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Report on Fourth Assessment Visit - *Addendum*

Anti-Money Laundering and Combating the Financing of Terrorism

Principality of Liechtenstein

2 April 2014

The Principality of Liechtenstein is a member of MONEYVAL. This is the fourth report in MONEYVAL's fourth round assessment visits, following up on the recommendations made in the third round. This evaluation was conducted by the International Monetary Fund (IMF). A representative of MONEYVAL participated as an evaluator in the assessment and also examined compliance with the European Union anti-money laundering Directives where these differ from the FATF Recommendations, therefore falling within the remit of MONEYVAL examinations. The report on the 4th Assessment Visit was adopted by MONEYVAL at its 44th Plenary (Strasbourg, 31st March - 4 April 2014).

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COMPLIANCE WITH THE 3RD EU AML/CFT DIRECTIVE

Liechtenstein is not a member country of the European Union. However, it participates in the EU common market as a signatory of the European Economic Area Agreement (EEA Agreement) and is therefore bound to implement almost all EU legislation related to the single market, including the **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** (hereinafter: "the Directive") and the **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**.

The following sections describe the major differences between the Directive and the relevant FATF 40 Recommendations plus 9 Special Recommendations.

1.	**Corporate Liability**
Art. 39 of the Directive	Member States shall ensure that natural and legal persons covered by the Directive can be held liable for infringements of the national provisions adopted pursuant to this Directive.
FATF R. 2 and 17	Criminal liability for money laundering should extend to legal persons. Where that is not possible (i.e. due to fundamental principles of domestic law), civil or administrative liability should apply.
Key elements	The Directive provides no exception for corporate liability and extends it beyond the ML offence even to infringements which are based on national provisions adopted pursuant to the Directive. What is the position in your jurisdiction?
Description and Analysis	The criminal liability of legal persons was introduced in Liechtenstein law by amendments to the Criminal Code (StGB, LGBl. 2010 No. 378) and the Code of Criminal Procedure (StPO, LGBl. 2010 No. 379), which entered into force on 1 January 2011. According to Article 74a(2) StGB, the scope of the criminal liability of legal persons extends to • legal persons entered into the Public Register; and • foundations and associations not entered into the Public Register. Both domestic and foreign legal persons are covered. With respect to foreign legal persons, the principles of jurisdiction according to international criminal law apply. Corporate criminal liability arises where a crime or misdemeanour is committed by the manager of the legal person in the course of the business activities for which the legal person was set up. It is necessary that the offence has been committed either as a completed, or at least attempted, wilful offence or, to the extent punishable, as a negligence offence. The manager of the legal person is defined as any person: 1. authorized to represent the legal person in external relations; 2. who performs control duties in a leading capacity; or 3. otherwise exerts meaningful influence over the business

	management of the legal person. The criminal liability also arises where employees of the legal person commit the offence if the offence was made possible or significantly facilitated by the omission of managers to take necessary and reasonable measures to prevent the commission of the offence. The liability of the legal person for the crime and the punishability of managers or employees for the same crime are not exclusive of each other. Legal persons convicted of a crime shall be subject to a monetary penalty, which for the purpose of distinguishing it from the penalty applicable to natural persons is referred to as "corporate monetary penalty". The amount is determined in accordance with daily rates (at most 360 daily rates), where the individual daily rate may range from CHF 100 to 15,000. The provisions of the general criminal laws (especially the General Part of the Criminal Code and all penal provisions contained in the material laws) apply *mutatis mutandis* to legal persons, unless they are specific to natural persons (such as provisions regarding soundness of mind and imprisonment). Accordingly, legal persons may also be held liable in Liechtenstein for the punishable acts of money laundering (§ 165 StGB) and terrorist financing (§ 278d StGB). The introduction of the criminal liability of legal persons also necessitated an adjustment of the Code of Criminal Procedure. In principle, proceedings against the legal person should be conducted together with the proceedings against the natural person. In proceedings involving suspected criminal liability, legal persons have the same rights as a suspected natural person. The provisions of the Code of Criminal Procedure apply *mutatis mutandis* to the legal person, unless they are applicable exclusively to natural persons. Separate provisions were introduced regarding summons, service of documents, abandonment of prosecution, securing potential monetary penalties, and diversionary measures. Article 33 of the Due Diligence Act (DDA)(which provides for the preventive measures applicable to financial institutions and DNFBP) stipulates that where violations of the provisions of the DDA 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.
Conclusion	Corporate liability applies to the ML offence and to any breaches of the provisions of the DDA.
Recommendations and Comments	

2.	Anonymous accounts
Art. 6 of the Directive	Member States shall prohibit their credit and financial institutions from keeping anonymous accounts or anonymous passbooks.
FATF R. 5	Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.
Key elements	Both prohibit anonymous accounts but allow numbered accounts. The Directive allows accounts or passbooks on fictitious names but always subject to full CDD measures. What is the position in your jurisdiction regarding passbooks or accounts on fictitious names?
Description and Analysis	Pursuant to Article 13 (4) of the DDA, financial institutions may not keep anonymous accounts, passbooks, or custody accounts or accounts, passbooks or custody accounts under fictitious names.
Conclusion	In Liechtenstein, both anonymous accounts/passbooks and accounts/passbooks in fictitious names are prohibited.
Recommendations and Comments	

3.	Threshold (CDD)
Art. 7 b) of the Directive	The institutions and persons covered by the Directive shall apply CDD measures when carrying out occasional transactions amounting to EUR 15 000 or more.
FATF R. 5	Financial institutions should undertake CDD measures when carrying out occasional transactions above the applicable designated threshold.
Key elements	Are transactions and linked transactions of EUR 15 000 covered?
Description and Analysis	Pursuant to Art. 5 (2) DDA due diligence measures must be applied when carrying out occasional transactions amounting to 15,000 francs (approx. € 12,000) or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked.
Conclusion	Transactions and linked transactions amounting to EUR 15 000 are covered.
Recommendations and Comments	

4.	Beneficial Owner
Art. 3(6) of the Directive (see Annex)	The definition of 'Beneficial Owner' establishes minimum criteria (percentage shareholding) where a natural person is to be considered as beneficial owner both in the case of legal persons and in the case of legal arrangements.
FATF R. 5 (Glossary)	'Beneficial Owner' refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or legal arrangement.
Key elements	Which approach does your country follow in its definition of "beneficial owner"? Please specify whether the criteria in the EU definition of "beneficial owner" are covered in your legislation.
Description and Analysis	The definition contained in the DDA incorporates the percentage shareholdings as provided by the thresholds as provided by Art. 3 (6) of the AMLD but also comprises those persons who exercise ultimate effective control over a legal person or arrangement.

	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 Government shall provide further details by ordinance. **Art. 3 (1) DDO:** 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, trusts and establishments 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;
Conclusion	The definition of ‘beneficial owner’ incorporates the criteria set out under the Directive and also the approach provided for under the FATF Recommendations.
Recommendations and Comments	

5.	**Financial activity on occasional or very limited basis**
Art. 2 (2) of the Directive	Member States may decide that legal and natural persons who engage in a financial activity on an occasional or very limited basis and where there is little risk of money laundering or financing of terrorism occurring do not fall within the scope of Art. 3(1) or (2) of the Directive. Art. 4 of Commission Directive 2006/70/EC further defines this provision.
FATF R. concerning financial institutions	When a financial activity is carried out by a person or entity on an occasional or very limited basis (having regard to quantitative and absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially (2004 AML/CFT Methodology para 23; Glossary to the FATF 40 plus 9 Special Recs.).

Key elements	Does your country implement Art. 4 of Commission Directive 2006/70/EC?
Description and Analysis	Article 4 of Commission Directive 2006/70/EC was implemented through Article 4 (c) of the DDA which provides that the provisions of the DDA do not apply to natural and legal persons who engage in activities referred to in Article 3 of the DDA 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. Threshold values for occasional activity are determined by Article 4 of the DDO. Accordingly, activities shall be deemed to be occasional within the meaning of Article 4 (c) (5) of the DDA if the individual activity does not exceed the value of CHF 1,000 and no more than 100 transactions per year are carried out.
Conclusion	Article 4 of Directive 2006/70/EC is implemented in Liechtenstein legislation.
Recommendations and Comments	

6.	**Simplified Customer Due Diligence (CDD)**
Art. 11 of the Directive	By way of derogation from the relevant Article the Directive establishes instances where institutions and persons may not apply CDD measures. However the obligation to gather sufficient CDD information remains.
FATF R. 5	Although the general rule is that customers should be subject to the full range of CDD measures, there are instances where reduced or simplified measures can be applied.
Key elements	Is there any implementation and application of Art. 3 of Commission Directive 2006/70/EC which goes beyond the AML/CFT Methodology 2004 criterion 5.9?
Description and Analysis	Art. 3 of Directive 2006/70/EC lays down the circumstances in which Art. 11 (2) and (5) of the Directive 2005/60/EC may be applied. Art. 11 (2) and (5) of the Directive 2005/60/EC were implemented by Article 10 (1) (a)-(f), (h) and (2) of the DDA. The provisions in the DDA are in line with the contents of the Directive. However, in some instances, Article 10 of the DDA goes beyond Article 11 of the Directive and Article 3 of Directive 2006/70/EC as it extends the application of simplified due diligence to business relationships and transactions which are not listed in the Directive.
Conclusion	Article 10 goes beyond Article 11 and 3 of Directives 2005/60/EC and 2006/70/EC respectively, since certain categories of customers and products which are completely exempt from CDD measures are not listed

	in the Directives. Furthermore, Article 10 does not specially require obliged entities to at least gather sufficient information to establish whether the customer qualifies for the exemption, as required under Article 11(3) of Directive 2005/60/EC. However, the authorities pointed out that obliged entities are not permitted to apply simplified due diligence in cases where enhanced due diligence measures are required (Article 10(6) DDA). This implies that obliged entities are required to gather enough information to determine whether the customer qualifies for the application of simplified due diligence.
Recommendations and Comments	The authorities should consider amending the relevant provisions to bring them in line with Article 11 of the Directive and Article 3 of Directive 2006/70/EC.

7.	**Politically Exposed Persons (PEPs)**
Art. 3 (8), 13 (4) of the Directive (see Annex)	The Directive defines PEPs broadly in line with FATF 40 (Art. 3(8)). It applies enhanced CDD to PEPs residing in another Member State or third country (Art. 13(4)). Directive 2006/70/EC provides a wider definition of PEPs (Art. 2) and removal of PEPs after one year of the PEP ceasing to be entrusted with prominent public functions (Art. 2(4)).
FATF R. 6 and Glossary	Definition similar to Directive but applies to individuals entrusted with prominent public functions in a foreign country.
Key elements	Does your country implement Art. 2 of Commission Directive 2006/70/EC, in particular Art. 2(4), and does it apply Art. 13(4) of the Directive?
Description and Analysis	Pursuant to Art. 2 (1) (h) DDA "politically exposed persons" are defined as 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. Further details are provided by Art 2 DDO. Liechtenstein has implemented Art. 2 of Commission Directive. In contrast to Art 13 (4) of the Directive the PEP definition is not restricted to persons residing in another Member State or third country but to individuals entrusted with prominent public functions in a foreign country. Beyond the one year time frame, financial institutions are required to consider whether the former PEP still poses a higher risk. Where it is the case, the financial institution is required to apply enhanced due diligence (Art. 23 (1) (g) DDO).
Conclusion	Article 2(4) of Directive 2006/70/EC has been implemented in Liechtenstein. As far as Article 13(4) of Directive 2005/60/EC is concerned, the authorities have taken a wider approach in line with the FATF recommendations.
Recommendations and Comments	

8.	**Correspondent banking**
Art. 13 (3) of the Directive	For correspondent banking, Art. 13(3) limits the application of Enhanced Customer Due Diligence (ECDD) to correspondent banking relationships with institutions from non-EU member countries.

FATF R. 7	Recommendation 7 includes all jurisdictions.
Key elements	Does your country apply Art. 13(3) of the Directive?
Description and Analysis	Liechtenstein applies Art. 13 (3) of the Directive. The application of enhanced CDD to correspondent banking relationships contained in Art. 11 (5) DDA and Art. 16 DDO is limited to respondent institutions from Non-EEA member states.
Conclusion	The requirements in the DDA and DDO applicable to correspondent banking are in line with Article 13(3) of the Directive.
Recommendations and Comments	

9.	**Enhanced Customer Due Diligence (ECDD) and anonymity**
Art. 13 (6) of the Directive	The Directive requires ECDD in case of ML or TF threats that may arise from products or transactions that might favour anonymity.
FATF R. 8	Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity [...].
Key elements	The scope of Art. 13(6) of the Directive is broader than that of FATF R. 8, because the Directive focuses on products or transactions regardless of the use of technology. How are these issues covered in your legislation?
Description and Analysis	Pursuant to Art. 9 (2) DDA obliged persons must pay special attention to threats emanating from the use of new technologies.
Conclusion	Article 9 (2) of the DDA is not in line with Article 13(6) of the Directive because it focuses on the use of new technologies.
Recommendations and Comments	The authorities should consider bringing Article 9(2) in line with Article 13(6) of the Directive.

10.	**Third Party Reliance**
Art. 15 of the Directive	The Directive permits reliance on professional, qualified third parties from EU Member States or third countries for the performance of CDD, under certain conditions.
FATF R. 9	Allows reliance for CDD performance by third parties but does not specify particular obliged entities and professions which can qualify as third parties.
Key elements	What are the rules and procedures for reliance on third parties? Are there special conditions or categories of persons who can qualify as third parties?
Description and Analysis	According to Article 14 of the DDA and Article 24 of the DDO, obliged persons may delegate due diligence matters referred to in Article 5 (1) (a) to (c), i.e. the identification and verification of the identity of the contracting party, the identification and verification of the identity of the beneficial owner and establishment of a business profile, to: • another person subject to due diligence; or • a natural or legal person abroad that is subject to Directive 2005/60/EC or equivalent regulation and supervision.
Conclusion	All obliged entities in Liechtenstein and all obliged entities subject to Directive 2005/60/EC or equivalent regulation and supervision may be relied upon for the fulfillment of certain CDD requirements. No

	qualifications are included as to the type of obliged entity that may be relied upon.
Recommendations and Comments	

11.	**Auditors, accountants and tax advisors**
Art. 2 (1)(3)(a) of the Directive	CDD and record keeping obligations are applicable to auditors, external accountants and tax advisors acting in the exercise of their professional activities.
FATF R. 12	CDD and record keeping obligations 1. do not apply to auditors and tax advisors; 2. apply to accountants when they prepare for or carry out transactions for their client concerning the following activities: • buying and selling of real estate; • managing of client money, securities or other assets; • management of bank, savings or securities accounts; • organisation of contributions for the creation, operation or management of companies; • creation, operation or management of legal persons or arrangements, and buying and selling of business entities (2004 AML/CFT Methodology criterion 12.1(d)).
Key elements	The scope of the Directive is wider than that of the FATF standards but does not necessarily cover all the activities of accountants as described by criterion 12.1(d). Please explain the extent of the scope of CDD and reporting obligations for auditors, external accountants and tax advisors.
Description and Analysis	The scope of the Liechtenstein DDA is wider than the FATF Standard (R.12). The DDA applies to natural and legal persons licensed under the Law on Auditors and Auditing Companies as well as audit offices (Art. 3 (1)(n) of the DDA). In Liechtenstein only lawyers (Art. 3 (1) (m) DDA), professional trustees (Art. 3 (1) (k) and auditors (Art. 3 (1) (n) DDA) are allowed to carry out tax counselling. There is no separate professional category of tax advisors. All of them have to apply the full CDD measures without any restrictions or exemptions when they carry out tax counselling, i.e. in the in the exercise of their professional activities (see Art. 3 (1) (k), (m) and (n) DDA). The DDA also applies to all natural and legal persons which includes, amongst others accountants when they contribute to the planning and execution of financial or real estate transaction for their clients concerning the: • buying and selling of undertakings or real property; • managing of client money, securities or other assets; • opening or management of accounts, custody accounts or safe deposit boxes; • organization of contributions necessary for the creation, operation or management of legal entities 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. (Art. 3 (1)(v) of the DDA)
Conclusion	The scope of activities carried out by accountants which are subject to preventive measures is limited to the activities listed in Article 3(1)(u) and (v) of the DDA. There is no such limitation under Article 2(3)(a) of the Directive.
Recommendations and Comments	The authorities should consider extending the application of preventive measures to all the activities carried out by accountants in Liechtenstein.

12.	**High Value Dealers**
Art. 2(1)(3)e) of the Directive	The Directive applies to natural and legal persons trading in goods where payments are made in cash in an amount of EUR 15 000 or more.
FATF R. 12	The application is limited to those dealing in precious metals and precious stones.
Key elements	The scope of the Directive is broader. Is the broader approach adopted in your jurisdiction?
Description and Analysis	Liechtenstein adopted the broader approach. The DDA applies 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 15,000 francs or more, whether the transaction is executed in a single operation or in several operations which appear connected (Art. 3 (1) (q) DDA).
Conclusion	Liechtenstein has adopted the broader approach.
Recommendations and Comments	

13.	**Casinos**
Art. 10 of the Directive	Member States shall require that all casino customers be identified and their identity verified if they purchase or exchange gambling chips with a value of EUR 2 000 or more. This is not required if they are identified at entry.
FATF R. 16	The identity of a customer has to be established and verified when he or she engages in financial transactions equal to or above EUR 3 000.
Key elements	In what situations do customers of casinos have to be identified? What is the applicable transaction threshold in your jurisdiction for identification of financial transactions by casino customers?
Description and Analysis	A casino must verify the identity of the persons before granting them entry (Article 25(1) of the Gambling Act). The casino is also required to identify players in accordance with the Due Diligence Act either upon entry to the casino or upon reaching thresholds for the obligation to comply with due diligence obligations relating to the processing of occasional transactions (Article 25(2) of the Gambling Act). In the case of (a) the sale and repurchase of chips and tokens in the amount of CHF 3,000 or more, (b) gambling machine payouts in the amount of CHF 5,000 or more, (c) the issue and cashing of cheques, and (d) exchanges of denomination or currency and other cash transactions in the amount of CHF 5,000 or more, the casino must identify the player and verify the identity by inspecting an evidentiary document ("threshold identification") (article 135, paragraph 1 of the Casino Ordinance, CO). In lieu of the "threshold identification", the casino may also identify

	all customers immediately upon the initial entry to the casino and verify their identify using an evidentiary document ("entry identification") (article 135, paragraph 2 CO). Where an ongoing business relationship is established, the casino identifies the player and verifies the identity using an evidentiary document (article 136, paragraph 1 CO). An ongoing business relationship exists if the casino makes the following available to the player: (a) a chip deposit or a guest account, (b) an electronic carrier medium for gambling credits that is used for more than one gambling day and that has a balance of more than CHF 5,000, or (c) a client card recognized as proof of identity by the casino (article 136, paragraph 2 CO).
Conclusion	In Liechtenstein casino players are required to be identified and verified either at point of entry or in those instances where pre-determined thresholds are met or exceeded.
Recommendations and Comments	

14.	**Reporting by accountants, auditors, tax advisors, notaries and other independent legal professionals via a self-regulatory body to the FIU**
Art. 23 (1) of the Directive	This article provides an option for accountants, auditors and tax advisors, and for notaries and other independent legal professionals to report through a self-regulatory body, which shall forward STRs to the FIU promptly and unfiltered.
FATF Recommendations	The FATF Recommendations do not provide for such an option.
Key elements	Does the country make use of the option as provided for by Art. 23 (1) of the Directive?
Description and Analysis	Professionals are required to report to the FIU directly (Article 17 of the DDA).
Conclusion	Liechtenstein legislation does not make use of the option provided by the Directive.
Recommendations and Comments	

15.	**Reporting obligations**
Arts. 22 and 24 of the Directive	The Directive requires reporting where an institution knows, suspects, or has reasonable grounds to suspect money laundering or terrorist financing (Art. 22). Obliged persons should refrain from carrying out a transaction knowing or suspecting it to be related to money laundering or terrorist financing and to report it to the FIU, which can stop the transaction. If to refrain is impossible or could frustrate an investigation, obliged persons are required to report to the FIU immediately afterwards (Art. 24).
FATF R. 13	Imposes a reporting obligation where there is suspicion that funds are the proceeds of a criminal activity or related to terrorist financing.
Key elements	What triggers a reporting obligation? Does the legal framework address *ex ante* reporting (Art. 24 of the Directive)?
Description and Analysis	In terms of Article 17 of the DDA, where a suspicion of money laundering, a predicate offence of money laundering, organized crime, or

	terrorist financing exists, the persons subject to due diligence must immediately report in writing to the FIU. Pursuant to Article 18, the persons subject to due diligence may not execute any transactions which they know or suspect to be related with money laundering, predicate offences 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 offences 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 (Art 18 paragraph 1 DDA).
Conclusion	The reporting requirement under Article 17 of the DDA goes beyond the requirements under the Directive and the FATF Recommendations as it requires reporting entities to report suspicions of predicate offences even in the absence of funds.
Recommendations and Comments	

16.	**Tipping off (1)**
Art. 27 of the Directive	Art. 27 provides for an obligation for Member States to protect employees of reporting institutions from being exposed to threats or hostile actions.
FATF R. 14	No corresponding requirement (directors, officers and employees shall be protected by legal provisions from criminal and civil liability for "tipping off", which is reflected in Art. 26 of the Directive)
Key elements	Is Art. 27 of the Directive implemented in your jurisdiction?
Description and Analysis	According to Article 19 of the DDA, directors and employees are explicitly protected against penal or civil claims. Article 10(2) of the FIU Act states that the obligation to release information to affected third parties under the Public Information Act shall not extend to the origin of the data.
Conclusion	There is no express obligation which prohibits the FIU from disclosing to competent authorities the names of employees of reporting entities who report suspicions of ML/FT either internally or to the FIU.
Recommendations and Comments	The authorities may wish to consider introducing specific measures to transpose Article 27 of the Directive.

17.	**Tipping off (2)**
Art. 28 of the Directive	The prohibition on tipping off is extended to where a money laundering or terrorist financing investigation is being or may be carried out. The Directive lays down instances where the prohibition is lifted.
FATF R. 14	The obligation under R. 14 covers the fact that an STR or related information is reported or provided to the FIU.
Key elements	Under what circumstances are the tipping off obligations applied? Are there exceptions?
Description and Analysis	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 inform each other (Art 18 paragraph 3 DDA). The exceptions (in particular with regard to sharing of information within the same group) are described in Art 18 paragraph 4 DDA. In the framework of a criminal procedure, the investigative judge can order that the existence of an investigation may not be communicated to any third party.
Conclusion	There is no prohibition regarding the disclosure of a ML/FT investigation as required by the Directive.
Recommendations and Comments	The authorities should consider amending Article 18(3) to include a prohibition of disclosure regarding a ML/FT investigation.

18.	**Branches and subsidiaries (1)**
Art. 34 (2) of the Directive	The Directive requires credit and financial institutions to communicate the relevant internal policies and procedures where applicable on CDD, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication to branches and majority owned subsidiaries in third (non EU) countries.
FATF R. 15 and 22	The obligations under the FATF 40 require a broader and higher standard but do not provide for the obligations contemplated by Art. 34 (2) of the EU Directive.
Key elements	Is there an obligation as provided for by Art. 34 (2) of the Directive?
Description and Analysis	The obligation to communicate the relevant internal policies and procedures results from the requirement to ensure that branches and majority-owned subsidiaries apply measures to combat money laundering, organized crime, and terrorist financing that are at least equivalent to those laid down in the DDA (as set out in Art. 16 (1) DDA) and the obligation pursuant to Art. 31 (1) DDO to issue internal policies governing specifically how the obligations arising out of the Act (which includes Art. 16 (1) DDA) are to be complied with and to communicate these policies to all employees involved with business relationships.
Conclusion	The relevant provisions in Liechtenstein law are in line with the Directive.
Recommendations and Comments	

19.	**Branches and subsidiaries (2)**
Art. 31(3) of the Directive	The Directive requires that where legislation of a third country does not permit the application of equivalent AML/CFT measures, credit and financial institutions should take additional measures to effectively handle the risk of money laundering and terrorist financing.
FATF R. 22 and 21	Requires financial institutions to inform their competent authorities in such circumstances.
Key elements	What, if any, additional measures are your financial institutions obliged to take in circumstances where the legislation of a third country does not permit the application of equivalent AML/CFT measures by foreign branches of your financial institutions?
Description and Analysis	If a branch or subsidiary is unable to apply the required measures to combat ML, organized crime, and TF due to limitations by the law of

	the foreign country, the obliged persons are required to inform the FMA. In such cases, the obliged persons shall take additional measures to effectively handle the risk of ML, organized crime, or TF (Art. 16 (2) DDA).
Conclusion	Article 16(2) is in line with Article 31(3) of the Directive.
Recommendations and Comments	

	Supervisory Bodies
Art. 25 (1) of the Directive	The Directive imposes an obligation on supervisory bodies to inform the FIU where, in the course of their work, they encounter facts that could contribute evidence of money laundering or terrorist financing.
FATF R.	No corresponding obligation.
Key elements	Is Art. 25(1) of the Directive implemented in your jurisdiction?
Description and Analysis	The obligation of the FMA to immediately report in writing to the Financial Intelligence Unit where suspicion of money laundering, a predicate offense of money laundering, organized crime, or terrorist financing exists, is set out in Art. 17 (1) DDA.
Conclusion	Article 25(1) of the Directive is implemented pursuant to Article 17(1) of the DDA.
Recommendations and Comments	

20.	**Systems to respond to competent authorities**
Art. 32 of the Directive	The Directive requires credit and financial institutions to have systems in place that enable them to respond fully and promptly to enquires from the FIU or other authorities as to whether they maintain, or whether during the previous five years they have maintained, a business relationship with a specified natural or legal person.
FATF R.	There is no explicit corresponding requirement but such a requirement can be broadly inferred from Recommendations 23 and 26 to 32.
Key elements	Are credit and financial institutions required to have such systems in place and effectively applied?
Description and Analysis	Pursuant to Art. 28 (1) (c) DDO obliged entities are required to prepare and keep the due diligence files in such a manner that requests from the responsible domestic authorities and courts, auditors and auditing offices can be fully met within a reasonable period of time. In the context of criminal investigations by Liechtenstein authorities and of mutual legal assistance in criminal matters, it is possible that the specific request for legal assistance calls for the disclosure of client relationships between a bank and a natural or legal person. As the competent legal assistance authority, the Court of Justice may, pursuant to a foreign request in this regard and in accordance with § 98a StPO, require the bank or investment firm concerned (and pursuant to the amendment of § 98a StPO by LGBl. 2013 No. 65 also insurance companies, asset management companies, management companies according to the UCITS Act and alternative investment fund managers according to the AIFM Act, after entry into force of

	the AIFM Act) to hand over the relevant client data. If the institution concerned is in possession of such data regarding the business relationships in question, it is required to hand over the data in accordance with the ruling of the Court of Justice. If the institution refuses to hand over the data, the Court of Justice proceeds in accordance with § 96 ff StPO. The FIU can request any additional information from reporting entities based on Art. 26 paragraph 2 DDO.
Conclusion	Article 32 is adequately implemented in Liechtenstein law.
Recommendations and Comments	

21.	**Extension to other professions and undertakings**
Art. 4 of the Directive	The Directive imposes a *mandatory* obligation on Member States to extend its provisions to other professionals and categories of undertakings other than those referred to in A.2(1) of the Directive, which engage in activities which are particularly likely to be used for money laundering or terrorist financing purposes.
FATF R. 20	Requires countries only to consider such extensions.
Key elements	Has your country implemented the mandatory requirement in Art. 4 of the Directive to extend AML/CFT obligations to other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes? Has a risk assessment been undertaken in this regard?
Description and Analysis	Professionals and categories of undertaking other than those referred to in Article2(1) of the Directive are covered by Article 3 (1) (u) DDA: 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.
Conclusion	The scope of application of the DDA has been extended to persons, other than those referred to in the Directive, who the authorities consider are likely to be used for ML/FT purposes.
Recommendations and Comments	

22.	**Specific provisions concerning equivalent third countries?**
Art. 11, 16(1)(b), 28(4),(5) of the Directive	The Directive provides specific provisions concerning countries which impose requirements equivalent to those laid down in the Directive (e.g. simplified CDD).
FATF R.	There is no explicit corresponding provision in the FATF 40 plus 9 Recommendations.
Key elements	How, if at all, does your country address the issue of equivalent third countries?
Description and Analysis	The list of countries with equivalent regulations as referred to in Art. 10 (1) (c) DDA is compiled by the FMA pursuant to Art. 10 (5) DDA in the FMA Communication No. 1/2012. The countries enumerated in the FMA Communication correspond to those mentioned in the common understanding of EU member states on third country

	equivalence (as amended) plus the Member States of the EU/EEA and French and Dutch overseas territories and UK Crown Dependencies. The list has been drawn up by EU member states based on information available on whether those countries adequately apply the FATF Recommendations and Methodology.
Conclusion	The provisions in Liechtenstein law on equivalent third countries are broadly in line with those under the Directive.
Recommendations and Comments	

APPENDIX I

Relevant EU texts

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.