



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

MONEYVAL(2012)29 SUMM

Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the Financing of Terrorism

LITHUANIA

5 December 2012

Lithuania is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the mutual evaluation report on the 4th assessment visit of Lithuania was adopted at its 40th Plenary (Strasbourg, 3-7 December 2012).

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LIST OF ACRONYMS USED

AML/CFT	Anti-money laundering and combating the financing of terrorism
AML Law	The Law on the Prevention of Money Laundering and Terrorist Financing of Lithuania of 1997, as subsequently amended
C	Compliant
CETS	Council of Europe Treaty Series
CC	Criminal Code
CCP	Code of Criminal Procedure
CDD	Customer Due Diligence
DNFBPs	Designated non-financial businesses and professions
FATF	Financial Action Task Force
FCIS	Financial Crime Investigation Service
FT	Financing of terrorism
FIU	Financial Intelligence Unit (the Financial Crime Investigation Service – FCIS – according to law, in practice the MLPU)
IMF	International Monetary Fund
IN	Interpretative Note
IT	Information technologies
LC	Largely compliant
LFCIS	Law on the Financial Crime Investigation Service
MoU	Memorandum of understanding
ML	money laundering
MLA	Mutual legal assistance
MLPD	Money Laundering Prevention Division
NA (or N/A)	Not applicable
NC	Non-compliant
OCG	Organised Crime Groups
PC	Partially compliant
PEP	Politically exposed persons
STR	Suspicious transaction report
UTR	Unusual transaction report
TFC	Terrorist financing convention (the UN International Convention for the suppression of the financing of terrorism of 1999)
WCO	World Customs Organisation

EXECUTIVE SUMMARY

Background Information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Lithuania at the time of the 4th on-site visit (23 to 28 April 2012) and immediately thereafter. It describes and analyses these measures offering recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4th cycle of assessments is a follow-up round, in which Core and Key and some other important Recommendations in the FATF Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 have been re-assessed, as well as all those for which Lithuania received non-compliant (NC) or partially compliant (PC) ratings in its 3rd round report. This report is not, therefore, a full assessment against the FATF Forty Recommendations 2003 and the 9 Special Recommendations on Terrorist Financing 2001 but is intended to update readers on major issues in the Lithuanian AML/CFT system. It should be underlined that revised FATF Recommendations were adopted in February 2012; since MONEYVAL's 4th cycle of evaluations was launched in October 2009, the present assessment of Lithuania is still based on the former version of the 40+9 Recommendations.

Key findings

2. Since 1999, an interagency working group, which also includes representatives from the business sector, has been responsible for anti-money laundering and countering terrorist financing (AML/CFT) policies. The working group is responsible for, among other things, the analysis of trends, the elaboration of legislative and other proposals and the coordination of activities related to international organisations such as the EU and MONEYVAL.
3. The authorities consider the risk of terrorist financing to be low, even though no formal risk assessment was conducted to shore up this conclusion. A report issued by Europol in 2011 on terrorism seems to corroborate the authorities' view since it indicates that there is no evidence of terrorist activity in or from Lithuania. With respect to the risk of ML, no description of the general situation of money laundering and profit-generating crimes was made available. Although the interagency working group is responsible for the analysis of trends, it appears that no such analysis was ever undertaken. Information obtained by the evaluators from open sources indicates that criminal activities have increased in recent years, possibly as a result of the financial crisis. The crisis brought about an expansion of the underground economy, although official figures appear to downplay the significance of this phenomenon. According to publicly-available information, the major proceeds-generating crimes, especially with respect to criminal organisations, are drug and human trafficking, smuggling and fraud schemes committed both domestically and on a cross-border level. Corruption also appears to be widely entrenched within the system. Proceeds are generally laundered through the integration of funds into financial and construction businesses and the acquisition of economic entities made insolvent by the financial crisis. According to information from open sources, flows of dirty money generated in foreign jurisdictions are introduced into the Lithuanian financial system through the use of shell companies and other entities, including non-profit organisations.
4. Since the Third Round Evaluation, Lithuania has introduced new provisions criminalising unlawful enrichment and allowing for extended confiscation. These provisions usefully complement the existing regime on confiscation and temporary measures. Nevertheless, certain key elements relating to the criminalisation of ML, as provided for under the Vienna and Palermo Conventions, are still missing. There has been no real progress in terms of ML convictions. Certain initiatives were undertaken in 2011 to encourage a broader use of financial investigations with a view to targeting proceeds of crime. However, results in this area remain modest both in

terms of ML convictions and confiscation of proceeds, especially when considering the high incidence of proceeds-generating crime in Lithuania.

5. The criminalisation of TF has remained virtually unchanged since the last evaluation, with all the attendant deficiencies identified by the evaluators in the Third Round. A draft law, which is intended to address those deficiencies, was sent to parliament at the end of 2010. However, no developments have occurred since then. The only notable improvement was the amendment to the definition of TF which is now aligned to EU standards in this area. A TF conviction concerning support to the Irish Republican Army was obtained in 2011 on the basis of the present legislation. An appeal from the judgement of the court of first instance is currently pending before the court of appeal.
6. The legislative framework dealing with the freezing of terrorist funds appears to be largely in place. Nevertheless, further clarification is required regarding the mechanism which is to be resorted to when challenging domestic and EU freezing orders. Further awareness and guidance on the implementation of the relevant UNSCRs would also be a welcome development. Additionally, the supervisory process to enforce the application of resolutions needs to be strengthened.
7. Notwithstanding the fact that the Financial Crime Investigation Service (FCIS) is the entity designated as the financial intelligence unit (FIU) of Lithuania, the Money Laundering Prevention Department, which is situated within the FCIS, is effectively responsible for all the core functions of a FIU. The situation could present legal difficulties, which may potentially impair the effectiveness of the FIU. In addition to various other legal deficiencies within the legal framework regulating the FIU, it was noted that the analytical work undertaken by the FIU has not had a major tangible impact on the overall effectiveness of the AML/CFT regime in Lithuania. The same applies to the law enforcement authorities responsible for the investigation of ML/FT, although an improvement was registered since the last evaluation. The number of ML investigations initiated by law enforcement authorities is still considered to be low by the evaluators. Additionally, the approach to money laundering investigations in a significant number of investigations of predicate offences is not sufficiently proactive. The preventive AML/CFT measures are not being implemented effectively by the financial sector and DNFBPs. Although to some extent the required CDD measures are in place, some financial institutions and most DNFBPs do not appear to be sufficiently familiar with the full extent of their obligations. In particular, awareness of the requirements dealing with the identification of beneficial ownership and PEPs appears to be rather scant. With the notable exception of the banking sector, a large majority of financial institutions and DNFBPs have never submitted a STR to the FIU. Although supervision is exercised on all sectors, except for company service providers, it appears to be weak in practice and insufficiently focused on AML/CFT-related issues.
8. In principle, a number of measures guarantee the transparency of legal persons and arrangements. For instance, the existence of a central register of legal persons ensures that information on such entities is easily accessible. Nevertheless, certain information is still not available in electronic format. Additionally, it is debatable whether information on all the beneficial owners of legal persons is contained within the central register. The evaluators also noted that the authorities have still not reviewed the suitability of the legal and supervisory framework regulating non-profit organisations as recommended in the Third Round.
9. Lithuania has ratified all the relevant international conventions and it can provide a broad range of assistance to foreign countries, provided that cooperation is not technically hindered by the shortcomings identified, for instance, with respect to the criminalisation of ML, FT and temporary measures.
10. Overall, the many deficiencies identified with respect to the implementation of the AML/CFT regime puts into question the effectiveness of the existing coordination mechanisms between the various competent authorities involved in the prevention of ML/FT.

Legal Systems and Related Institutional Measures

11. Lithuania has still not amended the criminalisation of ML (article 216 of the Penal Code) and the provisions used for the prosecution of terrorist financing (“terrorist acts” under article 250 PC) along the lines recommended in the 3rd round report of 2006. The former misses several elements such as the acquisition, possession or use of assets which must therefore be prosecuted under the offence of possession. Discussions showed that this situation is not satisfactory and that no effective use is made of the provisions on criminalisation.
12. Likewise, the scope of article 250 is still limited and it misses most of the elements contained in international standards (including the financing of individual terrorists and terrorist activities or organisations). Lithuania has adequate tools for the confiscation of criminal assets and instrumentalities. As for temporary measures, it was noted that these are subject to time limits in case of proceeds generated by lesser offences: Lithuania would need to carry out a review of current practice in order to determine the extent to which this impacts negatively on the overall efforts for the targeting of proceeds from crime, and to take any remedial measures.
13. Measures have been taken in recent years to encourage the broader use of temporary measures and confiscation, but these have not yet translated into convincing results in practice. Likewise, with respect to the mechanism for the freezing of terrorist assets, certain questions remain open, including as regards the mechanisms actually applicable to challenge domestic and EU freezing decisions, the level of public information and awareness of the mechanisms in place, supervision and coordination.
14. The FCIS has the overall responsibility for AML/CFT matters. A division within FCIS performs the actual functions of a FIU and receives from the business sectors concerned a variety of reports on suspicious, unusual and above-threshold cash transactions.
15. The Lithuanian FIU model was discussed at length again and it appears that all the weaknesses identified in the 3rd round remain. These include: lack of autonomy and leadership of the competent division; lack of resources of the division although it is entrusted with analytical, supervisory and awareness-raising tasks as well as support and information to other FCIS and law enforcement agencies, weaknesses in the actual ML analytical work etc. The overall consequence of the position of the above division is that the FIU tasks and responsibilities are diluted within those of the FCIS – which leads to the diversion of AML focus and efforts on other objectives and to a very limited number of prosecutions initiated for ML. This situation and the institutional arrangements in place are not in line with the FATF requirements.
16. As far as investigative and prosecutorial authorities are concerned, Lithuania has managed to establish a high degree of specialisation despite the country’s limited size and these authorities generally seem to have the necessary legal tools to perform well. However, as indicated above, the targeting of criminal assets is still neglected. The authorities also still don’t keep consolidated statistics on proceedings and the application of temporary and final measures.
17. As an EU member, Lithuania applies EU regulations concerning cross-border movements of funds with third (non-EU countries), i.e. where Lithuania constitutes an external border for the EU. It has nevertheless retained an intra-EU control of such cross-border movements (based on random checks). The current rules regulating this matter make use of specific administrative rules and criminal law provisions on smuggling. These need to be more consistent and Lithuania needs to ensure the various requirements of SR.IX are covered. The Customs department, responsible for these controls is still not sufficiently involved in, and committed to the AML/CFT efforts.
18. The State Security Department (SSD) was recently deprived of its investigative powers although it is the main body responsible for dealing with terrorist and FT issues. Investigations would therefore need to be conducted by the unit responsible within the criminal police for organised crime and terrorism.

Preventive Measures – Financial Institutions

19. Preventive measures applicable to the financial sector are contained in the Law on Prevention of Money Laundering and Terrorist Financing (the AML Law) of 1997. It takes into account the requirements of the 3rd EU directive on ML and was amended last in December 2011.
20. All relevant financial institutions are subject to the AML Law and no particular banking or financial secrecy rules prevent access to customer information and financial records. The expected record-keeping requirements and wire-transfer rules are provided for in legislation, and the Customer Due Diligence (CDD) requirements were revised in 2008 to address certain deficiencies identified in the 3rd round evaluation.
21. However, these CDD requirements are still not entirely in line with international standards (e.g. there is no explicit requirement to understand the ownership and control structure where the customer is a legal person, the rules on the timing of verification and on failure to complete the CDD process before entering a business relationship need clarification). The definition of politically exposed persons still differs from the standard. Overall, the full implications of CDD measures are not well understood in practice and there is a lack of effectiveness of these measures.
22. Supervision for the financial sector as a whole was consolidated in the end of 2011 under the responsibility of the Bank of Lithuania, which is a positive initiative. Although the financial sector is traditionally subjected also to the general supervision of FCIS, it appears that supervision remains weak as regards several parts of the non-bank financial sector and the reporting of transactions by the institutions concerned (in particular insurance businesses and securities market intermediaries) is almost non-existent in practice. In this respect, the reporting mechanism – which makes use of general and additional sector-specific lists of mandatory and optional criteria (sometimes with several sub-criteria) – appears unnecessarily complex and in the light of the current reporting practice but also information gathered on-site, the reporting duties are not always well understood and with the notable exception of the banking sector, the effectiveness of the mechanism is questionable.
23. The attention of supervisors to the AML/CFT issues remains overall insufficient and the relatively satisfactory situation as regards the banking sector should not hide the fact that at the time of the on-site visit, two of the eight Lithuanian commercial banks had been the subject of severe controversies for alleged involvement in criminal activities such as fraud and embezzlement.
24. The system of sanctions for non-compliance also needs to be reviewed since the explicit sanctions for non-compliance with the AML Law, contained in the Code of Administrative Law Violations, can be applied only by the administrative courts, upon the initiative of the FCIS drawing a protocol of violations. Financial supervisors – now under the Bank of Lithuania – theoretically have at their disposal, in accordance with the sector specific regulations, a broad range of sanctions for non-compliance with legal and other requirements in general but they have exclusively applied warnings to date. The evaluators regret the lack of autonomous sanctioning power of the FCIS.

Preventive Measures – Designated Non-Financial Businesses and Professions

25. The AML/CFT Law applies also to a series of designated non-financial businesses and professions (DNFBPs): auditors; bailiffs; undertakings providing accounting or tax advisory services; notaries (and persons performing similar functions); advocates and their assistants (in a specific number of situations including when assisting the customer in the planning or execution of certain transactions, when managing assets or providing company or trust services including the management of their assets, when managing bank or securities accounts); trust service providers; business organising gaming. The Law also applies to any person engaged in economic and commercial activities involving trade in immovable property items, precious stones, precious metals, items of movable cultural property, antiques or other property where the value of items exceeds EUR 15 000 (or the equivalent in a foreign currency), to the extent that payments are made in cash.

26. The way casinos and real estate agents are subjected to the AML Law is not satisfactory. There is also need to clarify the scope of the legal privilege for advocates and the situation in practice of company service providers is a major source of concern. Weaknesses have been identified in the effective implementation of CDD requirements by a variety of businesses, and as regards PEPs generally. Explicit and clear requirements are missing in various areas including for the professions and businesses concerned to ensure that the third party is supervised (and not just regulated), and as regards the ultimate responsibility for CDD (R.8 and 9). Weaknesses have also been identified in respect of the effective implementation of record-keeping requirements and vigilance for unusual and complex transactions.
27. Company service providers, as a distinct category of professionals, are a particular source of concern especially since this category of professionals and the actual services they provide, as well as just the number of entities concerned, is unknown. The broad privileges enjoyed by advocates, and the absence of requirements for internal AML/CFT procedures adds to the risks to which Lithuania is currently exposed that these various professions are misused for shielding the activities of criminals. The evaluators have gathered several concrete illustrations on site showing that these risks are real. At the same time, official risk assessments have not been carried out in Lithuania concerning risks associated with certain sectors and/or the evolution of services.
28. The reporting regime as regards DNFBPs is such that it requires urgent measures by the supervisors to make it effective. Several supervisors exist for the various DNFBPs and the FCIS retains overall responsibility in this area. However, supervision is weak and supervisors themselves – especially self-regulatory bodies - sometimes are not aware of their responsibilities and duties in this area.

Legal Persons and Arrangements & Non-Profit Organisations

29. The Lithuanian market is progressively adjusting to take into account services, legal constructions and entities known abroad but which are not part of the Lithuanian legal/business tradition. The AML/CFT Law now recognises trust arrangements but these do not exist in the sense of the FATF methodology and definitions (there is no transfer of property between the settlor and the trustee). Likewise, the Lithuanian authorities have assured the evaluators that shares and other financial products can only be issued in nominative and registered form. On the other hand, company service providers, offering a broad range of services including formation and domiciliation, seem to pose new risks, as seen above.
30. As indicated in the third round, Lithuania has a central register where information must be kept on all incorporated business entities, foundations, non-profit organisations etc. Since registration can now be done on-line and within 3 days, the number of legal entities created every year (currently, about 10,000) is increasing rapidly. The total number of entities registered at the time of the visit (195,000) was about the same as in 2006. The register is publicly accessible on-line for basic data. More specific information (e.g. on shareholder structure) can be consulted on-site but the information is not loaded in a database and investigators thus need to process manually paper copies of documents containing ownership information, which could obviously be cumbersome. Lithuania needs to finalise the computerisation of the databases.
31. Drawing an accurate situation of legal communication obligations appeared to be difficult given contradictions between the information gathered on-site by the evaluators and the official position of the Lithuanian authorities. The former were told for instance that only four categories of entities must submit the list of shareholders to the Register and that in case where a proxy is involved in the creation of an entity, the information on shareholders is normally obtainable from him/her, but not systematically communicated to the Register. The authorities, on the other side, emphasise that a much higher number of business structures (if not all) are required to submit the information on the shareholding structure and that this applies whether or not a proxy is acting on behalf of the legal entity. The Lithuanian authorities also disagree with the alleged existence of company

service providers who would be selling ready-made companies. All this of course needs reviewing and clarification by the authorities of the country.

32. There is no obligation for a newly created entity to start operations within a given period of time or to actually carry out an activity. The Lithuanian authorities are planning a reform to accelerate the liquidation procedure which is quite lengthy and currently concerns 23,000 entities. This is mostly welcome.
33. Lithuania has not carried out a formal review of legislation and supervisory arrangements applicable to non-profit organisation. Instead, it relies on the general supervision exerted by the tax authorities (over those which meet the turnover and other criteria that subject them to taxation). But this cannot be seen as a real alternative to the above formal review as regards the status and situation of the various forms of non-profit organisations, whether or not they qualify as charities. Lithuania thus needs to carry out such an overall review and to take additional measures as provided for under SR VIII, for instance awareness raising measures for the NPO sector.

National and International Co-operation

34. An interagency working group involving representatives of the various relevant authorities and supervisors is in place to coordinate the AML/CFT policies. Agreements also exist between the FCIS and other supervisors. Various deficiencies observed above put at question the effectiveness of the existing national coordination mechanisms (for instance the lack of consolidated statistics on seizure and confiscation, open questions concerning the mechanisms for the implementation of international sanctions on FT, the lack of focus of financial and DNFBP supervisors and of the Customs authorities on AML/CFT mechanisms, the lack of actual involvement of various DNFBPs in the AML/CFT efforts).
35. Lithuania is a party to all relevant conventions at UN level, as well as to a variety of instruments at European level. It is in a position to provide a wide range of assistance and in the light of feedback received from other MONEYVAL and FATF countries consulted before the on-site visit, the country enjoys a good reputation in practice. The main insufficiencies in the implementation of international legal instruments, and possible obstacles to Lithuania's ability to cooperate effectively are connected with the important gaps identified in particular in respect of the incriminations of ML and FT and the practical use of provisions on ML.

Resources and statistics

36. There are great disparities as regards resources of, and statistics kept by Lithuanian authorities and supervisors responsible for AML/CFT. For instance, the (MLPD within) FCIS, which plays an essential role as FIU, policy-maker, supervisor, coordinator and trainer, lacks the necessary resources to perform these various tasks (only about half of positions have been filled).
37. Statistics are generally available, albeit with some difficulty since various bodies do not keep them on an on-going basis for the assessment of their own contribution to the AML/CFT efforts and the deprivation of criminal assets more generally.

Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF 40 + 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to Lithuania.

It includes ratings for FATF Recommendations from the 3rd round evaluation report that were not considered during the 4th assessment visit. These ratings are set out in italics and shaded.

Forty Recommendations	Rating	Summary of factors underlying rating ¹
Legal systems		
1. Money laundering offence	PC	<ul style="list-style-type: none"> the offence of laundering does not cover the acquisition, possession or use of criminal assets; there is also an excessive limitation generated by the fact that ML is constituted only where it involves financial transactions, economic or commercial activities or false declarations about the origin of assets Uncertainties as to whether the laundering offence actually <i>extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime</i> Although the law does not specify that a conviction is needed for a predicate offence, case-law has not confirmed this as yet Preparation (conspiracy) of ML is provided in connection with article 189 CC only where assets are worth more than EUR 9 000. Effectiveness: (1) weak proactive approach; (2) modest results with regard to prosecutions, particularly in view of the disparities between the extent of criminal activity on the one hand, and the numbers of proceedings and convictions on the other hand.
2. <i>Money laundering offence Mental element and corporate liability</i>	<i>LC</i>	
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> Confiscation and temporary measures are generally available, although temporary measures are still subject to a time limitation for lesser offences (including elements of ML if article 189CC is used). Access to information for the purposes of the FIU's work needs to be reviewed as regards information held by lawyers

¹ These factors are only required to be set out when the rating is less than Compliant.

		<ul style="list-style-type: none"> Effectiveness: modest results overall and in comparison with the criminal activity present in the country
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	<ul style="list-style-type: none"> no harmonisation of the provisions under the respective laws lifting confidentiality; no explicit requirement enabling the disclosure of AML/CFT related information between the supervisory authorities.
5. Customer due diligence	PC	<ul style="list-style-type: none"> Lack of explicit requirement to understand the ownership and control structure of the customer where the customer is a legal person; lack of explicit requirement for the review of the existing records for higher risk categories of customers or business relationships; lack of explicit requirement that the content of the internal control procedure regarding the application of the risk based approach has to be consistent with the guidelines; the legal provisions for the timing of verification are not clear. Furthermore there is no requirement to adopt risk management procedure in the insurance business concerning the conditions where the customer is permitted to utilise the business relationship prior to verification; the legal provisions for failure to complete CDD before commencing the business relationship are not clear. Furthermore there is no explicit requirement to terminate the business relationship and to consider making an STR where the business relationship has been already commenced and the financial institution is unable to carry out the CDD measures; Weakness in the effective implementation of the beneficial owner identification and verification, as well as the various implications of the new CDD approach introduced in 2008.
6. Politically exposed persons	LC	<ul style="list-style-type: none"> The definition of PEP slightly differs from the standard (it does not cover all categories of senior government officials and excludes the Lithuanian citizens entrusted with prominent public functions abroad). Lack of explicit requirement to obtain senior management approval to continue the business relationship if the customer subsequently becomes a PEP. Weakness in effective implementation of the requirements in relation to PEPs.

7. Correspondent banking	C	
8. New technologies and non face-to-face business	LC	<i>Not addressed by all sectors of the financial sector except for the banking sector</i>
9. Third parties and introducers	LC	<i>Though the full concept of third party and introduced business is not present, yet the elements of the customer/agent identification procedures do not meet all essential criteria.</i>
10. Record keeping	LC	<ul style="list-style-type: none"> • No requirement to maintain records of accounts files and the business correspondence. • No provision to ensure that the mandatory record-keeping period may be extended in specific cases upon request of competent authorities.
11. Unusual transactions	C	
12. DNFBPS – R.5, 6, 8-11	PC	<ul style="list-style-type: none"> • The same concerns (legal deficiencies) in the implementation of Recommendations 5, 6 and 10-11 apply equally to DNFBPs. <p><i>Applying Recommendation 5</i></p> <ul style="list-style-type: none"> • There is a need to clarify the provisions of the AML Law regarding the scope, as well as the CDD requirements in relation to casinos. • Scope of the AML Law regarding real estate agents differs from the standard. • There is a need to review and clarify the scope of the legal privilege for advocates. • Serious concern regarding the company service providers. • Weakness in effective implementation of CDD requirements as regards casinos, real estate agents, dealers in precious metals, dealers in precious stones and notaries. <p><i>Applying Recommendation 6</i></p> <ul style="list-style-type: none"> • Weakness in effective implementation of CDD requirements in relation to PEPs (except auditors). <p><i>Applying Recommendations 8 and 9</i></p> <ul style="list-style-type: none"> • No explicit requirement to have policies in place or to take measures to prevent the misuse of technological developments in ML or TF schemes. • No explicit requirement for the service providers to satisfy themselves that the third party is supervised (not only regulated) in accordance with the standard. • There is a need to clarify the provisions of the AML Law regarding the ultimate responsibility for CDD. <p><i>Applying Recommendation 10</i></p> <ul style="list-style-type: none"> • There is a need to review and clarify the legal provisions for the record-keeping requirements

		<p>with regard to advocates.</p> <ul style="list-style-type: none"> Weakness in effective implementation of record-keeping requirements (except auditors). <p>Applying Recommendation 11</p> <ul style="list-style-type: none"> Weakness in effective implementation regarding paying attention to unusual and complex transactions.
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> The reporting regime is not based on a suspicion that the funds are proceeds of crime, but on the suspicion that they constitute ML Complex reporting arrangements, with risks of inconsistencies Serious effectiveness issues in practice, both quantitatively and qualitatively
14. Protection and no tipping-off	<i>LC</i>	<i>No adequate protection when reporting, that would meet the requirements of criterion 14.1</i>
15. Internal controls, compliance and audit	<i>LC</i>	<i>There is no legal obligation for financial institutions to develop CFT internal control programmes</i>
16. DNFBPS – R.13-15 & 21	PC	<p>Applying Recommendation 13</p> <ul style="list-style-type: none"> As for the financial sector, the reporting system for DNFBPs is unnecessarily complex; it lacks clarity and consistency and it does not reflect the basic requirements of the standards (that funds are proceeds of crime etc.); internet casinos do not fall under the scope of the AML Law; the AML Law is excessively narrow in scope for real estate agents; there is no appropriate form of co-operation between the FCIS and the Lithuanian Bar Association (given that STRs are sent by legal professionals to the Lithuanian Bar Association); clear lack of effectiveness and uneven level of awareness across the different sectors regarding reporting obligations. <p>Applying Recommendation 15</p> <ul style="list-style-type: none"> Lawyers and assistant lawyers are exempt from having internal control procedures in place, providing training to employees and appointing an employee to implement the ML/FT preventive measures; no requirement for an independent audit function to test compliance of procedures, policies and controls; no requirement for compliance officers are to be able to act independently and to report to senior management. <p>Applying Recommendation 21</p>

		<ul style="list-style-type: none"> (-)
17. Sanctions (in relation to R.23,24,29)	PC	<ul style="list-style-type: none"> The FCIS is not empowered to impose sanctions, fines and disciplinary actions (for both financial institutions and DNFBPs); sanctions cannot always be imposed on legal persons; disciplinary actions cannot always be imposed; the range of sanctions which can be imposed is not broad enough to fulfil the various requirements of the AML/CFT Law; the maximum amount of sanctions which can be applied is not proportionate, effective and dissuasive enough for infringements committed by larger economic entities no supervisory authority is empowered to impose administrative sanctions in relation to DNFBPs.
18. <i>Shell banks</i>	<i>C</i>	
19. <i>Other forms of reporting</i>	<i>C</i>	
20. <i>Other DNFBPS and secure transaction techniques</i>	<i>C</i>	
21. <i>Special attention for higher risk countries</i>	<i>LC</i>	<i>Mainly addressed for banking sector but restricted to customers of credit institutions only and no specific obligation to examine background of large, complex transactions.</i>
22. Foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> The measures applicable to the insurance sector do not fully reflect the provisions of the Recommendation.
23. Regulation, supervision and monitoring	LC	<ul style="list-style-type: none"> Effectiveness issue: <ul style="list-style-type: none"> no focused examinations are carried out on financial institutions by the FCIS; no risk analysis has been carried out by supervisory authorities to identify the risk areas within the financial industry; weak supervision has been carried out on the insurance and securities sectors.
24. DNFBPS - Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> The importance of certain activities or professions (such as company services providers) is unknown and – in the absence of any sector-specific regulations and licensing/authorisation – they are strongly exposed to risks of ML/FT; there are certain legal limitations for supervisory authorities and self-regulatory organisations to carry out their supervisory function, as in the case of lawyers and assistant lawyers; internet casinos are not captured as licensable entities under the AML Law; Effectiveness issues: <ul style="list-style-type: none"> besides the low figures on controls, the FCIS

		<p>is not aware of the importance of certain activities such as company service providers present in Lithuania;</p> <ul style="list-style-type: none"> - several supervisory authorities and self-regulatory organisations entrusted with supervisory functions are not fully aware of their supervisory function; - weak or no supervision at all, applied in respect of all DNFBP sectors; - no risk analysis carried out by supervisory authorities to identify the risk areas within the DNFBP sectors.
25. Guidelines and Feedback	LC	<ul style="list-style-type: none"> - Although various guidance and instructions are available to the various sectors, there is no one body that ensures consistency (25.1 financial sector). - Although various guidance and instructions have been issued to the various sectors there are inconsistencies and inapplicabilities. No guidance issued to the legal profession (25.1 DNFBP).
Institutional and other measures		
26. The FIU	PC	<ul style="list-style-type: none"> • insufficiently clear legal framework regarding the structure and position of the Department performing the actual FIU functions in view of the practical implementation of the AML/CTF regime; • lack of legal safeguards for the operational independence of the unit responsible for the practical implementation of the core functions of an FIU; • inconsistent legal basis for the FIU to obtain additional information from advocates and advocate's assistants; • concerns regarding the absence of fully fledged analysis of FT by the FIU and overlapping competence of the SSD and the FIU when it comes to the elaboration of guidance on FT; • concerns over legal uncertainty as regards the protection of information within the FIU and the purposes it is used for; • no periodic reporting meeting the standards of C.26.8: the annual report of the FIU does not provide detailed information on the core activities of the entity actually performing FIU functions and does not include detailed statistics and information on typologies and trends; • lack of effectiveness which are likely to result from the current approach to ML, the analytical working methods, the background of staff, shortage of staff, lack of follow-up on cases generated; insufficient focus of the FIU on ML and TF; the focus on the offences which fall within FCIS' competence and the system being

		mainly used to detect such individual offences.
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> Effectiveness: <ul style="list-style-type: none"> - no proactive approach to money laundering investigations in a significant number of the predicate crimes investigations; - the number of investigations for money laundering by law enforcement is still low.
28. Powers of competent authorities	C	
29. Supervisors	C	
30. Resources, integrity and training	LC (consolidated)	<ul style="list-style-type: none"> In relation to R.26/the FIU: lack of sufficient resources of the MLPD within FCIS; the requirements as to the background of MLPD staff are not based on the actual tasks of an FIU and in practice, financial/business knowledge does not fully contribute to the autonomous analysis function over the STR/CTR disclosures; in relation to R.27: law enforcement personnel is still not familiar enough with the specificities of ML investigations; in relation to SR.IX: Customs officers are not enough aware of AML/CFT-related matters in relation to R.17 and 23: the FCIS staff is not sufficient for effective AML/CFT supervision in relation to R.31: the MLPD, as the actual specialist AML/CFT body within FCIS, is in practice the main coordinator; but within the FCIS, it has no autonomy, authority and means to be effective (already pointed out as far as this is also the FIU)
31. National co-operation	PC	<ul style="list-style-type: none"> No “effective mechanisms” in place for domestic cooperation and coordination in AML/CFT in the sense of C.31.1 Consultation mechanisms are in place also with the industry but the outcome and effectiveness is questionable
32. Statistics	LC²	<ul style="list-style-type: none"> No reliable and consolidated statistics kept on an on-going basis as regards matters addressed under R.3; in relation to R.26/the FIU: reliable and sufficiently detailed statistics are not kept systematically; those related to the actual outcome of the reporting regime – in terms of investigations, prosecutions and convictions generated by the MLPD – are not available and a legal uncertainty exists as to the mechanism of collection of those statistics from the law enforcement/prosecution authorities other than the

² The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 38 and 39.

		<p>respective units of FCIS;</p> <ul style="list-style-type: none"> • in relation to R.27: the information system of the Prosecutor's Office needs to be completed and made fully functional in order to usefully complement the police statistics • in relation to SR.IX: absence of detailed statistics on the various aspects of the implementation of mechanisms on cross-border movements of cash; • in relation to R.31: No formal overall review of AML/CFT measures; existing cooperation and coordination mechanisms do not offer satisfactory alternatives given the visible lack of effectiveness. • In relation to R.36, R40 and SR.V: detailed statistics are not kept on an on-going basis.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • Despite recent positive measures for the communication of shareholders for limited liability companies, it remains unclear whether the Register keeps information on the ownership/shareholder for all relevant forms of legal entities, whether or not a proxy is involved in the formation; • computerisation is not complete and information on ownership therefore not available systematically in electronic form ; • concerns raised by the low level of penalties for non- or false declaration of information; • concerns in practice in connection with service providers used as front-structures in practice
34. Legal arrangements – beneficial owners	NA	<i>The concept of trusts or other legal arrangements (other than corporate) is not known under the laws of Lithuania.</i>
International Co-operation		
35. Conventions	PC	The shortcomings identified earlier (i.a ML offence should be modified to cover all aspects from Vienna and Palermo conventions, and to refer to both direct and indirect assets, limited criminalisation of terrorism financing, weaknesses as regards temporary measures) are relevant in the context of international cooperation.
36. Mutual legal assistance (MLA)	C ³	
37. Dual criminality	C	
38. MLA on confiscation and freezing	LC	<i>No arrangements for coordinating seizure and confiscation actions with other countries</i>
39. Extradition	C	
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> • Effectiveness issue:

³ The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 28.

		<ul style="list-style-type: none"> - For various DNFBP sectors, there is no international cooperation in practice (given the absence of involvement of FCIS in international cooperation with foreign supervisors); as regards other supervisory authorities for DNFBPs, there is no specific provision for cooperation with foreign counterparts); - Effectiveness of international cooperation could be affected by the resources of the unit within FCIS responsible for the FIU cooperation; - effectiveness of the law enforcement authorities in international cooperation is not demonstrated.
Nine Special Recommendations		
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> • Limited criminalisation of terrorism financing (see SR II). Efforts still needed to ensure adequate implementation and awareness of UNSC Resolutions (no clear procedure for freezing of funds on the basis of UNSCR 1267 or 1373). Weaknesses as regards temporary measures impact on SR I.
SR.II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> • No offence as such of terrorist financing, as provided for in the CFT treaties and many gaps in the incrimination including a) the fact that terrorist acts are defined narrowly (essentially by reference to the threat to use, or to the actual use of explosive devices), b) the financing of individual terrorists or terrorist organisations is not covered; c) the concept and modalities of financial support are not defined systematically etc. • It is doubtful whether objective factual circumstances are actually applicable in connection with FT (and ML)
SR.III Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> • the mechanisms actually applicable to challenge domestic and EU decisions are unclear • Insufficient public information and guidance on the specificities of the international sanctions mechanisms (as opposed to the STR system) • Effectiveness of supervision, coordination and monitoring of implementation is not demonstrated; authorities are themselves not familiar with the applicable rules as these could not be explained to the evaluators.
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • Reporting of FT is still not covered in line with the standards; current rules do not focus enough on this matter; • complex reporting arrangements
SR.V International	LC	<ul style="list-style-type: none"> • Effectiveness is not demonstrated for the same

co-operation		reasons as in R.40
<i>SR.VI AML requirements for money/value transfer services</i>	LC	<i>Money Transfer service provided by Post Office needs to be better monitored and controlled by the relevant authorities.</i>
SR.VII Wire transfer rules	LC	<ul style="list-style-type: none"> No explicit provisions in the Lithuanian legal texts to determine the competent authorities for the purpose of the Regulation (shortcoming in the national implementation). No explicit provisions in the Lithuanian legal texts to establish the appropriate monitoring, enforcement and penalties regime for the purpose of the Regulation (shortcoming in the national implementation).
SR.VIII Non-profit organisations	PC	<ul style="list-style-type: none"> Lithuania has not performed a formal general review to identify any weaknesses in this sector that could give rise to terrorist activities; no awareness-raising measures have been taken in respect of NPOs regarding the risks of their being misused for terrorist purposes and the protective measures available; the legal framework governing the requirements in respect of financial transparency and record keeping and updating is not fully satisfactory, in particular as there is a limited possibility of imposing sanctions; Effectiveness of implementation not established in all cases and partial oversight exercised by the authorities regarding this sector only where taxation aspects come into play.
SR.IX Cross Border declaration and disclosure	PC	<ul style="list-style-type: none"> Differences in the definition of cash in regard to the application of various aspects of the cash control regime (e.g. for the purpose of sanctioning according to the CALV, definition in regard to intra-EU disclosures); inconsistencies in the secondary legislation regarding the cash control regime; the mechanism for restraining cash - especially in cases of suspicion of ML/TF – is not applicable in a swift and effective manner. Doubts about the application of the mechanism through the general obligations for the prevention of crime; potential risks exist in relation to the mechanism for notifying the FIU of detected violations; effectiveness and dissuasiveness of sanctions particularly at the external EU borders cannot be assessed; specific cooperation in regard to ML/TF detection and investigation should be extended; limited overall effectiveness in practice and lack of involvement of the Customs in the detection of ML/FT