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

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Latvia

Progress report[1]

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List of abbreviations

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
CoL	Commercial Law
CPL	Criminal Procedure Law
CL	Criminal Law

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

Developments reported since the adoption of the mutual evaluation report

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

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

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

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

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

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

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

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

Financial and Capital Market Commission has organized a workshop in September 2007 in Riga where Latvian bank representatives had an opportunity to meet with their correspondent banks from Europe and

USA. The main objective of the workshop was to encourage further inter-bank cooperation, exchange of information, and to receive the recent information about best AML/CFT practice and standards paying special attention to monitoring high risk customers.

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

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

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

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

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

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

<u>New developments since the adoption of the First Progress report</u>

As it was already noted in the 1st Progress Report prepared by Latvia in order to ensure the transposing of the EU Directives 2005/60/EC and 2006/70/EC a new AML/CFT Law was introduced (full title - The Law On the Prevention of Laundering of Proceeds derived from Criminal Activity and Terrorist Financing, hereinafter - AML/CFT Law). The Law became effective in mid August 2008.

This new law differs with the following major aspects:

- ✓ Scope of persons subject to new AML/CFT Law is expanded and now includes also:
  - trust and company service providers,
  - persons, providing money collection services,
  - any merchants, when payment is made in cash and exceeds 15,000 EUR equivalent.

- ✓ Risk based approach to customer due diligence was introduced.
- ✓ Banks and other financial institutions have obligation to refrain from executing transactions or debit operations on customer's account where the transaction is related or may be reasonably suspected of being related with money laundering or terrorist financing. Such cases are immediately reported to FIU. FIU has 60 days to make a decision whether to freeze funds and forward case to the law enforcement authorities.
- ✓ More detailed requirements for establishing internal control system.
- ✓ Banks and other financial institutions have to appoint board member who is responsible for the prevention of money laundering and of terrorist financing in the respective bank or financial institution.
- ✓ Board members of the banks have to be regularly informed about AML/CFT compliance within the bank.
- ✓ A person that is responsible for ensuring compliance with the AML/CFT Law in a bank and life insurance company may not be convicted for committing a crime.
- ✓ Law provides possibility for banks and life insurance companies to access wide range of state registers to assess their customers and money laundering risk associated with them.
- ✓ Within seven days of receipt of a request by FIU banks and other financial institutions has to provide FIU with requested information and documents about the customer or the transaction, the origin and further movement of funds. Previously banks had to respond within 14 days.
- ✓ Every criminal offence can be predicate offence for money laundering.
- ✓ Prosecutors do not have to prove intent or wilful blindness to prosecute money laundering, i.e. unintentional (negligent) money laundering also can be prosecuted.
- ✓ There are improved regulations allowing passing information about the customers to correspondent banks.
- ✓ The role of Supervisory and Control Authorities to prevent money laundering and terrorism financing activities has increased.

Alongside with the entry into force of the new AML/CFT Law over December 2008 – January 2009 the Government adopted a number of normative acts subordinated to this law:

- ✓ Regulation # 1071 On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made. The re-issued Regulation includes both new additional reporting bodies and new transaction indicators.
- ✓ Regulation # 1092 On the Procedure according to which State and Municipal Authorities provide Information to the Office for Prevention of Laundering of Proceeds derived from Criminal Activity. This Regulation extends the authority of the FIU, i.e., allows to request information held in the databases maintained by municipalities.
- ✓ Regulation # 966 On the List of the Third Countries Imposing Requirements Equivalent to Those of the European Union Regulatory Provisions with Respect to the Prevention of Money Laundering and of Terrorist Financing.
- ✓ Regulation # 36 On the Countries and International Organizations, which have compiled Lists of Persons suspected of being involved in Terrorist Activity. The Regulation defines the countries and international organizations whose compiled lists of persons, suspected of being involved in terrorist activity (hereinafter - the terrorist lists), shall be recognized by the Republic of Latvia, i.e., the terrorist lists compiled by European Union and North Atlantic Treaty Organization member states, the terrorist lists compiled by the United Nations Security Council and the European Union Council.

In order to be in line with the requirements of the new AML/CFT Law Financial and Capital Market Commission (hereinafter – FCMC) issued Regulations of Enhanced CDD. These Regulations are binding to all the financial market participants supervised by the FCMC and now establish the following:

- ✓ Additional cases when a financial institution shall perform enhanced customer due diligence.
- ✓ The procedure for and the minimum extent of the enhanced customer due diligence at inception of and during business relationship.
- ✓ Categories of risk of laundering the proceeds from criminal activity (money laundering) and of terrorist financing and the relevant risk characteristics.
- ✓ Special measures of enhanced customer due diligence.
- ✓ The procedure whereby enhanced monitoring is applied to customer transactions.

New FCMC Enhanced CDD regulations describe a risk based approach to the CDD procedures, which fundamentally change due diligence approach. Now, when establishing business relationship with a customer, a financial institution shall determine the initial risk associated with the customer by assessing the following risk categories:

- ✓ Country risk.
- ✓ Customer risk.
- ✓ Product/services risk.

Combining above mentioned risk categories with determined risk variables minimum requirements have been set up for risk based Enhanced CDD.

Bank of Latvia as a supervisory authority for foreign currency exchange offices has issued "Recommendations to Capital Companies that Have Received a Licence Issued by the Bank of Latvia for Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing". These recommendations were adopted on May 13, 2009 and took effect on June 1, 2009. This document contains recommendations for currency exchange offices concerning establishing internal control system, identification of clients and their beneficiaries, PEP identification, reporting obligation, and describes risk based approach for evaluating the AML/CFT risk of their clients.

The State Revenue Service being a new supervisor to majority of DNFBPs in accordance to the AML/CFT Law has issued a Methodological material. This Methodological material is used by subjects of law on the prevention of laundering the proceeds from criminal activity and of terrorist financing supervised by the State Revenue Service.

The Methodology includes specific obligations of DNFBPs regarding Internal Control Systems, Customer Due diligence and Reporting Duty.

The Administrative Violations Code stipulates responsibility for customer identification requirements violation and failure to report unusual or suspicious financial transactions (Articles 165-4 and 165-5 effective as of June 10, 1998). The new AML/CFT law since mid August 2008 prescribes new duties for subjects of law (for example): 1) notify in writing the type of their activities to the territorial unit of the State Revenue Service in view of their registered office address or declared residence address within 10 business days of starting their operation (Article 45 paragraph 3), 2) customer identification and Due diligence (chapter III), 3) to appoint a board member who shall be responsible for the prevention of money laundering and of terrorist financing in the respective credit or financial institution (Article 10 paragraph 2), 4) to establish an Internal control system (Article 6 paragraph 1), 5) to ensure training for staff (Article 6 paragraph 2). In order to be in line with these new requirements Cabinet of Ministers adopted amendments (3 new articles shall be added) to the Administrative Violations Code to ensure administrative responsibility for violation of all these rules. Right now the adopted amendments are submitted to the Latvian Parliament for evaluation.

In May 2005 Latvia signed Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. On August 11, 2009 the

Cabinet of Ministers adopted five draft laws, which were elaborated with the goal to be able to ratify the above-mentioned Convention.

The adopted draft laws are:

- ✓ "On Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism";
- ✓ "Amendments to Criminal Procedure Law";
- ✓ "Amendments to Investigatory Operations Law";
- ✓ "Amendments to Credit Institution Law";
- ✓ "Amendments to Law on the Prevention of Laundering the Proceeds from Criminal Activity and of Terrorist Financing".

Right now the draft laws are submitted to the Latvian Parliament for evaluation. The amendments drafted are mainly concerning monitoring of banking transactions and possibility for other states to request monitoring. The amendments in the Criminal procedure law also entail amendments in chapter of international cooperation.

Several amendments were made to the Criminal Procedure Law (hereinafter – the CPL) with relation to extradition proceedings to third parties and EU and regulation with relation to execution of foreign judgments was improved as well. For example, the regulation with relation to the State guarantees given, when executing the request for extradition, removal of immunity, several requests from foreign states for confiscation of assets was introduced.

The above-mentioned amendments to the CPL took force on July 29, 2008, July 1, 2009 and July 14, 2009.

Amendment made in Article 355, part 1 of the CPL took force on July 1, 2009. Before the amendment part 1 provided that property shall be recognised as criminally acquired, if such property has come into the property or possession of a person as a result of a criminal offence. The amendment specified that property come into the property or possession of a person directly or indirectly.

With regards to the question whether the definition of the FT offence has been amended to cover all elements under the International Convention for the Suppression of the Financing of Terrorism, Latvia informed that during the first progress report the amendments to CL, namely, Article 882 "Incitement to terrorism and threats of terrorism" and 883 "Recruiting and training a person for committing terrorist acts" were elaborated. These amendments were elaborated to meet the requirements of he 16 may, 2005 Council of Europe Convention on prevention of terrorism as well. It should be mentioned that amendments are in force since 13.12.2007.

Latvia has amended Commercial law (hereinafter – the CoL) as regards the bearer share regulation. The part 2 of Article 229 of the CoL providing that the bearer shares may be issued only in dematerialised form (paper form is prohibited). Supplementary part 1 of Article 236 1 provides that management body of the company takes the action ensuring that the bearer shares are entered in the Latvian Central Depositary according to the Financial Instrument Market Law regulation. Shareholder is allowed to transfer shares registered in the Latvian Central Depositary to own account of the financial instrument. Article 236 2 of the CoL provides that the company or the public authority has right to request information from the Latvian Central Depositary about the bearer shares holders according to the procedure stipulated in the Financial Instrument Market Law. It means that according to the information provided by the Latvian Central Depository it is possible to identify the persons who have opened financial instrument accounts.

Overall Latvia has developed a comprehensive AML/CFT legal framework, which is now fully compliant with FATF forty recommendations and nine special recommendations on Terrorist Financing as well as directives of the European Parliament and of the Council 2005/60/EC and 2006/70/EC. There are no

legislation that would hinder or prevent cooperation and sharing of information between Latvian authorities and foreign authorities.

In order to encourage further inter-bank cooperation, exchange of information, and to receive the recent information about best AML/CFT practice and standards paying special attention to monitoring high risk customers FCMC has organized a workshop in September 2007 in Riga where Latvian bank representatives had an opportunity to meet with their correspondent banks from Europe and USA. The workshop was followed by a yearly AML/CFT Conference in October 2008 in Vilnius (Lithuania) and in November 2009 in Tallinn (Estonia) organized in cooperation with US Treasury with the active participation of biggest private banks and supervisory authorities of all three states (Latvia, Lithuania and Estonia).

The Finance Sector Development Council, which is chaired by the Prime Minister, continued to act as the coordinating body for the cooperation between state authorities and the private sector in order to prevent money laundering and terrorist financing. There were two meetings of the Council held in 2008 and one meeting in 2009. The agenda of the meetings contained also AML/CFT issues (e.g., increasing the role of the Company Register in preventing money laundering and terrorist financing, money laundering issues in Post Office).

2. Key recommendations

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

Recommendation 1 (Money Laundering offence)	
Rating: Largely Compliant	
Recommendation of the IMF/ MONEYVAL Report	*Take appropriate measures to ensure that prosecutions can be commenced without the need for a conviction of a predicate offence*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In Latvia, a person responsible for the laundering of criminally acquired proceeds or other property is held liable according to the constituent elements of a criminal offence as set out in Article 195 of the CL. In order to hold a person criminally liable in accordance with the said article, it has to be ascertained that the financial resources have been acquired as a result of committing criminal offences as set out in the Criminal Law (hereinafter also CL); namely, a person cannot be held criminally liable without knowing the criminal offence as a result of which these resources have been acquired. Only after ascertaining that the financial resources or other property has been acquired as a result of committing a criminal offence, it can be decided on starting a criminal prosecution against the person suspected of the laundering of illegally acquired proceeds.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	At this point there is discussion in Latvia with relation to prior or simultaneous conviction for predicate offence as prerequisite for money laundering offence taking into account the Council of Europe Convention on Laundering, Search, Seizure and confiscation of the Proceeds from Crime and on the Financing of Terrorism Article 9, part 5. In theory and at the level of CL and CPL it is possible to sentence a person for money laundering offence without prior conviction of predicate offence, if the proceedings were terminated due to statute of limitation, person's death, amnesty or other non-exoneration (non-rehabilitation) basis. Nevertheless, there should be enough evidence for predicate offence to convict a person on money laundering.

	However, in practice there are no such cases. Thus it is difficult to comment on the practical applicability of such possibility.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*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).*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The new AML Law establishes the obligation to identify client when establishing a business relationship (Article 11), and undertake CDD measures before establishing business relationship. Business relationship is defined in the Article 1 of the same law as professional, commercial and business relationship of the subject of the law and a client connected with the commercial and professional activity of the subject of the law being targeted as long-term relations at the starting point.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The new AML/CFT Law was adopted on 30.07.2008. and become in force on 13.08.2009. The Article 11 remained without changes and provides an obligation to identify client when establishing a business relationship, and undertake CDD measures before establishing business relationship. Business relationship is defined in the Article 1, point 3 of the AML/CFT Law.
Recommendation of the IMF/Moneyval report	*Provide explicitly in law or regulation that financial institutions must verify customers' identity.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In accordance with the Article 12 of the AML Law the identity of a natural person can be verified by personal identification document – for locals that is a document containing person's name, surname and personal identity number, but for non residents arriving in person to the subject of the law this can be only document valid for entering Latvia. The identity of the non-face-to-face customers is verified according to a domestic passport or any other identification document accepted for use in the relevant country of residence or it can be done according to document valid for entering the country where the person is identified. The identity of the legal person is verified in accordance with the Article 13 of the AML Law, where it is stated that the subject of the law before establishing the relationship obtains documents proving the establishment or legal registration and the legal address of the legal person including actual address for non-residents. The aforementioned article of the AML Law states also duty to identify persons authorized to represent a legal person in relations with the subject of the law and the duty to obtain documents for such authorization. The subject of the Law may identify a legal person by obtaining the information mentioned in the Article 13 from European Business Registry or any other public, reliable and independent source.

Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No changes as to this obligation in the AML/CFT Law after its adoption (see previous comment).
Recommendation of the IMF/Moneyval report	*Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 17 and paragraph 3 of Article 22 provides that FCMC defines minimum scope for enhanced CDD for different customer categories, enhanced customer transaction monitoring, and defines scope of products and services of the credit and financial institutions and customer transactions when there are indications for the duty to conduct enhanced CDD. Regulations drafted by FCMC define the duty for banks and other financial institutions to conduct enhanced CDD for all customers that are legal entities that may issue bearer shares.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The adopted AML/CFT Law in the paragraphs 4 and 5 of Article 22 provides that FCMC defines minimum scope for enhanced CDD for different customer categories, enhanced customer transaction monitoring, and defines scope of products and services of the credit and financial institutions and customer transactions when there are indications for the duty to conduct enhanced CDD. Regulations adopted by FCMC (in force since 04.09.2008.) define the duty for banks and other financial institutions to conduct enhanced CDD for all customers that are legal entities that issue or have a right to issue bearer shares.
Recommendation of the IMF/ IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 11 (point 2 of the paragraph 2) provides requirement for identification in cases when the transaction matches up with at least one of the unusual transaction indicators or there is a suspicion of possible money laundering or terrorist financing or an attempt for such actions.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The Article mentioned has remained without changes. It should be noted that no exemption or threshold applies in this case.
Recommendation of the IMF/Moneyval report	*Clarify, in law or regulation, that identification of non-resident customer of the Latvian Post Office and the bureaux de change be performed on the basis of reliable, independent source documents, data or information, such as, for example, valid passports.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Latvian Post Office and the bureaux de change are subjects of the AML Law and are obliged to observe the requirements of the law for identification of customers relying on certain documents (Articles 12 and 13).
Measures taken to implement the Recommendation of the Report	In addition to the already provided information it should be noted that Articles 12 and 13 of the AML/CFT Law apply to all the customers – residents and non-residents. As to the identification of non-residents the law provides for information needed to gather about a non-resident customer as well as the documents acceptable for this reason for persons identified in Latvia and for persons identified outside Latvia (see Articles 12 and 13).

Recommendation of the IMF/Moneyval report	*Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 18, paragraph 2 provides the procedure for obtaining information from a customer on its actual beneficiary(ies). The subject of the Law determines the actual beneficiary(ies) by obtaining information on the customer identity in accordance with the requirements of the Law (verifying customers identity by a valid identification document) in one of the following manners: a. obtaining application for actual beneficiary signed by the customer; b. relying on information or documents from state public registers; c. determining the actual beneficiary on its own in cases when it is impossible to information on the actual beneficiary otherwise. When conducting the enhanced CDD the Article 22 (point 1 of the paragraph 1) requires banks and financial institutions to obtain additional information to ensure that a person indicated or determined as actual beneficiary of the customer is the real beneficiary of the customer.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The FCMC Regulations for Enhanced Customer Due Diligence provide additional measures as to obtaining further information on the beneficiaries and the third persons. The Regulations provide minimum requirements for enhanced due diligence at inception of business relationship (see chapter IV) with a customer as well as due diligence performed during business relationship (see Chapter V). Minimum requirements for ECDD during the business relationship include the requirement: *26. To verify that the beneficial owner as indicated by the customer or established by the financial institution is in fact the customer's beneficial owner, the financial institution shall carry out one or more of the following:* *26.1. obtain additional information about the property status of the beneficial owner;* *26.2. establish the economic or personal activity of the beneficial owner or previous professional experience, education and other information where it is necessary to carry out the respective economic activity and financial transactions;* *26.3. establish whether the economic or personal activity of the beneficial owner and/or of other legal persons whose beneficial owner it is complies with or is related with the economic activity carried out by the customer of the financial institution;* *26.4. obtain other information evidencing that the person indicated as the beneficial owner exercises control over the customer and benefits from his/her activities.*
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 19 of the AML Law requires that "Starting business relationship the subject of the law relying on the obtained money laundering and terrorism financing risk assessment obtains and documents information on the business objectives and the intended purpose including the range of services the customer plans to use, the origin of funds, the planned volume and number of transactions, customer business and personal activities for which the customer is going to use the respective services". This requirement now is applicable to all the institutions, not only those subject to FCMC supervision.

Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information on this point apart from the fact that the AML/CFT Law is now in full force. The Article mentioned in the previous Progress Report remains as it is.
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Required by Article 17 (point 4 of paragraph 1) stating that CDD process includes also keeping and regular updating the documents, data and information collected under the CDD process. Article 36 of the AML Law requires that the subject of the law maintains and keeps copies of documents verifying the identity of the customer, information on the customer and its accounts, application for actual beneficiary, correspondence (including electronic correspondence) as well as other documents (including electronic ones) obtained under the CDD process for at least five years. This article defines also the rights of the subjects of the law to process electronically data obtained under the identification and the CDD process of the customers, their representatives and actual beneficiaries (paragraph 4 of the article 36). Paragraph 3 of the aforementioned article stipulates that in some cases when required by the FIU this term may be extended for more than five years.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The requirement by Article 17 has remained without changes. Now the Article 37 of the AML/CFT Law requires that the subject of the law maintains and keeps copies of documents verifying the identity of the customer, information on the customer and its accounts, application for actual beneficiary, correspondence (including electronic correspondence) as well as other documents (including electronic ones) obtained under the CDD process for at least five years. This article defines also the rights of the subjects of the law to process electronically data obtained under the identification and the CDD process of the customers, their representatives and actual beneficiaries (paragraph 4 of the article 37). Paragraph 3 of the aforementioned article now contains provision that in some cases when required by the FIU this term may be extended for more than five years, but no longer than six years.
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The law defines cases when the subject of the law is required to perform enhanced CDD (article 22). This article states categories of customers for which it applies – entering business relations with non-face-to-face customers, politically exposed persons, starting cross border relations with credit institutions in the third countries, as well as in other cases stated in other normative acts. This requirement applies to all subjects of the law and includes Latvian Post Office and bureaux de change as well.
Measures taken to implement the Recommendation of the Report since the adoption of the first	In addition to the Article 22 of the AML/CFT Law the requirements of the FCMC Regulation on enhanced customer due diligence set forth the necessity to apply enhanced due diligence for certain customer types considered to bear high risk of money laundering and terrorism financing. Main risk categories are country risk,

progress report	risk associated with the legal form of the customer, risk associated with the economic or personal activity of the customer, risk associated with the products or services used by the customer (see point 8 of the Regulation). Regulations define additional measures to be taken under the enhanced due diligence process, for example: • Obtain additional information about the type of the customer's economic or personal activities, origin of funds, existing or planned cooperation with the financial institution, information about the main counterparties of the customer, the nature of business relationship, the planned transaction volumes and the location where the economic activity is carried out or the customer resides (the customer's actual address); • Establish the customer's beneficial owner where the customer is a legal person or it is known or suspected that the customer has established business relationship with the financial institution in the interests or on instruction of another person; • Use publicly available information to determine whether the customer, his/her authorised person and the beneficial owner have not been previously convicted and are not suspected for fraudulent activities, money laundering or an attempt thereof. When uncovering such information, an approval of the board or of a board member authorised by the board shall be received to establish business relationship with such customer; • When verifying whether the transactions made on the customer's account comply with the economic activity declared by the customer, the financial institution shall verify the following: o that the transactions made by the customer are economically motivated and do not exceed notably the declared volume; o that the customer's payments comply with the economic or personal activity declared by the customer; o that the customer's transactions with the declared and other counterparties do not contradict the customer's economic activity; o that it has underlying documents of transactions with the customer's main counterparties. As mentioned earlier there are minimum requirements for the enhanced due diligence at the inception of business relationship (Chapter IV of the Regulations) and during the business relationship (Chapter V of the Regulations). Bank of Latvia as a supervisory authority for foreign currency exchange offices has issued "Recommendations to Capital Companies that Have Received a Licence Issued by the Bank of Latvia for Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing". These recommendations were adopted on May 13, 2009 and took effect on June 1, 2009. This document contains recommendations for currency exchange offices for establishing internal control system, identification of clients and their beneficiaries, PEP identification, reporting obligation, and gives basis for evaluating the AML/CFT risk of their clients including identification of high risk customers and transactions.
Recommendation of the IMF/Moneyval report	*Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9.*

Measures reported as of 4 December 2007 to implement the Recommendations of the report	The automatic exemption from CDD requirements previously provided in Article 9 of the AML Law is removed from the new AML Law. The new law defines exemptions from CDD in conformity with the EU Third AML Directive. Article 26 of the law defines categories of customers which the subject of the law may exempt from CDD: 1) credit and financial institutions registered in the Republic of Latvia except entities dealing with cash buying and selling, and money remitters and transaction services providers; 2) credit and financial institution (except entities dealing with cash buying and selling, and money remitters and transaction services providers) registered in countries with AML/CFT requirements similar to EU AML/CFT requirements; 3) Republic of Latvia or the domestic public authorities, or entities controlled by Republic of Latvia or the domestic public authorities representing low risk of money laundering or terrorist financing; 4) Companies whose securities are admitted to trading in regulated market in one or several member states or in a regulated market of the third country if company is subject to disclosure of information consistent with EU legislation; 5) Person who is represented by a notary or other independent legal services provider in member state or a country consistent with EU AML legislation and supervised for such consistency as well as in cases when information on such person is available upon the request of the subject of this law which is entering into business relations with such person; 6) Other person representing low AML/CFT risk. Customers mentioned in points 3 and 6 of paragraph 1 of the aforementioned article are considered to represent low AML/CFT risk if they meet several criteria. Such criteria are defined in the paragraph 2 of this article: 1) customer has been acting in state administration under the EU legislation; 2) customer identification information is publicly available, transparent and secure; 3) customer activities and accounting methods are transparent; 4) there exist EU or Member state procedures for supervising and controlling customer activities. Paragraph 3 of Article 26 in its turn sets out the criteria to be exempted from CDD in all other cases: 1) all the subjects of the AML/CFT Law; 2) the identifying information is publicly available, transparent and secure; 3) person providing the financial services is licensed for such activities; 4) person is subject to compliance supervision of government authorities.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional changes or measures as to this recommendation. The above-mentioned Article has remained unchanged after the adoption of the AML/CFT Law.
Recommendation of the IMF/Moneyval report	*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*

Measures reported as of 4 December 2007 to implement the Recommendations of the report	Requirement for timing of verification is now included not only in FCMC Regulations but also in the AML Law. The subjects of the Law are all financial institutions under definition in Article 1 paragraph 6. Thus timing of verification requirement now is in conformity with FATF criteria 5.13., 5.14. and 5.14.1. The subjects of the law have duty to identify customer before starting the business relations, before each transaction above EUR 15.000 or its equivalent in other currencies, and in all other cases when transaction matches up with at least one of the unusual transaction indicators or there is a suspicion for money laundering or terrorist financing or an attempt for such actions. When AML/CFT risk is low and customer is not subject for enhanced CDD according to the law in order not to interrupt normal business customer and actual beneficiary may identified at the moment of beginning the business relationship as soon as it is possible, but before the first transaction (article 11, paragraph 4). Article 7 in point 3 of paragraph 1 sets out an obligation for the subjects of the law to establish CDD procedure and scope relying upon AML/CFT risk assessment done in compliance with the minimum criteria set out in the AML Law and other legislative acts.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The definition of all the financial institutions being the subjects of the law is now provided in Article 1 paragraph 7. All the obligations mentioned in the 1st Progress report remain the same.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The new AML/CFT Law is completely harmonized with the Third EU AML Directive. According to the requirements of the law FCMC has drafted and enforced new updated AML/CFT Regulations binding to all the financial market participants supervised by the FCMC.

Recommendation 5 (Customer due diligence) II. Regarding DNFBP[1]	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The new AML/CFT Law applies to all DNFBPs identified in the FATF Recommendations (Article 3).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The new AML/CFT Law applies to all DNFBPs identified in the FATF Recommendations (Article 3). *Concerning lawyers, notaries and other independent legal service providers the new AML/CFT Law applies to them when they prepare for or carry out transactions for their client concerning the following activities:* *-buying and selling of real estate;*

[1] i.e. part of rec 12

	-managing of client money, securities or other assets; *-management of bank, savings or securities accounts, organization of contributions for the creation etc.* *The AML/CFT Law provides DNFBPs obligation to identify customers (natural or legal persons), to explore, to clarify the purpose of a transaction, transaction monitoring and other responsibilities, except notaries as customers (natural or legal persons) identifications requirement are set in the Law on Notaries (AML/CFT Law Article 12 Paragraph four and Article 13 Paragraph three).* The Law on Notaries Article 75 provide when designating persons in deeds and certifications their given name, surname, personal identity number and place of residence shall be indicated, but in deeds and certifications in accordance with which the sworn notary must verify the identity of the persons – also the date and place of birth of these persons. The Law on Notaries Article 76 provide if the sworn notary does not know the person for whom the deed or certifications is to be made or who must be identified for another purpose, he or she shall ascertain the identity of such person according to the passport. If the person referred to cannot present a passport, the sworn notary shall ascertain his or her identity according to identity documents which have been issued to the person in the State or local government service by his or her management or according to other reliable documents, if necessary supplementing the information lacking from the testimonies of two witnesses. The Law on Notaries Article 83 Paragraph one provide a sworn notary shall verify the identity, capacity to act and the right of representation of the participants of the notarial deed. The Law on Notaries Article 123 provide the sworn notary shall verify the identity of the persons who have appeared. The Law on Notaries Article 140 provide a sworn notary shall verify the identity of the bailor and make an entry in the bailment book for each object received for bailment.
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Section III of the AML/CFT Law "Customer identification and CDD" requires all the subjects of the law (including also DNFBPs) to identify customer and undertake CDD when beginning the business relationship, before each transaction above EUR 15.000 or its equivalent in other currencies as well as in cases when there is suspicion for money laundering or terrorist financing or an attempt for such actions (article 11). Regarding CDD the law sets out minimum criteria for enhanced CDD (article 22). Relations with politically exposed persons are regulated in Article 25 of the law.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information since the previous Progress Report. The Article mentioned above has remained unchanged after the adoption of the AML/CFT Law. It should be noted (as example) that State Revenue Service being supervisory authority for AML/CFT matters for majority of DNFBPs has issued a Methodology regarding Prevention of Laundering Proceeds derived from Criminal Activity and Financing of Terrorism. Its Chapter 3.3.1 "Customer Identification and Due Diligence" specifies obligations of DNFBPs to observe FATF

	recommendation 5 regarding Customer Due diligence.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*Require, in law or regulation, financial institutions to keep records of the account files and business correspondence.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 36 of the AML Law regulates keeping the records of account files and business correspondence: (1) The subject of the law documents customer identification and CDD measures and presents upon request these documents to the supervisory and control authority or provides copies of the documents upon request of the FIU. (2) The subject of the law maintains and keeps for at least five years – copies of the documents verifying the identity of the customer, – information on the customer and its accounts, – application on actual beneficiary, – correspondence (including electronic correspondence) – other documents (including electronic ones) obtained under the CDD process. (3) When required by the FIU in some cases this term may be extended for more than five years. (4) The subjects of the law have the right of to process electronically data obtained under the identification and the CDD process of the customers, their representatives and actual beneficiaries.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Now it is Article 37 that regulates keeping the records of account files and business correspondence. Only point 3 of this article has been changed and is now: *(3) When required by the FIU in some cases this term may be extended for more than five years, but no longer than six years.*
Recommendation of the IMF/Moneyval report	*Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In accordance with the Article 36 paragraph 3 when required by the FIU in some cases the term for record keeping may be extended for more than five years.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The term of keeping the records in accordance with the Article 37 paragraph 2 is at least five years after termination business relationship for the following: *1) copies of documents evidencing customer identification data;* *2) information about customers and their accounts;* *3) statements about the beneficial owner;*

	4) correspondence, including by electronic mail; *5) other documents, including in an electronic form, obtained during customer due diligence.* In accordance with the Article 37 paragraph 3 when required by the FIU in some cases the term for record keeping may be extended for more than five years, but no longer than six years.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 10 (Record keeping) **II. Regarding DNFBP**[2]	
Recommendation of the IMF/Moneyval report	*Broaden the provisions in the AML Law of the circumstances under which DNFBPs are subject to AML/CFT preventive measures requirements, including for record keeping.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The record keeping requirements mentioned before are applicable also to the DNFBPs, except notaries as record keeping requirements for this category of DNFBPs are set in the Law on Notaries.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The same applies for DNFBPs with the exception of Notaries. See Article 37 of the AML/CFT Law. *The AML/CFT Law Article 37 Paragraph one provides that the law subjects are also lawyers, notaries and other independent legal service providers documented the client identification and exploration activities; identification dates and documents the record keeping period are five years, except notaries as record keeping requirements for notaries is set in the Law on Notaries.* The Law on Notaries Article 58 provides that a sworn notary shall keep deeds, books, seals, files and valuables in a safe place and take care of the storage thereof in an undamaged condition. The Law on Notaries Article 79 Paragraph two provides that a sworn notary shall keep secret all entrusted matters, deeds and documents.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

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

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the IMF/Moneyval report	*Provide clarification and guidance to the reporting entities in order to increase the emphasis ensuring that suspicious transactions are reported promptly to the FIU.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Para. 1 of the Article 20 of the draft stipulates that following the beginning of business relationships the subjects of the law, based on a money laundering and terrorist financing risk evaluation, carry out continuous monitoring of transactions in order to make sure that the transactions are not unusual or suspicious transactions. Para. 2 of the Article 20 stipulates that the subjects of the law, while carrying out the supervision of business transactions, should pay special attention to 1) complicated and large transactions which are not typical to the client or mutually linked transactions which have no apparent economic reason or explicitly clear legal justification; 2) transactions with the involvement of persons from third countries which are considered as non-cooperative countries or territories (that fail to cooperate in the areas of money laundering and terrorist financing) by the FATF. Article 22 of the draft obliges the subjects of the law to conduct deeper analysis in specific cases (PEPs, cross-border relationships, etc) which can also be looked at as a guideline for detecting suspicious transactions. One has to note that Art. 30 of the draft continues to stipulate that suspicious transactions are to be reported immediately.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Paragraph 1 of the Article 20 of the AML/CFT Law stipulates that following the beginning of business relationships the subjects of the law, based on a money laundering and terrorist financing risk assessment, shall perform continuous update of information on customer`s economic or personal activity in order to make sure that the transactions are not unusual or suspicious transactions. Paragraph 2 of the Article 20 of the AML/CFT Law stipulates that the subjects of the law, while carrying out the supervision of business transactions, should pay special attention to *1) unusually large and complex transactions or mutually linked transactions, which have no apparent economic or visible lawful purpose, and are not typical for a customer;* *2) transactions involving persons from third countries that, in accordance with the opinion of international organisations, shall be considered as countries and territories where there are no effective regulatory provisions for combating money laundering and terrorist financing or that have refused to cooperate with international organisations in the area of preventing money laundering and terrorist financing.* Article 22 of the AML/CFT Law obliges the subjects of the law to conduct deeper analysis (enhanced customer due diligence) in specific cases (PEPs, cross-border relationships, etc), which can also be looked at as a guideline for detecting suspicious transactions. One has to note that paragraph 1 of the Article 30 continues to stipulate that suspicious transactions are to be reported immediately. Regulation No.1071 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made" includes not only additional reporting bodies and new transaction

	indicators but also new more detailed reporting forms (Regulation No.1071 of 22 December 2008).
Recommendation of the IMF/Moneyval report	*Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Firstly, see the reply to the previous question. Secondly, in late 2005, early 2006 the Council for Prevention of Laundering of Proceeds derived from Criminal Activity chaired by the Prime Minster (the current name - Finance Sector Development Council) set 3 priorities for the FIU – 1) freezing of huge amount financial resources; 2) the detection of large scale laundering schemes; 3) provision of valuable information (that would substantially foster preliminary investigation) to law enforcement authorities. The practical application of the said priorities by the FIU has led to the following: in 2006 125 freezing orders (suspending debit operations in accounts) were issued and 12,8 million LVL frozen. Out of the 155 cases sent to law enforcement in 2006 9 cases contained information on large schemes involving 20 and more transaction participants in each scheme. Following the recommendation both the new draft (see previous answer) and the training activities focus on the reporting on suspicious transactions for the purpose of enforcing the above said priorities. More information in this subject under 4.4. below. Moreover, the FIU, by using a special software, regularly carries out statistical analysis on both the proportion of suspicious transactions from the total number of reports and the number of reports received based on each specific indicator. As a result, the information on the analyses carried out, including the number of reports included in the cases sent to law enforcement, is made available to the staff in charge representing financial and non-financial institutions. This way feedback is ensured.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Firstly, part of the answer can be seen in the reply to the previous question. Secondly, in late 2005, early 2006 the Council for Prevention of Laundering of Proceeds derived from Criminal Activity chaired by the Prime Minster (the current name - Finance Sector Development Council) set 3 priorities for the FIU – 1) freezing of huge amount financial resources; 2) the detection of large scale laundering schemes; 3) provision of valuable information (that would substantially foster preliminary investigation) to law enforcement authorities. The practical application of these priorities by the FIU has led to the following: 1) in 2006 125 freezing orders (suspending debit operations in accounts) were issued and 12,8 million LVL frozen. Out of the 155 cases sent to law enforcement in 2006 9 cases contained information on large schemes involving 20 and more transaction participants in each scheme. 2) in 2007 94 freezing orders were issued and 6,5 million LVL frozen. Out of the 146 cases sent to law enforcement in 2007 7 cases contained information on large schemes involving 20 and more transaction participants in each scheme. 3) in 2008 99 freezing orders were issued and 2,71 million LVL frozen. Out of the 151 cases sent to law enforcement in 2008 23 cases contained information on large schemes involving 20 and more transaction participants in each scheme. 4) in 2009 (9 months) 62 freezing orders were issued and 4,898 million LVL frozen. Out of the 102 cases sent to law enforcement in 2009 (9 months) 16 cases contained information on large schemes involving 20 and more transaction participants in each scheme Following the recommendation both the AML/CFT Law and the training activities (number of trainings 2006 – 23, 2007 – 17, 2008 – 22, 2009 (10 months) –16)

	focus on the reporting on suspicious transactions for the purpose of enforcing the above said priorities. Moreover, the FIU, by using a special software, regularly carries out statistical analysis on both the proportion of suspicious transactions from the total number of reports and the number of reports received based on each specific indicator and reporter. As a result, the information on the analyses carried out, including the number of reports included in the cases sent to law enforcement, is made available to the staff in charge representing financial and non-financial institutions. This way feedback is ensured.
Recommendation of the IMF/Moneyval report	*Specifically require, in law or regulation, the reporting of suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organisations or those who finance terrorism, without limiting the scope of the requirement to designated persons.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The provisions of the draft (Art. 1-17, Art. 3, Art. 30-1-3) oblige all subjects of the law to immediately report about any transaction which may cause suspicion of TF or attempt of TF or another criminal activity linked to TF. The above said is a general type of requirement which does not apply to terrorist lists because reporting on subjects from such lists is made mandatory under the Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure (Para. 6.1.7.). Hence, there are two types of reporting on possible terrorists.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The provisions of the AML/CFT Law (Art. 1-17, Art. 3, Art. 30-1-2) oblige all subjects of the law to immediately report about any transaction which may cause suspicion of TF or attempt of TF or another criminal activity linked to TF. The above said is a general type of requirement, which does not apply to terrorist lists because reporting on subjects from such lists is made mandatory under the Cabinet of Ministers Regulation No.1071 of 22 December 2008 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made" (Paragraph 8.1.). In light of this, there are two types of reporting on possible terrorists.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[3]	
Recommendation of the IMF/Moneyval report	*Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF recommendations.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Art. 3 of the draft provides a full list of the subjects of the law, including DNFBPs. Art. 30-1-3 stipulates that all the listed subjects are obliged to immediately report any suspicious transaction to the FIU. Art. 1-17 of the draft defines suspicious transactions as transactions which cause suspicion of ML or TF or an attempt of such activities or a criminal activity linked to the said activities.

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

Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Article 3 of the AML/CFT Law provides a full list of the subjects of the law, including DNFBPs. Article 30-1-2 stipulates that all the listed subjects are obliged to immediately report any suspicious transaction to the FIU. Article 1-17 of the AML/CFT Law defines suspicious transactions as transactions which cause suspicion of ML or TF or an attempt of such activities or a criminal activity linked to the said activities Notaries shall immediately to report to the FIU about the fact that an unusual transaction, if: *- client deposits cash in the amount of 10000 lats and more;* *- when officiating in accordance with the Notariate Law a consultation is given or a verification of a transaction complying with at least one indicator of the unusual transactions named in these regulations is made, and it refers to the actions named in the point 4 of the first part of Article 3 of the AML/CFT Law* (Cabinet of Ministers Regulation No.1071 of 22. December 2008 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made", subparagraph 8.9.). Attorneys and other independent legal service providers immediately to report to the FIU about the fact that a unusual transaction, if: *- a client deposits or receives cash in the amount of 10000 lats and more, authorizing to perform financial intermediation;* *- a consultation is given in regard to the transaction complying with at least one indicator of the unusual transactions named in these regulations and referring to the actions named in the point 4 of the first part of Article 3 of the AML/CFT Law* (Cabinet of Ministers Regulation No.1071 of 22. December 2008 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made", subparagraph 8.10.). But the AML/CFT Law Article 30 Paragraph three provides that reporting to the FIU and interdiction from the transaction and the transaction suspension requirement does not apply to notaries, lawyers and other independent legal service providers when they are defending or representing clients in pre-trial criminal proceedings or court proceedings or providing advice on trial initiation or avoidance of it.
Recommendation of the IMF/Moneyval report	*Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Currently, yet for a short while, the Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure is in force. The annotation of the draft says that under its Art. 1-14 new Regulation is to be elaborated. In view of the above said and based on the authority granted to the FIU by the currently effective Law On the Prevention of Laundering of Proceeds derived from Criminal Activity (Art. 11-1, 37) the FIU carried out an analysis of how practically the indicators listed under the said Regulation 127 work (for the period 2001-2006). As a result, a new draft regulation was produced (new contents) and the non-functional indicators excluded and new indicators were elaborated based on the latest laundering trends. The indicators now also cover the non-financial sector – DNFBPs that was previously not covered by the Regulation. The new draft regulation was, as far as its competence reaches, evaluated by the FIU Advisory Board on 25.05.2007. Following the entrance into force of the draft law the said draft regulation will also

	be immediately sent to the Cabinet of Ministers for approval.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Currently the Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure is not in force. In view of the above said Recommendation and based on the authority granted to the FIU by the currently effective AML/CFT Law the FIU carried out an analysis of how practically the indicators listed under the said Regulation 127 worked (for the period 2001-2007). As a result, a new draft regulation was produced (new contents) and the non-functional indicators excluded and new indicators were elaborated based on the latest laundering trends. The indicators now also cover the non-financial sector – DNFBPs that was previously not covered by the Regulation No.127. The new draft regulation was, as far as its competence reaches, evaluated by the FIU Advisory Board on 25.05.2007. The new Regulation No.1071 of 22 December 2008 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made" includes not only additional reporting bodies and new transaction indicators but also new more detailed reporting forms (in force since 01.01.2009) for all subjects of the law.
(other) changes since the first progress report (eg. draft laws, draft regulations or draft	

Special Recommendation II (Criminalise terrorist financing)	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*Define "financial resources" in accordance with the Terrorist Financing Convention.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Currently, according to Paragraph 3 of Article 1 of the law "On the Prevention of Laundering of Proceeds Derived from Criminal Activity", financial resources are payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. At the same time the drafted law "On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism" provides a definition of the term "resources (property)", namely, financial resources or any other form of corporeal or incorporeal, movable or immovable property. In the drafted law provides a definition of the term "financial resources", namely, payments assets in way of cash or money clearings, precious metal, as well as any kind of form of financial instruments or documents (also digital or electronic), that certify the right of a person to these assets or property or confer a right to benefit from it.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The AML/CFT Law is in force from August 13, 2008. Article 1, point 1 provides definition of "resources" as *financial resources or any other form of corporeal or incorporeal, movable or immovable property*. Article 1point 2 provides definition of "financial resources" as *financial instruments or payment instruments (cash or non-cash), documents (on paper or in an electronic form) that are held by a person either in ownership or possession and entitle the person to any benefit thereof, as well as precious metals in ownership or possession*. Taking into account previously mentioned information Latvia has fulfilled the recommendation.
(other) changes	In context with the previously given information Latvia sees no need to consider

since the first progress report (eg. draft laws, draft regulations or draft	other manageable arrangements since the requested recommendation is fulfilled.

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The AML Law now in article 1, point 17 defines a suspicious transaction as follows: The transaction causing suspicion for money laundering or terrorist financing or any attempt for such actions or other criminal actions in connection with such actions. The article 30 sets out an obligation for subjects of the law to report to FIU immediately on every suspicious transaction (article 30, point 3 of paragraph 1).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The AML/CFT Law now in Article 1, point 17 defines a suspicious transaction as *a transaction that gives rise to suspicion of laundering of proceeds from criminal activity (money laundering) or of terrorist financing or an attempt thereof, or of any other criminal offence related thereto*. The Article 30 sets out an obligation for all subjects of the law to report to FIU without delay on every suspicious transaction (Article 30, point 2 of paragraph 1) It should be added that it is a general type of requirement, which does not apply to terrorist lists because reporting on subjects from such lists is made mandatory under the Cabinet of Ministers Regulation No.1071 of 22. December 2008 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made" (Para.8.1 - *regarding all the subjects of the law – transaction where one of the parties is a person suspected of committing a terrorist act or of participation therein and is included on the list of persons regarding which the FIU has informed the subjects of the law and their supervisory and control authorities*). To ensure compliance, there are two types of reporting on possible terrorists.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP[4]	
Recommendation of	*The authorities should amend the AML Law to provide specifically that*

[4] i.e. part of Recommendation 12.

the IMF/Moneyval report	*DNFBP[5] 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*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The new AML/CFT Law applies to all DNFBPs identified in the FATF Recommendations (Article 3).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The new AML/CFT Law (Article 3 paragraph 1) applies to all DNFBPs identified in the FATF Recommendations. The AML/CFT Law now in Article 1, point 17 defines a suspicious transaction as *a transaction that gives rise to suspicion of laundering of proceeds from criminal activity (money laundering) or of terrorist financing or an attempt thereof, or of any other criminal offence related thereto*. The Article 30 sets out an obligation for all subjects of the law to report to FIU without delay on every suspicious transaction (Article 30, point 2 of paragraph 1). It should be added that it is a general type of requirement, which does not apply to terrorist lists because reporting on subjects from such lists is made mandatory under the Cabinet of Ministers Regulation No.1071 of 22 December 2008 "On the List of Indicators of Unusual Transactions and the Procedure according to which Reports on Unusual and Suspicious Transactions shall be made" (Paragraph 8.1 - *regarding all the subjects of the law – transaction where one of the parties is a person suspected of committing a terrorist act or of participation therein and is included on the list of persons regarding which the FIU has informed the subjects of the Law and their supervisory and control authorities*). To ensure compliance there are two types of reporting on possible terrorists.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

3. Other Recommendations

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

Recommendation 6 (Politically exposed persons)	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*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.
Measures reported as of 4 December 2007 to implement the Recommendations of the report	As the Latvian Post Office and the bureaux de change are now the subjects of the law the requirement of the article 25 of the law is applicable to them as well. Article 25 requires all the subjects of the law to determine before entering the business relations whether the customer or its actual beneficiary is a politically exposed person and undertake and document procedures for obtaining information on the origin of funds or other means used in conducting the transactions. Entering into business relations with PEPs all institutions have to obtain senior management approval for establishing such relations. When continuing relations with such customers, subjects of the law are obliged to conduct ongoing monitoring of such customer transactions and internal control system must ensure possibility to detect customers and the actual beneficiaries that become PEPs later in the course of the business relationship.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Bank of Latvia as a supervisory authority for foreign currency exchange offices has issued "Recommendations to Capital Companies that Have Received a Licence Issued by the Bank of Latvia for Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing". This document took effect on June 1, 2009 and now contains recommendations for currency exchange offices concerning transactions with politically exposed persons: *23. If, when identifying a customer in case of an unusual or suspicious transaction, it is determined that the customer or beneficial owner is a politically exposed person, an employee of the capital company shall take the following measures prior to executing a transaction:* *23.1 inform the responsible person of the capital company on executing a transaction with a politically exposed person and receive his/her consent to execute the transaction;* *23.2 take and document measures to determine the origin of the funds used in the transaction of the politically exposed person.*
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	When entering into business relations with PEPs all institutions have to obtain senior management approval for establishing such relations before starting business relations, but in the course of continuing relations with such customers, subjects of the law are obliged to conduct ongoing monitoring of such customer transactions (Article 25, paragraph 4). Paragraph 2 of the aforementioned article requires that internal control system of the subject of the law based on the risk assessment ensures possibility to detect customers and the actual beneficiaries that become PEPs later in the course of the business relationship. The law requires that when detecting that a customer or its actual beneficiaries become PEPs later in the course of the business relationship all institutions have to act according to the requirements of article 25 of the law, i.e., obtain senior management approval for continuing such relations, undertake and document procedures for obtaining information on the origin of funds or other means used in conducting the transactions in the course of continuing relations with such customers. Besides subjects of the law are obliged to conduct ongoing monitoring of such customer transactions in accordance with paragraph 4 of the article 25.
Measures taken to	In addition to the requirements of the AML/CFT Law Article 25 the FCMC

implement the Recommendation of the Report since the adoption of the first progress report	Regulations on Enhanced Customer Due Diligence are applicable for PEPs as well. According to the Law PEPs are subject to enhanced due diligence measures (see Article 22).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	
Recommendation of the IMF/Moneyval report	

Recommendation 7 (Correspondent banking)	
Rating: Non compliant	
Recommendation of the IMF/Moneyval report	*The blanket exemption for correspondent banks from OECD countries under Article 5[1] of the AML Law should be removed.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Removed. The new AML Law is consistent with the EU Directive in this respect. See Article 26 of the law.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point.
Recommendation of the IMF/Moneyval report	*Require, in law, regulation or other enforceable means, that banks must obtain senior management's approval before establishing the new correspondent relationship.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 24 of the AML Law requires obtaining senior management approval for entering into cross-border relations with credit institutions (Article 24, point 3 of paragraph 1).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point.
Recommendation of the IMF/Moneyval report	*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.
Measures reported as of 4 December 2007 to implement the Recommendations of the report	This requirement is now included in the Law. Article 24, paragraph one sets out obligations for procedures when establishing cross-border relations, namely, institutions are obliged to obtain information on the nature of the respondent's business, as well as determine correspondent's reputation from publicly available information and the quality of the supervision, and assess the adequacy of correspondent's AML systems, and document responsibilities of the correspondent institution for AML/CFT.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point.
(other) changes since the first progress report ((e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 8 of the AML Law provides that the subject of the law assess on a regular basis the effectiveness of the internal control system observing additional risks that may arise from developments and introduction of new technologies and improve the internal control systems accordingly.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 12 (DNFBPs)	
Rating: Partially compliant	
Recommendation of the IMF/Moneyval report	*Extend Article 20 paragraph 1[1] of the AML Law on the monitoring of transactions to apply also to DNFBPs.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	According to the new AML/CFT Law DNFBPs are subjects of the law. Thus all the requirements set out in the law apply to this category as well. Articles 17 and 22 include requirements for conducting CDD that were expressed in the previous AML Law in Article 20 paragraph 1[1], namely, (1) Customer due diligence is a set of risk based measures that subject of the law has a duty to conduct: a) Determine information on the actual beneficiary; b) Obtain information on the purpose and the intended nature of the business relationship; c) Conduct ongoing monitoring of the business relationship after entering in business relationship; d) Ensure that documents, data and information obtained in the course of CDD is maintained and kept up-to-date. (2) When stating the scope and measures of CDD the subject of the law considers AML/CFT risks that may arise from customer's country of residence (registration), legal form of the customer, scope of activities, services used and transactions performed. The necessity for monitoring business relations is required by Article 20: (1) After entering the business relations the subject of the law based on the AML/CFT risk assessment performs the following: a) Updates the information on customer's business or personal activities; b) Conducts ongoing monitoring of transactions to find out any suspicious or unusual transaction. (2) When monitoring the business relations the subject of the law pays special attention to: a) Complicated and large transactions or several connected transactions that are not typical for the customer and that has no apparent economic or legal objectives; b) Transactions that involve persons from the third countries, which according to the FATF are non-cooperative countries and territories. Article 22 of the Law defines procedures for enhanced CDD: (1) Enhanced CDD is an additional risk based measure in order to: ▪ a) Ensure that a person identified as actual beneficiary according to the requirements of the law is a real and actual beneficiary of the customer; ▪ b) Ensure enhanced monitoring of customer's transactions.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The AML/CFT Law Article 20 provides the monitoring of transactions and that requirements apply also to DNFBPs.
(other) changes since the first progress report (e.g. draft	

laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 16 (DNFBPs)	
Rating: Non Compliant	
Recommendation of the MONEYVAL Report	*Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The minimum criteria for establishing internal control systems defined in the law apply to DNFBPs as well.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Apart from the requirements of the AML/CFT Law (for example) State Revenue Service has issued in its Methodology regarding Prevention of Laundering Proceeds derived from Criminal Activity and Financing of Terrorism, which refers to Internal Control Systems.
Recommendation of the IMF/Moneyval report	*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*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 44 of the AML/CFT Law designates supervisory and control authorities for the subjects of the law and in Article 45 the Law defines the monitoring compliance with AML/CFT requirements as a duty for each of the designated authority. Both articles include also DNFBPs.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point. Only the change in numbering of the relevant articles should be noted, namely Article 45 of the AML/CFT Law designates supervisory and control authorities (Financial and Capital Market Commission, Bank of Latvia, The State Revenue Service, Latvian Council of Sworn Advocates, Latvian Council of Sworn Notaries, Latvian Association of Certified Auditors and others) for the subjects of the law and in Article 46 the Law defines the monitoring compliance with AML/CFT Law requirements as a duty for each of the designated authority. Both articles include also DNFBPs
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 21 (Special attention for higher risk countries)
Rating: Partially Compliant

Recommendation of the IMF/ MONEYVAL Report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The law requires that all the subjects of the law conducting CDD and defining the scope and procedure of CDD consider also risk that arises from the country of residence (registration) of a customer (Article 17, paragraph 2).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	**Bank of Latvia** "Recommendations to Capital Companies that Have Received a Licence Issued by the Bank of Latvia for Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing" include consideration of country risk for customers of the currency exchange offices in the following way: *12. The risk as to a customer's country of residence (registration) shall be deemed a risk that a capital company could be involved in money laundering and terrorist financing when executing a transaction with a customer from a country whose economical, social, legal or political conditions can facilitate its involvement in money laundering and terrorist financing.* *13. The following country or territory shall be deemed a high-risk customers' country of residence (registration):* *13.1 the one included in the list of low-tax and tax-free countries and territories approved by the Cabinet of Ministers of the Republic of Latvia;* *13.2 the one being imposed financial or civil restrictions by the United Nations or the European Union;* *13.3 the one included in the list of countries not participating in the Financial Action Task Force or which has been announced by the said organization as a country or a territory which lacks laws and regulations to prevent money laundering or terrorist financing or in which these laws and regulations contain material deficiencies thus not complying with the international requirements.* **State Revenue Service** in its Methodology regarding Prevention of Laundering Proceeds derived from Criminal Activity and Financing of Terrorism, addressed this issue in Chapter 6.3. In this chapter is stated that the Subject of the Law performing CDD, special attention pay to the transactions, where persons from third countries are involved. A special attention should be focused on third countries and territories where according to the international organizations resolutions it does not have sufficient regulatory provisions for combating money laundering or terrorist financing or which refusing to co-operate with international organizations in this respect. **FCMC** Regulations on Enhanced Customer Due Diligence prescribe financial institutions to which they apply to determine the initial risk associated with the customer when establishing business relationship by assessing the several risk categories including country risk (point 8.1.). Furthermore it is stated in the point 13 of the Regulations that *13. A country or a territory shall be considered as having a high customer residence (registration) country risk where:* *13.1. it has been included in the list of low tax or tax free countries and territories as approved by the Cabinet of Ministers;* *13.2. the United Nations Organisation or the European Union has established financial or civil legal restrictions in respect of it;*

	13.3. it has been included in the list of non–cooperating countries of the Financial Action Task Force or that body has published a statement to the effect that the respective country or territory does not have regulatory provisions for combating money laundering or terrorist financing or such provisions fail to comply with international requirements due to material deficiencies. The Financial and Capital Market Commission shall notify financial institutions of such countries and territories.
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	03.04.2007 the Cabinet of Ministers of Latvia issued the Regulation # 233 On the Charter of the Finance Sector Development Council. The Council is chaired by the Prime Minister and among the functions and tasks of the Council are the following: 1) Fostering of cooperation with foreign public and private institutions (Art. 2.5); 2) Evaluation of the possibility of ML and TF risks (Art. 3.2); 3) Elaboration of working plans (3.3) 4) Other powers which specifically focus on the drafting of normative acts, the coordination of the cooperation of state and private sectors. Moreover, the Anti-corruption Bureau and the FIU have produced a common Informative Report on the Amelioration of the legal regulation of the activities of subjects registered in offshore, no tax or low tax countries and territories. The conclusions of the Paper provide 5 specific measures that could be taken, including specific amendments to several normative acts.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	In addition to the information provided in the 1st Progress report it should be noted that the Law On Applying International Organisations' Sanctions in the Republic of Latvia (in force since 01.01.2007.) sets forth the procedure for implementing Internationally imposed sanctions. In accordance with the procedure Ministry of Foreign Affairs informs Cabinet of Ministers on internationally imposed sanctions, their prolongation dates, changes and expiry. Cabinet of Ministers in its turn issues regulations on such sanctions, their prolongation dates, changes and expiry and at the same time sets forth the measures for application of such sanctions in Latvia. As regards financial sanction application FCMC is the responsible authority and in practise usually informs financial and capital market participants on the imposed international financial sanctions and advises to apply enhanced due diligence for such transactions.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Partially compliant	
Recommendation of the IMF/ MONEYVAL Report	*The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that*

	AML/CFT measures applied are consistent with the Latvian law in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs.
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 3, paragraph 2 determines that the subjects of the law ensures that their foreign structural units, branches, representative offices and subsidiaries in the third countries, when providing financial services observe the requirements for customer identification, CDD and record keeping as set out in the Latvian AML/CFT Law as far as it does not contradict with the local legislative norms and overall practice.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point.
Recommendation of the IMF/Moneyval report	*The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations for financial institutions to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In accordance with article 3, paragraph 3 of the AML/CFT Law in cases when normative acts of the third country is an obstacle for observing the requirements of the Latvian AML/CT Law for identification of the customer, CDD and record keeping, the subjects of the law are obliged to inform its supervisory and control authority in the Republic of Latvia and ensure additional measures for minimizing money laundering and terrorist financing risk.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	No additional information at this point.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 24 (DNFBPs – regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the IMF/MONEYVAL Report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Supervisory and control authorities are designated by the article 44 of the AML/CFT Law and include all DNFBPs, namely: Sworn lawyers (Latvian Council of Sworn Lawyers), sworn notaries (Latvian Council of Sworn Notaries), certified auditors (Latvian Association of Certified Auditors), Latvian Post Office (Ministry of Transport), companies that have been

	licensed by the Bank of Latvia for selling and purchasing of foreign cash currency (Bank of Latvia), organizers of lottery and gambling (Lotteries and Gambling Supervisory Inspection), individuals and legal entities trading precious metals, precious stones and jewellery and providing intermediation for such trading (State Assay Supervisory Inspection), individuals and legal entities trading art cultural valued goods and providing intermediation for such trading (Public Administration of Cultural Heritage). The subjects of the law not mentioned before are controlled and supervised by State Revenue Office (tax advisors, external accountants, independent legal service providers when representing their clients in any deal or advising to plan or execute a deal, or accepting a deal on behalf of their clients (in relation to buying or selling real property, legal entity, managing client's money, financial instruments, or other assets, opening or managing all types of accounts in credit or financial institutions, investments necessary for establishing, managing or conducting legal entities, establishment, management or conducting of such entities), company registering service providers, persons acting as intermediaries in real property deals, other individuals and legal entities trading real property and vehicles, as well as intermediation in the mentioned deals and service providing when deal is made in cash amount and on the date of transaction is equal or above EUR 15,000 in lats or any other currency according to the exchange rate stated by the Bank of Latvia for the date of the deal, notwithstanding whether the deal is made as one or several mutually connected deals (Article 44, paragraph 2).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Supervisory and control authorities are designated by the Article 45 of the AML/CFT Law and include also all DNFBPs, as follows: Sworn advocates (Latvian Council of Sworn Advocates), sworn notaries (Latvian Council of Sworn Notaries), certified auditors (Latvian Association of Certified Auditors), Latvian Post Office (Ministry of Transport), companies that have been licensed by the Bank of Latvia for selling and purchasing of foreign cash currency (Bank of Latvia), organizers of lottery and gambling (Lotteries and Gambling Supervisory Inspection), individuals and legal entities trading precious metals, precious stones and jewellery and providing intermediation for such trading (State Assay Supervision Inspectorate), individuals and legal entities trading art cultural valued goods and providing intermediation for such trading (State Inspection for Heritage Protection). The subjects of the law not mentioned before are controlled and supervised by State Revenue Office (tax advisors, external accountants, independent legal service providers when representing their clients in any deal or advising to plan or execute a deal, or accepting a deal on behalf of their clients (in relation to buying or selling real property, legal entity, managing client's money, financial instruments, or other assets, opening or managing all types of accounts in credit or financial institutions, investments necessary for establishing, managing or conducting legal entities, establishment, management or conducting of such entities), company registering service providers, persons acting as intermediaries in real property deals, other individuals and legal entities trading real property and vehicles, as well as intermediation in the mentioned deals and service providing when deal is made in cash amount and on the date of transaction is equal or above EUR 15,000 in lats or any other currency according to the exchange rate stated by the Bank of Latvia for the date of the deal, notwithstanding whether the deal is made as one or several mutually connected deals (Article 45, paragraph 2). Duties of the mentioned supervisory and control authorities are stipulated by the art.46 of AML/CFT Law .

Recommendation of the IMF/Moneyval report	*Agencies assigned oversight responsibility should have adequate legal authority, resources and capacity to monitor and enforce compliance with AML/CFT requirements.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In 2007 a draft Law On the Prevention of laundering of Proceeds derived from Criminal Activity and the Financing of Terrorism was prepared to meet the requirements of the EU 3rd Directive. Section 8 of the Law lists the rights and responsibilities of supervisory and control authorities. The annotations of the said draft Law specifically include information on the funding necessary to ensure supervision. E.g., concerning the State Revenue Service and its duty to supervise the non-financial sector a concrete number of staff and funding required has been indicated for the coming years. To ensure training of control and supervisory authorities by the FIU 3 new staff positions have been allotted to the FIU (including the funding for salaries, working places and equipment for the 3 new staff members).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The chapter VIII of AML/CFT Law stipulates Rights and duties of a Supervisory and Control Authority. Article 45 of the AML/CFT Law designates supervisory (Financial and Capital Market Commission, Bank of Latvia, The State Revenue Service and others) and control authorities (Latvian Council of Sworn Advocates, Latvian Council of Sworn Notaries, Latvian Association of Certified Auditors) for the subjects of the law and in Article 46 the AML/CFT Law defines the monitoring compliance with AML/CFT Law requirements as a duty for each of the designated authority and Article 47 defines the rights of a supervisory and control authority. The provisions of AML/CFT Law (Article. 46, paragraph 1, point 8) stipulates supervisory and control authorities every year by February 1, to compile and submit to the Financial Intelligence Unit the statistical information on the measures taken in the previous year in respect of the supervision and control of the persons subject to this AML/CFT Law. At the beginning of year 2009 (05.03.2009) FIU reported to the Advisory Board this statistical information (number of subjects of law, cooperation with authorised foreign institutions, internal control systems, trainings, inspections, sanctions) as it is required by AML/CFT Law (Article. 59 point 1). AML sanctions imposed by these authorities are given by table Administrative Sanctions in statistical part of this report.
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 44, paragraph 2 defines that all the subjects of the Law that are not supervised and controlled by other governmental or self-regulatory institutions, are supervised by State Revenue office.

Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Article 45, paragraph 2 defines that The State Revenue Service shall supervise the following persons subject to this Law: 1) tax advisors, external accountants; 2) independent legal professionals when they act in the name of their customers to assist in the planning or execution of a transaction, to participate in any transaction or to perform other professional activity related to transactions or confirm a transaction for the benefit of the customer, and the transaction is: a) buying or selling real estate, an enterprise; b) managing a customer's money, financial instruments and other funds; c) opening or managing all kinds of accounts with credit institutions or financial institutions; d) creating, managing or ensuring the operation of legal arrangements, making investments necessary for creating, managing or ensuring the operation of legal arrangements; 3) legal arrangement and company service providers; 4) persons acting in the capacity of agents or intermediaries in real estate transactions; 5) other legal or natural persons trading in real estate, transport vehicles and other articles, acting as intermediaries in such transactions or providing services in relation to such transactions, where the payment is made in cash in lats or other currency and the amount, at the exchange rate set by the Bank of Latvia on the transaction day, is equivalent to 15 000 euros or more, whether the transaction is made as a single operation or several linked operations. Where the transaction is made in a foreign currency whose official exchange rate is not set by the Bank of Latvia, the exchange rate that is published on the first business day of the current week in the information source indicated by the Bank of Latvia shall be used for the calculation.
Recommendation of the IMF/Moneyval report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 45 defines AML/CFT duties and functions for supervisory authorities. Article 46 in its turn defines powers for the supervisory authorities.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The numbering of articles mentioned in the 1st progress report has been changed to Article 46 and 47 accordingly. In accordance with the Article 46 (paragraph 1) a supervisory and control authority shall have the following duties: *1) to list and register the persons subject to this Law to be supervised;* *2) to train the employees of the persons subject to this Law under its supervision and control in respect of the prevention of money laundering and of terrorist financing;* *3) in accordance with the established methodology, to perform regular inspections to assess the fulfilment by the persons subject to this law of the requirements of this AML/CFT Law, take a decision to prepare an inspection statement and apply sanctions where violations are detected;* *4) to report to the Financial Intelligence Unit unusual and suspicious transactions uncovered during inspections that had not been reported to the Financial Intelligence Unit by the person subject to this AML/CFT Law;* *5) on request of the Financial Intelligence Unit, to provide it with methodological assistance for fulfilling the functions assigned to it by this AML/CFT Law;*

	6) to apply or urge other competent authorities to apply the sanctions, as set out in other regulatory provisions, for the violation of such provisions and control the measures taken to remedy the violations; *7) on its own initiative or on request, to exchange information with foreign institutions whose responsibilities are in essence the same, ensuring data confidentiality and their application only for mutually agreed purposes;* *8) every year by February 1, to compile and submit to the Financial Intelligence Unit the statistical information on the measures taken in the previous year in respect of the supervision and control of the persons subject to this AML/CFT Law;* *9) to take the necessary administrative, technical and organisational measures to ensure that the information obtained while fulfilling the requirements of this Law is protected, prevent unauthorised access to information or unauthorised amending, disseminating or destroying of information. The manager of the supervisory and control authority shall establish the procedure whereby information is registered, processed, stored and destroyed. The supervisory and control authority shall keep information for at least five years;* *10) to exchange information with the supervisory and control authorities of other countries that perform equivalent functions to take measures for reducing the possibility of money laundering and terrorist financing.*
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	In accordance with the Paragraph 2 of Article 46 the Latvian Council of Sworn Notaries, the Latvian Council of Sworn Advocates and the Latvian Association of Certified Auditors shall exercise supervision and control for the fulfilment of the requirements of this AML/CFT Law pursuant to the procedure set out in the regulatory provisions governing their activities. These organisations shall have the following duties: *1) to develop the procedure whereby a set of measures is developed in respect of the persons subject to this Law for ensuring compliance with the requirements of this AML/CFT Law;* *2) to ensure training for the employees of the persons subject to this law under its supervision and control in respect of the prevention of money laundering and terrorist financing;* *3) to apply or urge other competent authorities to apply the sanctions for the violation of the requirements of AML/CFT Law.* In accordance with Article 47 a supervisory and control authority shall have the following rights: *1) to visit the premises that belong to or are used by the persons subject to this law under its supervision or control and are connected with their economic or professional activities and carry out inspections there;* *2) to request that the persons subject to this Law under its supervision or control submit information related to the fulfilment of the requirements of this law, request to produce original documents, review and get copies or duplicates thereof, get relevant explanations and perform activities to prevent or reduce the possibility of money laundering or terrorist financing;* *3) to prepare statements evidencing the violations of the requirements of this AML/CFT Law and the facts related thereto;* *4) to establish the deadline by which the persons subject to this law shall remedy the detected violations of the requirements of this Law and control the fulfilment of the remedial measures;* *5) to publish statistical information on the violations of the requirements of this*

	AML/CFT Law and sanctions applied; *6) to request that public and derived public person institutions submit any information available to them for the fulfilment of the responsibilities as set out in this Law;* *7) to issue proposals to the persons subject to this law for the fulfilment of their responsibilities as set out in this AML/CFT Law.* The Financial and Capital Market Commission shall be entitled to issue regulatory provisions for the supervision and control of the prevention of money laundering and terrorist financing and establish binding requirements for credit institutions and financial institutions, excluding capital companies that engage in buying and selling cash foreign currency (currency exchange), for the fulfilment of their responsibilities set out in this AML/CFT Law in respect of the establishment of an internal control system, of the identification of the beneficial owner and of assuring that the person indicated as the beneficial owner is the beneficial owner in respect of the customer, of the supervision of the transactions made by the customer and of knowing the customer's economic activity.
Recommendation of the IMF/Moneyval report	*Where applicable, the law(s) should override confidentiality provisions to allow supervisory and control authorities to monitor and enforce compliance with AML/CFT requirements*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Supervisory and control authorities duties and functions include exchange of information on their own initiative and under requests of foreign authorities with similar duties provided that data confidentiality is ensured and the use of the data is possible only for mutually agreed purposes, exchange information with other supervisory and control authorities with similar functions in their own country in order to act towards minimizing money laundering and terrorist financing possibility. The duty of the institutions is to provide necessary administrative, technical and organizational measures to ensure information obtained for the purposes of observing the AML Law protection, ensure unauthorized access of such information, prevent its possible amending, distributing or destroying. The procedure for registration, processing, keeping and eliminating the information is defined by the manager of the supervisory and control institution. The information is maintained by the supervisory and control institution for at least five years (article 45, paragraph 1, points 8, 10, 11). Supervisory and control institutions has the right to visit and examine entities under their supervision and control at the places of their activities they own or rent (Article 46, point 1), as well as obtain from the entities under supervision and control information connected to the observing the AML/CFT Law, demand to present original documents, review and receive copies of them, receive relevant explanations, as well as act to preclude or minimize possibilities for money laundering or terrorist financing (Article 46, point 2).
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Article 45, paragraph 1, points 8, 10, 11 should be read as Article 46, paragraph 1, points 7-10. Article 46 should be read as Article 47. Content has been preserved as it was.

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 25 (Guidelines and feedback)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Issue regulations or guidelines appropriate to the categories of DNFBP under legal authority sufficient to qualify as enforceable means.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In accordance with the article 45, point 3 of paragraph 1 one of the duties of the supervisory and control authorities is to create regulations for AML/CFT supervising and control, binding the subjects of the law to observe the requirements of the law. So now the regulations and guidelines issued by these institutions may qualify as enforceable means.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Article 45 should be read as Article 46 now. In accordance with the Article 46, paragraph 2 of AML/CFT Law the Latvian Council of Sworn Notaries, the Latvian Council of Sworn Advocates and the Latvian Association of Certified Auditors shall exercise supervision and control for the fulfilment of the requirements of this AML/CFT Law pursuant to the procedure set out in the regulatory provisions governing their activities. These organisations shall have the following duties: *1) to develop the procedure whereby a set of measures is developed in respect of the persons subject to this law for ensuring compliance with the requirements of this AML/CFT Law;* *2) to ensure training for the employees of the persons subject to this law under its supervision and control in respect of the prevention of money laundering and terrorist financing;* *3) to apply or urge other competent authorities to apply the sanctions, as set out in other regulatory provisions, for the violation of the requirements of this AML/CFT Law.* State Revenue Service adopted its Methodological material regarding Prevention of Laundering Proceeds derived from Criminal Activity and Financing of Terrorism and its application to the subjects of the law, which are supervised by State Revenue Service. So now the regulations issued by these institutions may qualify as enforceable means
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 33 (Legal Persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The authorities should amend the law to:* • *ensure that information on the ownership of all bearer shares is available*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Article 228 of the Commercial Law stipulates that stock may be registered stock or bearer stock. The rights arising from registered stock belong to the person who, as a stockholder, is recorded in the register of stockholders. The rights arising from bearer stock, on their part, belong to the person who owns such stock. Part one of Article 236 of the Commercial Law provides that stockholders, members of the board of directors and of the council, the auditor, and competent State authorities have the right to become acquainted with the register of stockholders. Thus any competent State authority is entitled, basing upon a reasonable necessity, to become acquainted with the register of stockholders and the persons registered therein, as well as to obtain information on the number of shares of stock belonging to stockholders. As regards the bearer stock not registered in the register of stockholders, as a result of which it is impossible to promptly obtain information on the owners of the stock, we have to point out that amendments are being made to the Commercial Law, providing for the creation of a separate register, in which bearer stock issued by a stock company will be registered. At the same time, the said amendments will provide that the bearer stock in paper format will be eliminated. As regards the legal situation before the entrance into force of the said amendments to the Commercial Law, it should be noted that, although the bearer stock is not registered in the register of stockholders or in any other public register, documentation has to be available at the stock company attesting the number of shares of stock the company has issued. The aforesaid information may be provided to the competent State authority pursuant to a duly reasoned request of the latter.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Since the first progress report Latvia has amended CoL regulation and the changes have made a positive impact to availability of information on the ownership of bearer shares. First of all, important amendments have been made in the part 2 of Article 229 of the CoL providing that the bearer shares may be issued only in dematerialised form (paper form is prohibited). Supplementary part 1 of Article 236 [1] provides that management body of the company takes the action ensuring that the bearer shares are entered in the Latvian Central Depositary according to the Financial Instrument Market Law regulation. Shareholder is allowed to transfer shares registered in the Latvian Central Depositary to own account of the financial instrument. Article 236 [2] of the CoL provides that the company or the public authority has right to request information from the Latvian Central Depositary about the bearer shares holders according to the procedure stipulated in the Financial Instrument Market Law. It means that according to the information provided by the Latvian Central Depository it is possible to identify the persons who have opened financial instrument accounts. Supplementary for a statistical information Latvia points at the fact that till now in the Enterprise Register have been registered about 278 public limited liability companies (share companies) and only 42 of them are companies which have issued bearer shares. Taking into account previously mentioned CoL amendments Latvia has fulfilled the recommendation in the way to ensure that the information on the ownership of all bearer shares is available.

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	In context with the previously given information Latvia sees no need to consider other manageable arrangements since the requested recommendation is fulfilled.
Recommendation of the IMF/Moneyval report	*The authorities should amend the law to:* • *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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Part five of Article 6 and Part two of Article 8 of the Group of Companies Law provides for the obligation of the participant to indicate the true beneficiary to the capital company; the capital company, on its part, has the obligation to hand this information over to the Enterprise Register. The Enterprise Register has not encountered a case of being informed about a stock company shareholder acting on behalf of another person – the true beneficiary. Moreover, the implementation of the said legislative provision, which would impose the obligation to register in the stock company register of stockholders or in any other public register also the true beneficiary of the stock, does not guarantee the conditions of the proper person being indicated. In the CL, criminal liability is provided for such criminal offences as document counterfeiting and different fraudulent actions.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	To fulfil the requested recommendation Latvia has prepared CoL amendments, which are submitted to the Cabinet of Ministers for approval. After then CoL amendments will be submitted to the Parliament for approval in the nearest future. As soon as the amendments will be adopted (planned time – the beginning of the year 2010), requested action will be taken accordingly to the below mentioned provisions of law.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Latvia has prepared CoL amendments, which include beneficial owner definition in a capital company and this definition corresponds to the general beneficial owner definition in the Anti Money Laundering and Financing of Terrorism Law (see the section "Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)" – Beneficial owners). As a beneficial owner in a capital company will be considered a natural person – member (shareholder) of the company. This statement is justified with an argument that according to the existing commercial law system comprehension the member (shareholder) is the person who receives economical and financial benefit from the company and has the rights to directly affect the decision taking process of the company. So it means that the member (shareholder) is the true beneficial owner. Latvia also points at very substantial changes that are planed with the prepared CoL amendments. According to the part 5 of Article 6 of the existing Group of Companies Law regulation a person who holds parts (shares) in his or her name but for the benefit of another person, shall be obliged to indicate the person for whose benefit the parts (shares) are held Remark: this obligation applies only when the membership in the company increases or diminishes over the regulated level in the Group of Companies Law (starting point – 10% of the membership in the company). But the prepared CoL amendments will provide the same information submission obligation no only in the case when the group of

	companies has been formed but in every single case when the person who holds shares in his or her name but for the benefit of another person. This third person also may be able to indirectly make an influence to the decision taking part in the processes of the company. Therefore this third person could be considered as a beneficial owner as well and Latvia holds a view that it is important to set out an obligation to collect information about it. As regards the information availability obligations, the information about the member of a private limited liability company is included in the list of members, which must be submitted to the Enterprise Register and is publicly available. This information is also available for the members, members of the board of directors and of the council, the auditor, and for the competent state authorities. The information about the shareholder of a public limited liability company is also included in the list of shareholders and according to the part 1 of Article 236 of the CoL shareholders, members of the board of directors and of the council, the auditor, and competent state authorities have the right to become acquainted with the register of stockholders. As regards the information about the person who holds parts (shares) in his or her name but for the benefit of another person, according to planned CoL amendments company has an obligation to preserve this information. Members (shareholders) of the company, members of the administration board and the council and the competent public authorities will exercise the rights to get acquainted with this information. This kind of regulation is very important as it ensures the information availability of all beneficial ownership of the company. In additional Latvia points that the CoL amendments also ensure obligation of every member (shareholder) who is a legal person to provide the company with the information about its members. In this case rights of the members (shareholders) of the company are observed, members of the administration board and the council, and the competent public authorities have rights to get acquainted with this information. Prepared CoL amendments are submitted to the Cabinet of Ministers for approval. After then CoL amendments will be submitted to the Parliament for approval in the nearest future.
Recommendation of the IMF/Moneyval report	*The authorities should amend the law to:* • *Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The Group of Companies Law lays down a demand to provide information on stockholders whose participation in the commercial company starts from 10 per cent of the stock. The Group of Companies Law provides that commercial companies are obliged to disclose both the nominal participants (stockholders) who own at least 10 per cent of the stock and the actual participants (if the nominal participants act on behalf some other person), yet in practice this requirement is rather seldom observed. In most cases the Enterprise Register has no information on individual stock company stockholders who own at least 10 per cent of the capital. Thus this information is unavailable also to third parties. Several solutions are being considered to eliminate this problem. One of the solutions discussed is transferring the provisions of notifying about participation from the Group of Companies Law to the Commercial Law, about the requirements of which users of law are rather well informed. Thus the Commercial Law would include both the requirement to disclose the holders of the biggest shares and the requirement to notify about the true beneficiaries.

	In order to carry out more effectively the obligations set out in laws and regulations, proper sanctions are provided for in cases of non-compliance with these obligations. Currently Article 166.[3] of the Administrative Violations Code of Latvia provides for general administrative responsibility for not submitting information to the Enterprise Register. However, the Enterprise Register has difficulty in controlling the compliance with the Group of Companies Law and finding out about the possible violations of compliance with the said law. Therefore a requirement could be provided for in the Commercial Law to indicate in the minutes of plenary meetings of stockholders every stockholder present who represents at least 10 per cent of the voting equity capital. This information would enable the Enterprise Register to maintain a certain control over the compliance with the requirements of the Group of Companies Law. In case such stockholders' names appear in the minutes on which no previous notification has been provided, it would give ground for drawing up an administrative violation report. In addition, this would provide a reason for suspending registration, as the documents submitted would be inconsistent with the documents present in the registration file. The drafting of a new law, "On Groups of Companies", is planned in Latvia in 2008.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Ensuring the requested recommendation there is a need to make complex manageable arrangements. Latvia is working on the new draft of the CoL amendments (including the Group of Companies Law regulation), which will be submitted to the Parliament for the approval in the first quarter of the year 2010. Necessary CoL amendments are submitted to the Cabinet of Ministers for approval. After then CoL amendments will be submitted to the Parliament for approval in the nearest future.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Latvia has drawn up a policy planning paper "Effectiveness improvement of the Group of Companies law regulation". This policy planning paper is considered as a legal ground for the further work on the draft of a new law "On Groups of Companies" because it identifies the main problems which causes low effectiveness of the existing Groups of Companies Law regulation: ineffective administrative mechanism for the reporting system about the enlargement or the reduction of the membership in the company. The Cabinet of Ministers has approved the needed solution – to include the Group of Companies Law regulation in the CoL regulation. The work at the new draft of the CoL regulation has been starting. In addition, Latvia points at the prepared CoL amendments which include obligations to submit information in the registration process as regards the foundation of a company in the case when founding member (shareholder) acquires parts (shares) in his or her name but for the benefit of another person. In this case Enterprise Register shall be provided with the relevant information. In the situation when the founding member (shareholder) is a legal person, Enterprise Register shall be provided with the information about its members. Ensuring a safe commercial environment, Enterprise Register according to part 1 of Article 14 of the Law on Enterprise Register of Republic of Latvia has a duty to check the submitted information regarding following aspects: a) the registration jurisdiction is observed; b) there are submitted all the necessary documentation which is a legal ground to make an entry in the commercial register; c) the submitted documentation, which is legal ground to make an entry in the commercial register, has a legal power and the documentation form

	corresponds to the law obligations and the information, included in the documents, corresponds to the law obligations; there are no legal barrier to the registration.
Recommendation of the IMF/MONEYVAL report	*The authorities should amend the law to:* • *Enhance powers to investigate and monitor compliance with these requirements.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The monitoring of the submission of information by legal persons to the Enterprise Register and the veracity of the information submitted is carried out by the Enterprise Register. According to Paragraph four of Article 4 of the law "On the Enterprise Register of the Republic of Latvia", the Enterprise Register reports to the appropriate authorities (investigating authorities, a.o.) about the possible violations of laws and regulations and draws up administrative violation reports on the detected violations of laws and regulations. The liability for not complying with the provisions regarding accounting as set out in the laws and regulations, not submitting annual reports, statistical reports or statistical information by the due dates specified in the laws and regulations, or incomplete submitting to the appropriate State authorities or evading from the submission of the said information or documents is provided for in Article 166.[6] of the Administrative Violations Code of Latvia. In Article 217 of the CL, "Violation of Provisions Regarding Accounting and Statistical Information" the liability is laid down for committing violations of provisions regarding the conducting of accounting documentation or of procedures regarding compilation of annual reports or statistical reports, prescribed by law for an undertaking (company), institution or organisation, or late or incomplete submitting of annual reports, statistical reports or statistical information to the appropriate State authorities. Moreover, the same article sets the liability for concealing or forging accounting documents, annual reports, statistical reports or statistical information required by law regarding an undertaking (company), institution or organisation. The investigation of such offences in Latvia is basically carried out by the Financial Police and the Economic Police. No changes to the laws and regulations are needed to increase the efficiency of investigation as, according to the CPL, the investigating bodies have broad authorities to carry out investigation. The efficiency of investigation should be increased by deepening the knowledge of investigation officers.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Latvia considers that taking into account the information provided in 2007 the recommendation is fulfilled.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 38 (MLA on confiscation and freezing)	
Rating: Partially compliant	
Recommendation of the IMF/MONEYVAL Report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	According to Article 785 of the CPL, the request of a foreign state for the confiscation of property is to be executed, if the CL of Latvia provides for such confiscation as a basic penalty or additional penalty regarding the same offence, or if property would be confiscated in criminal proceedings taking place in Latvia on grounds provided for in another law. However, if the CL of Latvia does not provide for the confiscation of property, confiscation is to be applied only in the amount determined in the judgment of the foreign state, that the asset to be confiscated is a tool of the committing of the offence or has been obtained by criminal means. According to Article 780 of the CPL, a request for the execution of a sentence imposed in a foreign state (including also confiscation of property) may be rejected, if: 1. There are grounds for believing that the sentence has been specified due to the race, religious affiliation, nationality, gender, or political views of the person, or if the order is recognised as political or expressly military. 2. The execution of the sentence would be in contradiction to the international obligations of Latvia toward another state. 3. The execution of the sentence would be in contradiction to the basic principles of the Latvian legal system. 4. Criminal proceedings regarding the same offence regarding which the sentence has been imposed in a foreign state are taking place in Latvia or have been completed with a final adjudication. 5. The execution of the sentence in Latvia is not possible. 6. A competent institution of Latvia finds that the foreign state is capable of executing the judgment itself. 7. The offence was not committed in the foreign state that imposed the sentence to be executed. Thus it has to be concluded that the CPL lays down specific provisions where the request of a foreign state for the execution of the confiscation of property may be refused and the competent authority has no right to refuse the execution of the request on the grounds of any other provisions. The decision to execute the request of a foreign state to confiscate property or to refuse from executing such request is taken by the competent authority in strict correspondence to the procedures provided for in the CPL; namely, it is possible to refuse from executing the imposed sentence only on the grounds of the provisions laid down in Article 780 of the CPL. In addition, as regards the co-operation with the European Union Member States, we inform that Latvia is currently adopting the Council Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders. The purpose of this Framework Decision is to facilitate cooperation between Member States as regards the mutual recognition and execution of orders to confiscate property so as to oblige a Member State to recognise and execute in its territory confiscation orders issued by a court competent in criminal matters of another Member State. The due date for the implementation of the Framework Decision is November 24, 2008.

	In the aforesaid Framework Decision, confiscation order is defined as a final penalty or measure imposed by a court following proceedings in relation to a criminal offence or offences, resulting in the definitive deprivation of property.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	There is additional amendment elaborated into Article 780 of the CPL, which provides to replace the possibility to reject the execution of the request for execution of the judgment with the obligation, namely word "may refuse" is replaces with word "refuses". The amendment is in force since June 29, 2008. Additionally Latvia implemented the Council Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders and amendments to the CPL are taken force on June 14, 2009. CPL 17.Chapter "Recognition and Fulfilment of the Criminal Judgments of Another State" is supplemented with corresponding articles. The amendments provide detailed procedure for execution and request of confiscation of property. The cooperation with other Member States, as provided with several other Framework decisions, is based on the certificate, or uniform form, which replaced the free-form request. Taking into account previously mentioned CPL amendments Latvia has fulfilled the recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Additionally, the draft Criminal Procedure Law implementing the Warsaw Convention (Article 28) provide to supplement Article 780 with 3 additional grounds for refusal, namely, * the execution of the request is likely to prejudice the sovereignty, security, order public or other essential interests of the requested Party; * the importance of the case to which the request relates does not justify the taking of the action sought; * decision taken in absentia.
Recommendation of the IMF/MONEYVAL report	*Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefore.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	According to Article 355 of the CPL, property shall be recognised as criminally acquired, if such property has come into the property or possession of a person as a result of a criminal offence. If the opposite has not been proved, property and financial resources shall be recognised as criminally acquired if such property or resources belong to a person who: is a member of an organised criminal group, or supports such group; has him or herself engaged in terrorist activities, or maintains permanent relations with a person who is involved in terrorist activities; has him or herself engaged in the trafficking of human beings, or maintains permanent relations with a person who is engaged in the trafficking of human beings; or has him or herself engaged in criminal activities with narcotic or psychotropic substances, or maintains permanent relations with a person who is engaged in such activities. Moreover, Article 358 of the CPL stipulates that if an accused does not have property that may be subjected to confiscation, among the property confiscated may be also the property that the accused person has alienated to a third person after the committing of the criminal offence and without corresponding consideration; the property of the spouse of the accused person, if separate ownership of the property of the spouses was not specified during a term of the last three years before the commencement of the criminal offence; the property of another person, if the accused has a common (undivided)

	household with such person. If criminally acquired property has not been confiscated in accordance with Article 548 of the CPL, it is to be confiscated in accordance with Article 240 of the CPL, which stipulates that a judgment or decision regarding the termination of criminal proceedings shall indicate what is to be done with material evidence and documents, namely: 1) materials, documents, and valuable shall be returned to the owner or lawful possessor thereof; 2) the tools of a criminal offence owned by a suspect or accused shall be confiscated; 3) criminally obtained valuable, materials, and documents shall be confiscated; 4) materials the circulation of which is forbidden shall be transferred to the relevant institutions, or destroyed; 5) materials that do not have any value shall be issued to interested person on the basis of a request thereof, or destroyed. At the same time it should be noted that the draft law "On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism" provides for the harmonization of the term "proceeds", as well as the term "financial resources", with the Convention for the Suppression of the Financing of Terrorism. In addition, we also note that the Ministry of Justice has completed a draft law "Amendments to the Criminal Procedure Law" in order to implement the European Union Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property (2005/212/JHA). The purpose of the Framework Decision is to ensure effective cross-border co-operation regarding confiscation. The draft law is intended to supplement Part two of Article 355 of the CPL with actions the property resulting from which, if the opposite has not been proved, is considered to be criminally acquired in accordance with the Council Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, the Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence, and the Council Framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography. It is planned that soon the draft law will be submitted to the Cabinet of Ministers for reviewing. Article 1 of the draft law "Amendments to the Criminal Procedure Law": "1. Part two of Article 355 shall be supplemented with Paragraphs 5, 6 and 7 in the following wording: 5) has him or herself engaged in criminal activities with counterfeit currency, State financial instruments or maintains permanent relations with a person who is engaged in such activities; 6) has him or herself engaged in criminal activities with the aim of crossing the State border or facilitating the transportation of another person across the State border, or providing other persons with the possibility to illegally reside in the Republic of Latvia, or maintains permanent relations with a person who is engaged in such activities; 7) has him or herself engaged in criminal activities related to the circulation of materials containing child pornography or has involved children into prostitution or the performing of sexual activities, or has committed actions of sexual or pornographic character with children, or maintains permanent relations with a

	person who is engaged in such activities.'" As regards the confiscation of instrumentalities, we inform that in accordance with the aforementioned Article 240 of the CPL, also the tools of a criminal offence owned by a suspect or accused are to be confiscated. In addition, as regards the identification of instrumentalities to be confiscated, we inform that, according to Article 361 of the CPL, an attachment is imposed on property in order to ensure the solution of a financial matter in criminal proceedings, as well as the possible confiscation of property. An attachment may be imposed on the property of an arrested person, suspect, or accused, and also on property due to such person from other persons, or the property of persons who are materially liable for the actions of the suspect or accused. An attachment may also be imposed on criminally acquired property, or property related to criminal proceedings that is located with other persons. At the same time we consider that currently there is a sufficiently effective mechanism developed as to the execution of requests of foreign states regarding the identification of proceeds to be confiscated, which is being carried out in the framework of Division Eighteen of the CPL, "Assistance in the Performance of Procedural Actions". According to Article 812 of the CPL, "Competent Institutions in the Examination of a Request of a Foreign State", in the pre-trial proceedings stage a request of a foreign state is examined and decided by the Office of the Prosecutor General, and up to the commencement of criminal prosecution – the Ministry of the Interior. In the trial stage, a request of a foreign state is examined and decided by the Ministry of Justice. A request of a foreign state regarding the provision of assistance in the performance of a procedural action is decided immediately, but not later than within a term of 10 days after the receipt thereof. If additional information is necessary for the deciding of a request, such information is requested from the state that submitted the request.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The amendments to the Criminal Procedure Law in order to implement the Framework Decision on Confiscation of Crime-Related Proceeds, Instrumentalities and Property (2005/212/JHA) are in force from June 29, 2008. Additionally, there are several amendments made in the CPL, which took force on July 1, 2009. • There is amendment to Article 240 part 3 the terminology was specified, namely, "criminally obtained valuable, materials" were replaced with "proceeds", which makes clear what property is confiscated; • At the same time there is another amendment in Article 240 part 1, with additional subparagraph 6, which provides that materials, which were planned to use or used to commit the offence, is confiscated. In addition 240 is supplemented with part 3, which provides that if offence is committed with a tool, which is owned by other person, it is possible to confiscate other property of the suspect or accused or to collect financial resources with value of the tool. • The Article 355, part 1 before the amendment part 1 provided that property shall be recognised as criminally acquired, if such property has come into the property or possession of a person as a result of a criminal offence. The amendment specified that property come into the property or possession of a person **directly or indirectly**; • There is an amendment to Article 356 "Recognition of Property as Criminally Acquired". Article 356, part 1 provides that property may be recognised as criminally acquired by a court adjudication that has entered into effect, or by a decision of a public prosecutor regarding the

	termination of criminal proceedings. Before the amendment during pre-trial criminal proceedings, property was also recognised as criminally acquired by a decision of a district (city) court in accordance with the procedures specified in Chapter 59 of this Law, <u>if the owner or lawful possessor of the property is unknown</u>, and a person directing the proceedings has sufficient evidence that does not cause any doubt regarding the criminal origins of the property (the connection of the property with a criminal offence). The amendment provides to exclude the reference to the owner or lawful possessor, which narrowed down the applicability of Chapter 59. • There is an addition to Article 358 "Confiscation of Criminally Acquired Property" part 2, which provides that if an accused does not have property that may be subjected to the confiscation referred to in Paragraph two of this Section, the following may be confiscated the property of the spouse of the accused person, if separate ownership of the property of the spouses was not specified during a term of the one year before the commencement of the criminal offence. There is additional amendment elaborated into Article 780 of the CPL, which provides to replace the possibility to reject the execution of the request for execution of the judgment with the obligation, namely work "may refuse" is replaces with word "refuses". The amendment is in force since June 29, 2008. Due to implementation of the Framework decision Council Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders Article 785 "Determination of a Confiscation of Property to be Executed in Latvia" was amended, namely provision on the sharing of property was elaborated into different Article, but Article 785 was supplemented with regulation, when Latvia receive several requests for execution of confiscation, in cases when several requests received for the property of one person and there is not enough of property, as well as several requests received for specific property. It is provided that in such cases it should be taken into account the weight of the offence, the time of arrest, as well as sequence of the requests.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	In May, 2005 Latvia signed Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. On August 11, 2009 the Cabinet of Ministers adopted 5 draft laws, which were elaborated with the goal to be able to ratify the above mentioned Convention. One of the draft laws is "Amendments to Criminal Procedure Law". Right now the draft laws are evaluated by Latvian Parliament.
Recommendation of the IMF/MONEYVAL report	*A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In Latvia, there is no specific asset forfeiture fund and mechanism for the sharing of confiscated assets. According to Part three of Article 785 of the CPL, in Latvia a foreign state may submit a request for the issuance of the confiscated property or part of such property. The question of returning a confiscated property to a foreign state in each particular case is decided by the competent authority (the Ministry of Justice). "Article 785. Determination of a Confiscation of Property to be Executed in Latvia (3) A competent institution shall decide, in each concrete case, a request regarding the return of confiscated property, or a part thereof, to a foreign state."

Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	There are amendments made to the CPL with relation to the sharing of confiscated assets with the EU Member States, as well as third countries. The amendments are in force from July 14, 2009. The amendments provide to delete part 3 of the Article 785, but the same time to include Article 785. [1] which provides criteria with relation to sharing with foreign states of funds or property, which was obtained due to confiscation. (1) The Ministry of Justice in each concrete case decide with regards to request to share funds or property. (2) In taking of decision on sharing of funds the amount of funds, harm done and place of victims should be taken into account. (3) The Ministry of Justice may take a decision to return property after the request of foreign state. (4) The Ministry of Justice may refuse to execute request if the request received after one year after the date, when foreign state received information on execution of foreign confiscation request. (5) Procedure, how the funds and property is shared and how the funds are transferred, is provided by the Cabinet of Ministers. At the same time the CPL is supplemented by Article 801.[16], which provides similar provision with relation to the EU Member States with several additional criteria in accordance with Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders. Article 801.[16] provides the criteria for sharing of proceeds, for example, part 2 provides that, if the amount obtained from the execution of the confiscation order is above EUR 10 000 the Ministry of Justice takes a decision for disposal of half of the amount to the requesting State. Moreover, part 3 provides that if there are other circumstances, the Ministry of Justice may agree for disposal of more then half of the confiscated amount, taking into account the harm done as well as residence of victims.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The Cabinet of Ministers regulations provided by CPL Article 785.[1] and Article 801.[16] are at the stage of development. During the elaboration of the regulation of the Cabinet of Ministers the procedure and criteria of disposal of confiscated property is evaluated in great detail. It is planed Article 785. [1] with relation to the third states amend with regards to criteria

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Define "financial resources" and "property" in accordance with the Terrorist Financing Convention.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The draft law "On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism" provides for the harmonization the definition of the term "proceeds", as well as "financial resources", with the Convention for the Suppression of the Financing of Terrorism. At the same time the drafted law "On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism" provides a definition of the term "resources (property)", namely, financial resources or any other form of corporeal or incorporeal, movable or immovable property. In the drafted law provides a definition of the term "financial resources", namely, payments assets in way of cash or money clearings, precious metal, as well as any kind of form of financial

	instruments or documents (also digital or electronic), that certify the right of a person to these assets or property or confer a right to benefit from it.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	The AML/CFT Law is in force from August 13, 2008. Article 1, part 1 provides definition of "resources" as financial resources or any other form of corporeal or incorporeal, movable or immovable property. Article 1 point 2 provides definition of "financial resources" as *financial instruments or payment instruments (cash or non-cash), documents (on paper or in an electronic form) that are held by a person either in ownership or possession and entitle the person to any benefit thereof, as well as precious metals in ownership or possession*. Taking into account previously mentioned information Latvia has fulfilled the recommendation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	In context with the previously given information Latvia sees no need to consider other manageable arrangements since the requested recommendation is fulfilled.
Recommendation of the IMF/MONEYVAL report	*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)*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Division Eighteen of the CPL provides for the procedures of international co-operation regarding the assistance in the performance of procedural actions, including also an attachment of property. According to Article 813 of the CPL, the request of a foreign state regarding the provision of assistance in the performance of a procedural action is to be fulfilled in accordance with the procedures specified in the CPL. According to Article 361 of the CPL, an attachment on property is imposed in order to ensure the solution of a financial matter in criminal proceedings, as well as the possible confiscation of property. An attachment may be imposed on the property of an arrested person, suspect, or accused, and also on property due to such person from other persons, or the property of persons who are materially liable for the actions of the suspect or accused. An attachment may also be imposed on criminally acquired property, or property related to criminal proceedings, that is located with other persons. In pre-trial proceedings, an attachment is imposed on property with a decision of a person directing the proceedings that has been approved by an investigating judge, but during a trial the decision is taken by a court. In Latvia, when executing the request of a foreign state regarding the provision of assistance, no distinguishment is made as to foreign nationals, citizens or permanent residents of the European Union or citizens of Latvia. We consider that no specific regulation is necessary regarding citizens or permanent residents of the European Union, as such regulation might be discriminating.

Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Latvia considers that taking into account the information provided in 2007 the recommendation is fulfilled.
Recommendation of the IMF/MONEYVAL report	*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)*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	There is no national list containing terrorist names or names of terrorist organizations. Such a list has been made in the frame of EU Common Foreign Policy and Security based on the Council Regulation (EC) # 2580/2001 from 27.12.2001. The Council, by unanimous decision, and in accordance with the Common Position 2001/931/CFSP Art. 1 (p. 4,5,6) creates, reviews and amends the list of persons, their groups and organizations to which the said regulation applies. The EU has a clear procedure according to which terrorists or terrorist groups are included in the said list or de-listed. Decisions are taken in the frame of EC Working Group CP 931 (Clearing House). Latvia is represented in the group by the Ministry of Foreign Affairs. Information on the necessity to include or de-list a person or an organization is provided to the Working Group by the Foreign Affairs Ministry based on reports provided by the Security Police or the Constitutional Defense Bureau. Decision on the inclusion or de-listing, as already mentioned above, is taken by a unanimous consent from the part of the representatives of all 27 EU member states.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	There are no substantial changes since the first progress report.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Alongside with mentioned above in first progress report there are changes of legal framework. Article 4 paragraph 4 of AML/CFT Law stipulates that FIU notify the persons subject to this law and their supervisory and control authorities with the terrorist lists. Cabinet of Ministers re-issued Regulation "On the Countries and International Organizations which have compiled Lists of Persons suspected of being involved in Terrorist Activity" (Regulation No.36 of 13 January 2009). The regulation defines the countries and international organizations whose compiled lists of persons, suspected of being involved in terrorist activity (the terrorist lists), shall be recognized by the Republic of Latvia. The Republic of Latvia recognizes the terrorist lists compiled by European Union and North Atlantic Treaty Organization member states. The Republic of Latvia also recognizes the terrorist lists compiled by United Nations Security Council and the European Union Council.
Recommendation of the IMF/MONEYVAL report	*Provide for access to funds for basic living expenses and legal costs.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	According to Part eight of Article 361 of the CPL, it is not allowed to impose attachment on basic necessity objects used by the person upon whose property the attachment is being imposed, or by the family members of such person and the persons dependent on such person. The list of such objects is determined in Annex 1 of the CPL. It stipulates that the following property of persons shall not be subject to an arrest: domestic furnishings, household objects, and clothing that

	are necessary for the accused, his or her family, and the persons who are his or her dependents; food products that are necessary for the subsistence of an accused and his or her family; money whose total sum does not exceed the subsistence minimum specified by the government for one month, for an accused and each of his or her family members, a.o.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Latvia considers that taking into account the information provided in 2007 the recommendation is fulfilled (the amendments have not been made).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation V (International Co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*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.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Please see the answer to Question R-38.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Please see the answer to Question R-38 Latvia has implemented in it's CPL 1) the Council Framework Decision 2003/577/JHA of 22 July 2003on the execution in the European Union of orders freezing property or evidence; 2) Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders; 3) Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties. During the year 2008 the Prosecutor's General Office of the Republic of Latvia had not refused any request on mutual legal assistance. During the first 9 months of the year 2009 there were 2 refusals of the requests on mutual legal assistance based on subparagraph b of Article 2 of the European Convention on Mutual Assistance in Criminal Matters (if the requested Party considers that execution of the request is likely to prejudice the essential interests of it's country). During the year 2008 the Prosecutor's General Office of the Republic of Latvia had not refused any request for extradition. During the first 9 months of the year 2009 there was 1 refusal on extradition based on subparagraph 1 of Article 4 of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (if the act on which the European arrest warrant is based

	does not constitute an offence under the law of the executing Member State). Every year statistics relating extradition are given to the Council of the European Union.
Recommendation of the IMF/MONEYVAL report	*Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefore.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	Please see the answer to Question R-38.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Please see the answer to Question R-38.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation VI (AML/CFT requirements for money/value transfer services)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	In accordance with the new AML/CFT Law the Latvian Post Office is a subject of the law and have a designated supervisory and control authority – Ministry of Transport (Article 44, paragraph 1, point 5). The Latvian Post Office being money transfer provider falls under the definition of financial institution as defined in the law. Financial institutions are subjects of the law according to article 3, paragraph 1, point 2. Besides Government of Latvia has conceptually agreed to establish Postal bank. After the establishment of such bank it will be supervised and controlled by Financial and Capital Market Commission.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	Though Postal bank has been granted a banking license 12.09.2008., it has not yet started its activities in full force, thus Post Office is still acting the same way. According to the AML/CFT Law the supervisory authority for Post Office is Ministry of Transport (see Article 45, point 5 of paragraph 1). With the implementation of EU Payment Services Directive Post Office as a payment services provider will be subject to the Law on Credit Institutions and in accordance with the AML/CFT Law will be supervised by FCMC

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation VII (Wire transfer rules)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*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*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	The requirements of Special Recommendation VII are observed in Latvia through Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 "On information on the payer accompanying transfers of funds". With regard to the sanctioning and supervision stipulated by this regulation the Bank of Latvia is payment system supervisor according to the Law "On Bank of Latvia", but Financial and Capital Market Commission supervises and sanctions financial market participants according to the law "On Credit Institutions".
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	In addition to information provided in the 1st Progress report in this regard it should be noted that requirements under SR VII having been implemented within the EU through "Regulation (EC) No. 1781/2006 of the European Parliament and Council of 15 November 2006 on Data on Payer accompanying Transfers of Funds" limit national implementation to establishing monitoring, enforcement and penalties regime and to applying certain derogations allowed for in Regulation No. 1781/2006. Requirements applicable to financial institutions with respect to wire transfers are therefore set out in Regulation No. 1781/2006. Violations of the Regulation are sanctionable in accordance with the Article 199 of the Law On Credit Institutions: Art 199. *For other activities as a result of which violations have occurred of the requirements of this Law or of the regulatory enactments arising from it or directly applicable regulatory enactments issued by European Union institutions:* *1) the Financial and Capital Market Commission and the Bank of Latvia shall impose a fine up to 100 000 lats on a legal person; and* *2) a natural person shall be subject to administrative or criminal liability*. Though there are no specific guidelines issued financial institutions are advised to apply the Committee of European Banking Supervisors (CEBS) document "Common understanding of the obligations imposed by European Regulation 1781/2006 on the information on the payer accompanying funds transfers to payment service providers of payees" (published on 16.10.2008.). There are no additional recommendations or guidelines issued so far in this respect.

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IX (Cash border declaration & disclosure)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.*
Measures reported as of 4 December 2007 to implement the Recommendations of the report	29.03.2007 a new law was adopted – Law On Cross Border Cash Declaration which replaces the previous text of the law from 13.10.2005. The new law stipulates that a natural person, who is obliged to declare cash on the border according to the EP Regulation of 26.10.2005 # 1889/2005 on cash control, i.e., cash which is imported into/exported out of the territory of the community (Art. 3), must declare cash by filling in a special cash declaration form in writing. The information that needs to be filled into the declaration form is defined under the Art. 3, Para.2 of the EP Regulation of 26.10.2005 # 1889/2005 on cash control. A natural person filling in the declaration form acknowledges the truthfulness of the information provided by personally signing the declaration form and hands in the declaration to the competent authority on the border. 19.06.2007 the Cabinet of Ministers Regulation # 414 On Cash Declaration Form, its Filling and Handing in and Verification Procedure was adopted. It approves the cash declaration form sample and defines the procedure according to which it must be filled and handed in and how the information included therein it is to be verified. Over 9 months of 2007 103 cash declarations for the total amount of 15,25 million EUR have been handed in by border crossers.
Measures taken to implement the Recommendation of the Report since the adoption of the first progress report	It should be added to the previous reply: The number of cash declaration reports received by FIU is as follows: 2006 – 33, 2007 – 132, 2008 – 159, over 9 month of 2009 – 150. The number of initiated criminal cases (based on section 195^2 of Criminal Law) is as follows: 2007 – 1 (2 crimes), 2009 – 1 (1 crime). The preliminary investigations are in process. Section 195^2 of Criminal Law states the criminal liability (since 8.12.2005.) for Avoidance of Declaring of Cash as follows: (1) For a person who commits the non-declaration or false declaration of cash as specified in regulatory enactments, which in crossing the State border of the Republic of Latvia is brought into the customs territory of the European Union or taken out thereof, if commission thereof is repeated within a period of one year, the applicable sentence is deprivation of liberty for a term not exceeding two years, or a fine not exceeding one hundred times the minimum monthly wage. (2) For a person who commits the non-declaration or false declaration of cash as specified in regulatory enactments, which in crossing the State border of the Republic of Latvia is brought into the customs territory of the European Union or taken out thereof, if commission thereof criminally acquired cash or if commission thereof is in an organised group, the applicable sentence is deprivation of liberty for a term not exceeding five

	years, or a fine not exceeding two hundred times the minimum monthly wage. In accordance with article 190-15 of Administrative Violations Code to a person who commits the non-declaration or false declaration of cash as specified in regulatory enactments, which in crossing the State border of the Republic of Latvia is brought into the customs territory of the European Union or taken out thereof, if commission committed in a period of one year (not repeated), the applicable fine shall not exceed 200 Lats.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

4. Specific Questions

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

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

Article 195 of the CL – "Laundering of the Proceeds from Crime"

(1) For a person who commits laundering of criminally acquired financial resources or other property, the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property.

(2) For a person who commits the same acts, if the commission thereof is repeated or if committed by a group of persons pursuant to prior agreement, the applicable sentence is deprivation of liberty for a term of not less than three and not exceeding eight years, with confiscation of property.

(3) For a person who commits the acts provided for by Paragraphs one or two of this Article, if commission thereof is on a large scale, or if commission thereof is in an organised group, the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property.

b) ***Criminalization of ML and FT offences***

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

We inform that it is not planned to amend the definition of the financing of terrorism, namely, the direct or indirect collection or transfer of any type of acquired funds or other property for the purposes of utilising such or knowing that such will be fully or partially utilised in order to commit one or several acts of terror or in order to transfer such to the disposal of terrorist organisations or individual terrorists. The wording of the said Section has not been amended since April 28, 2005.
As regards the definition of the term "proceeds", please see Question SRII.
It has to be noted that the Parliament of Latvia (the Saeima) has adopted in the second reading the draft law "Amendments to the Criminal Law", according to which the word "organizations" in Part one of Article 88.[1] of the Criminal Law has been changed to "groups". Moreover, by this draft law it is intended to supplement the Criminal Law with Articles 88.[2] and 88.[3] in the following wording:
"Article 88.[2] . Incitement to terrorism and threats of terrorism
For a person who commits incitement to terrorism or threats to carry out a terrorist act, if there are grounds to believe that such could be carried out, the applicable sentence is deprivation of liberty for a term not exceeding eight years.
Article 88.3 . Recruiting and training a person for committing terrorist acts
For a person who commits the recruiting or training of another person for carrying out terrorist acts, the applicable sentence is deprivation of liberty for a term not exceeding ten years, with of without confiscation of property."

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

Though legislation does not specifically provide for the prosecution on ML without prior conviction of predicate offence such prosecution is theoretically possible. Nevertheless, the criminal origin of the proceeds laundered must be established by the ruling of foreign or local officials. Such ruling might be, for instance, the decision on termination of the case on non-exonerating basis.
Additionally, please see the table under 5a.

Deficiencies in the AML Law
d) *Have amendments been drafted or enacted with regard to the AML Law to introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations for preventive measures, as needed to achieve full compliance with the relevant FATF Recommendations?*
A brand new AML/CFT Law was drafted in Latvia by enforcing of which clearer and unambiguous language is introduced. All the obligations for preventive measures set out in the law are now clear and unequivocal.

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

Draft law On the Prevention of Laundering of Proceeds derived from Criminal Activity and terrorist Financing (Art. 30-1-3) obliges all subjects of the law to immediately report about unusual transactions as well as any suspicious transaction. Art. 1-17 of the draft law gives a definition of a suspicious transaction – it is "a transaction which causes suspicion of ML or TF or an attempt of such activities or another criminal activity linked to the said activities".
The Law does not list specific indicators of suspicious transactions. Hence, the subjects of the Law are obliged to carry out transaction analyses by themselves.

At the moment specific indicators are given under the currently effective Cabinet of Ministers Regulation # 127 On the List of Indicators of Suspicious Transactions and the Reporting Procedure – (effective as of 30.03. 2001).
The recommendation has also found practical application – the subjects of the law received training where the issues are explained. Trainings have been organized both for individual banks and whole sectors, e.g., tax consultants. The Association of Commercial Banks regularly (11.2006, 01-03.2007 as well as 10-11.2007) organize 5 day seminars which also includes the certification of the attending staff. Detailed explanations on the said issues are provided.

f) ***DNFBPs***

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

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

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

Article 165.[4] of the Administrative Violations Code of Latvia, "Not Notifying about Unusual or Suspicious Financial Transactions", provides for administrative responsibility for not notifying the Prevention of the Laundering of Proceeds from Crime Service about an unusual or suspicious financial transaction, if this is committed by an employee whose duties include notifying about such.
Section II "Internal control" of the drafted law "On the Prevention of Laundering Illegally Acquired Proceeds and Financing Terrorism" provides liability of the subject of law – legal person – to create and document, when developing appropriate policy and procedure, system of internal control that corresponds as far as prevention of laundering illegally acquired proceeds and financing terrorism. System of internal control is a body of concrete measures that include activities for performance of law, providing adequate resources and performing training of employees with a purpose to prevent the subject of law to get involved in the laundering of illegally acquired proceeds and financing terrorism. With creating system of internal control credit institutions and investment broker companies take into account requirements of Credit Institution Law and Financial Instrument Market Law and other requirements that are based on these normative acts concerning creating a system of internal control. In relation to provision of internal control it is planned to draft amendments in the Administrative Violations Code of Latvia providing a responsibility for a legal person for not fulfilment of draft law II section "Internal control".
In addition, it should be noted that in the legal system of Latvia the sentences (sanctions) for committing violations or criminal offences are laid down only in the Administrative Violations Code and the Criminal Law. Other laws, for example, the law "On the Prevention of Laundering of Proceeds Derived from Criminal Activity", do not provide for any sentences.

Additional questions since the first progress report

a) Please indicate measures taken to address deficiencies regarding shell banks (R.18)?

According to Latvian legislation it is impossible to establish shell banks in Latvia as "Credit Institutions Law" (Article 3) states that

(1) In the Republic of Latvia, credit institutions registered in the Republic of Latvia, branches of credit institutions of a foreign state, credit institutions registered in Member States or the branches of credit institutions registered in Member States have the right to perform credit institution activities.

(2) In the Republic of Latvia, a bank may be founded only as a stock company.

(3) In the Republic of Latvia, an electronic money institution may be founded as a capital company.

(4) If an electronic money institution has been founded as a limited liability company and it, in accordance with this Law must obtain a licence (permit) issued by the Finance and Capital Markets Commission for the operation of an electronic money institution, the provisions of this Law regarding the founders and stockholders of credit institutions shall apply to the founders and shareholders thereof.

Apart from that the "Credit Institutions Law" requires that

Only banks and foreign bank branches, as well as Member State banks and Member State bank branches registered in the Republic of Latvia, which according to the procedures specified in this Law have commenced the provision of financial services in the territory of the Republic of Latvia, are permitted to solicit the receipt of deposits and other repayable funds, and to receive them (Article 9, part 3);

The provisions of Paragraph three of this Section shall not restrict the right of electronic money institutions to accept monetary funds from clients, at the same time exchanging such monetary funds for electronic money (Article 9, part 4).

According to existing legislation any kind of establishments other than above-mentioned providing banking functions is considered to be a non-licensed business and is subject for criminal and/or administrative punishment.

The mentioned provision is incorporated in "Credit Institutions Law" Article 14 as follows:

The Finance and Capital Market Commission has the right not to issue a licence for a new credit institution if:

1) …;

2) the close links of the credit institution with third persons may threaten its financial stability or restrict the right of the Finance and Capital Market Commission to perform the supervisory functions specified by law;

3) *the laws and other regulatory enactments of other states that apply to persons who have close links with the newly founded credit institution, restrict the right of the Finance and Capital Market Commission to perform the supervisory functions specified by law.*

In part two of the Article 14 of the Credit Institutions Law it prescribed that:

(2) Financial and Capital Market Commission shall refuse the issuance of the licence (permit) if the regulatory documentation foresees that this credit institution including its management is not placed in Latvia and is not affiliated with some financial group.

FCMC has issued Regulations "On the Issue of Credit Institution and Credit Union Operating Licences and Permits for Particular Credit Institutions and Credit Unions Activities, Document Harmonization and Providing of Information" of 25.09.2009. These regulations provide detailed requirements for obtaining licences for banking activities.

The AML/CFT Law Article 24 (Cross-Border Correspondent Banking Relationship) requires, that:

(2) A credit institution shall ensure that it does not enter into, or continue, correspondent banking relationship with a credit institution or an investment brokerage firm that are known to have a business

relationship with shell banks.

b) Please elaborate on the national coordination mechanisms for supervisors?

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

Among the functions and tasks of the Council are the following:

a) Fostering of cooperation with foreign public and private institutions (Art. 2.5);
b) Evaluation of the possibility of ML and TF risks (Art. 3.2);
c) Elaboration of working plans (3.3)

Other powers which specifically focus on the drafting of normative acts, the coordination of the cooperation of state and private sectors.

The Council continued to act as the coordinating body for the cooperation between state authorities and the private sector in order to prevent money laundering and terrorist financing. There were two meetings of the Council held in 2008 and one meeting in 2009. The agenda of the meetings contained also AML/CFT issues (e.g., increasing the role of the Company Register in preventing money laundering and terrorist financing, money laundering issues in Post Office).

c) Please elaborate on the supervisory action since the last progress report taken as regards to financial institutions and DNFBPs concerning compliance with R. 7 and R. 8, in particular with regard to onsite visits?

As to the financial institutions the issues concerning compliance with R.7 and R.8 are integral part of onsite examinations in banks, insurance companies and other relevant financial market participants. According to the existing legislation all subjects of the AML/CFT Law are obliged to establish internal control systems and assess the efficiency of the internal control system on a regular basis in view of additional risks that may arise as a result of the introduction and development of new technologies and, if necessary, take measures to improve the efficiency of the internal control system (Art 8). Besides the AML/CFT Law obliges all the subjects of the law to apply measures for non face-to-face situations (Art 23) and cross border inter bank relations (Art 24).

Article 22 of the AML/CFT Law prescribes to apply enhanced customer due diligence measures when starting cross-border credit institution relationship with respondents from third countries (part 2, point 3).

d) Please specify the guidelines issued pursuant to R. 25 since the last progress report?

List of new guidelines issued since the last progress report:

FCMC: Regulations for enhanced customer due diligence (Regulation No.125 of 27 August 2008)

Bank of Latvia as a supervisory authority for foreign currency exchange offices has issued "Recommendations to Capital Companies that Have Received a Licence Issued by the Bank of Latvia for Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the

Prevention of Laundering the Proceeds from Criminal Activity (Money Laundering) and of Terrorist Financing". These recommendations were adopted on May 13, 2009 and took effect on June 1, 2009. This document contains recommendations for currency exchange offices concerning establishing internal control system, identification of clients and their beneficiaries, PEP identification, reporting obligation, and describes risk based approach for evaluating the AML/CFT risk of their clients.

The State Revenue Service: 1. Recommendations to Units of State Revenue Service on reporting order to Office for prevention of laundering of proceeds derived from criminal activity (last amendments of 5 February 2009)

2. Methodological material. For subjects of law on the prevention of laundering the proceeds from criminal activity and of terrorist financing supervised by the State Revenue Service (2009).

Notaries: 1. Order to sworn notaries for implementation the requirements of Law on the prevention of laundering the proceeds from criminal activity and of terrorist financing (Protocol No.3 of 6 March 2009). 2. Statute on reporting about unusual and suspicious transaction (Protocol No.3 of 6 March 2009).

State Assay Supervision Inspectorate: Order for prevention of laundering the proceeds from criminal activity and of terrorist financing (Order No.4-6-39/1 of 12 November 2008).

Lotteries and Gambling supervisory inspection: Recommendations to licensed Business Ventures (Companies) to establish an internal control system for prevention of laundering of proceeds derived from crimes and of financing terrorism (8 June 2009).

State Inspection for Heritage Protection: 1. Procedure of preparing and affording the information to Office for prevention of laundering of proceeds derived from criminal activity (Order No.1/22 of 19 June 2009). 2. Procedure for conducting inspections of transactions with works of art and antiquities and cultural monuments (Order No.1/22 of 19 June 2009).

Latvian Collegium of Sworn Advocates: Temporary Statute for assuring an internal control system for the prevention of laundering of proceeds derived from crimes and of financing terrorism. (Decision No.198 of 16 December 2008).

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/Ec)[6]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The AML/CFT Law is completely harmonized with the Third EU AML Directive. According to the requirements of the law FCMC has drafted and enforced new updated AML/CFT Regulations binding to all the financial market participants supervised by the FCMC. The transition period for the AML/CFT Law to be fully implemented regarding the existing customer base has finished on July 1, 2009. Transitional provisions, part 2 of the AML/CFT law: *The persons subject to this law shall perform customer identification and establish the beneficial owner, as set out in this Law, in respect of those customers with whom the business relationship is valid and this has not been done, by July 1, 2009 the latest, or discontinue the business relationship by that date.*

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[5] (please also provide the legal text with your reply)	Latvia follows the EU approach and the legal definition of beneficial owner as included in the AML/CFT Law corresponds to the definition of beneficial owner in the Third Directive. The definition of the beneficial owner is provided in point 5 of the Article 1 of the AML/CFT Law: *5) beneficial owner – a natural person:* *a) who owns or directly or indirectly controls at least 25 percent of the share capital or voting rights of a merchant or exercises other control over the merchant's operation,* *b) who, directly or indirectly, is entitled to the property or exercises a direct or an indirect control over at least 25 percent of a legal arrangement other than a merchant. In the case of a foundation, a beneficial owner shall be a person or a group of persons for whose benefit the foundation has been set up. In the case of political parties, societies and cooperative societies, a beneficial owner shall be the respective political party, society or cooperative society,* *c) for whose benefit or in whose interest a business relationship is established,* *d) for whose benefit or in whose interest a separate transaction is made without establishing a business relationship in the meaning of this Law.* As regards the prepared CoL amendments – they provide a beneficial owner definition (Legal text of the prepared CoL amendments: *A beneficial owner in a capital company is a natural person – member (shareholder) of the company*). This statement is justified with an argument that the member (shareholder) is the person who receives economical and financial benefit from the company and has the rights to directly affect the decision taking process of the company. So it means that the member (shareholder) is the real beneficial owner. It is also important that prepared CoL amendments set out obligation to identify the cases when the parts (shares) are held on this particular member's (shareholder's) name but in the third person's benefit

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	Minimum requirements for risk analysis are set forth in the AML/CFT Law and FCMC Regulations for financial institutions. It is permitted to the subjects of the Law to apply their own risk analysis of the customers based on the criteria provided in the above-mentioned documents. Institutions are allowed to apply their own criteria in addition to the already provided.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[6] are provided	The definition of PEPs is included in the Article 22, part 3 of the AML/CFT Law as follows: *(3) For the purposes of this Law, a politically exposed person (PEP) is a natural person who:* *1) is entrusted with one of the following prominent public functions in another member state or a third country: the head of the state, a member of the parliament,*

[5] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

[6] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

for in your domestic legislation (please also provide the legal text with your reply).	*the head of the government, a minister, a deputy minister or an assistant minister, a state secretary, a judge of the supreme court, a judge of the constitutional court, a board or a council member of the court of auditors, a member of the council or of the board of a central bank, an ambassador, a chargé d'affaires, a high-ranking officer of the armed forces, a member of the council or of the board of a state-owned capital company, as well as a person who has resigned from the position of a prominent public function within one year;* *2) is a parent, a spouse and a person equivalent to a spouse, a child, his/her spouse or a person equivalent to a spouse of the persons referred to in Paragraph 1 hereof. A person shall be treated as equivalent to a spouse provided that the laws of the respective country contain a provision for such status;* *3) is publicly known to have a business relationship with any person referred to in Paragraph 1 hereof or a joint ownership with such person of the share capital in a commercial company, and a natural person that is a sole owner of a legal arrangement that is known to be established for the benefit de facto of any person referred to in Paragraph 1 hereof.* The obligation to apply enhanced CDD when entering into a business relationship with a customer who is a PEP is set forth in Article 22 of the AML/CFT Law: *(1) …* *(2) A person subject to this law shall perform enhanced customer due diligence in the following cases:* *1) …* *2) at inception of a business relationship with a politically exposed person* The same Article 22 in its part 1 describes the enhanced CDD as follows: *(1) Enhanced customer due diligence are activities that are based on the risk assessment and are carried out in addition to customer due diligence, with the aim of:* *1) establishing the beneficial owner and making sure that the person indicated as the beneficial owner in accordance with Article 18 hereof is the beneficial owner of the customer;* 2) *ensuring enhanced monitoring of the customer's transactions*.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	Article 38 paragraph 1 of AML/CFT Law provides the prohibition from disclosing the fact of reporting: a person subject to this AML/CFT Law shall be prohibited from notifying the customer, the beneficial owner and other persons to the effect that information about the customer or his/her transaction (transactions) has been submitted to the FIU and that this information is or may be analysed or pre-trial criminal proceedings performed in relation to the committing of a criminal offence, including that of money laundering, terrorist financing or an attempt thereof
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	Pursuant to the mentioned article 38 of AML/CFT Law there are concrete persons and circumstances where this prohibition is lifted: 1) The prohibition shall not apply to supervisory and control authorities; 2) The prohibition shall not apply to information exchange between the persons subject to this AML/CFT Law of member states or third countries that enforce equivalent requirements for the prevention of money laundering and of terrorist financing, where those persons belong to one group. One group shall be a legal arrangement that has a single owner, management or control institution. 3) The prohibition shall not apply to information exchange between tax advisors,

	external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals of a member state or a third country that imposes requirements for the prevention of money laundering and of terrorist financing equivalent to those of this AML/CFT Law, where they perform their professional activities as employees of a single legal person or acting within a single group. 4) The prohibition shall not apply to credit institutions, financial institutions, tax advisors, external accountants, sworn auditors, commercial companies of sworn auditors, sworn notaries, sworn advocates and other independent legal professionals in respect of exchange of information in cases when the following conditions exist: 1) two or more persons subject to this law are involved in a transaction; 2) one and the same customer is involved in a transaction; 3) the persons subject to this Law that are involved in a transaction are registered or operate in a member state or a third country that imposes requirements for the prevention of money laundering and of terrorist financing equivalent to those of this AML/CFT Law.

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	**CriminalLawChapterVIII[1]** Coercive Measures Applicable to Legal Persons **Section 70.[1] Basis for the Application of Coercive Measures to Legal Persons** (1) For the criminal offences provided for in the Special Part of this Law, coercive measures may be applied to a legal person, if the criminal offence has been committed in the interests of the legal person by a natural person in conformity with the provisions of Section 12, Paragraph one of this Law. (2) Coercive measures applicable to legal persons shall not apply to State, local government and other public law legal persons. [5 May 2005] **Section 12. Liability of a Natural Person as the Representative of a Legal Person** (1) In a legal person matter, a natural person who has committed a criminal offence acting as an individual or as a member of the collegial institution of the relevant legal person on the basis of a right to represent the legal person, **to act on behalf of or to take decisions in the name of such legal person**, or realising control within the scope of the legal person or while in the service of the legal person, shall be criminally liable therefore. (2) 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. [5 May 2005]
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	**Criminal Law. Section 12. Liability of a Natural Person as the Representative of a Legal Person** (1) In a legal person matter, a natural person who has committed a criminal offence acting as an individual or as a member of the collegial institution of the relevant legal person on the basis of a right to represent the legal person, to act on behalf of or to take decisions in the name of such legal person, **or realising control within the scope of the legal person** or while in the service of the legal person, shall be criminally liable therefor. (2) 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. [5 May 2005]

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	Article 3 paragraph 1 point 9 of AML/CFT Law stipulates that subjects of law are also other legal or natural persons involved in trading real estate, transport vehicles, items of culture, precious metals, precious stones and articles thereof or other goods, acting as intermediaries in the said transactions or providers of services, where the payment is made in cash in lats or another currency in the amount equivalent to or exceeding 15 000 euros at the exchange rate set by the Bank of Latvia on the transaction day, whether the transaction is executed in a single operation or several linked operations. Where the transaction is made in a foreign currency whose official exchange rate is not set by the Bank of Latvia, the exchange rate that is published on the first business day of the current week in the information source indicated by the Bank of Latvia shall be used for the calculation.

6. Statistics

6.1 Money Laundering and Financing of terrorism cases

a) Statistics provided in the first progress report

2004												
	Investigations		Prosecutions		Convictions		Frozen		Seized		Confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	10	-[7]	2	4	1	1	4	250,670	2	20,524,492	1	18,497,333[8]
FT	-	-	-	-	-	-	-	-	-	-	-	-

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

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

2007						
	Investigations	Prosecutions	Convictions (final)	Proceeds frozen	Proceeds seized	Proceeds confiscated**

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

[8] Repatriation of assets to United Kingdom in a bank fraud case.

	cases (crimes)	persons	cases	persons	cases	persons	orders	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	**28 (56)**	*****	**27**	**62**	**26**	**62**	**94**	**9248720**	**48**	**7439525**	**16**	**3130383**
FT	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

* - persons not fixed at this stage
**- here only proceedings on illegally obtained proceeds are included.

b) Please provide statistics since the adoption of the first progress report

2008												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated****	
	cases (crimes)	**persons**	**cases**	**persons**	**cases**	**persons**	**orders**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	**73 (109)**	*	12	29	**13**	**29**	99	**3841800**	**18**	**2257000**	**38**	**8074795**
FT	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

2009 (9 month)												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated****	
	cases (crimes)	**persons**	**cases**	**persons**	**cases**	**persons**	**orders**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	**39(53)**	*	24	48	**1**	**3**	61	6953579	**23**	1018343	**21**	**709453**
FT	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

* - persons not fixed at this stage
**- here only proceedings on illegally obtained proceeds are included.

6.2. STR/CTR

a) Statistics provided in the first progress report

2004 (for comparison purposes)									
Statistical **Information on reports received by the FIU**									
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**Police investigations**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**ML**	**FT**
Commercial banks	6118	12376	4	110 cases/ 4105 transactions*	-	110 cases/ 4105 transactions*	-	34/12***	-
Insurance companies	1100	22	0						
Notaries	2	7	0						
Currency exchange	175	2	0						
Broker companies	1	0	0						

Securities' registrars	-	-	-						
Lawyers	0	1	0						
Accountants/auditors	0	0	0						
Company service providers	-	-	-						
Others (please specify)**	383	404	0						
Total 16,479 reports	**7779**	**12812**	**0**						

Explanatory note:
***** The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU"and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 110 cases covering 4105 transactions which were sent to the FIU by reporting institutions.
** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and Car sellers.
*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

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

Explanatory note:
***** The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU"and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 155 cases covering 3791 transactions which were sent to the FIU by reporting institutions.
** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and Car sellers.
*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

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

Explanatory note:
***** The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU"and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 155 cases covering 3714 transactions which were sent to the FIU by reporting institutions.
** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and others.
*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

2007									
Statistical Information on reports received by the FIU									
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**Police investigations**	
		Crimes	**FT**	**Crimes**	**FT**	**Crimes**	**FT**	**Crimes**	**FT**
Commercial banks	6 852	17 172	3						
Insurance companies	6 980	81	0						
Notaries	15	7	0						
Currency exchange	4 330	15	0						
Broker companies	0	1	0	146 cases/3002		146cases/3002			
Securities' registrars	0	0	0	transactions*	-	transactions*	-	82/10***	-
Lawyers	0	23	0						
Accountants/auditors	0	1	0						
Company service providers	0	0	-						
Others (please specify)**	555	3 837	0						
Total 34 346 reports	**18 732**	**21 137**	**3**						

Explanatory note:
***** The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU"and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 146 cases (59 cases based on art. 195 of CL) covering 3002 transactions which were sent to the FIU by reporting institutions.
** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and others.
*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

b) Please complete, to the fullest extent possible, the following tables since the adoption of the first progress report

2008									
Statistical Information on reports received by the FIU									
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**Police investigations**	
		Crimes	**FT**	**Crimes**	**FT**	**Crimes**	**FT**	**Crimes**	**FT**
Commercial banks	6 858	21 798	7						
Insurance companies	9 532	26	0						
Notaries	7	5	0						
Currency exchange	3 074	48	0						
Broker companies	0	0	0	151 cases/3619		151cases/3619			
Securities' registrars	0	0	0	transactions*	-	transactions*	-	47/29***	-
Lawyers	0	3	0						
Accountants/auditors	0	0	0						
Company service providers	0	0	0						
Others (please specify)**	1 043	4 560	0						
Total 36 418 reports	**20 514**	**26 437**	**7**						

Explanatory note:
***** The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU"and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 151 cases (42 cases based on art. 195 of CL) covering 3619 transactions which were sent to the FIU by reporting institutions.
** Other monitoring entities are State institutions, Casinos, Law enforcement institutions, Private persons, Money transmitters and others.
*** The first figure reflects the number of criminal cases opened on the basis of material submitted by the FIU; the second figure shows the number of already existing criminal cases to which the FIU added material.

2009 (9 month)									
Statistical Information on reports received by the FIU									
Monitoring entities, e.g.	**transactions above threshold**	**suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**Police investigations**	
		Crimes	**FT**	**Crimes**	**FT**	**Crimes**	**FT**	**Crimes**	**FT**
Commercial banks	6 096	15 349	7	102 cases/ 1841transactions*	-	102 cases/ 1841transactions*	-	54/14***	-
Insurance companies	426	2170	0						
Notaries	7	0	0						
Currency exchange	1 591	7	0						
Broker companies	0	0	0						
Securities' registrars	0	0	0						
Lawyers	0	13	0						
Accountants/auditors	3	0	0						
Company service providers	0	0	0						
Others (please specify)**	875	3 463	0						
Total 16 519 reports	**8 998**	**21 002**	**7**						

Explanatory note:

***** The Latvian FIU assigns reference numbers only when cases are sent to law enforcement. Thus, figures in the columns "cases opened by FIU"and "notifications to law enforcement/prosecutors" are identical and indicate that the FIU has sent 102 cases (33 cases based on art. 195 of CL) covering 1841 transactions which were sent to the FIU by reporting institutions.

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

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

c) AML/CFT sanctions imposed by supervisory authorities

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of supervised entity in the financial sector (eg, one table for banks, one for insurance, etc). If possible, please also indicate the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

If similar information is available in respect of supervised DNFBP, could you please provide an additional table (or tables) covering administrative sanctions on DNFBP, also with information as to the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

Please adapt the tables, as necessary, also to indicate any criminal sanctions imposed on the initiative of supervisory authorities and for what types of infringement.

Administrative Sanctions

	2004 for comparison	**2005** for comparison	**2006**	**2007**	**2008**	**2009 (9 months)**
Number of AML/CFT violations identified by the supervisor	13	22	22	15	19	12
Type of measure/sanction*						

Written warnings	5	12	11	6	3	6
Fines	1	4	4	5	2	2
Removal of manager/compliance officer		1				
Withdrawal of license		7	3	0	1	1
Other**	5[1]	2[1] ; 6 [3]	1	1	1[2]	
Total amount of fines (in LVL)	2,500	45,000	133,000	40,000	105,000	60,000
Number of sanctions taken to the court (where applicable)						
Number of final court orders						
Average time for finalising a court order						

*** Please amend the types of sanction as necessary to cover sanctions available within your jurisdiction**
**** Please specify**
[1] Intensified supervision
[2] Administrative agreement
[3] Licence restriction

APPENDIX I - 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 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.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	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 relationships (R.11 & 21)	Require information to be made available to all authorities relevant in the fight against money laundering and the 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)	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.
Money value transfer services (SR.VI)	Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.
4. Preventive Measures–Nonfinancial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	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.

APPENDIX II -

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

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

(a) in the case of corporate entities:

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

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

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

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

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

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

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

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

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

APPENDIX III – Additional legislation and data submitted with the second progress report is presented in a separate document:

See MONEYVAL(2009)39ANN