COMMITTEE OF EXPERTS ON THE EVALUATION
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Anti-money laundering and counter-terrorist financing measures

Lithuania

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

November 2021

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.

The 2nd Enhanced Follow-up Report and Compliance Re-Rating on Lithuania was adopted by the MONEYVAL Committee in the course of its 4th Intersessional consultation (Strasbourg, 8 October – 15 November 2021).

Lithuania: Second Enhanced Follow-up Report

1. INTRODUCTION

1. The fifth-round mutual evaluation report (MER) of Lithuania was adopted in December 2018. This second enhanced Follow-up Report (FUR) 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. 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.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER and the 1st Enhanced FUR rated Lithuania as follows for technical compliance:

Table 1. Technical compliance ratings, June 2020

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	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	PC	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

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).
Source: Lithuania Mutual Evaluation Report, December 2018, First enhanced Follow-Up Report of Lithuania, June 2020.

3. Given the results of the MER, Lithuania was placed in enhanced follow-up[1]. The 1st enhanced FUR of Lithuania was adopted via written procedure in June 2020 and the country was invited to report back to the Plenary within one year.

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

- Guernsey
- Czech Republic

5. Section 3 of this FUR summarises Lithuania's progress made in improving technical compliance. Section 4 sets out the conclusion and a table showing which FATF Recommendations have been re-rated.

3. 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 rating (R.6, R.26, R.28 and R.32).

[1] Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up..

7. For the rest of the Recommendations rated as PC (R.2, 7, 15, 24) Lithuania did not request a re-rating.

8. This FUR takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Lithuania submitted its country update report – at least six months before the FUR is due to be discussed by MONEYVAL[2].

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

9. Lithuania has made progress to address the technical compliance deficiencies identified in the MER and has been re-rated on Recommendation 26. The country asked for a number of re-ratings for other recommendations (R.6, R.28 and R.32) which are also analysed but no re-rating has been provided.

Recommendation 6 (Originally rated PC – no re-rating)

10. In its MER, Lithuania was rated PC with R.6, based on: (i) lack of internal regulation setting out the specific responsibility of the MFA for proposing persons or entities to the 1267/1989 and 1988 Committees (c.6.1(a)); (ii) SSD is not aware of the obligation to identify targets based on the designation criteria set out in the relevant UNSCRs (c.6.1(b)); (iii) Lithuania has no mechanisms and procedures in place to comply with the requirements set out in c.6.1(c) to (e) (c.6.1.(c)(d)(e)); (iv) no requirement that a prompt determination is made (c.6.2(c)); (v) lack of clarity as of what happens with respect to requests received by Lithuania (c.6.2(d)); (vi) lack of procedure detailing steps to be taken in cases where Lithuania makes a request to another country for listing (c.6.2(e)); (vii) the implementation of TFS set out under UNSCRs 1267/1989 and 1988 into the EU framework does not take place 'without delay', since there is a delay between the designation decision taken by the UNSC and its transposition into the EU framework (c.6.4), (viii) there is a doubt whether, in practice, the freezing action takes place without prior notice (c.6.5(a)); (ix) there are no other communication mechanisms in place, except for periodic notices circulated by the FIU, which do not fulfil the requirement that updates are communicated immediately (c.6.5(d)); (x) no guidance has been issued regarding how Lithuanian citizens could issue de-listing requests for Lithuanian citizens; (xi) Lithuania has not decided that, as a rule, its citizens or residents should address their de-listing requests directly to the Focal Point through a declaration addressed to the Chairman of the Committee (c.6.5(d)); (xii) no procedures fulfilling the requirements set out under c.6.5(f-g) (c.6.5(f) and (g)).

11. To address the deficiency identified in the MER for c.6.1(a), Lithuania indicated that the Law on Economic and Other International Sanctions and the implementing Government Decision, already implemented at the time of the MER, set out the MFA's coordination and information responsibilities and remedy to the deficiency identified under c.6.1(a) by appointing the MFA as the competent authority for proposing designations to the UN via Lithuania's Mission to the UN.

12. Both documents set out the MFA's coordination and information responsibilities. However, these responsibilities are relevant only once a person or entity has already been designated and the sanctions are being implemented with respect to such a person or entity. Nevertheless, criterion 6.1(a) governs responsibility for proposing persons or entities to the 1267/1989 and 1988

[2] This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable, In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

Committees for designation. Neither the Law nor the Description stipulates that the MFA is responsible for proposing persons or entities for designation.

13. As for c.6.1(c), Lithuania reaffirmed that it does fully implement international sanctions' coordination and information function as defined by the same documents mentioned above.

14. However, there has been no development since the last evaluation concerning requirements under criterion 6.1(c). Regardless of that, the description does not touch upon the evidentiary standard of proof or conditionality of proposals for designations, which are the requirements set out under c.6.1(c).

15. Lithuania has not addressed the deficiencies identified in the MER for c.6.1(b),(d) and (e).

16. Lithuania has not addressed the deficiencies identified in the MER for c.6.2, c.6.3, c.6.4 and c.6.5 since the adoption of its MER.

17. Lithuania has not taken additional measures to address the deficiencies identified in the MER under R.6. **R.6 therefore remains PC**.

Recommendation 26 (Originally rated PC – now rated LC)

18. In its MER, Lithuania was rated PC with R.26, based on: (i) the lack of clarity of the extensiveness of the requirements to prevent criminals from involvement with control of FIs (c.26.3); (ii) the focus of a series of Bank of Lithuania (BoL) written policies and procedures documents on prudential rather than on AML/CFT supervision (c.26.4(b)); (iii) the lack of attention of the Risk-Based System Concept of the BoL on the largest market participants whose activities are potentially subject to higher ML risks (c.26.5); (iv) the absence of written approach to assessing risk and forming conclusions on the AML/CFT risk of FIs (c.26.5); (v) the absence of review of the formal AML/CFT risk rating provided for the entities belonging to the first risk category under the Risk-Based System Concept (banks) as part of AML/CFT risk supervision(c.26.6).

19. To address the deficiency identified in the MER for c.26.3, the authorities have modified in 2019 a Resolution of the Board of the Bank of Lithuania adopted in 2017, clarifying what an "acquirer" and "qualifying holding of the authorised capital and/or voting rights" mean.

20. However, it is unclear whether the applicable requirements, as explained by the authorities, can indeed prevent criminals from controlling FIs. The law on banks (and the sectoral laws for other types of financial market participants (FMPs) which, according to the MER, contains similar provisions) requires that an "acquirer" be of good repute (which includes the lack of criminal convictions for serious crimes). Art.24 of the law on banks defines what an acquirer is: the provision states that "A person or the persons acting in concert (hereinafter: 'acquirer') who have taken a decision on the acquisition of a qualifying holding in the bank's authorised capital and/or voting rights or to increase it so that the proportion of the bank's authorised capital and/or voting rights held by him would reach or exceed 20 per cent, 30 per cent or 50 per cent of the holding or so that the bank would become controlled by him (hereinafter: the 'proposed acquisition') must give a written notice thereof to the supervisory authority and indicate the size of the proportion of the qualifying holding in the bank's authorised capital and/or voting rights to be acquired, also submit the documents and provide the data specified in a list indicated in Article 25(2) of this Law". A Resolution of the Board of the Bank of Lithuania adopted in 2017 and last modified in 2019, clarifies that an "acquirer – means a natural or legal person who, whether individually or acting in concert with another person or persons, intends to acquire or increase, directly or indirectly, a qualifying holding of the authorised capital and/or voting rights in a financial market participant;" and that "qualifying holding of the authorised capital and/or voting rights – means a direct or indirect holding of the authorised capital and/or voting rights in an undertaking which represents 10% or more of

the authorised capital or voting rights of the undertaking or which makes it possible to exercise a significant influence over the management of that undertaking".

21. Also, the amendments deal only with banks and no provisions regarding the position in relation with other FIs have changed since the MER.

22. To address the deficiency identified in the MER for c.26.4, the BoL approved a Policy of the Financial Market Supervision Service of the Bank of Lithuania for the Supervision of the AMLCFT (referred to as the AML/CFT Supervision Policy) (Annexes 4 and 5) in December 2020. The AML/CFT Supervision Policy established a dedicated AML/CFT supervisory framework, separate from the prudential one, for all financial market participants (FMP) that fall under the purview of the BoL. The policy is complemented by a Methodology for ML/TF risk assessment, adopted in December 2020.

23. This policy envisages a supervisory approach based on risk and proportionality throughout the whole supervisory cycle, from risk identification through risk assessment, supervision and monitoring. It foresees that the frequency and scope of inspections should be based on risk and proportionality and that allocation of resources should be based on the risks identified for the FMP. The policy is complemented by a Methodology for ML/TF risk assessment, adopted in December 2020. However, the issues raised below in relation to c.26.5 apply.

24. In addition, the policy is complemented by a Methodology for ML/TF risk assessment, adopted in December 2020. Under this Methodology, FMPs (incl. those providing MVTS or currency exchange service) are assigned an ML/TF risk category and are individually assessed based on predetermined qualitative and quantitative criteria.

25. The deficiency identified under c.26.4 is therefore largely addressed.

26. To address both deficiencies identified in the MER for c.26.5 ((i) the lack of attention of the Risk-Based System Concept of the BoL on the largest market participants whose activities are potentially subject to higher ML risks and (ii) the absence of written approach to assessing risk and forming conclusions on the AML/CFT risk of FIs), the authorities have adopted a Methodology of the Financial Market Supervision Service of the Bank of Lithuania for MLTF Risk Assessment (hereinafter ML/TF Risk Scoring Methodology) in December 2020.

27. This methodology for the risk scoring of FMPs takes account of the NRA. It does not only take into account the size of the FMP (which informs the analysis of the principle of proportionality to supervision), but, and predominantly, its specific ML/TF risk, based on the collection of a variety of data and information which enables the BoL to identify, for both the individual FMP or, for those FMPs that present similarities (for a sectoral rather than individual approach), the inherent ML/TF risk which results in an initial risk scoring. This risk scoring is then subject, primarily through an expert judgement of the individual FMP based on the analysis of qualitative data, to an assessment of the existing control, mitigating measures and other factors (such as negative information from another authority or which is in the public domain) in order to identify the residual risk.

28. Overall though, the methodology provides a methodology for ML/TF risk assessment and the division of FMPs into 4 ML/TF risk categories. However, there are some areas for improvement, e.g.: the methodology does not specifically include delivery channel factors (although it clarifies that the list of the risk factors is not exclusive) and assessment of risk by group, where this takes place, might lead to some bluntness of assessment. In addition, there is scope to differentiate between each of ML and TF risks. In the risk assessment, data on PEP customers does not differentiate between domestic and foreign PEPs; all EU countries are considered to pose the same risk as a group in the assessment of the geographic risk and there could be more emphasis on data related to cash (data is collected on non-cash payments) and virtual assets. There is scope to enhance the specific control factors

considered (e.g. treatment of suspicion and record keeping). It is also unclear how the lack of attribution of risk score envisaged for FMP that are rated at level 4 can be adjusted in the case in which the data analysis for such FMP results in a higher risk classification. These issues may affect the accuracy of the risk scoring and the identification and treatment of those FMPs (and aspects of FMPs) that pose an actual and higher ML or TF risk.

29. The methodology specifies that supervisory actions and their scope depend on the results of the risk assessment of the FMP and that supervisory plans will be drafted accordingly. However, there is one item of undesirable language in the methodology, which is that "More intensive supervisory actions shall be directed at larger and systemically more important FMPs", which might detract from the overall risk based approach to supervision.

30. The first deficiency identified for c.26.5 is therefore largely addressed.

31. Through the adoption of the ML/TF Risk Scoring Methodology in December 2020, the authorities fully addressed the second deficiency identified for c.26.5 as the country has now a process for assessing risk and determining an individual risk scoring of FMPs based on a written supervisory policy and a written methodology for the assessment of the ML/TF risk.

32. The authorities also addressed the deficiency for c.26.6 through the adoption of the ML/TF Risk Scoring Methodology.

33. This new methodology for ML/TF risk assessment envisages specific ML/TF risk scoring, which is based on a data collection, evaluation and risk scoring that is based on the risk classification of the FMP:

- quarterly – for risk 4 FMP;
- quarterly or semi-annually – for risk 3 FMP;
- annually for – risk 2 FMP and
- with an ad hoc data collection/analysis – for risk 1 FMP

with no allocation of risk points though.

34. The review of the ML/TF risk assessment may take place earlier than specified in the event of significant circumstances (such as emerging risk factors, changes in shareholders, board members, managers) or other events that significantly affect the current risk assessment. Revisiting the risk assessment is not mandatory and it is unclear how the lack of attribution of a risk point to risk 4 FMP envisaged by the methodology can be reconciled in the event in which the data analysis of that specific FMP results in a different (and higher) risk scoring. There is also scope to add specific reference to major events/developments in the operations of a FMP to the methodology.

35. The deficiency for c.26.6 is therefore addressed to a large extent.

36. Through the adoption of the AML/CFT Policy and the ML/TF Risk Scoring Methodology, the Lithuanian authorities have implemented written, detailed and AML/CFT-focused risk-based processes, which addresses deficiencies identified in the MER for R.26 to a large extent. The lack of clarity regarding the extensiveness of the requirements to prevent criminals from involvement with control of FIs, and some minor shortcomings in relation to the new Policy and Methodology, remain. **R.26 is now rated LC**.

Recommendation 28 (Originally rated PC – no re-rating)

37. In its MER, Lithuania was rated PC with R.28, based on: (i) the definition of controller does not cover all potential beneficial owners in practice (c.28.1(b)); (ii) the timeframe for the notification to

the GCA of a change of shareholders is not appropriate and the supervisor is not empowered to address the subject by itself (c.28.1(b)); (iii) absence of a registration framework for TCSPs, accountants and real estate agents (c.28.3); (iv) lack of clarity of the statutory powers coverage to prevent criminal control of DNFBPs, except in relation to advocates (c.28.4(a)); (v) Art.25 of the AML/CFT law does not seem to cover all relevant criminality (c.28.4(b)); (vi) the provisions for DNFBPs do not cover associates of criminals (c.28.4(b)); (vii) lack of complete statutory powers of the Bar Association and the Chamber of Notaries in relation to supervision and sanctions (c.28.4(c)); (viii) inability of the supervisory authorities for legal professionals and auditors to impose fines for AML/CFT (c.28.4(c)); (viii) gaps in relation to risk sensitive supervision: none of the DNFBP supervisory authorities has a comprehensive approach to AML/CFT supervision (including a risk sensitive approach) (c.28.5(a)); (ix) the approaches of the DNFBP supervisors take into account ML/FT profiles of individual DNFBPs to the extent mentioned under c.28.5(a) (c.28.5(b)).

38. To address both deficiencies identified in the MER for c.28.1(b), the authorities have adopted amendments to the Gambling Law and the Lotteries Law in the 2020. Both provide definitions (beneficial owners, excellent reputation, etc.) and detailed licensing process regarding all potential beneficial owners.

39. As for the first deficiency under c.28.1(b) (the definition of controller does not cover all potential beneficial owners in practice), the Gambling Law (which covers casinos), provides in its article 2(9) the definition for a "person in control of a legal person" which differs from the previous definition of controller. However, this definition still does not cover all potential beneficial owners in practice, as the FATF definition of the beneficial owner does not include legal persons[3], whereas the Gambling Law defines the person in control of a legal person as natural or legal person. The beneficial ownership of legal entities without legal personality (such as trusts) is not addressed at all.

40. Also, the associates of criminals are still not covered by article 11 of the Gambling law. Within c. 28.1(b), the term "associates [of criminals]" should be understood widely. Specifically, there is no need for associates to have been involved with any particular criminal activity. For example, the term could include a close business partner of a convicted criminal. While article 11 does cover criminals (i.e. persons found guilty of a specified crime) as well as persons directly or indirectly controlled by criminals, it does not cover persons that have not been involved with any particular criminal activity. Which means that this provision still does not cover associates of criminals.

41. This first deficiency for c.28.1(b) is therefore not addressed.

42. As for the second deficiency identified under c.28.1(b) (the timeframe for the notification to the GCA of a change of shareholders is not appropriate and the supervisor is not empowered to address the subject by itself), the rules for notifying the GCA of changes within the license establishment have been unified under article $7^3(2)2$ of the Gambling Law: all changes must be reported within a 5 working day frame after the change. This means that in relation to the shareholders, the time-period has been significantly shortened (from the previous 30-day timeframe). However, this provision does not meet the requirement to prevent criminals from holding a function within a casino, as the GCA is notified 5 days after the changes and cannot apply *ex ante* necessary measures that might be needed regarding the changes of shareholding or management.

43. In addition, under Art. $7^2(4)2$, the license to operate shall be suspended within 3 working days if the GCA collects or receives data that the persons in control do no longer meet the requirement of

[3] The natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

impeccable reputation. While this seems to address the lack of ability of the supervisor to address problems by itself (i.e. the GCA does not longer need to file an application to the court), it does not equal to providing the supervisor with powers to remove one specific person (i.e. alleged criminal) from the shareholding or management of the casino.

44. This second deficiency for c.28.1(b) is therefore not addressed.

45. To address the deficiencies identified in the MER for c.28.3 (absence of a registration framework for TCSPs, accountants and real estate agents), the authorities referred to Art.25 par. 2 of the AML-CFT law, which sets a registration framework for TCSPs, and the Law of the Republic of Lithuania on the Protection of Consumer Rights regarding the registration frameworks for accountants and real estate agents, as they are not regulated separately in Lithuania.

46. Art.25(2) of the AML/CFT Law sets out a registration framework for TCSPs. Under this provision, a natural or legal person that has commenced or terminated the activities of a trust or company incorporation and administration service provider shall inform the State Tax Inspectorate or the Registrar of Legal Entities respectively; thusly confirming they comply with the AML/CFT legislation. However, a registration framework for accountants and real estate agents is still not in place. The rules regulating the protection of consumer rights are not relevant with respect to criterion 28.3, nor is the general framework for registration of legal entities since it is not related to the compliance with AML/CFT requirements. Although the obligation to inform the FCIS about the obliged entity's designated employees (AML/CFT Law, Art.22(1)) is AML/CFT specific, it does not constitute a sufficient registration framework. Indeed, these employees are to organise the implementation of money laundering and/or terrorist financing prevention measures and to liaise with the FCIS. However, in the context of criterion 28.3, such a framework should establish systems for monitoring compliance with AML/CFT requirements.

47. Therefore, the deficiency is only partly addressed and c.28.3 remains Mostly Met.

48. The authorities did not address the deficiency identified in the MER for c.28.4(a) (lack of clarity of the statutory powers coverage to prevent criminal control of DNFBPs, except in relation to advocates).

49. To address the first deficiency identified in the MER for c.28.4(b) (Art.25 of the AML/CFT law does not seem to cover all relevant criminality), the authorities referred to the AML-CFT law, which establishes prevention of criminal control of trust or company, or administration service provider, estate agent, virtual currency exchange operator and depository virtual currency wallet operator (Art.25 par.3).

50. However, since the last FUR, there were no changes in the Art.25 of the AML/CFT Law, which provides that a person may not be the beneficial owner of a real estate agency, or a member of the management or supervisory body of such entity, if he/she has been convicted of a crime against property, property rights, property interests, the economy, the order of business, the financial system, civil service and public interests, and if the conviction has not expired or has not been expunged. Thus, the country did not clarify whether this provision covers all relevant criminality, such as the designated categories of offences[4].

51. This deficiency has therefore not been addressed.

52. To address the second deficiency identified in the MER for c.28.4(b) (the provisions for DNFBPs do not cover associates of criminals), the authorities referred to ART.26 of the Criminal Code - Criminal Liability of Accomplices.

[4] See the FATF Glossary to the Recommendations.

53. However, accomplices, organisers, abettors, accessories and members of criminal associations would be convicted in accordance with Art.26 of the Criminal Code, and thus would fall within the scope of the criminal control prevention provisions. Yet, precisely because they would be convicted, they are by definition criminals rather than associates of criminals. Hence, under criterion 28.4(b), the term "associate" should be understood widely. Specifically, there is no need for associates to have been involved with any particular criminal activity. For example, the term could include a close business partner of a convicted criminal. To conclude, the provisions for DNFBPs still do not cover associates of criminals since they do not cover persons that have not been involved with any particular criminal activity.

54. Therefore, the deficiency has not been addressed.

55. To address both deficiencies identified for c.28.4(c) ((i) lack of complete statutory powers of the Bar Association and the Chamber of Notaries in relation to supervision and sanctions and (ii) inability of the supervisory authorities for legal professionals and auditors to impose fines for AML/CFT), the authorities referred to AML/CFT Law Art.36, par. 7 and 9, which was already enacted at the time of the MER.

56. The FCIS power of decision to apply sanctions was already in place at the time of the MER. The Bar Association and Chamber's power to forward the inspection documents containing the conclusions of the inspection for examination to the FCIS (AML/CFT Law, Art.36(7) and (9)) is commendable, but it does not remedy the deficiency. Indeed, the wording of the deficiency mentions the lack of sanction powers of the Bar Association and the Chamber, and so the indirect power to forward cases to another body is insufficient. The lack of complete statutory powers in relation to supervision and sanctions for the Bar Association and the Chamber of Notaries, as well as the inability of the supervisory authorities for legal professionals and auditors to impose fines for AML/CFT breaches, remain.

57. Therefore, the deficiencies have not been addressed and c.28.4 remains partly met.

58. To address the deficiency identified in the MER for c.28.5 ((i) gaps in relation to risk sensitive supervision and (ii) the approaches of the DNFBP supervisors take into account ML/FT profiles of individual DNFBPs to the extent mentioned under c.28.5(a)), the authorities have reviewed and updated the methodology for evaluating and controlling the risk of economic entities monitored by GCA in 2019 (Order No. V-13).

59. Overall, Lithuania has made commendable efforts to improve (i) has improved its AML/CFT risk-based supervision of casinos, but there is a remaining flaw since an entity can end up in a category not reflecting its real risk; (ii) has provisions that significantly limit the risk-based orientation of supervision of notaries; (iii) lacks supervision of TCSPs, real estate agents, accountants and auditors; (iv) has not yet finalised the promising processes concerning the Bar Association and FCIS; (v) has established supervision of advocates and judicial officers, which nonetheless is not risk-sensitive and lacks rules governing its frequency; (vi) has established risk-based supervision of dealers in precious metals and stones, which however lacks rules governing its frequency.

- **Casinos** – The *Methodology for evaluating and controlling the risk of economic entities monitored by GCA* is still only partially ML risk-based since breaches of the AML laws constitute only some of the factors assessed in line with paragraph 15 of this *Methodology*. It is therefore possible (although not likely) that an entity with high ML risk ends up – overall – in a risk category that does not reflect its real ML risks.
- **Notaries** – The *Methodology for implementing supervision based on notary risk levels* includes some provisions that significantly limit its risk-based orientation. Notably article 11.3 which stipulates that notaries that receive 0 to 8 risk points will be included in the low risk level group. This means that notaries who commit 2 and more (the upper limit is not specified)

AML violations can be still included in the low risk level group if they pose the lowest risk level with respect to other risk factors under article 7. Therefore, in relation to the ML risk assessment, the *Methodology* is insufficient. Also, article 9 states that the information regarding compliance with AML laws will be provided by notaries in the form of a questionnaire. This implies that the supervising authority does no investigation. Moreover, the Lithuanian authorities should consider widening the supervision on client-oriented questions [however, this is only a recommendation and does not affect the evaluation of c.28.5(a)]. The *Methodology* focuses solely on the risk assessment of the notaries and not of their clients. Notaries should be held to a high professional standard and their compliance with the law should be expected. If the supervision were widened as we suggest, a 5-year period of assessment would be unreasonably long. The reason is that the risk profiles of a notary's clients might change swiftly, and such a long period would not reflect that.

- **Trust and Company Service Providers, Real Estate Agents, Accountants and Auditors** – The Lithuanian authorities have provided no information on the supervision of trust and company service providers, real estate agents and accountants. The *Instructions for auditors aimed at preventing money loundering and/or terrorism financing* is a complex and detailed document which provides guidance to the auditors on how to avoid ML/TF risks. However, the document is not relevant within the scope of c.28.5(a) because the supervision of auditors is not included. The description of actions taken by the Chamber of Auditors does not contain any information on the framework for and frequency of risk-based supervision either.
- **Advocates** – The *"Concept"* prepared by the Bar Association cannot be taken into consideration in this evaluation as it has not come into effect, yet. The *Rules for Advocates and Advocates' Assistants Regarding Prevention of Money Laundering and Terrorist Financing* are not relevant within the scope of c.28.5(a) since no rules for supervision of advocates are included. The *Description of the Procedure of Handling the Register of Reported Suspicious Transactions, Submission of Information to the Financial Crime Investigation Service and Supervision over Implementation of Preventive Measures by the Lithuanian Bar Association* is dated 20 September 2018 establishes the framework for AML/CFT supervision of advocates. The Bar Council is empowered to do so (article 18) and is equipped with necessary legal tools (article 20 et seq.). Nonetheless, the supervision is not risked-based and there are no rules governing its frequency. Moreover, the authorities should consider shortening 14-days period under article 22 for the advocate to respond to the demands [however, this is only a recommendation and does not affect the evaluation of c.28.5(a)]. Such a period seems excessive, thusly providing enough time to fabricate the demanded documents.
- **Dealers in precious metals and stones** – The *Description of Procedure of Risk Based Supervision of Economic Entities in Money Laundering and Terrorist Financing Prevention* is reasonably risk-based and specifically aimed at AML/CFT (see especially articles 4, 8, 9 and 10). Nonetheless, no time-period (frequency) of assessment has been established (let alone a risk-based one).
- **Other measures –** The *Order No. Á-040 of the Director of the Department of Cultural Heritage* is being amended, which means no relevant changes have come into force yet and cannot be taken into consideration. The authorities have provided information concerning the Department's activities, none of them specifically attesting to the existence of AML/CFT risk-based supervision, though.
- It is commendable that the FCIS established a Supervision Unit in the FIU whose specialised functions include the supervision of financial institutions and other obliged entities, as of 1 April 2021. However, the regulation of activities of this Unit has not been adopted yet. Hence, for now, one cannot assess whether the Unit indeed ensures a comprehensive approach to AML/CFT supervision (including a risk-sensitive approach).

- Lastly, the document titled *Orders for Judicial Officers and Their Representatives by Means of Which It Is Intended to Prevent Money Laundering And (Or) Terrorist Financing* establishes the framework for AML/CFT supervision of judicial officers. It grants the Chamber of Judicial Officers the authority to supervise judicial officers (article 6) as well as necessary legal instruments to do so (article 9 et seq.). Having said that, the document does not provide for the supervision to be risk-based at all, nor does it set out any frequency of the supervision.

60. Overall, Lithuania has taken steps to address the deficiencies identified in the 5th round MER under R.28. Namely, the deficiencies under c.28.3, 28.5(a) and 28.5(b) have been partly remedied. Nevertheless, both deficiencies under c.28.1(b), the deficiency under c.28.4(a), both deficiencies under c.28.4(b) and both deficiencies under c.28.4(c) have not been remedied. Therefore, **R.28 remains rated "PC".**

Recommendation 32 (Originally rated PC – no re-rating)

61. In its MER, Lithuania was rated PC with R.32, based on: (i) absence of requirements that apply to mail and cargo (c.32.2); (ii) Customs does not have the authority to request and obtain further information where a false declaration or disclosure, or failure to declare, has been detected (c.32.4); (iii) Lack of co-ordination mechanisms among customs, immigration and other related authorities (c.32.7); (iv) no power to stop or restrain currency for a reasonable period of time in order to ascertain whether evidence of ML/FT may be found where there is a suspicion of ML/FT or predicate offences or when there is a false/non-declaration/disclosure (c.32.8).

62. To address the deficiency identified in the MER for c.32.2, the authorities have adopted a new requirement to disclose unaccompanied cash, which will go into force on 3 June 2021. In particular, item 11 of Order No 1B-368 imposes an obligation to submit a disclosure declaration to the customs authorities, where unaccompanied cash of a value of EUR 10 000 or more is entering or leaving the European Union. Item 18 of Regulation (EU) 2018/1672 provides the notion of unaccompanied cash, which refers to postal packages, courier shipments, unaccompanied luggage or containerised cargo. However, item 1 of Chapter 1 of Order No 1B-368 provides the scope of application of this Order, which specifically refers to "the procedure for the declaration and customs clearance of cash entering or leaving the European Union", i.e. requirements only apply to mail and cargo for EU external borders. .

63. In relation to deficiencies under c.32.4, c.32.7 and c.32.8, Lithuania has not taken any concrete measures to remedy them. **Therefore, R.32 remains "PC".**

4. CONCLUSION

64. Overall, Lithuania has made some progress in addressing the TC deficiencies identified in its MER and has been re-rated on one Recommendation: R.26 initially rated as PC is re-rated as LC.

65. Further steps have been taken to improve compliance with R.6, R.28 and R.32 since the end of the on-site (MER), but some gaps remain. Lithuania is encouraged to continue its efforts to address the remaining deficiencies.

66. Overall, in light of the progress made by Lithuania since its MER and the 1st Enhanced FUR was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, October 2021

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	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	PC	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	**LC**	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

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

67. 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 within one year's time.

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November 2021

Follow-up report

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

2nd 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.