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

MONEYVAL(2010)30

Liechtenstein

Progress report and written analysis by the Secretariat of Core Recommendations[1]

8 December 2010

[1] Second 3rd Round Written Progress Report Submitted to MONEYVAL

Liechtenstein is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 34th Plenary meeting (Strasbourg, 7-10 December 2010). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2010)39) at http://www.coe.int/moneyval

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This is the second 3rd Round written progress report submitted to MONEYVAL by the country. This document includes a written analysis by the MONEYVAL Secretariat of the information provided by Liechtenstein on the Core Recommendations (R. 1, R. 5, R. 10, R. 13, SR.II and SR.IV), in accordance with the decision taken at MONEYVAL's 32nd plenary in respect of progress reports.

Liechtenstein

Second 3rd Round Written Progress Report Submitted to MONEYVAL

1. Written analysis of progress made in respect of the FATF Core Recommendations

1.1 Introduction

1. The purpose of this paper is to introduce Liechtenstein's second report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the 3rd round mutual evaluation report (MER) on selected Recommendations.

2. Liechtenstein was visited under the third evaluation round from 21 March to 4 April 2007 and the mutual evaluation report (MER) was examined and adopted by MONEYVAL at its 24th Plenary meeting (10-14 September 2007). According to the procedures, Liechtenstein submitted its first year progress report to the Plenary in December 2008.

3. This paper is based on the Rules of Procedure as revised in March 2010 which require a Secretariat written analysis of progress against the core Recommendations[1]. The full progress report is subject to peer review by the Plenary, assisted by the Rapporteur Country and the Secretariat (Rules 38-40). The procedure requires the Plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, with both documents being subject to subsequent publication.

4. Liechtenstein has provided the Secretariat and Plenary with a full report on its progress, including supporting material, according to the established progress report template. The Secretariat has drafted the present report to describe and analyse the progress made for each of the core Recommendations.

5. Liechtenstein received the following ratings on the core Recommendations:

R.1 – Money laundering offence (PC)
SR.II – Criminalisation of terrorist financing (PC)
R.5 – Customer due diligence (PC)
R.10 – Record Keeping (C)
R.13 – Suspicious transaction reporting (PC)
SR.IV – Suspicious transaction reporting related to terrorism (PC)

6. This paper provides a review and analysis of the measures taken by Liechtenstein to address the deficiencies in relation to the core Recommendations (Section II) together with a summary of the

[1] The core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

main conclusions of this review (Section II). This paper should be read in conjunction with the progress report and annexes submitted by Liechtenstein.

7. It is important to be noted that the present analysis focuses only on the core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the information and statistics provided by Liechtenstein, and as such the assessment made does not confirm full effectiveness.

1.2 Detailed review of measures taken by Liechtenstein in relation to the Core Recommendations

A. Main changes since the adoption of the MER

8. Since the adoption of the MER and the First Progress Report, Liechtenstein has taken the following measures with a view to addressing the deficiencies identified in respect of the core Recommendations, including:

- The implementation, mostly on 1 March 2009, of the two major legal packages which were discussed at the adoption of the first 3rd round progress report:
  - revision to the Criminal Code
  - revision to the Due Diligence Act (DDA)
  - revision to the Due Diligence Ordinance (DDO)
  - revision to the FIU Act
  - introduction of a new Act on the Enhancement of International Sanctions (ISG)
- conducted 90 investigations into ML in 2009/2010 which so far has resulted in 3 prosecutions/indictments and one further conviction for money laundering (the first conviction having been achieved in 2008, as noted in the last progress report).

B. Review of measures taken in relation to the Core Recommendations

Recommendation 1 - Money laundering offence (rated PC in the MER)

9. Deficiency 1 identified in the MER (*Amend the law to extend the list of predicate offences for money laundering to offences in the categories of environmental crimes, smuggling, forgery, and market manipulation).*The major predicate offences for money laundering identified by the Liechtenstein authorities currently are economic offences (in particular fraud), criminal breach of trust, asset misappropriation, embezzlement and fraudulent bankruptcy, bribery and corruption. The money laundering offence applies to all felonies and some misdemeanours. All of the major proceeds-generating offences in Liechtenstein appear to be covered as designated categories of predicate offence for the purposes of money laundering (A.165CC). The Liechtenstein authorities advise that since the first progress report environmental crimes, smuggling, forgery and market manipulation have become predicate offences.

10. Environmental crimes were not previously covered in the CC. They have been included by A.180 and A.182 of the CC.

11. There were no offences in the CC to cover smuggling at the time of the adoption of the first progress report. Since then, A.4 of the Customs Treaty with Switzerland declares that all its

Customs legislation is directly applicable in Liechtenstein. This includes A.14 paragraph 4 of the Swiss Administrative Criminal Law, which makes organised fiscal smuggling a qualified customs fraud and which is deemed to be a crime, and thus now a predicate offence in Liechtenstein. It is necessary for this offence to show that the defendant is a member of an organised gang to commit such offences and jurisprudence supports a financial threshold of 10,000 CHF. There has been an investigation based on this predicate offence in cooperation with the Swiss Federal Prosecution Office.

12. Forgery is now covered by A.223 and A.224 CC and market Manipulation is covered by A.24 of the Market Misuse Act. The latter offence covers behaviour that internationally would be considered to amount to market manipulation.

13. The report noted that fiscal offences, including serious and organised fiscal fraud, are not predicate offences for money laundering. This position has now changed in relation firstly to the offence of organised smuggling under the directly applicable Swiss law, and in respect of VAT frauds on the European Communities (A.165(3a), which are predicate offences to money laundering. The Liechtenstein authorities indicated that these two amendments cover the two main areas of concern in respect of indirect taxes.

14. Deficiency 2 identified in the MER *(Amend the law to extend the offences of converting, using, or transferring criminal proceeds to include criminal proceeds obtained through the commission of a predicate offence by the money launderer).*At the time of the last evaluation, self laundering was not criminalised for the acts of acquiring, taking into custody, converting, using or transferring criminal proceeds. The assessors accepted that the fundamental principle of "*ne bis in idem*" precluded the criminalisation of self laundering with respect to "appropriation and taking into custody", but considered that the acts which cover "conversion, use and transfer" of criminal proceeds constitute distinct crimes that go beyond the underlying predicate offence and to which self laundering should apply. These physical acts are now susceptible to money laundering prosecution by the author of the predicate offence. Since the entry into force of the relevant amendment there have been investigations covering also this type of money laundering.

15. Deficiency 3 identified in the MER *(Amend the law to eliminate Article 165.5 StGB to permit the prosecution for money laundering also in cases where the offender has been punished for the predicate offence).* A.165.5, at the time of the 3rd evaluation, precluded a person who had been punished for "participation" in the predicate offence from being punished for money laundering. This obstacle to ML prosecution has been removed by amendment in March 2009. One such case was before the Liechtenstein courts, but is being transferred to Spain.

16. Deficiency 4 identified in the MER *(Amend the law to criminalise the association or conspiracy of two persons to commit money laundering).*No amendment of the law is planned as they consider it is covered. Article 12 CC is said to be authority for the principle that 2 persons can be indicted for conspiracy. It has not been possible to confirm this in a desk review and this issue will need revisiting in the 4th evaluation.

17. Deficiency 5 identified in the MER *(Develop jurisprudence on Article 165 StGB autonomous money laundering).*At the time of the 3rd mutual evaluation report there had been just 2 prosecutions for autonomous ML and no convictions in Liechtenstein. This was partly because of the general tendency of transferring cases to the authorities of the jurisdiction where the predicate offence occurred rather than taking up the investigation and prosecution in Liechtenstein. This practice was recognised by the evaluators to be efficient where essential information is present in the other jurisdiction. On the other hand, they also noted that this keeps the judiciary from

developing its own experience and jurisprudence in money laundering matters. Between 1 September 2008 and 18 October 2010, the Liechtenstein authorities state that 120 charges based on allegations of money laundering have been filed with the Public Prosecutor's Office, and within this period 3 prosecutions have commenced, leading to one conviction.

18. The conviction in 2010 was in an autonomous money laundering case, not directly connected with the predicate offence.

19. It appears that this Recommendation is being taken seriously.

Special Recommendation II - Criminalisation of terrorist financing (rated PC in the MER)

20. Deficiency 1 identified in the MER *(Amend the law to criminalise the financing of individual terrorists).* Liechtenstein, at the time of the 3rd round report and currently, criminalises the financing of terrorism pursuant to Article 278b, 278c and 278d StGB (as amended). A.278d at the time of the 3rd evaluation was in these terms:

"*Financing of terrorism*

1) Anyone who makes available or collects assets for the purpose that they be used, even in part, to carry out

1. air piracy (§ 185) or willful endangerment of aviation safety (§ 186),
2. extortionate kidnapping (§ 102) or a threat thereof,
3. an attack upon the life, limb, or liberty of a person protected under international law or a violent attack upon the private accommodation, official premises, or means of transportation of such a person capable of endangering his life, limb, or liberty, or a threat to commit any such attack,
4. willful endangerment through nuclear energy or ionizing radiation (§ 171), the threat thereof, a punishable act to obtain nuclear or radioactive material, or a threat to steal or rob nuclear or radioactive material, in order to coerce another person into an act, acquiescence, or omission,
5. a substantial attack against the life or limb of another person at an airport serving international civil aviation, the destruction of or substantial damage to such an airport or an aircraft located at such an airport, or the disruption of the services of an airport, provided that the offence is committed using a weapon or other device and is capable of endangering safety at the airport,
6. a punishable act committed against a ship or fixed platform, against a person on board a ship or fixed platform, against the cargo of a ship or against a maritime navigational facility, in a manner described in §§ 185 or 186,
7. the delivery of an explosive or other lethal device to a place of public use, a State or public facility, a public transportation system or an infrastructure facility, or the use of such means with the goal of causing death or serious bodily injury to another person or extensive destruction of the place, facility, or system, provided that such destruction is likely to result in major economic loss,
8. a criminal offence intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the goal of such act, by its nature or context, is to intimidate a population or to compel a government or an international organization to do or to refrain from doing any act, shall be punished with imprisonment of six months to five years. The punishment shall not, however, be more severe in manner or extent than the law specifies for the offence financed.

2) The perpetrator shall not be punished in accordance with paragraph 1 if a different provision provides for a more severe sentence".

21. An amendment to Article 278d came into force on 1 March 2009 which has changed A.278d(8) and added a new paragraph 2 as follows:

[Anyone who makes available or collects assets for the purpose that they be used, even in part:]

"2). by a person or by an association (§ 278b (3)) who commits any of the acts listed in item 1) or who is a member of such an association (§ 278b (2)),

shall be punished by between six months and five years of imprisonment"

22. Thus financing of an individual terrorist appears to be generally covered in relation not only to the commission of the specified terrorist acts by an individual terrorist, but the funding of an individual terrorist for any other purpose.

Deficiency 2 identified in the MER (*Amend Article 278d StGB to provide for "any act" committed with the required intent, not only criminal offences, to constitute a terrorist act).*

23. The breadth of the previous provision was criticised *inter alia* as it did not cover the generic offence *"any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act"*

24. The amendment to paragraph 8 of A.278d which entered into force on 1 March 2009 addresses this concern:

„8) an act that is intended to cause the death of or serious injury to a civilian or to another person who does not actively take part in hostilities in an armed conflict, if it is the objective of such act through its nature or circumstances to intimidate a population group or to coerce a government or an international organisation to carry out an act or an omission, or..."

25. Deficiency 3 identified in the MER *(Provide for a definition of "Terrorist organisation" in line with the FATF standard).* Offences involving a terrorist group were covered at the time of the evaluation in A.278b thus:

"*Terrorist group*

1) Anyone who leads a terrorist group (paragraph 3) shall be punished with imprisonment of five to fifteen years. Anyone who leads a terrorist group that limits itself to the threat of terrorist offences (§ 278c paragraph 1) shall be punished with imprisonment of one to ten years.

2) Anyone who participates in a terrorist group as a member (§ 278a paragraph 2) or ***who supports the group financially shall be punished with imprisonment of one to ten years****.*

3) A terrorist group is an association of more than two persons intended to exist for an extended period of time and aimed at the commission of one or more terrorist offences (§ 278c) by one or more of its members".

26. The definition in A.278b para 3 was limited to the definition of terrorist offences in A.278c, which was as follows:

"*Terrorist offences*

1) Terrorist offences are
1. murder (§ 75),
2. bodily injury according to §§ 84 to 87,
3. extortionate kidnapping (§ 102),
4. serious coercion (§ 106),
5. dangerous threat according to § 107 paragraph 2,
6. serious damage to property (§ 126) and damage to data (§ 126a), if the life or property of others could thereby be greatly endangered,
7. offences willfully dangerous to public safety (§§ 169, 171, 173, 175, 176, 178 and article 34 of the War Material Act) or willful endangerment through pollution of water or air (§ 180),
8. air piracy (§ 185),
9. willful endangerment of aviation safety (§ 186), or
10. a punishable act under article 20 of the Weapons Act,

if the offence is capable of resulting in serious or enduring disruption of public life or serious damage to economic activity, and if the act is committed for the purpose of intimidating the population in a grave way, to coerce public authorities or an international organization into an act, acquiescence, or omission, or to seriously unsettle or destroy the fundamental political, constitutional, economic, or social structures of a State or international organization.

2) Anyone who commits a terrorist offence within the meaning of paragraph 1 shall be punished in accordance with the law applicable to the offence enumerated therein, but the maximum sentence for the offence shall be increased by half, up to at most twenty years.

3) The offence shall not be considered a terrorist offence if it is aimed at the establishment or reestablishment of democracy and the rule of law, or if it is aimed at the exercise or protection of human rights."

27. A.278c was limited in several respects. Firstly, in relation to acts it did not cover all the conventions in the annex to the FT Convention (the Convention on the Physical Protection of Nuclear Materials and the Convention for the Suppression of Unlawful Acts against Safety of Maritime Navigation were missing). Secondly, Liechtenstein applied a further purposive element to restrict the notion of terrorist acts (listed in A.278c 1-10) to offences "committed with the intention of intimidating a population etc". The terrorist acts in A.2(1)(a) FT Convention should not be so restricted. Thirdly, Liechtenstein had not covered A.2(1)(b) FT Convention "*any other act intended to cause death or serious bodily injury to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.*". Thus the Liechtenstein definition of terrorist group was not broad enough to ensure that financing of all the terrorist acts required by the international standard was covered. Neither was the definition of a terrorist group in A.278b(3) as comprehensive as the definition in para 2(e) of the Interpretive Note (IN)[2].

[2] "The term **terrorist organisation** refers to any group of terrorists that: (i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully; (ii) participates as an accomplice in terrorist acts; (iii) organises or directs others to commit terrorist acts; or (iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act."

28. Funding of a terrorist group thus appears still not to be fully in line with this standard, as the definitional problems set out in paragraph 27 in relation to A.278c have still not been solved.

29. Though the report does not refer to this in the action plan as a deficiency, the factors underlying the rating also reference the lack of criminal liability for corporate entities. Corporate criminal liability is being appropriately covered from 1 January 2011. Companies will be liable vicariously for all intentional crimes and misdemeanours committed by key personnel in the course of business actions, and in some cases where there is negligence, FT would be a "trigger offence".

30. Overall the TF offences are quite robust, and Liechtenstein has responded to most of the concerns. The definitional problems surrounding the terrorist offences, the commission of which define a terrorist group, need addressing. Nonetheless, within the existing definition of terrorist group, the general funding of it for any purpose (such as supporting relatives etc) would appear to be covered. There have been no TF investigations so far in Liechtenstein. The Liechtenstein authorities note that no Liechtenstein entity or individual is now listed on the UN 1267 list.

Recommendation 5 - Customer due diligence (rated PC in the MER)

31. Deficiency 1 identified in the MER *(Strengthen legislative requirements for obtaining beneficial ownership information: for all business relationships financial institutions should be required to (i) always determine the natural person who is the beneficial owner (or owns or controls the customer); and (ii) understand the ownership and control structure of their customer).* Liechtenstein had established at the time of the 3rd round report an overall risk based approach which required (and continues to require) financial institutions to build and keep updated a profile of each long term customer. The profile consolidates CDD data and includes beneficial ownership information. Deficiency 1 on R.5 in the 3rd round report related to criteria 5.5 in the Methodology[3]. At the time of the last evaluation the definition of beneficial owner in Liechtenstein only covered persons holding economic rights to a legal entity's assets and did not extend generally to persons holding controlling rights or interests. The 3rd mutual evaluation report pointed out that, in general, financial institutions were entitled to assume that the contracting party was the beneficial owner, and only when doubts arose as to whether the assumption was correct, was the contracting party required to provide a written statement identifying the beneficial owner. The evaluators considered also that relevant provisions did not sufficiently require financial institutions to have an understanding of the ownership and control structure of the customer.

32. The legal position has been strengthened since the 3rd round report. Firstly, A.2(1)(e) of the new Due Diligence Act (DDA), which entered into force on 1 March 2009, provides a definition of beneficial owner, which takes into account the Methodology definition more clearly.

[3] 5.5 Financial institutions should be required to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner[3] using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.
5.5.1 For all customers, the financial institution should determine whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person.
5.5.2 For customers that are legal persons or legal arrangements, the financial institution should be required to take reasonable measures to:
(a) understand the ownership and control structure of the customer;
(b) determine who are the natural persons that ultimately own or control the customer. This includes those persons who exercise ultimate effective control over a legal person or arrangement.

"beneficial owner" means a natural person on whose initiative or in whose interest a transaction or activity is carried out or a business relationship is ultimately constituted. In the case of legal entities, the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated. The Government shall provide further details by ordinance;"

33. This definition is further articulated in Art.3 of the amended Due Diligence Ordinance (DDO) which includes a definition of beneficial owner which closely follows the language of the 3rd EU Directive including the identification of those who directly, or indirectly, hold or control shares or voting rights (25% or more is sufficient). A.7 of the DDA requires "risk based and adequate measures" to determine the ownership and control structure of the contracting party (i.e. financial institutions or other obliged person). Information on ownership and control structure should, presumably, be recorded in the business profile which is required to be kept under A.8 DDA, the content of which is prescribed in A.20 of the DDO to include information on the contracting party and the beneficial owner. A.20 notes in this context that the degree of detail of the business profile shall take account of the risks involved in the business relationship. The Liechtenstein authorities have indicated that some shortcomings have been identified in 2010 in relation to the documenting of control structures, but that overall they are being well documented in the business profiles.

34. Deficiency 2 identified in the MER *(Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately managed registers and databases).* While the terms of this recommendation arguably go further that the FATF requirements, the context of this recommendation needs to be understood. The 3rd round MER noted that in Liechtenstein defining, limiting and monitoring of higher risk categories of customer, as well as related enhanced due diligence, was left "to a significant extent" to the discretion of the financial institutions. At that time the limited number of high risk categories clearly determined in legal terms did "not include some of the most relevant risks in Liechtenstein (eg non-resident accounts, accounts opened through an intermediary, entities with bearer shares, and trusts and foundations)".

35. A.9 (risk adequate monitoring) and A.11 (Enhanced Due Diligence) of the new DDA have gone some way to address these deficiencies.

36. In particular, there is now a statutory assumption that the following have higher risks:

- non face-to-face business relationships (where the identity of the contracting party must be proved by additional measures);
- business relationships and transactions with PEPs (which have additional safeguards);
- cross-border banking relationships (with additional safeguards).

37. Otherwise, in internal instructions, the persons subject to due diligence must establish their own criteria for identifying other higher risk customers, relationships and transactions within the general risk based framework. All such relationships once identified as such should be subject to more intensive monitoring. Under A.23 of the DDO criteria and minimum measures for all business relationships, transactions involving higher risks are set out:

1) criteria for business relationships and transactions involving higher risks within the meaning of Art. 11 (1) of the Act shall include, in particular:

a) the registered office or place of residence of the contracting party and beneficial owner or their nationality;
b) the nature and location of the contracting party's and beneficial owner's business activity;
c) the nature of the products or services requested;
d) the level and type of the assets deposited;
e) the level of inflows and outflows of assets;
f) the country of origin or destination of frequent payments.
2) Following consultation with the FIU, the FMA shall issue guidelines concerning indicators of money laundering, organised crime and terrorist financing.
3) Additional measures for transactions involving higher risks within the meaning of Art. 11 (2) of the Act shall include, in particular:
a) verifying the identity of the contracting party using additional documents, data or information;
b) clarifying the origin of the assets deposited;
c) clarifying the intended use of assets withdrawn;
d) clarifying the professional and business activity of the contracting party and beneficial owner.

38. However, given the concerns of the previous evaluators that much of the business transacted in Liechtenstein might fall into the categories suggested by the FATF Methodology as examples of higher risk business, it is perhaps unfortunate that the revisions of the legal structure on enhanced CDD measures have not gone further than they have in creating more statutory assumptions that particular relationships have higher risks. It is appreciated that under Article 23.1(1)(c) DDO, decisions on enhanced CDD include consideration of the nature of the products or services requested. The Liechtenstein authorities consider that this provision requires financial institutions to apply enhanced CDD to business relationships that might represent a higher risk due to their legal structure. Nonetheless, the overall preventive regime still does not unequivocally define as high risk some of the activities mentioned in the evaluators' recommendation, notably entities with bearer shares, trusts and foundations, and entities registered in privately managed registers and databases. The Liechtenstein authorities advise that they are redrafting guidelines and indicators for enhanced due diligence and these will be sanctionable. The Liechtenstein authorities advise that the guidance will be strengthened with regard to those business relationships that might represent a higher risk due to their legal structure. The regulatory authority (FMA) also considers that enhanced due diligence has to be applied to accounts opened through an intermediary and that they are fully covered by the statutory assumption regarding non face-to-face relationships. This is impossible to confirm in a desk based review, and the Liechtenstein authorities should consider underlining this in the forthcoming guidance to leave no doubt as to whether there remains any discretion on this issue.

39. Deficiency 3 identified in the MER *(Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers).* This issue has been addressed above. A.11 of the DDA and A.23 of the DDO are now in force.

40. Deficiency 4 identified in the MER *(Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners and authorized parties).* The Liechtenstein authorities have set out these procedures in Articles 5-7 of the DDA and Articles 6-19 of the DDO. The identity of the contracting party must be verified by means of "confirmatory documents". The identification and verification of the identity of the beneficial owner shall be undertaken by obliged entities by means of "risk based and adequate measures… to satisfy themselves that this is actually the beneficial owner" (A.7 DDA). A.6(1) of the DDO sets out the principles and requires financial institutions, when initiating a business relationship or processing an occasional transaction (new) by personal contact, to identify and verify (new) the identity of the contracting party by inspecting a document "with probative value (original or certified copy)

relating to the contracting party, and by collecting and documenting other information set out in A.6(1)(a) and (b). This is broadly the same formulation as in the previous DDO (with the exception of the parts underlined, which have now been made more explicit). Likewise, the DDO has also been amended, when initiating a business relationship by correspondence, to establish and verify the identity of the contracting party by obtaining the original and certified copy of a document with probative value.

41. A.6 DDO now includes, as specifically recommended by the evaluators, a new para 2 requiring that financial institutions verify the identity of *persons purporting to act on behalf of legal persons*.

42. A.11 of the DDO (which now is under the heading "Establishing and Verifying the identity of the beneficial owner") requires a written statement from the contracting party in order to confirm the accuracy of the information provided.

43. As far as insurance policies are concerned there is now a helpful addition in A.13 of the DDO, which requires the insurance company, before paying out, to identify the beneficiary of the policy using appropriate risk based measures.

44. While these enhancements to the legislative structure are welcomed, there appear to remain no general requirements for additional verification of the beneficial owner identification beyond obtaining the written statement by the contracting party, except in the cases of identified high risk (see A.23[3] DDO, which is still quite tightly defined). The Liechtenstein authorities consider that their requirements amount to "reasonable measures" to verify the identity of the beneficial owner. That said, and while it is appreciated that reference in the Methodology is only made to the Basel Committee's General Guidance on Account Opening and Customer Identification in relation to Criterion 5.3 (customer identification) and not referred to in relation to Criterion 5.5 on the verification of the beneficial owner, reference to the additional verification methods listed in the Basel Committee's General Guide might also usefully be included in the forthcoming guidance.

45. Deficiency 5 identified in the MER *(Require financial institutions to provide customer information when making domestic wire transfers and align threshold in the DDA and DDO for due diligence on wire transfers with the minimum set out in SR.VII of EUR/USD 1,000).* A.12 of the DDA now covers the principle that all payment service providers must provide sufficient information on the payer accompanying transfers of funds. The new A.17 DDO requires all payment service providers to provide name, account number and address of the payer (i.e. the organisation) without a financial threshold, which is a positive development. This applies also to payment service providers acting as intermediaries.

46. Deficiency 6 identified in the MER *(Bring the current exceptions to identification requirements into line with Recommendation 5.2 which requires at a minimum reduced or simplified measures).* This deficiency relates to Criterion 5.9, dealing with reduced or simplified CDD where the risks of money laundering are lower. At the time of the previous evaluation, certain exceptions to the identification requirements of the contracting party and beneficial owner were allowed under the DDA (e.g. total annual insurance premiums less than CHF 1,500 etc.). Article 10 of the new DDA covers a number of situations of low risk, which are still exempted from CDD under A.5 para 1 of the DDA but subject to A.5, para 2(d), which refers to taking CDD measures where there is a suspicion of ML and TF, and subject to A.10(6), which provides that simplified due diligence cannot apply in cases of enhanced due diligence, under A.11 of the DDA. Likewise, in cases of simplified due diligence the person must document the reason for exemption (A.20[2]DDA). Though simplified due diligence (which is the heading of Article 10)

is not defined in terms, in order to comply with the requirements under para 5(2)(d) the financial and other obliged institutions presumably will in practice still need to "know their customers" to basic due diligence levels.

47. Deficiency 7 identified in the MER *(The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence).* This has been considered but no changes have been made. Such business is not subject to enhanced due diligence, but is subject to the risk-adequate approach of monitoring business relationships set out in Article 9 DDA. It is considered that it would be helpful for the planned FMA guidance to cover this issue.

48. At the request of the Secretariat, the Liechtenstein authorities have provided some preliminary information on the types of shortcomings identified in supervision in 2010, now that the new provisions are more established. That document is annexed (ANNEX 1) to this analysis. It will be seen that 93 written instructions to remedy shortcomings have been issued in the financial sector, largely involving CDD requirements. This indicates an active approach to this issue by the FMA, though no court sanctions have been taken yet in 2010. The effectiveness of the implementation of the "risk-adequate" approach to the monitoring of business relationships is not really susceptible to a desk review and will need to be fully analysed in the 4th round evaluation in discussions with actors in the private sector, and the regulators.

Recommendation 10 - Record Keeping (rated C in the MER)

49. There were no recommendations in the last MER. The current effectiveness of implementation will be assessed in the 4th round evaluation.

Recommendation 13 – Suspicious transaction reporting (rated PC in the MER)

50. Deficiency 1 identified in the MER *(To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting).*The basic requirement in the previous DDA (A.16) to immediately report suspicions, while in line with R.13, was at that time undermined by qualifying the requirement with the reference to the need for prior "special enquiries". A *de facto* automatic 5 day freeze following the filing of an STR was thought to have a deterrent effect on the filing of an STR. Under the new DDA the requirement to carry out simple or special inquiries before filing an STR have been removed. The first progress report indicated that there was now no pre-clearance system.

51. The present STR requirement is in A.17(1) DDA. As before, it covers not only suspicions of ML but predicate offences to ML, organised crime and terrorist financing. The previous issue with regard to automatic freezing of assets is now brought in line with the *ex ante* provisions of the 3rd EU Directive (A.24) and the provisions in A.18(3) DDO are in line with the provisions of A.28 paragraph 3-5 of the 3rd EU Directive. It is noted, for the avoidance of doubt, that the related tipping off provision is now of unlimited duration.

52. Deficiency 2 identified in the MER *(Extend the SAR reporting requirement to include attempted transactions).* Liechtenstein has opted to apply the subjective standard of "suspicion" rather than an objective text. The words "attempted money laundering" do not appear. But as suspicion can arise from attempted money laundering, this appears now to be broadly covered, as there is

nothing to delimit this obligation in respect of attempted occasional transactions (as was the case before) now that the relevant provisions of the former A.15 DDA have been removed.

53. Deficiency 3 identified in the MER *(Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism).* It does not appear that this deficiency has been fully addressed. There is no definition in the DDA which would broaden the concept of terrorist financing to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organisations in addition to those who finance terrorism.

54. It appears that after a downturn in the number of STRs received in 2008 the trend has shown a rising number of STRs, and the total to 30 September 2010 already exceeds annual totals in the previous 4 years. Given that the 3rd evaluation report indicated that STRs received were usually of good quality, this is encouraging. A large number of the reports received are sent to law enforcement (in 2010 so far they have sent 82% of their STRs to law enforcement). The STR regime as far as can be assessed on a desk review appears to be working effectively.

Special Recommendation IV– Suspicious transaction reporting related to terrorism (rated PC in the MER)

55. Deficiency 1 identified in the MER *(Extend the SAR reporting requirement to include attempted transactions).* Please refer to the analysis on R.13. While suspicions of attempted TF are covered, the present formulation does not clearly cover attempted transactions that relate to funds that are linked to or related to, or to be used for terrorism, terrorist acts, or by terrorist organisations.

56. Deficiency 2 identified in the MER (*Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organisations in addition to those who finance terrorism).* Please see the comments above.

1.3 Main conclusions

57. The Liechtenstein authorities have done what they indicated they were proposing to do by way of legislative enhancement to their system at the time when the first 3rd round progress was adopted. Overall there have been incremental improvements to the legal structure in Liechtenstein on CDD issues. The awaited further guidance should build on what has already been provided for in Statute and unequivocally clarify that the other high risk areas the evaluators pointed to in the 3rd round report should be subject to enhanced due diligence. The effectiveness of the new preventive measures can only be assessed in the 4th round evaluation.

58. The criminal provisions on money laundering have been enhanced in the last 2 years, though conspiracy may still need revisiting. A significant number of money laundering charges have been filed with the public prosecutor's office and the conviction for an autonomous money laundering offence in Liechtenstein is a welcome step in the creation of Liechtenstein's own jurisprudence.

59. The SR.IV obligation still needs further precision as outlined above.

60. In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core

Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visit, though the Plenary may decide to fix an earlier date at which an update should be presented.

MONEYVAL Secretariat

2. Information submitted by Liechtenstein for the 2nd progress report

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

Position as at date of last progress report (12 December 2008)

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

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

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

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

New developments since the adoption of the 1st progress report

(In particular, please indicate all new relevant legislative acts with a brief description, and any changes since the adoption of the last progress report in the roles and responsibilities of relevant AML/CFT competent authorities)

Liechtenstein's crime rate is still low, with a total of 1216 recorded crimes in 2009, of which 209 were economic and financial crimes. In 54 cases the police also investigated money laundering offences. The major criminal activities identified by the authorities as predicate offenses for money laundering are economic offenses, in particular fraud, criminal breach of trust, asset misappropriation, embezzlement and fraudulent bankruptcy, as well as corruption and bribery.

The legislative acts already described in the first progress report entered into force (mostly on March 1, 2009), i.e. the revisions of the Criminal Code (StGB), the Due Diligence Act (DDA) and the Due Diligence Ordinance (DDO) and the Financial Intelligence Unit Act (FIU Act) which implemented the third EU AML/CFT Directive. Furthermore, the new Act on the Enforcement of International Sanctions (ISG) entered into force on March 1, 2009 as well.

2.2 Core recommendations

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

Recommendation 1 (Money Laundering offence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Amend the law to extend the list of predicate offenses for money laundering to offenses in the categories of environmental crimes, smuggling, forgery, and market manipulation.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Environmental crimes, smuggling, forgery, and market manipulation are currently not included in the list of predicate offenses set out in § 165 of the Criminal Code.
Measures taken to implement the recommendations since the adoption of the first progress report	Since the adoption of the first progress report, environmental crimes, smuggling, forgery, and market manipulation have become predicate offences to money laundering. Smuggling: Article 4 of the Customs Treaty with Switzerland declares all Swiss customs legislation to be directly applicable. The promulgation of 23 June 2009 of the Swiss legal provisions applicable in the Principality of Liechtenstein pursuant to the Customs Treaty expressly includes the Swiss Administrative Criminal Law, the revised article 14 of which entered into force on 1 February 2009. Article 14 of that law was supplemented by a new paragraph 4, which counts organized smuggling as qualified customs fraud and deems it a crime. Accordingly, organized smuggling constitutes a predicate offense of money laundering under Liechtenstein law. Environmental crimes, forgery, and market manipulation: have become predicate crime to ML on July 1, 2010 by including § 180 and 182 StGB (environmental crimes), § 223 and 224 StGB (forgery) as well as Art. 24 MG (market manipulation) in the list of predicate offences in § 165 StGB.
Recommendation of the MONEYVAL Report	*Amend the law to extend the offenses of converting, using, or transferring criminal proceeds to include criminal proceeds obtained through the commission of a predicate offense by the money launderer.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	To implement this recommendation, paragraph 2 of § 165 in Report and Application No. 124/2008 eliminates the phrase "by another person". The first reading of the amendment to the Criminal Code took place in the session of Parliament from 22 to 24 October 2008.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment entered into force on March 1, 2009.
Recommendation of the MONEYVAL	*Amend the law to eliminate Article 165.5 StGB to permit the prosecution for money laundering also in cases where the offender has been punished for the predicate*

Report	*offense.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Report and Application No. 124/2008 proposes an amendment of § 165 to Parliament in which paragraph 5 is eliminated. The proposal is currently being considered by Parliament.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Amend the law to criminalize the association or conspiracy of two persons to commit money laundering.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	According to Liechtenstein's conception of the law, the direction of a punishable act or the attempt to commit a punishable act within the meaning of §§ 12 and 15 in conjunction with § 165 of the Criminal Code also encompasses behavior covered by "association or conspiracy of two persons to commit money laundering". According to current jurisprudence, "to direct" a punishable act means the willful direct or indirect inducement of the commission of the act by triggering the decision to commit the act. Accordingly, no amendment of the law is planned.
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
Recommendation of the MONEYVAL Report	*Develop jurisprudence on Article 165 StGB autonomous money laundering.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Since the last Report in autumn 2007, the Liechtenstein Office of the Public Prosecutor has submitted 4 indictments for money laundering to the Liechtenstein Criminal Court. In one of these proceedings, a German citizen was sentenced to imprisonment in a final judgment. The Liechtenstein Office of the Public Prosecutor makes every effort to give the Liechtenstein courts the opportunity to develop a practice as to money laundering by submitting the suitable applications. However, the Office of the Public Prosecutor will continue transferring prosecution to the proper authorities in the defendants' home countries where foreign authorities so request for reasons of concentrating proceedings and where this appears necessary to avoid limitation. This happens in Liechtenstein where proceedings are running in several jurisdictions at the same time and the foreign defendant cannot be tried before the Criminal Court. It is not possible to conduct a trial before the Criminal Court in the absence of the defendant. It is the rule that before transferring prosecution, all evidence is investigated and analyzed in Liechtenstein. As to the proceeds of the offences, domestic proceedings are continued in all cases with the objective of forfeiture of the assets. For example, in a large-scale international money laundering case in July 2008, the prosecution for money laundering of the foreign defendant was transferred to his home country; however, the blocked assets of up to EUR 190 million were seized by the Criminal Court for the benefit of the State in separate proceedings in a judgment that is not yet final. After this judgment

	has become final, the Principality of Liechtenstein will start negotiations for the return of these funds to the injured parties.
Measures taken to implement the recommendations since the adoption of the first progress report	Between 01.09.2008 and 18.10.2010 **120** charges based on allegations of ML have been filed with the Public Prosecutor's Office. Within this period, 3 prosecutions have started, leading to one conviction. In 2009, a total of **61** charges have been filed. No prosecution has been initiated and consequently, no conviction rendered. In 2010 **45** charges in connection with ML have been filed, leading to 3 prosecutions. In 2010 one final conviction has been rendered (2 years imprisonment, on probation, probationary period 3 years). The reasons for the relatively low number of cases explained above in the first progress report still apply.
(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 MONEYVAL Report	*Strengthen legislative requirements for obtaining beneficial ownership information: for all business relationships financial institutions should be required to (i) always determine the natural person who is the beneficial owner (or owns or controls the customer); and (ii) understand the ownership and control structure of their customer.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The proposed new definition of the beneficial owner in the bill to parliament is regulated in article 7 of the draft law as well as in the draft ordinance and is in accordance with the Third EU AML/CFT Directive. The new definition provides that the beneficial owner may only be a natural person. Direct identification of the beneficial owner is according to the new definition mandatory, encompassing verification on a risk based approach and with adequate measures.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments (Art. 2 para 1 lit. e and Art. 7 DDA, Art. 3 and 11-19 DDO) have entered into force on March 1, 2009. According to Art. 2 (1) (e) DDA "beneficial owner" means a natural person on whose initiative or in whose interest a transaction or activity is carried out or a business relationship is ultimately constituted. In the case of legal entities, the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated. The definition is further specified in Art. 3 DDO in line with the 3rd EU AML Directive. According to Art. 7 DDA financial institutions must verify the identity of the beneficial owner to satisfy themselves that this is actually the beneficial owner by means of risk-based and adequate measures. In the case of a legal entity, this

	includes risk-based and adequate measures to determine the ownership and control structure of the contracting party. This requirement is further specified in Art. 11-19 DDO.
Recommendation of the MONEYVAL Report	*Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately managed registers and databases.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein has already implemented a high standard with respect to measures against money laundering, organized crime, and terrorist financing. Additionally, the new risk-based approach is now strongly implemented in the DDA (article 9 DDA Draft). By incorporating the risk-based approach in the law, clear requirements concerning the treatment of high-risk customers are given. • On a supplemental note, it should be mentioned that FMA Guideline 2005/1 is being revised with a view to the legal incorporation of the risk-based approach. In addition, the FMA will work together with the individual industry associations to develop specific interpretation aids in the form of best practices with all interested associations and a number of guidelines aimed to provide assistance concerning the application of the risk-based approach. Potential risks shall also be managed by the publication of a country list by FMA, which adequately applies to the EU-Directive.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 9 and 11 DDA as well as Art. 23 DDO entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. As mentioned above, the risk-bases approach shall be incorporated in the draft law. At the same time, the enhanced due diligence shall be clearly defined by article 11 DDA Draft and it shall apply explicitly to high-risk customers. The DDO Draft contains a series of criteria for measures for transactions and business relations with enhanced due diligence and higher risks. Additionally the DDA Draft explicitly requires enhanced due diligence in the following three scenarios,: 1) if the contracting party was not personally present for identification and verification of identification, the identity of the contracting party must be proven by means of additional measures; 2) for business relationships and transactions with politically exposed persons; 3) for cross-border correspondent banking relationships. In these cases, the business relationships and transactions have to be classified as high risk.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 11 DDA entered into force on March 1, 2009 and is further specified in Art. 23 DDO. The respective requirements are described in the answer to the preceding Recommendation (see above).
Recommendation of the MONEYVAL	*Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners and authorized parties.*

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Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The identification and verification is explicitly defined in the Articles 5-7 DDA Draft and in the DDO Draft. Articles 5-7 of the draft law stipulate explicitly that additional risk-based measures must be taken to verify the identification of the customer (Articles 5-6 DDA Draft) and the beneficial owner (Articles 5 and 7 DDA Draft). In addition, according to the DDO Draft financial institutions have to identify and verify the identity of any person purporting to act on behalf of a legal person or legal entity (contracting party). So, additional steps on a risk based approach are required to adequately respond to the risk and nature of the business and the customer.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 5-7 DDA and the described DDO (Art. 6-19) entered into force on March 1, 2009. Beneficial owners: According to Art. 7 (2) DDA financial institutions are required to verify the identity of the beneficial owner to satisfy themselves that this is actually the beneficial owner by means of risk-based and adequate measures. In the case of a legal entity, this includes risk-based and adequate measures to determine the ownership and control structure of the contracting party. This requirement is further specified in Art. 11-19 DDO. Authorized parties: If the contracting party is a legal entity financial institutions are required by Art. 6 (2) DDO to ensure that the person purporting to act on its behalf is authorised to do so. Financial institutions are required to verify the identity of such persons by inspecting a document with probative value (original or certified copy) or by confirming the authenticity of the signature.
Recommendation of the MONEYVAL Report	*Require financial institutions to provide customer information when making domestic wire transfers and align threshold in the DDA and DDO for due diligence on wire transfers with the minimum set out in SR.VII of EUR/USD 1,000.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this in the context of the implementation of the Third EU AML/CFT Directive. The new article 12 DDA Draft in conjunction with the DDO Draft will now govern wire transfers. Additionally, Regulation (EC) 1781/2006 applies. The new rules provide that all payments, whether domestic or cross-border, will now be governed without exception, even those of less than EUR/USD 1,000. Article 6 para. 1 (b) DDA (current version) and its threshold of CHF 5'000 will therefore be deleted without replacement.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. According to Art. 12 DDA in conjunction with Art. 17 (1) DDO payment services providers are required to supply for all money transfers (irrespective of the amount), the name, account number and address of the payer. Pursuant to Art. 17 (2) DDO and in line with Art. 6 Regulation (EC) No. 1781/2006 payment services providers may supply only the account number of the payer or an identification number linked to the client that will enable the transaction to be traced back to the payer, when processing money transfers within the EEA member states or states deemed equivalent thereto on the basis of international treaties ("domestic

	transfers"). On request from the payee's payment services provider, the payer's payment services provider shall supply the former with the complete payer data record pursuant to Art. 17 /1) DDO within three working days. Further details are stipulated in 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, which is directly applicable in Liechtenstein (EEA Compendium of Laws: Annex IX . 23d.01). According to Art. 5 (4) Regulation (EC) No. 1781/2006 in the case of transfers of funds not made from an account, the payment service provider of the payer is required to verify the information on the payer only where the amount exceeds EUR 1 000, unless the transaction is carried out in several operations that appear to be linked and together exceed EUR 1 000.
Recommendation of the MONEYVAL Report	*Bring the current exceptions to identification requirements into line with Recommendation 5.2 which requires at a minimum reduced or simplified measures.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The customer due diligence requirements will now be governed by article 5 paragraph 2 DDA Draft. The previous exceptions under articles 6 and 8 (current version) will be deleted without replacement and placed under simplified measures. Only article 4 DDA Draft contains three exceptions within a very limited framework and minimal risk of money laundering, organized crime, and terrorist financing, for example clearly defined cases in the field of social security, asset management and low-risk financial services.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 5 DDA entered into force on March 1, 2009. Art. 6 and 8 of the old version of the DDA have been deleted without replacement. Instead of waiving CDD measures entirely the new DDA (Art. 10 DDA) now allows for simplified due diligence as provided by Recommendation 5.9 (e.g. for financial institutions subject to equivalent AML/CFT requirements, listed companies subject to equivalent disclosure requirements, life insurance policies with an annual premium below CHF 1'500 francs or a single premium below CHF 4'000, etc.)
Recommendation of the MONEYVAL Report	*The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	The FMA considered the abovementioned issues but decided to make no changes due to the new implementation of the risk-based approach in article 9 DDA Draft. See reply above on "risk-based approach".
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
(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) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*Strengthen legislative requirements to cover the formation of all kinds of companies: TCSPs should conduct CDD and ascertain the beneficial owner when forming commercially-active entities and holding companies that contain commercially-active entities.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this in the context of the implementation of the Third EU AML/CFT Directive. The draft law no longer distinguishes between due diligence treatment of commercially active companies and domiciliary companies. The establishment of a commercially active legal entity and performance of the function of a partner, governing body, or general manager of such an entity is subject to due diligence, to the extent that the activity is carried out on the account of a third party. See also the response on recommendation 5 I. regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 3 DDA and the new Art. 3 DDO entered into force on March 1, 2009. According to Art. 3 (1) (k) DDA professional trustees and trust companies licensed under the Professional Trustees Act are subject to the DDA and therefore obliged to conduct CDD and ascertain the beneficial owner. They are subject to this requirement to the extent they pursue activities under Art. 7 (1) (a) Professional Trustees Act, which includes the forming of legal entities, companies, and trusteeships for third parties, in the license holder's own name and for the account of third parties. This comprises as well forming commercially-active entities and holding companies that contain commercially-active entities. In addition to professional trustees, any natural and legal persons who, on a professional basis and on the account of a third party, act as a partner of a partnership or a governing body or general manager of a legal entity or carries out a comparable function on the account of a third party is subject to the DDA (Art. 3 (1) (t) DDA). Therefore such persons are as well required to conduct CDD and ascertain the beneficial owner when carrying out aforementioned functions in active entities or holding companies that contain commercially-active entities.
Recommendation of the MONEYVAL Report	*Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately-managed registers and databases.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
Measures taken to implement the	For further details please refer to the answer on Recommendation 5 I. regarding financial institutions.

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

recommendations since the adoption of the first progress report	
Recommendation of the MONEYVAL Report	*Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The new Art. 11 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 5 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners, and authorized parties.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The new Art. 5-7 DDA and the new Art. 6-19 DDO entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 5 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 5 I. regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	For further details please refer to the answer on Recommendation 5 I. regarding financial institutions.
(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: Compliant	
Changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP[5]	
Changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing these issues in the context of the implementation of the Third EU AML/CFT Directive. The freezing of assets is qualified in two ways: If denial of a transaction is impossible or if this would interfere with prosecution of a person allegedly involved in money laundering or terrorist financing, the persons subject to due diligence must submit a SAR immediately after carrying out the transaction (article 18 paragraph 1 DDA Draft, implementing article 24(2) of Directive 2005/60/EC). Even after submitting a SAR, transactions may be carried out pursuant to approval by the FIU (article 18 paragraph 2 DDA Draft). Furthermore, the SAR reporting requirement has been simplified. The conducting of simple and special enquiries to form suspicion has been removed (article 17 paragraph 1 DDA Draft). There is no pre-clearance system for SARs applied by the FIU. The FIU in its authority as central body to receive SARs is assisting reporting entities on their reporting obligations to enhance the effectiveness of the system of SAR reporting.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 17 and 18 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Extend the SAR reporting requirement to include attempted transactions.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted transactions (article 17 paragraph 1 DDA Draft).
Measures taken to implement the	The described amendment of Art. 17 DDA entered into force on March 1, 2009.

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

recommendations since the adoption of the first progress report	
Recommendation of the MONEYVAL Report	*Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
(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[6]	
Recommendation of the MONEYVAL Report	*Conduct outreach to non-reporting TCSPs and take other appropriate measures to increase the breadth of DNFBP reporting.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	The FIU regular conducts trainings at the University and the Institute for Compliance and Quality Management especially targeting the TCSP sector. Additionally, in-house trainings are conducted at TCSPs.
Measures taken to implement the recommendations since the adoption of the first progress report	The measures reported in 2008 have been continued and expanded.
Recommendation of the MONEYVAL Report	*To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting.*
Measures reported	Liechtenstein is addressing these issues in the context of the implementation of the

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

as of 12 December 2008 to implement the Recommendation of the Report	Third EU AML/CFT Directive. The freezing of assets is qualified in two ways: If denial of a transaction is impossible or if this would interfere with prosecution of a person allegedly involved in money laundering or terrorist financing, the persons subject to due diligence must submit a SAR immediately after carrying out the transaction (article 18 paragraph 1 DDA Draft, implementing article 24(2) of Directive 2005/60/EC). Even after submitting a SAR, transactions may be carried out pursuant to approval by the FIU (article 18 paragraph 2 DDA Draft). Furthermore, the SAR reporting requirement has been simplified. The conducting of simple and special enquiries to form suspicion has been removed (article 17 paragraph 1 DDA Draft). There is no pre-clearance system for SARs applied by the FIU. The FIU in its authority as central body to receive SARs is assisting reporting entities on their reporting obligations to enhance the effectiveness of the system of SAR reporting.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 17 and 18 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Extend the SAR reporting requirement to include attempted occasional transactions.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted transactions (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations, in addition to those who finance terrorism.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
(other) changes since the first progress report (e.g. draft laws, draft regulations	

or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Amend the law to criminalize the financing of individual terrorists.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Report and Application No. 124/2008 proposes an amendment to § 278d of the Criminal Code ensuring criminal liability for financing of individual terrorists. The proposal is currently being considered by Parliament.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of § 278d Criminal Code entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Amend Article 278d StGB to provide for "any act" committed with the required intent, not only criminal offenses, to constitute a terrorist act.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	§ 278d paragraph 1(h) of the Report and Application No. 124/2008 takes account of this by proposing deletion of the word "criminal".
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of § 278d Criminal Code entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Provide for a definition of "Terrorist organization" in line with the FATF standard.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	This recommendation has been taken up and implemented. Please refer to existing §§ 278b, 278c, and 278d of the Criminal Code. An amendment is also being proposed to § 278d paragraph 1(1)(h) and paragraph 2 in Report and Application No. 124/208, by expressly no longer relying on commission of a "criminal" act but rather of "any act" intended to cause death or serious bodily injury to a civilian or another person. The word "criminal" has been struck from subparagraph (h) (see also preceding response). Moreover, criminal liability for punishing an individual terrorist has been expressly included in paragraph 2, in such a way that the legislative text expressly contains the phrase "by a person". The first reading of this legislative amendment already took place in the October session of the Liechtenstein Parliament. The second and third readings are scheduled for the December session.
Measures taken to implement the	The described amendments of § 278d Criminal Code entered into force on March 1,

recommendations since the adoption of the first progress report	2009.
(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) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Extend the SAR reporting requirement to include attempted transactions.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted transactions (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
(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	
Recommendation of the MONEYVAL Report	*Extend the SAR reporting requirement to include attempted occasional transactions.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement is expanded and now also covers attempted occasional transactions (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations, in addition to those who finance terrorism.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The reporting requirement expressly also covers all predicate offenses, including terrorism, terrorist acts, and terrorist organizations (article 17 paragraph 1 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 17 DDA entered into force on March 1, 2009.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

2.3 Other Recommendations

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

Recommendation 6 (Politically exposed persons)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 11 paragraph 4 DDA Draft, business relationships with PEPs are explicitly subject to enhanced due diligence. Business relationships and transactions with PEPs thus always constitute higher risks, which must be monitored more intensively. Article 11 paragraph 4 DDA Draft regulates measures to be taken in connection with PEP business relationships.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 11 DDA and the new Art. 2 DDO entered into force on March 1, 2009. The described amendment of Art. 11 DDA and the new Art. 2 DDO (definition of PEP) entered into force on March 1, 2009. Business relationships and transactions with PEPs are therefore by law mandatory instances of enhanced due diligence. In addition to the enhanced monitoring required by Art. 11 (1) DDA the following measures are required by Art. 11 (4) DDA with regard to business relationships and transactions with politically exposed persons: a) employ adequate, risk-based procedures to determine whether the contracting party or the beneficial owner is a PEP or not; b) obtain the approval of at least one member of the general management before establishing a business relationship with such a contracting party or beneficial owner or where a contracting party or a beneficial owner is recognized as a PEP in the context of an existing business relationship before continuing the business relationship; c) each year, obtain the approval of at least one member of the general management in order to continue business relationships with PEPs.
Recommendation of the MONEYVAL Report	*Require financial institutions to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Article 11 paragraph 4 (b) and (c) DDA Draft govern the approval procedure by the general management in respect of PEP business relationships. According to this procedure, at least one member of the general management must agree to a PEP business relationship. Additionally, approval to continue PEP business relationships must be obtained each year.
Measures taken to implement the recommendations since the adoption	The described amendment of Art. 11 DDA and the new Art. 2 DDO entered into force on March 1, 2009.

of the first progress report	Accordingly, the approval of at least one member of the general management has to be obtained where a contracting party or a beneficial owner is recognized as a PEP in the context of an existing business relationship before continuing the business relationship. In addition the approval of at least one member of the general management has to be obtained each year in order to continue business relationships with PEPs.
Recommendation of the MONEYVAL Report	*Provide for an explicit obligation by financial institutions to determine the source of wealth of customers and beneficial owners identified as PEPs.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. No explicit rule in this regard is contained in the draft law, but, according to article 5 paragraph 1 DDA Draft in conjunction with article 11 paragraphs 1 and 4 DDA Draft, PEP business relationships are subject to enhanced due diligence and thus constitute business relationships with higher risks. According to article 11 paragraph 1 DDA Draft, business relationships with higher risks are subject to more intensive monitoring, which includes clarifying the origin of the assets. Additionally, the Report and Application on the implementation of the 3rd Money Laundering Directive states "that the clarification of the origin of the assets is already contained in the business profile (article 8 DDA Draft and DDO Draft). In addition, it should be noted that this obligation also applies mutatis mutandis to the execution of occasional transactions with politically exposed persons."
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 5, 8 and 11 DDA and the new Art. 20 DDO entered into force on March 1, 2009. According to Art. 8 DDA a profile of the business relationship, including in particular information concerning the origin of the assets and the purpose and intended nature of the business relationship (business profile) with regard to every client (including PEPs) has to be established. The Due Diligence Ordinance specifies the content of the business relationship and reiterates that the business profile shall contain *inter alia* the economic background and origin of the assets deposited (Art. 20 (1) (c) DDO).
Recommendation of the MONEYVAL Report	*Consider applying similar measures to domestic PEPs.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	This issue was considered in the context of the implementation of the Third EU AML/CFT Directive but there are no changes planned.
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
(other) changes	

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

Recommendation 7 (Correspondent banking)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Provide an explicit requirement for financial institutions providing correspondent services to determine whether the respondent has been the subject of a money laundering or terrorist financing investigation or regulatory action.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 11 DDA Draft, the persons subject to due diligence under article 3 paragraph 1 (a) to (h) DDA Draft must ensure in the case of cross-border correspondent banking relationships with respondent institutions outside the EEA that they have sufficient information about the respondent institution to understand the nature of the respondent's business and to determine the reputation of the institution and the quality of supervision. This includes the determination of whether the respondent has been subject of an investigation or regulatory action. Additionally, since the previous restriction contained in article 10 DDA (current version) was too narrow, article 11 paragraph 5 DDA Draft now provides for an extension to all relevant persons subject to due diligence. Accordingly, article 11 paragraph 5 (1) now covers all persons subject to due diligence under article 3 paragraph 1 (a) to (h) DDA Draft.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 3 and 11 DDA entered into force on March 1, 2009. In respect of cross-border correspondent banking relationships with respondent institutions from a third State financial institutions must *inter alia* ensure according to Art. 11 (5) DDA that they have sufficient information about the respondent institution to understand the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision. Accordingly financial institutions are required to determine at least whether the respondent has been the subject of a money laundering or terrorist financing investigation or regulatory action.
Recommendation of the MONEYVAL Report	*Amend the current provisions to provide explicitly for the documenting of the respective AML/CFT responsibilities of the respondent and correspondent bank.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 11 paragraph 5 (d) DDA Draft. According to this provisions, persons subject to due diligence under article 3 paragraph 1 (a) to (h) must document the respective responsibilities concerning the fulfillment of due diligence requirements by the two institutions involved.

Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 3 and 11 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Regarding payable-through transactions, require Liechtenstein financial institutions to obtain a confirmation from the correspondent financial institution that all CDD requirements of Recommendation 5 have been complied with and that the correspondent financial institution is able to provide relevant customer identification data upon request.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by the DDO Draft, which will exactly correspond to the wording of article 13 paragraph 3 (e) of the 3rd Money Laundering Directive.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 16 DDO entered into force on March 1, 2009. Accordingly, financial institutions are required to satisfy themselves that the correspondent institution a) has verified the identity of the persons that have direct access to the correspondent institution's accounts; b) has subjected those persons to continuous monitoring; and c) is in position to submit the relevant data concerning these duties of due diligence to the financial institution on request.
Recommendation of the MONEYVAL Report	*For the sake of completeness, revise the DDA and DDO provisions for correspondent banking relationships and similar relationships to cover all relevant categories of financial institutions.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. See reply above (first item of RC 7).
Measures taken to implement the recommendations since the adoption of the first progress report	According to the new Art 11 (5) DDA the requirements regarding correspondent banking relationships now apply to all persons mentioned under Art. 3 (1) (a) to (h) DDA, which represent all relevant categories of financial institutions.
(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 MONEYVAL Report	*Require financial institutions to take measures to address the risk of misuse of new technologies for ML or FT purposes, particularly for internet banking.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 9 paragraph 2 DDA Draft. According to article 9 paragraph 2 DDA Draft, persons subject to due diligence must pay special attention to threats emanating from the use of new technologies as part of their risk-adequate monitoring.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 9 DDA entered into force on March 1, 2009. According to Art. 9 (2) DDA financial institutions are required to pay special attention to complex and unusual transactions as well as threats emanating from the use of new technologies.
Recommendation of the MONEYVAL Report	*Require financial institutions to take measures expressly to address the risk of non-face to face business.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 11 paragraph 3 DDA Draft, business relationships where the contracting party was not personally present for identification (non-face to face business) are subject to enhanced due diligence. According to article 11 paragraph 1 DDA Draft, these business relationships have higher risks and must be monitored more intensively. Article 11 paragraph 3 DDA Draft moreover requires that the identity of the contracting party must be proven by means of additional measures.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 11 DDA and the new Art. 6 and Art. 23 DDO entered into force on March 1, 2009. Enhanced due diligence is mandatory for non-face to face business relationships according to Art. 11 (1) DDA and are therefore subject to enhanced monitoring. According to Art. 11 (3) DDA financial institutions are required to prove the identity of the contracting party by means of additional measures in business relationships where the contracting party was not personally present for identification. According to Art. 23 (3) DDO such additional measures shall include, in particular: a) verifying the identity of the contracting party using additional documents, data or information; b) clarifying the origin of the assets deposited; c) clarifying the intended use of assets withdrawn; d) clarifying the professional and business activity of the contracting party and beneficial owner. When initiating a non-face to face business relationship financial institutions are also required to establish and verify the identity of the contracting party by obtaining the original or a certified copy of a document with probative value and obtaining from the contracting party a confirmation of the legally required information by means of a signature or by the use of a secure electronic signature in accordance with the Signature Act (Signaturgesetz, SigG).
(other) changes since the first progress report	

(e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 9 (Third parties and introducers)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 14 paragraph 1 DDA Draft, only due diligence measures referred to in article 5 paragraph 1 (a) to (c) may now be delegated to third parties. The ongoing monitoring of business relationships can therefore no longer be delegated to third parties.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 14 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The exculpatory possibility under article 30 paragraph 2 DDA (current version) was deleted without replacement. According to article 14 paragraph 2 DDA Draft, the persons subject to due diligence remain responsible for compliance with due diligence requirements even in cases of delegation.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 14 DDA entered into force on March 1, 2009. Art. 30 para 2 of the old DDA was deleted without replacement. Art. 14 (2) DDA stipulates clearly that even in cases of delegation, the persons subject to due diligence remain responsible for compliance with due diligence requirements.
Recommendation of the MONEYVAL Report	*The authorities should determine countries in which third parties who conduct due diligence on behalf of Liechtenstein financial institutions can be based, by reference to the adequacy of their application of the FATF Recommendations, and require financial institutions to check that such third parties have appropriate preventive measures in place.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 14 paragraph 3 in conjunction with article 14 paragraph 1 DDA Draft, the FMA will issue a list of countries with equivalent regulation and supervision.
Measures taken to implement the	The described amendment of Art. 14 DDA entered into force on March 1, 2009.

recommendations since the adoption of the first progress report	Art. 14 (3) empowers the FMA to issue a list of countries with equivalent regulations in which third parties who conduct due diligence on behalf of Liechtenstein financial institutions can therefore be based. A respective list has been issued in the FMA Communication No. 2/2009. The equivalent jurisdictions mentioned in the list correspond to what was agreed upon between the EU Member States in June 2008. The list has been drawn upon information available amongst EU Member States on whether those countries adequately apply the FATF Recommendations. According to 24 (1) (a) DDO financial institutions are required to ensure that third parties obtain or prepare the documents and information in accordance with the provisions of the DDA and DDO, and transfer them without delay to the financial institution in the Principality of Liechtenstein, including a statement as to the identity of the person carrying out the identification and verification.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 11 (Unusual transactions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Provide explicitly that financial institutions be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Persons subject to due diligence must pay special attention to all complex and unusual transactions as well as threats arising from the use of new technologies (article 9 paragraph 2 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 9 DDA entered into force on March 1, 2009.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 12 (DNFBP – concerning Rec. 6, 8 – 11; concerning Rec. 5 see above)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 11 DDA and the new Art. 2 DDO (definition of PEP) entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 6 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Require DNFBPs to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 11 DDA and the new Art. 2 DDO entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 6 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Provide for an explicit legal obligation by DNFBPs to determine the source of wealth of customers and beneficial owners identified as PEPs.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 6 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 5, 8 and 11 DDA and the new Art. 20 DDO entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 6 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Consider applying similar measures to domestic PEPs.*
Measures reported as of 12 December 2008 to implement	See the response on recommendation 6 regarding financial institutions.

the Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
Recommendation of the MONEYVAL Report	*Require DNFBPs to take measures to address the risk of misuse of new technologies for ML or FT purposes.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 8 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 9 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 8 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Require DNFBPs to take additional measures to expressly address the risk of non-face to face business.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 8 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 11 DDA and the new Art. 6 DDO entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 8 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 5 and 11 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 9 I. regarding financial institutions.
Recommendation of	*Remove the protection from punishment set out in Article 30.2 DDA in the event of*

the MONEYVAL Report	*the failure of an intermediary to meet DDA requirements.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 14 DDA entered into force on March 1, 2009. Art. 30 para 2 of the old DDA was deleted without replacement. For further details please refer to the answer on Recommendation 9 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*The authorities should determine countries in which third parties who conduct the due diligence on behalf of Liechtenstein DNFBPs can be based, by reference to the adequacy of their application of the FATF Recommendations.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 9 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 14 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 9 I. regarding financial institutions.
Recommendation of the MONEYVAL Report	*Provide explicitly that DNFBPs be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 11 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 9 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 11 I. regarding financial institutions.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 14 (Protection and no tipping-off)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Include provisions extending protection on reporting in good faith to directors, officers and employees.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Persons subject to due diligence and their general managers or employees submitting a report to the FIU under article 17 paragraph 1 are exempt from all civil and criminal liability if it turns out that the report was not justified, provided that they did not act willfully (article 19 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 19 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Remove the time limit on the prohibition of tipping off.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The persons subject to due diligence may not inform the contracting party, the beneficial owner, or third parties that they have submitted a report to the FIU pursuant to article 17 paragraph 1. This prohibition of tipping off is unlimited in time (article 18 paragraph 3 DDA Draft).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 18 DDA entered into force on March 1, 2009.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 16 (DNFBP concerning R. 15 & 21; concerning R. 13 see above)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 21 regarding financial institutions.

Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 10 DDA entered into force on March 1, 2009. Enhanced CDD has to be applied to business relationships and transactions identified as being of higher risk according to Art. 11 DDA. According Art. 23 (1) DDO financial institutions are required to consider in particular the following criteria when determining business relationships and transactions with higher risk: a) the registered office or place of residence of the contracting party and beneficial owner or their nationality; b) the nature and location of the contracting party's and beneficial owner's business activity; In this respect the FMA publishes regularly the FATF public statements, which identify jurisdictions that may pose a risk to the international financial system (FMA Communication 2/2010). Financial institutions are required to apply enhanced CDD with respect to those jurisdictions. The FMA-Communication 2/2010 contains as well a reference to the public document ´Improving Global AML/CFT Compliance: On-going Process", which identifies jurisdictions with strategic AML/CFT deficiencies. Financial institutions are required to consider the information contained in the document when assessing the adequacy of measures and controls with respect to business relations and transactions with persons from or in those countries.
Recommendation of the MONEYVAL Report	*Introduce effective measures to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See the response on recommendation 21 regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 10 DDA entered into force on March 1, 2009. As mentioned above the FMA publishes regularly the FATF public statements, which identify jurisdictions that may pose a risk to the international financial system (FMA Communication 2/2010) to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries. The FMA publishes as well as the public document ´Improving Global AML/CFT Compliance: On-going Process", which identifies jurisdictions with strategic AML/CFT deficiencies.
Recommendation of the MONEYVAL Report	*Introduce a requirement that DNFBPs examine the background and purpose of such transactions with no apparent economic or visible lawful purpose, with findings documented and available to assist competent authorities and auditors.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 5 paragraph 1 (c) DDA Draft in conjunction with the DDO Draft, DNFBPs must clarify the intended purpose of the assets as part of the business profile. According to article 5 paragraph 1 (d) in conjunction with article 9 DDA Draft, DNFBPs have to monitor the business relationships using a risk-based approach and undertake adequate clarifications if necessary. They must pay special attention to complex and unusual transactions (article 9 paragraph 2 DDA Draft). According to article 9 paragraph 3 DDA Draft, they must also carry out simple clarifications with reasonable effort when fact patterns or transactions occur that deviate from the business profile. According to article 9 paragraph 4 DDA Draft, DNFBPs must carry out special clarifications when fact patterns or transactions occur giving rise to suspicion that assets are connected with money laundering, predicate offenses of money laundering,

	organized crime, or terrorist financing. The results of the clarifications must be documented in the due diligence files (article 9 paragraph 5 DDA Draft). Moreover, FMA Guideline 2005/1 provides DNFBPs with further information on the scope of the clarifications and general indicators of money laundering: "General indicators of money laundering: Particular risks with regard to money laundering attach to transactions the design of which indicates an illegal purpose, the financial purpose of which is not apparent, or which even appear financially counterproductive.".
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 5 and 9 DDA entered into force on March 1, 2009. The amended Art. 20 DDA obliges DNFBPs to keep their findings recorded for at least 10 years. The new Art. 20 DDO defines the content of the business profile in detail.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Enlarge the definition of administrative offenses to cover all appropriate DDA requirements and establish a continuum of sanctions from minor to serious DDA violations to ensure that cases are processed in a timely, effective and proportionate manner*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive in so far as a new sanction was included in article 31 paragraph 1 (d) DDA Draft, according to which anyone who, in violation of articles 5 to 14 of Regulation (EC) No. 1781/2006 fails to collect, keep, verify, or transmit the required information, carries out or receives financial transfers, or breaches record-keeping or reporting duties shall be punished by a fine of up to CHF 100,000 for committing an administrative offense.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 31 DDA entered into force on March 1, 2009. The new Law defines certain minor DDA violations in Article 31 DDA, which are categorized as administrative offenses. Administrative offenses are punished by the FMA by a fine of up to 100,000 Swiss francs. Serious DDA violations are listed in Art. 30 DDA. Such misdemeanors are punished by the Court of Justice with imprisonment of up to six months or with a monetary penalty of up to 360 daily rates.
Recommendation of the MONEYVAL Report	*Define sanctions with regard to criminal liability of legal persons.*
Measures reported as of 12 December 2008 to implement	By the end of October 2008, the Ministry of Justice will receive a draft prepared by an external expert on implementation of the criminal liability of legal persons under Liechtenstein law. Parliamentary consideration is scheduled for 2009.

the Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	Parliament has passed the described law in October 2010, which will enter into force on January 1, 2011. Liechtenstein decided to amend both the criminal code and the criminal procedure code in order to implement the criminal liability of legal persons. A new chapter 9 in the criminal code with §§ 74a to 74g will establish a primary criminal liability which includes all legal persons listed in the public register as well as those foundations and associations which are not listed in the public register. Legal persons are responsible for all misdemeanours and offences committed by an employee or a director/member of the board of the legal person. The maximum penalty is a fine up to 2,7 Million Swiss francs. In case of aggravating circumstances according to § 39 of the criminal code the fine can amount up to 4,25 million Swiss francs. The corresponding provisions concerning the proceeding before court were implemented in the new chapter 25 in the criminal procedure code, where §§ 357a to 357g define jurisdiction, rights of an accused legal person and other specific characteristics of legal persons.
(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 MONEYVAL Report	*Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 10 paragraph 5 DDA Draft, the FMA will issue a list of countries with equivalent regulation and supervision (White List). Additionally, the FMA publishes country warnings in the form of communications (E.g., Communication of 1 July 2008, Country Warning FATF).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 10 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 21 I. regarding DNFBPs.
Recommendation of the MONEYVAL Report	*Introduce effective measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.*
Measures reported as of 12 December 2008 to implement the Recommendation of	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. According to article 10 paragraph 5 DDA Draft, the FMA will issue a list of countries with equivalent regulation and supervision (White List). Additionally, the FMA publishes country warnings in the form of communications (E.g., Communication of 1 July 2008, Country Warning FATF).

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Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 10 DDA entered into force on March 1, 2009. For further details please refer to the answer on Recommendation 21 I. regarding DNFBPs.
(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 MONEYVAL Report	*Require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations in countries which do not or insufficiently apply the FATF Recommendations.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 16 paragraph 1 DDA Draft.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 16 DDA entered into force on March 1, 2009. Accordingly, financial institutions are required to ensure that their branches and majority-owned subsidiaries in a third State apply measures to combat money laundering, organized crimes, and terrorist financing that are at least equivalent to those laid down in the DDA with regard to CDD relating to contracting parties and record keeping, to the extent permitted under the law of that third State.
Recommendation of the MONEYVAL Report	*Where home and host country AML/CFT measures differ, require branches and subsidiaries to apply the higher standard.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 16 paragraph 1 DDA Draft.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 16 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Require financial institutions to inform the FMA of any local laws or regulations preventing them from monitoring AML/CFT risk on a global basis.*

Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Article 16 paragraph 2 DDA Draft in conjunction with the DDO Draft provides that the FMA must be informed by persons subject to due diligence under article 3 paragraph 1 (a) to (i) DDA Draft if a branch or subsidiary is unable to apply the required measures to combat money laundering, organized crime, and terrorist financing due to limitations by foreign law or if the persons subject to due diligence under article 3 paragraph 1 (a) to (i) DDA Draft determine that access to information concerning contracting parties and beneficial owners is ruled out or interfered with in certain countries for legal or practical reasons.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 16 DDA and the new Art. 25 DDO entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*The FMA should take steps to improve implementation of appropriate group-wide AML/CFT measures for Liechtenstein financial institutions.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	As regards group-wide AML/CFT measures, the FMA has been promoting such measures in co-operation with all relevant authorities hosting subsidiaries or branches of Liechtenstein financial institutions. Recently the FMA held meetings with MAS, HKMA and DFSA in order to discuss group-wide AML/CFT issues. The FMA has received from its overseas counterparts detailed AML/CFT audit reports concerning subsidiaries of Liechtenstein financial institutions. Remedial actions have been mapped out and monitored jointly with the respective host authority. In this regard, the FMA benefits from valuable contacts stemming from co-operation at the CEBS and CEIOPS level.
Measures taken to implement the recommendations since the adoption of the first progress report	The implementation of appropriate group-wide AML/CFT measures has been strengthened by the introduction of an explicit legal requirement for financial institutions to ensure that their branches and majority-owned subsidiaries in Non-EEA-countries apply AL/CFT measures that are at least equivalent to those laid down in the Liechtenstein Law (Art. 16 DDA, entered into force March 1, 2009). In addition the FMA Liechtenstein has addressed this issue by explicitly requiring external auditors to examine the implementation of group-wide AML/CFT measures in their annual regular audits at financial institutions. Those external auditors have to report about their respective findings in the annual AML/CFT audit report to the FMA, as this topic has been introduced in the Model Report, which sets the framework for these audit reports.
(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 – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The definition of "beneficial owner" should be amended and brought in line with the FATF standard to cover the control structure of legal persons.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The DDO Draft provides a new definition of beneficial owner. This definition corresponds to the FATF standard.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 2 and 7 DDA and the new Art. 3 and 11-17 DDO entered into force on March 1, 2009. According to Art 2 (1) (e) DDA in the case of legal entities the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated. According to Art 7 (2) DDA risk-based and adequate measures have to be taken to determine the ownership and control structure of the contracting party. The definition of beneficial owner is further specified in Art. 3 (1) DDO.
Recommendation of the MONEYVAL Report	*Intermediaries should be required by law to verify beneficial ownership information.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 5 paragraph 1 (b) and (d) in conjunction with articles 7 DDA Draft. The persons subject to due diligence must verify the identity of the beneficial owner by means of risk-based and appropriate measures.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 5 and 7 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Although in practice beneficial ownership information of commercially-active companies is available in a large number of cases, the authorities should put in place measures to ensure that information on beneficial ownership and control of legal entities that are commercially-active in the domiciliary state is obtained, verified, and kept.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. The new law no longer distinguishes between due diligence treatment of commercially active companies and domiciliary companies. The establishment of a commercially active legal entity and performance of the function of a partner, governing body, or general manager of such an entity is also subject to due diligence, to the extent that the activity is carried out on the account of a third party. See also reply Rec. 5.
Measures taken to implement the recommendations since the adoption of the first progress	The described amendments (Art. 3 (1) (t) DDA) have entered into force on March 1, 2009. According to Art. 3 (1) (t) DDA any natural and legal persons who, on a professional basis and on the account of a third party, act as a partner of a partnership or a governing body or general manager of a legal entity or carries out a comparable function on the account of a third party is subject to the DDA. No

report	distinction is made anymore between commercially active companies and domiciliary companies. Therefore full CDD (including identification and verification of beneficial ownership) has to be carried out when carrying out aforementioned functions in commercially-active entities.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 34 (Legal arrangements – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The definition of "beneficial owner" should be amended and brought in line with the definition of the FATF standard to ensure that there is adequate transparency concerning the control structure of legal arrangements.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See reply above concerning Rec. 33.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 2 and 7 DDA and the new Art. 3 and 11-17 DDO entered into force on March 1, 2009. According to Art 2 (1) (e) DDA in the case of legal entities the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated. According Art 2 (1) (f) DDA the "legal entity" means a legal person, company, trust, or other collective or asset entity, irrespective of its legal form. According to Art 7 (2) DDA risk-based and adequate measures have to be taken to determine the ownership and control structure of the contracting party. The definition of beneficial owner is further specified in Art. 3 (1) DDO.
Recommendation of the MONEYVAL Report	*Intermediaries should be required by law to verify beneficial ownership information.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See reply above concerning Rec. 33.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of Art. 5 and 7 DDA entered into force on March 1, 2009. According to Art. 7 DDA intermediaries are required verify the identity of the beneficial owner by means of risk-based and adequate measures. In the case of a legal entity (which comprises legal arrangements), this includes risk-based and

	adequate measures to determine the ownership and control structure of the contracting party.
Recommendation of the MONEYVAL Report	*Although the number of "private trustees" active in Liechtenstein seems to be marginal, such persons should be under a legal obligation to obtain, verify, and record beneficial ownership information.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	No changes, since these persons are not operating commercially, but rather for private purposes, and are not acting for third parties as trustees. For this reason, there is no need to capture these persons within the scope of the DDA Draft.
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 35 (Conventions) and Special Recommendation I (UN instruments)	
Rating: R 35 – partially compliant; SR. I - partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	With regard to a more comprehensive implementation of the Vienna and Palermo Conventions, the Government in September 2008, after having concluded a consultation process, submitted a bill to Parliament to amend § 20b and § 26 of the Criminal Code (seizure and confiscation of laundered assets as object of the ML offense, confiscation of all instrumentalities; see also Rec. 3), § 165 (criminalisation of self-laundering, see also Rec. 1) and §278d of the Criminal Code (criminalisation of terrorist financing, i.e. financing of individual terrorists, definition of terrorist organisation, coverage of any acts committed with the intent to be terrorist acts, see also SR II). It may be expected that the amendments will be approved by Parliament by the end of 2008.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of §§ 20b, 26, 165 and 278d of the Criminal Code entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented.*
Measures reported as of 12 December	The necessary amendments are covered in the above mentioned bill (amendment of §278d of the Criminal Code).

2008 to implement the Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of § 278d of the Criminal Code entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Implementation of the relevant UNSCRs needs further refining to expressly cover the assets under the indirect control or ownership of terrorists, and to fully criminalize terrorism financing.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See above.
(Other) changes since the last evaluation	Liechtenstein has ratified the Palermo Convention, the Protocol on Trafficking in Persons and the Protocol on Smuggling of Migrants in February 2008. Convention and Protocols entered into force for Liechtenstein on 21 March 2008.
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 36 (Mutual Legal assistance)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	To implement this recommendation, the Government has decided to accelerate the mutual legal assistance procedure by introducing a new article 58c of the Mutual Legal Assistance Act, according to which it will only be possible at the end of the mutual legal assistance procedure to appeal the decisions of the Court of Justice – together with the final judgment of the Court of Justice. Consequently, this will eliminate up to four appeals possibilities in the seizure proceedings of mutual legal assistance procedure. In September, the Government sent Report and Application No. 124/2008 to Parliament, which was discussed in Parliament (1st reading) in its October session 2008. Parliament is scheduled to discuss this matter in its December session (2nd

	and 3rd reading). If this will be the case, the reform of the MLA Act may enter in force very soon (probably in the first months of 2009).
Measures taken to implement the recommendations since the adoption of the first progress report	The described new Art. 58c MLAA entered into force on February 1, 2009.
Recommendation of the MONEYVAL Report	*Serious and organized fiscal fraud should be excluded from the fiscal exemption.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein Law Gazette 2007 No. 186 inserts paragraph 3a into the money laundering provision contained in § 165 of the Criminal Code. Offenses under article 76 of the Value Added Tax Act are predicate crimes of money laundering if they are connected with damage to the budget of the European Communities and if the evaded tax or unlawful benefit exceeds CHF 75,000. In parallel, Liechtenstein Law Gazette 2007 No. 189 introduced a new article 51 paragraph 1a into the Mutual Legal Assistance Act waiving the fiscal exemption for such offenses (see article 51 paragraph 1a MLA Act).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendments of § 165 of the Criminal Code and of Art. 51 MLAA entered into force on July 27, 2007.
Recommendation of the MONEYVAL Report	*The deficiencies in the ML and FT offense should be remedied to enable full compliance with dual criminality- ruled requests.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Please see statements on Rec. 1 and 2.
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 39 (Extradition)	
Rating: Partially compliant	
Recommendation of the MONEYVAL	*The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.*

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Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Due to the fact that the ongoing reform of the MLA Act (see above: comment on Rec. 36) also concerns matters of extradition, the extradition proceedings may also accelerate once the reform of the MLA Act enters into force (probably in the first months of 2009).
Measures taken to implement the recommendations since the adoption of the first progress report	The described new Art. 58c MLAA entered into force on February 1, 2009.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 40 (Other forms of co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*FIU access to confidential financial information held by DDA subjects, including at the request of foreign counterparts, should be expressly provided for.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein has implemented this recommendation by amending the FIU Act. The new article 6 FIU Act Draft provides access to confidential financial information held by DDA subjects through the FMA.
Measures taken to implement the recommendations since the adoption of the first progress report	The described new Art. 6 FIU Act entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*To reflect relevant jurisprudence, provide in legislation an explicit exclusion from secrecy provisions for all categories of financial institutions and DNFBPs to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive in article 14 Banking Act and article 37 DDA Draft. Furthermore, the most important secrecy provision is stipulated in article 14 of the Liechtenstein Banking Act. As recommended in the last assessment report, this provision has recently been amended. Article 14 Banking Act now specifies explicitly that the legal provisions on the obligation to give testimony or information to supervisory bodies as well as the provisions on cooperation with other supervisory authorities shall override the banking secrecy provision. However, it should be noted that even before this legal amendment, banking secrecy

	never constituted a barrier to international information exchange, provided that the requesting authority was covered by official secrecy provisions. This applies to secrecy provisions in other national laws (e.g. Investment Undertakings Act, Due Diligence Act, etc.) as well. As mentioned above in more detail, the legal provisions in the Liechtenstein Banking Act concerning international information exchange have been amended substantially due to the implementation of Basel II and MiFID into national law. In order to ensure consistency with the information exchange provisions of all relevant laws, the FMA is determined to prepare a draft law unifying the information sharing provisions of all relevant laws in one single Act. At this opportunity, all the information sharing standards and processes will be brought to the same level. A working group has been already mandated with the drafting of this Information Sharing Act. This Act will also contain unified and consistent secrecy provisions which will be applicable to all relevant laws.
Measures taken to implement the recommendations since the adoption of the first progress report	The described new Art. 14 Banking Act entered into force on November 1, 2007. The described amended Art. 37 DDA entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Reconsider the current appeals procedure regarding orders under the Administrative Proceedings Law with a view to improving the efficiency and effectiveness of information-sharing measures.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein Administrative Law (like most national administrative laws) stipulates that any administrative action has to be subject to appeal (Administrative Proceedings Law). According to the Liechtenstein Superior Administrative Court this also applies to administrative actions taken in the field of information exchange. According to expert opinions, an amendment of this provision of the Administrative Proceedings Law would infringe basic rights guaranteed by the constitution. An abolishment of the right to appeal would therefore require an amendment of the Constitution.
Measures taken to implement the recommendations since the adoption of the first progress report	Substantial amendments to the Liechtenstein legal framework for the exchange of customer related information in the field of securities supervision are close to be completed. On August 31, 2010 the Liechtenstein Government has submitted a draft law to the Liechtenstein Parliament in order to amend the procedures to be applied on the exchange of information with international securities regulators. The draft law has been fully supported by the Liechtenstein Parliament in its first reading on September 24, 2010. The draft law applies to any information exchange covered by the scope of the CESR and the IOSCO MMoU, including fraudulent practices relating to securities. Therefore the it could also have a certain effect to the exchange of information on AML-related issues. The draft law provides for a postponed right of appeal. In other words the customer will not be notified of the request for information until the requesting authority has received the information requested and has concluded its investigation. Only then would the customer be allowed to appeal the FMA's decision to share information. This procedure will provide for an efficient and expeditious information exchange and eliminate possible drawbacks to investigations associated with the customer's notification.

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

Recommendation SR.III (Freezing and confiscation of terrorist assets)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Liechtenstein needs to review its response to UNSCR 1373 and address the requirements accompanying a balanced freezing system outside the context of UNSCR 1267. It should elaborate a procedure covering all specific aspects required by the standards of the exceptional freezing regime in respect of suspected terrorism related assets.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Report and Application No. 124/2008 proposes amendments to §§ 20b and 26 of the Criminal Code clarifying that everything deemed an object of money laundering is in principle subject to "confiscation" through absorption of enrichment. Under the proposed § 26 paragraph 1 of the Criminal Code, the court may – irrespective of the punishability of a given person – order the confiscation of objects which were used to commit the punishable act or which were designated for use in the commission of the act or which have arisen from a punishable act, if these objects endanger the safety of persons, morality, or the public order. This ensures that the direct confiscation of assets of a terrorist group is possible. The principle of unrestricted confiscation was taken into account so that, once this legislative amendment enters into force, the system can indeed be deemed balanced with respect to the seizure and confiscation of terrorist assets.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amended §§ 20b and 26 of the Criminal Code entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*As for the Taliban Ordinance procedure, it should be clarified that the measures also target assets indirectly controlled and partially or jointly possessed by the designated persons. Review of the measure or other appellate possibilities should also be provided for, when challenged by the affected persons or in case of confusion of identity.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See preceding response.
Measures taken to implement the recommendations since the adoption of the first progress report	With the Law on the Enforcement of International Sanctions, Liechtenstein has implemented a new framework legislation to enforce international sanctions. It targets also assets indirect indirectly controlled and partially or jointly possessed by the designated persons (Art. 1 and 13) and provides for specific rights to appeal for persons affected (Art. 9). It entered into force on March 1, 2009.

(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 legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Please see statements on Rec. 36 and Rec. 39.
Measures taken to implement the recommendations since the adoption of the first progress report	The described new Art. 58c MLAA entered into force on February 1, 2009.
Recommendation of the MONEYVAL Report	*The deficiencies in the ML and FT offense should be remedied to enable full compliance with dual criminality- ruled requests.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Please see statements on Rec. 1 and 2
Measures taken to implement the recommendations since the adoption of the first progress report	See reply above.
Recommendation of the MONEYVAL Report	*The limited confiscation possibility for instrumentalities, also relevant in the MLA context, should be addressed.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Please see statement on Rec. 35.
Measures taken to implement the recommendations since the adoption	The described amendments of §§ 20b, 26, 165 and 278d of the Criminal Code entered into force on March 1, 2009.

of 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)	

Special Recommendation VII (Wire transfer rules)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Provide in law or regulation that, for wire transfers of EUR/USD1,000 or more, banks should be required to obtain and transmit full originator information with the wire transfer.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 12 DDA Draft in conjunction with the DDO Draft. Additionally, Regulation (EC) 1781/2006 applies. Regulation (EC) 1781/2006 is an EU/EEA regulation directly applicable in Liechtenstein. Accordingly, all payments, whether domestic or cross-border, will now be subject to the DDO Draft without exception, even those of less than EUR/USD 1,000.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. According to Art. 12 DDA in conjunction with Art. 17 (1) DDO payment services providers are required to supply for all money transfers (irrespective of the amount), the name, account number and address of the payer. Pursuant to Art. 17 (2) DDO and in line with Art. 6 Regulation (EC) No. 1781/2006 payment services providers may supply only the account number of the payer or an identification number linked to the client that will enable the transaction to be traced back to the payer, when processing money transfers within the EEA member states or states deemed equivalent thereto on the basis of international treaties ("domestic transfers"). On request from the payee's payment services provider, the payer's payment services provider shall supply the former with the complete payer data record pursuant to Art. 17 /1) DDO within three working days. Further details are stipulated in 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, which is directly applicable in Liechtenstein (EEA Compendium of Laws: Annex IX . 23d.01). According to Art. 5 (4) Regulation (EC) No. 1781/2006 in the case of transfers of funds not made from an account, the payment service provider of the payer is required to verify the information on the payer only where the amount exceeds EUR 1 000, unless the transaction is carried out in several operations that appear to be linked and together exceed EUR 1 000.
Recommendation of the MONEYVAL Report	*Require financial institutions to always include the originator's account number or reference number in cross-border wire transfers.*
Measures reported as of 12 December	Liechtenstein is addressing this issue in the context of the implementation of the

2008 to implement the Recommendation of the Report	Third EU AML/CFT Directive. See reply above.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. According to Art. 12 DDA in conjunction with Art. 17 (1) DDO payment services providers are required to always include the originator's account number in cross-border wire transfers.
Recommendation of the MONEYVAL Report	*Require inclusion of originator information in domestic wire transfers.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. See reply above.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. According to Art. 12 DDA in conjunction with Art. 17 (1) DDO payment services providers are required to supply for all money transfers (irrespective of the amount), the name, account number and address of the payer. As regards "domestic transfers": Pursuant to Art. 17 (2) DDO and in line with Art. 6 Regulation (EC) No. 1781/2006 payment services providers may supply only the account number of the payer or an identification number linked to the client that will enable the transaction to be traced back to the payer, when processing money transfers within the EEA member states or states deemed equivalent thereto on the basis of international treaties. On request from the payee's payment services provider, the payer's payment services provider shall supply the former with the complete payer data record pursuant to Art. 17 /1) DDO within three working days.
Recommendation of the MONEYVAL Report	*Require that financial institutions treat wire transfers between Liechtenstein and Switzerland as international wire transfers.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Due to the comprehensive new regulations in article 12 DDA Draft in conjunction with the DDO Draft and the direct application of Regulation (EC) 1781/2006, there is no difference between cross-border and domestic electronic payments with respect to the transmission of information on the payer. For this reason, this recommendation is implemented.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009.
Recommendation of the MONEYVAL Report	*Limit or repeal the DDO "legitimate reason" provision under which banks can currently avoid transmitting customer information with certain wire transfers.*
Measures reported as of 12 December 2008 to implement	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. Article 15 paragraph 2 DDO (current version) will be deleted without replacement. No exceptions will henceforth be granted. Article

the Recommendation of the Report	12 DDA Draft in conjunction with the DDO Draft applies (see reply above).
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. Art. 15 of the old DDA has been deleted without replacement.
Recommendation of the MONEYVAL Report	*Require each intermediary financial institution in the payment chain to maintain all the required originator information with the accompanying wire transfer.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 12 DDA Draft in conjunction with the DDO Draft and the direct application of Regulation (EC) 1781/2006. According to these provisions, any intermediary payment service provider for the wire transfer must ensure that all information on the payer that accompanies a transfer of funds is kept with the transfer.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. According to 17 (4) DDO any payment services provider acting as intermediary in a money transfer is required to ensure that all payer information supplied in connection with a money transfer is retained when it is forwarded.
Recommendation of the MONEYVAL Report	*Introduce risk-management requirements for Liechtenstein financial institutions where they are beneficiaries of wire transfers that are not accompanied by full originator information.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. This recommendation is implemented by article 12 DDA Draft in conjunction with the DDO Draft and the direct application of Regulation (EC) 1781/2006. According to these provisions, the payment service provider of the payee must detect whether the information on the payer required under the DDO Draft is missing or incomplete and, where applicable, shall either reject the transfer or ask for complete information on the payer as required under the DDO Draft.
Measures taken to implement the recommendations since the adoption of the first progress report	The described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009. According to 17 (3) DDO the payee's payment services provider shall establish whether the payer information is missing or incomplete, and, in the event that it is, shall either reject the money transfer or request the complete payer data record.
Recommendation of the MONEYVAL Report	*The FMA should introduce additional measures as needed to effectively monitor compliance with the requirements in relation to wire-transfers.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is addressing this issue in the context of the implementation of the Third EU AML/CFT Directive. A new sanction was included in article 31 paragraph 1 (d) DDA Draft, according to which anyone who, in violation of articles 5 to 14 of Regulation (EC) No. 1781/2006 fails to collect, keep, verify, or transmit the required information, carries out or receives financial transfers, or breaches record-keeping or reporting duties shall be punished by a fine of up to 100,000 francs for committing an administrative offense. Sanctions in article 31 paragraph 1 (d) DDA Draft.
Measures taken to	The described amendment of Art. 31 DDA entered into force on March 1, 2009.

implement the recommendations since the adoption of the first progress report	In addition the FMA Liechtenstein has addressed this issue by explicitly requiring external auditors to examine compliance with the requirements in relation to wire-transfers in their annual regular audits at financial institutions. The external auditors have to report about their respective findings in the annual AML/CFT audit report to the FMA, as this topic has been introduced in the Model Report, which sets out the minimum content for these audit reports.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation VIII (Non-profit organisations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Liechtenstein should conduct a review of its NPO laws and regulations.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Liechtenstein is expected to put its new foundation law into force on 1 April 2009, upon which charitable foundations will be subject to mandatory foundation supervision. By establishing a research focus area, the University will also play an important role. Liechtenstein's engagement can be linked to the already launched initiative to strengthen microfinance.
Measures taken to implement the recommendations since the adoption of the first progress report	The described new foundation law entered into force on April 1, 2009. According to Art. 552 § 29 Person and Company Law Act all common-benefit foundations, also those which were formed prior to the entry into force of this law, shall be subject to the supervision of the newly established Liechtenstein Foundation Supervisory Authority. Furthermore, the members of the foundation council of foundations which were formed prior to the entry into force of the new foundation legislation had to report, within twelve months after the entry into force of the law, to the Foundation Supervisory Authority any foundations which are subject to the supervision.
Recommendation of the MONEYVAL Report	*Liechtenstein should conduct outreach with the NPO sector on the risks of FT abuse.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	See statement above.
Measures taken to implement the recommendations since the adoption of the first progress report	In the process of the drafting and implementing of the new foundation law, an active outreach with the NPO sector on the risks of FT abuse has taken place. This close public private approach will be ongoing.

(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 couriers)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Liechtenstein should put into place a disclosure or declaration system to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing.*
Measures reported as of 12 December 2008 to implement the Recommendation of the Report	Since the conclusion of the Customs Treaty with Switzerland in 1923, Switzerland and Liechtenstein form a Customs Union without any border controls at the internal borders, while the external borders of both countries are being controlled by the Swiss authorities. Due to Liechtenstein's accession to the Schengen System, Liechtenstein and Switzerland have been negotiating a new treaty regarding the legal mandate of the Swiss Border Guard on the Liechtenstein Territory beyond the past delegations on the basis of the 1923 Treaty on Customs Union, in particular regarding the police powers of the Swiss Border Guard. Negotiations regarding this new draft treaty have been finalised by the end of September this year. This draft treaty does provide for the possibility to delegate controls of cash couriers to the Swiss Border Guards in an analogous way as SR IX will be complied with by Switzerland. Liechtenstein is in constant and close contact with Switzerland with regard to establishment of a declaration system.
Measures taken to implement the recommendations since the adoption of the first progress report	The described treaty entered into force on December 12, 2008 (the day Switzerland became associated member of the Schengen treaty). The Government decided to introduce a declaration system. The draft law is due for December 2010. After general consultation, the parliamentary process will follow in 2011. Once the draft law has entered into force, the new police power will be delegated to the Swiss Border Guard on the basis of the treaty mentioned above. The declaration system should become operational in 2011.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

2.4 Specific Questions

Specific Questions raised in the 1st Progress Report and answers given by Liechtenstein

1. Have there been changes regarding competencies, resources, staffing etc. of the FIU?
In the course of implementation of the Third AML/CFT Directive, the FIU Act will be amended to include the offense of terrorist financing. The resources and staffing of the FIU have not been changed since the Evaluation.
2. Have there been changes in the competencies, resources, staffing etc. of supervisory authorities?
Competencies The FMA has basically the same competencies as at the time of the last assessment. As already mentioned above, Basel II (more precisely EC Capital Requirements Directive) as well as MiFID (EC Markets in Financial Instruments Directive) had to be implemented into national law. As a consequence of this implementation, the FMA has been provided with certain new supervisory and sanctioning powers. The implementation of Basel II and MiFID required substantial amendments to the information sharing provisions included in the Liechtenstein Banking Act. The respective provisions have now been brought fully in line with the respective EEA standards. These provisions may also affect the exchange of AML/CFT information as far as such information is relevant to the consolidated supervision of banks or investment firms. International requests for information can only be refused in those cases which are stipulated in the respective European directives. Additional supervisory and sanctioning powers have been introduced with the implementation of the new EC Prospectus Directive into national law. *Staffing* Since the last assessment, the FMA has continued to increase its staff remarkably. While the FMA had a workforce of 29 persons at the time of the last assessment, the FMA's duties and powers are carried out by more than 60 highly qualified employees as of the end of 2008. The workforce has more than doubled in size. A majority of the FMA's workforce has a background in law, but the proportion of economists within the FMA has increased significantly. It should also be noted that the FMA has drawn extensively on external experts and consultants over the course of the last year in order to address issues arising beyond the ordinary scope of business of the FMA. This strategy guaranteed that the FMA staff could focus fully on its core tasks, particularly in the field of AML/CFT. *Financing* The FMA is financed by the State budget and by fees levied upon supervised entities. In its November 2006 session, Parliament approved the FMA's budget for the 2007 business year in the amount of CHF 7,270,000. According to article 29 of the FMA Act, the State contribution was CHF 3,950,000. As in the first two business years of the FMA, the 2007 budget was met. In comparison with the previous year, the State contribution was reduced, and the self-financing level was increased to 55%. The FMA has recently presented plans to the Government and financial market participants aimed at increasing further the self-financing level of the FMA. *Greater involvement of FMA supervisors in on-site inspection work* The greater involvement of FMA supervisors in on-site inspection work was made a top priority during the last year (as recommended in the last assessment report). Staff members of the Division for

Banking Supervision have conducted several on-site inspections in the last twelve months. Four of these on-site inspections very specifically related to AML issues. In addition, staff members of the Division for Securities Supervision have accompanied several on-site reviews concerning investment undertakings and asset management companies.

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

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

Consolidation of integrative functions

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

Training for AML/CFT auditors

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

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

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

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

Since the last Report in autumn 2007, the Liechtenstein Office of the Public Prosecutor has submitted 4 indictments for money laundering to the Liechtenstein Criminal Court. In one of these proceedings, a

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

Additional Questions since the 1st Progress Report

Is the criminal confiscation of laundered assets as object of the offence in an autonomous money laundering prosecution now covered in the law?

Yes, as described above, § 20b of the Criminal Code seizes and confiscates laundered assets as object of the ML offense (entered into force on March 1, 2009).

Please provide statistical information on criminal seizure and confiscation orders made in cases involving major proceeds-generating offences in Liechtenstein since the adoption of the first progress report. Do confiscation orders cover the confiscation of indirect (as well as direct) proceeds and substitute assets and investment yields in appropriate cases? Please give examples.

Assets are seized based on § 97a Abs. 1 Z 3 StPO, enabling the absorbtion of enrichment according to § 20 StGB as well as the forfeiture according to § 20b StGB.

According to § 20b Abs. 1 StGB Assets subject to the power of disposal of a criminal organization (§ 278a) or a terrorist group (§ 278b) or that have been made available or collected as a means of financing of terrorism (§ 278d) shall be declared forfeited. According to § 20b Abs. 2 StGB Assets originating from a punishable act shall be declared forfeited if the assets are object of a ML offence or the offense from which they arise is also punishable under the laws of the place where the offense was committed but, according to §§ 62 to 65, is not subject to Liechtenstein criminal laws and does not constitute a fiscal offense except VAT fraud. This covers direct proceeds and investment yields.
According to § 20 StGB, the absorption of enrichment is possible not only if the perpetrator has committed a punishable act and has thereby gained pecuniary benefits, but also if the perpetrator has received pecuniary benefits for the commission of a punishable act. The perpetrator shall be sentenced to pay an amount of money equal to the unjust enrichment obtained thereby. To the extent that the amount of enrichment cannot be determined or only with disproportionate effort, the court shall specify the amount to be absorbed at its discretion. If the perpetrator has continually or repeatedly committed crimes (§ 17) and obtained pecuniary benefits through or for their commission, and has received other pecuniary benefits during the time connected with the crimes committed, and it is reasonable to assume that such benefits originate from other crimes of this kind, and their lawful origin cannot be credibly shown, these pecuniary benefits shall also be taken into account when specifying the amount to be absorbed. A perpetrator who has gained pecuniary benefits during the time connected with his

membership of a criminal organization (§ 278a) or a terrorist group (§ 278b) shall be sentenced to pay an amount of money specified at the court's discretion to be equal to the enrichment obtained, if it is reasonable to assume that such pecuniary benefits originate from punishable acts and their lawful origin cannot be credibly shown. Anyone who has been enriched directly and unjustly through the punishable act of another person or through a pecuniary benefit paid for the commission of such act shall be punished to pay an amount of money equal to the enrichment. If a legal person or partnership has been enriched, then it shall be sentenced to pay this amount. If a directly enriched party is deceased or if a directly enriched legal person or partnership no longer exists, then the enrichment shall be absorbed from the legal successor, to the extent that enrichment still existed at the time of legal succession. This covers indirect (as well as direct) proceeds and substitute assets and investment yields.
In the Abacha-case, assets originating from crime against the interests of the republic of Nigeria have been absorbed according to § 20 Abs. 4 StGB. 5 legal entities have collectively been sentenced to pay more than EUR 185 Mio. One legal entity has been sentenced according to § 20 Abs. 4 und 5 StGB to pay EUR 2.5 Mio. as trustee fort he legal successor of a Member of the abacha Family.

What progress has been made in respect of legislation to provide for an explicit-exclusion from secrecy provisions to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes. Has the appeals procedure regarding orders under the Administrative Proceedings Law been reviewed and, of so, with what result?

Substantial amendments to the Liechtenstein legal framework for the exchange of customer related information in the field of securities supervision are close to be completed. On August 31, 2010 the Liechtenstein Government has submitted a draft law to the Liechtenstein Parliament in order to amend the procedures to be applied on the exchange of information with international securities regulators. The draft law has been fully supported by the Liechtenstein Parliament in its first reading on September 24, 2010. The second reading will take place on November 25, 2010.
The draft law applies to any information exchange covered by the scope of the CESR and the IOSCO MMoU, including fraudulent practices relating to securities. Therefore it could also have a certain effect to the exchange of information on AML-related issues.
The draft law provides for a postponed right of appeal. In other words the customer will not be notified of the request for information until the requesting authority has received the information requested and has concluded its investigation. Only then would the customer be allowed to appeal the FMA's decision to share information. This procedure will provide for an efficient and expeditious information exchange and eliminate possible drawbacks to investigations associated with the customer's notification.

Has the legal threshold for MVT CDD been reduced to conform to the FATF wire transfer threshold (USD/EUR 1000)?

The above described amendment of Art. 12 DDA and the new Art. 17 DDO entered into force on March 1, 2009.
The former Article 6.1.b DDA which exempted remittances or transfers under CHF 5,000 from the identification obligation has been deleted without replacement.
MVT services are now covered by the obligation of Art. 12 DDA in conjunction with Art. 17 DDO regarding information on the payer accompanying transfers of funds. Further details are stipulated in 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, which is directly applicable in Liechtenstein (EEA Compendium of Laws: Annex IX . 23d.01).
Accordingly MVTs are required to supply for all money transfers (irrespective of the amount!), the name, account number and address of the payer. In addition, under Article 5(2) of the EU Regulation 1781/2006, before transferring funds, they have to identify all customers, and verify identity wherever the transfer is for a value of EUR 1’000 or more.

2.5 Statistics

2.5.1 Money laundering and financing of terrorism cases

a. Statistics provided in the last progress report:

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

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

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

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

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

2009												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	50	-	0	0	0	0	38	CHF 34.9 Mio EUR 5.6 Mio USD 6.5 Mio GBP 1.2 Mio	-	-	9	CHF 32.9 Mio EUR 3.15 Mio USD 11.3 Mio
FT	0	0	0	0	0	0	0	0	0	0	0	0

1.1.-30.9.2010												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	40	-	3	3	1	1	31	CHF 37.6 Mio EUR 28.7 Mio USD 27.3 Mio GBP 0.8 Mio	-	-	9	CHF 8.56 Mio EUR 187.5 Mio
FT	0	0	0	0	0	0	0	0	0	0	0	0

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 the supervised entity in the financial sector (eg, banks, insurance, securities etc).
If similar information is available in respect of supervised DNFBP, please provide an additional table (or tables), also with information as to the types of AML/CFT infringements for which sanctions were imposed.
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.

Banking and Securities Supervision	**2007**	**2008**	**2009**	**2010** (as of 1st Sept.)
Type of measure/sanction*				
Instructions to remedy shortcomings/ written warnings	7	23	34	19[1]
Administrative sanctions	1	1	0	0
Criminal complaints	3	0	1	0
Number of sanctions taken to the court (where applicable)	3		1	
Number of final court orders	3		1 pending	
Average time for finalising a court order	~1 year			

Insurance Supervision	**2007**	**2008**	**2009**	**2010** (as of 1st Sept.)
Type of measure/sanction*				
Instructions to remedy shortcomings/ written warnings	25	30	46	74[1]
Administrative sanctions	0	0	0	0
Criminal complaints	0	0	1	0
Number of sanctions taken to the court (where applicable)			1	
Number of final court orders			1 pending	
Average time for finalising a court order				

DNFBPs (AFI)	**2007**	**2008**	**2009**	**2010** (as of 1st Sept.)
Type of measure/sanction*				
Instructions to remedy shortcomings/ written warnings	112	256	243	68[1]
Administrative sanctions	0	2	3	3
Criminal complaints	0	0	2	3
Number of sanctions taken to the court (where applicable)			2	3
Number of final court orders			1	3 pending
Average time for finalising a court order			~1 year	

[1] **annual examinations have not been finalized yet**

2.5.2 STR/CTR

a. Statistics provided in the last progress report

2005															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		104	1												
insurance companies		1													
Notaries															
Currency exchange															
broker companies															
securities' registrars															
lawyers		8		192	1	138	1	1	4	0	0	0	0	0	0
accountants/auditors															
company service providers															
fiduciaries		74													
Postal Service		1													
Public Authorities		4													
Total		**192**	**1**												

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		84		161	2	111	2	2	2	0	0	0	0	0	0
insurance companies															
Notaries															
Currency exchange															
broker companies															

securities' registrars															
lawyers		9													
accountants/auditors															
company service providers															
investment companies		1													
fiduciaries		63	2												
Postal Service		1													
Public Authorities		3													
Total		**161**	**2**												

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		130													
insurance companies		3													
Notaries															
Currency exchange															
broker companies															
securities' registrars															
lawyers		6		205		141		0	0	0	0	0	0	0	0
accountants/auditors															
company service providers															
fiduciaries		64													
Postal Service		1													
Public Authorities		1													
Total		**205**													

1.1.-30.09.2008															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**

commercial banks		101		154		136		4	5	0	0	1	1	0	0
insurance companies		4													
Notaries															
Currency exchange															
broker companies															
securities' registrars															
Lawyers		1													
accountants/auditors															
company service providers															
Fiduciaries		50													
Postal Service		1													
Public Authorities															
Total		**157**													

b. Please complete, to the fullest extent possible, the following tables since the adoption of the 1st Progress Report

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"C*ases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2009															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		136		235		174		0	0	0	0	0	0	0	0
insurance companies		9													
notaries															
currency exchange															

broker companies															
securities' registrars															
lawyers		5													
accountants/auditors		1													
company service providers		83													
others (please specify and if necessary add further rows) Authorities		1													
Total		**235**													

1.1.-30.9.2010															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
commercial banks		167													
insurance companies		11													
notaries															
currency exchange															
broker companies															
securities' registrars															
lawyers		5		261		214		3	3	0	0	1	1	0	0
accountants/auditors		1													
company service providers		74													
others (please specify and if necessary add further rows) Authorities		2													
Investment Undertakings		1													
Total		**261**													

2.6 Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)7

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.	Legislation to implement the Third Directive and the Implementation Directive will be approved by the Liechtenstein Parliament by the end of this year. These laws are expected to enter into force on 1 March 2009.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	Legislation to implement the Third Directive and the Implementation Directive entered into force on March 1, 2009.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[8] (please also provide the legal text with your reply)	The new definition corresponds to the definition of BO in the 3rd Directive: The proposed new definition of the beneficial owner in the proposal to Parliament provides that the beneficial owner may only be a natural person. The relevant legal text will read as follows: "[…] 'beneficial owner' means a natural person on whose initiative or in whose interest a transaction or activity is carried out or a business relationship is ultimately constituted. In the case of legal entities, the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated."
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The described amendment of the DDA and the new DDO entered into force on March 1, 2009. The described amendment of the DDA and the new DDO entered into force on March 1, 2009. The definition of "beneficial owner" contained in Art. 2 (1) (e) DDA is further specified in Art. 3 (1) DDO. Accordingly the term "beneficial owner" shall include: a) in the case of corporations, including institutions structured as corporations, as well as companies without a legal personality: those natural persons who directly or indirectly: a. hold or control a share or voting rights amounting to 25% or more of such legal entities; b. receive 25% or more of the profits of such legal entities; or

[7] For relevant legal texts from the EU standards see Appendix II.

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

	c. exercise control over the management of such legal entities in another way; b) in the case of foundations, fiduciary entities and institutions structured in a similar way to foundations: 1. where the beneficiaries have been named, those natural persons who are the beneficiaries of 25% or more of the assets of such a legal entity; 2. where no individual persons have been named as beneficiaries, those natural persons or the group of persons in whose interest such a legal entity was mainly established; 3. in addition, those natural persons who ultimately exercise direct or indirect control over the assets of such a legal entity; c) in the case of insurance policies: those natural persons who are economically responsible for payment of the insurance premiums. According to Art. 2 (2) DDO "control" within the meaning of Art. 3 (1) DDO shall in particular include the ability: a) to dispose of the assets of the legal entity; b) to amend the provisions governing the essential nature of the legal entity; c) to amend the beneficiaries; or to influence the exercise of the control powers under (a) to (c) above.

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.	The extent of the permission to use a risk-based approach is defined as follows. With the exception of the cases when there is suspicion of money laundering, a predicate offense of money laundering, organized crime, or terrorist financing, regardless of any derogation, exemption or threshold, the persons subject to due diligence are exempt from due diligence (i.e. identification and verification of the identity of the contracting party and of the beneficial owner; establishment of a business profile; and risk-adequate monitoring of the business relationship) where: a) the contracting party is a listed company whose equity papers are admitted to trading on a regulated market within the meaning of Directive 2004/39/EC in one or more EEA Member States or a listed company from a third State with equivalent disclosure requirements; b) the contracting party is a domestic authority; c) the contracting party is a person subject to due diligence referred to in article 3 paragraph 1 (a) to (h) that is subject to Directive 2005/60/EC or equivalent regulation and supervision; d) in the case of life insurance policies, the annual premium is no more than 1,500 francs or the single premium is not more than 4,000 francs; e) in the case of life insurance policies for pension schemes, there is no surrender clause and the policy cannot be used as collateral; f) in the case of insurances by way of old age provision benefits, the contributions are deducted by the employer and the beneficiaries cannot transfer their rights; g) a rental deposit account for rental property located in an EEA Member State or Switzerland is established, provided the deposit is not more than 25,000 francs; h) electronic money as defined in article 3 (a) of the E-Money Act is spent or managed, provided that: 1. if the device cannot be recharged, the maximum amount stored in the

	device is no more than 250 francs; or 2. if the device can be recharged, a limit of 4,000 francs is imposed on the total amount spent or managed in a calendar year, except when an amount of 1,500 francs or more is redeemed in that calendar year by the bearer as referred to in article 10 paragraphs 2 to 4 of the E-Money Act; i) the contractual relationship is in the form of an exclusive asset management mandate with limited power of attorney for an individual client bank account or custody account kept at a bank subject to Directive 2005/60/EC or equivalent regulation and supervision. A power of attorney is considered limited especially if both the possibility of direct investments and – except for charging reasonable management fees – debiting or closing the account or custody account is excluded by the principal; k) the transactions constitute external accounting and auditing with respect to a legal entity whose business relationships and transactions are already fully monitored within the meaning of risk-adequate monitoring of the business relationship by a natural or legal person who, on a professional basis and on the account of a third party, acts as a partner of a partnership or a governing body or general manager of a legal entity or carry out a comparable function on the account of a third party. Credit and financial institutions are exempt from the due diligence requirement of identification and verification of the identity of the beneficial owner where the contracting party is a notary, lawyer, or legal agent domiciled in an EEA Member State or Switzerland who, for the account of his clients, keeps an account or custody account within the scope of a forensic activity or in the capacity of an executor, escrow agent, or similar capacity. Persons subject to due diligence are exempt from the due diligence requirement of identification and verification of the identity of the contracting party where the contracting party has already been identified in an equivalent manner within the same undertaking, group, or conglomerate. In such a case, copies of the documents upon which the original identification were based must be included in the due diligence files. The Financial Market Authority of the Principality of Liechtenstein will establish a list of countries with equivalent regulations as referred to in paragraph 1 (a), (c), and (i). (article 10 DDA Draft)
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The described amendment of Art. 10 DDA and the new DDO entered into force on March 1, 2009. The above-mentioned list of equivalent jurisdictions has been issued in the FMA Communication No. 2/2009. The equivalent jurisdictions mentioned in the list correspond to what was agreed upon between the EU Member States in June 2008.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the	In accordance with the provisions in the Third Directive and the Implementation Directive, article 2 paragraph 1(h) DDA Draft defines PEPs as follows: "politically exposed persons" means natural persons who are or have, until a year ago, been entrusted with prominent public functions and immediate family members, or

provisions in the Third Directive and the Implementation Directive[9] are provided for in your domestic legislation (please also provide the legal text with your reply).	persons known to be close associates, of such persons. Article 1 of the Due Diligence Ordinance further specifies the term "PEP" as follows: For purposes of the Act and this Ordinance, "politically exposed persons" means: 1. natural persons who are entrusted with prominent public functions in a foreign country or have been entrusted with such functions until a year ago: 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 and of other high-level judicial bodies whose decisions are not generally subject to further appeal, except in exceptional circumstances; d) members of courts of auditors and 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. 2. Immediate family members of the persons referred to in point 1: 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. Persons known to be close associates of the persons referred to in point 1: a) any natural person who is known to have joint beneficial ownership of legal entities and legal arrangements, or any other close business relations, with a person referred to in point 1; b) any legal entity or legal arrangement whose beneficial owner is the person referred to in point (a) alone and which is known to have been set up for the benefit of the person referred to in paragraph 1.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The described amendment of Art. 2 DDA and the new DDO entered into force on March 1, 2009.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	Under existing law, the prohibition of tipping off applies for 20 working days after submission of a SAR. Afterwards, the competent investigating judge may order a prohibition of tipping off. Pursuant to implementation of the Third AML/CFT Directive, the prohibition against tipping off will be unlimited in time: The persons subject to due diligence may not inform the contracting party, the beneficial owner, or third parties that they have submitted a report to the FIU pursuant to article 17 paragraph 1. This prohibition of tipping off is unlimited in time (article 18 paragraph 3 DDA Draft).
With respect to the	Other than the exceptions set forth in the Third AML/CFT Directive (article 28

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

prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	paragraphs 3 to 5), no further circumstances are contemplated under which the prohibition shall be lifted. The exceptions contained in the Third AML/CFT Directive (article 28 paragraphs 3 to 5) will be implemented as follows: Several persons subject to due diligence involved in one and the same fact pattern may mutually inform each other of submission of a SAR if all involved persons subject to due diligence are subject to the DDA or equivalent obligations and belong to the same group, the same legal person, the same network, or the same professional category (article 18 paragraph 3 DDA Draft).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The described amendment of Art. 18 DDA and the new DDO entered into force on March 1, 2009.

"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.	By the end of October 2008, the Ministry of Justice will receive a draft prepared by an external expert on implementation of the criminal liability of legal persons under Liechtenstein law. Parliamentary consideration is scheduled for 2009. Additionally, the DDA draft will include the joint and several liability of the legal person or trust fund. Article 33 DDA Draft reads: "If any violation is committed in the course of the business operations of a legal person or a trust, the penal provisions shall apply to the persons who acted or should have acted on behalf of such legal person or trust; the legal person or the trust fund shall, however, be jointly and severally liable for criminal fines, administrative fines, and costs."
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.	See preceding response.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The described amendment of Art. 33 DDA entered into force on March 1, 2009. The described new law on implementation of the criminal liability of legal persons has been passed by Parliament in October 2010 and will enter into force on January 1, 2011.

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(q) DDA Draft reads: "The Due Diligence Act particularly shall apply to natural and legal persons trading in goods on a professional basis, to the extent that payment is made in cash in an amount of CHF 25,000 [equivalent to EUR 15'000] or more, whether the transaction is executed in a single operation or in several operations which appear connected."
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The described amendment of Art. 3 DDA and the new DDO entered into force on March 1, 2009.

3. Appendices

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

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2, & 32)	• Amend the law to extend the list of predicate offenses for money laundering to offenses in the categories of environmental crimes, smuggling, forgery, and market manipulation. • Amend the law to extend the offenses of converting, using, or transferring criminal proceeds to include criminal proceeds obtained through the commission of a predicate offense by the money launderer. • Amend the law to eliminate Article 165.5 StGB to permit the prosecution for money laundering also in cases where the offender has been punished for the predicate offense. • Amend the law to criminalize the association or conspiracy of two persons to commit money laundering. • Develop jurisprudence on Article 165 StGB autonomous money laundering. • Amend the law to provide for criminal liability of corporate entities.
Criminalization of Terrorist Financing (SR.II & R.32)	• Amend the law to criminalize the financing of individual terrorists. • Amend Article 278d StGB to provide for "any act" committed with the required intent, not only criminal offenses, to constitute a terrorist act. • Provide for a definition of "Terrorist organization" in line with the FATF standard.
Confiscation, freezing, and seizing of proceeds of crime (R.3 & 32)	• The criminal seizure and confiscation of the laundered assets as the object of the autonomous money laundering offense needs to be formally covered. • All (intended) instrumentalities must be made subject to seizure and confiscation, irrespective of their nature. • Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds.
Freezing of funds used for terrorist financing (SR.III & R.32)	• Liechtenstein needs to review its response to UNSCR 1373 and address the requirements accompanying a balanced freezing system outside the context of UNSCR 1267. It should elaborate a procedure covering all specific aspects required by the standards of the exceptional freezing regime in respect of suspected terrorism related assets. • As for the Taliban Ordinance procedure, it should be clarified that the measures also target assets indirectly controlled and partially or jointly possessed by the designated persons. Review

	of the measure or other appellate possibilities should also be provided for, when challenged by the affected persons or in case of confusion of identity. • Maintain more comprehensive statistics on seizure and confiscation of criminal proceeds.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	• In terms of efficiency, while direct access would be preferable, at a minimum the law should expressly provide for indirect access of the FIU, through the FMA, to financial and other relevant information held by the non-disclosing entities subject to the DDA. • The FIU Act needs to be brought in line with the DDA in respect of its terrorism financing remit. • Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds, and on spontaneous referrals to foreign counterparts.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	• The Public Prosecutor should endeavor to take on more autonomous money laundering investigations, especially where no foreign proceedings have been instituted. • Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds.
3. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing	
Customer due diligence, including enhanced or reduced measures (R.5–8)	• Strengthen legislative requirements for obtaining beneficial ownership information: for all business relationships financial institutions should be required to (i) always determine the natural person who is the beneficial owner (or owns or controls the customer); and (ii) understand the ownership and control structure of their customer. • Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately managed registers and databases. • Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers. • Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners and authorized parties. • Require financial institutions to provide customer information when making domestic wire transfers and align threshold in the DDA and DDO for due diligence on wire transfers with the minimum set out in SR.VII of EUR/USD1,000. • Bring the current exceptions to identification requirements into line with Recommendation 5.2 which requires at a minimum reduced or simplified measures. • The FMA should consider classifying business obtained

	through cross-border third-party intermediaries as requiring a level of enhanced due diligence. • Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein. • Require financial institutions to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP. • Provide for an explicit obligation by financial institutions to determine the source of wealth of customers and beneficial owners identified as PEPs. • Consider applying similar measures to domestic PEPs. • Provide an explicit requirement for financial institutions providing correspondent services to determine whether the respondent has been the subject of a money laundering or terrorist financing investigation or regulatory action. • Amend the current provisions to provide explicitly for the documenting of the respective AML/CFT responsibilities of the respondent and correspondent bank. • Regarding payable-through transactions, require Liechtenstein financial institutions to obtain a confirmation from the correspondent financial institution that all CDD requirements of Recommendation 5 have been complied with and that the correspondent financial institution is able to provide relevant customer identification data upon request. • For the sake of completeness, revise the DDA and DDO provisions for correspondent banking relationships and similar relationships to cover all relevant categories of financial institutions. • Require financial institutions to take measures to address the risk of misuse of new technologies for ML or FT purposes, particularly for internet banking. • Require financial institutions to take measures expressly to address the risk of non-face to face business.
Third parties and introduced business (R.9)	• Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties. • Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements. • The authorities should determine countries in which third parties who conduct due diligence on behalf of Liechtenstein financial institutions can be based, by reference to the adequacy of their application of the FATF Recommendations, and require financial institutions to check that such third parties have appropriate preventive measures in place.
Financial institution secrecy or confidentiality (R.4)	• To reflect relevant jurisprudence, provide in legislation an explicit exclusion from secrecy provisions to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes.

	• Reconsider the current appeals procedure regarding orders under the Administrative Proceedings Law with a view to improving the efficiency and effectiveness of information-sharing measures. • Grant criminal prosecution access to customer information from insurance, asset management, or investment undertakings.
Record keeping and wire transfer rules (R.10 & SR.VII)	• Provide in law or regulation that, for wire transfers of EUR/USD1,000 or more, banks should be required to obtain and transmit full originator information with the wire transfer. • Require financial institutions to always include the originator's account number or reference number in cross-border wire transfers. • Require inclusion of originator information in domestic wire transfers. • Require that financial institutions treat wire transfers between Liechtenstein and Switzerland as international wire transfers. • Limit or repeal the DDO "legitimate reason" provision under which banks can currently avoid transmitting customer information with certain wire transfers. • Require each intermediary financial institution in the payment chain to maintain all the required originator information with the accompanying wire transfer. • Introduce risk-management requirements for Liechtenstein financial institutions where they are beneficiaries of wire transfers that are not accompanied by full originator information. • The FMA should introduce additional measures as needed to effectively monitor compliance with the requirements in relation to wire-transfers.
Monitoring of transactions and relationships (R.11 & 21)	• Provide explicitly that financial institutions be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. • Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. • Introduce effective measures to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.
Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)	• To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting. • Extend the SAR reporting requirement to include attempted transactions.

	• Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations in addition to those who finance terrorism. • Include provisions extending protection on reporting in good faith to directors, officers and employees. • Remove the time limit on the prohibition of tipping off. • To supplement its current efforts, the FIU should develop and circulate written guidelines to assist reporting entities to implement their SAR reporting requirement.
Cross Border Declaration or disclosure (SR.IX)	• Liechtenstein should put into place a disclosure or declaration system to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	• Require financial institutions to have in place screening procedures to ensure high standards when hiring employees. • Require financial institutions to ensure that internal audit function is adequately resourced. • Require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with FATF Recommendations in countries which do not or insufficiently apply the FATF Recommendations. • Where home and host country AML/CFT measures differ, require branches and subsidiaries to apply the higher standard. • Require financial institutions to inform the FMA of any local laws or regulations preventing them from monitoring AML/CFT risk on a global basis. • The FMA should take steps to improve implementation of appropriate group-wide AML/CFT measures for Liechtenstein financial institutions.
Shell banks (R.18)	• Include as a prerequisite for licensing that banks must engage in substantive business activities in Liechtenstein or, alternatively, the authorities could opt to explicitly prohibit shell banks.
The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25, & 32)	• Enlarge the definition of administrative offenses to cover all appropriate DDA requirements and establish a continuum of sanctions from minor to serious DDA violations to ensure that cases are processed in a timely, effective and proportionate manner. • Define sanctions with regard to criminal liability of legal persons. • The FMA should further develop its Guideline on Monitoring of business relationships as part of the strengthening of requirements for enhanced due diligence. • Guidelines should be established to provide financial institutions and DNFBPs with specific guidance on CFT issues. • Introduce a specific provision to allow the FMA to ensure that financial institutions apply AML/CFT measures consistent with FATF Recommendations across financial groups. • Consider providing additional resources to allow FMA

	supervision staff to participate directly in the AML/CFT on-site inspection program. • Ensure that staff resources are adequate to address the AML/CFT risks of the insurance sector.
Money value transfer services (SR.VI)	• Reduce the legal threshold for MVT CDD to conform to the FATF wire-transfer threshold (USD/EUR1,000).
4.Preventive Measures–Nonfinancial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	• Strengthen legislative requirements to cover the formation of all kinds of companies: TCSPs should conduct CDD and ascertain the beneficial owner when forming commercially-active entities and holding companies that contain commercially-active entities. • Define in law or regulation a wider range of high-risk customers to include notably non-resident accounts, accounts opened through an intermediary, entities with bearer shares, trusts and foundations, and entities registered in privately-managed registers and databases. • Define and explicitly require by means of law or regulation enhanced due diligence for high-risk customers. • Strengthen obligation to verify identification data for customers entering into business relationships, beneficial owners, and authorized parties. • The FMA should consider classifying business obtained through cross-border third-party intermediaries as requiring a level of enhanced due diligence. • Provide an explicit requirement for enhanced due diligence for PEP-related business, preferably in law or regulation, having regard to the level of potential risk in Liechtenstein. • Require DNFBPs to obtain senior management approval to continue the business relationship when an existing customer or beneficial owner is found to be, or subsequently becomes a PEP. • Provide for an explicit legal obligation by DNFBPs to determine the source of wealth of customers and beneficial owners identified as PEPs. • Consider applying similar measures to domestic PEPs. • Require DNFBPs to take measures to address the risk of misuse of new technologies for ML or FT purposes. • Require DNFBPs to take additional measures to expressly address the risk of non-face to face business. • Amend the DDA to exclude the conduct of ongoing monitoring from the scope of delegation to third parties; • Remove the protection from punishment set out in Article 30.2 DDA in the event of the failure of an intermediary to meet DDA requirements. • The authorities should determine countries in which third parties who conduct the due diligence on behalf of

	Liechtenstein DNFBPs can be based, by reference to the adequacy of their application of the FATF Recommendations. • Provide explicitly that DNFBPs be required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.
Suspicious transaction reporting (R.16)	• Conduct outreach to non-reporting TCSPs and take other appropriate measures to increase the breadth of DNFBP reporting. • To enhance effectiveness: remove the provision for automatic freezing of assets on the filing of a SAR; simplify the SAR reporting requirement so as not to have the forming of suspicion made legally conditional on conducting prior simple and special enquiries under Article 15 DDA; and ensure that the pre-clearance system for SARs, as currently applied by the FIU, is not permitted to undermine the effectiveness of the system of SAR reporting. • Extend the SAR reporting requirement to include attempted occasional transactions. • Extend the SAR requirement to explicitly include funds that are linked or related to, or to be used for terrorism, terrorist acts, or by terrorist organizations, in addition to those who finance terrorism. • Include provisions extending protection to directors, officers, and employees; • Remove the time limit on the prohibition of tipping off. • Introduce a specific requirement to pay special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations. • Introduce effective measures to ensure that DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries. • Introduce a requirement that DNFBPs examine the background and purpose of such transactions with no apparent economic or visible lawful purpose, with findings documented and available to assist competent authorities and auditors.
Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	• Expand administrative offenses in order to establish a continuum of sanctions from minor to serious DDA violations and to ensure that cases are processed in a timely, effective and proportionate manner. • The FMA should further develop its Guideline on Monitoring of business relationships as part of the strengthening of requirements for enhanced due diligence. • Guideline should be issued with regard to CFT requirements. • Consider increasing the frequency of DDA audits for TCSPs. • Consider more direct involvement of FMA staff in DDA audits.
Other designated non-financial businesses and professions (R.20)	

5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	• The definition of "beneficial owner" should be amended and brought in line with the FATF standard to cover the control structure of legal persons. • Intermediaries should be required by law to verify beneficial ownership information. • Although in practice beneficial ownership information of commercially-active companies is available in a large number of cases, the authorities should put in place measures to ensure that information on beneficial ownership and control of legal entities that are commercially-active in the domiciliary state is obtained, verified, and kept.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	• The definition of "beneficial owner" should be amended and brought in line with the definition of the FATF standard to ensure that there is adequate transparency concerning the control structure of legal arrangements. • Intermediaries should be required by law to verify beneficial ownership information. • Although the number of "private trustees" active in Liechtenstein seems to be marginal, such persons should be under a legal obligation to obtain, verify, and record beneficial ownership information.
Nonprofit organizations (SR.VIII)	• Liechtenstein should conduct a review of its NPO laws and regulations. • Liechtenstein should conduct outreach with the NPO sector on the risks of FT abuse.
6. National and International Cooperation	
National cooperation and coordination (R.31 & 32)	
The Conventions and UN Special Resolutions (R.35 & SR.I)	• The authorities should ensure that all provisions of the Palermo and Vienna Conventions are fully implemented. • The authorities should ensure that all provisions of the United Nations International Convention for the Suppression of Financing of Terrorism are implemented. • Implementation of the relevant UNSCRs needs further refining to expressly cover the assets under the indirect control or ownership of terrorists, and to fully criminalize terrorism financing.
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	• The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court. • Serious and organized fiscal fraud should be excluded from the fiscal exemption. • The deficiencies in the ML and FT offense should be remedied to enable full compliance with dual criminality- ruled requests.

	• The limited confiscation possibility for instrumentalities, also relevant in the MLA context, should be addressed. • The government should decide on the desirability of the establishment of an asset forfeiture fund.
Extradition (R. 39, 37, SR.V & R.32)	• The legislator should endeavor to find a solution for possible excessive delays caused by delaying tactics before the Constitutional Court. • The refusal grounds for extradition should exclude serious and organized fiscal fraud. • The deficiencies in the ML and FT offenses need to be addressed so as not to pose a potential obstacle to extradition in the light of the dual criminality principle.
Other Forms of Cooperation (R. 40, SR.V & R.32)	• FIU access to confidential financial information held by DDA subjects, including at the request of foreign counterparts, should be expressly provided for. • To reflect relevant jurisprudence, provide in legislation an explicit exclusion from secrecy provisions for all categories of financial institutions and DNFBPs to support the provision of all relevant confidential information to foreign competent authorities where necessary for AML/CFT purposes; • Reconsider the current appeals procedure regarding orders under the Administrative Proceedings Law with a view to improving the efficiency and effectiveness of information-sharing measures.
7. Other Issues	
Other relevant AML/CFT measures or issues	• Maintain statistics on criminal procedure seizures and confiscations and more comprehensive statistics on seizure and confiscation of criminal proceeds.

3.2 APPENDIX II – Excerpts from relevant EU Directives

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

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;

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

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.

3.3 APPENDIX III – Primary and secondary legislation and other enforceable means

A) Due Diligence Act

Law
of 11 December 2008
on Professional Due Diligence to Combat Money Laundering, Organized Crime, and Terrorist Financing
(Due Diligence Act; DDA)

I hereby grant My consent to the following Resolution adopted by Parliament:

I. General Provisions

Article 1
Object and purpose

1) This Act governs the application of due diligence in the professional exercise of activities covered by this Act. The Act serves to combat money laundering, organized crime, and the financing of terrorism within the meaning of the Criminal Code (§§165, 278 to 278d StGB).

2) It also serves:

a) to implement Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (EEA Compendium of Laws: Annex IX – 23b.01);

b) to implement Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (EEA Compendium of Laws: Annex IX – 23ba.01);

c) to create the requisite measures to enforce 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 (EEA Compendium of Laws: Annex IX – 23d.01).

Article 2
Terminology and designations

1) For the purposes of this Act, the following definitions shall apply:

a) "payment service provider" means a natural or legal person whose business includes the provision of transfer of funds services;

b) "transfer of funds" means any transaction carried out on behalf of a payer through a payment service provider by electronic means, with a view to making funds available to a payee at a payment service provider, irrespective of whether the payer and the payee are the same person;

c) "business relationship" means a business, professional or commercial relationship which is connected with the professional activities of the person subject to due diligence and which is expected, at the time when the contract is established, to have an element of duration;
d) "occasional transactions" means cash transactions, especially money exchange, cash subscription of medium-term notes and bonds, cash buying or selling of bearer securities, and cashing of cheques, unless the transaction is carried out via an existing account or custody account;
e) "beneficial owner" means a natural person on whose initiative or in whose interest a transaction or activity is carried out or a business relationship is ultimately constituted. In the case of legal entities, the beneficial owner is also the natural person in whose possession or under whose control the legal entity ultimately is situated. The Government shall provide further details by ordinance;
f) "legal entity" means a legal person, company, trust, or other collective or asset entity, irrespective of its legal form;
g) "shell bank" means a bank that has no physical presence in the domiciliary State and is not part of a group or conglomerate operating in the financial sector subject to consolidated supervision and Directive 2005/60/EC or equivalent regulation. The FMA shall issue a list of countries with equivalent regulations;
h) "politically exposed persons" means natural persons who are or have, until a year ago, been entrusted with prominent public functions in a foreign country and immediate family members, or persons known to be close associates, of such persons. The Government shall provide further details by ordinance;
i) "third State" means a State not a Member of the European Economic Area (EEA).

2) The designations used in this Act to denote persons, functions and professions include persons of male and female gender alike.

Article 3

Scope of application

1) This Act shall apply to persons subject to due diligence. These are:
a) banks and investment firms licensed under the Banking Act;
b) e-money institutions licensed under the E-Money Act;
c) management companies licensed under the Investment Undertakings Act;
d) insurance undertakings licensed under the Insurance Supervision Act, to the extent they offer life insurance;
e) the Liechtenstein Postal Service (limited company), to the extent it pursues activities beyond its universal service that must be notified to the FMA;
f) exchange offices;
g) insurance brokers licensed under the Insurance Mediation Act, to the extent they broker life insurance contracts and other services for investment purposes;
h) payment service providers;
i) asset management companies licensed under the Asset Management Act;
k) professional trustees and trust companies licensed under the Professional Trustees Act, to the extent they pursue activities under article 7, paragraph 1 (a), (b), (e) or audit activities under (f) or activities under article 7, paragraph 2 of the Professional Trustees Act;
l) casinos when granting admission to visitors, regardless of whether the visitor actually takes part in gaming activities or buys or sells gaming tokens;
m) lawyers and law firms entered in the lists of lawyers or lists of law firms under the Lawyers Act as well as legal agents as referred to in article 67 of the Lawyers Act, to the extent they provide tax advice to their clients or assist in the planning or execution of transactions for their client concerning the:
    1. buying and selling of undertakings or real property;
    2. managing of client money, securities or other assets;
    3. opening or management of accounts, custody accounts or safe deposit boxes;

4. organization of contributions necessary for the creation, operation or management of legal entities; or
5. establishment of a legal entity on the account of a third party or acting as a partner of a partnership or a governing body or general manager of a legal entity on the account of a third party or carrying out a comparable function on the account of a third party;

n) natural and legal persons licensed under the Law on Auditors and Auditing Companies as well as audit offices subject to specialized legislation;

o) holders of a certification under article 180a of the Law on Persons and Companies (PGR), to the extent that they act as a partner of a partnership or a governing body or general manager of a legal entity on the account of a third party or carry out a comparable function on the account of a third party;

p) real estate agents, to the extent that their activities cover the purchase or sale of real property;

q) natural and legal persons trading in goods on a professional basis, to the extent that payment is made in cash in an amount of 25,000 francs or more, whether the transaction is executed in a single operation or in several operations which appear connected;

r) natural and legal persons, to the extent that they provide a registered office, business address, correspondence or administrative address and other related services for a legal entity on a professional basis;

s) natural and legal persons, to the extent that they act as a nominee shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in conformity with EEA law or subject to equivalent international standards, or to the extent that they provide the possibility for another person to carry out that function. The FMA shall issue a list of countries with equivalent regulations;

t) natural and legal persons who, on a professional basis and on the account of a third party, act as a partner of a partnership or a governing body or general manager of a legal entity or carry out a comparable function on the account of a third party;

u) natural and legal persons who, on a professional basis, accept or keep third-party assets or assist in the acceptance, investment, or transfer of such assets or who, on a professional basis, carry out external accounting and audits.

2) Liechtenstein branches of foreign undertakings referred to in paragraph 1 are also deemed persons subject to due diligence, to the extent such branches are permissible.

3) Persons subject to due diligence under paragraph 1 (f), (h), and (p) through (u) must immediately notify the FMA in writing that they have taken up business activities.

Article 4

Exemptions from the scope of application

This Act shall not apply to:

a) institutions exclusively operating in the field of occupational old age, disability, and survivors' provision;

b) contractual relationships of a management company of an investment undertaking which neither keeps unit accounts nor issues physical units and thus does not itself accept any assets;

c) natural and legal persons who engage in activities referred to in article 3 only on an occasional or very limited basis and where there is little risk of money laundering or terrorist financing occurring, to the extent that they meet the following conditions:
   1. the activity is not the main activity;
   2. the activity is a supplementary activity directly connected with the main activity;
   3. with the exception of the activity referred to in article 3, paragraph 1(q), the main activity is not an activity referred to in article 3;
   4. the activity is only offered to contracting parties in connection with the main activity, but not to the general public; and
   5. the thresholds established by the Government in this connection are not exceeded.

II. Due Diligence

Article 5

Scope of due diligence

1) In the cases referred to in paragraph 2, the persons subject to due diligence shall meet the following obligations:

a) identification and verification of the identity of the contracting party (article 6);
b) identification and verification of the identity of the beneficial owner (article 7);
c) establishment of a business profile (article 8); and
d) risk-adequate monitoring of the business relationship (article 9).

2) Due diligence measures must be applied in the following cases:

a) when establishing a business relationship;
b) when carrying out occasional transactions amounting to 25,000 francs or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
c) when there are doubts about the veracity or adequacy of previously obtained data on the identity of the contracting party or the beneficial owner. The Government shall provide further details by ordinance;
d) when there is suspicion of money laundering, a predicate offense of money laundering, organized crime, or terrorist financing, regardless of any derogation, exemption or threshold.

3) Where the due diligence requirements cannot be met:

a) the person subject to due diligence may not establish the business relationship or carry out the desired transaction and must verify whether a report under article 17 is necessary. This provision is subject to article 18;
b) the person subject to due diligence must discontinue the existing business relationship and keep sufficient documentation of the outflow of assets, unless the conditions for the reporting obligation under article 17 would be met.

4) By ordinance, the Government shall specify the procedure for cases in which the information and documents needed to identify and verify the identity of the contracting party and the beneficial owner upon establishing the business relationship are not fully available.

Article 6

Identification and verification of the identity of the contracting party

1) The persons subject to due diligence must identify the contracting party and verify the contracting party's identity by means of confirmatory documents.

2) If, over the course of the business relationship, doubts arise concerning the identity of the contracting party, the persons subject to due diligence must repeat the identification and verification of the identity of the contracting party.

3) The Government shall provide further details by ordinance.

Article 7

Identification and verification of the identity of the beneficial owner

1) The persons subject to due diligence must identify the beneficial owner.

2) By means of risk-based and adequate measures, they must verify the identity of the beneficial owner to satisfy themselves that this is actually the beneficial owner. In the case of a legal entity, this includes risk-based and adequate measures to determine the ownership and control structure of the contracting party.

3) If, over the course of the business relationship, doubts arise concerning the identity of the beneficial owner, the persons subject to due diligence must repeat the identification and verification of the identity of the beneficial owner.

4) The Government shall provide further details by ordinance.

Article 8

Business profile

1) The persons subject to due diligence must establish a profile of the business relationship, including in particular information concerning the origin of the assets and the purpose and intended nature of the business relationship (business profile).

2) They must ensure that the data and information contained in the business profile are kept up-to-date.

3) The Government shall provide further details concerning the business profile by ordinance.

Article 9

Risk-adequate monitoring of the business relationship

1) The persons subject to due diligence must carry out risk-adequate monitoring of their business relationships, including the transactions performed in the course of the business relationship, to ensure that they correspond to the business profile (article 8).

2) They must pay special attention to complex and unusual transactions as well as threats emanating from the use of new technologies.

3) They must carry out simple clarifications with reasonable effort when fact patterns or transactions occur that deviate from the business profile.

4) They must carry out special clarifications when fact patterns or transactions occur giving rise to suspicion that assets are connected with money laundering, predicate offenses of money laundering, organized crime, or terrorist financing. While these clarifications are being carried out, the persons subject to due diligence may not discontinue the business relationship.

5) The results of the clarifications shall be documented in the due diligence files.

6) The Government shall provide further details by ordinance.

Article 10

Simplified due diligence

1) With the exception of the cases under article 5, paragraph 2 (d), the persons subject to due diligence are exempt from due diligence under article 5, paragraph 1 where:

a) the contracting party:
   1. is a listed company whose equity papers are admitted to trading on a regulated market within the meaning of Directive 2004/39/EC in one or more EEA Member States or a listed company from a third State with equivalent disclosure requirements; and
   2. is not acting in the interest of a third party;

b) the contracting party is a domestic authority;

c) the contracting party is a person subject to due diligence referred to in article 3, paragraph 1 (a) to (h) that:
   1. is subject to Directive 2005/60/EC or equivalent regulation and supervision; and
   2. is not acting in the interest of a third party;

d) in the case of life insurance policies, the annual premium is no more than 1,500 francs or the single premium is not more than 4,000 francs;

e) in the case of life insurance policies for pension schemes, there is no surrender clause and the policy cannot be used as collateral;

f) in the case of insurances by way of old age provision benefits, the contributions are deducted by the employer and the beneficiaries cannot transfer their rights;

g) a rental deposit account for rental property located in an EEA Member State or Switzerland is established, provided the deposit is not more than 25,000 francs;

h) electronic money as defined in article 3 (a) of the E-Money Act is spent or managed, provided that:
   1. if the device cannot be recharged, the maximum amount stored in the device is no more than 250 francs; or
   2. if the device can be recharged, a limit of 4,000 francs is imposed on the total amount spent or managed in a calendar year, except when an amount of 1,500 francs or more is redeemed in that calendar year by the bearer as referred to in article 10, paragraphs 2 to 4 of the E-Money Act;

i) the contractual relationship is in the form of an exclusive asset management mandate with limited power of attorney for an individual client bank account or custody account kept at a bank subject to Directive 2005/60/EC or equivalent regulation and supervision. A power of attorney is considered limited especially if both the possibility of direct investments and – except for charging reasonable management fees – debiting or closing the account or custody account is excluded by the principal;

k) the transactions constitute external accounting and auditing with respect to a legal entity whose business relationships and transactions are already fully monitored by a person subject to due diligence under article 3, paragraph 1 (t) within the meaning of article 9.

2) Persons subject to due diligence under article 3, paragraph 1 (a) to (h) are exempt from the due diligence requirements under article 5, paragraph 1 (b) where the contracting party is a notary, lawyer, or legal agent domiciled in an EEA Member State or Switzerland who, for the account of his clients, keeps an account or custody account within the scope of a forensic activity or in the capacity of an executor, escrow agent, or similar capacity.

3) Persons subject to due diligence are exempt from the due diligence requirements under article 5, paragraph 1 (a) where the contracting party has already been identified in an equivalent manner within the same undertaking, group, or conglomerate. In such a case, copies of the documents upon which the original identification were based must be included in the due diligence files.

4) By ordinance, the Government may make additional products or transactions with a low risk of money laundering or terrorist financing subject to simplified due diligence.

5) The FMA shall establish a list of countries with equivalent regulations as referred to in paragraph 1 (a), (c), and (i).

6) This article shall not apply in cases of enhanced due diligence (article 11).

Article 11

Enhanced due diligence

1) In their internal instructions, the persons subject to due diligence must establish criteria designating business relationships and transactions with higher risk and allocate the respective business relationships and transactions accordingly. In the cases referred to in paragraphs 3 to 5, business relationships and transactions must always be assumed to have higher risks. Business relationships with higher risks must be subject to more intensive monitoring.

2) In their internal instructions, the persons subject to due diligence shall establish additional measures to be taken in cases of higher risk as referred to in paragraph 1.

3) In business relationships where the contracting party was not personally present for identification, the identity of the contracting party must be proven by means of additional measures.

4) With regard to business relationships and transactions with politically exposed persons, the persons subject to due diligence must:

a) employ adequate, risk-based procedures to determine whether the contracting party or the beneficial owner is a politically exposed person or not;

b) obtain the approval of at least one member of the general management before establishing a business relationship with such a contracting party or beneficial owner or – where a contracting party or a beneficial owner is recognized as a politically exposed person in the context of an existing business relationship – before continuing the business relationship;

c) each year, obtain the approval of at least one member of the general management in order to continue business relationships with politically exposed persons.

5) In respect of cross-border correspondent banking relationships with respondent institutions from a third State, persons subject to due diligence under article 3, paragraph 1 (a) to (h) must ensure that they::

a) have sufficient information about the respondent institution to understand the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;

b) assess the respondent institution's anti-money laundering and anti-terrorist financing controls;

c) obtain approval from at least one member of the general management before establishing new correspondent banking relationships;

d) document the respective responsibilities with respect to fulfillment of due diligence requirements by the two institutions involved.

6) The Government shall provide further details by ordinance.

Article 12

Information on the payer accompanying wire transfers

Payment service providers must provide sufficient information on the payer accompanying transfers of funds. The Government shall provide further details on the required information by ordinance.

Article 13

Prohibited business relationships

1) Persons subject to due diligence under article 3, paragraph 1 (a) to (h) may not conduct correspondent banking relationships with shell banks.

2) They must take appropriate measures to ensure that they do not conduct any business relationships with undertakings allowing shell banks to use their accounts, custody accounts, or safe deposit boxes.

3) They may not keep passbooks, accounts, or custody accounts payable to bearer.

4) They may not keep anonymous accounts, passbooks, or custody accounts or accounts, passbooks, or custody accounts under fictitious names.

Article 14

Delegation of due diligence

1) To the extent fulfillment of the requirements under this Act is guaranteed, the persons subject to due diligence may delegate due diligence measures referred to in article 5, paragraph 1(a) to (c) to:

a) another person subject to due diligence; or

b) a natural or legal person abroad that is subject to Directive 2005/60/EC or equivalent regulation and supervision.

2) Even in cases of delegation, the persons subject to due diligence remain responsible for compliance with due diligence requirements.

3) The FMA shall issue a list of countries with equivalent regulations for the purposes of paragraph 1.

4) This article does not apply to outsourcing or representation arrangements for which the outsourcing service provider or representative is to be regarded as part of the person subject to due diligence pursuant to a contractual agreement.

5) The Government shall provide further details by ordinance.

Article 15

Rendering of joint services

1) If several persons subject to due diligence render services to the same contracting party using joint billing and the same business name, then the due diligence measures referred to in article 5, paragraph 1 may be carried out by the person subject to due diligence who is in charge of the mandate, provided that the business relationship is the same. This shall also apply if several persons subject to due diligence using joint billing and the same business name operate in the function of a partner of a partnership or a governing body or general manager of a legal entity on the account of a third party or in a comparable function on the account of the same third-party legal entity within the meaning of article 3, paragraph 1 (t).

2) If several persons subject to due diligence which do not use joint billing and the same business name operate in the function of a partner of a partnership or a governing body or general manager of a legal entity on the account of a third party or in a comparable function on the account of the same third-party legal entity within the meaning of article 3, paragraph 1 (t), then it shall be permissible to have the due diligence measures referred to in article 5, paragraph 1 be carried by one of these function owners. The persons subject to due diligence which do not personally carry out these obligations nevertheless remain responsible for compliance with the obligations.

3) Persons subject to due diligence that do not personally carry out the obligations enumerated in paragraph 1 or 2 must ensure that they are granted access to the due diligence files on request at any time.

Article 16

Global application of due diligence standards

1) Persons subject to due diligence under article 3, paragraph 1 (a) to (i) must ensure that their branches and majority-owned subsidiaries in a third State apply measures to combat money laundering, organized crimes, and terrorist financing that are at least equivalent to those laid down in this Act with regard to due diligence relating to contracting parties and record keeping, to the extent permitted under the law of that third State.

2) If a branch or subsidiary as referred to in paragraph 1 is unable to apply the required measures to combat money laundering, organized crime, and terrorist financing due to limitations by the law of the third State, then the persons subject to due diligence under article 3, paragraph 1 (a) to (i) shall inform the FMA. In such cases, the persons subject to due diligence under article 3, paragraph 1 (a) to (i) shall take additional measures to effectively handle the risk of money laundering, organized crime, or terrorist financing.

3) Banks with branches abroad or that lead a financial group with foreign companies must, at a global level, assess, limit, and monitor their risks connected with money laundering, organized crime, and the financing of terrorism. The Government shall provide further details by ordinance.

III. Reporting obligations

Article 17

Obligation to report to the FIU

1) Where suspicion of money laundering, a predicate offense of money laundering, organized crime, or terrorist financing exists, the persons subject to due diligence must immediately report in writing to the Financial Intelligence Unit (FIU). Likewise, all offices of the National Administration and the FMA are subject to the obligation to report to the FIU. By ordinance, the Government shall specify the procedure for submitting reports.

2) Lawyers and legal agents as well as auditors, auditing companies, and audit offices under specialized legislation shall not be required to report to the FIU if the they have received the information concerned:

a) from or on a client in the course of ascertaining the legal position for their client; or

b) performing their task of defending or representing that client in or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received before, during, or after such proceedings.

Article 18

Prohibition on executing suspicious transactions and terminating business relationships; prohibition of disclosure

1) The persons subject to due diligence may not execute any transactions which they know or suspect to be related with money laundering, predicate offenses of money laundering, organized crime, or terrorist financing. Where to refrain in such a manner is impossible or would frustrate efforts to pursue a person suspected of being involved in money laundering, predicate offenses of money laundering, organized crime, or terrorist financing, then the persons subject to due diligence shall submit a report to the FIU pursuant to article 17, paragraph 1 immediately after executing the transaction. Where the conditions for submitting a report apply, the persons subject to due diligence may not terminate the business relationship.

2) Until an order from the responsible prosecution authority arrives, but at most until the conclusion of five business days from receipt by the FIU of the report pursuant to article 17, paragraph 1, the persons subject to due diligence shall refrain from all actions that might obstruct or interfere with any orders pursuant to §97a of the Code of Criminal Procedure (StPO), unless such actions have been approved in writing by the FIU.

3) The persons subject to due diligence may not inform the contracting party, the beneficial owner, or third parties – with the exception of the FMA – that they have submitted a report to the FIU pursuant to article 17, paragraph 1. If several persons subject to due diligence pursuant to this Act or equivalent

requirements are involved in one and the same fact pattern and if they are subject to equivalent obligations with respect to professional secrecy, they may mutually inform each other.

Article 19

Exclusion of criminal and civil liability

1) Where persons subject to due diligence or their general managers or employees submit a report to the FIU pursuant to article 17, paragraph 1 and it turns out that this report was not justified, then they shall be exempt from all civil and criminal liability, provided that they did not act willfully.

2) Likewise, a person is exempt from all civil liability who:

a) fails to carry out a transaction under article 18, paragraph 1 or 2, even though his contracting party expressly desires execution of the transaction; or

b) fails to open a business relationship under article 5, paragraph 3, fails to carry out the desired transaction, or discontinues the existing business relationship.

IV. Documentation and Internal Organization

Article 20

Documentation requirement

1) The persons subject to due diligence must document their compliance with the due diligence requirements (articles 5 to 16) and the reporting obligation (article 17) in accordance with this Act. For that purpose, they must keep and maintain due diligence files. Client-related records and receipts shall be kept for at least ten years from the end of the business relationship or conclusion of the occasional transaction; transaction-related records and receipts, on the other hand, for at least ten years from the conclusion of the transaction or from their preparation. The Government shall provide further details by ordinance.

2) In cases of simplified due diligence (article 10), the person subject to due diligence must document the reason for exemption from due diligence in the due diligence files.

Article 21

Internal organization

1) The persons subject to due diligence must take the necessary organizational measures and ensure suitable internal instruments of control and monitoring. They shall in particular issue internal instructions, provide for the secure storage of the due diligence files, and ensure the basic and continuing training of their staff.

2) As appropriate to the circumstances, the internal organization must be structured according to the type and size of the enterprise as well as according to the number, type, and complexity of the business relationships. The effective fulfillment of the internal functions and due diligence requirements must be ensured at all times.

3) The persons subject to due diligence must prepare an internal annual report in which an overview is given of the measures that have been taken to implement this Act during the preceding calendar year.

4) The Government shall provide further details by ordinance.

Article 22

Internal functions

1) The persons subject to due diligence must appoint a contact person for the FMA as well as persons or expert bodies for the internal functions of compliance officers and investigating officers.

2) Substitution must be ensured at all times.

3) One person or, if applicable, one expert body may carry out several functions, provided that the implementation of this Act is ensured.

4) The Government shall provide further details by ordinance.

V. Supervision

A. Executing Authority

Article 23

Competence

The FMA shall supervise the execution of this Act, without prejudice to the powers of the FIU.

B. Inspections

Article 24

Ordinary inspections

1) The FMA shall carry out ordinary inspections on a regular, spot-check basis with respect to compliance with the provisions of this Act, or it shall have such inspections carried out.

2) The frequency and intensity of inspections shall depend on the type, scope, complexity, and risk level of the business activities undertaken by the persons subject to due diligence.

3) The inspections shall encompass both formal inspection concerning compliance with the documentation obligation as well as material inspection concerning the plausibility of the due diligence measures taken.

4) A report shall be drawn up in each case about the results of the inspections.

5) If an audit office subject to specialized legislation is at the disposal of the persons subject to due diligence, their compliance with the provisions of this Act shall as a rule be verified by that audit office at the request of the FMA or by the FMA itself.

6) All other persons subject to due diligence shall be inspected by the FMA or at the request of the FMA by auditors or auditing companies with respect to compliance with the provisions of this Act. The aforementioned persons subject to due diligence may submit two proposals for auditors or auditing companies stating their preference. The FMA shall as a rule mandate the preferred auditor or auditing company.

7) The records and data of the inspection must be processed and stored exclusively in Liechtenstein.

8) The findings obtained in the course of the inspections may be used for the sole purpose of combating money laundering, predicate offenses of money laundering, organized crime, and the financing of terrorism. This provision is without prejudice to article 34.

9) Repealed.

10) The Government shall provide further details by ordinance, especially the procedure for carrying out inspections.

Article 25

Extraordinary inspections

Repealed

C. Mandated Auditors, Auditing Companies, and Audit Offices Subject to Specialized Legislation

Article 26

Preconditions

Unless the inspections are carried out by the FMA itself, only auditors, auditing companies, and audit offices subject to specialized legislation may be mandated which:

a) hold a license under the Law on Auditors and Auditing Companies or a license as an audit office under specialized legislation;
b) are independent from the persons subject to due diligence to be audited; and
c) provide proof of regular participation in external basic and continuing training.

2) The Government shall provide details concerning the preconditions set out in paragraph 1 by ordinance.

Article 27

Obligations

By accepting the mandate, the auditor, auditing companies, or audit office subject to specialized legislation commit themselves to:

a) comply with the basic principles determined by the FMA on inspection activities;
b) report to the FMA on their inspection activities. No significant facts may be withheld from the report. The information given in the report must be true;
c) keep silent about the findings of their inspection activities. Within the scope of their activities pursuant to this Act, they shall be subject to official secrecy. This provision is without prejudice to (b) and article 28, paragraph 4; and
d) process and store the records and data of the inspections exclusively in Liechtenstein.

D. Measures

Article 28

Supervisory measures

1) The FMA shall take the necessary measures in the framework of its supervision of the persons subject to due diligence. It may in particular:
a) issue orders, guidelines, and recommendations;
b) carry out ordinary inspections within the meaning of article 24 or have them carried out;
c) carry out extraordinary inspections or have them carried out if there are indications for doubts as to fulfillment of due diligence requirements or if circumstances exist that appear to endanger the reputation of the financial center;
d) as a result of repeated or serious violations of individual provisions of this Act and to prevent further violations, prohibit the initiation of new business relationships for a limited period of time;
e) request the responsible authority to undertake appropriate disciplinary measures. The disciplinary authority shall periodically inform the FMA on the status of the ongoing proceedings.

2) The FMA shall inform the persons subject to due diligence on its practice.

3) On recommendation of the business associations, the FMA may, after hearing the views of the Financial Intelligence Unit, issue instructions interpreting the provisions of this Act and the implementing ordinances as appropriate to each industry.

4) The FMA may demand from the persons subject to due diligence as well as from those mandated to inspect pursuant to article 24, paragraph 5 or 6 all information and records it requires to fulfill its supervisory activities for the purposes of this Act.

E. Legal Remedies

Article 29

Administrative appeal

1) Decisions and orders by the FMA shall be subject to appeal to the FMA Complaints Commission within 14 days from service.

2) Decisions and orders by the FMA Complaints Commission shall be subject to appeal to the Administrative Court within 14 days from service.

V. Penal Provisions, Administrative Measures, Business Measures, and Administrative Assistance

A. Penal Provisions

Article 30

Misdemeanors

1) The Court of Justice shall punish with imprisonment of up to six months or with a monetary penalty of up to 360 daily rates for a misdemeanor anyone who willfully:
a) fails to identify and verify the identity of the contracting party pursuant to article 6;
b) fails to identify and verify the identity of the beneficial owner pursuant to article 7;
c) fails to repeat the identification and verification of the identity of the contracting party and the beneficial owner pursuant to article 6, paragraph 2 or article 7, paragraph 3;
d) fails to undertake special clarifications, in violation of article 9, paragraph 4;
e) maintains a business relations in violation of article 13, paragraph 1, 2, or 4;

f) as a person subject to due diligence as referred to in article 3, paragraph 1 (a) to (h) opens passbooks, accounts, or custody accounts payable to bearer in violation of article 13, paragraph 3 or, at the time of entry into force of this Act, fails to dissolve existing contractual relationships as referred to in article 13, paragraph 3 in accordance with the provisions set out in article 39, paragraph 7;
g) fails to submit a report to the FIU pursuant to article 17, paragraph 1;
h) discontinues a business relationship in violation of article 18, paragraph 1;
i) fails to refrain from actions specified in article 18, paragraph 2 that might obstruct or interfere with any orders pursuant to §97a StPO, without such actions having been approved in writing by the FIU;
k) violates the obligation not to disclose information specified in article 18, paragraph 3;
l) fails to create or keep due diligence files required by article 20, paragraph 1;
m) as an auditor, auditing company, or audit office subject to specialized legislation, commits a gross violation of the obligations contained in article 27 (b), especially by making incorrect statements in the audit report or by withholding significant facts;
n) as an auditor, auditing company, or audit office subject to specialized legislation, violates the obligation of secrecy required by article 27 (c);
o) as an auditor, auditing company, or audit office subject to specialized legislation, processes or stores inspection records and data outside Liechtenstein, in violation of article 27 (d);
p) fails to have the inspections pursuant to article 28, paragraph 1 (b) or (c) carried out at all or with respect to individual areas of due diligence.

2) A person shall not be punished pursuant to paragraph 1 (a) to (d) who does not personally fulfill the corresponding obligations, in accordance with the preconditions of article 15, paragraph 1 or 2, if the person:
a) has by written agreement determined a person subject to due diligence to fulfill such obligations; and
b) appropriately verifies proper fulfillment of the obligations.

Article 31

Administrative offenses

1) The FMA shall punish by a fine of up to 100,000 Swiss francs for committing an administrative offense anyone who:
a) refuses to give information, makes incorrect statements, or withholds significant facts vis-à-vis the FMA, an auditor, an auditing company, or an audit office subject to special legislation;
b) fails to comply with an order to restore the lawful state or any other order issued by the FMA in the course of enforcing this Act;
c) permits the outflow of assets, in violation of article 35;
d) in violation of articles 5 to 14 of Regulation (EC) No. 1781/2006 fails to collect, keep, verify, or transmit the required information, carries out or receives transfers of funds, or breaches record-keeping or reporting duties.

2) Anyone who fails to submit a report in accordance with article 3, paragraph 3 or article 39, paragraph 2 shall be punished by the FMA for committing an administrative offense with a fine of up to 10,000 Swiss francs.

Article 32

Applicability of other criminal law provisions

The provisions of this Act are without prejudice to criminal liability arising from other criminal law provisions.

Article 33

Responsibility

If the violations are committed in the course of the business operations of a legal person or a trust, the penal provisions shall apply to the persons who acted or should have acted on behalf of such legal person

or trust; the legal person or the trust fund shall, however, be jointly and severally liable for criminal fines, administrative fines, and costs.

B. Administrative Measures

Article 34

Reservation of additional measures

The provisions of this Act are subject to additional measures against the persons subject to due diligence in accordance with applicable specialized legislation.

C. Business-related Measures

Article 35

Lack of disclosure

1) If persons subject to due diligence still maintain accounts or custody accounts in the context of business relationships which were opened before 1 January 2001 and which under law applicable at the time did not require a business profile including the beneficial owner, they may not permit any outflow of assets as long as the requisite information and records are not available.

2) The outflow of assets shall be permissible on an exceptional basis if:

a) the balance of assets of the business relationship does not exceed 25,000 Swiss francs;
b) no suspicion of connection with money laundering, predicate offenses of money laundering, organized crime, or the financing of terrorism exists;
c) the name of the person to whom the assets are to be transferred is evident from the due diligence files;
d) the assets are transferred in a way that allows the authorities to trace them;
e) the business relationship is immediately terminated once the assets have been transferred.

D. Administrative Assistance

Article 36

Cooperation between domestic authorities

1) The domestic authorities, in particular the courts, the Office of the Public Prosecutor, the FMA, the FIU, the National Police, and other authorities responsible for combating money laundering, organized crime, and the financing of terrorism are required to provide all information and transmit all records to each other that are necessary for the enforcement of this Act.

2) In proceedings relating to §§ 165, 278 to 278d StGB, the Office of the Public Prosecutor shall inform the FMA and the FIU whenever such proceedings are initiated and discontinued, and the courts shall transmit copies of any judgments rendered in such proceedings. In addition, the persons subject to due diligence that have submitted a report pursuant to article 17 shall be informed of the outcome of the corresponding proceedings.

3) In addition, the Office of the Public Prosecutor shall inform the FMA on the initiation and discontinuation of proceedings in connection with article 30, and the courts shall transfer copies of any judgments rendered in such proceedings.

Article 37

Cooperation with foreign authorities

1) The following provisions shall apply to the extent that cooperation with foreign authorities is not regulated by special legislation.

2) The FMA shall transmit information to a requesting competent foreign financial market supervisory authority which that authority needs to fulfill its supervisory responsibilities if:

a) the sovereignty, security, public order, or other essential interests of the State are not violated;
b) the recipient and the persons employed and mandated by the competent authority are subject to a confidentiality requirement equivalent to article 23 of the FMA Act;
c) it is guaranteed that the transmitted information is only used to verify compliance with due diligence requirements as referred to in this Act;

d) in the case of information originating from abroad, express consent of the authority that transmitted the information has been given and it is guaranteed that the information will only be transmitted for the purposes to which these authorities have consented.

3) The FMA may request foreign financial market authorities to transmit information necessary for fulfillment of the responsibilities under this Act. The FMA may forward the information received to competent domestic authorities.

4) Information received from foreign authorities may only be used by the competent domestic authorities for the following purposes:

a) to verify compliance with due diligence requirements;
b) to impose sanctions;
c) in the framework of administrative proceedings concerning the appeal of decisions of a responsible authority; or
d) in the framework of judicial proceedings.

VII. Transitional Provisions and Final Clauses

Article 38

Implementing ordinances

The Government shall issue the ordinances necessary to implement this Act, in particular with regard to:

a) the definition of beneficial owner (article 2, paragraph 1 (e));
b) the definition of politically exposed person (article 2, paragraph 1 (h));
c) the thresholds referred to in article 4 (c) (5);
d) the procedure in cases of doubts about the veracity or adequacy of data on the identity of the contracting party or the beneficial owner (article 5, paragraph 2 (c));
e) the procedure for cases in which the information and documents needed to identify and verify the identity of the contracting party and the beneficial owner upon establishing the business relationship are not fully available (article 5, paragraph 4);
f) the procedure for identifying and verifying the identity of the contracting party as well as the confirmatory nature of documents (article 6, paragraph 3);
g) the procedure for identifying and verifying the identity of the beneficial owner (article 7, paragraph 4);
h) the establishment of the business profile (article 8, paragraph 3);
i) the design of risk-adequate monitoring of business relationships as well as the content and scope of clarifications (article 9, paragraph 6);
k) any additional products or transactions with a low risk of money laundering or terrorist financing (article 10, paragraph 4);
l) details concerning enhanced due diligence (article 11, paragraph 6);
m) information on the payer for electronic payment orders (article 12);
n) the delegation of due diligence (article 14, paragraph 5);
o) the global application of the due diligence standard (article 16, paragraph 3);
p) the procedure for submitting a report (article 17, paragraph 1);
q) details on the documentation requirement, internal organization, and internal functions (article 20, paragraph 1, article 21, paragraph 4, and article 22, paragraph 4);
r) details and the procedure for carrying out inspections (article 24, paragraph 10);
s) details concerning the preconditions for mandating auditors, auditing companies, and audit offices subject to specialized legislation (article 26, paragraph 2).

Article 39

Transitional provisions

1) Subject to the following paragraphs, the new law shall apply to business relationships existing at the time of entry into force of this Act from the time of entry into force for the future.

2) Persons subject to due diligence referred to in article 3, paragraph 3 who have already taken up business prior to entry into force of this Act shall notify their pursuit of business to the FMA within three months of entry into force of this Act.

3) For existing business relationships, the due diligence files must be supplemented in the course of carrying out special clarifications pursuant to article 9, paragraph 4.

4) To the extent that due diligence can no longer be delegated under this Act, these obligations must be carried out within three months of entry into force of this Act by the person subject to due diligence.

5) Global application of due diligence under article 16 must be implemented within one year of entry into force of this Act.

6) The designation of business relationships and transactions with higher risks under article 11, paragraph 1 and the establishment of additional measures under article 11, paragraph 2 as well as the requisite adjustment of internal instructions must be carried out within one year of entry into force of this Act. The FMA may, on the basis of a justified request, extend this deadline by an additional year.

7) Existing contractual relationships as referred to in article 13, paragraph 3 (passbooks, accounts, or custody accounts payable to bearer) must be dissolved immediately as soon as the relevant bank or postal institution records are presented. Outflows of assets are only permissible if the associated contractual relationships are dissolved at the same time. In such cases, the bank or postal institutions must identify and verify the identity of the bearer of the relevant records and the beneficial owner pursuant to articles 6 and 7 before transferring the assets, if the balance exceeds 25,000 francs.

8) The persons subject to due diligence must modify the relevant internal documents in connection with this Act, especially internal instructions, guidelines, and forms, within three months of entry into force of this Act.

Article 40

Repeal of existing law

The following acts are hereby repealed:

a) Law of 26 November 2004 on Professional Due Diligence in Financial Transactions (Due Diligence Act, DDA), LGBl. 2005 No. 5;
b) Law of 25 November 2005 amending the Due Diligence Act, LGBl. 2005 No. 281;
c) Law of 17 Mai 2006 amending the Due Diligence Act, LGBl. 2006 No. 129;
d) Law of 24 November 2006 amending the Due Diligence Act, LGBl. 2007 No. 15;
e) Law of 20 September 2007 amending the Due Diligence Act, LGBl. 2007 No. 270.

Article 41

Entry into force

Subject to expiration of the referendum period without a referendum being called, this Act shall enter into force on 1 March 2009, otherwise on the day of its promulgation.

B) Due Diligence Ordinance

952.11

Liechtenstein Law Gazette Year 2009 - No. 98 published on 23 February 2009

Ordinance of 17 February 2009 **on Professional Due Diligence in the Combating of Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Ordinance; DDO)**

Pursuant to Art. 38 of the Law of 11 December 2008 on Professional Due Diligence in the Combating of Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Act; DDA), LLG 2009 No. 47, the Government hereby decrees as follows:

I. General provisions

Art. 1

Subject matter and purpose

1) This Ordinance governs in particular:

a) establishing and verifying the identity of the contracting party and the beneficial owner;
b) the content of the business profile;
c) monitoring of business relationships commensurate with the risks involved;
d) enhanced duties of due diligence, delegation of duties of due diligence and global monitoring;
e) the procedure to be adopted when filing a report with the Financial Intelligence Unit (FIU);
f) documentation requirements and internal organisation;
g) conduct of checks;
h) requirements for the appointment of auditors, auditing firms and auditing offices subject to special legislation.
2) It serves to:
a) implement Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (EWR-Rechtssammlung [EEA Law Directory]: Appendix IX – 23b.01);
b) implement Directive 2006/70/EC of the Commission of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and the Council as regards the definition of "politically exposed persons" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (EWR-Rechtssammlung [EEA Law Directory]: Appendix. IX – 23ba.01);
c) lay down the measures necessary to implement Ordinance (EC) No. 1781/2006 of the European Council and of the Parliament of 15 November 2006 concerning information on the payer accompanying transfers of funds (EWR-Rechtssammlung [EEA Law Directory]: Appendix. IX – 23d.01).

Art. 2

Politically exposed persons

1) The term "prominent public functions" within the meaning of Art. 2 (1) (h) of the Act shall include the following functions (except where mid-ranking or junior):
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.
2) The term "immediate family members" within the meaning of Art. 2 (1) (h) of the Act shall include:
a) the spouse;
b) any partners considered by national law as equivalent to the spouse;
c) the children and their spouses or partners;
d) the parents.
3) The term "persons known to be close associates" within the meaning of Art. 2 (1) (h) of the Act shall include:
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 holder of a prominent public office;
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 holder of a prominent public office.

Art. 3

Beneficial owners

1) The term "beneficial owner" shall include:
a) in the case of corporations, including institutions structured as corporations, as well as companies without a legal personality: those natural persons who directly or indirectly:
1. hold or control a share or voting rights amounting to 25% or more of such legal entities;
2. receive 25% or more of the profits of such legal entities; or
3. exercise control over the management of such legal entities in another way;

b) in the case of foundations, fiduciary entities and institutions structured in a similar way to foundations:
1. where the beneficiaries have been named, those natural persons who are the beneficiaries of 25% or more of the assets of such a legal entity;
2. where no individual persons have been named as beneficiaries, those natural persons or the group of persons in whose interest such a legal entity was mainly established;
3. in addition, those natural persons who ultimately exercise direct or indirect control over the assets of such a legal entity;
c) in the case of insurance policies: those natural persons who are economically responsible for payment of the insurance premiums.
2) Control within the meaning of para. 1 shall in particular include the ability:
a) to dispose of the assets of the legal entity;
b) to amend the provisions governing the essential nature of the legal entity;
c) to amend the beneficiaries; or
d) to influence the exercise of the control powers under (a) to (c) above.

Art. 4

Threshold values for occasional activity

Activities shall be deemed to be occasional within the meaning of Art. 4 (c) (5) of the Act if the individual activity does not exceed the value of CHF 1,000 and no more than 100 transactions per year are carried out.

Art. 5

Designations

The designations used in this Ordinance to denote persons, functions and professions include persons of male and female gender alike.

II. Duties of due diligence
A. Establishing and verifying the identity of the contracting party and the beneficial owner
1. Establishing and verifying the identity of the contracting party

Art. 6

Basic principle

1) When initiating a business relationship or processing an occasional transaction by personal contact, the person or entity subject to due diligence shall establish and verify the identity of the contracting party by inspecting a document with probative value (original or certified copy) relating to the contracting party, and by collecting and documenting the following information:
a) for natural persons: last name, first name, date of birth, address of residence, state of residence and nationality;
b) for legal entities: name or company name, legal form, address of domicile, state of domicile, date of formation, place and date of entry in the public register (where applicable), and the names of the bodies or trustees formally acting on behalf of the legal entity in dealings with the person or entity subject to due diligence.
2) If the contracting party is a legal entity, the persons or entities subject to due diligence shall ensure that the person purporting to act on its behalf is authorised to do so. The persons or entities subject to due diligence shall verify the identity of such persons by inspecting a document with probative value (original or certified copy) or by confirming the authenticity of the signature (Art. 9).
3) When initiating a business relationship by correspondence, the persons or entities subject to due diligence shall establish and verify the identity of the contracting party by obtaining the original or a certified copy of a document with probative value and obtaining from the contracting party a confirmation of the information under para. 1 by means of a signature or by the use of a secure electronic signature in accordance with Art. 2 (1) (d) or Art. 24 (3) of the Signature Act (Signaturgesetz, SigG).

Documents with probative value

Art. 7

a) Natural persons

1) For natural persons, documents with probative value shall include a valid official identification document with a photograph (in particular a passport, identity card or driving licence). An identification document shall be deemed to be valid if it entitles the contracting party to enter the Principality of Liechtenstein at the time when the contracting party's identity is established and verified.

2) If the contracting party cannot provide such a document from his home country, he shall provide a confirmation of identity from the authority responsible in his domicile.

Art. 8

b) Legal entities

1) For legal entities entered in the public register, documents with probative value shall include:

a) an extract from the public register issued by the public register authority;

b) a written extract from a database maintained by the public register authority; or

c) a written extract from a trustworthy privately maintained directory or equivalent database.

2) For legal entities not entered in the public register, documents with probative value shall include:

a) an official certificate issued in Liechtenstein;

b) the statutes, formation documents or formation agreement;

c) a certification of the information specified under Art. 6 (1) (b) by the appointed auditor of the annual accounts;

d) an official licence to conduct its activities; or

c) a written extract from a trustworthy privately maintained directory or equivalent database.

Art. 9

Certificate of authenticity

Certificates of the authenticity of a copy of a document with probative value or of the authenticity of a signature may be issued by:

a) a branch or corporate affiliate of the person or entity subject to due diligence;

b) another person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (i) of the Act, an attorney, a professional trustee, an auditor or an asset manager that is subject to Directive 2005/60/EC or an equivalent regulation and supervision; or

c) a notary public or other public office that normally issues such certificates of authenticity.

Art. 10

Form and treatment of documents

1) If a business relationship is initiated by correspondence, the persons or entities subject to due diligence shall include the original or a certified copy of the document with probative value in the due diligence files. If, for the purposes of establishing and verifying the identity of the contracting party, the persons or entities subject to due diligence obtain the original of a document with probative value pursuant to Art. 8 from a person authorised to issue certificates of authenticity pursuant to Art. 9, they may then proceed as set out under para. 2.

2) If a business relationship is initiated or an occasional transaction is processed by personal contact, it shall be sufficient for the persons or entities subject to due diligence to make a copy of the original or a certified copy thereof, confirm on that copy that they have inspected the original or certified copy, sign and date the copy, and include it with the due diligence files.

3) The documents necessary for identity verification shall reflect the current circumstances. Certificates of authenticity, register extracts and confirmations by the appointed annual auditor may not be older than 12 months.

2. Establishing and verifying the identity of the beneficial owner

Art. 11

Written statement by the contracting party

1) In order to establish and verify the identity of the beneficial owner, the persons or entities subject to due diligence shall collect and document the information set out in Art. 6 (1) (a).
2) The persons or entities subject to due diligence shall obtain confirmation of the accuracy of the information from the contracting party or a person authorised by the latter, by means of a signature or using a secure electronic signature pursuant to Art. 2 (1) (d) or Art. 24 (3) SigG.
3) In the case of collective accounts, deposits or policies, the persons or entities subject to due diligence shall not be required to obtain a confirmation pursuant to para. 2 from the contracting party. However, they shall maintain a complete list of beneficial owners and ensure that they are notified without delay of any changes. The list shall contain the relevant information pursuant to para. 1 for each beneficial owner.

Art. 12

Legal entities where there is no specific beneficial owner

1) In the case of legal entities where there is no specific beneficial owner, such as discretionary trusts or discretionary foundations, the contracting party shall provide a written statement confirming this situation. The statement shall also contain information regarding:
a) the effective, not the fiduciary depositor;
b) if determinable, the persons who are authorised to issue instructions to the contracting party or its bodies;
c) if determinable, the persons or group of persons eligible as beneficiaries; and
d) any curators, protectors or other appointed persons.
2) In the case of legal entities whose purpose is to safeguard the interests of their members by way of joint and mutual assistance or that, pursuant to their statutes and actually, pursue political, religious, scientific, artistic, charitable, entertainment or similar purposes, para. 1 shall apply, mutatis mutandis.

Art. 13

Insurance policies

Before paying out insurance benefits or before the point at which the beneficiary intends to claim his entitlements arising out of the policy, the insurance company shall identify the beneficiary of the insurance policy and verify the same using appropriate risk-based measures.

Art. 14

Notaries public, attorneys and legal agents

1) If a person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (h) of the Act waives the requirement to establish and verify the identity of the beneficial owner pursuant to Art. 10 (2) of the Act, the notary public, attorney or legal agent shall supply a written statement that the accounts or deposits exclusively serve one of the following purposes:
a) the handling and, if applicable, related short-term investment of advances on court fees, bails, public charges and the like, as well as payments to or from parties, third parties or public authorities (designation: e.g. “client funds settlement account/custody account”);
b) the depositing and, if applicable, related investment of assets from a pending division of an estate or execution of a will (designation: e.g. “estate” or “division of estate”);
c) the depositing/investment of assets from a pending separation of property in connection with a divorce or separation (designation: e.g. “separation of marital property”);
d) the depositing for security/investment of assets in matters of civil or public law (designation: e.g. “escrow account/deposit”, “share purchase blocked deposit”, “entrepreneur security deposit”, “real estate gains tax security deposit”);
e) the depositing/investment of assets in matters of civil or public law before ordinary courts or courts of arbitration and in proceedings under judicial foreclosure law (designation: e.g. “advances”, “court security deposit”, “bankruptcy estate”, “arbitration proceedings”).
2) The person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (h) of the Act shall label the accounts or custody accounts accordingly.

3) If a person or entity subject to due diligence pursuant to Art. 3 (1) (a) to (h) of the Act becomes aware that a statement pursuant to para. 1 has been issued wrongly, that person or entity shall obtain from the contracting party a written statement as to the beneficial owner. If no statement is supplied, the business relationship shall be discontinued and the outflow of assets adequately documented, unless the criteria for the reporting obligation pursuant to Art. 17 (1) of the Act have been fulfilled.

3. Joint provisions

Art. 15

Repeating the process of establishing and verifying identity

1) If, despite repeating the process of establishing and verifying the identity of the contracting party or beneficial owner, doubts remain as to the information provided by them, the persons or entities subject to due diligence shall discontinue the business relationship and adequately document the outflow of assets.
2) Persons or entities subject to due diligence may not discontinue the business relationship if the criteria for the reporting obligation pursuant to Art. 17 (1) of the Act have been fulfilled.
3) In the event that the policyholder of an existing insurance policy is replaced by another policyholder, the identity of the contracting party and the beneficial owner shall be established and verified once again.

Art. 16

Correspondent banking relationships

Where clearing accounts are concerned, persons or entities subject to due diligence pursuant to Art. 3 (1) (a) to (i) of the Act that provide correspondent bank services for correspondent institutions in third countries shall satisfy themselves that the correspondent institution:
a) has verified the identity of the persons that have direct access to the correspondent institution's accounts;
b) has subjected those persons to continuous monitoring; and
c) is in position to submit the relevant data concerning these duties of due diligence to the person or entity subject to due diligence on request.

Art. 17

Payer information in electronic payment transactions

1) For all money transfers, payment services providers shall supply the name, account number and address of the payer. If no account number for the payer is available, the payment services provider shall replace this with an identification number linked to the client that will enable the transaction to be traced back to the payer. The address may be replaced by the date and place of birth of the payer, his client number or his national identity number.
2) By way of derogation from para. 1, payment services providers may, when processing money transfers within the EEA member states or states deemed equivalent thereto on the basis of international treaties, supply only the account number of the payer or an identification number linked to the client that will enable the transaction to be traced back to the payer. On request from the payee's payment services provider, the payer's payment services provider shall supply the former with the complete payer data record pursuant to para. 1 within three working days.
3) The payee's payment services provider shall establish whether the payer information stipulated in para. 1 or 2 is missing or incomplete, and, in the event that it is, shall either reject the money transfer or request the complete payer data record pursuant to para. 1.
4) Any payment services provider acting as intermediary in a money transfer shall ensure that all payer information supplied in connection with a money transfer is retained when it is forwarded.

Art. 18

Information and documents for initiating a business relationship

1) All information and documents required to establish and verify the identity of the contracting party and the beneficial owner shall be available, in full and in due form, at the time the business relationship is initiated.
2) If necessary to maintain normal business, it may exceptionally be deemed sufficient if the information and documents required are made available as soon as possible after the business relationship has been

initiated. In this event, the person or entity subject to due diligence shall ensure that no outflows of funds take place in the meantime.
3) If the required information and documents are incomplete and this cannot be justified on the grounds of maintaining normal business within the meaning of para. 2, the persons or entities subject to due diligence shall proceed in accordance with Art. 5 (3) (b) of the law.

Art. 19

Use of secure electronic signatures by legal entities

Confirmations pursuant to Art. 6 (3) and Art. 11 (2) may be provided by legal entities using secure electronic signatures provided that:
a) the signing authority of the signatory representing the legal entity has been entered as an attribute in a qualified certificate pursuant to Art. 5 (1) (d) SigG or in a separate qualified attribute certificate pursuant to Art. 5 (2) SigG; and
b) the certificate is no older than 12 months.

B. Business profile

Art. 20

Content of the business profile

1) The business profile pursuant to Art. 8 of the Act shall contain the following information:
a) contracting party and beneficial owner;
b) authorised agents and bodies acting in dealings with the persons or entities subject to due diligence;
c) economic background and origin of the assets deposited;
d) profession and business activity of the effective depositor of the assets; and
e) the intended use of the assets.
2) The degree of detail of the information pursuant to para. 1 (c) to (e) shall take account of the risk involved in the business relationship.

C. Monitoring of business relationships commensurate with the risks involved

Art. 21

Computerised systems

1) Monitoring of business relationships commensurate with the risks involved pursuant to Art. 9 of the Act shall be conducted using computerised systems, as far as this is possible and provided that the costs are in suitable proportion to the anticipated benefit. Normally, the use of a suitable, state-of-the-art system shall be required.
2) If the persons or entities subject to due diligence do not use a computerised system to identify business relationships with politically exposed persons, they shall use another appropriate risk management system to achieve this end.

Art. 22

Inquiries

1) Simple inquiries pursuant to Art. 9 (3) of the Act shall serve to assess the plausibility of circumstances or transactions that deviate from the business profile. In this connection, the person or entity subject to due diligence shall obtain, evaluate and document such information as is useful in rendering the background to such circumstances or transactions plausible and comprehensible.
2) As part of special inquiries pursuant to Art. 9 (4) of the Act, the person or entity subject to due diligence shall obtain, evaluate and document such information as is useful in dispelling or corroborating any suspicion arising pursuant to Art. 17 (1) of the Act.

D. Enhanced duties of due diligence, delegation of due diligence obligations and global monitoring

Art. 23

Criteria and measures for business relationships and transactions involving higher risks

1) Criteria for business relationships and transactions involving higher risks within the meaning of Art. 11 (1) of the Act shall include, in particular:

a) the registered office or place of residence of the contracting party and beneficial owner or their nationality;
b) the nature and location of the contracting party's and beneficial owner's business activity;
c) the nature of the products or services requested;
d) the level and type of the assets deposited;
e) the level of inflows and outflows of assets;
f) the country of origin or destination of frequent payments.
2) Following consultation with the FIU, the FMA shall issue guidelines concerning indicators of money laundering, organised crime and terrorist financing.
3) Additional measures for transactions involving higher risks within the meaning of Art. 11 (2) of the Act shall include, in particular:
a) verifying the identity of the contracting party using additional documents, data or information;
b) clarifying the origin of the assets deposited;
c) clarifying the intended use of assets withdrawn;
d) clarifying the professional and business activity of the contracting party and beneficial owner.

Art. 24

Delegation of due diligence obligations

1) If the person or entity subject to due diligence arranges for the tasks of establishing and verifying the identity of the contracting party or the beneficial owner or compiling the business profile to be carried out by a delegate within the meaning of Art. 14 (1) of the Act:
a) the person or entity shall ensure that the delegate obtains or prepares the documents and information in accordance with the provisions of the Act and this Ordinance, and transfers them without delay to the person or entity subject to due diligence in the Principality of Liechtenstein, including a statement as to the identity of the person carrying out the identification and verification; and
b) the delegate shall confirm with his signature that the copies created as part of the identification and verification process match the originals or certified copies, and that the written statement required as part of establishing and verifying the identity of the beneficial owner has been obtained from the contracting party or a person authorised pursuant to Art. 11 (2).
2) The act of delegation shall be documented.
3) Sub-delegation by delegates shall be prohibited.

Art. 25

Global monitoring

1) For the purposes of global monitoring of the risks associated with money laundering, organised crime and terrorist financing pursuant to Art. 16 (3) of the Act, banks shall in particular ensure that:
a) the internal auditing department and the group's external auditing office are granted access to information about individual business relationships in all group companies whenever required. No central database of contracting parties and beneficial owners shall be required at group level, nor shall there be any requirement for central access on the part of the group's internal supervisory bodies to local databases; and
b) group companies provide the group bodies responsible with the information that is essential for the global monitoring of the risks associated with money laundering, organised crime and terrorist financing.
2) Banks that form part of a domestic or foreign financial group shall grant the internal auditing department and the group's external auditing office access to information concerning specific business relationships whenever required, insofar as this is necessary for the global monitoring of the risks associated with money laundering, organised crime and terrorist financing.
3) If banks find that access to information regarding contracting parties and beneficial owners is prohibited or hindered for legal or practical reasons in certain countries, they shall inform the FMA of this fact without delay.

III. Reporting obligation

Art. 26

Report to the FIU

1) The report pursuant to Art. 17 (1) of the Act shall contain all information required for the FIU to evaluate the matter.
2) The FIU shall confirm in writing the date of receipt of the report. It may request further information after receiving the report. Such information shall be submitted without delay.
3) The FIU may issue a standardised report form.

IV. Documentation and internal organisation

Art. 27

Due diligence files

1) The due diligence files shall in particular contain the documents and records prepared and used in order to comply with the provisions of the Act and this Ordinance. They shall in particular include:
a) the documents and records used to establish and verify the identity of the contracting party and the beneficial owner;
b) the business profile pursuant to Art. 8 of the Act;
c) the records of any inquiries carried out pursuant to Art. 9 of the Act as well as all documents and records used in this connection;
d) records describing transactions and, if applicable, the asset balance; and
e) any reports made to the FIU pursuant to Art. 17 (1) of the Act.
2) The documents and records referred to in para. 1 (a) and (b) are client-related documents and records; those referred to in para. 1 (c) to (e) are transaction-related documents and records within the meaning of Art. 20 (1) of the Act.

Art. 28

Preparation and safekeeping

1) The due diligence files shall be prepared and kept in such a manner that:
a) the required due diligence obligations can be complied with at any time;
b) they enable third parties with sufficient expertise to form a reliable judgment of compliance with the provisions of the Act and this Ordinance; and
c) requests from the responsible domestic authorities and courts, auditors and auditing offices can be fully met within a reasonable period of time.
2) The due diligence files may be stored in written, electronic or similar form provided that:
a) they match the documents on which they are based;
b) they are available at all times; and
c) they can be rendered readable at any time.
3) The integrity and legibility of image and data storage media kept within the meaning of para. 2 shall be checked regularly.
4) It may not be more difficult or time-consuming to check the records than it is the underlying documents.
5) The due diligence files shall be stored at a location within Liechtenstein that is accessible at any time.

Art. 29

Record-making procedures

1) The following information shall be added to records:
a) names of the persons entrusted with making the record;
b) nature and scope of the documents recorded;
c) place and date of recording;
d) damage to the documents, image and data storage media identified during recording or storage.
2) Records shall be checked for errors immediately upon completion; if any such errors are identified, the recording shall be repeated.

Art. 30

Internal annual report

1) The persons or entities subject to due diligence shall prepare the internal annual report for each year by the end of March of the following year. The annual report shall in particular contain:
a) a report of the activities of the compliance officer and the investigating officer;
b) an overview of repeated identification and identity verification procedures concerning the contracting party and beneficial owner pursuant to Art. 6 (2) and Art. 7 (3) of the Act as well as special inquiries carried out pursuant to Art. 9 (4) of the Act and the conclusions drawn, and in particular the reporting obligation pursuant to Art. 17 (1) of the Act;
c) a report on the basic and continuing training of employees involved with business relationships during the previous calendar year;
d) the number of business relationships and the numerical fluctuations thereof (balance, new and discontinued) compared with the previous year; and
e) the number of employees involved with business relationships and the numerical fluctuations thereof compared with the previous year.
2) The annual report shall be forwarded to the FMA on request.

Art. 31

Internal instructions

1) The persons or entities subject to due diligence shall issue internal instructions governing specifically how the obligations arising out of the Act and this Ordinance are to be complied with, and shall make these instructions known to all employees involved with business relationships.
2) The instructions shall in particular govern:
a) the duties, responsibilities, powers and supervision of internal functions pursuant to Art. 22 of the Act;
b) the content, maintenance and safekeeping of the due diligence files; in respect of electronic recording and reproduction, rules governing organisation, responsibility and technical procedures shall in particular be required;
c) the methods used to establish and verify the identity of contracting parties and beneficial owners, and for the monitoring of business relationships;
d) the procedure to be adopted by employees in the event of circumstances or transactions pursuant to Art. 9 (2) to (4) of the Act; in particular notification to the compliance officer and the procedure for submitting reports to the FIU;
e) the criteria to be employed in identifying higher risks pursuant to Art. 11 (1) of the Act;
f) the additional measures pursuant to Art. 11 (2) of the Act they are to employ in order to identify, limit and monitor such higher risks;
g) the cases in which the compliance officer must be consulted and the management informed;
h) the fundamentals of the training provided to employees involved with business relationships; and
i) the business policy concerning politically exposed persons as well as the risk management system used to establish whether a politically exposed person is involved in a business relationship.
3) The instructions shall be issued by the board of directors or the management.

Art. 32

Basic and continuing training

The persons or entities subject to due diligence shall ensure that employees involved with business relationships receive up-to-date and comprehensive basic and continuing training. The knowledge imparted shall encompass to the regulations on preventing and combating money laundering, predicate offenses of money laundering, organised crime and terrorist financing, in particular:
a) the obligations arising out of the Act and this Ordinance;
b) the relevant provisions of the Criminal Code; and
c) the internal instructions pursuant to Art. 31.

Art. 33

Responsibilities of the contact person

1) The contact person shall be responsible for contact between the person or entity subject to due diligence and the FMA.

2) The FMA shall be notified immediately of the appointment or replacement of the contact person.

Art. 34

Responsibilities of the compliance officer

The compliance officer shall:

a) support and advise the management in the implementation of due diligence legislation and the design of the corresponding internal organisation, but without relieving the management of its responsibility in this connection;

b) draw up internal instructions (Art. 31); and

c) plan and monitor the internal basic and continuing training of employees involved with business relationships (Art. 32).

Art. 35

Responsibilities of the investigating officer

1) The investigating officer shall ensure compliance with the Act, this Ordinance and internal instructions. For this purpose, he shall conduct internal inspections. In particular, he shall check whether:

a) the necessary records are duly prepared and kept;

b) the records pursuant to (a) indicate that due diligence obligations are being complied with;

c) any reporting obligation has been duly complied with; and

d) any requests from the responsible domestic authorities in respect of contracting parties, beneficial owners and authorised agents can be fully met within a reasonable period of time.

2) The investigating officer shall prepare a report of his inspection and forward it to the management and the compliance officer.

Art. 36

Function of the compliance officer
and the investigating officer

1) The compliance officer and the investigating officer shall have a sound knowledge in matters of the prevention and combating of money laundering, predicate offenses of money laundering, organised crime and terrorist financing, and be familiar with the current developments in these areas.

2) The responsibilities of the compliance officer and the investigating officer may be transferred to suitably qualified external persons or offices.

Art. 37

Responsibility of the management

Persons subject to due diligence that are involved in very extensive asset management activity and multiple hierarchies may transfer the responsibility for management pursuant to Art. 11 (4) (b) and (c) as well as (5) (c) of the Act to the management of a corporate unit.

V. Supervision

A. Inspections

Art. 38

Basis of the inspections

The inspections pursuant to Art. 24 and 25 of the Act shall in particular be based on:

a) the due diligence files pursuant to Art. 20 of the Act; and

b) the internal annual report pursuant to Art. 21 (3) of the Act.

Art. 39

Formal and material inspections

1) Formal inspections shall include an examination as to whether the legally prescribed data and records are fully available. They shall constitute a review of compliance with the documentation and safekeeping requirements pursuant to Art. 20 of the Act.

2) Material inspections shall comprise an evaluation of the content of the due diligence measures taken. They shall therefore constitute a plausibility and system review. In particular, an evaluation shall be made as to whether:

a) appropriate organisational measures have been taken pursuant to Art. 21 of the Act;

b) the content of the due diligence obligations pursuant to the Act and this Ordinance has been complied with, and in particular whether the data and reports contained in the due diligence files can be derived in a plausible manner;
c) the reporting obligation pursuant to Art. 17 (1) of the Act has been complied with in the light of the outcome of the inquiries carried out; and
d) there are any circumstances that call into question the guarantee of proper conduct of business and impeccable management within the meaning of the Act.

Art. 40

Inspection report

1) The inspection report shall as a minimum contain:
a) information on complaints;
b) any violations of the provisions of the Act and this Ordinance;
c) the measures ordered to restore a lawful state; and
d) an evaluation of whether, in view of the outcome of the inspections, proper conduct of business and impeccable management within the meaning of the Act appear to be assured.
2) The FMA shall specify in more detail the minimum content of the inspection reports.

Art. 41

Safekeeping

1) The working papers prepared during inspections, as well as all associated documents and data storage media, shall be kept at a location within Liechtenstein in such a way that requests from the responsible domestic authorities can be fully met within a reasonable period of time.
2) The working papers, documents and data storage media shall be kept for a period of ten years following completion of the inspections concerned.

B. Mandated auditors, auditing companies and auditing offices subject to special legislation

Art. 42

Preconditions

1) Proof of participation in external basic and continuing training courses pursuant to Art. 26 (1) (c) of the Act for at least half a day per calendar year shall be supplied. The knowledge imparted in such courses must be in accordance with Art. 32 (a) and (b).
2) The independence of the auditor, auditing companies and auditing offices subject to special legislation from the persons or entities subject to due diligence that are to be audited must be ensured with respect to legal, economic and personal aspects. In particular:
a) auditors may not be employees of the persons or entities subject to due diligence that are to be audited, or of an enterprise associated legally, economically or personally with such persons or entities;
b) auditors, auditing companies and auditing offices subject to special legislation may not participate, either directly or indirectly, in the profits of the persons or entities subject to due diligence that are to be audited, or of an enterprise associated legally, economically or personally with such persons or entities.

VI. Final clauses

Art. 43

Repeal of existing law

The following are hereby repealed:
a) Ordinance of 11 January 2005 on the Due Diligence Act (Due Diligence Ordinance, DDO), LLG 2005 No. 6;
b) announcement of 22 February 2005 on the correction of the Law Gazette 2005 No. 6, LLG 2005 No. 47.

Art. 44

Entry into force

This Ordinance shall enter into force simultaneously with the Due Diligence Act of 11 December 2008.

For and on behalf of the Princely Government: signed *Otmar Hasler* Prime Minister

C) FIU Act

Art. 6^3

Cooperation with Liechtenstein authorities

Insofar as this does not impede the discharge of its responsibilities, The FIU exchanges information and documents required to combat money-laundering, acts preparatory to money-laundering, organised crime, and the financing of terrorism, with other Liechtenstein authorities, in particular the courts, the State Prosecutor's Office, the National Police and the Financial Market Authority. In particular, the FIU can ask other Liechtenstein authorities to hand over such information.

3 Article 6 amended by LGBl. 2009 No. 48.

D) Banking Act

Article 141

Banking secrecy

1) The members of the governing bodies of banks and their employees as well as any persons otherwise working for such banks shall keep secret all facts that they are entrusted with or that become accessible by them as a result of the business relations with clients. The obligation of secrecy shall apply without any time limit.

2) Paragraph 1 is without prejudice to the legal provisions on the obligation to give testimony or information to the criminal courts and to supervisory bodies as well as the provisions on cooperation with other supervisory authorities.

3) The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to the members of the governing bodies of investment firms and their employees as well as to any persons working for such investment firms.

1 Article 14 amended by LGBl. 2007 No. 261.

E) Mutual Legal Assistance Act

Art. 51

Impermissibility of Legal Assistance

1) Granting of legal assistance is impermissible in so far as

1. the offence underlying the request is either not sanctioned with legal punishment under Liechtenstein law or not subject to extradition in accordance with Art. 14 and 15,
2. extradition would be impermissible with regard to the proceedings underlying the request in accordance with Art. 19 Subpara 1 and 2, or
3. either the special requirements necessary in accordance with the Code of Criminal Procedure to carry out certain investigations, in particular confiscation and opening of letters or monitoring of telephone conversations, are not met or the granting of legal assistance would violate an obligation under Liechtenstein law to maintain secrecy also with regard to criminal courts.

1a) The fact that the criminal offence underlying the request is not subject to extradition pursuant to Art. 15 Subpara 2 shall not constitute an obstacle to the provision of legal assistance, provided the act is punishable and is connected with damage to the budget of the European Communities:

1. as tax fraud in accordance with Art. 88 of the Value Added Tax Act or as a customs violation committed maliciously or under aggravating circumstances in accordance with Art. 118 and 119 in conjunction with Art. 124 of the Swiss Customs Act or Art. 14 Para 2 of the Federal Act on Administrative Criminal Law, if in such cases the evaded tax, reduced customs duties, or other unlawful advantage exceeded or was intended to exceed 75,000 Swiss francs, or
2. as a breach of a ban in accordance with Art. 120 of the Swiss Customs Act.

2) The fact that an action is not liable to prosecution under Liechtenstein law is not an obstacle to the service of documents if the addressee is willing to accept them.

Art. 58c

Appeal in court proceedings

1) The ruling of the legal assistance court concluding the legal assistance proceedings as well as the preceding rulings shall be subject to appeal.

2) The preceding rulings may be contested separately, provided they effect an immediate and irreparable disadvantage; this applies particularly to orders in accordance with Art. 97a of the Code of Criminal Procedure.

3) Any means of appeals pursuant to Para 2 do not constitute an obstacle to the continuation of the legal assistance proceedings.

F) Foundation Law

Liechtenstein Law Gazette - 2008 Volume No. 220
Published on 26 August 2008 - Law of 26 June 2008 on the Amendment of the Persons and Companies Act[1]

I hereby grant My consent to the following Resolution taken by the Parliament:

I.

Amendment of Present Law

The Persons and Companies Act of 20 January 1926, Liechtenstein State Gazette 1926, No. 4, in the version currently in force, shall be amended as follows:

Art. 106, para. 2, item 3

Repealed

Art. 107, para. 4a

4a) Where the Act refers to non-profit making (common-benefit) or charitable purposes, this shall include such purposes the fulfilment of which is of benefit to the general public. In particular, there is deemed to be a benefit to the general public if the activity serves the common good in a charitable, religious, humanitarian, scientific, cultural, moral, sporting or ecological sense, even if only a specific category of persons benefits from the activity.

Art. 182, para. 2

2) It shall diligently manage and promote the enterprise of the legal entity and shall be liable for observing the principles of diligent management and representation. A member of the administration shall be deemed to act in harmony with these principles if in his commercial decision-making he is not governed by irrelevant interests and it must reasonably be assumed that he is acting for the good of the legal entity on the basis of appropriate information.

Art. 259, para. 2

Repealed

Heading above Art. 552

Second Section

The Foundations

Art. 552

The following rules apply to foundations:

A. In General

I. Definition and Purpose

§ 1

1. Description and Delimitation

1) A foundation within the meaning of this Section is a legally and economically independent special-purpose fund which is formed as a legal entity (juristic person)

through the unilateral declaration of will of the founder. The founder allocates the specifically designated foundation assets, stipulates the purpose of the foundation, entirely non-self-serving and specifically designated, and also stipulates the beneficiaries.

2) A foundation is only permitted to carry on business run along commercial lines if it directly serves the achievement of its common-benefit purpose or if this is permitted on a special statutory basis. Insofar as the orderly investment and management of the foundation assets require, the setting-up of a commercial operation is permissible, even for private benefit foundations.

3) If there is no case of para. 2), sentence 1, the foundation shall also not be permitted to be the shareholder with unlimited liability of a collective under personal law which runs a business along commercial lines.

§ 2

2. Foundation Purposes

1) Foundation purposes may include common-benefit or private-benefit purposes.

2) A common-benefit foundation within the meaning of this Section is a foundation whose activity according to the declaration of establishment is entirely or predominantly intended to serve common-benefit purposes in accordance with Art. 107, para. 4a, unless it is a family foundation.

3) A private-benefit foundation within the meaning of this Section is a foundation which according to the declaration of establishment is entirely or predominantly intended to serve private or personal purposes. Predominance is to be assessed according to the relationship between services provided to serve private-benefit purposes and those serving common-benefit purposes. If it is not certain that at any given time the foundation is entirely or predominantly intended to serve private-benefit purposes, it shall be treated as a common-benefit foundation.

4) The following in particular shall be regarded as private-benefit foundations:
   1. pure family foundations; these are foundations whose assets exclusively serve the defrayal of costs of upbringing or education, provision for or support of members of one or more families or similar family interests;
   2. mixed family foundations; these are foundations which predominantly pursue the purpose of a pure family foundation, but which supplementally also serve common-benefit or other private-benefit purposes.

II. Foundation Participants

§ 3

1. Definition

The following are deemed to be participants in the foundation:

1. the founder;
2. the entitled beneficiaries;
3. the prospective beneficiaries;
4. the discretionary beneficiaries;
5. the ultimate beneficiaries;
6. the executive bodies of the foundation pursuant to §§ 11, 24, 27 and 28 as well as the members of these executive bodies.

§ 4

2. Founders

1) Founders may be one or more natural persons or legal entities. A foundation formed by way of last will and testament may only have one founder.

2) If a foundation has more than one founder, the rights to which the founder is entitled or which are reserved to the founder may only be exercised jointly by all founders, unless the declaration of establishment provides otherwise. If one of the

founders ceases to hold office, in cases of doubt the above-cited rights shall lapse.

3) If the foundation is formed by an indirect representative, the principal (authorisor) shall be deemed to be the founder. If the latter also acts as indirect representative for a third party, the latter principal (authorisor) shall be deemed to be the founder. In any event the indirect representative shall be under an obligation to notify the foundation council of the identity of the founder.

§ 5

3. Beneficiaries

1) The beneficiary is deemed to be the natural person or legal entity that with or without valuable consideration in fact, unconditionally or subject to certain prerequisites or conditions, for a limited or unlimited period, with or without restrictions, revocably or irrevocably, at any time during the legal existence of the foundation or on its termination derives or may derive an economic benefit from the foundation (beneficial interest).
2) Beneficiaries within the meaning of para. 1 are:
   1. the entitled beneficiaries (§ 6, para. 1);
   2. the prospective beneficiaries (§ 6, para. 2);
   3. the discretionary beneficiaries (§ 7); and
   4. the ultimate beneficiaries (§ 8).

§ 6

4. Beneficiary with a Legal Claim

1) An entitled beneficiary is a beneficiary who on the basis of the foundation deed, the supplementary foundation deed or the regulations has a legal claim to benefit, to a specified or specifiable extent, from the foundation assets or foundation income.
2) A prospective beneficiary is a beneficiary who after the occurrence of a condition precedent or at a specified time, in particular after the exclusion of a prior-ranking beneficiary, on the basis of the foundation deed, the supplementary foundation deed or a regulation has a legal claim to acquire an entitlement to a beneficial interest.

§ 7

5. Discretionary Beneficiary (Beneficiary without Legal Claim)

1) A discretionary beneficiary is a beneficiary who belongs to the category of beneficiaries specified by the founder and whose possible beneficial interest is placed within the discretion of the foundation council or another body appointed for this purpose. A person who only has an expectancy to such a future beneficial interest shall not be treated as a discretionary beneficiary.
2) A legal claim by the discretionary beneficiary to a specific benefit from the foundation assets or foundation income shall in any event not come into being until there is a valid resolution by the foundation council, or another executive body vested with this responsibility (§ 28), on an actual distribution to the relevant discretionary beneficiaries and such claim shall lapse on receipt of this distribution.

§ 8

6. Ultimate Beneficiary

1) An ultimate beneficiary is a beneficiary who in accordance with the foundation deed or supplementary foundation deed is intended to receive the remaining assets following the liquidation of the foundation.
2) If there is no designation of an ultimate beneficiary or no existence of the ultimate beneficiary, the remaining assets following the liquidation shall pass to the state.
3) If there is no specification of the appropriation of assets in the event of a revocation pursuant to § 30, para. 1, the founder himself shall be deemed to be the ultimate beneficiary irrespective of whether he previously had the status of a beneficiary.

III. Rights of the Beneficiaries to Information and Disclosure

§ 9

1. In General

1) Insofar as his rights are concerned, the beneficiary is entitled to inspect the foundation deed, the supplementary foundation deed and possible regulations.
2) In addition, insofar as his rights are concerned, he is entitled to the disclosure of information, reports and accounts. For this purpose he has the right to inspect the business records and documents and to produce copies, and also to examine and investigate all facts and circumstances, in particular the accounting, personally or through a representative. However, this right must not be exercised with dishonest intent, in an abusive manner or in a manner in conflict with the interests of the foundation or other beneficiaries. By way of exception, the right may also be denied for important reasons to protect the beneficiary.
3) The ultimate beneficiary shall not be entitled to these rights until after the dissolution of the foundation.
4) The rights of the beneficiary shall be asserted in special non-contentious civil proceedings.
5) The exceptions pursuant to §§ 10 to 12 are reserved.

§ 10

2. The Founder's Right of R evocation

1) If in the declaration of establishment the founder has reserved for himself the right to revoke the foundation (§ 30) and he is himself the ultimate beneficiary, the beneficiary shall not be entitled to the rights pursuant to § 9.
2) If the foundation has been formed by more than one beneficiary, these rights may be exercised by each individual founder who has reserved for himself the right of revocation.

§ 11

3. Setting-up of a Controlling Body

1) If in the declaration of establishment the founder has set up a controlling body for the foundation, the beneficiary may only demand disclosure of information concerning the purpose and organisation of the foundation, and concerning his own rights vis-à-vis the foundation, and may verify the accuracy of this information by inspecting the foundation deed, the supplementary foundation deed and the regulations.
2) The following may be set up as controlling body:
   1. an audit authority, to which § 27 shall be applied mutatis mutandis;
   2. one or more natural persons specified by name by the founder, who have sufficient specialist knowledge in the sphere of law and business to be able to perform their duties; or
   3. the founder.
3) The controlling body must be independent of the foundation. § 27, para. 2 applies mutatis mutandis.
4) The controlling body shall be under an obligation to verify once a year whether the foundation assets are being managed and appropriated in accordance with their purposes. The foundation council shall submit a report on the outcome of this audit. If there is no reason for objection, it shall be sufficient to provide confirmation that the foundation assets have been managed and appropriated in accordance with the purpose of the foundation and in conformity with the provisions of the law and the foundation documents. If this is not the case, or while performing its duties the controlling body ascertains circumstances which jeopardize the existence of the foundation, it shall notify the beneficiaries and the court as soon as it is aware of these circumstances. The court shall if necessary take action in accordance with § 35.

5) If a controlling body has been set up, the beneficiary may demand from the foundation and the controlling body the forwarding of the reports pursuant to para. 4.
6) If the beneficiary asserts his rights pursuant to § 9, the foundation shall be under an obligation to prove that there exists a controlling body which satisfies the requirements of para. 2 in conjunction with para. 3.

§ 12

4. Supervised Foundations

The beneficiary shall not be entitled to the rights pursuant to § 9 if the foundation is subject to the supervision of the foundation supervisory authority (§ 29).

§ 13

IV. Foundation Assets

1) The minimum capital of the foundation is 30'000 Swiss Francs. It may also be contributed in Euros or US Dollars and shall then amount to 30'000 Euros or 30'000 US Dollars.
2) If there is an additional contribution of assets to the foundation by the founder after its legally valid formation, this shall be treated as a subsequent endowment.
3) If there is a contribution of assets to the foundation by a third party, this shall be treated as a donation. The donor shall not thereby acquire the status of a founder.
4) If the foundation does not become effective until the death of the founder or after the termination of a legal entity, with regard to the contributions of the founder it shall be deemed to have come into being before his death or before the termination of the legal entity.

B. Formation and Coming into Being

I. In General

§ 14

1. Foundation Inter Vivos

1) The foundation is formed through a declaration of establishment. This requires the written form and authentication of the signatures of the founders.
2) In the case of direct representation or indirect representation pursuant to § 4, para. 3, the signature of the representative shall be authenticated on the foundation deed.
3) For direct representation, the representative shall require a special power of attorney from the founder referring to this transaction.
4) Common-benefit foundations and private-benefit foundations carrying on business run along commercial lines on the basis of special law, shall be entered in the Public Registry and shall thereby acquire the right of legal personality.
5) Other private-benefit foundations may be entered in the Public Registry. However, there is no legal obligation to do so.

§ 15

2. Foundation Mortis Causa

1) The foundation may also be formed by way of last will and testament or contract of inheritance in accordance with the applicable formal rules.
2) The entry of a foundation or the deposition of a notification of formation of a foundation formed by way of last will and testament cannot be undertaken until after the death of the founder or, in the case of a contract of inheritance, unless the founder stipulates otherwise, after the death of one of the founders.
3) § 14, paras. 4 and 5 shall apply mutatis mutandis.

II. Foundation Documents

§ 16

1. Foundation Deed (Articles)

1) The foundation deed shall in any event include:
   1. the intention of the founder to form the foundation;
   2. the name or corporate name and domicile of the foundation;

3. the dedication of specific assets, which must amount to at least the statutory minimum capital;
4. the purpose of the foundation, including the designation of tangible beneficiaries, or beneficiaries identifiable on the basis of objective criteria, or of the category of beneficiaries, unless the foundation is a common-benefit foundation or the beneficiaries are evident from the purpose of the foundation, or unless there is instead express reference to a supplementary foundation deed regulating this;
5. the date of formation of the foundation;
6. the duration of the foundation, if this is limited;
7. regulations on the appointment, dismissal, term of office and nature of the management (adoption of resolutions) and power of representation (authority to sign) of the foundation council;
8. a provision concerning the appropriation of the assets in the event of the dissolution of the foundation, with the application mutatis mutandis of item 4. above;
9. the last name, first name and place of residence or corporate name and domicile of the founder or, in the case of indirect representation (§ 4, para. 3), the last name, first name and place of residence or corporate name and domicile of the representative. In this connection, there shall be express mention of the activity as indirect representative.

2) Insofar as the following contents are regulated, these shall likewise be recorded in the foundation deed:
1. the indication that a supplementary foundation deed has been drawn up or may be drawn up;
2. the indication that regulations have been issued or may be issued;
3. the indication that other executive bodies have been formed or may be formed; further particulars of the composition, appointment, dismissal, term of office as well as duties may be stated in the supplementary foundation deed or in regulations;
4. the reservation of the right of revocation of the foundation or amendment of the foundation documents by the founder;
5. the reservation of the right to amend of the foundation deed or supplementary foundation deed by the foundation council or by another executive body pursuant to §§ 31 to 34;
6. the exclusion of enforcement pursuant to § 36, para. 1;
7. the reservation of the right of conversion (§ 41);
8. the provision that the foundation, although a private-benefit foundation, is subject to supervision (§ 29, para. 1, sentence 2).

3) The provisions in accordance with para. 1, item s 1, 3 and 4 are deemed to be material within the meaning of the voidability proceedings

§ 17

2. Supplementary Foundation Deed (Internal Regulations)

The founder may draw up a supplementary foundation deed if he has reserved for himself the right to do so (§ 16, para. 2, item 1). This may include those integral parts of the declaration of establishment which do not have to be recorded in the foundation deed.

§ 18

3. Regulations

For the further execution of the foundation deed or the supplementary foundation deed, the founder, the foundation council or another executive body of the foundation may issue internal directives in the form of regulations (§ 16, para. 2, item 2) if the right to

do so has been reserved in the foundation deed. Regulations issued by the founder take precedence over those of the foundation council or another executive body of the foundation.

§ 19

III. Entry in the Public Registry

1) If the foundation is subject to the obligation to register, each member of the foundation council shall, irrespective of his power of representation, be under an obligation to make an application for the foundation to be entered in the Public Registry. The application shall be submitted in writing together with the original or certified copy of the foundation deed. The foundation council shall confirm that the statutory minimum capital is at the free disposal of the foundation. The representative also has authority to make the application.
2) If the entry is made although there is no obligation to register (§ 14, para. 5), the foundation council must in any event confirm that the tangible beneficiaries, or beneficiaries identifiable on the basis of objective criteria, or of the category of beneficiaries, have been designated by the founder, unless this is evident from the notified purpose of the foundation.
3) The entry shall contain the following information:
   1. name or corporate name of the foundation;
   2. domicile of the foundation;
   3. purpose of the foundation;
   4. date of formation of the foundation;
   5. duration of the foundation, if this is limited;
   6. organisation and representation, stating the last name, first name, date of birth, nationality and place of residence or registered office, or the corporate name and domicile of the members of the foundation council as well as the form of the signatory's power;
   7. the last name, first name, date of birth, nationality and place of residence or registered office of the legal attorney, or the corporate name and domicile of the audit authority;
   8. the last name, first name, date of birth, nationality and place of residence or registered office of the legal attorney, or corporate name and domicile of the representative.
4) The entry can also, if necessary, be made on the basis of the foundation deed by order of the judge in special non-contentious civil proceedings:
   a) on the application of foundation participants;
   b) on notification from the Office of Land and Public Registration or the probate authority; or
   c) ex officio.
5) If there is an amendment to the purpose of a foundation not entered in the Public Registry such that an obligation to register arises, the members of the foundation council shall be under an obligation to make an application within 30 days for the foundation to be entered in the Public Registry in accordance with paras. 1 and 3. para. 4 shall apply mutatis mutandis.
6) Notification of the entry shall be made within the meaning of Art. 957, para.1, item 1.

IV. Notification of Formation

§ 20

1. Deposition of Notification of Formation

1) If the foundation is not subject to an obligation to register, for the purpose of monitoring the obligation to register and prevention of foundations with an illegal or immoral purpose as well for preventing the circumvention of possibly required

supervision, each member of the foundation council shall be under an obligation to deposit, within 30 days following formation, notification of formation at the Office of Land and Public Registration. The representative also has authority to make the deposition. The accuracy of the information pursuant to para. 2 shall be certified in writing by an attorney at law admitted in Liechtenstein, trustee or holder of an entitlement in accordance with Art. 180a.

2) The notification of formation shall contain the following information:
   1. name of the foundation;
   2. domicile of the foundation;
   3. purpose of the foundation;
   4. date of formation of the foundation;
   5. duration of the foundation, if this is limited;
   6. the last name, first name, date of birth, nationality and place of residence or registered office of the legal attorney or the corporate name of the m embers of the foundation council as well as the form of the signatory's power;
   7. the last name, first name, date of birth, nationality and place of residence or registered office of the legal attorney, or the corporate name and domicile of the legal representative;
   8. confirmation that the tangible beneficiaries, or beneficiaries identifiable on the basis of objective criteria, or of the category of beneficiaries, have been designated by the founder, unless this is evident from the notified purpose of the foundation;
   9. confirmation that the foundation is not entirely or predominantly intended to serve com m on-benefit purposes;
   10. indication of whether pursuant to a provision of the foundation deed the foundation is subject to supervision; as well as
   11. confirmation that the statutory minimum capital is at the free disposal of the foundation.
3) On each amendment of a circumstance contained in the notification of formation and on the existence of a reason for dissolution pursuant to § 39, para. 1, the members of the foundation council shall be under an obligation, within 30 days, to deposit a notification of amendment at the Office of Land and Public Registration. The representative also has authority to make the deposition. The accuracy of the information in the notification of amendment shall be certified in writing by an attorney at law admitted in Liechtenstein, trustee or holder of an entitlement in accordance with Art. 180a.
4) On the application of the foundation the Office of Land and Public Registration shall, following each legally executed notification, issue an official confirmation of the deposition of the notification of formation. It shall not issue an official confirmation of deposition if:
   1. the notified purpose is illegal or immoral; or
   2. it is evident from the notification that the foundation is subject to an obligation to register.

§ 21

2. Authority to Examine and Measures

1) As foundation supervisory authority the Office of Land and Public Registration is entitled to verify the accuracy of the deposited notifications of formation and amendment. For this purpose it may demand information from the foundation and through the controlling body or, if no such body has been set up, through an authorised third party, inspect the foundation documents, insofar as this is necessary for verification purposes.
2) Duplicates and copies are only permitted to be drawn up if the verification indicates

that the notification of formation or amendment is inaccurate.

3) If the verification shows that the foundation is pursuing an illegal or immoral purpose, it shall be dissolved, subject to application of the general rules concerning the legal entities. The provisions concerning the amendment of the purpose, which has subsequently become impermissible, are reserved (§§ 31 and 33). If it becomes evident that the foundation is subject to an obligation to register, the entry shall be made by the Office of Land and Public Registration with the application of § 19, para. 4. If the verification shows that the foundation is subject to supervision pursuant to § 29, the foundation supervisory authority shall if necessary take the appropriate measures.
4) If the courts, the Office of the Public Prosecutor or an administrative authority become aware that the notification of formation or amendment has not been submitted or that the submitted notification of formation or amendment is inaccurate in content, a report shall be drawn up and forwarded to the foundation supervisory authority.
5) The Government may, by way of Executive Order, issue more detailed provisions concerning the exercise of the capacity to examine as well as the setting and imposition of fees by the foundation supervisory authority.

C. Revocation of the Declaration of Establishment

§ 22

I. By the Founder

A revocation of the declaration of establishment is only permissible:

1. if the foundation has not yet been entered in the Public Registry, where entry is required for the formation of the foundation;
2. if an entry of the foundation is not required and this is intended to become legally effective during the lifetime of the founder, up until authentication of his signature in the foundation deed;
3. in the case of foundations formed by way of last will and testament or contract of inheritance, in accordance with the relevantly applicable rules under the law of inheritance.

§ 23

II. Exclusion of Heirs

1) In the case of foundations formed by way of last will and testament or contract of inheritance, the heirs themselves acquire no right to revoke the declaration of establishment after the death of the testator and the founder, even if the foundation has not yet been registered in the Public Registry.
2) The heirs likewise have no right of revocation if the founder, in the case of the foundation inter vivos, has drawn up the foundation deed but has died prior to the entry in the Public Registry.

D. Organisation

I. Foundation Council

§ 24

1. In General

1) The foundation council manages the business of the foundation and represents it. It is responsible for the fulfilment of the purpose of the foundation, in compliance with the provisions in the foundation documents.
2) The foundation council shall be composed of at least two members. Legal entities can be a member of the foundation council.
3) Unless otherwise provided in the foundation deed, the appointment of the foundation council shall be effective for a period of office of three years, whereby a reappointment is permissible and the members can perform their activity for or

without remuneration.

4) The provisions drawn up for the members of the foundation council also apply to possible representatives.
5) The members of the foundation council shall sign in such manner that they append their signature to the name of the foundation.
6) If members of the foundation council act without remuneration, liability for minor negligence may be excluded in the declaration of establishment, unless the creditors of the foundation are adversely affected thereby.

2. Special Obligations

§ 25

a) Asset Management

1) The foundation council shall manage the foundation assets in compliance with the founder's intention, in conformity with the purpose of the foundation and in accordance with the principles of good management.
2) The founder may lay down specific and binding management criteria in the foundation deed, supplementary foundation deed or in a regulation.

§ 26

b) Accounting

Foundations carrying on business run along commercial lines are subject to the general rules on accounting. In the case of all other foundations the foundation council shall, in respect of the management and appropriation of the foundation assets and taking into consideration the principles of orderly book-keeping, maintain appropriate records of the financial circumstances of the foundation and keep documentary evidence presenting a comprehensible account of the course of business and movement of the foundation assets. In addition, the foundation council shall maintain a schedule of assets showing the asset position and the asset investments. Art. 1059 shall apply mutatis mutandis.

§ 27

II. Audit Authority

1) For each foundation subject to the supervision of the foundation supervisory authority pursuant to § 29 the court shall in special non-contentious civil proceedings appoint an audit authority in accordance with Art. 191a, para. 1. In these proceedings the foundation supervisory authority shall have the status of a party.
2) The audit authority must be independent of the foundation. It is under an obligation to notify the court and the foundation supervisory authority of reasons which rule out its independence. The foundation supervisory authority may demand from the audit authority the certification and evidence necessary for the assessment of independence. The following persons in particular shall be excluded as audit authority:
   1. members of another executive body of the foundation;
   2. persons with an employment relationship to the foundation;
   3. persons with close family connections with members of executive bodies of the foundation; or
   4. persons who are beneficiaries of the foundation.
3) The founder may submit two proposals for the audit authority, stating his preference. If the founder has not taken advantage of this right, the foundation council may refer such a proposal to the court. Subject to para. 2, the court shall as a rule appoint the preferentially proposed audit authority.
4) As executive body of the foundation, the audit authority shall be under an obligation to verify once a year whether the foundation assets are being managed and appropriated in accordance with their purposes. It shall submit to the foundation

council and the foundation supervisory authority a report on the outcome of this audit. If there is no reason for objection, it shall be sufficient to provide confirmation that the assets have been managed and appropriated in accordance with the purpose of the foundation and in conformity with the provisions of the law and the foundation documents. If while performing its duties the audit authority ascertains circumstances which jeopardize the existence of the foundation, it shall also report on this. The foundation supervisory authority may demand from the audit authority disclosure of all facts of which it has become aware during the course of its audit.

5) In the case of common-benefit foundations, the foundation supervisory authority may on request dispense with the appointment of an audit authority if the foundation only manages minor-value assets or if this seems expedient for other reasons. The Government shall by way of Executive Order lay down the prerequisites for exemption from the obligation to appoint an audit authority.

§ 28

III. Additional Executive Bodies

1) The founder may designate additional executive bodies, in particular to specify a beneficiary from the category of beneficiaries, to specify the time, level and condition of a distribution, to manage the assets, to advise and assist the foundation council, to monitor the administration of the foundation in order to safeguard the purpose of the foundation, to reserve consents or issue instructions, as well as to safeguard the interests of the foundation participants. These executive bodies shall have no power of representation.
2) § 24, para. 6 shall apply mutatis mutandis.

§ 29

E. Supervision

1) Common-benefit foundations shall be subject to the supervision of the foundation supervisory authority. The same applies to private-benefit foundations which are subject to supervision pursuant to a provision in the foundation deed.
2) The foundation supervisory authority is the Office of Land and Public Registration.
3) The foundation supervisory authority shall ex officio ensure that the foundation assets are managed and appropriated in accordance with their purposes. It shall for this purpose be entitled to demand information from the foundation and, through the audit authority, to inspect the books and documents of the foundation. If the appointment of an audit authority has been dispensed with pursuant to § 27, para. 5, the foundation supervisory authority shall as a rule itself exercise the right of inspection. In addition, it may obtain information from other administrative authorities and the courts and may through special non-contentious civil proceedings apply to the judge for the required orders, such as the control and dismissal of the executive bodies of the foundation, carrying out of special audits or cancellation of resolutions of executive bodies of the foundation.
4) Furthermore, to oppose asset management and appropriation by the executive bodies of the foundation conflicting with the purpose of the foundation, each foundation participant may through special non-contentious civil proceedings apply to the judge for an order for the required measures in accordance with para. 3. If there is a strong suspicion of a punishable act by an executive body of the foundation, the judge may also intervene ex officio, particularly on the basis of a communication from the Office of the Public Prosecutor. In such proceedings the foundation supervisory authority shall have the status of a party.
5) Unknown beneficiaries shall be ascertained by way of public citation proceedings on the application of the foundation supervisory authority.
6) The Government may, by way of Executive Order, issue more detailed provisions

concerning the activity of the foundation supervisory authority as well as the setting and imposition of fees by the foundation supervisory authority.

F. Amendment

§ 30

I. Rights of the Founder to Revoke or Amend the Foundation Documents

1) The founder may in the foundation deed reserve for himself the right to revoke the foundation or to amend the declaration of establishment. These rights cannot be assigned or bequeathed. Should one of these rights be exercised by a direct representative, this shall require a special power of attorney referring to this transaction.

2) If the founder is a legal entity, it cannot reserve for itself the rights in accordance with para. 1.
3) If the rights in accordance with para. 1 are exercised by an indirect representative (§ 4, para. 3), the legal consequences shall revert directly to the founder.

II. Rights of the Executive Bodies of the Foundation

§ 31

1. Amendment of the Purpose

1) An amendment of the purpose of the foundation by the foundation council or another executive body shall only be allowed if the purpose has become unachievable, impermissible or irrational or if circumstances have changed to the extent that the purpose has acquired a quite different significance or effect, so that the foundation is estranged from the intention of the founder.
2) The amendment must comply with the presumed intention of the founder and the power to amend must be expressly reserved to the foundation council or to another executive body of the foundation in the foundation deed.

§ 32

2. Amendment of Other Contents

An amendment of other contents of the foundation deed or the supplementary foundation deed, such as in particular the organisation of the foundation, is permissible by the foundation council or another executive body if and insofar as the power of amendment is expressly reserved in the foundation deed to the foundation council or to another executive body of the foundation. The foundation council shall, safeguarding the purpose of the foundation, exercise the right to amend if there a substantially justified reason to do so.

III. Rights of the Judge

1. Supervised Foundations

§ 33

a) Amendment of the Purpose

1) If a foundation is subject to the supervision of the foundation supervisory authority, the latter may through special non-contentious civil proceedings apply to the judge for the amendment of the purpose of the foundation if:
   1. the purpose has become unachievable, impermissible or irrational or if circumstances have changed to the extent that the purpose has acquired a quite different significance or effect, so that the foundation is estranged from the intention of the founder; and
   2. the foundation deed has not entrusted the foundation council or another executive body of the foundation with the amendment of the purpose.
2) The amendment must com ply with the presumed intention of the founder.
3) The foundation participants shall also be entitled to submit an application; in this case

the foundation supervisory authority shall have the status of a party.

§ 34

b) Amendment of Other Contents

1) If a foundation is subject to the supervision of the foundation supervisory authority, the latter may through special non-contentious civil proceedings apply to the judge for the amendment of other contents of the foundation deed or the supplementary foundation deed, such as in particular the organisation of the foundation, if
   1. this is expedient to safeguard the purpose of the foundation, in particular to safeguard the continuing existence of the foundation and to safeguard the foundation assets; and
   2. the foundation deed has not entrusted the foundation council or another executive body of the foundation with the amendment of the other contents.
2) The foundation participants shall also be entitled to submit an application; in this case the foundation supervisory authority shall have the status of a party.

§ 35

2. Other Foundations

1) In the case of foundations not subject to the supervision of the foundation supervisory authority the judge may, on the application of a foundation participant and, in urgent cases, if necessary on the basis of a communication from the foundation supervisory authority (§ 21, para. 3) or from the Office of the Public Prosecutor, also ex officio in special non-contentious civil proceedings exercise the powers pursuant to §§ 33 and 34, and pronounce the orders required pursuant to § 29, para. 3. There is deemed to be an urgent case in particular if there is a strong suspicion of a punishable act by an executive body of the foundation.
2) Unknown beneficiaries may on application be ascertained by the judge in public citation proceedings.

§ 36

G. Provisions under the Law of Enforcement

1) In the case of family foundations, the founder may provide that the creditors of beneficiaries shall not be permitted to deprive these beneficiaries of their entitlement to a beneficial interest or prospective beneficial interest acquired without valuable consideration, or individual claims arising from such an interest, by way of safeguarding proceedings, compulsory enforcement or bankruptcy. In the case of mixed family foundations, such a directive can only be issued insofar as the entitlement concerned serves the purposes of the family foundation.
2) If a creditor of the foundation can obtain no satisfaction from the foundation assets, and the founder has not yet fully provided the allocated assets, the foundation council shall be under an obligation to provide the creditor with the information he requires to take legal action. In the event of bankruptcy of the foundation, this applies mutatis mutandis with regard to the administrator of the estate.

§ 37

H. Liability

1) With regard to the creditors of the foundation, only the foundation assets serve as security for the debts of the foundation. There is no obligation to put up further security.
2) The foundation council is only permitted to make distributions to beneficiaries to fulfil the purpose of the foundation if claims by creditors of the foundation are not thereby curtailed.

§ 38

I. Challenge

1) The contribution of assets to the foundation may be challenged by the heirs or the

creditors in the same manner as a gift.

2) The founder and his heirs may challenge the foundation on account of deficiencies of intention in the same manner as the rules concerning deficiencies in the conclusion of a contract, even after the registration of the foundation.

K. Dissolution and Termination

§ 39

I. Grounds for Dissolution

1) The foundation shall be dissolved if:
   1. bankruptcy proceedings have been initiated in respect of the foundation assets;
   2. the resolution, whereby the initiation of bankruptcy proceedings has been rejected due to the probable insufficiency of assets to cover the costs of the bankruptcy proceedings, has achieved legal force;
   3. the court has ordered dissolution;
   4. the foundation council has adopted a legally valid resolution on dissolution.
2) The foundation council shall adopt a resolution on dissolution as soon as:
   1. it has received a legally admissible revocation by the founder;
   2. the purpose of the foundation has been achieved or is no longer achievable;
   3. the duration envisaged in the foundation deed has expired;
   4. other grounds for dissolution are stated in the foundation deed.
3) The resolution on dissolution in accordance with para. 2 shall be adopted unanimously unless otherwise provided in the foundation deed. In the case of foundations subject to the supervision of the foundation supervisory authority, the foundation council shall notify the supervisory authority of the resolution on dissolution.
4) If no resolution in accordance with para. 2 is adopted despite the existence of a ground for dissolution, in the case of foundations not subject to the supervision of the foundation supervisory authority the judge shall, on the application of foundation participants, dissolve the foundation in special non-contentious civil proceedings; in the case of other foundations, application for dissolution may also be made by the foundation supervisory authority.
5) If a resolution on dissolution is adopted in accordance with para. 2 although there is no ground for dissolution, in the case of foundations not subject to the supervision of the foundation supervisory authority the judge shall, on the application of foundation participants, quash the foundation council's resolution on dissolution in special non-contentious civil proceedings; in the case of other foundations, the foundation supervisory authority shall also be entitled to apply.
6) If the foundation carries on business run along commercial lines without complying with the prerequisites pursuant to § 1, para. 2, the judge shall, on the application of a foundation participant or ex officio, adjudicate on the dissolution of the foundation if the foundation has not complied with a legally binding restraining order within a reasonable time limit.

§ 40

II. Liquidation and Termination

1) The general provisions on the legal entity shall apply to the liquidation and termination of the foundation.
2) The provisions concerning the public notice to creditors shall not apply to foundations not entered in the Public Registry.
3) On the termination of a foundation, the Office of Land and Public Registration shall issue a certificate of cancellation in the form of an extract from the Public Registry in the case of registered foundations, or an official confirmation in the case of

unregistered foundations.

4) If the foundation is subject to the supervision of the foundation supervisory authority, the foundation council shall notify the foundation supervisory authority of the termination of the foundation. If the foundation is entered in the Public Registry, an extract from the Public Registry shall also be submitted. The legal representative also has authority to notify.
5) Subsequently emerging assets shall be apportioned in accordance with the principles concerning subsequent liquidation (Art. 139). In the case of foundations subject to the supervision of the foundation supervisory authority, the foundation council shall inform the authority without delay about subsequently emerging assets. The legal representative also has authority to notify.

§ 41

L. Conversion

Subject to the mandatory preservation of the essence of the foundation in general and the intention of the founder in particular, a private-benefit foundation can be converted, without being wound up or liquidated, into an establishment (Anstalt) organised in accordance with the law on foundations, or a trust enterprise with legal personality organised in accordance with the law on foundations, by way of a deed drawn up in due form, if the conversion:

1. is contingent upon the laying down of the prerequisites in the foundation deed; and
2. is conducive to the realisation of the purpose of the foundation.

Arts. 553 to 570

Repealed

Art. 955a, para. 1

1) Inspection, extracts, copies or certificates of files and documents deposited pursuant to Art. 990, as well as of notices and documentary evidence of foundations and trusts not entered in the Public Registry or of notifications of formation or amendment of foundations not entered in the Public Register, may only be demanded by depositors and the person authorised for this purpose, as well as by universal successors. The right is reserved to disclose to domestic criminal prosecution authorities, the Financial Intelligence Unit (FIU) and the Financial Market Authority (FMA) the identity of the representative or the person authorised to accept service. The Government shall issue more detailed provisions by way of Executive Order.

§ 66c SchlT (Final Heading)

5. Obligations of Foundations concerning Application to Register, Deposition and Declaration

1) On information from the foundation supervisory authority, the Court of Justice of Liechtenstein may in special non-contentious civil proceedings impose a fine of up to 10’000 Swiss Francs on any person who as a member of the foundation council:
   1. fails to apply for registration of a foundation in the Public Registry contrary to Art. 552, § 19, para. 5; or
   2. fails to deposit at the Office of Land and Public Registration a notification of formation contrary to Art. 552, § 20, para. 1 in conjunction with para. 2 or a notification of amendment contrary to Art. 552, § 20, para. 3.
2) The fine in accordance with para. 1 may be repeatedly imposed until a lawful status is produced.
3) Any person who intentionally makes a declaration incorrect in substance pursuant to Art. 552 § 20, para. 1 in conjunction with para. 2 or pursuant to Art. 552, § 20, para. 3, shall be sentenced by the Court of Justice of Liechtenstein to pay a fine of up to 50’000 Swiss Francs on account of a misdemeanour, and in the event of non-

collectibility to a term of imprisonment of up to six months. If the perpetrator acts negligently, he shall be sentenced by the Court of Justice of Liechtenstein to pay a fine of up to 20'000 Swiss Francs on account of a misdemeanour, and in the event of non-collectibility to a term of imprisonment of up to three months.

4) Any person who as an attorney at law, trustee or holder of an entitlement in accordance with Art. 180a intentionally or negligently provides an incorrect confirmation of the information pursuant to Art. 552, § 20, para. 1 in conjunction with para. 2 or pursuant to Art. 552, § 20, para. 3 shall likewise be punished in accordance with para. 3.
5) The right to take disciplinary measures is reserved.

II.

Transitional Provisions

Art. 1

Application of the New Law to Existing Foundations

1) Unless otherwise provided below, previous law shall apply to foundations existing at the time of entry into force of this Law.
2) If a change of circumstance, which pursuant to Art. 552, § 20, para. 3 is to be reported to the Office of Land and Public Registration, initially occurs after the entry into force of this Law , the members of the foundation council shall submit a report containing the information in accordance Art. 552, § 20, para. 2. With regard to the obligation and authority to report, as well as the confirmation of the particulars, Art. 552, § 20, para. 1 shall be applied mutatis mutandis, and with regard to the verification of accuracy § 21 shall be applied mutatis mutandis. Art. 552, § 20, para. 3 shall apply to all subsequent amendments.
3) If a report is submitted in accordance with para. 2, or if such a report had already been submitted, the foundation can be requested to surrender the foundation deed and the other documents which pursuant to Art. 554 have, in their hitherto applicable versions, been deposited at the Office of Land and Public Registration.
4) Art. 107, para. 4a and Art. 552, §§ 3, 5 to 12, 21, 26, 27, 29 and 31 to 35 shall also apply to foundations which were formed prior to the entry into force of this Law. The members of the foundation council shall, within six months after the entry into force of this Law and enclosing an extract from the Public Registry, report to the foundation supervisory authority foundations which pursuant to Art. 552, § 29 are subject to the supervision of the foundation supervisory authority. The founder shall be entitled to set up a controlling body in accordance with Art. 552, § 11, para. 2 in conjunction with para. 3, even if he has not reserved this right for himself. If the foundation has been formed by an indirect representative (Art. 552, § 4, para. 3), the principal (authorisor) shall be deemed to be the founder; Art. 552, § 30, para. 3 shall be applied mutatis mutandis. If the founder is deceased or is without legal capacity to contract, a controlling body can be set up by the foundation council pursuant to Art. 552 § 11, para. 2, item 1 in conjunction with para. 3. The controlling body must be set up within six months following the entry into force of this Law. In the case of common-benefit foundations (Art. 552, § 2) and private-benefit foundations which on a special statutory basis carry on business run along commercial lines and are not entered in the Public Registry, every member of the foundation council shall be under an obligation to apply for registration in the Public Registry within six months following the entry into force of this Law; Art. 552, § 19 shall apply mutatis mutandis.
5) If a controlling body is set up pursuant to para. 4, the audit in accordance with Art. 552, § 11, para. 4 or Art. 552, § 27 para. 4 must initially take place by 30 June 2010.

Art. 2

Adaptation to the New Law

1) If, with regard to a foundation formed prior to 31 December 2003, the formation documents do not satisfy the requirements in accordance with Art. 552, § 16, para. 1, item 4, a lawful status shall be produced by 31 December 2009.
2) The founder shall be entitled to amend the declaration of establishment in order to produce a lawful status, even if he has not reserved for himself such a right. If the foundation has been formed by an indirect representative (Art. 552, § 4, para. 3), the principal (authorisor) shall be deemed to be the founder; Art. 552, § 30, para. 3 shall apply mutatis mutandis.
3) If the founder is deceased or is without legal capacity to contract, the declaration of establishment can be amended by the foundation council in a manner in conformity with Art. 552, § 16, para. 1, item 4. Amendment by the foundation council is only permissible if the intention of the founder can be ascertained. As a means of ascertaining the intention of the founder, only documents originating from the founder, a direct or indirect representative involved in the formation or an executive body of the foundation shall be permitted to be used. If the document does not originate from the founder, only documents drawn up prior to 1 December 2006 shall be permitted to be used.
4) The foundation council of all foundations not entered in the Public Registry shall, by way of express declaration, provide the Office of Land and Public Registration with express confirmation that the foundation documents comply with Art. 552, § 16, para. 1, item 4. Insofar as applicable, this declaration shall not be permitted to be submitted until a lawful status has been produced. Art. 552, § 21 shall apply mutatis mutandis to the verification of the accuracy of the declaration.
5) If a lawful status has not been produced by 30 June 2010, the foundation council shall adopt a resolution on dissolution pursuant to Art. 552, § 39, which shall be reported to the Office of Land and Public Registration.
6) If the report in accordance with para. 5 has not been submitted by 1 August 2010, the Office of Land and Public Registration shall request the foundation council to submit a declaration in accordance with para. 4 within a period of grace of six months or to report the resolution on dissolution. If this time limit also expires without submission, the Office of Land and Public Registration shall notify the judge; the latter shall in special non-contentious civil proceedings declare the foundation dissolved.
7) If a foundation is dissolved in accordance with para. 5 or 6, the Office of Land and Public Registration shall be entitled to demand all executive bodies of the foundation to provide information on the progress of the liquidation. If it proves that the liquidator is dilatory in carrying out the liquidation, the judge can, in special non-contentious civil proceedings, on the application of foundation participants, the Office of Land and Public Registration or ex officio, remove the liquidator from office and appoint another suitable person as liquidator.

Art. 3

Penal Provisions

1) If, contrary to Art. 1, para. 2, a report is not submitted, § 66c, paras. 1 and 2 SchlT shall apply mutatis mutandis.
2) Any person who makes a declaration incorrect in substance in accordance with Art. 1, para. 2 or Art. 2, para. 4 or intentionally fails to submit a report pursuant to Art. 1, para. 4 or who wrongfully declares that he is not subject to the supervision of the foundation supervisory authority, or who as an attorney at law, trustee or holder of an entitlement in accordance with Art. 180a intentionally or negligently provides an

incorrect confirmation of the information pursuant to Art. 1, para. 2 in conjunction with Art. 552, § 20, para. 1 of the Persons and Companies Act, shall be sentenced by the Court of Justice of Liechtenstein to pay a fine of up to 50'000 Swiss Francs on account of a misdemeanour, and in the event of non-collectibility to a term of imprisonment of up to six months. If the perpetrator acts negligently, he shall be sentenced by the Court of Justice of Liechtenstein to pay a fine of up to 20'000 Swiss Francs on account of a misdemeanour, and in the event of non-collectibility to a term of imprisonment of up to three months.

3) The right to take disciplinary measures is reserved.

Art. 4

Application of the New Law to Existing Establishments

1) Art. 107, para. 4a as well as Art. 552, § 2, para. 4, §§ 26, 27, 29, 31 to 35, 36, para. 1, and 41 shall also be applied mutatis mutandis to those establishments pursuant to Art. 551, para. 2 of the Persons and Companies Act which were formed prior to the entry into force of this Law.
2) The members of the management of an establishment, which pursuant to Art. 551, para. 2 in conjunction with Art. 552, § 29 is subject to the supervision of the foundation supervisory authority, shall report this to the foundation supervisory authority, enclosing an extract from the Public Registry, within six months following the entry into force of this Law.
3) Any person who as a member of the management pursuant to para. 2 intentionally or negligently fails or wrongfully declares that he is not subject to the supervision of the foundation supervisory authority, shall be punished in accordance with Art. 3, para. 2.

III.

Entry into Force

Subject to the expiration of the referendum time limit without a referendum having been taken, this Law shall enter into force on 1 April 2009, or otherwise on the date on which it is announced.

On behalf of the Reigning Prince:
signed *Alois*
Hereditary Prince
signed *Otmar Hasler*
Prime Minister

3.4 APPENDIX IV – Additional statistics for the Secretariat Analysis

Banking and Securities Supervision	**2007**	**2008**	**2009**	**2010** (as of 1st Sept.)
Type of measure/sanction*				
Instructions to remedy shortcomings/ written warnings	7	23	34	19[1]
Administrative sanctions	1	1	0	0
Criminal complaints	3	0	1	0
Number of sanctions taken to the court (where applicable)	3		1	
Number of final court orders	3		1 pending	
Average time for finalising a court order	~1 year			

Insurance Supervision	**2007**	**2008**	**2009**	**2010** (as of 1st Sept.)
Type of measure/sanction*				
Instructions to remedy shortcomings/ written warnings	25	30	46	74[1]
Administrative sanctions	0	0	0	0
Criminal complaints	0	0	1	0
Number of sanctions taken to the court (where applicable)			1	
Number of final court orders			1 pending	
Average time for finalising a court order				

DNFBPs (AFI)	**2007**	**2008**	**2009**	**2010** (as of 1st Sept.)
Type of measure/sanction*				
Instructions to remedy shortcomings/ written warnings	112	256	243	68[1]
Administrative sanctions	0	2	3	3
Criminal complaints	0	0	2	3
Number of sanctions taken to the court (where applicable)			2	3
Number of final court orders			1	3 pending
Average time for finalising a court order			~1 year	

Type of shortcomings 2010	**Banking/Securities**	**Insurance**	**DNFBPs**
Identification/ verification of the contracting party (Art. 6)	1	21	12
Identification/ verification of the beneficial owner (Art. 7)	3	4	8
Business profile (Art. 8)	3	16	22
Risk adequate monitoring (Art. 9)	5	5	21
Enhanced due diligence (Art. 11)	1	4	
Obligation to report to the FIU (Art. 17)			
Internal Organisation (Art. 21)	5	14	5
Documentation requirement (Art. 20)			
Delegation of due diligence (Art. 14)	1	8	
Sanction lists (ISG)		2	
Total	19[1]	74[1]	68[1]

[1] **annual examinations have not been finalised yet**