council does not have a tradition of proactively monitoring the internal policies and procedures of sworn advocates and it does not routinely monitor their activities. As noted in Sections 3.1 and 3.2 above, the Council has issued regulations setting out procedures that Sworn Advocates should follow to comply with the AML Law, but these regulations are not considered other enforceable means for purposes of this assessment. In cooperation with the FIU, the Council has engaged in a campaign to raise awareness among sworn advocates of their

responsibilities under the AML Law, including organizing workshops and seminars, and issuing guidance. Practitioners report that in the normal course of business their client acceptance procedures equal or exceed the due diligence procedures required by the AML Law, including the identification of beneficial owners. The FIU reports that a limited number of suspicious transactions reports have been submitted by lawyers and that the reports that have been filed tend to be very high quality reports.

Independent lawyers who are not sworn advocates are not subject to any direct oversight for AML purposes, nor do they appear to be the target of outreach programs to raise awareness of their obligations under the AML Law. In interviews the assessors were told that independent lawyers who are not sworn advocates prepare for or carry out many of the transactions enumerated under Recommendations 12.d as well as handling several of the company services enumerated under Recommendation 12 definition of Trust and Company service providers. In addition, independent lawyers frequently provide tax advisory services.

Notaries

According to the Law of Notaries, the Council of the Sworn Notaries is a representational and supervisory institution of the sworn notaries as well as the administrative and executive institution of the Chamber of Sworn Notaries of Latvia and this Council is represented on the Chamber. However the regional court is the authority that exercises monitoring over sworn notaries. Both the Latvian Council of Sworn Advocates and the regional courts through the Latvian Council of Sworn Notaries have the right of imposing sanctions for the noncompliance of laws, including noncompliance with the AML Law while the regional courts can examine notaries for compliance with laws. Thus far the regional courts are not monitoring compliance with the AML Law.

A judge sent by the regional court may at any time examine the activities of sworn notaries, their books and files. The chief judge of the regional court ensures that the activities, books and files of each sworn notary belonging to the relevant regional court are examined at least once a year. The chief judge of the regional court ensures the rectification of faults discovered in the activities of sworn notaries by giving instructions and orders to sworn notaries and, if necessary, by proposing that sworn notaries be held disciplinarily or criminally liable (Article 200–203 of the Law of Notaries).

Implementation

While the regional courts have the authority to monitor and control compliance by Notaries with their responsibilities under the AML Law, it appears that this authority is not being exercised. The Council of Sworn Notaries has issued nonbinding regulations covering CDD requirements of sworn notaries. Identification of parties to an agreement is an integral part of notarial work. However, based on interviews with notaries, it appears that due diligence extends primarily to identification of contractual parties to an agreement, but does not necessarily extend to identification of beneficial owners. Notaries commonly authenticate signatures on documents but identifications procedures do not extend beyond matching ID documents with the signature.

Auditors

The Latvian Association of Sworn Auditors is an independent professional corporation of Latvian sworn auditors and it has the role of ensuring the supervision of compliance with professional standards and ethical norms, as well as other regulatory enactments applicable to the profession, including the AML Law (Article 6 of the Law of Sworn Auditors). As noted in Sections 3.1 and 3.2, the Association has issued advisory regulations setting out recommended procedures for ensuring compliance with AML requirements. The Latvian Association of Sworn Auditors, and in particular the

Control Division of the association, is responsible for monitoring and ensuring compliance of sworn auditors and sworn auditors commercial companies with the AML Law. The Latvian Association of the Sworn Auditors Quality Control Division reviews the internal control systems, policies, and procedures in order to ensure that sworn auditors are complying with the AML Law (LACA AML Regulation Article 4).

Implementation The Control Division of the Sworn Auditors Association has an active program for reviewing the work practices of members of the association, including a year-old program for reviewing compliance with AML requirements, with first reviews begun in September 2005. These quality control reviews include: checking to confirm that auditors and their staff have been trained in their AML responsibilities; reviewing all records, including for CDD and adherence to internal control requirement; reviewing procedures for reporting suspicious transactions, reviewing annual reports of working papers to verify that auditors audits of their clients' AML/CFT practices comply with IAS audit standards. Results of such quality control examinations are reported to the Quality Committee of the Sworn Auditors Association. A member of the Quality Committee reported that, to date, no evidence of noncompliance with AML requirements has been encountered.

Independent accountants who are not sworn auditors are not subject to any direct oversight for AML purposes, nor do they appear to be the target of outreach programs to raise awareness of their obligations under the AML Law. In interviews, the assessors were told that independent accountants who are not sworn advocates frequently prepare for or carry out many of the transactions enumerated under Recommendations 12.d as well as handling several of the company services enumerated under Recommendation 12 definition of Trust and Company Service Providers. Also, independent accountants appear to provide tax advisory services.

Real Estate Agents

No supervisory and control authority has been appointed to oversee the activities of real estate agents. Real estate trade associations such as LANIDA and NIMA, have undertaken to provide guidance/regulations to their membership, outlining their obligations under the AML Law and the measures needed to comply with the law. However, these regulations are advisory only since the trade associations have no authority to regulate their members. In cooperation with the FIU, the trade associations have outreach programs to raise awareness of AML issues and obligations, but they do not oversee or discipline the practices of their members. No formal professional or regulatory standards need to be satisfied to act as a real estate broker and a large number of individuals are understood to act as real estate agents on an irregular or occasional basis. Representatives of the trade associations report that their membership encompasses less that half of the active real estate agents in Latvia, although the largest firms are members. Practitioners report that, in Latvia, real estate agents advise on the terms of a listing and bring buyers and seller together. However, as a matter of business practice they do not become directly involved in the sales/purchase agreement, nor do they handle settlement and property registration procedures.

Transport

No supervisory and control authority has been appointed to oversee the activities of the transport sector. The Car Dealers Association of Latvia (LAPPA) has undertaken to provide guidance/regulations to its membership outlining their obligations under the AML Law and the measures needed to comply with the law. However, these regulations are advisory only since the trade association has no authority to regulate its members. In addition, in cooperation with the Control Service, LAPPA has conducted outreach programs to raise awareness of AML issues and obligations among its membership. The membership of LAPPA consists of new car dealers. LAPPA members

report that cash purchases of new cars is now relatively rare in Latvia and that three quarters of all sales take place under lease agreements, with credit provided directly by banks. An active market in used cars exists in Latvia but there is no association of used car dealers similar to LAPPA. It is understood that cash purchases are common in the used car market.

Under the AML Law preventive measures are required of all dealers operating in the transport sector. To date only the automobile sector has been targeted for a compliance regime.

Antiques

No supervisory and control authority has been appointed to oversee the AML/CFT compliance of antique dealers. It is understood that the market in antiques is relatively underdeveloped in Latvia. Indirect monitoring of the antique market for nonAML/CFT purposes is undertaken by the State Inspection for Heritage Protection, which has responsibility for safeguarding items of cultural and heritage value and for administering the control regime on exports of items of cultural value.

17. Sanctions

The sanctions available to the authorities responsible for oversight of DNFBPs are outlined in Sections 3.1 and 3.2 above under the discussion of Recommendation 17. In general, the AML Law includes no specific sanctions for noncompliance with required AML/CFT preventive measures. The Administrative Violations Code provides for administrative liability for failure to report unusual or suspicious financial transactions, with punishment to be imposed either by the court or the relevant supervisory authority. The authorizing legislation for each of the relevant SROs (the Latvian Council of Sworn Advocates, the Council of Sworn Notaries, and the Latvian Association of Sworn Auditors) gives each of these organizations authority to discipline its members in a variety of circumstances, including where they repeatedly violate AML/CFT preventive measures requirements. Both the Law on Lotteries and Gambling and the Administrative Violations Code give the Lotteries and Gambling Supervisory Inspection authority to impose a range of sanctions on casinos for noncompliance with applicable laws and regulations, some of which overlap AML/CFT preventive measures requirements. The State Assay Supervision Inspectorate can provide directions to rectify within a specified period of time shortcomings and violations of regulatory enactments. On the other hand, the various trade associations that have issued AML/CFT guidelines for their members have no legal authority to sanction noncompliance.

25.1 Guidelines

The following is a list of guidelines or regulations issued by various DNFBP organizations. See Sections 3.1 and 3.2 above for a discussion of the status and contents of these guidelines/regulations:

Casinos

On March 1, 2005 the Lottery and Gambling Monitoring Inspectorate approved Order No. 14, *Guidelines For Working Out Internal Control System to Prevent Legalization of Criminal Proceeds and Financing of Terrorism.*

Sworn Advocates

With decision No. 46 of March 15, 2005, the Latvian Council of Sworn Advocates affirmed the *Regulation of the Internal Control System of the Prevention of the Laundering of the Proceeds from Crime and the Financing of Terrorism.*

Sworn Notaries

The Council of the Sworn Notaries has approved the *Regulation on the Reporting Procedure of the Unusual Transaction* (November 19, 2001, amended on August 27, 2004).

Sworn Auditors
Latvian Sworn Auditors Council adopted the *"Regulation on Application of the Law on Prevention of Legalization of Illegal Proceeds to the Basic Activities of Sworn Auditors and Commercial Companies of Sworn Auditors" (LACA AML regulation)* on March 7, 2005.

State Assay Supervision
State Assay Supervision Inspection issued Recommendations No. 4-16-10/2004 of July 22, 2004 *"on Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism" (amended on February 24, 2005)*

Real estate market:

LANĪDA (Real Estate Deals Association of Latvia) adopted at its general meeting (on May 18, 2005, protocol No. 01/2005) *the Regulation On the Internal Control System regarding Unusual and Suspicious Transactions with Real Estate*

NĪMA (the Real Estate Brokers and Agents Corporation of Latvia) adopted at the general meeting of its members *the Regulations On the Prevention of Laundering of Proceeds derived from Criminal Activity and Terrorist Financing.*

Car dealers:

The Council of Authorized Car Dealers Association of Latvia (LAPPA) adopted on December 8, 2005 *the Regulation On the Anti-money Laundering and Terrorist Financing Measures.*

Analysis
The regulatory and supervisory regime for casinos is satisfactorily established and implementation of AML/CFT requirements is systematically monitored and enforced. Compliance appears to be satisfactory. Likewise, the State Assay Supervisory Inspectorate has established effective arrangements for monitoring and ensuring compliance by dealers in precious metals and stones.

The SRO arrangements for sworn auditors appear to be effective in monitoring compliance with the requirements of the AML Law; issuance of binding guidelines or regulations would improve the regime. The Association of Sworn Advocates has the necessary SRO structure to take on the role of supervisory authority for AML/CFT monitoring and compliance but it currently lacks the resources to monitor its members' activities and is disinclined to take on that job, although it is active in raising awareness. The Association of Sworn Notaries likewise has the necessary SRO structure to take on the role of a supervisory authority for monitoring and compliance by its membership with AML requirements but it does not have that mandate. The courts, which oversee notaries, have so far not taken responsibility for monitoring compliance with the AML Law.

The various trade associations reviewed (LANIDA, NIMA, LAPPA) play a useful role in education and awareness raising but they do not have the necessary legal structure to monitor and ensure compliance with the AML/CFT obligations of their members.

An assessment of the money laundering risks in Latvia points to important vulnerabilities in real estate transactions and in the creation and operation of corporate vehicles (legal entities). Key professions and businesses in these activities are not brought under an effective compliance regime under current

arrangements. Independent lawyers and independent accountants appear to be active in company formation and management services. In the case of real estate, many agents are not members of any real estate association. As important, within the normal conduct of business in Latvia, it appears that real estate agents have a limited perspective on key elements of real estate transactions since they conventionally do not arrange the purchase/sale agreement nor do the handle the settlement and recording of a transaction. An effective preventive measures regime for real estate may need to focus more directly on the oversight of the activities of other services providers involved in completing a real estate transaction, such as lawyers, notaries, business advisers, or the registrar of properties.

Recommendations and comments

Recommendations

- 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.
- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 3.3 underlying overall rating
R.17	PC	For many DNFBP no supervisory and control authority has been appointed, hence, many DNFBPs are not subject to sanctioning for noncompliance with AML/CFT requirements by the supervisory and control authorities. The guidelines/regulations that have been issued are generally advisory and not enforceable means, and hence do not provide a basis for sanctioning member DNFBPs for noncompliance with many of the specific AML/CFT requirements specified in the FATF Recommendations. (Composite rating)

R.24	PC	A comprehensive regulatory and supervisory regime has been established for casinos and appears to be effectively implemented. Likewise the systems for monitoring and ensuring compliance by sworn auditors and for dealers in precious metals and stones appear to be effective. For other DNFBP sectors, the established regime for monitoring and ensuring compliance is not effective either because the authorities do not actively monitor members, or because oversight enforcement authority is inadequate, or because the designated agency is a trade association with no statutory authority to monitor and enforce compliance by members. A significant number of DNFBP professionals and business are not subject to any systematic compliance regime because they are not members of any of the designated groups.
R.25	PC	A range of guidelines/regulations have been issued by various DNFBP organizations but in most cases these instructions have not been issued under legal authority that would make them enforceable means. (Composite rating)

3.4 Other nonfinancial businesses and professions—Modern secure transaction techniques (R.20)

Description and analysis

20.1

The Latvian authorities have considered the need to apply AML/CFT measures to those nonfinancial businesses they regarded as presenting a potential ML or FT risk. As a result, they have applied the requirements of the AML Law to antique dealers and car dealers.

It is understood that the market in antiques is relatively underdeveloped in Latvia. Indirect monitoring of the antique market for nonAML/CFT purposes is undertaken by the State Inspection for Heritage Protection, which has responsibility for safeguarding items of cultural and heritage value and for administering the control regime on exports of items of cultural value.

The automobile sector is highly fragmented and there are no formal requirements governing the activities of car dealers. Most new car dealers are organized into a trade association which promotes the interests of the membership. Used car dealers are less organized and business is frequently conducted on a casual basis. Approximately 70 percent of all new cars are sold to companies, and perhaps 75 percent of all new car are sold under leases provided directly by banks. Purchases of new cars with cash is understood to be the exception but appears to be more prevalent for used car purchases.

The risk of ML and TF from these sectors appears to be low. The basis of application of Recommendations 5, 6, 8-11, 13-15, 17 and 21 to each of these sectors is set out in Section 3 of this report in the description relating to DNFBPs.

20.2

Estimates of cash usage in the Latvian economy indicate that the level is not abnormally high by international standards. Modern means of conducting financial services using the latest technologies are widely available. There is an extensive ATM network in Latvia. All of the main financial services providers have facilities for conducting business over the internet. Use of internet banking domestically within Latvia is growing steadily, albeit from a very low base. Internet banking is already widely used by nonresident customers.

Latvian authorities use the tax system to reduce the usage of cash in the system and to encourage the use of modern and secure techniques of money management. Pursuant to Article 30 of the Law On Taxes and Duties, all taxpayers (other than natural persons) are required to declare to the State Revenue Service on a monthly basis all cash transactions (irrespective of whether it is a single transaction or several deals) exceeding LVL1,000. If the cash transactions have not been declared as prescribed by the law, a penalty in the amount of five percent of the total amount of undeclared deals shall be applied. If the cash transactions exceed LVL3,000, a penalty in the amount of 10 percent of the total amount of these transactions shall be applied. The above provisions are not applicable to credit institutions or cash payments to credit institutions. For transactions performed in relation to retail trade, the above requirements are applicable only to the purchaser of goods.

Recommendations and comments		
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Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.20	C	

4. Legal Persons and Arrangements & Nonprofit Organizations

4.1 Legal Persons–Access to beneficial ownership and control information (R.33)

Description and analysis

In Latvia, the following are the types of legal persons that can be created or established or otherwise recognized: a company, a partnership, a co-operative company, a proprietorship, a farmstead, fishing farm, an association, a foundation, a political organization, a trade union, European economic interest group, European commercial company, a branch of a foreign merchant, and a representative of a foreign organization. All these entities (except for a branch of a foreign merchant or a representative of a foreign organization) can engage in economic activities and can own property. The Commercial Law governs the activities of those entities undertaking commercial activities while the Law of Associations and Foundations regulate associations and foundations. All these entities are registered with the Register of Enterprises, the former in the Commercial Register, the latter in the Register of Associations.

33.1

All the entities registered with the Register of Enterprises acquire the status of legal person except for branches of foreign merchants and representatives of foreign organizations as these cannot have the status of a legal person in Latvia. For entities carrying out commercial activities, the information disclosed to the Register of Enterprises is recorded in the Commercial Register whilst all other information relating to the legal person is to be documented in the registration files of the relevant company.

The Commercial Law specifies the information to be submitted to the registry, as follows:

Governing bodies of legal person
All legal persons must disclose information about members of their governing bodies e.g., board of directors. Entities for which commercial activity is the basic operational activity and cooperative companies must submit information on members of governing bodies as follows: given name, surname, personal identity number and residential address. The following information about members of the governing bodies of entities that are created for noncommercial purposes must be disclosed: given name, surname and personal identity number. Information on founders of the entity must also be submitted.

Owners/Members of Legal Person
For some legal persons that carry out economic activities for profit-making purposes, information about their shareholders (limited liability companies), members (partnerships) or owners (individual proprietorships, farmsteads, fishing farms) must be disclosed to and shall be available at the Register of Enterprises. There is however no requirement to disclose the identity of the beneficial owners of these legal persons. For joint stock companies, the information on founders is publicly accessible, but further changes in the shareholders are not to be declared to the Registry of Enterprises. There is, therefore, no guarantee that the information contained in the register is relevant and up-to-date. However, for public joint stock companies this information is available from the custodians: banks and brokerage companies. For other joint stock companies and cooperatives, the legal person itself is obliged to maintain a register of shareholders/members. Entities having no profit-making purposes and cooperative companies are not required to declare their members to the Registry of Enterprises. Nonprofit entities are only required to submit information regarding their founders and the officials of the governing bodies. The board of the legal person must keep a register of members/shareholders of these entities. This information is available to members/shareholders but not to the general public. It is available, however, to the supervisory and law enforcement authorities (Article 28 (2) of the Law on Associations and Foundations).

All legal persons (including partnership) maintain information about their ownership as follows: given name, surname, personal identity number and residential address (for natural persons); and name; registration number, legal address (for legal persons). Information on the owners is available to the owners themselves as well as law enforcement agencies. Exceptions are joint stock companies that have issued bearer shares, political organizations and trade unions. The joint stocks companies that have issued bearer shares do not possess information on the owners of bearer shares. Political organizations and unions are not required by law to specifically compile and maintain information about their members. All legal persons possess information about board members, the same information which has been declared publicly.

Founding documents
The following founding documents must be submitted to the Registry of Enterprises: memorandum of association and articles of association for companies; memorandum of association and articles of association for cooperatives; articles of association for associations; articles of foundations for foundations; articles of association for political organizations; articles of association for trade unions; memorandum of association for European economic interest group; articles of association for European commercial companies.

Changes in Information
If there are any changes to the information submitted to the Register of Enterprises, then the entity has

to report the changes to the Registry within 14 days. If there is no disclosure of the changes or there is a late submission of the changes, the Registry informs the relevant court which can start proceedings. The entity may then be subject to a penalty under the Administrative Violations Code.

Verification of information
The Registrar of Enterprises upon receipt of the application for registration, verifies that the signatures on the documents have been certified by a sworn notary and relies on the notaries to check the identity of the applicant and to verify his/her identity and signature. The Registrar then cross-checks the information with that contained in the Register of Citizens and the Register of Invalid Documents. For noncitizens, the Registrar relies on the information provided by the sworn notary or on the legalization of documents.

Information of Beneficial ownership and control of legal person
There is no requirement for identification of the beneficial owners but legal persons can decide to require and maintain this information. However, there is no information on the number of legal persons, if any, who have required the identity of their beneficial owners. The information on the members of their governing bodies must be disclosed as described above.

Associations and Foundation
The Law on Associations and Foundations specifies the information that is to be disclosed by associations and foundations. For an association, information to be disclosed includes a decision to found an association; articles of association; a list of board members, indicating a given name, surname, personal identity number and residential address. For a foundation, the information to be submitted includes a decision to establish the foundation, articles of foundation, a list of board members, indicating a given name, surname, personal identity number and residential address.

Other measures to prevent unlawful use of legal persons
The Registrar of Enterprises has to file an STR upon receiving information that the entity is not located at the legal address that appears in the Register. An STR is also to be filed by the Registrar if they find a reference to an invalid document or find that the identification document submitted relates to a dead person

33.2 ***Access to Information***

Any person can have access to the information in the Register of Enterprises and this information is also available on line. Information in the register of shareholders is not public information but law enforcement agencies can have access to this information. But information on the shareholders, members and owners (not only of founders) of limited liability companies, cooperative societies, European Commercial companies, partnerships, sole proprietors, farmsteads, fishing farms, individual merchants is publicly available in the Registry of Enterprises.

Article 190 of Criminal Procedure Law provides for powers of judges, prosecutors, and investigators to require natural and legal persons to submit in writing objects and documents that are of significance to investigation purposes. Information on the beneficial ownership and control of legal persons can be requested and obtained from the Registrar of Enterprises (on domestic legal persons and branches of foreign legal persons) and banks (on domestic and foreign legal persons that have accounts with the relevant bank).

If the requested objects and documents are not submitted by the set deadline, the prosecutor is entitled to carry out searches or seizures of the necessary objects and documents.

Article 31 of the AML Law obliges all State authorities including the Registrar of Enterprises to provide all information requested by the FIU for the performance of its functions.

While entities subject to the AML Law are entitled to request and receive information on beneficiaries, and the information in the Register of Enterprises is electronically available to them for a fee, information of beneficial ownership is not kept in the Register.

33.3 *Bearer shares*

Articles 235 and 238(3) of the Commercial Law stipulate that bearer shares can only be issued by joint stock companies. While the Register of Enterprises could obtain information on the number of companies that issue bearer shares, it is unable to verify how many companies have issued bearer shares and the number of bearer shares issued and there is no information on the beneficial owners of the shares.

Analysis
Latvia has a mechanism for the central registration of legal persons whereby the Registrar of Enterprises records information on the officials of the company, the founders of the company and, where the entity is engaged in commercial activity, the owners of the company. However nonprofit entities and joint stock companies have no obligation to disclose their shareholders and members, though they are required to keep this information in their own register. The information collected in the Register of Enterprises is publicly available but not the information in the register of shareholder/members. Beneficial ownership of an entity is not required to be disclosed nor is it therefore required to be kept. The information held by the Registrar of Enterprises is easily accessible as it is available online.

There are no mechanisms for ensuring that the information collected by the Registrar of Enterprises is accurate and current. While the law requires legal persons to inform the Register of Enterprises of any changes and amendments within 14 days and there is a penalty attached to noncompliance, the Registrar of Enterprises does not itself have the power to ensure that legal persons comply with this requirement but can refer the case to the court. The verification by the Registrar of the information submitted to it is minimal as the Registrar depends on the notaries to verify the identity and the signature of the founders and officials.

Law enforcement agencies are empowered to request information on the beneficial ownership and control of a legal person, but in relation to beneficial ownership this power is not of much value as this information is not legally required to be kept by legal persons and will not be readily available or accessible to law enforcement agencies.

Bearer shares can be issued in Latvia posing a possible risk of being used for ML purposes. While acknowledging that such a risk exists, the authorities do not appear to have undertaken an assessment of this risk. Furthermore, Latvia does not appear to have a mechanism to determine who the beneficial owners are or how many bearer shares have actually been issued and are in circulation. There was a provision to dematerialize bearer shares in the Commercial Law but this provision was deleted in 2004.

Recommendations and comments

Recommendations
The authorities should amend the law to:

- ensure that information on the ownership of all bearer shares is available.
- 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.
- Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration.
- Enhance powers to investigate and monitor compliance with these requirements.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.33	NC	There are no effective measures in place to ensure that competent authorities are able to obtain or have access in a timely fashion to the beneficial ownership and control information, in particular with respect to the legal persons that have issued bearer shares. There are no effective measures to ensure that the information provided to the Registrar of Enterprises is current and adequate.

4.2 Legal Arrangements–Access to beneficial ownership and control information (R.34)

Description and analysis

Trust as a legal arrangement is not recognized in the Latvian legal system. Although the Latvian laws sometimes refer to "trusts", this is a reference to fiduciary relationships and not to trusts as understood in Common Law systems. The private sector and the authorities are not aware of any trusts being created or established in Latvia under foreign laws. The credit and financial institutions indicated to the assessors that they do not open accounts for foreign trusts.

Recommendations and comments

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Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.34	N/A	

4.3 Nonprofit organizations (SR.VIII)

Description and analysis

With effect from 2004 a new Latvian Associations and Foundations Law was introduced which, among other things, required all nonprofit organizations (NPO) to register with the associations and foundations registrar. Registration is required whether or not the organization receives outside funding. Annual reports on NPO activities are required to be filed. Final deadline for registration was December 2005 and, as of March 2006, 10,097 NPOs were registered. Religious organizations are separately recorded by the Agency of Religious Issues.

A variety of laws and regulations impose internal control requirements on NPOs. The Law on Accounting extends to associations and foundations, to political organizations and their associations, and to religious organizations. Accounts must reflect all economic transactions and the status of property. The Associations and Foundations Law requires that income of an association or foundation may only be utilized for the achievement of goals specified in the articles of association. Likewise, the Public Benefit Organization Law requires that associations, and foundations, religious organizations

and public benefit organizations should utilize their donations according to the goals stated in the articles of the organization, constitution or regulations. Those goals must be specified in the resolution of the Ministry of Finance that confers the status of Public Benefit Organization. Regulation Nr 251 of the Cabinet of Ministers of August 1, 2000 requires association and foundations to submit to the State Revenue Service annual reports of donations and gifts.

Using a wide range of information systems, the State Revenue Service monitors the financial assets of NPOs, as well as donations to NPOs, both for tax compliance and, in cases of suspicion of ML or FT, informs the FIU.

In addition to registration information, financial data on NPOs is generated by:

- NPO reporting of charitable donations (1,507 cases in 2004);
- taxpayers claims for charitable deductions on tax filings (claims regarding about 800 NPOs were filed in 2004);
- applications from NPOs to be eligible to receive tax deductible charitable contributions (608 cases in 2004);
- information on payment of social contributions by NPOs; and
- a review of all donations above LVL4,500.

Based on extensive consultations with the FIU, analytical systems originally developed for tax needs are also used to identify suspicious transactions. In 2005 a new Order was issued ("Order on how the SRS tax administration units forwards information to the Financial Intelligence Unit") which details procedures for cooperation between the SRS and the FIU. The new order, which replaced instructions issued in 2001, defines indicators that could give evidence about the legalization, or attempts to legalize, illegal proceeds, the actions to be taken by an official who detects suspicious transactions or transactions related to the financing of terrorism, as well as the appointment of persons responsible for the exchange of information with the FIU. Indications of criminal activity are referred to the police and suspicious transactions are reported to the Control Service.

In addition the monitoring carried out by the Ministry of Finance, an extensive public awareness campaign has been conducted to inform NPOs of their obligation to register and to educate the public of its responsibility to know who they are donating money to and what those funds are being used for. Under Latvian law, donors have the right to receive such information from the NPOs they support.

Recommendations and comments		
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Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
SR.VIII	C	

5. National and International Cooperation

5.1 National cooperation and coordination (R.31 & 32) (criteria 32.1 only)
Description and analysis
The AML Council
The main responsibility for the coordination of Latvia's anti-money laundering efforts is with the

AML Council. The membership of the AML Council includes the Prime Minister, Minister of Justice, Minister of Interior, Chairman of the Supreme Court, the Prosecutor General, the President of the BoL, and the Chairman of the FCMC. The legal bases for the operation of the AML Council are the Cabinet of Ministers Regulation 55 of January 25, 2005, Article5, and the statutes of the Council. The primary responsibility of the AML Council is to develop the coordination of the activities of the FIU, the financial sector, and law enforcement. The composition of the AML Council ensures that this is done at the highest policy level in Latvia. The AML Council is also responsible for the development of legislation in Latvia addressing AML/CFT issues. The AML Council is particularly concerned with addressing Latvia's international obligations with respect to AML/CFT issues. The fact that the Prime Minister chairs the AML Council is an indication of the political will of the authorities and how seriously the issue of AML/CFT is being taken in Latvia.

The FIU Advisory Board

The composition of the Advisory Board of the FIU (AML Law, Section IX) and its statutes ensure coordination with regard to actions directed at the implementation of international AML/CFT requirements.

The FIU Advisory Board is composed of representatives of the Ministry of Interior, Ministry of Justice, the BoL, the FCMC, and Supreme Court, the Association of Commercial Banks, the Association of Insurers, the Auditors Association and Sworn Advocates Collegium, and the Sworn Notaries Council. The Ministry of Finance delegates two representatives, one of whom represents the State Revenue Service.

The task of the Board is to coordinate the cooperation of the FIU, the financial sector, and law enforcement concerning compliance with the AML/CFT requirements. Among the work of the Advisory Board has been the production and distribution of the Guidelines for financial institutions based on the FATF Best Practice Paper for addressing Terrorist Financing.

Cooperation and Coordination Generally

The cooperation between the FIU and law enforcement is provided for under the AML Law, Sections VII and VIII. This consists of cooperating with the Prosecutor with Special Powers, providing training to the law enforcement community on the procedures to request information from the FIU, and providing additional information with regard to previously-sent materials or requests that the FIU has received.

Police and prosecution authorities can request information from the FIU for the purposes of criminal or preliminary investigations.

Under Article 29(6) of the AML Law, the FIU is required to provide the supervisory and control authorities with information about the proceeds from crime. This includes location and techniques for using the financial system and capital markets in Latvia for the laundering of the proceeds of crime and terrorist financing.

Article 32 of the AML Law specifically provides that the FIU should cooperate and provide information for pre-trial investigations or to a court.

The legislation provides for cooperation at a national level and, while there is a high level of commitment with respect to addressing AML/CFT, in practice this could be improved. The exchange of information between the FIU and LEAs is not as speedy as it could be, as information from the FIU has to be sent first to the Prosecutor with Special Powers before going to the LEA. Information requests to the FIU from LEAs also have to be routed through the Prosecutor with Special Powers.

Recommendations and comments

Recommendation

- The authorities should reconsider the procedure for information exchange between the FIU and LEAs and seek to simplify the process to improve efficiency.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.31	LC	Enhance information exchange between the FIU and LEAs
R.32	LC	(Composite rating)

5.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

Description and analysis

Ratification of Conventions:

The Convention against the Trafficking in Illicit drugs and Psychotropic Substances (Vienna 1988) was ratified on February 24, 1994.

The Convention against Transnational Organized Crime (New York, November 15, 2000) was signed by Latvia on December 13, 2000 and ratified on May 17, 2001.

The Convention for the Suppression of the Financing of Terrorism (New York, December 9, 1999) was signed by Latvia on December 18, 2001 and ratified on November 14, 2002.

Implementation of Vienna Convention:
Earlier sections of this report show that Latvia has enacted legislation that has encompassed the key requirements of the Vienna Convention. The trafficking in narcotics and other drug related offences are criminalized by virtue of the Criminal Law (for detailed description see Recommendations 1 and 2). Associated money laundering is also a criminal offence. The Criminal Law and the Criminal Procedure Law provide for the confiscation of proceeds derived from drug related offenses and narcotics and instrumentalities in drug related cases and associated money laundering (see Recommendation 3). Legislation in Latvia also provides for extradition of all offences and mutual legal assistance is available (see Recommendation 36). Latvia is a party to and has signed a number of bilateral and multilateral agreements to facilitate international cooperation in matters covered by the Vienna Convention. Controlled delivery is available as an investigative technique by the law enforcement authorities under the Criminal Procedure Law (see Recommendation 27).

The legislation should be amended to ensure that forfeiture includes property that is "intended" for use in the commission of an offence in order to comply fully with the Vienna Convention.

Implementation of Palermo Convention:
The Palermo Convention has been implemented in the AML Law, the Criminal Law and the Criminal Procedure Law. The legislation criminalizes the laundering of the proceeds of crime. The participation in an organized criminal group is also an offence under the Criminal Law, Article 21 (see also Recommendations 1 and 2). Confiscation is provided for in Article 358 of the Criminal Procedure Law (see Recommendation 3). Provisional measures are provided for in Article 361 of the Criminal Procedure Law (see Recommendation 3).

Some amendments are required to implement fully the Palermo Convention. Property should be defined for the purposes of the Criminal Law and the Criminal Procedure Law to fully comply with the Convention. The legislation should also be amended to include a definition of "proceeds of

crime/illegally acquired property" that includes property obtained indirectly.

Natural persons acting on behalf of legal persons can be liable for money laundering under Article 12 of the Criminal Law. Legal persons are subject to administrative sanctions such as liquidation.

The authorities in Latvia are taking specific steps to maximize the effectiveness of law enforcement measures in respect to the participation in an organized criminal group, money laundering, or corruption (Palermo Convention: Article 11, paragraph 2–prosecution, adjudication and sanctions) (see comments on Recommendation 27 with respect to Articles 215-235 of the Criminal Procedure Law).

Assistance to foreign countries is available in the legislation for the purposes of confiscation. MLA is not subject to unreasonable restrictions. Article 816 of the Criminal Procedure Law states that the request of a foreign country for assistance in process may be refused in cases where:

- Such request is related to a political offence;
- Execution of such request may be detrimental to state sovereignty, public order, or other substantial interests of Latvia; and
- Insufficient information is supplied and additional information cannot be obtained after such information has been requested.(See Section 5.3 of the report for a more detailed description).

There are no specific rules with respect to the disposal of confiscated assets, as required by Article 14 of the Palermo Convention.

Extradition for all offenses is possible on the basis of the treaties (or under the relevant provisions in national law if there is not a treaty with the requesting country). Latvia can extradite a person to a foreign country and the legal framework for extradition is set out in Chapter 66 of the Criminal Procedure Law. Generally a person may be extradited for criminal prosecution, to serve a sentence already imposed, or to be sentenced for an offence for which they have been convicted. Dual criminality is required. (see Section 5.4 of the report for a more detailed description)

Law enforcement agencies have a full range of investigative techniques at their disposal including those found in Articles 215-235 of the Criminal Procedure Law. These include: monitoring of correspondence, monitoring of means of communication, monitoring data in electronic information systems, monitoring of broadcasted data content, audio or video monitoring of a place or person, surveillance and tracking of a person, surveillance of facilities, and monitoring of criminal activity.

Implementation of the TF Convention:
Latvia has criminalized the financing of terrorism by virtue of Article 88.1 of the Criminal Law. These offences can be committed by both natural and legal persons. For the terrorism offence, the penalty is life imprisonment or imprisonment from eight to twenty years, with confiscation of property. For the activities stipulated in Article 88.1, if they have been carried out by a group of persons after prior agreement (a terrorist group), the penalty is life imprisonment or imprisonment from ten to twenty years, with confiscation of property.

However, there are still matters that need to be addressed with respect to the full implementation of the Terrorist Financing Convention. The legislation does not define property or funds in compliance with the Convention. The AML Law defines financial resources as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. This definition

does not fully comply with the Terrorist Financing Convention. because it does not cover legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.

Extradition
Latvia can extradite a person to a foreign country and the legal framework for extradition is set out in Chapter 66 of the Criminal Procedure Law. This would include offences of terrorist financing. Generally a person may be extradited for criminal prosecution, to serve a sentence already imposed, or to be sentenced for an offence for which they have been convicted. Dual criminality is required.

Implementation of UNSCRs 1267 and 1373:
Mechanisms have been put in place for the implementation of UNSCRs 1267 and 1373 (for details see analysis dealing with SR II and SRIII below). The mechanisms only apply to the EU lists. There is no separate mechanism for the authorities to make designation, as required under UNSCR 1373.

Other Conventions:
Latvia signed the 1990 Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the proceeds from Crime on March 11, 1998, ratified it on December 1, 1998. The Convention came into force on April 1, 1999.

Latvia has ratified all twelve Universal Anti-terrorism instruments. This includes five United Nations Conventions, namely the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973 (approved by the Parliament of the Republic of Latvia on August 29, 1991, acceded on April 14, 1992, in force since May 14, 1992), the International Convention against the Taking of Hostages of 1979 (approved by the Parliament of the Republic of Latvia on September 26, 2002, acceded on the November 14, 2002, and in force since December 14, 2002), the International Convention for the Suppression of Terrorist Bombings of 1997 (approved by the Parliament of the Republic of Latvia on October 24, 2002, acceded on November 25, 2002, and in force since December 25, 2002), the International Convention for the Suppression of the Financing of Terrorism of 1999 (approved by the Parliament of the Republic of Latvia on September 26, 2002, ratified on November 14, 2002, and in force since December 14, 2002), and the International Convention for the Suppression of Acts of Nuclear Terrorism of 2005 (signed on September 16, 2005, which will be ratified in due course).

Latvia is a party to eight Multilateral Conventions on terrorism, namely: the Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963 (approved by the Parliament of the Republic of Latvia on March 24, 1997 and in force since September 8, 1997), the Convention for the Suppression of Unlawful Seizure of Aircraft of 1970 (approved by the Parliament of the Republic of Latvia on March 24, 1997 and in force since November 22, 1998), the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971 (approved by the Parliament of the Republic of Latvia on March 24, 1997 and in force since May 13, 1997), the Convention on the Physical Protection of Nuclear Material of 1980 (approved by the Parliament of the Republic of Latvia on September 19, 2002 and in force since December 6, 2002), the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 1988 (approved by the Parliament of the Republic of Latvia on October 31, 2002, acceded on December 4, 2002, and in force since March 4 2003), the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf of 1988 (approved by the Parliament of the Republic of Latvia on October 31, 2002, acceded on December 4, 2002, and in force since March 4, 2003 and the Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1991 (approved by

the Parliament of the Republic of Latvia on April 29, 1998, and in force since October 16, 1999).

Recommendations and comments

Recommendations

- Property should be defined for the purposes of the Criminal Law and the Criminal Procedure Law. to comply fully with the Vienna and Palermo Conventions.
- 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.
- 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.
- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.35	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property does not include property obtained indirectly. Forfeiture does not include property that is intended for use in the commission of an offence.
SR.I	LC	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.

5.3 Mutual Legal Assistance (R.32, 36, 37, 38, SR.V)

Latvia's mutual legal assistance (MLA) measures apply to both ML (Recommendation 36) and FT (SR.V). MLA is provided on the basis of international, bilateral, or multilateral agreements, where available. Where there is no agreement on MLA, the Criminal Procedure Law provides that, if there is no treaty or agreement with the country, MLA is provided on the basis of reciprocity (Article 675 paragraph 3 and 4 of the Criminal Procedure Law). MLA requests from foreign countries are executed in the same manner as domestic proceedings in the Criminal Procedure Law unless the requesting country requires a special procedure to be followed. Requests have to be made in writing.

36.1 Range of MLA:

Latvia is able to provide a wide range of MLA under the Criminal Procedure Law.
Latvia is therefore able to render MLA in

- search of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons (Article 18 and Article 179-185);
- seizure of information, documents, or evidence (Article 18 and Article 186-188);
- the taking of statements from persons (Article 18 and Article 145 -156), and from experts (Article 156);
- requiring the production of documents and records as well as any other information and evidentiary items (Article 18, Article 190-192);
- effecting service of judicial documents (Article 825);
- facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country (Articles 820-823 and 828 -829);
- enforcement of confiscation orders of illegally obtained property, instrumentalities used for ML, and/or property of corresponding value (Article 785, Article 358);
- Taking over criminal proceedings (Article 15 of the Criminal Procedure Law);
- Transfer of convicted person for service of sentence (Chapter 70 of Criminal Procedure Law);
- Joint investigative operations (Chapter 75);
- Execution of foreign sentences (Chapter 71, Criminal Procedure Law);
- Special investigations (Article 819);
- Freezing and seizure of property (Articles 361, 362(3), 186).

MLA relating to procedural actions may be provided using technical aids (e.g., audio visual aids. (Article 817).

MLA treaties:
Latvia has signed the following agreements:

- Agreement between the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania on Legal Assistance and Legal Relations (in force April 3, 1994);
- Agreement between the Republic of Latvia and the Kyrgyz Republic on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force March 24, 2001);
- Treaty between the Republic of Latvia and the People's Republic of China on Mutual Judicial Assistance in Criminal Matters (in force September 18, 2005);
- Agreement between the Republic of Latvia and the Republic of Belarus on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force June 18, 1995);
- Agreement between the Republic of Latvia and the Republic of Moldova on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force July 18, 1996);
- Agreement between the Republic of Latvia and the Republic of Poland on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters (in force September 5,

1995);
- Agreement between the Government of the Republic of Latvia and the Government of the Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters (in force May 12, 1997);
- Agreement between the Republic of Latvia and the Russian Federation on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force March 28, 1995;
- Agreement between the Republic of Latvia and Ukraine on Legal Assistance Relations and Legal Relations in Civil, Family and Criminal Matters (in force August 11, 1996);
- Treaty between the Government of the Republic of Latvia and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters (in force September 17, 1999);
- Letter Agreement on Law Enforcement between the Government of the Republic of Latvia and the Government of the United States of America (in force September 27, 2004).

All these agreements include the provision of MLA for all criminal matters, which would include ML and TF as defined in Latvia.

36.2 *Reasonable restrictions to MLA*:
MLA is not subject to unreasonable restrictions. Article 816 of the Criminal Procedure Law states that the request of a foreign country for assistance in process may be refused in cases where:
- such request is related to a political offence;
- execution of such request may be detrimental to State sovereignty, public order or other substantial interests of Latvia;
- no sufficient information is supplied and additional information cannot be obtained after such information has been requested.

36.3. *Clear and efficient processes for the execution of MLA:*
The competent authorities for executing MLA requests are the Ministry of Justice, Ministry of Interior, and the Prosecutor General. Requests are sent directly. Competent authorities who receive the MLA request must evaluate the request and must notify the requesting country without delay and no later than 10 days as to its decision (Article 814 of the Criminal Procedure Law). However it can take between one to three months to fully implement the request depending on the complexity of the request.

The Ministry of Justice is the competent authority for requests relating to legal proceedings, while the Ministry of Interior and the Prosecutor's Office are the central authorities for requests relating to pre-trial investigation, i.e., when criminal investigations are initiated up to the phase when criminal proceedings are commenced.

On receiving legal assistance requests from foreign countries, the Ministry of Justice evaluates their conformity with provisions of the relevant international agreement, as well as conformity with national legislation, and submits the legal assistance request to a corresponding court for execution of the request.

All requests must be in writing. The competent authority sends materials obtained as a result of execution of the request to the foreign country.

36.4 *Refusal of MLA on fiscal grounds*:

The grounds of refusal in the Criminal Procedure Law do not include refusing requests on fiscal grounds.

36.5 *Refusal of MLA on financial secrecy grounds:*
The Criminal Procedure Law provides that the investigative judge's approval is required before requests for confidential information or documents from financial institutions for use in investigations may be made (Article 121 paragraph 5). The authorities informed the assessors that the investigative judge only verifies whether all conditions for providing MLA are satisfied. In addition to this, Article 63 paragraph 4 of the Credit Institutions Law stipulates that credit institutions must provide information, even if confidential, to member state and foreign state court and investigatory institutions according to the procedures specified in international agreements, such as the Vienna Convention, the Palermo Convention and the International Convention on the Suppression of the Financing of Terrorism.

36.6 *Use of law enforcement powers at the request of foreign judicial or law enforcement agencies:*
According to the authorities, law enforcement agencies can compel production of records, search persons or premises for and seize and obtain records, documents and information by exercising its powers in the Criminal Procedure Law (Article 826 and 827).

36.7 *Mechanisms for determining best venue for prosecution (conflicts of jurisdiction)*:

Latvia is a member of Eurojust which assists member countries in enhancing the effectiveness of cooperation in investigations and prosecutions. Article 7 of Eurojust provides that Latvia may ask the competent authorities of the Member States concerned to undertake an investigation or prosecution of specific acts and to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts. No such case has arisen so far.

The Criminal Procedure Law also stipulates a mechanism for taking over a criminal proceeding commenced in a foreign country and turning over a criminal proceeding commenced in Latvia to a foreign country authority. Pursuant to Article 741 of the Criminal Procedure Law, turning over criminal proceedings is the suspension of proceedings in Latvia and continuing the prosecution in a foreign country where efficient and successful execution of criminal proceedings is impossible or difficult in Latvia while handing them over to a foreign country may facilitate the process.

Analysis
Latvia is able to provide a wide range of MLA on the basis of treaties, bilateral and multilateral agreements and, where such agreements do not exist, on the basis of the Criminal Procedure Law. The system is place for dealing with MLA from EU countries is better developed than with nonEU countries. Where there is no treaty or agreement, reciprocity is required. There is flexibility to allow the use of the procedures in the Criminal Procedure Law or the procedures of the requesting country, where not contrary to basic principles of criminal procedure in Latvia.

There is no single authority for executing requests. Competent authorities are the Ministry of Justice when a proceeding has been commenced/initiated in court and the Ministry of Interior and Prosecutor's Office for requests relating to any matters before the commencement or initiation of court proceedings. This arrangement allows for requests to be handled in a timely and efficient manner, preventing a backlog. Additionally, the law provides a 10-day limit by which Latvia has to notify the requesting country whether or not it is able to execute the request. This provision should ensure a timely response.

The processes for executing MLA requests appear to be efficient judging from the MLA already provided. MLA requests provided under this regime have been executed between one to three months depending on how much information is requested and how complex the request is. This is due to the provisions in the law and the processes already in place to deal with such request.

The restrictions on providing MLA are not unduly restrictive and MLA cannot be refused on grounds that it relates to a fiscal offence. It is possible to use the powers in the criminal procedure law for compelling the production of information and documents for use by foreign law enforcement agencies.

37.1 and SR V *MLA in absence of dual criminality for nonintrusive/noncompulsory measures*:

International cooperation can be rendered in the absence of dual criminality for all nonintrusive/noncompulsory measures.

37.2 and SRV *MLA where dual criminality is required*
Generally dual criminality is required for enforcing foreign confiscation of proceeds of crime. Where there is no dual criminality, property can be confiscated if it is an instrumentality of crime or was obtained illegally. Dual criminality is also required for MLA requests relating to taking over of criminal proceedings and the performance of special investigative techniques.

Latvia may refuse to impose coercive measures in relation to an offence which is not subject to criminal punishment in Latvia unless there is a reciprocal agreement on mutual legal assistance with the requesting country and, where there is no treaty or agreement, dual criminality is required. Dual criminality is satisfied if all the elements of the offence are present and the conduct underlying the offence satisfies the requirements of the relevant law. Technical differences are not taken into account.

Analysis
Dual criminality is required for enforcement of confiscation orders (other confiscation of property that was an instrumentality of the offence or was obtained illegally) and in relation to coercive measures where there are no treaties or agreements between Latvia and the requesting country. Determination of dual criminality is not hampered by technical differences in the way each country defines its offences. The conduct underlying the offence is examined.

38.1 and 38.2 *Laws and procedures for MLA related to identification, freezing, seizure or confiscation (including with respect to property of corresponding value)*:
According to Article 785 of the Criminal Procedure Law, foreign confiscation orders in relation to an offence can be executed in Latvia where confiscation is available under the laws of Latvia as the main or an additional penalty. Where confiscation is not a main or additional penalty then confiscation is only enforced if the property is an instrumentality of the offence or has been obtained by criminal means. Where property to be confiscated is not available, property of a corresponding value can be confiscated (Article 358 paragraph 2 of the Criminal Procedure Law). As the provisions relating to enforcement of confiscation of proceeds of crime have not been used much, authorities could not confirm whether judgments relating to the confiscation of proceeds of crime could extend to benefits and profits derived from crime.

Pursuant to Article 361 and Article 362(3) of the Criminal Procedure Law, the competent authority (person leading the process, including the investigative judge or the court if the case is in trial) can determine whether property of the detained, suspected or accused person, as well as the property due to them from other persons, or the property of persons that are held materially responsible for the

action of the suspected or accused person, is to be seized. Such seizure may also be imposed on the property that is obtained by criminal means or is related to criminal procedure and is kept with other persons. In urgent cases, where the property may be alienated, destroyed or concealed if there is a delay, the initiator of criminal process may impose seizure on the property with the public prosecutor's consent.

MLA relating to freezing and seizing can be executed. However there are no specific provisions for enforcing requests relating to the identification of property to be confiscated though there are provisions being considered by a working group.

38.3 *Arrangements for coordinating seizure and confiscation actions with other countries:*
International treaties may be applied by Latvia and the respective country for coordinating seizure and confiscations. Latvia is party to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of November 8, 1990 and this allows the making of such arrangements with other parties. Additionally membership in Eurojust allows Latvia to coordinate investigations between competent authorities in the Member States. Eurojust improves cooperation between the competent authorities of the Member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. Besides these, any arrangements would have to be made bilaterally. The Criminal Procedure Law provides for Latvia to participate in joint investigation teams. So far, there have been no cases where Latvia was involved in establishing a joint investigation team.

38.4 *Asset forfeiture fund*
There are no provisions establishing an asset forfeiture fund.

38.5 *Sharing of confiscated assets*:
In accordance with Article 785 of the Criminal Procedure Law, in each particular case a competent authority decides whether confiscated assets may be shared with a foreign country. Latvia has received two requests and in both instances confiscated assets has been shared with the countries involved.

38.6 *Foreign noncriminal confiscation orders:*
Civil confiscation orders are not enforced.

Analysis
There are sufficient measures to enforce foreign confiscation orders. However it should be clearly stated in law that all property that is proceeds of crime, instrumentalities, intended instrumentalities and terrorist property should be confiscated, allowing for the execution of these types of requests. Regarding the enforcement of MLA requests for the seizure of property, as each request has to be decided on a case-by-case basis and there is no indication of the basis upon which each case will be decided, there is uncertainty in relation to the execution of such requests

There are also no provisions enabling the execution of a foreign request to identify proceeds.

There are measures in place for coordinating seizures and confiscation, especially with EU countries. There are provisions allowing the sharing of confiscated assets but each case is to be decided on a case-by-case basis.

32.2 *Statistics on MLA made or received, including nature of request and whether it was granted or refused and the time required to respond:*

Year	MLA requests	Requests relating to ML	Requests Relating to Predicate Offence	Requests relating to TF	Extradition (all of which were for predicate offences)
2002	439	29	410	0	27
2003	440	37	403	0	15
2004	477	40	437	0	18
2005	449	42	407	0	28

The requests relate to assistance in procedural action i.e., requests for information and documents and cross-examination of witnesses. The average period for the execution of requests for assistance in process is approximately two months.
The statistics above are statistics of the Prosecutor's Office. The Ministry of Justice also keeps statistics but they are aggregated figures for MLA on criminal and civil matters. In 2005, there were 88 requests, of which 30 have been executed and the rest are in various stages of being executed. Additionally, in relation to requests concerning the various EU conventions, the following requests were executed: one in relation to transfer of proceedings and three related to the transfer of persons and enforcement of judgments.

In the last four years, approximately two requests of MLA per year were refused on the grounds that the requested actions could not be fulfilled under the current legislation (mainly because the requests were sent by the individuals involved in the case and not by the competent authorities).

SR V
The provisions and arrangements outlined above are applicable also to FT cases.

Recommendations and comments

Recommendations

- 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.
- 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 therefor.
- A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered.
- 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.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 5.3 underlying overall rating
R.32	LC	No statistics kept on MLA requests refused and grounds for refusal. Statistics of MLA by Ministry of Justice not easily available. (Composite rating)
R.36	C	
R.37	C	

R.38	PC	Enforcement of foreign confiscation orders for property, other than instrumentalities and property obtained illegally, is only available if confiscation is a penalty for the same offence in Latvia. Unclear whether request for confiscation of property can extend to enforcement of confiscation of all proceeds of crime, intended instrumentalities and terrorist property due to deficiencies already identified. No provision for identification of property and related enforcement following a foreign request.
SR.V	PC	As R.32 and R.38 above (Composite rating)

5.4 Extradition (R.32, 37 & 39, & SR.V)

Description and analysis

Latvia can extradite a person to a foreign country and the legal framework for extradition is set out in Chapter 66 of the Criminal Procedure Law. Generally a person may be extradited for criminal prosecution, to serve a sentence already imposed, or to be sentenced for an offence for which they have been convicted. Dual criminality is required.

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See Section 5.3 for statistics of the Prosecutor's Office. The statistics from MOJ indicate that there have been two extraditions pursuant to the EU Convention. However, there have been no requests for extradition related to ML or TF.

39.1 ML an extraditable offence

Money laundering is an extraditable offence and requests for extradition are conditioned on the existence of a treaty. According to Article 696 of the Criminal Procedure Law, a person in Latvia may be extradited for criminal prosecution, execution of a sentence already imposed or to be sentenced for a conviction (verdict). Dual criminality is required and a person can be extradited for criminal prosecution and sentencing for an offence which is punishable by imprisonment of a maximum of at least one year. A person may also be extradited for execution of a sentence already imposed by a country and the person has been sentenced to imprisonment of not less than four months. A person may also be extradited where extradition is requested in relation to several offences and extradition is not applicable for one of these offences on the grounds that the offence fails to meet the condition relating to the minimum amount of the penalty to be imposed or awarded.

One of the conditions for agreeing to a request for extradition is that there has to be a treaty in place between the two countries. If Latvia and the requesting country are parties to a multilateral convention, including the Vienna Convention, the Palermo Convention, the International Convention for the Suppression of Terrorist Financing, or any other relevant conventions, as a matter of practice these conventions would be considered to constitute a treaty for purposes of an extradition request. However this is not provided for in the Criminal Procedure Law.

Extradition - EU Member States

As a member of the European Union, Latvia has adopted Article 714 of the Criminal Procedure Law to give effect to Council Framework Decision of June 13, 2002 on the European arrest warrant and the surrender procedures between EU Member States.

Article 714 of the Criminal Procedure Law permits the extradition of a person in Latvia to allow a criminal prosecution to be initiated or completed, to be sentenced, and for the execution of a European

arrest warrant if with respect to this person, the requesting state has accepted a European imprisonment ruling and the conditions listed in Article 696 of the Criminal Procedure Law apply (conditions listed in paragraph above). Additionally, if the person is extradited for an offence listed in Addendum 2 (which includes ML but not terrorist financing) and there is a European arrest warrant issued by the country for an offence in relation to which prison sentence the maximum term of which is not less than three years could be applied, there is no examination of dual criminality.

Extradition pursuant to bilateral treaties
A person in Latvia can also be extradited in accordance with bilateral treaties, of which there are four (with Australia, Russia, Belarus and a new one with the US that supersedes a previous treaty dating from 1920).

Detention of person for purposes of extradition
An investigator or prosecutor may detain a person up to 72 hours for purposes of extradition if there is strong basis for believing that a person has committed an offence in another country for which extradition is applicable and the foreign country has announced a search for the person (Article 699 of the Criminal Procedure Law). A person may be detained temporarily if a foreign country requests for temporary detention until receipt of a request of extradition. An application for temporary detention is determined by a judge with the extraditable person and prosecutor in attendance (Articles 700–701 of the Criminal Procedure Law). Detention is lifted if the necessary documentation is received within the period stated. After receipt of a request for extradition, extradition custody is imposed after the petition is heard by the Prosecutor General or the presiding judge where the person is detained. (Article 702 of the Criminal Procedure Law)

Examination (Articles 704 -705 of the Criminal Procedure Law)
It is the prosecutor of the Prosecutor's Office who examines the request for extradition. The prosecutor of the Prosecutor's Office determines whether the basis for extradition exists and the grounds for extradition. If there is insufficient information received, the prosecutor of the Prosecutor's Office can request additional information. The purpose of this process is to examine the documents submitted with the extradition request and to verify whether the formal conditions for extradition in Articles 696 and 697 have been met. There is no examination of the substance. The person to be extradited is informed within 48 hours of receiving the request and the person is permitted to submit explanations.

39.2 Extradition of Latvian nationals

Extradition of nationals to EU Member States
According to Article 714 (1) and (3) of the Criminal Procedure Law, Latvia may extradite its own nationals to a EU Member States. The person is returned to Latvia to serve his sentence if that is his request.

In all other cases extradition of Latvian nationals is refused (Article 697 paragraph 2^1 of the Criminal Procedure Law).

Where extradition is refused, criminal proceeding initiated abroad may be transferred to Latvia (Chapter 67). Under Article 725(2) of the Criminal Procedure Law, consent to transfer criminal proceedings serves as grounds to continue proceedings in accordance with Latvian criminal procedures. But there is no specific requirement relating to the "extradite or prosecute" principle. The authorities informed the assessors that Article 6 of the Criminal Procedure Law obliges a prosecutor to initiate criminal proceedings once aware of a cause and grounds for initiating criminal proceedings.

39.3 "Extradite or prosecute" decision and evidentiary cooperation

Pursuant to Article 740(2) of the Criminal Procedure Law, the competent institution must notify the requesting country about the final decision, as well as about other procedural actions relating to the transfer of the criminal procedure, where this is provided for by treaties or mutual arrangements. Latvia is empowered to apply its own criminal procedure in prosecuting the person.

39.4 Measures for allowing extradition requests without delay

The examination by the Prosecutor's Office has to be completed within 20 days after the receipt of the request or from the date additional information requested is received. Once the prosecutor makes a ruling on the extradition, the person to be extradited can appeal to the Supreme Court (for nonEU countries) within 10 days of receiving the ruling. Both the requesting country and the person to be extradited are informed of the ruling. If the decision of the Supreme Court is appealed, the ruling is sent to the Ministry of Justice who sends it to the Cabinet of Ministers. The Cabinet of Ministers may refuse extradition only if the extradition affects the State's sovereignty, or the offence is political or military in nature, or the extradition is for the purpose of prosecuting the persons for reasons relating to the person's race, religious affiliation, nationality, gender or political ruling, The Ministry of Justice informs the person and the requesting person of the decision. The Minister of Interior executes the extradition. It takes about one month for simplified procedures and longer for full proceedings including appeals.

39.5 Simplified extradition

A person may be extradited using a simplified procedure if that person consents in writing to the extradition, is not a Latvian citizen, and there are no criminal proceedings or sentence pending against him/her. Simplified procedures for extradition are also available for the European arrest warrant (EAW).

Analysis
Latvia can extradite for ML and the processes set out in law ensure that the process is generally an efficient one, except for the designation of the Cabinet of Ministers as the final forum for appeals for nonEAW extraditions which could potentially lengthen the process. As with MLA, the processes for extradition to EU Member States allows surrender of persons for extradition to be undertaken easily without the inherent delay and complexity normally existing in extradition matters. There is no specific provision that where extradition is refused Latvia has to prosecute. General provisions on cooperation on evidentiary and procedural matters apply but the existence of a provision for the taking over of criminal proceedings simplifies this cooperation and allows for the possibility for using Latvian procedural rules. Simplified procedures exist for EAW or where the person consents.

37.1 Absence of dual criminality

Dual criminality is required except for EAW and dual criminality is satisfied if all the elements of the offence are present. The authorities do not take an overly-technical approach to the application of such requirements.

37.2 Grounds of refusal for extradition or other practical impediments

There are mandatory and discretionary grounds for refusal of extraditions. Articles 697 and Article 714(4) and (5) of the Criminal Procedure Law provide for grounds for refusal to extradite a person to a

foreign country. Mandatory grounds of refusal include refusing to extradite a Latvian national (except in relation to EAW), where the initiation of criminal prosecution or sentence is based on his/her race, religion, nationality or political views, or where a person's rights may be infringed, where a Latvia court ruling exists for the same offence, the limitation period has expired, on grounds of amnesty, no guarantee that capital punishment will not be executed, or the person is under threat of torture. Extradition of a person may be refused in cases where an offence has been committed in the territory of Latvia; the person is suspected of, convicted or under trial for the same offence in Latvia; Latvia has decided not to initiate or to terminate a criminal proceeding regarding the same offence; or extradition is requested in connection with political or military offences.

In the last four years, approximately two requests on extradition have been refused per year on the grounds that the person was suspected, accused or tried for the same crime in Latvia or on the basis of other legal grounds (such as expiry of statute of limitation, amnesty or other grounds).

Recommendations and comments

Recommendation

- Introduce specific provision dealing with "extradite or prosecute" principle.
- Introduce mechanism for consolidation of statistics relating to extradition.
- Introduce a time frame by which the Cabinet of Ministers has to make a ruling on appeals.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 5. 4 underlying overall rating
R.32	LC	Latvia maintains records of its extradition requests but there are two sets of statistics kept (by MOJ and the Prosecutor's Office) and these are not consolidated. No statistics are kept on requests refused and grounds of refusal. (Composite rating)
R.37	C	
R.39	C	
SR.V	PC	(Composite rating)

5.5 Other Forms of International Cooperation (R.32, 40, & SR.V)

Description and analysis

The authorities in Latvia are able to provide assistance outside of the formal structure for mutual legal assistance. The sharing of information on an informal basis is not unduly restricted. The legislation provides for a number of gateways by which information may be exchanged.

Latvia is able to provide mutual legal assistance in criminal matters (MLA) on the basis of international, bilateral or multilateral agreements to which Latvia is a party and where there is no agreement on MLA, the Criminal Procedure Law provides the legislative basis for providing MLA. The Criminal Procedure Law provides that if there is no treaty or agreement with the country, MLA is provided on the basis of reciprocity. The competent authority for international cooperation is the Ministry of Justice or the Prosecutor's Office depending on whether requests relate to pre-trial investigations or criminal proceedings. Latvia can provide assistance on a wide range of matters and MLA requests are not subject to unreasonable restrictions though the provisions in the Criminal Procedure Law regarding confiscation should be expanded to specifically include the enforcement of foreign confiscation orders relating to all proceeds of crime, intended instrumentalities, and terrorist

property.

Money laundering and terrorist financing are extraditable offences in Latvia. Extradition is possible on the basis of treaties and dual criminality is generally required. Multilateral conventions, including the Vienna Convention, the Palermo Convention and the Terrorist Financing Convention are considered as equivalent to treaties for purposes of an extradition request.

Prosecutor's Office:
In Latvia, international cooperation is provided for by Part C of the Criminal Procedure Law adopted on April 21, 2005, which took effect on October 1, 2005. Pursuant to Article 673(1), international cooperation in the area of criminal law is requested from foreign countries and provided:

- in extradition of a person for criminal prosecution, conviction or execution of a court judgment, or for determining enforcement means of medical nature;
- in transfer of criminal procedure;
- in surrender of the convict for execution of confinement penalty;
- in execution of procedural act;
- in recognition and execution of a court judgment; and
- in other cases pursuant to international treaties.

See also comments with respect to Recommendation 36 dealing with mutual legal assistance.

State Police and Law Enforcement Agencies
The State Police can provide the widest range of international cooperation through the Interpol National Bureau and the Europol National Bureau. Both offices are within The International Cooperation Department of Latvian Criminal Police Division. The cooperation is provided based on the following legislation: Criminal Procedure Law, Law on Prosecutor's Office, the Police Law, and the Law on Convention Based on Article K.3 of the Treaty on European Union, on the Establishment of a European Police Office (Europol Convention) and Interpol Constitution.

Information exchange can be conducted both spontaneously and upon request. This is provided for by Article 675 of the Criminal Procedure Law. Any competent Latvian authority, the courts and the Prosecutor's Office may agree direct communication with a foreign competent authority.

The competent authorities in Latvia can conduct investigations on behalf of foreign counterparts pursuant to Article 815(1) of the Criminal Procedure Law.

Restrictions placed on the exchange of information are set out in Article 39 of the AML Law. The FIU may exchange information on its own initiative if 1) the confidentiality of data is ensured and the information will only be used for mutually agreed purposes. 2) It is guaranteed that the information shall be used to prevent and detect only those crimes that are crimes in Latvia.

The Latvian authorities cannot refuse to provide assistance on the basis of the request being a fiscal matter. Neither are there are no provisions in Latvian legislation that would prohibit the exchange of information on the basis that it was subject to secrecy or confidentiality requirements.

The Ministry of Justice
Article 673 of the Criminal Procedure Law prescribes international cooperation as follows:
in Latvia, international cooperation in the area of criminal law is requested from foreign countries and ensured:

- in extradition of a person for criminal prosecution, conviction or execution of a court judgment, or for determining enforcement means of medical nature;
- in transfer of criminal procedure;
- in surrender of the convict for execution of confinement penalty;
- in execution of procedural act;
- in recognition and execution of a court judgment; and
- in other cases pursuant to international treaties.

The role of the Ministry of Justice regarding the course of legal assistance comprises forwarding legal assistance requests from the Latvian courts to central or competent authorities of other countries. On receiving legal assistance requests from foreign countries, the Ministry of Justice evaluates their conformity with the provisions of the relevant international agreement, as well as conformity with national legislation. The request is then forwarded to a court for the execution of the request.

See also comments made with respect to Recommendation 36

Supervisory cooperation: FCMC
The FCMC is empowered under Article 6.10 of the Law on the FCMC to cooperate with foreign financial and capital market supervision authorities and to participate in relevant international organizations. As there is significant foreign ownership among the financial institutions in Latvia, the FCMC has developed a basis for cooperation with the appropriate home supervisory authorities. These contacts are more active in some cases than others, and can include cooperation in the area of on-site inspections. At the international level, Latvia's membership of the EU results in its participation in a range of committees and structures that provide a firm basis for supervisor to supervisor cooperation.

FIU

The FIU is empowered by the AML Law, on its own initiative or upon request, to exchange information relating to ML and FT with a foreign FIU as well as with foreign or international anti-terrorism agencies. Such exchange of information is subject to the condition that the confidentiality of data is ensured, that the information is used only for mutually agreed purposes and is utilized for the prevention and detection of such criminal offences as are criminally punishable also in Latvia.

Additionally the FIU can also provide information at its disposal to foreign investigative institutions and courts in accordance with the procedures provided for by international agreements regarding mutual legal assistance in criminal matters and via the competent authorities.

According to the FIU, it treats an incoming foreign request as an STR and uses this as a basis to request additional information from credit and financial institutions (Article 11, paragraph 2 of the AML Law). The FIU also may retrieve information from its database or request data from State databases in order to obtain the information necessary to respond to such requests.

A request from a foreign FIU cannot be refused on grounds that it invokes banking and other professional secrecy provisions pursuant to Article16, paragraph 2 of the AML Law.

On the timing of the FIU's response to a foreign FIU's request for information, according to the authorities any information that is maintained in the FIU's database may immediately be provided to the foreign FIU, whilst gathering and forwarding the information maintained by the reporting entities may take up to two weeks (which is the time allotted by the AML Law to the reporting entities to

respond to a request from the FIU; under Article 11 (1) 2 of the AML Law).

Analysis
While there are some provisions in place for the FIU to exchange information with foreign FIUs and noncounterparts, the FIU could benefit from clear provisions in the AML Law that would allow it to exchange information with nonFIU foreign agencies, upon request or on its own initiative, including the power to request and obtain information from the relevant entities and to access its databases.

Rec. 32

FIU:

The FIU is a member of the Egmont Group since 1999 and has signed 14 MOUs with foreign FIUs. The FIU is linked online to ESW (Egmont Secure Web) and the European FIU.NET and has designated employees who conduct information exchange with foreign FIUs.

Interaction of the Control Service (FIU) with foreign FIUs 2002–2005

Year	Number of requests received from foreign FIUs	Number of requests made to foreign FIUs	Number of reports forwarded on own initiative to foreign FIUs
2002	108	62	–
2003	133	79	–
2004	215	72	20
2005	284	69	43

Over the period 2002-2005, the Latvian FIU has never refused to provide information in response to a foreign request.

All legislative mechanisms are in place to support international cooperation. Statistics were provided only for the FIU. It is difficult, therefore, to assess the effectiveness of the other authorities.

Recommendations and comments

Recommendation

- Amend the AML Law to specifically provide that the FIU can request information from credit and financial institutions and other relevant institutions and to access information from its databases in response to requests from foreign FIUs.
- Amend the AML Law to specifically allow the FIU to request information from nonFIU foreign competent authorities.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 5.5 underlying overall rating
R.32	LC	Statistics on international cooperation available only for the FIU (Composite rating)
R.40	LC	Lack of statistics on cooperation undermines the assessment of effectiveness
SR.V	PC	Lack of statistics on cooperation undermines the assessment of

		effectiveness (Composite rating)

Table 2. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), NonCompliant (NC)), or could, in exceptional cases, be marked as not applicable (NA).

Forty Recommendations	Rating	Summary of factors underlying rating[18]
Legal systems		
1. ML offence	LC	The effectiveness of the money laundering offence is limited by the practice in the courts and adopted by the prosecutor's office according to which there needs to be a conviction for a predicate offence before a money laundering charge. This practice also applies to predicate offences committed abroad.
2. ML offence–mental element and corporate liability	C	
3. Confiscation and provisional measures	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property needs to be broadened to deal with property indirectly. Forfeiture does not include property that is intended for use in the commission of an offence, except in cases of preparation or attempt to commit a crime. There is no measure that would allow for the voiding of contracts or actions.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence	PC	Although the law broadly meets the substance of the standards, it is insufficiently clear on a number of issues.

[18] These factors are only required to be set out when the rating is less than Compliant.

		• Although Latvia has implemented customer identification obligations, not all of the necessary details of CDD are adequately covered. • There is no explicit requirement in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (other than when opening an account). • There is no explicit requirement in law or regulation for financial institutions to verify the customer's identity. • In respect of business relationships that are not covered by the FCMC Regulation: the requirements are unclear as regards the timing of verification. • Measures taken to enable financial institutions to conduct full CDD on legal entities that may issue bearer shares need to be strengthened. • There are no specific, direct requirements in law or regulation to identify the customer when there is a suspicion of terrorist financing. • Current requirements to keep the information collected during the CDD up-to-date and relevant and to conduct reviews of existing records, in particular for higher risk categories of customers need strengthening. • There are no requirements, in law or regulation or other enforceable means, for the bureaux de change and the Latvian Post Office to identify high-risk clients or transactions and perform enhanced due diligence. • Exemptions to the identification requirement are not in line with the standard.
6. Politically exposed persons	PC	For the bureaux de change and the Latvian Post Office, there are no legal or other enforceable requirements in place. For financial institutions subject to the FCMC supervision: Although customers or beneficial owners identified as PEPs are considered of higher

		risk, there are no requirements to obtain senior management approval for establishing the business relationship.
7. Correspondent banking	NC	Article 5[1] of the AML Law unduly provides a blanket exemption for correspondent banks from OECD countries. There is no legal, regulatory or other enforceable obligation to obtain senior management's approval before establishing new correspondent relationships. The following current measures need to be enhanced in law or regulation: • To gather sufficient information to understand fully the nature of the respondent's business and to determine its reputation and the quality of supervision; or • To document the respective AML/CFT responsibilities of each institution.
8. New technologies & non face-to-face business	PC	Although the provisions of the AML Law apply equally to non face-to-face business, there are no supplementary requirements in law, regulation or other enforceable means to address the additional risk associated with new or developing technologies. Nevertheless, implementation of AML/CFT preventive measures for such business has improved in practice.
9. Third parties and introducers	N/A	Financial institutions do not rely on third parties intermediaries to perform elements of the customer identification process.
10. Record keeping	PC	Record-keeping requirements, though they meet core aspects of R.10, lack the detail and clarity to oblige all financial institutions to be able to reconstruct individual transaction data. No explicit requirement in law or regulation to maintain records of accounts files and business correspondence.
11. Unusual transactions	LC	AML Law seems to limit access to information to supervisory authorities, rather than provide that the information should be made available to all relevant authorities.

12. DNFBP–R.5, 6, 8–11	PC	Incomplete specification of scope and detail of circumstances in which CDD is required. PEP identification not generally required. No requirement for DNFBPs to monitor transactions for CDD compliance. No steps taken to implement CDD regime in important classes of DNFBPs (independent lawyers who are not-sworn advocates, independent accountants who are not sworn auditors) Lack of effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors. Indications of gaps in CDD practices among DNFBPs. Comprehensive program of outreach to DNFBP sectors to raise awareness of CDD requirements and to introduce effective compliance practices.
13. Suspicious transaction reporting	LC	The legal requirement for reporting of suspicious transactions related to terrorist financing is not fully consistent with the standard. Additional focus needed on STR reporting.
14. Protection & no tipping-off	C	
15. Internal controls, compliance & audit	LC	There are no legal or regulatory requirements to establish an adequately resourced and independent audit function for financial institutions other than banks, electronic money institutions, and insurance companies, even where warranted by size and risk. There is no explicit requirement that the compliance officer should be at management level. Only bureaux de change are required to introduce screening procedures to ensure high standards when hiring employees.

16. DNFBP–R.13–15 & 21	NC	Awareness of general AML/CFT obligations is high but knowledge of detailed requirements is limited. Because of gaps in the legal framework, the activities in relation to which DNFBPs are required to report suspicious transactions are significantly narrower than that required under the Recommendation 16 Compliance programs for DNFBPs set out in various guidelines/regulations generally conform well to the criteria for Recommendation 16 but, in most cases, such instructions are not enforceable means. Monitoring and enforcement of the internal controls and reporting requirements of DNFBPs is very limited. Many independent lawyers and independent accountants as well as a large number of car dealers and antique dealers are outside the oversight regime for DNFBPs because they are not members of an SRO or cooperating trade association.
17. Sanctions	PC	For many DNFBP no supervisory and control authority has been appointed, hence, many DNFBPs are not subject to sanctioning for noncompliance with AML/CFT requirements by the supervisory and control authorities. The guidelines/regulations that have been issued are generally advisory and not enforceable means, and hence do not provide a basis for sanctioning member DNFBPs for noncompliance with many of the specific AML/CFT requirements specified in the FATF Recommendations. (Composite rating)
18. Shell banks	LC	Measures to prevent the establishment of shell banks are not sufficiently explicit. No specific requirement to check that foreign respondents ensure that they are not used by

		shell banks.
19. Other forms of reporting	C	
20. Other NFBP & secure transaction techniques	C	
21. Special attention for higher risk countries	PC	Other than the situation where the customer is a resident of a country listed by FATF or included in other international lists, there are no requirements in respect of business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF standard. There are no mechanisms in place that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.
22. Foreign branches & subsidiaries	PC	Whilst the AML measures do apply to foreign branches or subsidiaries, there are no specific requirements in respect of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs, nor are financial institutions required to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.
23. Regulation, supervision and monitoring	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
24. DNFBP - regulation, supervision and monitoring	PC	A comprehensive regulatory and supervisory regime has been established for casinos and appears to be effectively implemented. Likewise the systems for monitoring and ensuring compliance by sworn auditors and for dealers in precious metals and stones appear to be effective. For other DNFBP sectors, the established regime for monitoring and ensuring compliance is not effective either because the authorities do not actively monitor members, or because oversight enforcement authority is inadequate, or because the designate agency is

		a trade association with no statutory authority to monitor and enforce compliance by members. A significant number of DNFBP professionals and business are not subject to any systematic compliance regime because they are not members of any of the designated groups.
25. Guidelines & Feedback	PC	A range of guidelines/regulations have been issued by various DNFBP organizations but in most cases these instructions have not been issued under legal authority that would make them enforceable means. (Composite rating)
Institutional and other measures		
26. The FIU	LC	The FIU generally meets the requirements of the standard and appears to function in an effective way but its effectiveness could be enhanced through additional focus on STRs. The AML Law contains two provisions dealing with dissemination of the FIUs information which could potentially conflict with each other.
27. Law enforcement authorities	C	
28. Powers of competent authorities	C	
29. Supervisors	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
30. Resources, integrity and training	LC	More staff needed for the FIU and correspondingly more budget. Training needed for law enforcement agencies. (Composite rating)
31. National cooperation	LC	Enhance information exchange between the FIU and LEAs
32. Statistics	LC	No statistics kept on MLA requests refused and grounds for refusal. Statistics of MLA by Ministry of Justice not easily available. Statistics on international cooperation

		available only for the FIU. No power for BoL to publish AML/CFT statistics on bureaux de change. No statistics yet on cross-border cash. Latvia maintains records of its extradition requests but there are two sets of statistics kept (by MOJ and the Prosecutor's Office) and these are not consolidated. No statistics are kept on requests refused and grounds of refusal. (Composite rating)
33. Legal persons–beneficial owners	NC	There are no effective measures in place to ensure that competent authorities are able to obtain or have access in a timely fashion to the beneficial ownership and control information, in particular with respect to the legal persons that have issued bearer shares. There are no effective measures to ensure that the information provided to the Registrar of Enterprises is current and adequate.
34. Legal arrangements – beneficial owners	N/A	
International Cooperation		
35. Conventions	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property does not include property obtained indirectly. Forfeiture does not include property that is intended for use in the commission of an offence.
36. Mutual legal assistance (MLA)	C	
37. Dual criminality	C	
38. MLA on confiscation and freezing	PC	Enforcement of foreign confiscation orders for property, other than instrumentalities and property obtained illegally, is only available if confiscation is a penalty for the same offence

		in Latvia. Unclear whether request for confiscation of property can extend to enforcement of confiscation of all proceeds of crime, intended instrumentalities and terrorist property due to deficiencies already identified. No provision for identification of property and related enforcement following a foreign request.
39. Extradition	C	
40. Other forms of cooperation	LC	Lack of statistics on cooperation undermines the assessment of effectiveness
Nine Special Recommendations		
SR.I Implementation of UN instruments	LC	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.
SR.II Criminalize terrorist financing	PC	"Financial resources" has not been defined in accordance with the Terrorist Financing Convention. Effectiveness could not be assessed as there has not been any prosecution for terrorism financing.
SR.III Freeze and confiscate terrorist assets	PC	Financial resources and property are not defined in accordance with the Terrorist Financing Convention. Within the context of UNSCR 1373, Latvia does not have a national mechanism to consider requests for freezing from other countries (outside the EU mechanisms) or to freeze the funds of EU internals (citizens or residents). There is no publicly known and clearly defined procedure for de-listing of suspected terrorists listed by Latvia apart from those on the EU List. There is no access to funds for basic living expenses and legal costs.
SR.IV Suspicious transaction reporting	PC	Although the AML Law contains some measures on FT reporting, they are not

		sufficiently explicit, direct, and complete. Need for additional focus on suspicion.
SR.V International cooperation	PC	Enforcement of foreign confiscation orders for property, other than instrumentalities and property obtained illegally, is only available if confiscation is a penalty for the same offence in Latvia. Unclear whether request for confiscation of property can extend to enforcement of confiscation of all proceeds of crime, intended instrumentalities and terrorist property due to deficiencies already identified. No provision for identification of property and related enforcement following a foreign request. Mechanism on how confiscated assets are to be shared is not in place. There is no asset forfeiture fund. Lack of statistics on international cooperation undermines the assessment of effectiveness
SR.VI AML/CFT requirements for money/value transfer services	PC	The remittance services are adequately monitored and supervised when they are provided by banks and electronic money institutions, although a closer review of PrivateMoney appears to be warranted. The Post Office is not subject to monitoring and supervision by a competent authority to ensure AML compliance of its money transfer business.
SR.VII Wire transfer rules	NC	Other than the requirement to maintain the originator information with the wire, the Latvian laws and regulations do not specifically address wire transfers.
SR.VIII Nonprofit organizations	C	
SR.IX Cash Border Declaration & Disclosure	NC	No measures were in place at the time of the assessment as the Law on Cash Declaration at the Border came into force after the assessment was conducted.

Table 3: Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	No text required
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)	Define "financial resources" in accordance with the Terrorist Financing Convention.
Confiscation, freezing and seizing of proceeds of crime (R.3 & 32)	Extend forfeiture to property that is intended for use in the commission of a criminal offence. Define "property" and "assets" for the purposes of the Criminal Law and Criminal Procedure Law. Amend definition of "proceeds of crime" to reflect definition of property for the purposes of the Criminal Law and the Criminal Procedure Law. 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.
Freezing of funds used for terrorist financing (SR.III & R.32)	Define "financial resources" and "property" in accordance with the Terrorist Financing Convention. 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). 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). Provide for access to funds for basic living expenses and legal costs.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	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). Increase the emphasis on STR reporting in order to

Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	enhance the operational effectiveness of the FIU. Latvia should also consider requiring the FIU to publish an annual report. Provide the FIU with additional staff in view of the expected increased workload. Specialized training needed for police and other law enforcement officers responsible for AML/CFT. Specialized training needed for the Prosecutor's Office in AML/CFT. Provide the FIU with additional staff in view of the increased workload to come.
3. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing Customer due diligence, including enhanced or reduced measures (R.5– 8)	The authorities should amend the AML Law to introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations. *Recommendation 5* 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). Provide explicitly in law or regulation that financial institutions must verify customers' identity. Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares. 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. 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.

	Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons. 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. 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. 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. Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9. 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. *Recommendation 6* 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. 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.

	Recommendation 7 The blanket exemption for correspondent banks from OECD countries under Article 5[1] of the AML Law should be removed. Require, in law, regulation or other enforceable means, that banks must obtain senior management's 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. *Recommendation 8* 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 .
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)	*Recommendation 10* Require, in law or regulation, financial institutions to keep records of the account files and business correspondence. Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases. *Special Recommendation VII* 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.
Monitoring of transactions and	Require information to be made available to all authorities relevant in the fight against money laundering and the

relationships (R.11 & 21)	fight against terrorist financing, not only to the supervisors. 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. 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.
Suspicious transaction reports and other reporting (R.13, 14, 19, 25 & SR.IV)	*Recommendation 13* 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. 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. *Recommendation 14a* 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”. *Special recommendation IV* 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.
Cross Border Declaration or disclosure (SR IX)	The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.

Internal controls, compliance, audit and foreign branches (R.15 & 22)	The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations: • 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.
Shell banks (R.18)	Make more explicit the current measures to ensure that shell banks could not be established in Latvia. Require financial institutions to take measures in order to satisfy themselves that their respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25 & 32) Money value transfer services (SR.VI)	The Latvian Post Office should be made subject to appropriate supervision for AML/CFT purposes. There should be appropriate sanctions that apply to directors and senior staff of bureaux de change. 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)	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. 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. Extend Article 20 paragraph 1^1 of the AML Law on the monitoring of transactions to apply also to DNFBPs.
Suspicious transaction reporting (R.16)	Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF Recommendations. Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs. Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means. 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.
Regulation, supervision, monitoring, and sanctions (R.17, 24 & 25)	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. 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.
Other designated nonfinancial businesses and professions (R.20)	—
5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	The authorities should amend the law to: • ensure that information on the ownership of all bearer shares is available. • 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. • Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration. • Enhance powers to investigate and monitor compliance with these requirements.
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.
The Conventions and UN Special Resolutions (R.35 & SR.I)	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 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. 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. 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.
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	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. 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 therefor. A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered. 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.
Extradition (R. 39, 37, SR.V & R.32)	Introduce specific provision dealing with "extradite or prosecute" principle. Introduce mechanism for consolidation of statistics relating to extradition. Introduce a time frame by which Cabinet of Minister have to make a ruling on appeals.
Other Forms of Cooperation (R. 40, SR.V & R.32)	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. Amend the AML Law to specifically allow the FIU to request information from nonFIU foreign competent authorities.
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.

Authorities' Response to the Assessment

The Latvian authorities have reviewed the ROSC and confirmed their agreement with all of the assessment findings. The authorities indicated that the report's recommendations have already been put into an action plan in order to implement appropriate corrective measures.

The Latvian authorities would like to pay special attention to the instances where the opinions of the authorities and the assessors diverged. We note that out of 49 FATF recommendations, 5 were rated as non-compliant – namely Recommendations 7, 16 and 33, Special Recommendations VII and IX.

We appreciate the recognition of the assessment team that, subsequent to the on-site assessment visit and prior to the publication of the report, Latvia brought into force legislation to address FATF Special Recommendation IX on Cash Border Declarations, effective July 1, 2006. We regret that this could not have been reflected fully in the evaluation due to interpretations of evaluation methodology.

We understand that the opinion of the authorities and opinion of the assessment team differed on the approach taken by the Latvian authorities to exempt banks from the obligation to carry out due diligence on credit institutions from OECD countries. We understand that this exemption has been the main reason for ranking Latvia as non-compliant with Recommendation 7. While the Latvian authorities wish to reiterate that the main risks to its financial system are not posed by correspondent relationships with financial institutions from developed financial markets in OECD countries, the authorities will ensure that the exemption will no longer be available after implementation of the EU Directive 2005/60/EC.

Notwithstanding the divergence of opinions about this particular exemption, we fully agree with the coverage in the report (points 7.1.-7.4. of Recommendation 7) of the extensive due diligence efforts that are being put in practice by the banks in Latvia on their correspondent banks.

Annex I. Details of All Bodies Met During the On-Site Mission

I. MINISTRIES

1. Ministry of Economy and Finance
   - *Tax Policy Department*
   - *State Revenue Service*
   - *Customs*

2. Ministry of Foreign Affairs
   - *Security Policy Department*
   - *Coordination Legal Issues Division*
   - *International Trade and Investment Division*
   - *International Law Division*

3. Ministry of Justice
   - *Specialized Prosecution Office to Combat Organized Crime and Other Specific Kinds of Crime*
   - *Department of International Legal Cooperation*
   - *Register of Enterprises*

4. Ministry of Interior
   - *State Secretary*
   - *State Police*

5. Ministry of Transportation
   - *Department of Communication – Postal Division*

6. Prime Minister's Office
   - *AML/CFT Council*

II. OPERATIONAL AND LAW ENFORCEMENT AGENCIES

1. State Police of Latvia
   - *Economic Crime Police*
   - *Organized Crime Police*
   - *International Co-operation Department*
   - *Pre-trial investigation support*
   - *Police Intelligence*
   - *Investigation Support Board*
   - *Special Operational Activities*
   - *Security Police*
   - *Finance Police*

2. Office for Prevention of Laundering of Proceeds Derived from Criminal Activity – Latvian FIU

3. Corruption Prevention and Combating Bureau (KNAB)

III. PROSECUTORIAL AUTHORITIES

1. Public Prosecutor's Office

IV. FINANCIAL INSTITUTIONS

1. Supervisory bodies:
   - Financial and Capital Market Commission (FCMC)
     - *Supervision Department*
     - *Legal Department*
     - *Regulation and Statistics Department*

   - Bank of Latvia (BoL)
     - *Governor's Office*
     - *Cashier's and Money Operations Department*
     - *Payment Systems Department*
     - *Legal Department*

   - Ministry of Communication
     - *Postal Division*

2. Professional associations:
   - *Association of Latvian Commercial Banks*
   - *Latvian Tax Consultant Association*
   - *Stock Exchange*
   - *Association of Latvian Insurers*

V. REPRESENTATIVES FROM THE FINANCIAL INSTITUTIONS SECTOR

1. Banks

2. Insurance companies

3. Money/value transfer service providers

4. Securities sector participants

5. Post

6. Asset Management Companies

VI. Designated Non-financial Businesses and Professions

1. Supervisory bodies and Professional organisations
   - *Latvian Collegium of Sworn Advocates*
   - *Council of Sworn Notaries*
   - *Latvian Association of Sworn Auditors*
   - *State Assay Supervision Inspectorate*
   - *Lotteries and Gambling Supervision Inspection*
   - *Latvian Tax Consultant Association*
   - *Real estate dealers associations: LANIDA, NIMA*
   - *Car dealers association of Latvia (LAPPA)*

VII. Representatives from the Designated Non-Financial Businesses and Professions Sector

1. Sworn auditors
2. Lawyers and Sworn Advocates
3. Notaries
4. Real estate agents
5. Casinos
6. Dealers in precious stones and metals
7. Car Dealers

VIII. Other

1. State Inspection for Heritage Protection

ANNEX III. LATVIA

List of Principal Laws and Regulations

Criminal law

1. The Criminal Law (updated May 26 2005)
2. Amendments to Criminal Law, 1 June 2005, Section 88 - Financing of Terrorism and Section 195. Laundering of the Proceeds from Crime
3. Law on Corruption Prevention and Combating Bureau (18 April 2002)
4. Law on the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (23 October 1998)
5. Law on Prosecution Office (1994)
6. Law on Investigatory Operations, of 30 December 1993
7. Law on Criminal Procedure
8. Law on Police of 4 June 1991

AML/CFT

9. Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity – (AML law)
10. Cabinet Regulation No 127 - Regulation Regarding the List of Elements of Unusual Transacitons and Procedures for Reporting (20 March 2001)
11. Cabinet of Ministers Regulation No 497 of 29 December 1998, Procedures pursuant to which public institutions furnish information to the Office of prevention of laundering of proceeds derived from criminal activity
12. Charter of the Advisory Board of the Office for the prevention of laundering proceeds derived from criminal activity
13. Bye-Law of FIU document

Banking and other financial laws (including postal)

14. Law on activities of Insurance and reinsurance Intermediaries (1 April 2005)
15. Law on Financial Instruments Market (as amended by law 9 June 2005)
16. Credit Institution Law (with amendments up to 2005)
17. Credit Union Law (as amended by law of 20 November 2003)

18. Law on Private Pension Funds (as amended last by law of 10 November 2005)
19. Law on the Financial and Capital Market Commission (1 July 2001)
20. Law on Insurance Companies and Supervision Thereof (30 June 1998 – last amended by law of 27 March 2003)
21. Law on Investment Management Companies of 30 December 1997 (last amended by law of 18 mars 2004
22. The Law on the BoL (1992)
23. Association of Latvian Commercial Banks Declaration on Taking Aggressive Action Against Money Laundering
24. Postal law of 31 May 1994

Civil and Commercial laws/regulations

25. Civil law
26. Associations and Foundations Law (23 September 2004)
27. Commercial Law (21 December 2000)
28. Code of Administrative Violations
29. Law on Accounting of 14 October 1992
30. Law on European Commercial Companies
31. Law on Group of Companies of 13 April 2000

Tax law

32. Law on Enterprise Income Tax (with amendment up to 24 December 2004)
33. Law on State Revenue Service

FCMC Regulations

34. Regulations for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism (Minutes No. 21 Paragraph 3) – Regulations No. 93 of May 12, 2006
35. Decision of the Board of the Financial and Capital Market Commission No. 214 (Minutes No. 37, Paragraph 3) On the Approval of Guidelines for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activities and Financing of Terrorism (1 October 2004)
36. FCMC – Regulation on the Issue of Credit Institution and Credit Union Operating Licenses (Decision No 153 of 24 May 2002)

37. FCMC – Guidelines for establishing an internal control system (Decision 24/7 of 21 December 2001)

Bank of Latvia Regulations

38. BoL Resolution No. 115/7 – Recommendations to Business Ventures (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering of Proceeds Derived from Crimes and Financing of Terrorists (11 November 2004)
39. BoL Regulation No 114/5 for Purchasing and Selling Cash Foreign Currency (9 September 2004) = *Recommendations to currency exchange bureaux for developing procedures for identification of suspicious and unusual transactions ?*[BOTH ONLY IN LATVIAN on BoL website] 57bis – BoL Reg. 461/5 of 21 September 2000 for buying and selling foreign currency [REPLACED BY No 114/5 ? Still on BoL website]
40. BoL Regulation No 98/6 - Regulation for issuance and maintenance of electronic money (14 November 2002)
41. BoL Regulation No 96/4 for Credit Transfers (11 July 2002)
42. BoL Regulation No 89/9 - Recommendations for transactions effected by means of electronic payment instruments (13 September 2001)

Lawyers

43. Statutes of the Latvian Collegium of Sworn Advocates
44. On the Bar – Latvian Council of Sworn Advocates

Auditors

45. Law on Sworn Auditors

Notaries

46. Notoriate Law (17 June 1996)
47. Loi sur le Notariat (1 June 1993 – amendments 2004)
48. Regulation No 12 of the Sworn Notaries Councilon Reporting Procedures

Precious metals/stones

49. Law about the Control and Marking of Articles of Precious Metals (19 January 1995)
50. Cabinet of Ministers Regulation No 547 - State Assay Supervision Inspectorate By-Law, (21 June 2004)

51. Procedures for the Registration of Places of Economic Activity with Precious Metals, Precious Stones and Articles Thereof, Procedures for their Mandatory Assaying and Marketing and Procedures for the Safe-keeping of Unassayed Precious Metals, Precious Stones and Articles Thereof. Cabinet Regulation (20 August 2002)

Casinos/Gambling

52. Law on Lotteries and Gambling (NB: valid until 31.12.2005)
53. Gambling and Lotteries Law (NB: in force since 1.1.2006)
54. Regulation of the Cabinet of Ministers No 176, dated 25 March 2004 on the lotteries and gambling supervisory inspection
55. Law on Lotteries and Gamblings Tax and Fee

Miscellaneous

56. Law on Protection of Cultural Monuments (1992)
57. Law on Personal Identification Documents of 5 June 2002
58. .Law on the Register of Enterprises
59. Law on Taxes and Fees
60. Regulation on the Reporting Procedure of the Unusual Transaction, Annex of Sworn Notary Council (27 August 2004)