



# Anti-money laundering and counter-terrorist financing measures

# Lithuania

## 1<sup>st</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating

June 2020

Follow-up report



**The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL** is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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The 1st Enhanced Follow-up Report and Compliance Re-Rating on Lithuania was adopted by the MONEYVAL Committee in the course of its 2<sup>nd</sup> Intersessional consultation (Strasbourg, 22 May – 10 July 2020).

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## *Lithuania: 1<sup>st</sup> Enhanced Follow-up Report and Technical Compliance Re-Ratings*

### I. INTRODUCTION

1. The mutual evaluation report (MER) of Lithuania was adopted in December 2018. This report analyses the progress of Lithuania in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since Lithuania's MER was adopted: Recommendation 2, 15, 18 and 21. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Lithuania has made to improve its effectiveness. A later follow-up assessment will analyse progress on improving effectiveness which may result in re-ratings of Immediate Outcomes at that time.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated<sup>1</sup> Lithuania as follows:

#### *Technical Compliance Ratings*

<b>R 1</b>	<b>R 2</b>	<b>R 3</b>	<b>R 4</b>	<b>R 5</b>	<b>R 6</b>	<b>R 7</b>	<b>R 8</b>	<b>R 9</b>	<b>R 10</b>
PC	PC	LC	LC	LC	PC	PC	LC	C	LC
<b>R 11</b>	<b>R 12</b>	<b>R 13</b>	<b>R 14</b>	<b>R 15</b>	<b>R 16</b>	<b>R 17</b>	<b>R 18</b>	<b>R 19</b>	<b>R 20</b>
C	C	LC	LC	C	LC	C	LC	LC	LC
<b>R 21</b>	<b>R 22</b>	<b>R 23</b>	<b>R 24</b>	<b>R 25</b>	<b>R 26</b>	<b>R 27</b>	<b>R 28</b>	<b>R 29</b>	<b>R 30</b>
C	LC	LC	PC	LC	PC	C	PC	LC	C
<b>R 31</b>	<b>R 32</b>	<b>R 33</b>	<b>R 34</b>	<b>R 35</b>	<b>R 36</b>	<b>R 37</b>	<b>R 38</b>	<b>R 39</b>	<b>R 40</b>
LC	PC	LC	LC	LC	C	LC	LC	LC	LC

3. Given the results of the MER, Lithuania was placed in enhanced follow-up<sup>2</sup>. Given the postponement of the 60<sup>th</sup> MONEYVAL Plenary, the report is being considered by MONEYVAL members in the framework of their 2<sup>nd</sup> Intersessional Consultation via written procedure in accordance with Rule 21, paragraph 9 of the MONEYVAL Rules of Procedure for the 5<sup>th</sup> Round of Mutual Evaluations.

4. The assessment of Lithuania's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Poland
- Slovak Republic

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<sup>1</sup> There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

<sup>2</sup> Enhanced follow-up is based on the FATF's traditional policy that deals with members with significant deficiencies (for technical compliance or effectiveness) in their AML/CFT systems and involves a more intensive process of follow-up.

5. Section III of this report summarises Lithuania's progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

### III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Lithuania to improve its technical compliance by:

- a) Addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (R.1), and
- b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.2, 15, 18 and 21).

#### 3.1. Progress to address technical compliance deficiencies identified in the MER

7. Lithuania has made some progress to address the technical compliance deficiencies identified in the MER. As a result of this, Lithuania has been re-rated on **Recommendation 1**.

##### *Recommendation 1 (Originally rated PC – re-rated as LC)*

8. In its 5<sup>th</sup> round MER, Lithuania was rated partially compliant (PC) with R.1, based on the following deficiencies: it was not clear that Lithuania has identified and assessed all of the major money laundering and financing of terrorism (ML/FT) risks as noted under immediate outcome (IO) 1; it was not clear how well Lithuania was able to allocate resources and implement measures to prevent or mitigate ML/FT; the deficiencies under R.26 and R.28 had an impact on Lithuania's compliance with c.1.9; the anti-money laundering and countering the financing of terrorism (AML/CFT) law did not specify that financial institutions (FIs)/ designated non-financial businesses and professions (DNFBP) risk assessments must be documented, that all relevant risk factors should be considered or that assessments should be kept up-to-date; and there were no appropriate mechanisms in place for the provision of risk assessment information by FIs and DNFBPs to competent authorities.

9. Lithuania conducted a national risk assessment (NRA) in 2019. The report is due to be published. The NRA identified 88 risk scenarios applicable to 19 sectors covered within the report based on which each sector and its products were assessed against ML and FT risk. It is clear from the content and structure of the NRA that all identified deficiencies under c.1.1 in the 2018 MER are rectified (c.1.1).

10. Following the adoption of the 2018 MER by the 57<sup>th</sup> MONEYVAL Plenary, Lithuania issued a Plan of measures for the implementation of Recommendations and Priority Actions set in the MER. This Plan takes into account the issue of re-allocation of the FIU resources with a view to focus on higher ML/FT risks. As a result, the FIU was reinforced with four additional analysts. In addition, in its role as a supervisory authority of virtual asset service providers (VASPs) the FIU was equipped with IT tools for blockchain and big data analysis, aiming to mitigate ML/FT risks in this sector. Additional resources have been approved for the supervision of VASPs where higher ML/FT are identified. As for the Bank of Lithuania (BoL), its supervisory resources increased, as a result of the significant increase in the number of e-money and payment institutions licensed in Lithuania. The BoL

identified that entities providing non-traditional/new financial services are exposed to higher ML/FT risk, therefore additional supervisory recourses were necessary to ensure effective AML/CFT supervision. Also, in January 2019, the BoL changed its AML/CFT supervisory structure by establishing a separate AML unit responsible solely for AML/CFT supervision. The AML unit currently employs 10 full-time employees (FTEs) (e.g. 6 FTEs in the previous structure in 2018). (c.1.5)

11. Deficiencies identified in the MER with the requirements of R.26 and R.28 remain outstanding (c.1.9).

12. The amended BoL AML/CFT Guidelines (Res. No.03-17) for financial market participants (FMPs) requires FMPs to apply requirements of C.1.10 a-c (see Guidelines par.27-32). However, the requirements of the Guidelines do not apply to DNFBPs. As for the requirement set in c.1.10(d) this is met through the AML/CFT law (art.7(1) and art.29, par.1(10)) and the Law on the Bank of Lithuania (art.42(4.2)) (c.1.10).

13. Overall, Lithuania took measures to rectify deficiencies identified in c.1.1, c.1.5 and c.1.10. As a result, c.1.1 and c.1.5 were re-rated as “met and c.1.10 as “most mostly”. As for c.1.9 the identified deficiencies related to R.26 and R.28 remain outstanding. **On this basis, R.1 is re-rated as LC.**

### **3.2. Progress on Recommendations which have changed since adoption of the MER**

14. Since the adoption of Lithuania’s MER, the FATF has amended R.2, R.15, R.18 and R.21. This section considers Lithuania’s compliance with the new requirements and progress in addressing deficiencies identified in the MER in relation to these Recommendations, where applicable.

#### **Recommendation 2 (Originally rated PC –no re-rating)**

15. In its 5<sup>th</sup> round MER, Lithuania was rated PC with R.2, as Lithuania did not have co-operation and co-ordination mechanisms in place to combat PF.

16. In October 2018, R.2 was amended to require that countries should have co-operation and coordination between relevant authorities to ensure compatibility of AML/CFT requirements with Data Protection and Privacy Rules. The amended recommendation further requires a domestic mechanism for exchange of information amongst relevant competent authorities.

17. Pursuant to the information provided, it can be concluded that Lithuania has the necessary mechanisms to exchange information domestically between its competent authorities concerning the development and implementation of AML/CFT policies and activities at both policy-making and operational levels. According to the KF 7 under IO.1 in the 2018 MER, Lithuania has a strong co-ordination mechanism in place. The AML/CFT Coordination Group serves as a national body to develop policy and co-ordinate actions at a national level. Operationally, there are many agreements in place between the different authorities to ensure the smooth and efficient exchange of information. Co-ordination of operational activities is done both at the level of the Group and bilaterally/multilaterally between the authorities depending on the area of co-operation (c.2.3).

18. As for c.2.4, the Lithuanian authorities did not take any measures with a view to combat PF.

19. With regard to data protection, Lithuania has the necessary mechanisms to ensure compatibility of AML/CFT requirements with Data Protection and Privacy rules through different formal and informal mechanisms (c.2.5).

20. Overall, Lithuania meets the revised requirements. However, the deficiency identified in the 2018 MER remains outstanding. **On that basis, the rating of R.2 remains PC.**

### **Recommendation 15 (Originally rated C – re-rated as PC)**

21. In its 5<sup>th</sup> round MER, Lithuania was rated C with R.15. Since the 2018 MER, Lithuania’s compliance with these requirements remains unchanged.

22. In October 2018, the FATF adopted new requirements for “virtual assets” (VAs) and “virtual asset service providers” (VASPs), including new definitions. In June 2019, the FATF adopted the Interpretative Note to Recommendation 15 to address obligations related to VAs and VASPs. The FATF Methodology for assessing R.15 was amended in October 2019 to reflect amendments to the FATF standards. Consequently, new criteria 15.3 to 15.11 were added.

23. The entities covered in Art. 2 of the AML/CFT Law – virtual currency exchange operators and custodian wallet operators (*henceforth referred to as “covered VASPs”*) – fall within the scope of the FATF definition on VASPs. The definition of these entities clearly covers the FATF activity of VASPs relating to: (i) exchange between virtual assets and fiat currencies; (ii) exchange between one or more forms of virtual assets; (iii) transfer of virtual assets. However, the definition of VASPs in Art. 2 of the AML/CFT Law does not cover some other activities in the FATF definition of VASPs such as (iv) safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets, and/or (v) participation in and provision of financial services related to an issuer’s offer and/or sale of a virtual asset as required by the standard.

24. Lithuania has taken some steps to comply with the new requirements of Recommendation 15. Regarding requirements related to the risk-based approach, Lithuania conducted a new NRA. The NRA determined the ML/FT risk, threat and vulnerability of the virtual currencies sector as very significant (c.15.3.a). Based on the risks identified, the NRA set a number of mitigating measures. Although the publication of the NRA is pending, Lithuania amended its AML/CFT law in December 2019 in order to set requirements for virtual assets (VA) and VASPs. With a view to the identified risks, the FIU has also reinforced and re-allocated its resources for the supervision of VASPs (see c.1.5). The application of other risk-based mitigating measures is underway. (c.15.3.b).

25. According to the AML/CFT law (art.2, par.10(10, 11)) covered VASPs are obliged entities. Art.29(par.1(2) and par.2) of the Law requires obliged entities to identify, assess and manage their ML/FT risk. The 2020 FCIS AML/CFT Instructions for VASPs cover the requirements of c.1.10(a-c) (see par.39-39). As for the requirement of c.1.10(d) this is met (see c.1.10). All requirements of c.1.11 are covered, since the criterion was rated as “met” in the 2018 MER. (c.15.3.c).

26. According to the AML/CFT law (art.2(par.3<sup>2</sup> and 22<sup>4</sup>) covered VASPs are legal persons. Art.25(4) of the Law requires covered VASPs to notify the Registrar of Legal Entities (RLE) of the commencement or termination of their activities (c.15.4.a).

27. The Law (art.25(3)) sets requirements to prevent criminal from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a covered VASP. However, the requirement does not capture associates (c.15.4.b).

28. Covered VASPs have been subject to supervision since 10 January 2020. As such, no supervisory action took place in practice by the FUR reporting deadline (31 January 2020). Art.25(4) of the Law provides that a legal person who commences or terminates the activities of covered VASPs shall

notify the RLE of the commencement or termination of its activities. Failure to comply with the RLE requirements by legal persons resulted into a total of 612 administrative offense reports, issued in 2019. In total, 432 fines were imposed, ranging from EUR 30 to 600. The authorities explained that covered VASPs will be subject of such controls and fines when failing to comply with the RLE requirements. In addition, article 223(1) of the Code of Administrative Offences provides that failure to meet the requirements on timely submission or submission of false data, documents or other requested information to the RLE are subject to fines ranging from EUR 30 to 1,450. The MER, c.24.13 highlights that the range of the monetary fine is neither proportionate nor dissuasive. C.25.8 in the 2018 MER was rated PM. (c.15.5).

29. Covered VASPs are supervised in a way consistent with the requirements of R.26 and R.27. In the 2018 MER Lithuania was rated compliant with the requirements of c.26.1 and R.27. Covered VASPs are supervised by the FCIS (AML/CFT law, Art.30, par.1(1)). The Law requires the FCIS to supervise the covered VASPs activities related to AML/CFT and provide them with methodological assistance (AML/CFT law, art.4(9)). The Law (art.31) sets the ground for AML/CFT inspections based on the supervisory authorities' inspection plan (supervision plan) and receipt of reports or any other data in indicating possible breaches of the Law. As for risk-based supervision applied by the FCIS, please see c.15.3(b). (c.15.6.a)

30. The AML/CFT law (Art.32) gives the FCIS general power to supervise compliance with AML/CFT requirements by the obliged entities. In addition, the FCIS has the right to obtain information and documents (Art.32, paragraph 1 (4, 5 and 8) of the AML/CFT law). Art.33 (par.2(2)) of the Law authorises supervisory authorities to impose sanctions on supervised entities for breaching the AML/CFT requirements. The FCIS can impose a wide range of sanctions listed in Art. 36 of the Law and Art.198 of the Code on Administrative Offences (See C.27.4 in the 2018 MER). (c.15.6.b).

31. Lithuania has set legal requirements in line with R.34 (AML/CFT law art.4(9) and Art. 5(1)(9)). The Law requires the FCIS to provide methodological assistance and feedback to obliged entities. According to the 2018 MER (R.34) this concept includes the issue of guidance, trends, typologies and training. On this basis, the FCIS issued AML/CFT Instructions for covered VASPs in January 2020. The Instructions are publicly available in the FCIS website <http://www.fntt.lt/lt/pinigu-plovimo-prevencija/teises-aktai/isakymai/285>. The AML/CFT law (Art. 5(1)(9)) requires the FCIS to provide feedback to covered VASPs. However, due to its recent appointment as supervisory authority of the covered VASPs sector and the short reporting period, examples of actual feedback to covered VASPs were not available. (c.15.7).

32. As for the requirements set under R.35, according to c.27.4 (2018 MER), the FCIS is able to apply a broad range of sanctions, ranging from warning to fines and withdrawal of licence. (c.15.8.a) Sanctions are applicable not only to covered VASPs, but also to their directors and senior management (Art.198 Code of Administrative offences and Art.36 of the AML/CFT law). Nonetheless, deficiencies identified under C.35.1 and C.35.2 relating to criminal liability for tipping off and dissuasiveness of fines to individuals remain relevant (c.15.8.b).

33. According to the Law, covered VASPs are obliged entities which required to comply with the requirements of Recommendations 10 to 21, to the same extent as other obliged entities. Concerning the threshold for occasional transactions, above which covered VASPs are required to carry out due diligence measures, the AML/CFT law (Art.9, par.1(6) and par.11) provides for EUR 1,000 or the equivalent in foreign or virtual currency. This requirement is also applicable for several



interconnected monetary transactions. Deficiencies identified under R.10, rated LC in the 2018 MER, are applicable (c.15.9.a).

34. As regards wire transfers, the legal framework of Lithuania does not provide for covered VASPs and VA. (c.15.9.b(i-iv))

35. In addition, the mechanisms in Lithuania permitting the communication of designations and monitoring of VASPs foreseen in R.6 and R.7 are subject to the limitations identified in the 2018 MER (see c.6.g). (c.15.10)

36. With regard to the requirements of R.37-R.40, Lithuania is able to provide international cooperation in the scope of ML issues, associated predicate offences, and FT for virtual assets, subject to the limits discussed within these Recommendations in the 2018 MER. Under IO.2 the MER highlights that the Lithuanian FIU maintains good co-operation with foreign counterparts, exchanging information comprehensively, proactively and in a timely manner, both upon request and spontaneously. For the purpose of international exchange of information, the FIU may request information from any obliged entity. The FIU cooperates not only with its foreign counterparts, but also with non-counterpart authorities within the framework of diagonal cooperation. Overall, the absence of legal provision to provide assistance and cooperation rapidly, as described in c.37.1 and c.40.1, seem to apply to VASPs (c.15.11).

37. Lithuania has taken steps to implement the new requirements of Recommendation 15. Overall, c.15.1, c.15.2 and c.15.6 are rated as met, c.15.3, c.15.7 and c.15.11 are rated as mostly met, and c.15.4, c.15.5, and c.15.8 to c.15.10 are rated as partly met. The deficiency identified in c.15.4 related to the scope of the VASPs definition has a significant impact on the rating of this Recommendation. In addition, there are no wire transfer requirements for VA and VASPs. **On this basis, R.15 is re-rated as PC.**

#### ***Recommendation 18 (Originally rated LC – no re-rating)***

38. In its 5<sup>th</sup> round MER, Lithuania was rated LC with R.18 as there was no requirement on the provision to group-level compliance, audit, and/or AML/CFT functions, of customer, account, and transaction information from branches, if necessary.

39. In November 2017, the interpretative note to R.18 was revised to clarify the requirements on sharing of information related to unusual or suspicious transactions within financial groups. This also includes providing this information to branches and subsidiaries when necessary for AML/CFT risk management.

40. The AML/CFT law does not cover the requirements of c.18.2(b). As for c.18.2(c), the requirements are in place (AML/CFT law, Art.23(3, 4) and c.21.2 in the 2018 MER).

41. Overall, c.18.1 and c.18.3 are met. The only outstanding deficiency relates to the sub-criterion 18.2(b). **On this basis, R.18 remains LC.**

#### ***Recommendation 21 (Originally rated C – no re-rating)***

42. In its 5<sup>th</sup> round MER, Lithuania was rated C with R.21.

43. In November 2017, the interpretative note to R.21 was amended to clarify that tipping-off provisions under R.21 are not intended to prevent information sharing under R.18.

44. Supervisors, obliged entities and their employees are prohibited from notifying the customer or other persons that the information has been submitted to the FCIS or any other supervisor (Art.23(3) of the AML/CFT law). The exemptions from this prohibition are provided under Art.23(4).

45. Overall, Lithuania meets the revised requirements. C.21.1 was rated met in the 2018 MER. **On this basis, R.21 remains C.**

#### IV. CONCLUSION

46. Overall, Lithuania has made some progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and has been re-rated on one Recommendation: Recommendation 1 (initially rated as PC) is re-rated as LC. Measures taken by the Lithuanian authorities with respect to VAs and VASPs are not sufficiently in compliance with the revised requirements of R.15. Therefore, Lithuania has been re-rated as PC (initially rated as C).

47. Further steps have been taken to improve compliance with the other Recommendations (R.2, R.18 and R.21), including those Recommendations that have been revised since the adoption of the MER, but some gaps remain. Lithuania is encouraged to continue its efforts to address the remaining deficiencies.

48. Overall, in light of the progress made by Lithuania since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
<b>LC</b>	PC	LC	LC	LC	PC	PC	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	C	LC	LC	<b>PC</b>	LC	C	LC	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	LC	LC	PC	LC	PC	C	PC	LC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	PC	LC	LC	LC	C	LC	LC	LC	LC

49. Lithuania will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Lithuania is expected to report back to the Plenary within one year.

## GLOSSARY OF ACRONYMS

AML	Anti-money laundering
AML/CFT	Anti-money laundering and countering the financing of terrorism
BO	Beneficial ownership
C	Criterion
CC	Criminal Code
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FATF	Financial Action Task Force
FIs	Financial institutions
FT	Financing of terrorism
LC	Largely compliant
MER	Mutual evaluation report
ML	Money laundering
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
RLE	Registrar of Legal Entities
STR	Suspicious transaction report
TC	Technical Compliance
VA	Virtual Assets
VASPs	Virtual asset service providers

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## Anti-money laundering and counter-terrorist financing measures - **Lithuania**

### **1<sup>st</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating**

This report analyses Lithuania's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of December 2018.

The report also looks at whether Lithuania has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2018 assessment.