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REPUBLIC OF LATVIA

DETAILED ASSESSMENT OF ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

MARCH 2006

INTERNATIONAL MONETARY FUND
LEGAL DEPARTMENT

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Acronyms

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
BoL	Bank of Latvia
CDD	Customer due diligence
CIS	Commonwealth of Independent States
EAW	European arrest warrant
EC	European Commission
EMU	European Monetary Union
ERM	Exchange Rate Mechanism
EU	European Union
FATF	Financial Action Task Force
FCMC	Financial and Capital Market Commission
FIU	Financial intelligence unit
LANIDA	Latvian Real Estate Association
ML	Money laundering
MLA	Mutual Legal Assistance
MLRO	Money Laundering Reporting Officer
NPO	Nonprofit organization
NIMA	Corporation of Real Estate Brokers and Dealers
PEP	Politically-exposed person
PIN	Personal identity number
ROSC	Reports on Observance of Standards and Codes
SRO	Self-regulatory organization
STR	Suspicious transaction report
TF	Terrorism financing
UN	United Nations
UNSCR	United Nation Security Council Resolution

PREFACE

1. An assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Latvia was conducted based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004. The assessment considered the laws, regulations and other materials supplied by the authorities, and information obtained by the assessment team during its mission from March 8–24, 2006, and subsequently. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex II of the detailed assessment report.

2. The assessment was conducted by a team of assessors from the International Monetary Fund (IMF). The evaluation team consisted of: Terence Donovan, Cecilia Marian, Nadine Schwarz, and Fitz-Roy Drayton, IMF Legal Department, and John Abbott, consultant. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines, and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated NonFinancial Businesses and Professions (DNFBPs), as well as examining the capacity, the implementation, and the effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Latvia as of March 24, 2006 and immediately thereafter.[1] It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 3). It also sets out Latvia's levels of compliance with the FATF 40+9 Recommendations (see Table 2).

[1] In accordance with the FATF assessment methodology, the assessors took into account further relevant requirements formalized as AML/CFT Regulations by the Latvian authorities within two months of the on-site assessment visit to Riga.

I. EXECUTIVE SUMMARY

4. **Aspects of Latvia's financial services market expose it to a high risk of money laundering but concerted steps are being taken to mitigate those risks.** There are welcome indications that money laundering risks have been reduced substantially due to strong preventive measures being implemented by the authorities and the financial institutions. Latvia is a regional financial center of some significance and acts as an important trade and financial gateway between CIS countries (mainly Russia) and Western countries. The high volume of throughput of transactions in accounts in Latvian banks reflects, in part, the financing of trade, but also contains a substantial component related to capital flows and transactions designed to minimize the impact of tax and currency control requirements in the originating countries, mainly in the CIS. It is difficult to separate out these flows statistically, but they are estimated by the Financial and Capital Market Commission (FCMC) to represent approximately 25 percent of the total assets of the banking system at end-2005, although the level has been dropping somewhat in recent months–a trend that is not unconnected to the AML/CFT measures taken recently.

5. **The authorities and the financial institutions are working to restore the international reputation of the Latvian financial sector, which was damaged by the poor practices and weak AML/CFT controls in the past.** Within the recent past Latvia had a reputation for widespread lax due diligence in relation to the opening and operation of accounts, particularly for nonresident clients, and the use of unregulated intermediaries to source corporate business from CIS countries. Accounts of these corporates were (and still are) typically operated in Latvian banks in the names of shell companies registered in offshore or other jurisdictions, the requirements of which often protected the anonymity of the beneficial owner of the company. It is unclear to what extent the Latvian banks originally knew the identity of the true owners of the funds maintained in or transferred through Latvia. While the international reputation of Latvian banks was questioned, there is little indication that this impacted their domestic business. Nor has there been any impact from a prudential perspective, as resident and nonresident business are perceived to be distinct and independent business lines and the banking system is highly liquid.

6. **International pressure contributed to strengthening the resolve of the authorities to take remedial action.** In a process which has been building in intensity, particularly over the last three to four years, the authorities and financial institutions have acted to clean up the Latvian financial system. Additional momentum was added by the naming of two small Latvian banks by US Treasury in a proposal for rule-making under US law as "financial institutions of primary concern for money laundering". The US announcement had a severe impact on the businesses concerned. Beyond these targeted actions, the informational demands of US-based correspondent banks arising under the US PATRIOT Act probably had an even broader and more sustained impact because Latvian banks depend directly or indirectly on them for US$ clearing and settlement.

7. **Led by the initiative of the Prime Minister, the authorities acted strongly in 2005 to address the deficiencies in the system.** An AML Council was established, chaired by the Prime Minister, and with representatives from the relevant government

ministries and agencies, as well as of the Bank of Latvia (BoL), to decide on a program of legislative, administrative, and other measures to ensure that Latvia put in place a robust AML/CFT regime. This level of political support has proven crucial in achieving amendments of a range of relevant legislative acts in a short period of time. These concerted efforts are now bearing fruit. As a further incentive to the banks to strengthen their due diligence, the FCMC has conducted an extensive range of thorough AML/CFT on-site inspections (including repeat inspections), and applied a range of monetary and other sanctions to banks found not to be fully compliant with AML/CFT requirements. At one point, 13 of Latvia's 23 banks were subject to intensified supervision[2] for AML/CFT deficiencies. Other sanctions included threats to remove all members of the Board of a bank or its AML/CFT compliance officer, and requirements to prohibit certain banks from opening new accounts for nonresidents. Almost all of the deficiencies identified during these inspections were well on the way to being resolved by end-2005.

8. **The response of the banks to the changes in law, requirements, and guidance, while slow in some cases initially, has been dramatic overall.** In accordance with improvements introduced into the AML Law in June 2005, and beginning with the higher-risk accounts (which typically includes nonresident accounts), banks have acted on a large scale to re-identify clients and request documentary evidence to support transactions. They have taken steps to ensure that they have documentation to establish as far as practicable the ultimate beneficial owner of their corporate accounts (including offshore companies) and any cases of accounts being operated by third parties. Where customers were unwilling or unable to provide the requested information, or did not respond in time, the accounts were closed. The banks informed the assessors that, of the total of 250,000 bank accounts closed by banks in 2005 for whatever reason, probably more than 100,000 accounts were closed as a result of the AML/CFT compliance initiative. However, the balances on many of these accounts were low. In accordance with Latvian legal requirements, the balances were transferred to other banks in Latvia or to banks in other European Economic Area countries.

9. **The improvement in the implementation of AML/CFT measures has been substantial, but the task is not yet complete.** Most banks, particularly the larger banks, appear to be well advanced in the reform of their AML/CFT internal control systems and customer due diligence (CDD). Some smaller banks are still in the process of improvement and implementation, though the FCMC indicated that there has been substantial progress in all cases. A concern was expressed to the assessors that some banks, particularly small banks largely dependent on nonresident business, may be focusing excessively on collecting documentation to avoid sanctioning and not giving adequate attention to understanding the true nature and purpose of the accounts or transactions. This is a factor that needs to be taken into account by the FCMC in the conduct of its next round of AML/CFT inspections, many of which should take place during 2006. These inspections should reveal to the supervisors the extent to which banks have successfully followed through on the necessary control measures. Overall, as high-risk nonresident business continues to be a feature of the Latvian financial system

[2] A status provided by the law which is a precursor to a variety of available serious sanctions

(particularly so for more than half of the banks), sustaining ongoing vigilance will be essential to protecting Latvia and its banks from further reputational damage. It is interesting to note that strong growth is being experienced by many of the banks, based on new resident accounts and diversification of business lines, reflecting the strong underlying growth of the Latvian economy.

A. Legal Systems and Related Institutional Measures

10. **The AML/CFT legal framework has been strengthened and expanded over the last two years.** There are three main laws: the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (AML Law), the Criminal Law, and the Criminal Procedure Law. The preventive measures for the financial sector and the designated nonfinancial businesses and professions (DNFBPs), the establishment of the financial intelligence unit (FIU) and its powers, the reporting of suspicious and unusual transactions, and the duties of supervisory and the monitoring authorities are contained in the AML Law, while money laundering and terrorist financing are criminalized in the Criminal Law. The powers to confiscate proceeds of crime and terrorist property and the related provisional measures and the ability to render mutual legal assistance and extradite persons in relation to money laundering and terrorism financing have been included in the Criminal Procedure Law.

11. **The AML/CFT provisions have been amended significantly in 2004 and 2005.** Amendments were adopted in a piecemeal fashion reflecting the need to respond to ongoing developments, deficiencies of the legal framework as they were identified, and evolving international standards. In reviewing the provisions of the various AML/CFT laws there are many indications that the revisions were undertaken in a hurried manner without attempting to reconcile the new provisions with existing provisions or to consistently amend provisions where needed. The fragmented amendments have resulted in gaps in the legal framework. Some of the gaps include the absence of necessary definitions of key terminology for the terrorist financing offences. There has also been a failure to amend the suspicious transaction reporting provision to specifically include the reporting of suspicious transactions relating to terrorist financing.

12. **Law enforcement, the courts, financial institutions, and other covered parties are all having some difficulties implementing and interpreting the new provisions in legislation.** Key difficulties for law enforcement agencies include:

- The position of the authorities that a conviction for money laundering offence requires the conviction for a predicate offence;
- Determining whether confiscation powers extend to all proceeds of crime and terrorist property;
- Determining the extent to which requests for mutual legal assistance can be rendered.

DNFBPs are not covered by the law to the extent needed and differences in the requirements of the AML Law and the laws regulating them result in confusion as to their obligations.

13. **A comprehensive review of the AML/CFT legal framework is needed, with the objective of developing a more consistent, coherent, and comprehensive framework.** Particular attention needs to be placed on amending the AML Law with a view to strengthening preventative measures (as noted in the discussion on financial institutions) and addressing:

- The reporting of suspicious transactions relating to terrorist financing; and
- The need to introduce powers for the relevant monitoring agencies of the DNFBPs to monitor compliance with the law.

Additionally, all the elements necessary for effectively criminalizing money laundering and terrorist financing and confiscating proceeds of crime and terrorist property should be included in the Criminal Law and Criminal Procedure Law. Particular care needs to be taken to ensure that definitions are included that reflect those used in Special Recommendation III on freezing and confiscating terrorist assets, to ensure clarity and fulfillment of international obligations.

14. **Legal persons are subject to a registration system that needs to be strengthened.** Legal persons who can be registered in Latvia include sole proprietorships, partnerships, companies, foundations, and cooperatives. All these entities acquire their status upon registration with the Register of Enterprises. For registration, entities are required to submit a range of documentation and the information is then kept in the Register of Enterprises. However, the arrangements to verify the details provided during the registration process are weak as the Registrar relies entirely on notaries to perform the verification function, but the notaries only conduct a pro-forma review by determining whether the required legal documents are produced or not. Additionally, there is no requirement for the disclosure of beneficial owners, a situation that may hamper efforts by law enforcement agencies to obtain information needed for investigations, as well as pose problems for financial institutions and DNFBPs when complying with customer due diligence requirements under the law. To address these deficiencies, provisions should be included in the law to:

- Require the disclosure of beneficial owners of legal persons as part of the registration process or provide alternative means to ensure transparency regarding the beneficial ownership and control of legal persons;
- Designate and require a competent authority to conduct more due diligence when registering legal persons; and
- Improve the powers to ensure compliance with the commercial law with regard to company registration.

15. **Bearer shares can again be issued in Latvia, increasing the risk of abuse by money launderers.** The law has been amended to once again permit issuance of bearer shares by joint-stock companies. There were provisions in place for the dematerialization of bearer shares prior to the amendments passed to the Commercial Law in 2004. There is no information on the extent to which bearer shares have been issued. As bearer shares

pose a potential risk of abuse by money launderers, the assessors recommended that Latvia dematerialize bearer shares and introduce a mechanism to ensure the effectiveness of this process.

FIU

16. **The effectiveness of the Control Service as Latvia's financial intelligence unit (FIU) continues to improve.** The FIU is established under the AML Law as a central national agency within the Prosecutor's Office's system. It is empowered to receive and analyze suspicious and unusual transactions from financial institutions and DNFBPs, and disseminate its information when it has a reasonable suspicion that a person has committed or is attempting to commit an offence or is laundering the proceeds of crime. It is currently adequately structured and organized and its staff are competent to carry out its role under the law. The head of the FIU provides strong leadership to the national AML/CFT initiative and has spearheaded efforts to create and raise awareness of the risks of ML and TF and the requirements of the AML Law among financial institutions and DNFBPs. The FIU has received substantial numbers of unusual (and some suspicious) transaction reports, mainly from the banks. In 2005, reports relating to 26,302 unusual and suspicious transactions were received by the FIU and, of these, 155 reports were forwarded to law enforcement agencies (relating to 2,561 transactions).

17. **An amendment to the AML Law is needed to eliminate the potential confusion of having two contradictory provisions dealing with the dissemination function of the FIU.** One provision empowers the FIU to disseminate its information to pre-trial investigative agencies while the other requires the FIU to send its analyzed information to the Prosecutor's Office. If the authorities wish to retain the current practice, Latvia should legislate for it unequivocally, by amendment of the AML Law to provide that the FIU disseminates its information to the Prosecutor's Office who will then forward the information to the relevant pre-trial investigative agency.

18. **While the Prosecutor's Office monitors the activities of the FIU, the latter appears to be autonomous in its day-to-day operations**. This monitoring is to ensure that the FIU has complied with legal provisions of the AML Law in the exercise of its powers, and to check the procedures of the FIU to ensure its efficient functioning and proper accountability. However, the role of the Prosecutor's Office is also to supervise pre-trial investigating agencies and, pursuant to this role, the Prosecutor's Office reviews the information of the FIU to determine whether the information is sufficient to indicate a criminal offence and, if so, what would be the suspected offence and, based on that determination, to send it to the relevant pre-trial investigating agency.

19. **The FIU will require more staff and other resources to carry out its role effectively as its workload increases.** The AML Law has recently been applied to DNFBPs and with the awareness-raising efforts of the FIU, it should receive more suspicious and unusual transaction reports in the future. To enable the FIU to deal with the increased volume of reports and to analyze more effectively and efficiently the reports received, and disseminate the information to law enforcement without delay, there will be a need for increased human and technical resources for the FIU. The assessors welcomed the ongoing interest shown by the AML Council to support the FIU, the

Prosecutor's Office, and the law enforcement agencies and provide them with additional resources, where needed.

Law Enforcement

20. **The fight against money laundering and terrorist financing has been greatly assisted in Latvia by the introduction of new investigative, tracing and seizing powers.** These powers were introduced by the Criminal Procedure Law in October 2005. With the introduction of these new powers, the main law enforcement agencies have included money laundering and terrorist financing as part of their core operations in their action plans for 2006. This has led to a number of reorganizations within the law enforcement agencies to include financial investigators as part of the investigative teams.

21. **Since October 2005 there has been a welcome increase in the number of financial investigations and the number of cases that have been passed to the Prosecutor's Office to take to court.** Police departments are currently conducting investigations into underlying predicate offences and tracing the proceeds of crime. The investigative efforts have been concentrated on the main sources of criminal proceeds identified in Latvia, including evasion of duty, drug trafficking, trafficking in human beings, dealing in counterfeit goods, and illegal logging. The investigation of these predicate crimes has led to a number of money laundering investigations. The investigations have not only been local but have also involved cooperation with law enforcement agencies outside Latvia from a wide range of jurisdictions. The investigations have also included the use of special investigative techniques by the law enforcement authorities in Latvia. One technique that has been employed on more than one occasion is the controlled delivery of illicit drugs and counterfeit goods.

22. **The powers under the Criminal Procedure Law have been used to trace and seize assets.** The assets have been seized for the purposes of seeking confiscation in the event of conviction in the criminal courts. There has also been repatriation of assets in at least one case. Assets have been traced to Latvia and seized. Subsequently these assets were sent back to the country where a major fraud had been committed.

23. **The Prosecutor's Office informed the assessors that it has made money laundering and terrorist financing a priority** and has designated prosecutors to deal with specialist issues such as organized crime. There are currently a number of money laundering cases before the courts awaiting sentencing. In these cases, assets have been frozen when they have been identified. The Prosecutor's Office plans to ask for those assets to be confiscated when the matters are finally disposed of by the courts.

24. **The improvements in the effectiveness of the Prosecutor's Office and law enforcement agencies have been achieved only recently and much remains to be done.** The issue of adequate resourcing needs to be kept under ongoing review. There is a need for training for prosecutors and investigators. Training in the areas of identifying proceeds of crime and tracing and seizing assets for the purposes of money laundering and terrorist financing cases have been identified by the police as priorities.

25. **At the time of the assessment, Latvia had not yet implemented measures to detect physical cross-border transportation of cash** and other bearer negotiable instruments, such as a declaration system or disclosure systems called for under the standard. However, a new piece of legislation, the Law on Cash Declaration at the Border, has been adopted and entered into force on July 1, 2006. The new law sets out an obligation to declare to the State Revenue Service of Latvia all physical transportation, out of or into Latvia, of cash and other financial instruments in an amount equivalent to or exceeding EUR10,000.

B. Preventive Measures—Financial Institutions

26. **The financial sector in Latvia is dominated by the 23 banks,** including one branch of a foreign bank, and includes a small number of insurance companies and brokers, capital-markets firms, as well as bureaux de change and the Post Office. The banks represent more than 90 percent of the total assets of the system. Nonresident business continues to represent close to 50 percent of the total assets of the banks, a few percentage points lower than in 2005.

27. **While, in the recent AML/CFT initiatives, emphasis has been placed appropriately on the banks, AML/CFT requirements are applied also to the other financial institutions, including insurance businesses, except for reinsurance.** There are specific requirements as to the location and/or rating of companies with which Latvian insurance companies may reinsure. However, while there are no rated reinsurance companies in Latvia, a small number of reinsurance businesses operates in Latvia, offering services mainly to clients in CIS countries. The FCMC informed the assessors that these companies are not subject to supervision and the assessors received no indication that they are implementing appropriate AML/CFT measures. Given the potential for abuse of reinsurance contracts for money laundering purposes, this situation could represent a reputational risk for Latvia. The assessors were informed by the authorities that the position is due to be regularized on the implementation by Latvia of the EU Directive on reinsurance.

28. **With regard to the legal basis for AML/CFT preventive measures, the latest amendments in 2005 introduced important new measures, particularly regarding beneficial owners.** However, the drafting of the legal provisions gives rise to some problems of consistency and interpretation, when viewed alongside the earlier provisions. While most of the fundamental preventive measures from the FATF Recommendations feature in the AML Law, a number lack the level of detail and precision needed to determine compliance with the FATF Recommendations. The AML Law is supplemented by the detailed Regulation of May 2006 and other earlier guidance issued by the FCMC, much of which uses wording from the FATF Recommendations and other relevant international source documents.

29. **The practice of the financial institutions (particularly banks), as evidenced to the assessors, appears not to be hampered by any shortcomings in the wording of the AML Law.** The assessors interviewed 13 financial institutions during the on-site visit, including a selection of seven banks from the total of 23. Overall, the level of

awareness of AML/CFT risks and practices was found to be very high and the description of AML/CFT measures put in place was comprehensive. Some banks had only recently acted to improve their systems and the process was not complete, while the measures introduced by others were already mature. There was a general pattern of having engaged large accountancy firms as consultants to audit the AML/CFT systems, advise on needed enhancements, and in some cases to develop and implement solutions, including in the information technology area.

30. **Nonetheless, the assessors identified many points of the AML Law where amendments–albeit often technical or minor improvements–are needed to achieve full compliance with the FATF Recommendations.** As the assessors understood that the authorities plan to amend the AML Law in late-2006/early-2007 to fully implement the Third EU AML Directive, this will present an opportunity to address the problems noted. Examples of areas where changes are needed include:

- Convoluted and, in some respects, contradictory text in the provisions for customer identification, when considered alongside the recently-introduced provisions for beneficial owners; the requirements for timing and verification of identification are not sufficiently clear;
- The legislative requirement for enhanced due diligence for higher-risk customers does not meet the international standard, though it was clear to the assessors that this is a particular focus of FCMC supervision and of the supplemental due diligence currently being conducted by the banks;
- The measures specified in law and guidance for the conduct of financial business using new technologies needs to be improved; the assessors noted that, although new accounts cannot now be opened using the internet, the use of the internet for conducting banking business (for nonresident clients in particular) is prevalent. The assessors encountered no indication that, in practice, controls being applied are weak in this area; and
- The requirements for correspondent banking address most of the main points of the FATF Recommendation, but fall short of the detail required.

31. **Other deficiencies in or omissions from the AML Law are more significant, although they do not seem to be interfering with effective implementation.** For example:

- There is a need to clarify the requirements for reporting of suspicious transactions (as distinct from transactions identified by reference to a set of indicators and which may not in reality be regarded as suspicious by the reporting financial institution); also, the timing for reporting of 'real' suspicious transactions may need to be enforced more firmly, as the assessors encountered a variety of differing explanations from financial institutions on their practices for reporting to the Control Service, few of which seemed to be consistent with the terms of the AML Law; and
- For wire transfers—a key issue given the extent of the transactions passing through Latvian banks—the assessors could not locate a specific requirement to

include originator information with the transfer. The authorities seem to be relying on a construction based on other related provisions. This does not imply that the practices of the banks were found to be deficient in this area.

C. Preventive Measures—Designated Nonfinancial Businesses and Professions and Nonprofit Organizations

32. **The AML/CFT regime for DNFBPs is new and still being bedded down.** While preventive measures obligations for DNFBPs have been in the AML Law for some time, it is only in the last year that organized efforts have been made to implement these requirements. Various organizations in the DNFBP sector have been mobilized to raise awareness of AML/CFT obligations and to promote compliance. Key organizations involved include government agencies (Lottery and Gambling Monitoring Inspectorate, State Assay Supervision Inspectorate), self-regulatory organizations (SROs), which exist for Sworn Advocates, Sworn Notaries, and Sworn Auditors, as well as various trade associations that have issued guidelines or regulations covering AML/CFT preventive measures requirements for the respective covered sector. While the volume of such issuances is substantial, the quality is uneven and most of the guidelines are advisory only, because the legal authority for AML/CFT compliance has not been clarified.

33. **As a result of the awareness-raising campaign, DNFBPs have a reasonably good understanding of their general responsibilities under the law.** However, knowledge of detailed requirements is sketchy and it is difficult to evaluate the degree of compliance.

34. **There are significant gaps in the legal framework for DNFBPs.** In particular:

- The specification of the circumstances under which DNFBPs are subject to the AML Law's requirements for preventive measures is too narrow, leaving out some parties who should be covered and restricting the circumstances in which the requirements apply;
- Several of the specific CDD provisions of the FATF Recommendations are missing or apply at too high a threshold. Requirements for PEPs are missing and most professionals are only required to identify clients when they engage in transactions of EUR15,000 or more or when they arrange safekeeping of financial instruments, or when opening accounts;
- Many of the specific internal control and reporting requirements called for in FATF recommendations are missing or are not legally binding on DNFBPs;
- The transactions monitoring required of financial institutions does not apply to DNFBPs; and
- Essential elements of internal controls have been spelled out only in guidelines or regulations that are purely advisory, with no effective means of enforcement.

35. **The regime for monitoring and ensuring compliance by DNFBPs with their AML/CFT requirements is not well structured.** While numerous government agencies, SROs, and trade associations have been mobilized to promote compliance, in most cases the authority and capacity of these groups to ensure compliance is inadequate:

- None of the groups has been given explicit authority to act as a supervisory and monitoring authority for purposes of implementing the AML Law in its sphere of competence;
- Government agencies (the Lottery and Gambling Monitoring Inspectorate and the State Assay Supervision Inspectorate) have implemented effective compliance supervision regimes, although some clarification of legal authority would be useful;
- SROs (for Sworn Advocates, Sworn Notaries, and Sworn Auditors) have the potential to fulfill the role of supervisory and monitoring authority for purposes of implementing the AML Law but clarification of their legal authority, procedures, and capacity is needed; while
- Trade organizations appear to be unsuitable to take on a role as supervisory and monitoring authority for purposes of implementing the AML Law.

36. **The assessors believe it would be desirable to appoint some governmental agency, appropriately authorized and adequately resourced, to act as the default supervisor to ensure AML/CFT compliance by those DNFBPs that are not supervised effectively by some other governmental agency or SRO.**

37. **Money laundering vulnerabilities are evident in real estate transactions and in the use of corporate entities.** The DNFBP regime should be strengthened to address these vulnerabilities and some modification of market practices in the real estate sector would be desirable:

- Independent accountants and independent lawyers play an active role in organizing real estate transactions and in company formation and management. The AML regime for these professions needs to be strengthened. Independent accountants are not covered by the AML Law and independent lawyers are not subject to SRO oversight; and
- Real estate brokers have only a partial perspective on key components of real estate transactions. More attention needs to be given to the role of various other professionals involved in the financing, settlement, and recording of real estate transactions.

38. **More attention needs to be paid to the role played by lawyers, notaries, accountants and other business advisers, as well as the registry of properties, in the negotiation, settlement, and registration of real estate transactions.** Requiring all property transactions to be settled by bank transfer would be desirable.

39. **The legal framework applicable to nonprofit organizations (NPOs) has recently been amended.** With effect from 2004, a new Associations and Foundations Law came into force. In accordance with its provisions, all NPOs are required to re-register in a new associations and foundations register. Registration is required whether or not the organization receives outside funding. Annual reports on NPO activities must be filed. As of March 2006, 10,097 NPOs were registered. Religious organizations are recorded separately by the Agency of Religious Issues. Drawing on a wide variety of information systems, the State Revenue Service monitors the financial assets of NPOs as

well as donations to NPOs, including for tax compliance, and in case of suspicion of ML or FT, informs the FIU.

40. **Financial data on NPOs is also generated by a range of reporting requirements:** (a) NPO reporting of charitable donations (1,507 cases in 2004); (b) taxpayers' claims for charitable deductions on tax filings (claims regarding about 800 NPOs were filed in 2004); (c) applications from NPOs to be eligible to receive tax deductible charitable contributions (608 cases in 2004); (d) information on payment of social contributions by NPOs; and (e) review of all donations above US$8,000.

41. **In addition to the monitoring carried out by the State Revenue Service, an extensive public awareness campaign has been conducted to inform NPOs of their obligations** to register and to educate the public of its responsibility to know to whom they are donating money and the intended use of the funds.

D. Legal Persons and Arrangements

42. **Legal persons and legal arrangements are subject to a registration system.** The following are the types of legal persons and legal arrangements that can be established or registered in Latvia: a company, a partnership, a sole proprietorship, a cooperative society, a political organization, a trade union, a foundation, an association, a farmstead, a fishing farm, a European commercial company, a European economic interest group, a branch of a foreign merchant, and a representative office of a foreign organization. All the entities except the last two acquire the status of a legal person upon registration with the Register of Enterprises and can own property. There is a central registration system for registration of all entities in the Register of Enterprises which is regulated by the law on the Register of Enterprises.

43. **Companies, including joint-stock companies, cooperative companies and European commercial companies are owned by shareholders where the company has a separate legal personality from its members while all the other entities are owned by their members.** Sole proprietorships, farmsteads, fishing farms, and members of political organizations and trade unions must be owned by natural persons. Founders and shareholders of European commercial companies must be legal persons. For registration with the Register of Enterprises, entities are required to submit different documentation and information but, at a minimum, all entities must submit names of founders, name of entity, members of the administrative institutions, legal address i.e., place of business and, in most cases, the founding documents, and this information is kept in the Register of Enterprises. Entities carrying on commercial activities, except for joint-stock companies, must disclose their shareholders/members/participants. Joint-stock companies and those entities established for nonprofit purposes need not declare their members or shareholders and only information relating to founders of the entities is kept with the Register of Enterprises. All legal persons including joint stock companies and cooperative companies are required to maintain information about their owners (members or shareholders), although joint stock companies which have issued bearer shares, political organizations, and trade unions are excluded from this requirement. Where information on owners is kept, it must be available to owners and law enforcement

agencies. Entities are not required by law to obtain information on their beneficial owners though they may do so. As of March 2006, there were 7,512 individual merchants; 61,911 limited liability companies; 798 joint-stock companies; 204 partnerships; 2,001 cooperative societies; 17,170 proprietorships; 32,880 farmsteads; and 137 fishing farms. All these engage in commercial activities. Of the nonprofit entities, there are 5,432 associations, 394 foundations, 150 trade unions, and 70 political organizations.

E. National and International Cooperation

44. **Latvia is able to provide mutual legal assistance (MLA) in criminal matters on the basis of international, bilateral or multilateral agreements to which Latvia is a party.** Where there is no agreement on MLA, the Criminal Procedure Law provides the legislative basis for providing assistance. It provides that if there is no treaty or agreement with the country, MLA is provided on the basis of reciprocity. The competent authority for international cooperation is the Ministry of Justice or the Prosecutor's Office depending on whether requests relate to pre-trial investigations or criminal proceedings. Latvia can provide assistance on a wide range of matters and MLA requests are not subject to unreasonable restrictions, though the provisions in the Criminal Procedure Law regarding confiscation should be expanded to specifically include the enforcement of foreign confiscation orders relating to all proceeds of crime, intended instrumentalities, and terrorist property.

Money laundering and terrorist financing are extraditable offences in Latvia. Extradition is possible on the basis of treaties and dual criminality is generally required.

II. General

Background information on Latvia

45. **Latvia occupies a strategic geographical position in Eastern Europe**, with its ports on the Baltic Sea providing an important trade route between Russia (and other CIS countries) and Western economies. Latvia has a population of close to 2.3 million and has land borders with Russia, Belarus, Lithuania, and Estonia.

46. **Latvia reestablished its independence in 1991 following the break-up of the Soviet Union.** It joined both NATO and the European Union (EU) in 2004. It is a parliamentary democracy, with a unicameral Parliament (Saeima), the next elections to which are currently scheduled for late-2006.

47. **Latvia has one of the highest economic growth rates in the EU**, with average GDP growth of more than seven percent per annum over the period 2002–2005. The EU is Latvia's main trading partner, accounting for more than 70 percent of imports and exports. Latvia joined ERM II in May 2005 with the intention of joining the European Monetary Union (EMU) at an early date. The authorities are working towards the replacement of the domestic currency—the lat (LVL)—with the Euro, possibly by 2008 (EUR1 = LVL0.7, March 2006).

General Situation of Money Laundering and Financing of Terrorism

48. **Latvia is vulnerable to being used for money laundering purposes due to number of factors including its geographical location.** It is a major transit point for trade between Western Europe and the CIS countries using its ports on the Baltic Sea and the land borders with the other Baltic States, Russia, and Belarus. The assessors were informed by the authorities that the majority of the serious criminal activity involves Latvia being used as a transit point, for instance in the case of drug trafficking. In cases of human trafficking, Latvia has been used as a gateway into the European Union for persons being transported from the East. There have been recorded cases of smuggling and transshipment of counterfeit luxury goods (e.g., originating in China).

49. **Financial transactions relating to proceeds of crime have been identified passing through the Latvian financial system.** The high volume of transactions creates a challenge for financial institutions in confirming the true purpose of the financial transactions. The main difficulty is that by the time the money arrives in Latvia it is difficult to identify it as the proceeds of crime. In addition, a number of cases have been identified where offences have been committed in countries outside Latvia and the proceeds then sent to Latvia by wire transfer. Frauds that have been identified include credit card fraud and internet phishing. In this regard, the police have identified cases where money has been wired into Latvia from the United States, United Kingdom, and other European countries, and has then been transferred on to Russia. The financial sector in Latvia, therefore, seems to be particularly vulnerable to the layering and integration stages of money laundering, with limited evidence of being used in the placement stage. The police informed the assessors that they have no evidence that organized crime is currently infiltrating the financial sector.

50. **Another vulnerability in Latvia arises from the rapid growth of the real estate sector**, particularly over the last five years as property prices have risen dramatically. The authorities advise that in some cases property development and the purchase of real property in Latvia has been linked to organized crime from outside Latvia. Other methods of money laundering in Latvia have been identified as the purchase of luxury items and, in particular, high value vehicles. These are preferred as they can be readily exchanged for cash. According to law enforcement, some casinos in Latvia have had in the past a close association with organized crime and some such links may still remain.

51. **In general, the recorded crime rate in Latvia is relatively low** with 22,193 serious criminal cases recorded in 2004, of which approximately 40 percent were cleared up. The major criminal activities identified by the authorities as predicate offences for money laundering are drug trafficking, trafficking in human beings, tax evasion, and VAT fraud. Fraud has also been identified locally ranging from “ponzi” and “pyramid” schemes to internet crimes such as phishing. Illegal logging, mostly for export to Russia, has also emerged as a crime generating significant proceeds. Due to the relatively small domestic market, most drug trafficking in Latvia appears to be destined for larger markets such as Russia. The drugs found in Latvia for transshipment have included cocaine on its way to Russia, and also MDMA, methamphetamine, amphetamines and heroin. There are

ongoing allegations of corruption in the public sector, including some highly-publicized cases. In 2005, 76 money laundering cases were investigated resulting in 10 prosecutions and five convictions.

52. **According to the law enforcement agencies, organized crime is not widespread in Latvia,** but some organized criminal activities have been identified. These offences have been committed either by local groups, sometimes acting in collaboration with foreign criminals, or by foreign criminals that have come to Latvia to commit specific criminal offences and then leave the jurisdiction. Currently there are six murders under investigation that are thought to be related to organized crime.

53. **The financing of terrorism has not been identified as a significant concern in Latvia** and there has been only one isolated case of domestic terrorism. The authorities have put a number of measures in place to detect terrorist financing. To date no listed terrorist has been identified as having assets in Latvia.

Financial services sector and DNFBPs in Latvia

54. **The financial sector in Latvia is dominated by the banks, of which there were 22 and one foreign bank branch at end-2005.** This includes eight foreign-owned banks representing more that 40 percent of total bank assets in Latvia, with parent companies from EU countries, Russia, and Ukraine. Banks in Latvia have shown strong balance-sheet growth in recent years, with assets reaching a level equivalent to EUR11.2 billion in 2004. On the credit side, bank financing of the property sector is growing sharply, amid a boom in property prices. In terms of funding, Latvian banks are highly liquid while nonresident deposit sources continue to be significant, though the levels are easing slightly from the previous high of more than 50 percent of total. Closer analysis shows that some banks (particular some of the smaller banks) account for a disproportionate amount of nonresident deposit business. The Latvian banks also have a major transactions-based business with nonresidents, with funds flowing mainly between Russia (and other CIS countries) and Western countries, notable among them being Cyprus and Switzerland. According to the Latvian banks, documentation indicates that this business is predominantly import and export-related. Volumes are equivalent to approximately half of the nonresident deposit balances at any given time.

55. **Among the other financial institutions supervised by the FCMC, there were 34 cooperative credit unions** operating in Latvia at end-2005 (with assets equivalent to EUR8.5 million) and six private pension funds (managing 13 pension plans with assets equivalent to EUR54 million).

56. **There were 17 insurance companies in Latvia at end-2005, of which five were involved in life insurance and 12 in nonlife business**. There were 34 investment brokerage firms, including 238 individuals authorized as investment brokers. In addition, it is understood that there are four Latvian companies providing reinsurance services, though only to nonresident insurance companies. There is currently no basis for licensing or supervision of these reinsurance companies.

57. **The investment services business in Latvia is relatively small but there has been growth in market capitalization.** There were five investment brokerage firms at end-2005 and 10 investment management companies, in addition to the Riga Stock Exchange and the Latvian Central Depositories.

58. **All of the categories of financial institution set out above are authorized and supervised by the FCMC.** All of them are among the entities obliged to meet the requirements of the Latvian AML Law and FCMC Regulation. As the AML/CFT requirements and related supervision by the FCMC apply on the same basis to all of these institutions (with due regard to size and risk characteristics), this report analyses them as a single group, distinguishing between types of financial institution only where differences in requirements apply.

The FCMC's Regulation and Guidelines

59. **Pursuant to the Law on the Financial and Capital Markets Commission (the Law on the FCMC), the FCMC has the authority to issue regulations and directives** that set out requirements for the functioning of the financial and capital markets and that govern the activities of the financial and capital market participants (Article 6 Paragraph 1, and 7 Paragraph 1.1 of the Law). These regulations and directives apply to the following reporting entities: credit institutions, credit unions, investment brokerage companies, investment management companies, insurers, depositories, stock exchange, private pension funds, and insurance intermediaries. The FCMC also has the authority to assess compliance with the laws and its own regulations as well as to sanction noncompliance (Article 6 and 7 of the Law on the FCMC). The law clearly states that the FCMC's regulations and directives are binding. The Law on Credit Institutions mirrors this statement by reconfirming that credit institutions are bound by the regulations and orders issued by the FCMC pursuant to the Law on Credit Institutions and other laws, regarding regulatory requirements for the operations of credit institutions and the procedures for the calculation of indicators characterizing the operation of credit institutions, and for the submission of reports (Article 7 of the Law).

60. **Since the adoption of the AML Law, the FCMC has provided the financial markets participants with regular and updated guidance that specifically addresses their AML/CFT obligations.** In October 2004, it issued Guidelines for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism (hereafter the FCMC Guidelines) and repealed the 2001 Guidelines on the Formulation of Procedures for Identifying Clients and Unusual and Suspicious Financial Transactions. According to the preamble, "these guidelines determine the core principles which [market] participants shall take into account when formulating and documenting an internal control system for the purpose of identifying clients and beneficiaries as well as unusual and suspicious transactions". The decision 214 of October 1, 2004 by which the FCMC Board approved the Guidelines mentioned that it was "recommendable" for the supervised entities "to formulate internal control procedures in compliance with the Guidelines". The content of the Guidelines was, however, for the most part, drafted in mandatory terms, followed the requirements set out in the AML Law, and provided detailed information on how best to comply with

these requirements. On a limited number of issues (such as politically-exposed persons (PEPs), for example), the Guidelines went beyond the dispositions of the AML Law. The assessors noted that, in practice, the industry regarded the Guidelines as mandatory. The FCMC used the Guidelines as a tool in its inspections and referred to the Guidelines when assessing compliance with the requirement to establish an effective internal control system set out in the AML Law and the Law on Credit Institutions. Sanctions for noncompliance were issued on the basis of the AML Law, not the Guidelines.

61. **In May 2006, the FCMC issued a Regulation** for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism (Regulation No. 93) in lieu of the Guidelines, on the basis of Articles 7 and 17 of the Law on the FCMC. The FCMC's intention was to update the AML/CFT framework and to avoid any potential doubt concerning the mandatory nature of the text. With the exception of the changes made in the wording of the text and a limited number of deletions and updates, the content of the Regulation is similar to that of the 2004 Guidelines. The assessors were therefore able to assess in part the effectiveness of the Regulation issued in May 2006 on the basis of the practice developed since October 2004. As the new Regulation entered into force on May 18, 2006 (within eight weeks of the on-site assessment visit), it is therefore part of the legal and regulatory framework to be taken into account in this assessment. It was issued under the FCMC's powers to issue binding regulations and noncompliance with the requirements set out in the Regulation is sanctionable. The assessors therefore considered that, for the purpose of this assessment, the new Regulation constitutes other enforceable means as defined in the FATF Glossary.

62. **The FCMC also provides the financial institutions with further information and guidance** in the form of letters to the relevant participants. These letters constitute best practice and are not enforceable as such.

Bureaux de Change

63. **Only banks or licensed bureaux de change are authorized to provide currency exchange services. The Bank of Latvia (BoL) is responsible for the licensing and supervision of nonbank bureaux de change.** At the time of the assessment, the BoL had licensed 88 companies to operate currency exchanges at 196 locations. Only legal entities are licensed and each location is individually licensed. According to the BoL, total turnover of exchange houses (purchases plus sales) was approximately US$1 billion in 2005. The number of licensed exchange locations has declined from 216 in 2003 to 196 at the end of 2005. These figures reflect new authorizations as well as cancellations of old licenses. Licenses have been cancelled both because the business had been discontinued and for noncompliance with regulations (in 15 cases).

64. **Licensing requirements are set out in BoL Regulation 114/5 of September 9, 2004** which, among other things, includes fit and proper tests for owners and managers. Nonresident companies may be licensed and several license holders are affiliated with exchange dealers from the nearby region. Licensed bureaux de change

may only deal in cash purchases and sales and are not permitted to maintain customer accounts, conduct wire transfers, or engage in ancillary nonexchange businesses. The exchange function must be kept physically and financially separate from any other business activity conducted by the license holder.

65. **AML/CFT preventive measures are a primary focus of the BoL regulation of currency exchanges.** Regulations require customer identification procedures, record keeping, written internal controls, appointment of a responsible official for AML/CFT compliance, training, and reporting of unusual and suspicious transactions. CDD is mandatory for transactions of EUR15,000 or more, including identification of beneficial owner. In 2005, 1,488 reports were filed with the Control Service, almost all based on the mandatory requirement to report transactions of EUR15,000 or more. The BoL conducts off-site monitoring and on-site examination of currency exchanges based on documented procedures. Its techniques include controlled purchases to verify that unusual or suspicious transactions are being monitored.

The BoL Regulation and Recommendation

66. In accordance with Article 11 of the Law on the BoL and Article 32 of the Law on Entrepreneurship, **the BoL is the competent authority to license and supervise the exchange activities (operated outside the banking sector) by the bureaux de change.** In September 2004, the BoL issued its Regulation for the Purchase and Selling Cash Foreign Currencies that outlines the licensing procedures for the selling of currencies. The Regulation was subsequently updated and reissued in March 2006. The new version came into force on April 1, 2006. The Regulation was issued in accordance with the requirements set out in the AML Law and the Law on the BoL, as well as other relevant laws. Failure to comply with the requirements set out in the Regulation and the AML Law may be sanctioned, and failures have been sanctioned by the BoL on the basis of Articles 10 and 11 of the Law on the BoL and Chapter 4 of the Regulation. For the purpose of this assessment, the assessors considered that the Regulation constituted other enforceable means, as defined in the FATF Glossary.

67. **In November 2004, the BoL issued Recommendations** to Business Ventures (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for developing an Internal Control System for the Prevention of Laundering of Proceeds Derived from Crime and Financing of Terrorists. These Recommendations provide the bureaux de change with further guidance on how best to comply with the requirements set out in the AML Law. As the Recommendations contain essentially nonbinding guidance, the assessors considered that, for the purpose of this assessment, they did not constitute other enforceable means, as defined in the FATF Glossary.

DNFBPs

68. The tables that follow summarize the AML/CFT framework for DNFBPs in Latvia and provide some of the key characteristics of each of the DNFBP sectors and activities.

Table 1. AML/CFT Framework for Latvian DNFBPs

Sector	Applicable AML/CFT Requirements					Supervised for AML/CFT (yes/no) Supervisor	Guidance Issued
	Covered by Legislation (Law)	*CDD (yes/no)*	*Record Keeping (yes/no)*	*Compliance Program (yes/no)*	*STR Reporting*		
Lawyers	Yes AML Law	Yes	Yes	Yes	Yes	No	Yes
Notaries	Yes AML Law	Yes	Yes	Yes	Yes	No but oversight regional courts	Yes (for STR reporting only)
Auditors	Sworn Auditors Only, AML Law	Yes	Yes	Yes	Yes	No, but oversight by Sworn Audit Assn	Yes
Accountants	No	No	No	No	No	No	No
Tax Advisors	Yes AML Law	Yes	Yes	Yes	Yes	No	No
Trust and Company Service Providers	Not a distinct profession	n/a	n/a	n/a	n/a	n/a	n/a
Casinos	Yes AML Law	Yes	Yes	Yes	Yes	Yes	Yes
Dealers in Precious Metals and Stones	Yes AML Law	Yes	Yes	Yes	Yes	Yes	Yes
Antique Dealers	Yes AML Law	Yes	Yes	Yes	Yes	No	No
Automobile Dealers	Yes AML Law	Yes	Yes	Yes	Yes	No	Yes
Real Estate Agents	Yes AML/Law	Yes	Yes	Yes	Yes	No	Yes

Table 2. Characteristics of Latvian DNFBPs

Sector	Size and Scope of Sector	Activity Licensed or Registered	Distinctive Financial Practices or Transactions
Sworn Advocates	903 members of Sworn Advocates Assn.	Yes; Licensed Sworn Advocates Assn	Only sworn advocates may represent clients in criminal matters. May provide broad range of business legal services
Lawyers	An unknown number of	No	No formal requirements

	independent professionals with legal training provide legal services in noncriminal matters		govern the activities of nonsworn advocate lawyers. Broad range of business and financial services are provided by lawyers.
Notaries	117 Notaries, organized under Sworn Notaries Council	Yes; Regulated by Min Justice and overseen by Sworn Notaries Council	Authenticate signatures; draw up Notarial Acts. Legal advice limited mainly to real estate transactions, family rights, and inheritance; not active in company formation; may hold client funds.
Sworn Auditors	157 sworn auditors; 124 sworn auditor companies.	Yes; licensed by Assn. of Certified Auditors	Only sworn auditors certify financial statements.
Accountants	Unknown number of independent professionals provide accounting services	No	No formal requirements govern activities of independent accountants. Offer broad range of business consultant services.
Tax Advisors	Not a distinct profession. A private Latvian Association of Tax Advisors includes 100 professionals. An unknown number of independent professionals also offer tax advice.	No	No formal requirements govern activities of tax advisors.
Trust and Company Service Providers	Not a distinct profession. Services providers include sworn advocates, independent lawyers, sworn auditors, accountants and notaries.	n/a	n/a
Casinos	19 licensed gaming operators, with 14 casinos operated by 8 companies.	Yes, by Lotteries and Gambling Supervisory Inspection	Financial transactions limited, no accounts, no credit. Controlled bank transfers allowed for large payouts.
Dealers in Precious Metals and Stones	400 registered to deal in precious metals and stones, with 1,000 places of business. Some nonregistered casual business.	Yes; by State Assay Supervision Inspection	Market limited, few high value transactions.

Antique Dealers	Undetermined number of antique dealers.	No	Market small and items traded typically are of low to moderate value. Controls on export of items of cultural heritage value,
Automobile Dealers	Approximately 42 new car dealers organized under Car Dealers Assn. Undetermined number of used car dealers	No	75 percent of new cars sold under leases provided by banks. Cash payment for new cars is exceptional.
Real Estate Agents	Two significant associations. Latvian Real Estate Dealers Assn (300 members) includes largest companies and most active agents. NIMA (Real Estate Brokers and Agents Corp) 140 membership comprises smaller offices. Unaffiliated and informal agents reportedly account for up to half of all transactions.	No	No formal requirements govern activities of real estate dealers. Dealers are not customarily involved in settlement of transactions and do not hold client funds. Lower valued transactions may be settled in cash but this practice reported to be declining.

AML/CFT preventive measures requirements for DNFBPs

69. **Most DNFBPs are within the scope of the AML Law**, Articles 2, (2) and (4) (b-e)) of which extends preventive measures requirements (CDD, record keeping, internal controls, suspicious transactions reporting) to natural persons and legal persons who perform professional activities associated with financial transactions (provision of consultations, authorization of transactions). Five categories of DNFBPs are specifically identified under the law: (1) organizers and holders of lottery and gambling; (2) tax consultants, sworn auditors, sworn auditor companies, providers of financial services, who are covered "except in cases which are associated with the pre-trial investigation professional activities thereof or within the scope of court proceedings; (3) notaries, advocates and their employees and self-employed lawyers, who are covered "if they assist their client to plan the management of financial instruments and other resources, the opening or management of various types of accounts, the organization of the necessary investments for the creation, operation and management of entrepreneurs and similar structures, as well as if they represent their client or act on his or her behalf in financial transactions or transactions with immovable property, except in the cases which are associated with the fulfillment of the defense or representation function in court proceedings;" (4) "persons whose professional activity includes trading in immovable property, means of transport, art and cultural objects, as well as intermediation in the referred-to trading transactions"; and (5) "performers of economic activities who are engaged in the trading of precious metals, precious stones and the articles thereof."

70. **With two exceptions, all the major categories of DNFBPs identified in the FATF Recommendations are subject to preventive measures requirements.** Independent accountants who are not also sworn auditors are not covered by the AML Law. Trust and company service providers are not a distinct profession in Latvia and thus are not specifically covered by the AML Law. Such services, however, are covered indirectly and partially through the regime for other DNFBP professions. In most cases, the Latvian requirements apply to a narrower scope of activities than called for in the FATF recommendations. For example, the AML Law only requires identification when DNFBPs open accounts or accept financial instruments for safe keeping, or when conducting financial transactions of EUR15,000 or more. FATF Recommendation 12 does not link the CDD requirement for DNFBPs to the opening of accounts or acceptance of financial instruments for safe keeping, which activities, in any case, are not the primary activities of most DNFBPs. Furthermore, Recommendation 12 generally calls for real estate dealers, lawyers, notaries, and other independent legal professionals to carry out CDD whenever they prepare for or carry out certain transactions, regardless of the size of the transaction. The Latvian requirement to report suspicious transactions, however, is in some aspects broader than called for under FATF Recommendations. Under the AML Law the reporting obligations of lawyers, notaries, other independent legal professionals, and sworn auditors apply when they assist in the planning of financial transactions and are not restricted to circumstances in which they "engage in a financial transaction" "for or on behalf of a client." Also, for casinos and dealers in antiques and precious metals and stones, the AML Law does not establish any minimum cash transaction thresholds that trigger preventive measures requirements. However, as these DNFBPs do not as a rule open accounts or accept financial instruments for safe keeping, preventive measures apply only when they are conducting financial transactions of EUR15,000 or more.

Structure and organization of DNFBP activities

71. **The structure, organization and business practices of designated businesses and professions vary considerably across sectors.** Some sectors are subject to professional licensing or registration; several are not. Where licensing is required, it may apply to only a subsection of a profession. In the case of lawyers, for example, membership in the bar is limited to sworn advocates, i.e., those who have been licensed to represent clients in criminal matters. No formal authorization is required to advise or represent clients in civil matters and, in practice, a variety of financial and business services are provided by numerous professionals who have legal training but who are not sworn advocates. Similarly, sworn auditors are those accounting professionals who are authorized to certify financial statements and are members of the Association of Certified Auditors. However, independent accountants who are not sworn auditors are active in providing a broad range of accounting, financial, and business services. There are no formal requirements governing the provision of tax advice, although a private Association of Tax Advisors has been organized to establish professional standards, practices, and qualifications. The number and range of services provided by independent legal and accounting professionals is not well documented.

72. **The real estate brokerage sector is highly fragmented.** Several associations of real estate dealers have been formed, with some attempt to introduce conduct of business standards. Of these, the Latvian Real Estate Dealers association includes the largest companies and most active agents. Still, market participants state that more than half of all real estate transactions, particular lower-valued transactions, take place on a private basis with no involvement of a professional real estate broker. The extent to which real estate transactions are settled in cash is unclear but market participants state that this practice is declining, in part because mortgage financing on favorable terms has become readily available. Real estate dealers offer assistance in listing a property and in mediating the buying and selling of property but they are not, as a rule, involved in the contract between buyer and seller, nor do they hold client funds or handle settlement and registration procedures. Transfer and registration of property may be handled privately, or arranged by a notary, or by a lawyer or other legal professional. Property registration requires that the signatures on a purchase/sale agreement be authenticated by a Sworn Notary. While property transfers incur various fees, there is no property tax in Latvia nor is there a capital gains tax.

73. **Dealers in precious metals and stones are required to be registered with the State Assay Supervisory Inspectorate** and the preponderance of dealers appears to have been registered. The Latvian market in precious metals and stones is not highly developed and most transactions appear to be for relatively low or moderate value. The market in antiques is likewise understood to be relatively small although there are no formal procedures for registering or identifying participants in the market. Tight controls on exports of items of cultural significance provide a channel for monitoring some activity in the antiques market.

74. **The automobile sector is highly fragmented and there are no formal requirements governing the activities of car dealers.** Most new car dealers are organized into a trade association, the Car Dealers Association, which promotes the interests of the membership. Used car dealers are less organized and business is frequently conducted on a casual basis. Approximately 70 percent of all new cars are sold to companies, and perhaps 75 percent of all new car sales are sold under leases provided directly by banks. Purchases of new cars with cash are understood to be the exception but this practice appears to be more prevalent for used car purchases.

75. **The gaming sector in Latvia is well developed and subject to a comprehensive regime of licensing and supervision.** Gross annual gaming revenue in 2005 reached EUR145 million, two thirds of which was accounted for by slot machines. Casino table games accounted for approximately 10 percent of total turnover.

Money Laundering Vulnerabilities of DNFBPs

76. Discussions with law enforcement agencies indicate that real estate dealings and misuse of corporate vehicles are two significant areas of money laundering concern which employ the services of DNFBPs.

Systems for monitoring and ensuring compliance with AML/CFT requirements

77. **The AML/CFT regime for DNFBPs is relatively new and systems for monitoring and ensuring compliance are not yet well developed.** For two sectors—casinos and dealers in precious metals and stones—governmental agencies have been assigned oversight responsibility and have established systematic oversight arrangements. For the other DNFBP sectors, to date, Latvia has pursued a strategy of relying primarily on SROs or other professional organizations to monitor and ensure compliance with AML/CFT requirements. Effective implementation has been handicapped by a number of structural weaknesses.

78. *Lack of legal authority.* **Both the Sworn Advocates Council and the Sworn Auditors Council are established under legislation which gives them authority to oversee and discipline their members within their respective areas of competence.** Neither has been specifically authorized to act as a supervisory and control authority for compliance with the AML Law. The Sworn Auditors Council has established an organized program of AML/CFT compliance monitoring, including onsite examinations. The Sworn Advocates, on the other hand, do not have a tradition of routine oversight of their members and have declined to take up this function for AML/CFT purposes, in part because of limited resources. In the case of trade associations, such as the associations of real estate dealers and car dealers, the associations have no legal authority to monitor the activities of members. In other cases, such as for tax advisers and antique dealers, professional associations are not well organized.

79. *Lack of comprehensive membership.* **Established SROs and professional organizations do not comprehensively cover the professions and businesses that are subject to AML/CFT preventive measures requirements.** For example, independent lawyers who are not sworn advocates are not required to be members of any professional association. Similarly, independent accountants who are not sworn auditors need not be members of any professional association, and the same is true for tax advisors. Participation in trade associations such as the real estate dealers associations and the car dealers association is voluntary, so the membership in these groups does not encompass all persons engaging in the covered activities.

80. **Notwithstanding the weaknesses in the oversight framework, the authorities have undertaken awareness-raising campaigns to foster voluntary compliance by all DNFBPs.** The Control Service has held meetings and organized seminars with all the representative SROs and professional and trade associations. Each of the groups has issued guidance to its members explaining their obligations under the AML Law and outlining the procedures needed to achieve compliance. While these issuances are characterized as “regulations”, they are only advisory since the issuing organizations do not have authority to issue enforceable AML/CFT requirements. All DNFBPs visited by the assessment team were familiar with their responsibilities under the AML Law.

81. **To strengthen the oversight regime for DNFBPs, on March 14, 2006 the Prime Minister issued an Order establishing a Working Group to draft legislation** to ensure designated nonfinancial business and professions are subject to effective systems

for monitoring and ensuring their compliance with requirements to combat money laundering and terrorist financing. Draft legislation was due to be submitted by June 1, 2006.

Overview of commercial laws and mechanisms governing legal persons and arrangements

82. **The Commercial Law and the Law of Associations govern the activities of the legal persons and arrangements in Latvia.** The legal persons and legal arrangements that can be established or registered in Latvia: a company, a partnership, a sole proprietorship, a cooperative society, a political organization, a trade union, a foundation, an association, a farmstead, a fishing farm, a European commercial company, a European economic interest group, a branch of a foreign merchant, and a representative office of a foreign organization are all subject to registration under these laws. Legal persons who undertake commercial activities are subject to registration under the Commercial Law while the Law of associations and foundations prescribes the registration requirements of associations and foundations. All these entities are registered with the Register of Enterprises. Those undertaking commercial activities are registered in the Commercial Register, while associations are registered in the Register of Associations. All the entities except a branch of a foreign merchant and a representative office of a foreign organization acquire the status of a legal person upon registration with the Registry of Enterprises and can own property. These laws prescribe what is required to be submitted for the registration process, which include at a minimum the founding documents and information on the founders of these entities. There is no requirement to disclose beneficial ownership information to the Register of Enterprises.

83. **A trust as a legal arrangement is not recognized in the Latvian legal system.** The term "trust" nevertheless appears in the Latvian legislation, but it refers to fiduciary relationships and not to the legal arrangement as understood in Common Law systems. The private sector and the authorities further informed the assessors that they were not aware of any trusts being created or established in Latvia under foreign legislation or of any foreign trust being otherwise handled in Latvia. The credit and financial institutions met confirmed that they do not hold accounts for foreign trusts.

Overview of strategies to prevent ML and TF

84. **The Latvian authorities have pursued an active strategy, particularly over the past three years, to achieve compliance with international standards on AML/CFT.** This work has been guided by the FATF Recommendations, the ongoing need to transpose the EU Third Directive on AML/CFT, and the recommendations of the report of the second MONEYVAL mutual evaluation of Latvia, which was completed in 2004.

85. **Latvia's AML/CFT strategy is coordinated at the highest level.** The main responsibility for the coordination of Latvia's AML/CFT efforts is with the AML Council. The membership of the AML Council includes the Prime Minister, Minister of Justice, Minister of Interior, Chairman of the Supreme Court, Prosecutor General,

President of the Bank of Latvia, and the Chairman of the FCMC. The AML Council is also responsible for the development of legislation in Latvia addressing AML/CFT issues. The AML Council is particularly concerned with addressing Latvia's international obligations with respect to AML/CFT issues. The fact that the Prime Minister chairs the AML Council is an indication of the political will of the authorities and how seriously the issue of AML/CFT is being taken in Latvia.

86. **The AML/CFT legal framework has been strengthened and expanded over the last two years, albeit in a piecemeal fashion.** While the strategy has been to respond to criticism by amending the legislative framework as quickly as possible, the assessment concludes that there is a need for a more holistic approach at this stage to ensure that, in dealing with the further legislative amendments being recommended, the opportunity is taken to clarify and consolidate existing provisions, to ensure that the overall framework is coherent.

87. **Improving the effectiveness of implementation continues to be another key focus of the AML/CFT strategy in Latvia.** This has been evident in the work of the authorities, and in particular the FCMC, in devoting substantial resources to AML/CFT inspection work and applying a range of sanctions. The private sector, particularly the banks, has also made an important contribution to the implementation of the AML/CFT strategy, through issuing their own industry guidance and acting collectively to improve standards of compliance.

88. **Further action is being taken with regard to DNFBPs**, for which the current strategy is to draft legislation to ensure that they are made subject to effective systems for monitoring and ensuring their compliance with AML/CFT requirements. As noted above, the Prime Minister issued an Order establishing a Working Group to draft such legislation by June 2006.

Approach concerning risk

89. **Latvia has not adopted an overall risk-based approach to the application of AML/CFT requirements**, though the FCMC Regulation includes some references to high-risk customers. In practice, risk characteristics are taken into account in determining the depth and frequency of supervisory attention given to individual financial institutions.

90. **The Latvian AML Law does not provide as such for the application of reduced AML/CFT measures to low-risk categories of business.** However, the AML Law has gone further in certain cases by providing for complete exemption from AML/CFT requirements of specified categories of business or client (e.g., business conducted with credit or financial institutions in Latvia or in a country which complies with the normative acts of the European Union, business with correspondent banks from OECD countries, and business with states or municipalities, etc.). This approach and its implications for the assessment and ratings are described in more detail in this report in the analysis of the appropriate FATF Recommendations.

Progress since the last MONEYVAL mutual evaluation

91. **The second mutual evaluation of Latvia was completed by MONEYVAL in May 2004. Since then, Latvia has taken considerable action to upgrade its AML/CFT legal framework** both overall and in the banking sector, which was recognized in the MONEYVAL report as a primary vulnerability for money laundering.

92. **The authorities have been successful in addressing several of the MONEYVAL recommendations** and in particular the following:

- The evaluators recommended enacting a legal basis for criminal liability of legal persons:

The Criminal Procedure Law has subsequently been amended with a view to introducing the possibility to hold legal persons responsible for both money laundering and terrorist financing, as described under Recommendation 2 and Special Recommendations II.

- The evaluators highlighted a number of shortcomings in the Latvian confiscation and provisional measures regime, most of which had already been identified in the first mutual evaluation that took place in 2001. They therefore reiterated the recommendation that the Latvian authorities should carefully and with urgency revisit the confiscation regime, including the issue of the reversal of the burden of proof (post conviction) when establishing what property was unlawfully obtained in some serious proceeds-generating offences and enhance the provisional measures regime:

The provisional measures have been greatly expanded by the latest amendments to the Criminal Procedure Law. The confiscation regime is now also more comprehensive and the possibility to reverse the burden of proof has been introduced, but only in limited circumstances.

93. **Other shortcomings identified in 2004 have been partially addressed:**

- The evaluators made several recommendations in respect of the preventive measures applicable to the financial sector, in particular in respect of non face-to-face identification, identification of corporate clients, identification of the beneficial owner, nominee and trust accounts, and numbered accounts:

Considerable progress has been seen, both in law and in practice, in respect of identification of the financial institutions' clients and the beneficial owner. This is the result of the strong measures that have been taken by the FCMC and of the overall awareness-raising of the risk posed by insufficient CDD in the banking sector. However, action still needs to be taken in order to implement full CDD measures, in particular in the following instances: suspicion of terrorist financing; higher-risk customers and transactions; and the legal persons that issue bearer

shares. Legal measures are also still required in respect of non face-to-face business, even though the risk of misuse seems limited in practice. Contrary to the concerns of the MONEYVAL evaluators, the IMF assessors found no indication that the Latvian financial institutions currently have business relationships with foreign trusts.

94. **Other considerations and recommendations made during the 2004 mutual evaluation, however, have not yet been addressed**, such as:

- One recommendation made by the MONEYVAL evaluators was to give urgent consideration to the possibility of clarifying, if necessary by means of legislation, the evidentiary requirements for a conviction of ML. It was in particular recommended to give consideration to putting beyond doubt in legislation that a conviction for money laundering is possible in the absence of a judicial finding of guilt for the underlying offence, and that this element can be proved by circumstantial or other evidence.

- The evaluators urged the Latvian authorities to consider what regulatory and supervisory structures are required where there were no supervisory bodies (for example, some money transmission service providers and all real estate agents, and other undertakings vulnerable to money laundering).

Although steps have been taken to raise awareness amongst the DNFBPs and to engage them in the AML/CFT efforts, a lot still remains to be done and a clear supervisory structure needs to be implemented with respect to all the DNFBPs (other than casinos, where significant measures are already being taken).

- At the time of the second mutual evaluation, it was unclear what instruction had been given for international wire transfers, leading the evaluators to recommend implementing SR VII:

Other than the requirement to maintain the original information with the wire, the Latvian laws and regulation still do not specifically address wire transfers.

Table 1. Detailed Assessment

1. Legal System and Related Institutional Measures

Laws and Regulations

1.1 Criminalization of Money Laundering (R.1, 2 & 32)
Description and analysis
R. 1, 2 & 32 **1.1 Criminalization of Money Laundering** Money laundering is criminalized by Article 195 of the Criminal Law which came into force on April 30, 1998 and was amended on June, 1 2005. It provides that: (1) For a person who commits laundering of criminally acquired financial resources or other property, the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property. (2) For a person who commits the same acts, if commission thereof is repeated, or by a group of persons pursuant to prior agreement, the applicable sentence is deprivation of liberty for a term of not less than three and not exceeding eight years, with confiscation of property. (3) For a person who commits the acts provided for in Paragraphs one or two of this Section, if commission thereof is on a large scale or if commission thereof is in an organised group, the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property." Article 5 of the AML Law describes the actions that constitute money laundering. The actions that are sanctioned are the conversion of financial resources or property into other valuables, by concealment or disguising of the true nature or origin, acquisition of ownership to, possession of or use of financial resources or other property. The *mens rea* of the offence is the intent to conceal or disguise the criminal origin of financial resources or other property. The inclusion of these elements meets the requirements of the Vienna and Palermo Conventions. The Latvian legislation adopts an all crimes approach. The predicate offences for money laundering are any offences under the Criminal Law. The Criminal Law is comprehensive and covers all of the required predicate crimes. **1.2 Definition of proceeds of crime** Article 4 of the AML Law defines proceeds from crime as financial resources and other property that has been directly or indirectly acquired as a result of the committing of criminal offences provided for in the Criminal Law. Proceeds from crime are also defined as financial resources and other property, which are controlled (directly or indirectly) or the owner of which is a person who in connection with suspicion of committing an act of terror or participation therein is included in one of the lists of such persons

compiled by a state or international organization in conformity with the criteria specified by the Cabinet of the Republic of Latvia.

In the AML Law "financial resources" are defined as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. Property is not defined in the Criminal Law or the AML Law. The Prosecutor's Office advises that they use the definition of property from the Civil Law. Articles 841–849 of the Civil Law describe property and property rights in Latvia. Property is tangible or intangible. Intangible property consists of various rights regarding obligations, insofar as such rights are constituent parts of property. Tangible property is either moveable or immovable. Tangible property is either fungible or nonfungible.

The practice in Latvia is that the owner or holder of funds must be convicted of a predicate crime before the evidence of proceeds of crime can be introduced in a money laundering case. There is an exception to this in Article 356 of the Criminal Procedure Law. This is detailed in the next section.

1.3 Predicate Crimes

Article 195 of Criminal Law has adopted an "all crimes" approach, so that all the proceeds-generating criminal offences are considered predicate offences to money laundering. The Criminal Law is extensive and covers all the categories of predicate offences referred to in Recommendation 1 and listed in the FATF Glossary.

The legislation does not specifically require the conviction for a predicate crime before there can be a conviction for a money laundering offence. However, the approach adopted by the Prosecutor's Office is that there should first be a conviction for a predicate offence before there can be a prosecution for money laundering. Such an approach limits the possibility of prosecuting of money laundering offences. Until 2005, there was only a small number of money laundering cases that have been prosecuted.

There is a limited procedure in Article 356 Section 2 Subsection 1 of the Criminal Procedure Law, under which a court can find that property is the proceeds of crime, apparently without there first being a conviction. The procedure allows that, in course of pre-trial investigation, a district (city) court upon the claim of prosecutor or investigator can acknowledge property as proceeds from crime if the owner or legal holder of property is unknown, and the prosecutor or investigator produces sufficient evidence of criminal origin of the property in question. This procedure would appear to partially address the problem of needing a prior conviction for a predicate offence before proceeding with a money laundering prosecution.

1.4 Threshold offences

See 1.3 above

1.5 Proceeds of Crime from another country

Article 5 Section 2 of AML Law provides that "the laundering of the proceeds from crime shall be deemed to be such when the criminal offence (...) has been committed outside of the territory of the Republic of Latvia". There must be criminal liability in the place where the offence was committed. This provision would allow evidence to be admitted from another country that property is the proceeds of crime.

There must be proof that the property is the proceeds of crime. The authorities have stated that the

level of proof required is that a person must be convicted of a predicate crime in the other jurisdiction before there can be a prosecution for a money laundering offence in Latvia. The exception to this is where the procedure under Article 356 of the Criminal Procedure Law is used, where the owner or legal holder of property is unknown.

1.6 Self-laundering

Article 195 of the Criminal Law does not prevent a prosecution for self-laundering. This seems to be limited by the requirement to have a conviction for the predicate offence before there is a prosecution for money laundering.

1.7 Ancillary Offences

Articles 15 to 22 of the Criminal Law criminalize the ancillary offences. These ancillary offences are applicable to money laundering offences under Article 195 of the Criminal Law.

Article 15 of the Criminal Law provides for Completed and Uncompleted Criminal Offences. This provides that a criminal offence shall be considered completed if it has all the constituent elements of a criminal offence set out in the Criminal Law. This includes Preparation for a crime and an attempted crime. It also includes the locating of, or adaptation of, means or tools, or the intentional creation of circumstances conducive for the commission of an intentional offence. It shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. Criminal liability results only for preparation for serious or especially serious crimes.

The article provides that liability for preparation for a crime or an attempted crime apply in accordance with the same Section of this Law as sets out liability for a specific offence.

Article 17 of the Criminal Law applies to the Perpetrator of a Criminal Offence and provides that a person, who himself or herself has directly committed a criminal offence or, in the commission of such, has employed another person who, in accordance with the provisions of this Law, may not be held criminally liable, shall be considered the perpetrator of a criminal offence.

Article 18 of the Criminal Law deals with The Participation of Several Persons in a Criminal Offence and provides that the participation by two or more persons knowingly in joint commission of an intentional criminal offence is participation or joint participation.

Article 19 of the Criminal Law deals with participation and provides that criminal acts committed knowingly by which two or more persons (i.e., a group) jointly, knowing such, have directly committed an intentional criminal offence shall be considered to be participation (joint commission). Each of such persons is a participant (joint perpetrator) in the criminal offence.

Article 20 of the Criminal Law deals with Joint Participation and an act or failure to act committed knowingly, by which a person (joint participant) has jointly with another person (perpetrator), participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it. Organizers, instigators and accessories are joint participants in a criminal offence. A person who has organized or directed the commission of a criminal offence shall be considered to be an organizer. A person who has induced another person to commit a criminal offence shall be considered to be an instigator.

A person who knowingly has promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has

previously promised to conceal the perpetrator or joint participant, the instruments or means for committing the criminal offence, evidence of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to sell these objects shall be considered to be an accessory.

A joint participant shall be held liable in accordance with the same section of this Law as that in which the liability of the perpetrator is set out.

Article 21 of the Criminal Law deals with Organized Groups. An organized group is an association formed by more than two persons, which has been created for purposes of jointly committing criminal offences or serious or especially serious crimes and whose participants in accordance with previous agreement have divided responsibilities.

Liability of a person for the commission of an offence within an organized group shall apply in the cases set forth in this Law for formation and leadership of a group, and for participation in preparation for a serious or especially serious crime or in commission of a criminal offence, irrespective of the role of the person in the jointly committed offence. This came into force on April 25, 2002.

2.1 Natural persons knowingly engaging in ML activity

Article 195 of the Criminal Law provides for the offence of money laundering and it applies to a "person" only (see 1.1 above).

2.2 Intentional element from objective factual circumstances

The intentional element of the money laundering offence that has to be proved is knowledge. Article 8(2) of the Criminal Law provides that in determining the form of guilt of a person who as committed a criminal offence, the mental state of the person in relation to the objective elements of the criminal offence must be established.

Article 129 of the Criminal Procedure Law also provides rules for the relevance of evidence. It states that evidence is relevant to the specific criminal process if the information about facts directly or indirectly proves the existence or nonexistence of the circumstances in the criminal process or other evidence credibility or noncredibility, its usage possibility or impossibility.

The authorities stated that circumstantial evidence is a rule of evidence that is used in proving criminal cases and that money laundering offences are no exception. Therefore the mental element can be proved by objective factual circumstances.

2.3 Criminal liability extending to legal persons

Chapter VIII[1] of the Criminal Law provides for specific coercive measures (liquidation, limitation of rights, and confiscation of property, monetary levies, and compensation for harm caused) that can be imposed on legal persons convicted of money laundering. Chapter VIII[1] was enacted on May 5, 2005.

Article12 of the Criminal Law provides for liability of a natural person who commits an offence as the representative or at the instruction or while in the service of the legal person.

2.4 Administrative and civil sanctions

Latvian legislation does not provide for administrative or civil sanctions for ML.

2.5 Sanctions

Criminal liability for a natural person:
The sanctions for the money laundering offences are in the Criminal Law Article 195 and an amendment which was entered into force on June 1, 2005. The sentence for basic money laundering is deprivation of liberty for a term not exceeding three years or a fine not exceeding one hundred times the minimum monthly wage. The minimum monthly wage is currently LVL90 or approximately EUR130. The sentence can be imposed with or without confiscation of property. If the offence is repeated or committed by a group of persons by prior agreement the term of imprisonment becomes a term not less than three years and not exceeding eight years, with confiscation of property. If the offence is committed on a large scale or by an organized group the sentence is deprivation of liberty for a term not less than five and not exceeding twelve years, with confiscation of property.

Corporate criminal liability is covered by Articles 70^1 – 70^8 of the Criminal Law.

For legal persons, who are not public law legal persons, the coercive measures provided for in Chapter $VIII^1$ of this Law may be applied.

Article 70^1 provides the Basis for the Application of Coercive Measures to Legal Persons if the criminal offence has been committed in the interests of the legal person by a natural person in conformity with the provisions of Article 12, Section 1 of this Law.

Article 70^2 provides the Types of Coercive Measures Applicable to Legal Persons:

- liquidation;
- limitation of rights;
- confiscation of property; or
- monetary levy.

The following additional coercive measures may be specified:

- confiscation of property; and
- compensation for harm caused.

R. 32

The Prosecutor's Office submits data related to investigations relating to all the types of crime, including ML, to the Information Centre of the Ministry of Interior on the following:

- criminal cases initiated;
- location of commission and short description of offence;
- main peculiarities of commission methods;
- data on and number of persons under investigation or prosecution;
- criminal qualification of offences, value of property seized or/and confiscated; and
- number of prosecutions and persons submitted to court.

Statistics on ML cases were as follows:

- In 2002, there were three criminal cases initiated concerning money laundering in which three persons were charged in ML and two convicted (one case is still in a court);
- In 2003, there were three criminal cases initiated concerning money laundering in which four

persons were charged in ML. One case is in a court and two are still in Public Prosecutor's Office because of the international search of accused persons;

- In 2004, there were 10 criminal cases initiated concerning money laundering in which 4 persons were charged in ML and one person convicted. Six cases are in the Police; three in Public Prosecutor's Office and are prepared for sending to court; and
- In the first nine months of 2005, there were 22 criminal cases initiated concerning money laundering, 14 persons were charged with ML, 21 cases are with the Police. By the end of 2005, there had been 10 prosecutions for money laundering with five people convicted.

There has been a significant increase in numbers of investigations started in the year 2005 due to the enactment of the Criminal Procedure Law on October 1, 2005.

Year	Reports from FIU received by Prosecutor's Office:	FIU files passed for investigation: Institution	Number	Investigations started:
2002	67	Finance Police	49	
		Economic Police	13	
		Organized Crime Combating Department	2	
		Security Police	3	
2003	87	Finance Police	67	9
		Economic Police	14	
		Organized Crime Combating Department	2	
		Corruption Prevention and Combating Bureau	4	
2004	110	Finance Police	80	10
		Economic Police	25	
		Organized Crime Combating Department	1	
		Corruption Prevention and Combating Bureau	3	
		Security Police	1	
2005	155	Finance Police	108	66
		Economic Police	38	
		Organized Crime Combating Department	2	
		Corruption Prevention and Combating Bureau	7	

Analysis

There has been a steady growth in the number of prosecutions for money laundering offences in Latvia. This has risen to 76 cases being investigated in 2005 resulting in 10 people going to trial, of which six were convicted. The Prosecutor's Office has increased the number of prosecutions and this progress is

acknowledged.

There is one major problem that needs to be addressed to enable full effectiveness of the money laundering prosecutions, that is the understanding of the judiciary and the Prosecutor's Office that there needs to be a conviction for a predicate offence before there can be a conviction for money laundering. This is not explicit in the legislation and appears to be the authorities' understanding of the law. This issue needs to be resolved as it severely restricts the number of effective cases that can be bought before the courts.

Recommendations and comments

Recommendation

- Take appropriate measures to ensure that prosecutions can be commenced without the need for a conviction of a predicate offence.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.1	LC	The effectiveness of the money laundering offence is limited by the practice in the courts and adopted by the prosecutor's office according to which there needs to be a conviction for a predicate offence before a money laundering charge. This practice also applies to predicate offences committed abroad.
R.2	C	
R.32	LC	(Composite rating)

1.2 Criminalization of terrorist financing (SR.II & R. 32)

Description and analysis

Overview

Article 88[1] of the Criminal Law provides for the offence of the financing of terrorism. This came into force in April 2005.

The Article provides that for a person who, directly or indirectly, performs (a) fund raising or (b) transfer of financial resources obtained in any way for the purpose of (i) utilizing such funds or financial resources, or knowing that they will be used in full or partially in order to commit one or a number of terrorist acts, or in order; or (ii) transferring them to a terrorist organization or an individual terrorist at their disposal (for financing of terrorism).

Article 88 of the Criminal Law was amended on December 8, 2005 to include a comprehensive list of criminal activities that would constitute terrorism for the purposes of the financing of terrorism. This provision applies to activities carried out by individuals terrorists as well as by terrorist groups (group of persons acting on the basis of a prior agreement).

The terrorism offence covers activities committed with a purpose of intimidating the population or forcing the country, its institutions, or international organizations to undertake certain activities or refrain from them, or to inflict damage upon the interests of the state, an organization of its inhabitants, or an international organization.

The activities that constitute terrorism are listed as: bombing; arson; manufacturing, storing, using, dissemination, scientific research or development of nuclear weapons, chemical, bacteriological, toxic or other mass destruction weapons; kidnapping of a person; capture of hostages; illicit manufacturing,

repairs, purchase, storage, carrying, transportation, forwarding, selling, application of firearms, firearm ammunition, pneumatic arms of large capacity, explosives or explosive launching equipment; capture or hijacking of air, land or water means of transport; deliberate activity aimed at extermination of people, infliction of bodily harm or some other harm to human health; destruction or damaging of enterprises, buildings, oil platforms located on continental shelf, oil or gas pipelines, electric lines, roads or vehicles, electronic communication networks, ionizing radiation facilities of national importance; causing of nuclear or radiation accidents; mass-scale poisoning; spreading of epidemics and epizootic; threats to carry out the activities listed in the above points if there are grounds to consider that the threat can be carried out.

Definition of funds
The offence refers to the raising and transfer of "financial resources". The AML Law defines financial resources as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. This definition does not fully comply with the Terrorist Financing Convention because it does not cover legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.

Link to a terrorist act
Article 88[1] does not require that the funds were actually used to carry out or attempt to carry out a terrorist act or be linked to a specific terrorist act. It extends to all transfers of funds to a terrorist organization or an individual terrorist at its disposal.

Attempt
Article 15 of the Criminal Law criminalizes the attempt of an offence and as such would capture an attempt to carry out the financing of terrorism financing.

Ancillary offenses
Articles 17–20 of the Criminal Law provide for ancillary offences of perpetration, participation and joint participation. Article 21 provides for the organized groups. The authorities rely on this for defining a terrorist organization.

Predicate offense for ML
As there is an all-crimes approach to money laundering in Latvia, terrorist financing as a crime under the Criminal Law is a predicate offence for money laundering.

Extraterritoriality of the terrorist offense.
Article 2 of the Criminal Law provides that liability of a person who has committed a criminal offence in the territory of Latvia shall be determined in accordance with this Law.

If the act of financing of terrorism was committed in Latvia, this provision would enable a prosecution for the financing of terrorism to be executed in Latvia notwithstanding that the act of terrorism, the terrorist, or terrorist organization were outside of the jurisdiction of Latvia.

Other elements**: **Intentional Element
Circumstantial evidence is admissible to prove intent by surrounding factual circumstances. See the reference to this in Recommendation 1 and 2 above.

Liability of Legal Persons
Articles 70.1 to 70.8 of the Criminal Law provide for liability of legal persons and sanctions as described under Recommendation 2 above.

Sanctions
Article 88.1 of the Criminal Law provides that the applicable sentence for terrorist financing is life imprisonment or deprivation of liberty for a term of not less than eight and not exceeding twenty years, with confiscation of property. If the offense was committed by a group of persons pursuant to previous agreement or is committed on a large scale, the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than fifteen and not exceeding twenty years, with confiscation of property.

For heading a terrorist group, the penalty is life imprisonment or imprisonment from fifteen to twenty years, with confiscation of property.

Implementation
To date there have been no prosecutions for the financing of terrorism. The only suspected terrorist incident in Latvia to date has been the bombing of a supermarket. When investigated, this was found to be a local incident that did not involve financing.

Analysis
The terrorist financing offence needs to be amended so that it fully covers all elements under the Terrorist Financing Convention. Whilst most of what is required under the Convention is covered in the legislation, some elements have yet to be included. In particular, the definition of financial resources should be amended to include all forms of "funds" as defined in the Terrorist Financing Convention.

Recommendations and comments

Recommendation
- Define "financial resources" in accordance with the Terrorist Financing Convention

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
SR.II	PC	"Financial resources" has not been defined in accordance with the Terrorist Financing Convention. Effectiveness could not be assessed as there has not been any prosecution for terrorism financing.
R.32	LC	(Composite rating)

1.3 Confiscation, freezing and seizing of proceeds of crime (R.3 & 32)

Description and analysis

Confiscation framework
There are a number of measures in the Latvian legislation that provide for the confiscation of property after conviction. Article 42 of the Criminal Law establishes the confiscation of property upon conviction. This is a compulsory transfer to State ownership without compensation of property owned by a convicted person or parts of such. The confiscation of property may be determined only in cases provided for in the Special Part of the Law, this includes terrorist financing under Article 88.1 and money laundering under Article 195.

Property owned by a convicted person that has transferred to another natural or legal person may also be confiscated. Property which is indispensable to the convicted person or his dependents may not be confiscated. The schedule to the Criminal Procedure Law lists the property that is indispensable and not subject to seizure:

- Home furnishings, household items and clothing necessary for the defendant, his family and dependents;
- Groceries, which are necessary for the subsistence of the defendant and his family;
- Money, the sum of which is not to exceed the state's determination of one month's subsistence minimum for the defendant and each member of his family;
- Fuel as necessary for cooking food for the family and heating the home;
- Machinery and equipment, necessary for the defendant to operate his business or exercise his profession, unless the business is adjudicated bankrupt or the defendant is barred by court order stemming from a criminal charge from exercising certain occupations; and
- For people whose occupation is farming: one cow, heifer, goat, sheep, pig, domestic fowl and small livestock, feed for the above livestock until new feed is harvested or the livestock is put out to pasture, as well as seed and planting material.

Article 358 of the Criminal Procedure Law provides that property obtained by unlawful means shall be seized (confiscated) by court ruling and credited to the state budget. This is when the property is no longer required for the purposes of the criminal procedure. Article 358(2) provides that in cases where it is impossible to seize property obtained by unlawful means other property, including funds, to the amount of the value of the property may be liable to seizure or recovery. This Article applies to a conviction for a criminal offence. This provision allows for substitute assets to be confiscated in place of those that could not be seized.

Article 42 of the Criminal Law does provide for the confiscation of property that has been transferred to another natural or legal person.

Article 240(2) provides for the confiscation of the instrumentalities of the criminal offence and 240(3) provides for the confiscation of illegally obtained valuables, objects and documents.

Article 240(2) provides for confiscation of instrumentalities, but does not specifically provide for the confiscation of property intended for use in a criminal offence.

Property derived indirectly from proceeds of crime

Article 355 of the Criminal Procedure Law defines "illegally gained assets" as any asset that comes into ownership or holding of a person as a result of a criminal activity. Illegally gained assets can be made the subject of confiscation under Article 358 of the Criminal Procedure Law.

This provision would not include income or profits from proceeds of crime as these would not be as a result of a criminal activity.

There is no definition of assets in the Criminal Procedure Law.

Article 4 of the AML Law defines proceeds of crime as financial resources and other property, which are controlled (directly or indirectly) by the defendant. Financial resources are defined in Article 1(3) of the AML Law as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments.

Property is not defined in the AML Law, the Criminal Law or the Criminal Procedure Law. The definition of property used by the authorities is that found in the Civil Law which is discussed earlier in the report.

The authorities advise that they have been able to ask for the confiscation of assets that are obtained indirectly from the commission of an offence. They have cited at least one case in which the profits obtained indirectly from the commission of an offence by way of investments were the subject of confiscation.

It would be preferable to amend the legislation to avoid any challenges in future that property acquired

was not directly as a result of the offence.

Property held by a third party
Article 42(1) of the Criminal Law provides for the confiscation of property owned by the convicted person that has been transferred to another natural or legal person.

Article 360 of the Criminal Procedure Law provides that where property obtained by unlawful means is found with a third person, the property shall be returned to its owner or lawful possessor.

Provisional measures
Article 179 to 185 of the Criminal Procedure Law deals with searches for property as a coercive measure.

Article 186-192 of the Criminal Procedure Law provides that seizure during an investigation.

Article 361 of the Criminal Procedure Law provides for the seizing of property and includes illegally acquired property related to criminal procedure. The law provides that during the pre trial process the decision to seize property will be that of the police officer. During the pre-trial stage it will be the decision of the court to freeze the property. The decision to seize property will be that of the police officer and the court will then determine if the property should remain seized. This effectively provides for the seizing and freezing of property at an early stage of an investigation and during the pre-trial process.

Article 358 of the Criminal Procedure Law provides that where the accused has no property that might be liable to seizure the following property may be seized:

- Property given by the accused to a third person after committing the criminal offence;
- Property of the spouse, unless separated three years before the offence was committed;
- Property of another person where the accused has joint property with that person.

Ex parte applications

Article 361(4) of Criminal Procedure Law provides that in urgent cases property can be seized with the prosecutor's consent. The person performing the procedure must, at the latest on the next business day, submit a protocol justifying the necessity and urgency of the seizure. Article 362 provides that the protocol must be in writing and must fully describe all of the items seized.

Article 365(1) provides that seized property can be left in possession of its owner or user or his family members, but cannot be left in the possession of the suspect or the accused.

Legal Powers of Authorities to Identify and Seize Assets
Documents can be required to be produced at the pre-trial stage under Article 121(3) (5) of the Criminal Procedure Law; this requires the Investigative judge's approval and will allow for confidential information and documents from a financial institution to be produced

Rights of Bona fide Third Parties

Article 360 of the Criminal Procedure Law provides that where property obtained by unlawful means is found with a third person, the property shall be returned to its owner or lawful possessor. A third party is then entitled to file a claim for the property if it was obtained in good faith. This includes making a claim against the accused or the convict. The legislation does not define what an indemnity is for the purposes of this Article or what the third party can claim for.

This article protects the rights of bona fide third parties

Provisions to Counter Disposal of Assets Subject to Confiscation
There are no measures in the legislation that would allow for the voiding of contracts.

Reversed Burden of Proof
Article 355 of the Criminal Procedure Law provides for the reversal of the burden of proof with respect to the property and financial resources that belong to person who is

- a member of or abettor to criminal organized group;
- involved in or maintains constant relationship with person who is involved in acts of terrorism;
- involved in or maintains constant relationship with person who is involved in illegal drug circulation; and
- involved in or maintains constant relationship with person who is involved in human trafficking.

In those cases unless it is proved wrong, illicitly gained assets shall be considered the assets belonging to the convicted person and thus subject to confiscation.

Additional elements

a) Under Article 355 of the Criminal Procedure Law there is the possibility with the reversal of the burden of proof of confiscating the property of members of an organized criminal group;

b) There is no civil forfeiture in Latvia;

c) Article 355 of the Criminal Procedure Law provides a reversal of the burden of proof for those that are involved in certain offences, such as terrorism, drug trafficking and human trafficking.

Implementation
The authorities in Latvia have been using their powers to seize the proceeds of crime in criminal cases. In 2005, there were 56 freezing orders obtained for the value of LVL2.4 million. In 2006, 16 freezing orders have been obtained to the value of EUR250,000.

Confiscation has also been ordered in a number of cases and in 2005 approximately EUR174,000 was made subject to confiscation orders.

There are a number of money laundering cases waiting sentencing where confiscation is a possibility. Most of these cases involve VAT evasion. There is also a case of illegal logging and a case of fraud from the government. The sums involved range from LVL5,000 to LVL70,477 seized and awaiting the final determination of the court.

In one case the Economic Crime Police seized LVL13 million from a bank account and returned it to the United Kingdom. The money had been obtained as the result of a bank fraud.

The conclusion is that confiscation regime as it currently stands is being implemented by the authorities in Latvia, with cases of seizure being undertaken on a regular basis. The tools available appear to be achieving results. The confiscation regime however does have its limitations that, if addressed by the authorities, could make the system more effective:

- Article 355 of the Criminal Procedure Law does not have a definition of property or assets. The definition used by the authorities is from the Civil Law;
- It is not clear whether Article 355 would apply to property or assets that were indirectly obtained as a result of criminal activity;

- The provisions for seizure also refer to the illegally acquired property, that again may preclude the seizing of property obtained indirectly;
- Forfeiture of instrumentalities does not include those items that are intended for use in criminal activity, except in cases of preparation or attempt to commit a crime;
- There is a need to amend the definition of "proceeds of crime" to reflect definition of property for the purposes of the Criminal Law and the Criminal Procedure Law; and
- There is a need to amend definition of illegally acquired property to ensure that it would cover property obtained directly and indirectly as a result of the commission of an offence.

R. 32

Comprehensive statistics have been provided by the Prosecutor's Office of the property that has been seized in accordance with the legislation. According to the Prosecutor's Office, LVL121,594 (approximately EUR174,000) was confiscated by court verdicts in ML cases in 2005.

Reports on convicted persons for which judgment of conviction was passed under Article 195 and Article 219 of the Criminal Law in years 2002–2005*

Criminal Law (CL) Article, chapter	Number of persons in case	Number of persons convicted under CL Article 195	Account section in court statistics which bears more severe sanctions	Date of hearing**	Sentence
2002					
CL 195.2	2	1	CL 176.2 (Robbery)	27 May, 2002	Deprivation of liberty for six years, without confiscation of property, and police supervision for two years
2005					
CL 195.2	9	1	LCC 165.2 (Giving of Bribes)	1August, 2005.	Deprivation of liberty for six years, with confiscation of property, and police supervision for two years

* No persons were convicted of property confiscation under CL Articles 88; 88.1; 195[1]; 200; 219 and 329

Information concerning the instances of refraining from executing debit operations by credit institutions and instances when financial resources have been "frozen" as a result of FIU suspension orders.

Year	Amount in millions of LVL	The number of **refraining** and **suspension** instances
2002	11.8	16 *
2003	9.9	14 *
2004	13.64	37 * + 4 **
2005	2.8	56 **

* the number of instances when credit institutions have refrained from executing a transaction(s);
** instances when the FIU suspended debit operations by sending an official order to the institutions. The FIU can suspend transactions as of 2004 when amendments were made to the AML Law. Thus two asterisks stand for the

number of instances when the FIU officially suspended the resources credit institutions had initially stopped (refrained from execution). The FIU basically takes over what credit institutions have commenced.

Year	Amounts of property arrested relating to ML	Number of cases
2004	EUR595,269	1
2005 (first nine months)	US$800,000	1

Recommendations and comments

Recommendations

- Extend forfeiture to property that is intended for use in the commission of a criminal offence.
- Define "property" and "assets" for the purposes of the Criminal Law and Criminal Procedure Law
- Amend definition of "proceeds of crime" to reflect definition of property for the purposes of the Criminal Law and the Criminal Procedure Law.
- Amend definition of illegally acquired property to ensure that it would cover property obtained directly and indirectly as a result of the commission of an offence.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.3	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property needs to be broadened to deal with property obtained directly and indirectly. Forfeiture does not include property that is intended for use in the commission of an offence, except in cases of preparation or attempt to commit a crime. There is no measure that would allow for the voiding of contracts or actions.
R.32	LC	(Composite rating)

1.4 Freezing of funds used for terrorist financing (SR.III & R.32)

Description and analysis

SR III.1.2-3 ***Laws and procedures to freeze funds/assets in accordance with UNSCRs 1267 and 1373***

EC regulations. The obligation to freeze under UNSCR 1267 has been implemented through Council Common Position 2002/402/CFSP, which constitutes the CFSP base to adopt an EC Regulation. The resulting Regulation is Council Regulation (EC) 881/2002. EC Regulation 881 applies to Latvia. Article 2 of this regulation provides for the operative obligation to freeze, as well as the prohibition on making any funds available to any natural or legal person, group or entity targeted by the Regulation. It provides that all funds and economic resources belonging to, or owned or held by a natural or legal person, group or entity designated by the UN Sanctions Committee and listed in Annex 1 of the regulation shall be frozen. Annex 1 contains the same information as that maintained by the UN Sanctions Committee. The Annex is regularly and promptly updated by the Commission when the

Sanctions Committee amends its list. The Common Position has been amended on one occasion, through Council Common Position 2003/140/CFSP, in order to implement UNCSR 1452 (2002). Regulation 881 has been amended some 78 times so far.

The European regulations are immediately effective in European national systems without the need for domestic implementing legislation. Financial institutions are therefore required to directly implement this regulation and, as new names are published on the subsequent lists, financial institutions which identify a customer whose name is on the list should immediately freeze the account. Funds must be frozen without prior notification to the persons concerned. Decisions on the freezing of assets taken on the basis of the EC Regulations can be challenged before the European Courts.

The obligation to freeze under UNSCR 1373 has been implemented in the EU through Council Common Positions 2001/930/CSFP and 2001/931/CSFP. The resulting Regulation is Council Regulation (EC) 2580/2001. Article 2 of this Regulation contains the operative obligation to freeze, as well as the prohibition of making any funds available to persons, groups or entities targeted by the Regulation. The targeted persons, groups or entities are determined by the Council acting by unanimity and is listed in a separate Council decision. However, the EC Regulation 2580/2001 does not cover persons, groups or entities having their roots, main activities and objectives within the EU (EU internals). The EU internals are still listed in an Annex to the Common Position 2001/931/CSFP where they are marked with an asterisk signaling that they are not covered by the freezing measures but only by an increased police and judicial cooperation between the Member States. Latvia does not independently list EU terrorists to supplement the EC Regulations.

Article 17(1) of the AML Law provides that persons referred to under Article 2 of the Act shall refrain from conducting a transaction if there is cause for suspicion that the transaction is associated with terrorist financing.

Article 17(2) of the AML Law provides that the persons referred to in Article 2 of the Act shall immediately report to the Control Service when they refrain from executing the transaction enclosing with the report the available documents associated with the refraining from executing the transaction.

Article 17(3) requires that the Control Service shall issue an order to suspend debit operations with the financial resources in the account of the client or movement of other property for a period not exceeding 45 days or inform the person that additional information is required. The Control Service may inform the supervisory authority about the action taken or inform the pre-trial investigation authorities.

Article 17^1 provides that if financial resources or other property are qualified as proceeds of crime in accordance with Article 4 of the Act, the Control Service may give notice to the financial institution to suspend the debit operation of such financial resource into the account of the client or other movement of property for a period not exceeding six months and Article 4 (1)(1) of the AML Law provides that the section applies to a person suspected of committing an act of terror or participation therein and is included in one of the lists of such persons compiled by a state or international organization.

III.3

There are no provisions for Latvia to freeze on behalf of another country unless there is a connection with an offence in Latvia.

III.4

Definition of funds
Article 1(3) of the AML Law defines financial resources as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments.

The definition of property used by the authorities is that in the Civil Law. There is no definition of funds in the legislation. The Prosecutor's Office advise that they use the definition of property from the Civil Procedure Law. Articles 841–849 of the Civil Law describe property and property rights in Latvia. Property is tangible or intangible. Intangible property consists of various rights regarding obligations, insofar as such rights are constituent parts of property. Tangible property is either moveable or immovable. Tangible property is either fungible or nonfungible.

Taken together these definitions do not fully meet the requirements of Article 1 of the Terrorist Financing Convention. This would not cover legal documents or instruments in any form including electronic or digital, evidencing title to, or interest in such assets.

The verification of terrorist lists under the existing anti-terrorist financing system:
The verification of terrorist lists (consolidated by the FIU) is split into the following stages:

1) The FIU checks the UN/EU terrorists lists on a daily basis with a view to amend if necessary its own consolidated list and also receives updates of UN/EU lists via the Ministry of Foreign Affairs. The consolidated terrorist list is checked to see whether it complies with the requirements of the Cabinet of Ministers Regulation No 840. On The Countries And International Organizations Whose Lists Include Persons Suspected Of Committing Acts Of Terrorism Or Complicity Therein (Issued in accordance with the Article 4 paragraph 1 of the AML Law):
2) The Regulation provides for the lists including persons suspected of committing acts of terrorism or complicity therein compiled by countries and international organizations (hereinafter—the terrorist lists), which shall be recognized in The Republic of Latvia.
   - The lists of countries meeting at least two criteria from the list below are recognized in Latvia:
     (i) The country is a member of at least one of the organizations referred to below: Member of the United Nations Organization, Member country of the European Union, Member country of the Council of Europe, Member of the Organization for Security and Cooperation in Europe, Interpol member, Europol member; or
     (ii) A country is a party to the International Convention of December 9, 1999 On the Suppression of Terrorist Financing; or
     (iii) A country is a member of the Egmont Group, which unites financial intelligence units.
   - The terrorist lists compiled by UN, EU, OSCE, Interpol and Europol are recognized in Latvia.
   - The practice that has been adopted in Latvia for distribution of the terrorist lists is as follows:
     (i) The FIU puts the information regarding suspected terrorists from international organizations into the Latvian Consolidated Terrorist List of the FIU.
     (ii) The data is matched with the information already contained in the FIU database.
     (iii) The Latvian Consolidated List is sent to all financial institutions and their supervisory authorities for checking.
     (iv) The institutions then check the names from the Latvian Consolidated List with the data from their databases and with the data of each new client.
     (v) In the case of a positive match the institution concerned must immediately make a report to the FIU and refrain from executing financial transactions with the account (Article 17 of the AML Law).
     (vi) The FIU registers the report, and compares the data from the report with the terrorist list, if the match is confirmed, prepares a draft document for freezing the funds is prepared and then also a draft report to the Prosecutor's Office. In case of doubt a

request to countercheck is made to the country or organization that included the person concerned into the terrorist list.

(vii) The head of the FIU then signs the freezing order and it is sent to the respective institution by courier or by fax. A report is also sent to the Prosecutor's Office to decide whether a criminal case should be opened.

(viii) The country or international organization is then informed about what has been done by the FIU (a letter is sent).

No prior notice should be given to the designated persons involved.

Freezing Actions

Article 17^1 taken together with Article 4(1) (1) of the AML Law provides for the freezing of assets of those who are on the list. Article 17^2 provides for the freezing of assets where there is cause to suspect the financing of terrorism. Freezing is immediate upon identification of an account and this can be for up to six months.

The freezing action is by written order of the head of the FIU that can be distributed immediately. A copy is sent to the Prosecutor's Office for their records. This order initially requires the suspension of debit operations with the financial resources in the account of the client or the movement of other property for a period not exceeding 45 days.

If the order is not revoked within 10 days the FIU is required to notify the investigative services.

Communicating actions to the financial institutions

Article 17(3) of the AML Law provides that the Control Service notify the institution within 14 days following the receipt of a report of its decision to freeze or to continue its investigation.

Guidance to financial Institutions

Guidance has been issued by the Latvian FIU. The notes entitled Guidance for Financial Institutions in Detecting Terrorist Financing Activities were issued on March 25, 2003 and an update was sent to financial institutions and their supervisors on March 2, 2004. The guidance follows the FATF Best Practices Paper for SR III. The guidance deals with such issues as the characteristics of terrorist financing, determining when increased scrutiny is necessary, and the characteristics of transactions that may be a cause for increased scrutiny. The guidance also provides for selected case examples.

Procedure for de-listing

The FIU obtains a list of de-listed persons either directly or via the Ministry of Foreign Affairs in the same way as it receives the lists of the designated persons from the countries and international organizations, and the list is distributed in the same manner as described in III.1. The delisting procedure is not public.

The AML Law Article 17^1 provides that the FIU has the right to revoke its own order to suspend the debit operation of such financial resource into the account of the client or other movement of property before the end of the time period. Under Article 17^2 the FIU shall revoke the order regarding the suspension of the debit operation of financial resources into the account of a client or other movement of property if the client has provided justified information regarding the lawfulness of the origin of the financial resources or other property. The information referred to shall be submitted by the client to the persons referred to in Article 2, Paragraph 2 of the AML Law, who shall transfer such information without delay to the FIU.

The unfreezing procedures provided by the AML Law have not yet been carried out concerning

terrorist financing in Latvia.

There is no procedure for de-listing if someone in Latvia were to be listed as a terrorist.

Unfreezing of Assets
The procedure in Latvia is set out above.

The FIU has not yet used the procedures of freezing and unfreezing the funds or other assets of designated persons.

There was one case in 2004 and two cases in 2005 where the banks have frozen the funds of designated persons and reported to the FIU. After obtaining additional information the FIU determined that the matches were "false positives" and therefore recommended the banks to release the frozen funds.

Access to funds
There are no provisions in the law in Latvia that would allow access to frozen funds for the purposes of basic expenses and payment of fees, expenses and service charges.

Challenges to freeze orders
Article 49^4 of the Law of the Prosecutor's Office provides that the Prosecutor's Office supervises the FIU. This supervision is exercised by the Prosecutor General and Prosecutors specially authorized by the Prosecutor General.

The Prosecutor's Office reviews the information sent from the FIU concerning freeze orders. If the Prosecutor's Office agrees then the freeze order will remain in place. An appeal can be made directly to the Prosecutor's Office by a person affected by an order to have the freeze order removed. If the Prosecutor's Office does not agree to remove the freeze order there is a right to appeal against that decision in court.

There is a right to appeal to the Prosecutors Office and, in the event that the Prosecutor's Office does not agree to release the funds, then an aggrieved party has the right to challenge the decision in court.

Freezing , seizing and confiscation in other circumstances
Article 17(1) of the AML Law provides that persons referred to under Article 2 of the Act shall refrain from conducting a transaction if there is cause for suspicion that the transaction is associated with terrorist financing.

Article 17^2 provides for the freezing of assets where there is cause to suspect the financing of terrorism. Freezing is immediate upon identification of an account and this can be for up to six months. There is nothing in the law to prevent the freezing of nonillegally acquired assets.

Measures to protect bona fide third party interests
As above, the procedure would be to appeal to the Prosecutor's Office and, if funds were not released, to challenge the decision in court.

Measures to monitor compliance
Article 26^1 of the AML Law provides that in order that the supervisory and control authorities in order to perform their duties specified in this Law, have the right to request information from natural and legal persons. This information is associated with the implementation of the requirements of the AML Law. It is also used to perform activities in order to prevent or reduce the possibility of utilizing the financial system and the capital market of the Republic of Latvia for laundering of proceeds derived from crime or terrorist financing.

This means that financial institutions can be asked to provide information that would monitor their compliance with the legislation.

R. 32

The FIU has received the following number of reports from financial institutions:

2002	2
2003	4
2004	4

There are clearly defined procedures for the freezing of terrorist funds and a well established for checking lists and notifying the financial institutions.

Analysis
In practice, there is a comprehensive system for dealing with the freezing of terrorist funds. All parties are aware of their obligations and duties under the legislation. The FIU has a unit dedicated solely to the monitoring of the lists and ensuring that the information is disseminated to the financial institutions promptly.

There are some areas that still need to be addressed. The use of the definitions of financial and other property does not fully meet the requirements of the Terrorist Financing Convention. This would not cover legal documents or instruments in any form including electronic or digital, evidencing title to, or interest in such assets. There should be an amendment to the AML Law to include a definition that would fully meet the requirements as set out above.

There is no recognized system for the de-listing of persons that have been place on the Terrorist List in Latvia. The current system for de-listing only applies to those persons that have been listed by the Ministry of Foreign Affairs as a result of external lists.

There is no provision that allows Latvia to list terrorists from other EU states apart from those on the EU list.

There is no access to funds for the purposes of basic living expenses and legal costs to challenge a freezing order.

Recommendations and comments

Recommendations

- Define “financial resources” and “property” in accordance with the Terrorist Financing Convention.
- Implement a national mechanism to give effect to requests for freezing assets and designations from other countries and to enable freezing funds of EU internals (citizens or residents).
- Develop a clearly defined procedure for de-listing of suspected terrorists listed by Latvia (apart from those on the EU list for whom a procedure already exists).
- Provide for access to funds for basic living expenses and legal costs.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating

SR.III	PC	Financial resources and property are not defined in accordance with the Terrorist Financing Convention. Within the context of UNSCR 1373, Latvia does not have a national mechanism to consider requests for freezing from other countries (outside the EU mechanisms) or to freeze the funds of EU internals (citizens or residents). There is no publicly known and clearly defined procedure for de-listing of suspected terrorists listed by Latvia apart from those on the EU List. There is no access to funds for basic living expenses and legal costs.
R.32	LC	(Composite rating)

Authorities

1.5 The Financial Intelligence Unit (FIU) and its functions (R.26, 30 & 32)
Description and analysis

R. 26

26.1 Establishment of FIU

Article 27 of the AML Law, which came into force in June 1998, established a financial intelligence unit referred to as the Office for Prevention of Laundering of Proceeds derived from Criminal Activity (the FIU, also referred to as the Control Service) within the Prosecutor's Office system. Pursuant to Article 27, the FIU is the national central authority in Latvia to receive, analyze and disseminate information provided by the reporting entities listed in the AML Law on suspicious and unusual transactions (see also Recommendations 13, 16 and Special Recommendation IV below). The FIU is a legal entity monitored by the Prosecutor General and the Division of Prosecutors with Special Powers. The FIU has its own charter (or by-laws) that is approved by the Council of the Prosecutor General and is specifically empowered pursuant to Article 29 of the AML Law to receive and analyze reports by the persons covered by Article 2 paragraph 2 of the AML Law as well as information obtained by other means in order to determine whether the information it has may be related to the laundering or attempted laundering of the proceeds from crime. The Prosecutors Office is an independent office.

The FIU receives suspicious and unusual transactions reports (STRs, UTRs) from the reporting entities in electronic and/or hard copy. The analysis of the reports is conducted by drawing information from the FIU's own database as well as from other databases to which the FIU has access and from responses to the FIU's requests for further information, as described below (26.3, 26.4, 23.9 and 26.10).

26.5 Dissemination

According to Article 32 of the AML Law, the FIU on its own initiative can disseminate information to pre-trial investigation agencies and the court if it has a reasonable suspicion that any criminal offence, including ML or TF has been committed. Article 35 paragraph 3 further clarifies that the FIU shall submit its material to the Prosecutor General or the Prosecutor with Special Powers for transfer to the relevant institutions.

In practice, the FIU analyses the information and if it has a reasonable suspicion of money laundering,

terrorist financing or a predicate offence, it sends its analysis and its conclusion as to the suspected offence to the Prosecutors with Special Powers who are responsible for monitoring the FIU. The Prosecutors with Special Powers are a unit of prosecutors within the Prosecutor's Office authorized to undertake the monitoring of the FIU. The Prosecutors with Special Powers send the information to law enforcement agencies. Before forwarding the information to the relevant law enforcement agencies, the Prosecutors with Special Powers check whether the information gathered is in compliance with the laws and whether the information is sufficient to indicate that there is a reasonable suspicion of an offence. They also make a determination as to the suspected offence and if the Prosecutors with Special Powers reach a different conclusion from the FIU as to the suspected offence, both conclusions are sent to law enforcement agencies. They also decide the appropriate law enforcement agency to whom the information is forwarded. It is to be noted that in Latvia, like in many other countries, prosecutors supervise law enforcement agencies in pre-trial investigations. The fact that the FIU is required to send the STR files to the Prosecutor's Office rather than to the law enforcement agencies directly does not appear in practice to affect the operational independence of the FIU or the effectiveness of the dissemination of STRs to law enforcement agencies.

The provisions of Article 32 and Article 35 paragraph 3 of the AML are potentially in conflict: the former states that the FIU may disseminate information to all pre-trial investigative agencies whilst the latter states that the information is to be sent to the Prosecutor's Office who then sends the information to law enforcement agencies. Article 36 paragraph 2 of the AML Law seems to confirm the second version (i.e. that of Article 35 paragraph 3) by stating that the "information, which has been acquired by the Control Service pursuant to procedures monitored by the Prosecutor-General or specially authorized prosecutors, shall not be transferred to the control of investigative institutions or to the courts or be utilized for their needs". The authorities stressed that these dispositions have had no negative impact in practice. The AML Law is nevertheless unclear and, although they may be relatively minor, the contradiction in the law should be addressed in order to prevent any potential conflict. This could be done, for example, by ensuring that the law reflects the current practice that the FIU submits its information to the Prosecutor's Office.

Pursuant to Article 33 of the AML Law, investigators, those involved in pre-trial investigative institutions and the court, may request information from the FIU and such a request will be evaluated and approved by a Prosecutor with Special Powers. Information can be provided where a criminal investigation or an operative investigation has been initiated. Once approved the FIU shall provide information in relation to ML cases, cases relating to proceed of crimes. Further information is generally requested by the Economic Police, the Organized Crime Prevention Bureau and the regional police. The Financial Police does not send requests for more information since it already has access to most of the relevant databases to which the FIU has access. In 2005, 88 requests were received and responded to.

Article 34 of the AML Law allows the FIU, pursuant to a request from the State Revenue Service that has been reviewed by the Prosecutor-General or a Prosecutor with Special Powers, to provide information at its disposal that is necessary for verifying income declarations of State officials required by the Law On Prevention of Conflict of Interest in Activities of Public Officials, if there is substantiated cause for suspicion that the official has provided false information regarding his or her financial circumstances or income.

In 2004, 110 files, covering 3,821 transactions and a total of 2,294 STRs and 1,229 UTRs, were sent by the FIU to law enforcement agencies, 80 to the Financial Police, 25 to the Economic Police, one to the Organized Crime Prevention Bureau, four to the Anti-Corruption Bureau. In 2005, 155 reports were sent, 108 to the Financial Police, 38 to the Economic Police, two to the Organized Crime Prevention Bureau, and seven to the Anti-Corruption Bureau. Up to March 15, 2006, 30 reports were sent to law enforcement agencies, 21 to the Financial Police, eight to the Economic Police, and one

suspected white collar crime to the Prosecutor's Office. See Table in Recommendation 32 below for further statistics.

26.2 Guidance on STR reporting and forms

Pursuant to the AML Law, the FIU has prepared a list of indicators of unusual transactions and STRs and procedures for the reporting of such transactions (Article 11 paragraph 1 (1)). The list was approved by the Advisory Board and the Cabinet of Ministers and issued as a Cabinet of Minister Regulation, Regulation No 127 On the List of Indicators of Unusual Transactions and the Reporting Procedure. The regulation is binding on the reporting entities. The regulation contains a form according to which reports must be submitted as well as the procedures on how they shall be submitted to the FIU and contains a list of indicators that highlight the unusual nature of a transaction. However, this Regulation only applies to credit and financial institutions and the definition of credit and financial institutions excludes some of the DNFBPs. Excluded DNFBPs will not enjoy protection from liability should they report transactions listed in the list.

In 1998, the FIU has also issued a list of indicators for STRs to the credit and financial institutions. In addition the FCMC and the BoL have issued guidelines to the entities they supervise.

The Advisory Board also tasked the FIU with developing a Model Guideline for DNFBPs based on the FCMC guidelines. The Model Guideline(s) were examined by the Advisory Board in 2005 and approved. The Model has been adopted by the DNFBPs' supervisory agencies or industry associations. The Latvian Sworn Auditors Council, Latvian Sworn Notaries Council, Latvian Sworn Advocates Council, the State Assay Supervision Inspectorate, the Lotteries and Gambling Supervision, LANIDA, NIMA, car dealers association have adapted and issued these Model Guidelines to their supervised entities/members and these guidelines incorporate the list of indicators set out the Cabinet of Ministers Regulation.

Paragraph 3 of Article 29 provides the FIU with the power to analyze the quality of the information reported and the effectiveness of its utilization and to inform the reporting entity of the findings of the quality and effectiveness. The FIU does not provide specific feedback on the STRs but does provide general feedback to the reporting entity on the quality of reports received during training sessions it conducts.

26.3 Access to financial, administrative and law enforcement information

Article 31 of the AML Law and Regulation No 497 On the Procedure according to which State Institutions provide Information to the Office for Prevention of Laundering of Proceeds derived from Criminal Activity dated December 29, 1998 (issued by the Cabinet of Ministers) entitles the FIU to request information from state institutions either in writing or electronically and this information has to be provided within 14 days. The FIU has identified some 500 possible databases of state institutions, of which 350 are used for the analysis of reports. The FIU has signed written agreements with holders of databases on the exchange of information. This enables the FIU to have online access to over 78 various databases most of which are available to the FIU free of charge. Some of the databases include the databases of the Financial Police, the State Police, the Economic Police, the Register of Enterprises, the Land Registry, the Vehicles Registry, the Population Registry, the State Revenue Services, the Register of convictions, and others.

26.4 Requesting additional Information from reporting entities

The FIU is authorized to request in writing additional information and documents about the transaction for which a report has been filed and may request information on other transactions after obtaining the consent of the Prosecutor General or a Prosecutor with Special Powers. Such information has to be

provided within 14 days or such longer period as may be approved by the FIU (Article 11, paragraph 2 of the AML Law)

26.6 Operational independence

Article 28 paragraph 2 of the AML Law provides that the FIU shall have its own budget and the FIU has a separate line item in the national budget. According to paragraph 3, Article 28 of the AML Law the structure and the staff of the FIU is determined by the Prosecutor-General in accordance with the amount of funds allocated from the State budget. In practice the FIU prepares the proposals of its structure and the Prosecutor General generally approves the structure.

The Head of the FIU is appointed for fours years by the Prosecutor General and his tenure is secured as he or she may only be removed from office during his or her term of office for the committing of a criminal offence, an intentional violation of the law, or for negligence which is related to his or her professional activities or has resulted in substantial consequences, or for a shameful offence which is incompatible with his or her status (Article 28 paragraph 4 of the AML Law). The Head of the FIU is responsible for hiring the employees of the FIU but the Cabinet of Ministers determines their salaries (Article 28 paragraph 5 of AML Law).

The FIU is subject to the monitoring by the Prosecutor's Office. This monitoring is exercised in accordance with Article 7 paragraph 7 (5) of the Law on State Administration and Article 5 of the Law on Prosecution. This monitoring consists of ensuring that the FIU has complied with legal provisions of the AML/CFT law in the exercise of its powers, checking the procedures of the FIU to ensure its efficient functioning and proper accountability. The Prosecutor's Office can request information and explanations from the FIU. Since its establishment, the Prosecutor's Office has only requested information once from the FIU and that only in response to a complaint by a financial institution. The other aspect of the monitoring is to review the information disseminated to the Prosecutor with Special Powers before the information is forwarded to law enforcement to ensure that all legalities have been complied with and to ensure the sufficiency of the information provided by the FIU. The review that the Prosecutor with Special Powers exercises in relation to the requests for information of the FIU is to check that the request relates to a specific criminal offence and the person in relation to whom the information is requested is indeed the person involved in the crime and that the request complies with all legal requirements. The review by the Prosecutor with Special Powers takes about one day though it can be done immediately if the case is urgent. This process prevents the FIU from being inundated with requests that are politically motivated or not related to any criminal investigation. The FIU takes between a few days to one week to respond to the requests of the law enforcement agencies. In 2005, 88 requests were made by law enforcement agencies.

The role of the Prosecutor's Office is also to supervise pre-trial investigating agencies but this role is conducted in a separate section. Two orders were issued in October 2005 by the Prosecutor's Office to designate the separate roles of the two relevant sections.

The FIU Advisory Board and, since 2005, the Advisory Council also advise the FIU on its strategic plans and its priorities.

26.7 Security of information

Article 28 paragraph 6 of the AML Law stipulates that the FIU employees must comply with the Law On State Secret that requires that staff of the FIU undergo a security clearance process to enable them to have access to highly confidential information. Article 30 of the AML Law requires the FIU to ensure the protection of information and to prevent unauthorized access to and unauthorized tampering with, or distribution or destruction of such information. The FIU offices can only be accessed by

special keys and the information of the FIU is kept securely, whether locked in safes or in databases protected by passwords and other firewalls. Additionally, employees of the FIU who utilize or disclose information that the FIU receives other than as provided in the AML Law are subject to criminal liability (Article 13 of the AML Law).

In exchanging information with the FIU, the database holders are prohibited from disclosing to other natural or legal persons the information exchange and the contents of the information (Article 31of AML Law). This requirement is incorporated into the agreements the FIU signs with the database holders. To further protect the FIU's information, paragraph 3 of the Regulation No 497 states that the FIU shall not be obliged to explain to the holders of databases why a given piece of information is required by the FIU. The FIU may use the information at its disposal only for the purposes provided for in the Law and in accordance with the procedures prescribed by the Law. Information acquired from the FIU by the Prosecutor General or the Prosecutors with Special Powers shall not be transferred to the investigative institutions or to the courts to be utilized for their needs (Article 36, paragraph 1 and 2 of the AML Law). State institutions are restricted to utilizing the information provided to them by the FIU for the purpose for which it was provided. Article 35 of the AML Law allows information provided by the FIU to be made public only after the relevant person is being prosecuted or subjected to criminal liability.

26.8 Public Reports, including statistics and typologies

The FIU conducts analysis and research on ML and TF methods and typologies (Article 29 (4)) and provides the supervisory and control authorities with information on these typologies, as well as with aggregated statistics of the reports submitted by the supervised entities and reports on the quality and usefulness of the reports made (Article 29 paragraphs(6) and (7)). This information is provided at least once a year or upon request of the supervisory authorities.

The FIU keeps statistics of publications, articles, TV appearances and radio interviews. The combined total of these activities was 162 for the time span between 1998 and 2005 and 29 in 2005 alone. Information and statistics and typologies are also provided during training sessions for the private sector and law enforcement agencies, and 147 training sessions have been organized by the FIU from 1998 to 2005.

26.9 & 26.10

The Latvian FIU has been a member of the Egmont Group since 1999. In 2005, information exchange was conducted with more than 50 foreign FIUs. The Latvian FIU has signed MOUs with the FIUs of the following countries – Finland, Estonia, Lithuania, Russia, Bulgaria, Romania, Czech, Slovenia, Belgium, Canada, Guernsey, Malta, Poland, and Italy. The Latvian FIU is a member of the FIU.NET network for information exchange.

Analysis

The FIU is properly established by law and has the necessary powers to receive, analyze and disseminate financial information. It is empowered to receive STRs and UTRs and it is properly equipped to analyze the information it receives. It also has the power to disseminate the information as relevant and to issue guidance.

The FIU also has operational independence in that it can independently receive, analyze and disseminate its information in accordance with the law. The FIU's operational independence is further secured by the fact that the Head of the FIU is appointed by Prosecutor General who himself is independently appointed and the head of the FIU can only be dismissed on grounds set out in the AML Law. The FIU has its own budget which is prepared by the FIU and submitted directly to the Ministry of Finance. The structure of the FIU is proposed by the Head of the FIU and approved by the

Prosecutor General. The information of the FIU is securely protected and the staff of the FIU is subject to confidentiality requirements. The FIU has access to all the necessary databases and is adequately equipped to perform its analysis functions though the number of staff it has to be increased to allow timely analysis and dissemination of its information.

The FIU conducts research and provides information on typologies. It also provides frequent training and has taken extensive measures to raise awareness of AML/CFT issues. It also provides aggregated information and statistics to the Advisory Board and the Parliament when requested. It does not publish an annual report of its activities and statistics of the relevant information. The publication of an annual report would however provide useful information to both the relevant authorities but also to and the reporting entities and is recommended.

Overall, the FIU appeared to operate in an effective way. Shortcomings have nevertheless been identified and should be addressed. In particular, there are two provisions in the AML Law that deal with the dissemination of the information by the FIU and these two provisions appear to be in conflict. The authorities stressed that these provisions do not conflict but complement one another. The assessors nevertheless consider that the law should be amended to reflect the practice which is that the FIU disseminates its information to the Prosecutor's Office who then reviews this information as part of its monitoring function as well as part of its functions as the supervisor of investigative agencies.

As mentioned under Recommendation 13, refocusing the legal requirements and the FIU guidance on STRs would enable the FIU to concentrate on cases that really are suspicious and enhance its operational effectiveness.

R. 30

30.1 Adequate structure, funds and staff

The FIU consists of the head, the deputy head, a secretary, two computer specialists, five computer operators, and nine financial transactions analysts, and there are four vacancies. Employees of the FIU, other than the Head, shall be hired, as well as dismissed, by the Head of the office (Article 28(5) of the AML Law).

All working places are appropriately equipped in order to fulfill their functions at the FIU. The FIU has developed its own analytical software which can be modified as needed to fulfill the analytical needs of the FIU.

In 2005 the budget of the FIU was LVL224, 306 and the budget for salaries amounted to LVL155,501. For the year 2006 the budget remains unchanged.

30. 2 High Professional Standards and confidentiality

Article 28 paragraph 6 of the AML Law stipulates that employees of the FIU must comply with the requirements of the Law On Official Secrets which means that staff of the FIU are subject to a security screening which allows them to access especially secret information. Article 21 of the AML Law also prohibits the disclosure of information on STRs and UTRs except as provided for by law.

The employees of the FIU come from different backgrounds: the police, the prosecutor's office, and various credit and financial institutions. Of the employees: one has a doctorate degree while another is studying for his doctorate, six have masters degrees, two employees have two professional degrees/diplomas. The Head of the FIU is empowered to hire employees of the FIU, and has, as a matter of policy, required that his employees have professional qualifications. Employees must adhere to the by-laws of the FIU and its Code of Conduct.

30.3 Training

The FIU staff meet three times per week to analyze the FIU work results, changes to the relevant normative acts, the updates and changes concerning the FIU software, ML typologies and other issues. The FIU staff regularly participates in training courses in Latvia and abroad, for example, the USA, UK, Netherlands, Russia, Austria, etc. Baltic FIUs (Latvia, Estonia, and Lithuania) organize meetings each year in one of the Baltic capitals where these issues are discussed: latest legislative amendments, typologies, best practice (regarding TF prevention, freezing of funds, supervision of the DNFBPs). These meetings provide an avenue for training of staff of the FIU. In 2005, the FIU employees have taken part in 25 seminars and workshops/conferences to receive training on the latest developments in AML/CFT measures, and typologies on ML and TF.

The number of UTRs and STRs that the FIU is receiving has been steadily increasing and, with the four existing vacancies, the FIU is hard pressed to undertake it various functions in a timely manner. It is expected that the number of reports will increase as the DNFBPs will report more transactions and reports of the cross border declaration of cash and negotiable instruments will be reported to the FIU. In light of the above, and in particular of the increased number of STRs which is expected to be filed by the DNFBPs, the FIU would require more staff. The proposal for 10 additional staff seems appropriate to address the increased workload. The budget will need to be increased in tandem.

R. 32

The FIU has a system for the gathering and maintaining of statistical data. The data consists of statistics on number of STRs/UTRs received, numbers of reports disseminated, the number of transactions involved in the STRs/UTRs, currencies involved, nationality of persons involved, countries involved etc. The reports received are further broken down into number of STRs /UTRs received by reporting institutions. All STRs/UTRs are analyzed.

In 2005, 26,302 suspicious and unusual transactions were received, and of this, 155 files were disseminated consisting of 2,561 transactions. Of the STRs/UTRs received, 21,539 were submitted by credit institutions, 2,629 by insurance companies, 1,488 by currency exchange offices, 146 by lottery and gambling institutions, 17 by sworn notaries, 1 by a sworn lawyer, 10 by the Enterprise Register, and 482 by the State Revenue Service. The number of reports submitted by the reporting institutions has shown an increase over the years except reports submitted by sworn lawyers which remained the same in the two years of reporting and the Enterprise Register whose number of reports have declined in the last two years.

Latvia has established a well developed system for maintaining statistics. See the Table below for further details.

Year	Reports received	Suspicious/ unusual transactions in the reports	Number of files disseminated by the FIU	Number of transactions in the files disseminated	Of which: suspicious/ unusual
2002	7,902	4,050 / 5,399	67	2,551	1,214/1,337
2003	15,371	12,506/ 7,075	87	4,033	3,265/764
2004	16,479	13,059/ 7,650	110	3,821	2,294/1,229
2005	26,302	15,508/10,729	155	2,561	1,927/634

The number of all transactions in the reports divided by type of reporting institutions:

Category of Institution	2002	2003	2004	2005
Credit Institutions	8,739	17,842	18,357	21539
Insurance companies	27	888	1,256	2629
Currency exchange offices	118	162	210	1488
Lottery and gambling institutions	50	92	272	146
Sworn notaries	38	22	10	17
Sworn lawyers	-	-	1	1
Enterprise Register	23	63	29	10
State Revenue Service	273	320	414	482
Money remittance bureaux, Latvian Post Office, etc)	-	29	8	1
Sworn Auditors	-	-	-	4
Bank of Latvia	1	-	-	6
Finance and Capital Market Commission	164	196	103	73
Lottery and Gambling Inspection	-	-	3	-
Law enforcement authorities	20	20	18	37

Recommendations and comments

Recommendations

- Address the contradiction in the AML Law regarding dissemination, for example by providing that the FIU disseminates its information to the Prosecutor's Office (and not law enforcement).
- Increase the emphasis on STR reporting rather in order to enhance the operational effectiveness of the FIU.
- Latvia should also consider requiring the FIU to publish an annual report
- Provide the FIU with additional staff in view of its expected increased workload.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 1.5 underlying overall rating
R.26	LC	The FIU generally meets the requirements of the standard and appears to function in an effective way but its effectiveness could be enhanced through additional focus on STRs. The AML Law contains two provisions dealing with dissemination of the FIUs information which could potentially conflict with each other.
R.30	LC	More staff needed for the FIU and correspondingly more budget.
R.32	LC	(Composite rating)

1.6 Law enforcement, prosecution and other competent authorities–the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 & 32)

Description and analysis

Overview

The structure of the law enforcement in Latvia for money laundering and terrorist financing cases is set out below.

R. 27.1

Special Investigation Divisions in the Criminal Police
There are seven boards within the Criminal Police:

- Economic Crime Police;
- Organized Crime Police;
- International cooperation;
- Pre-trial investigation support;
- Intelligence—including legislation;
- Investigation support board; and
- Special Operational Activities.

The Economic Crime Board and the Organized Crime Board have the main responsibilities for investigation of money laundering. The other divisions act as support units for these two main divisions.

Economic Crime Police
The Economic Police has one Board and seven units. The Police either receive information from the FIU that they investigate or they conduct their own investigations. These police units are responsible for the investigation of 54 different criminal activities under the Criminal Law.

There are two groups within the Economic Police that investigate money laundering. The groups are divided into those that are investigating money laundering where the predicate crime was committed within Latvia and the second group where the predicate crime was committed in another country.

The main remit of the Economic Police is dealing with the proceeds from fraudulent activities. They report that in 2004 they initiated seven cases from their own activities and received 25 cases to investigate from the FIU. In 2005, the figures were 35 cases from the FIU and six cases from their own investigations.

This resulted in 35 criminal cases being investigated. One person to date has been charged with money laundering.

They identified the following frauds as being most prevalent in Latvia:

- Corruption;
- Credit card fraud;
- Internet fraud; and
- Phishing fraud using the internet.

They identified that in most cases proceeds come into Latvia from the UK, US and other countries in Europe and the funds are sent on to Russia. They reported that LVL13,000,000 was seized in case in 2005 and the funds returned to the UK as the result of a bank fraud.

Organized Crime Police
The main responsibilities of the Organized Crime Board are the investigation of organized crime within Latvia and cooperating with agencies outside of Latvia with respect to organized criminal activities. The Organized Crime Board have identified the major problems within Latvia for the

purposes of organized crime as being drug trafficking, trafficking in humans, fraud committed by organized gangs, illegal logging and counterfeit goods.

They have expanded their mandate in February 2006 to include the tracing of assets and investigating money laundering cases. To this end, additional officers have been assigned for the specific purpose of these investigations.

The Organized crime Board has also identified the main risks of money laundering from organized crime in Latvia. They report that the most vulnerable area is real estate. They report that criminal gangs are engaged in the purchase of real estate and also real estate development. In one case that they identified this involved the construction of a shopping mall.

The Organized Crime Police have also identified casinos in Riga Old town as having long standing connections with organized crime that may be possible avenues for laundering the proceeds of crime.

The current structure was established in 2004 with the Economic Police investigating fraud and the Organized Crime Board investigating crimes such as drug trafficking and trafficking in people. The Economic Police and the Organized Crime Police both have money laundering investigations as an integral part of their mandate.

The Security Police
The specific mandate of the Security Police is the investigation of matters of national security and this includes terrorism and terrorist financing. Suspicious transactions concerning terrorist financing will be sent to the Security Police for investigation. To date there has only been one terrorist incident in Latvia. This involved the bombing of a supermarket and when the matter was investigated it was found that there were no international implications.

The Finance Police
The Finance Police have responsibility for the investigation of financial crimes. These include:

- Tax fraud;
- Tax evasion;
- Money laundering;
- Falsification of accounting documents;
- Fiscal losses;
- VAT fraud;
- Fraud on services; and
- EU fraud.

The Finance Police has 196 police officers, including 30 investigators. These officers in the majority are graduates of the Police Academy. Approximately 70 percent of the suspicious transactions that are passed to the Prosecutor's Office for consideration are then sent to the Finance Police for investigation. Within the Financial Police there is a dedicated financial intelligence section that conducts additional analysis work on the reports originating from the FIU. They report that by the end of 2005 they had investigated 980 criminal cases that related to LVL133 Million in lost revenue. They reported that they currently have frozen LVL2.7 million as a result of their enquiries and would be asking for confiscation in a number of those cases. They commenced 36 criminal proceedings for money laundering in 2005.

Corruption Prevention and Combating Board
The Corruption Prevention and Combating Bureau was established in 2002 and became operational in

2003.

The National Strategy for Corruption Prevention and Combating was adopted by the Government of Latvia on March 8, 2004. This established the Corruption Prevention and Combating Bureau. The legislation that governs the work of the Bureau is the Law on Prevention of Conflict of Interest in Actions of State Officials. The Bureau is well staffed with 120 personnel, 70 of whom are dedicated to preventing corruption and 50 to combating corruption.

The Bureau has responsibilities for preventing corruption by:

- Developing an anti-corruption strategy and establishing an anti-corruption program;
- Monitoring compliance with the Law on Prevention of Conflict of Interest in Actions of State Officials;
- Analyzing existing laws and regulations and recommending changes as necessary;
- Monitoring compliance by political parties with party financing regulations;
- Educating society on corruption issues; and
- Investigating complaints into violations of public procurement procedures.

The Bureau also has a function in the monitoring of political financing and the prevention of conflict of interests by state officials. They also monitor public procurement procedures. All of the 65,000 personnel that are public officials in Latvia have to declare their assets on an annual basis and this information is analyzed by the Bureau for the purposes of detecting corruption.

With respect to the combating of corruption that bureau has the following responsibilities;

- Investigating allegations of corruption and party financing;
- Imposing appropriate sanctions for breaching regulations with respect to party financing; and
- Bringing administrative charges with respect to conflict of interest violations by state officials.

The Bureau operates a hotline service for members of the public to report allegations of corruption. The Bureau reported that in 2005 they received 1,800 written complaints, 2,000 telephone calls and 2,000 e-mails alleging corruption. The Bureau has mounted national campaigns on the dangers of corruption and has made five television films that have been broadcast. The Bureau operates an International Cooperation Division.

Authority to postpone or to waive arrest

Law enforcement authorities may decide to postpone or waive arrest of suspected persons and/or seize money for the purpose of identifying persons who are involved in criminal activities or for evidence gathering.

Controlled delivery of drugs and counterfeit goods has been used by the Latvian authorities in a number of cases. These cases have also involved international cooperation. The statutory framework for this type of investigation is found in Article 227 of the Criminal Procedure Law. It applies to all criminal offences so whilst it has been used for drugs offences and counterfeit goods, the provision could also be used for money laundering offences.

This facility allows for the monitoring of a continuing offence. This monitoring can be conducted if the immediate interruption of the offence would cause a loss of opportunity to prevent another offence. It is also allowed if needed to identify all persons involved in the crime and, in particular, the organizers of the criminal offence.

The delay is not allowed to continue if there is a threat to a person's life or health, if there would be a spread of a dangerous substance, if there would be an escape of a dangerous criminal, or an ecological disaster or irreversible material damage.

Additional elements

Latvia has a wide range of special investigative techniques available. Articles 215–235 of the Criminal Procedure Law provide for the following techniques;

- Monitoring of correspondence
  - This allows for the opening of mail and packages on the decision of an investigating judge
- Monitoring of means of communication
  - This allows for telephone tapping and the monitoring of other means of communication on the decision of an investigating judge
- Monitoring data in electronic information systems
  - On a judge's decision there can be monitoring of information stored in an electronic information system
- Monitoring of broadcasted data content
- Audio or video monitoring of a place or person
  - This includes the monitoring of persons in publicly inaccessible places if the information required cannot be accessed otherwise
- Audio monitoring of a person
  - This allows for the taping of conversations to gather evidence
- Surveillance and tracking of a person
  - This allows for the tracking of persons under suspicion and also (for up to 48 hours) those that they come into contact with. The surveillance is under the decision of an investigating judge.
- Surveillance of facilities
  - Under the judge's decision premises may be monitored
- Experiments using special investigative techniques
  - These are special operations based on an investigating judge's decision. They do not allow a person to be provoked into committing an offence or for his behavior to be influenced by force or threats of extortion or to exploit a person's helplessness.
- Monitoring of criminal activity
  - This allows for the monitoring of a continuing offence. This monitoring can be conducted if the immediate interruption of the offence would cause a loss of opportunity to prevent another offence. It is also allowed if needed to identify all persons involved in the crime and, in particular, the organizers of the criminal offence.

These techniques can be employed once the investigating authority has obtained the prior approval of a judge and can only be used for the investigation of serious and especially serious crimes, including money laundering and terrorist financing. A written record has to be kept of the use of the technique whenever it is employed.

R. 28

28.1 Production orders

Article 190 of the Criminal Procedure Law provides that the competent authority is authorized to request in writing from natural and legal persons all documents or objects relevant to criminal proceedings. If the documents are not produced by the natural or legal person there can be a search and

seizure in accordance with the Criminal Procedure Law. In the case of a legal person, the responsibility for ensuring that documents are produced lies with its directors.

Search and seizure

The Criminal Procedure Law (Articles 179–185) provides for the coercive searching of premises, an area, transport vehicles, and persons. Searches of premises must be conducted in the owner's presence. If this is impracticable, a search can be conducted with an order to search obtained from an investigating judge.

Articles 186–188 of the Criminal Procedure Law provide for seizure, which is an investigative operation that consists of the removal of objects or documents where a search is not needed to locate the property. A seizure is conducted on decision of the person leading the investigation under a warrant obtained from an investigating judge.

Articles 361–366 of the Criminal Procedure Law also allows for the seizure of property by coercive methods.

28.2 Witness statements

Articles 145–149 of the Criminal Procedure Law deal with the questioning of witnesses and also apply to investigations and prosecutions of ML and FT. Article 149 provides that the testimony may be recorded. If the questioned person requests to make a statement himself then such request shall be granted.

Prosecutor's Office

The Prosecutor's Office is governed by the Law on Prosecution Office. This law was effective from July 1, 1994 and has been amended a number of times.

The functions of the Prosecutor's Office are as follows:

- To supervise investigations;
- To organize and conduct pre-trial investigations;
- To initiate and conduct criminal prosecution;
- To prosecute cases on behalf of the State;
- To supervise the execution of penalties;
- To protect legitimate rights and interests of persons in the State;
- To submit claims and petitions to court; and
- To review cases in court as required by law.

The Prosecutor's Office is independent in accordance with Article 6 of the Law on Prosecution Office. Article 6 (2) states that Parliament, Ministers and other officials shall be prohibited from interfering with the work of the public prosecutor in the investigation of cases or during the performance of any of their other functions.

The Prosecutor's Office in Latvia is divided into territorial districts and there are 604 public prosecutors in Latvia and 82 assistant public prosecutors. The qualifications required for employment are as follows:

- The applicant must be Latvian;
- Have the highest education in Law;
- Have undergone in-house training; and
- Have passed a qualification examination, the standards for which are set by the Council of the

Prosecutor's Office.

The Prosecutor's Office has established specialized units that include the Special Authorization Prosecutor's Division. This Division supervises the activities of the FIU in Latvia.

The Serious Crimes Investigation Division has the responsibility for supervising the investigations conducted by the Organized Crime Division. They are also responsible for prosecuting money laundering cases. There is also a specialist division that deals with international cooperation.

The roles and responsibilities of the Prosecutor's Office are well established and can be summarized as follows:

- The financial institutions send suspicious and unusual transaction reports to the FIU.
- The FIU analyses the reports and collects information
- The FIU sends reports to the Prosecutor with Special Powers where the report requires investigation
- The Prosecutor with Special Powers reviews the file and sends it to one of the Special Investigation Divisions in the Police or Customs.
- The Special Division of Police or Customs investigates the case
- The case is then taken to court by the Prosecutor's Office.

Education on the seizing, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism is provided by the Latvian Judicial Training Centre.

Customs Police

The Customs Police have responsibility for control of goods and persons entering Latvia. They concentrate their efforts on the following criminal activities;

- VAT evasion
- Drug trafficking
- Human trafficking

They report that they have been engaged in a number of international operations, two of which involved the controlled delivery of containers of counterfeit products.

Review by Law Enforcement

Money laundering trends are regularly reviewed and typologies identified by the law enforcement agencies in Latvia. The information is shared between law enforcement agencies on a regular basis.

Analysis

There has been a lot of work conducted to establish structures in Latvia to address AML/CFT. The police divisions and other authorities that are assigned to tackle the problem are well staffed and resourced and have business plans that include AML/CFT as part of their core business. The Criminal Procedure Law has greatly extended the ability of the prosecution authorities to conduct investigations and seize and freeze assets. This has led to a large increase in the number of cases under investigation including, at the time of the assessment, 70 suspected money laundering cases.

However, the structures are relatively new and have not been established long enough to judge completely how effective they are. The main issue is training and all of the departments that were interviewed expressed a desire for further training in AML/CFT.

Recommendations and comments

Recommendations

- Specialized training needed for police and other law enforcement officers responsible for AML/CFT.
- Specialized training needed for the Prosecutor's Office in AML/CFT.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 1.6 underlying overall rating
R.27	C	
R.28	C	
R.30	LC	Law enforcement agencies are well staffed and have good structures but training is needed as staff are relatively new. (Composite rating)
R.32	LC	(Composite rating)

1.7 Cross Border Declaration or Disclosure (SR.IX & R.32)

Description and analysis

SRIX.1- SR.IX.6, SR.IX.8- SR.IX.11 At the time of the assessment, there was no law or requirement in force to require either the declaration or disclosure of cross border transportation of cash and negotiable bearer instruments.[3]

SR.IX.7 Latvia as a member state of the European Union has access to the analytical action files of Europol which allows member states to exchange information, including on cross-border movement of funding of organized crime groups. They can also use the Europol analytical database to obtain information on other suspicious financial transactions and to identify international money laundering trends and the activities to which they relate.

SR.IX.12 The Regulations of the Cabinet of Ministers No. 669 (September 6, 2005) define the procedure according to which the customs authorities shall ensure the fulfillment of the requirements of the certification system of the Kimberly process which deals with the certification process regarding international trade with unprocessed diamonds. This system requires that a person importing unprocessed diamonds submit a customs declaration and if, unprocessed diamonds are smuggled, the person shall be penalized (Issued in compliance with Part Three of Article 4 of the Law on Customs).

Information exchange takes place in compliance with the EC Regulation No. 515/97 on the mutual assistance of the administration authorities of Member States and cooperation between these institutions and the Commission for the purpose of ensuring correct application of the customs legal acts. Except for the above, where Latvia discovers usual cross border movement of precious metals or stones, there is no system for notifying the competent authorities of the originating or destination country regarding the purpose of such movements.

[3] However, the Law on Cash Declaration at the Border was adopted on October 13, 2005 and came into force on July 1, 2006. The law obligates any natural person who crosses the state border of Latvia, which is an external border customs territory of the European Community, and imports into or exports from these borders cash and other financial instruments in an amount equivalent or exceeding EUR10,000, to make a declaration to the State Revenue Service of Latvia (Article 5). This obligation extends to the declaration of cash, checks, bills of exchange and other payment orders and financial instruments that are negotiable and/or are bearer instruments (Article 4). The State Revenue Service is the competent authority. At the border of the Republic of Latvia crossing points, where there are no customs control points, the State Border Guard fulfills the functions of the competent authority. However, since the new law came into effect more than two months after the end of the on-site assessment visit to Riga, it cannot be taken into account for the rating of SR IX in the present assessment.

Recommendations and comments		
Recommendation • The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.		
Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
SR.IX	NC	No measures were in place at the time of the assessment as the Law on Cash Declaration at the Border came into force after the assessment was conducted.
R.32	LC	No statistics yet on cross-border cash. (Composite rating)

2. Preventive Measures—Financial Institutions

2.1 Risk of money laundering or terrorist financing
Latvia has not adopted an overall risk-based approach to the application of AML/CFT requirements, though the FCMC Regulation includes some references to high-risk customers. In practice, risk characteristics are taken into account in determining the depth and frequency of supervisory attention given to individual financial institutions. The Latvian AML Law does not provide as such for the application of reduced AML/CFT measures to low-risk categories of business. However, the AML Law has gone further in certain cases by providing for complete exemption from AML/CFT requirements of specified categories of business or client (e.g., business conducted with credit or financial institutions in Latvia or in a country which complies with the normative acts of the European Union, business with correspondent banks from OECD countries, states or municipalities, etc.). This approach and its implications for the assessment and ratings are described in more detail in this report in the analysis of the appropriate FATF Recommendations.

Note: *All of the categories of financial institution with the exception of exchange offices and the Post Office are authorized and supervised by the FCMC and are obliged to meet the requirements of the Latvian AML Law and FCMC Regulation. As the AML/CFT requirements and related supervision by the FCMC apply on the same basis to all of these institutions (with due regard to size and risk characteristics), this report analyses them as a single group, distinguishing between types of financial institution only where differences in requirements could apply.*

Customer Due Diligence & Record Keeping

2.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)
Description and analysis
R. 5 ***Introduction*** The customer due diligence (CDD) measures are set out in the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (AML Law) which was adopted in December 1997. The AML Law was amended on several occasions, the last times being in February 2004 (with a view to implement the requirements of the European Directive 2001/97/EC) and in May 2005 (to include new and more explicit requirements, such as in the identification of beneficial owners and record keeping). The two supervisors of the financial sector, the FCMC (for all participants in the financial sector except the bureaux de change) and the BoL (for the bureaux de change), have issued further guidance and recommendations on the CDD measures. The assessors consider that for the purpose of this assessment the FCMC 2006 Regulation and the BoL regulation constitute other enforceable means. The Post Office also provides limited financial services but no particular AML/CFT guidance has been issued in this respect. *Ambit of the AML Law* The AML Law defines both the entities and the type of transactions that it covers. Pursuant to its Article 2 paragraph 2, the AML Law applies to the following persons and entities :

1) Participants in the financial and capital markets, including:

- Credit institutions (as defined in the law);
- Insurers, private pension funds and insurance intermediaries;
- Stock exchanges, depositories and brokers of brokerage companies; and
- Investments companies, credit unions and investment consultants

2) organizers and holders of lotteries and gambling;

3) entrepreneurs who engage in foreign currency exchange;

4) natural and legal persons who perform professional activities associated with financial transactions (provision of consultations, authorization of transactions), including:

- Providers of postal services and other similar institutions, which perform money transfers and transmission;
- Tax consultants, sworn auditors, sworn auditors commercial companies and providers of financial services (to the extent and with the exception described under Chapter 3 below);
- Notaries and advocates (to the extent and with the exception mentioned under Chapter 3 below);
- Persons whose professional activity includes trading in immovable property, means of transport, art and cultural objects, as well as intermediation in the trading transactions (to the extent mentioned under Chapter 3 below); and
- Persons engaged in the trading of precious metals, precious stones and the articles thereof (to the extent described under Chapter 3 below).

Credit institutions, as defined in the AML Law, cover banks registered in the Republic of Latvia, electronic money institutions or branches of a foreign and member country bank or an electronic money institution (Article 1 paragraph 5 of the AML Law). The Law on Credit Institutions further defines banks ("a capital company, which accepts deposits and other repayable funds from an unlimited circle of clients, issues credits in its own name and provides other financial services") and electronic money institution ("a capital company, which emits and services electronic money and which is not a bank"). It also defines member country as a State of the European Union or European Economic Area (which comprises the EU membership, Norway, Iceland and Liechtenstein)

The "financial transaction" referred to in Article 2 paragraph 2 (4) covers the following activities (Article 1 paragraph 1 of the AML Law):

a) Attraction of deposits and other repayable funds;
b) Lending, including financial leasing;
c) Making cash and other than cash payments (confirmed by the authorities to comprise all transfers of money or value);
d) Emitting and servicing of payment instruments other than cash;
e) Trading with foreign currency;
f) Fiduciary transactions (trusts[4]);
g) Provision of investment services and investment noncore services and management of investment funds and pension funds;

[4] The term "trusts" refers to fiduciary activities, not to legal arrangements as understood in Common Law jurisdictions.

h) Issuing of guarantees and other such obligation documents, whereby someone undertakes an obligation to a creditor for the debt of a third person;
i) Safekeeping of valuables;
j) Participation in the issue of stock and the provision of services related thereto;
k) Consultation for the clients regarding services of a financial nature;
l) The provision of such information as is associated with the settlement of the debt liabilities of a client;
m) Insurance;
n) The organization and maintenance of lotteries and gamblings; and
o) Other transactions which essentially are similar to the aforementioned.

In application of Article 1 and 2 of the AML Law, all the relevant entities and financial activities are covered by the Latvian AML/CFT framework.

5.1* Anonymous Accounts

Although not expressly prohibited by law, the opening and maintenance of anonymous accounts is effectively precluded under the provisions of the AML Law. Pursuant to Articles 6 and 7 paragraph 1 of the AML Law, financial institutions must identify the account holder on opening of an account. The original AML Law was adopted in December 1997 and entered in force in June 1998. As regards accounts opened before the AML Law came into force, the law states, under its Transitional Provisions, that "no action, except for closing of the account, may be performed after January 1, 1999 with regard to accounts which were opened prior to January 1, 1997 without identifying the client, until the identification of the account holder has been performed".

The FCMC includes on its website a warning dating from November 2002 that a number of third-party websites included information that anonymous accounts were available from Latvian banks as well as the possibility to receive anonymous debit cards without providing any customer identification. The FCMC stated that the AML Law prohibits such activity and further warned Latvian banks that operating accounts in the name of a company or intermediary without identifying the true beneficiary would be acting illegally.

Latvian financial institutions informed the assessors that they do not open or operate anonymous accounts.

Numbered accounts
There is no legal provision addressing the opening or operation of numbered or coded accounts. The authorities and the financial institutions interviewed informed the assessors that, despite some current indications on some third-party websites, banks were required to close any remaining numbered accounts by 1999, that numbered or coded accounts are no longer available in Latvian financial institutions and that the customer identification requirements of the AML Law apply in all cases. The assessors are not in a position to confirm this independently. The FCMC, by letter to the banks dated May 6, 2005, issued specific instructions that banks should not operate numbered or coded accounts. The FCMC informed the assessors that their recent on-site inspections have not identified cases of

[5] BoL Regulation No 114/5 for Purchasing and Selling Cash Foreign Currencies

[6] BoL Recommendations 115/7 to Business Venture (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering the Proceeds Derived from Crime and the Financing of Terrorists.

numbered or coded accounts.

5.2* (a-e) When CDD is required

Pursuant to Articles 6 and 7 of the AML Law, the persons and entities subject to the law are required to identify the customer when :

- Opening an account or accepting financial resources for safe-keeping;
- Carrying out a single transaction, or several transactions that appear to be linked, equivalent or above EUR15,000 (or its equivalent in LVL);
- If the amount of the transaction is not determinable at the time of its performance, as soon as the amount becomes known and is equivalent to or above the EUR15,000 threshold;
- When one at least of the indicators provided in the list of indicators of unusual transaction (issued by the Cabinet of Ministers in its Regulation No 127) is met;
- When there is a suspicion of money laundering or attempted money laundering; and
- When there is a cause to doubt the veracity of the information acquired during the initial identification.

There is no explicit requirement in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (other than when opening an account, as noted above).

The law does not specifically provide an identification requirement when there is a suspicion of terrorist financing but sets out an indirect requirement by reference to the Cabinet of Ministers Regulation No 127: Article 7 paragraph 3 of the AML Law provides that the persons and entities to which it applies (as defined above under "Ambit of the AML Law") must identify the customer, irrespective of the amount of the financial transaction being carried out, "if the indicators of the transaction conforms to at least one of the indicators included in the unusual transaction element list [i.e. in the Cabinet of Ministers Regulation No 127]", or if due to other circumstances, there is a cause to suspect money laundering or an attempt to launder money. The list of indicators to which the law refers was subsequently issued by the Cabinet of Ministers as Regulation No 127. The Regulation mentions as one of the indicators "a transaction involving a customer who is suspected of being involved in terrorist acts or complicity therein and has been included in the list of persons about which credit and financial institutions have been informed by the [FIU]"(Cabinet of Ministers Regulation No 127 paragraph 6.1.7). In conclusion, although the main requirement is set in the law as required by the FATF criteria 5.2, the reference to the identification of a customer suspected of financing terrorism is indirect (see also Recommendation 13 and Special Recommendation IV).

The identification requirements also apply to transactions that are wire transfers. For wire transfers conducted for an occasional customer, under the EUR15,000 threshold (see Section 2.5 below).

5.3* Required CDD measures

Identification of natural persons

When the customer is a natural person who resides in Latvia, the financial institutions must ensure that the following information is provided: given name, surname and the personal identity number (PIN; Article 6 paragraph 1 (a) of the AML Law). The AML Law does not refer to the type of documents on which the financial institutions must rely. It refers instead to the PIN which is a unique number issued by the State Population Register to all Latvian residents. Although this constitutes a reliable and independent source of information, there is no explicit requirement in law or regulation for financial institutions to verify the customer's identity.

When dealing with nonresident customers, the financial institutions are required to gather the same information as mentioned above and to indicate the date of issue of the personal identification documents as well as the authority that issued the document (Article 6 paragraph 1 (b) of the AML Law). The law does not however specify the type of documents that this covers. The FCMC Regulation clarifies this point by mentioning that only documents valid for immigration into Latvia may be regarded as identification documents (Article 17).

No further AML/CFT guidance has been issued for the bureaux de change and the Latvian Post.

The assessors were informed that financial institutions rely mainly on passports to perform the necessary customer identification. The FCMC informed the assessors that, in practice, they encounter in their on-site work only rare cases where banks cannot produce documentation to confirm that they have identified the clients using appropriate official documents.

The requirements set out in the AML Law for the identification of natural persons who reside in Latvia is consistent with the standard but the law lacks clarity in respect of the documentation that the bureaux de change and the Latvian Post Office must rely upon when identifying nonresident customers.

5.4 Identification of legal person

When the customer is a legal person, regardless of its place of registration, the following information must be collected: the legal basis for the founding or the legal registration, the address, as well as the "given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents of the authorized person, as well as the authorizations of such natural person and status, and, if necessary—the given name and surname of the manager or the highest official of the administrative body of the legal person" (Article 6 paragraph 2 of the AML Law).

Pursuant to Article 8 paragraph 5 of the AML Law, the financial institutions are also required to identify and collect documentation on the structure of organization of a legal entity as well as the client's property rights and structure of control.

According to the FCMC Regulation (Article 36.6), indicators of high risk, thereby requiring enhanced due diligence measures, include the case where the client is a commercial company in which the actual beneficiary owns a majority of bearer shares. However, the provision includes an exemption where the purpose of establishing the client and its economic activity are known to the reporting entity and properly documented and the actual beneficiary of the client is not a high-risk client. While the FCMC informed the assessors that compliance with this requirement is subject to strict on-site supervision, the exemptions to the provisions of Article 36.6 appear excessive and risk undermining the effectiveness of the measure.

The AML Law therefore requires the financial institutions to verify that any person purporting to act on behalf of a legal person is so authorized, as well as to verify the legal status of the legal person, in a way which is consistent with the FATF Methodology criterion 5.4. As discussed later under Recommendation 34, there is no basis in Latvian law for the creation of legal arrangements such as trusts. In Latvia, the term 'trust' is used to refer to fiduciary relationships and these are subject to all of the CDD requirements of the AML Law, including as regards the identification of beneficial ownership. The FCMC and banks visited informed the assessors that it is not the practice of Latvian banks to operate accounts on behalf of foreign trusts.

In respect of bureaux de change, the BoL Regulation No. 114/5[5] clearly cross-references the identification obligations set out in the AML Law and calls for the identification whenever the features of a transaction match those set out in the Cabinet of Ministers' Regulation No 127 or there are other suspicious circumstances that indicate that the transaction may be linked to ML or an attempt to launder funds.

Under both the FCMC Regulation and the BoL Recommendations 115/7[6], the industry should have written procedures in place that determine client and beneficiary identification procedures (FCMC Regulation Article 13; BoL Recommendations Article 2.3.1). Both authorities expound the legal requirement to identify the client and the beneficial owner as described below.

5.5* Identification of Beneficial owner

Under Article 8 of the AML Law (as amended in June 2005), all persons and entities subject to the law are required to actively inquire whether the customer is acting on his/her own behalf or on another person's behalf. They must require a signed declaration of the client concerning the beneficiary, including the third persons, as well as conduct purposeful, proportionate and meaningful measures in order to identify the beneficiaries, third persons, and the person submitting the signed declaration.

The AML Law defines a "beneficiary" as a natural person who owns the fixed capital or shares giving the right to vote (including participation obtained directly) or controls (directly or indirectly) the client in whose interests a transaction is conducted. A natural person who owns 25 percent or more of the share capital or shares giving the right to vote (including participation obtained indirectly) is also to be considered the beneficiary of the client entity (Article 1 paragraph 7 of the AML Law). According to the authorities, the definition of beneficiary also covers the beneficiary of life and other investment linked insurance policies.

Article 5^2 of the AML Law also provides that in order to fulfill the requirements set out in the law, the credit institutions and the financial institutions are entitled to ask for and receive further information on the beneficiaries and third persons, current or potential clients and their employees from the Register of Invalid Documents, the Penalty Register and the Population Register.

The FCMC and the BoL both address the identification of the beneficial owner further in their respective Regulation and Recommendations.

According to the FCMC Regulation, when identifying the beneficial owner, the financial institution must make sure that it possesses adequate information on the actual beneficiary as well as on his or her personal or economic activity and the origin of the funds (Article 15).

The assessors discussed in detail with a range of financial institutions the extent of the customer identification being conducted in practice, especially in relation to beneficial owners. The banks in particular impressed on the assessors the procedures they have developed and the steps they now take to ensure that they understand and document the true purpose of the business relationship and the identity of the ultimate beneficial owner. They explained that, for particular groups of customers, including nonresident corporate account-holders (most of which use offshore company structures), the banks have begun to use the practice "know your customer's customer", and insist that they are in a position to confirm the economic reality behind such corporate structures. Where necessary, they visit the client company at its place of business. It is not unusual in some banks for new accounts to be opened by agents or other intermediaries, and occasionally on a non face-to-face basis. Issues in customer identification arising from these practices are addressed under the appropriate criteria below.

The FCMC informed the assessors that their extensive on-site supervision of banks' AML/CFT practices, particularly over the last two years, identified a significant number of cases where beneficial ownership information was missing or inadequate. However, the deficiencies identified mainly predated the latest amendment to the AML Law in June 2005, and the available recent inspection results now indicate significant improvement–though some deficiencies are still evident.

In the case of bureaux de change, the BoL Recommendations indicate that the bureaux should, if possible, make copies of the beneficial owner's identity documents. In respect of legal entities, it specifies that the enterprises should, if possible, identify and keep documents on the natural persons who actually own the majority of the bearer shares (Article 2.3.4).

5.6 Information on Purpose and Intended Nature of Business

The AML Law does not specifically address the purpose and intended nature of the business. It only entitles the financial institutions to ask their client to provide information and documentation on the beneficiaries (including the third persons) as well as on his/her economic activity, financial standing and the sources of the funds (Article 19^2 (1) of the AML Law). This is supplemented by Articles 14, 15, and 22 of the FCMC Regulation. Article 14 specifies that "prior to commencing cooperation with the client, the Participant shall require information from the client on scheduled transactions of which the Participant shall be involved, as well as types and volumes of transactions". Article 15 calls on the financial institution to make sure that it possesses adequate information on the actual beneficiary as well as on his or her personal or economic activity and the origin of the funds. Article 22 mentions that, in respect of offshore-registered business entities, the financial institutions should ensure that adequate information is available on the purposes for the use of the account and the origin of the funds (Article 22). These provisions meet the requirements of FATF Methodology criterion 5.6 for financial institutions to be required to obtain information on the purpose and intended nature of the customer business relationship.

In practice, the account-opening questionnaires of the banks typically require the provision by the customer of an explanation of the intended use of the account, and the nature of the financial transactions to be conducted. The banks interviewed informed the assessors that these details (and information collected at customer interviews, where applicable) are used to complete a customer profile which forms the basis for ongoing monitoring by the bank of the customer's activities. The collection and maintenance of this documentation is included within the scope of the FCMC's on-site inspections.

5.7* Ongoing CDD

The new paragraph 1^1 of Article 20 of the AML Law in force since June 2005 requires the persons subject to the law to monitor their clients' transactions and to ascertain whether they are in line with the client's economic activity. It also requires them to document the monitoring and keep the information accessible to the supervisory authorities. Article 19^2(1) of the AML Law mentions further that the financial institutions are "entitled to request" from their client information and documents concerning the beneficiary or third party as well as information concerning any transaction conducted by the client, his/her economic activity, the financial standing, and the sources of the funds. According to the FCMC, it is an obligation, not an entitlement, to collect the relevant information. It must be noted that this is one of the cases where the assessors struggled with the wording of the AML Law and the mandatory or discretionary nature of some of its dispositions. As a general rule, it is highly recommended to opt for clearer, unambiguous language in the law.

The FCMC provides further that the procedure and periodicity for ongoing monitoring of the accounts and/or of the transactions should be conducted on a risk-based approach (Article 44 of the FCMC

Regulation). It further requires the financial institutions to "determine the procedure and methodology as to how to provide documenting of economic and personal activities of high-risk clients and groups of mutually associated clients" (Article 45 of the FCMC Regulation). It also provides that they should determine the procedure for opening accounts, performing transactions and monitoring transactions of clients who are registered in a country which is on the FATF list of NonCooperative Countries and Territories (Article 47 of the FCMC Regulation). For the purpose of ongoing monitoring, the Regulation establishes a list of specific actions that should be taken by management (Article 48). It requires in particular that management should ensure that:

- the financial institution has a system in place that allows to analyze and control the accounts of clients and transactions conducted by the clients;
- the staff responsible for dealing or cooperating with the clients know the economic and personal activity of the client and pay attention to transactions that appear unusual compared to the client's profile;
- there is a procedure formulated for the identification of unusual and suspicious transactions and reporting thereof to the FIU; and
- there is a procedure formulated for an ongoing monitoring of transactions in an account of a foreign credit institution and for determining the criteria when the financial institution requires additional information from a foreign credit institution about its clients and the transactions conducted.

5.7.2 The AML Law does not specifically require financial institutions to ensure that the documents and information collected be kept up-to-date. Although it would seem difficult to comply with the requirements set out in the law, in particular in Articles 20 paragraph 1^1 (monitoring) and 8 (identification of beneficial owner), without keeping the files up-to-date, the law falls short of the requirement of FATF Methodology criterion 5.7.2.

Risk

5.8 Higher risk

The AML Law does not provide for enhanced due diligence for higher risk categories of clients or transactions. The requirements of the AML Law are the same in all cases (with the exception of the exemptions mentioned for 5.9 below).

However, Article 36 of the FCMC Regulation provides the financial institutions with a list of 10 indicators that characterize high-risk clients. A client or a transaction would be considered high risk if one of the following indicators is met:

- the country of registration or residence of the client is included in the internationally recognized lists of countries which are related to money laundering and terrorist financing activities;
- the country of residence of the client is included in the FATF's list of countries not cooperating in the fight against money laundering;
- the client regularly enters into unusual and suspicious financial transactions, of which the FIU has been notified;
- the client, without reason, strives to decrease the amount of information to be provided to the participant regarding verification of the actual beneficiary, (the volume of his or her economic or the personal activity or transactions that he or she has conducted);
- inquiries from law enforcement or judicial authorities have been received regarding the client in relation to the laundering of proceeds derived from criminal activity or financing of terrorism;

- clients that are companies in which the actual beneficiary owns a majority of bearer shares, except in cases where the purpose of establishing the client and its economic activity is known to the participant and properly documented and the actual beneficiary of the client is not a high-risk client;
- client is a person regarding whom no financial statements are available to the participant in cases where such statements should be prepared under the legislative enactments of the state of registration of the client;
- a new client (for a period of three months) who is registered as a business entity in an offshore jurisdiction, where the actual monthly turnover exceeds LVL200,000 or its equivalent in another currency;
- the client's operations materially differ from the general type of operations that he or she declared and the client has not provided a sufficient explanation for these differences; and
- the client is a politically-exposed person (PEP), as defined by the Regulation (see Recommendation 6 below).

The fact of identifying a client as being "high-risk" bears several consequences: the FCMC Regulation states that financial institutions may establish a multi-stage approach in the acceptance process of this type of client and may modulate the procedures for the identification of the beneficial owner and for updating the information collected in respect of the high-risk client's personal and economic activity. It also states that the participant "shall commence providing services to high-risk clients after applying a due-diligence process" (Article 39) and must determine procedures for determining whether a person is politically-exposed (Article 38) and is obliged to verify the managerial structure of high-risk customers that are legal persons (Article 41). The FCMC Regulation further provides that the participants must determine a methodology for visiting high-risk customers as well as a procedure for recording such visits. The financial institutions must determine the necessity and the regularity of these visits taking into account "the client's relevance and importance within a joint client's base" (Article 42 of the FCMC Regulation). Article 43 of the FCMC Regulation provides that they must also determine the procedure for the verification of the veracity and adequacy of the information received regarding the origin of the high-risk client's funds. It further provides that they must determine criteria for the verification of the veracity and adequacy of the information on PEPs and other high-risk customers whose accounts have been used mostly for personal activities, personal investments and saving funds, rather than for economic activities.

The financial institutions that are not subject to the FCMC's supervision, that is Latvian Post Office and bureaux de change, should also be required, in law, regulation or other enforceable means, to perform enhanced due diligence for higher risk categories of customers, business relationships or transactions. The Latvian authorities should also define, for all financial institutions, the additional measures that must be taken under the enhanced due diligence.

5.9 Low Risks

The AML Law does not provide for reduced or simplified CDD measures for low-risk categories of business. Instead it completely exempts the financial institutions from client identification requirements in specified circumstances. Article 9 of the AML Law states that the identification requirements do not apply when the client or the beneficiary is:

- A credit institution or a financial institution licensed in the Republic of Latvia;
- A credit institution or a financial institution that has been granted a license in a state the normative acts whereof comply with the normative acts of the European Union in the area of prevention of the use of the financial system for the laundering of proceeds derived from a criminal activity and terrorist financing;

- The Latvian state or municipality or a Latvian state or municipal institution or an entrepreneur controlled by the Latvian state or a Latvian municipality;
- A financial instruments market organizer registered in a European Union country or a market organizer which is a member of the International Stock Exchange Federation or an entrepreneur (its subsidiaries) the share capital whereof is listed in the official lists of the said market organizers; and
- "Insurance companies (insurers), if the periodic insurance premium payments of a client within the period of one year do not exceed a total of EUR1,000 (or its equivalent in LVL) (...)— irrespective of the amount of the insurance". The wording of the law is slightly imprecise, at least in the English translation provided: the exemption does not cover the insurance company, but the transactions of less than EUR1,000. In other words, all customers of an insurance company who pay more than EUR1,000 for their annual premium have to be identified in accordance with the AML Law.

The authorities explained that the reason for these exemptions was that in all the exempted cases, either supervision was ensured by other authorities within the European Union, or the information on the identity of the customer and the beneficial owner is publicly available.

Whilst FATF recognizes that simplified measures may be appropriate in circumstances where the risk of money laundering and terrorist financing is lower, it does not provide for a complete exemption from the CDD requirements. In allowing for a complete and automatic exemption from the CDD measures, the Latvian AML Law falls short of the requirement set out in FATF Recommendation 5.

5.10

As mentioned above under 5.9, financial institutions are (unduly) exempted from carrying out CDD when dealing with a credit institution or a financial institution that has been granted a license in a state the normative acts whereof comply with the normative acts of the European Union in the area of prevention of the use of the financial system for the laundering of proceeds derived from a criminal activity and terrorist financing. Irrespective of the fact that this exemption falls short of the standard (see 5.9 above), the Latvian AML Law does not meet the spirit of the simplified or reduced CDD as described under FATF criteria 5.10 for the following reasons: No specific guidance or requirements have been issued by the Latvian authorities with respect to the countries that comply (or not) with the relevant European regulation. The onus of determining whether the normative acts of a specific country comply with the relevant normative acts of the European Union therefore remains on the financial institutions. The FCMC informed the assessors that the financial institutions may either ask the FCMC to issue a statement in respect of a particular country's compliance (or noncompliance) with the European Union's requirements or mandate one of the large auditing companies to conduct the compliance analysis. This reliance on the financial institutions' discretion is clearly not in line with the standard; the Latvian authorities, not the financial institutions, should determine when simplified or reduced CDD measures are justified. In other words, the Latvian authorities should be the ones that are satisfied that a particular country is in compliance with the FATF Recommendations.

5.11

The exemption from the identification requirements only applies to a limited number of circumstances. According to the law, should a suspicion of money laundering arise, the exemptions listed above no longer apply and the financial institutions are required to carry out the full CDD measures (Article 7 paragraph 3 of the AML Law). As mentioned in paragraph 5.2 above, the law requires to identify the customer "if the indicators of the transaction conforms to at least one of the indicators included in the unusual transaction element list [i.e. in the Cabinet of Ministers Regulation No 127]", or if due to other circumstances, there is a cause to suspect "laundering or attempted laundering of the proceeds of

crime". There is no explicit and direct legal requirement to conduct full CDD in case of suspicions of terrorist financing. Terrorist financing is only indirectly covered by reference to the list of indicators which include the fact that a person is a designated terrorist.

5.12

There are no provisions in the AML Law specifically permitting Latvian financial institutions to adopt a risk-based approach. However, the banks interviewed informed the assessors that they use a risk-based approach in allocating clients to the high-risk category, resulting in enhanced due diligence and, potentially, to the termination by the bank of the account relationship for example in cases of:

- unexplained high-risk operations or transactions by the client;
- noncooperation with the bank's requests for further explanation or information regarding transactions;
- doubts about the nature of the client's business; or
- doubts about the true identity of the beneficial owner or cases where a third party may be operating the account.

Timing of verification

5.13 and 5.14

The AML Law does not address the issue of verification and its timing differently than that of identification. According to the authorities, the general understanding is that the identification and verification should take place before the transaction is conducted. There is a specific obligation to re-identify (and thus verify) the customer only when there are causes to suspect the veracity of the information acquired in the initial identification (Article 7 paragraph 4).

Similarly, the law does not specify circumstances in which it might be possible to start the business relationship before having satisfactorily completed the full identification and verification. It does provide some indication as to how to deal with non face-to-face situations, but does not set clear and explicit requirements: Article 10^1 of the AML Law provides that when a client has not personally appeared before the persons and entities subject to the law, the latter "shall perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose, additional documents may be requested, checks made of the identification data and various types of certifications received". In other words, the financial institutions must take measures to ascertain the veracity of the identification information but are free to take the measures they deem most appropriate: they may call the customer in for identification purposes but are not required to do so. The FCMC confirmed that the financial institutions are expected to deal with non face-to-face business on a risk-based approach.

The new FCMC Regulation now states clearly that the participants are not authorized to start providing financial services to a client until the identification of the client and the verification of the actual beneficiary have been completed in accordance with the law (Article 24 of the FCMC Regulation). The financial institutions interviewed confirmed that client identification is undertaken prior to the commencement of the business relationship and that this was also the case before the entry into force of the new Regulation. A number of banks referred to enhanced monitoring during the first three months of operation of a new account and/or a review at the end of the three-month period as to whether the account was operated in line with the profile information originally provided by the client —if not, the account relationship could be terminated. In documentation seen by the assessors, the FCMC raised some concerns regarding the possibility of lax due diligence during the initial operation of some accounts, or of banks permitting accounts to be opened while awaiting the submission by the

client of adequate documentation. This issue is a particular focus of FCMC on-site inspections, which typically include an examination of a sample of recently-opened accounts in each bank. Some third-party websites continue to offer account-opening services with Latvian banks on a provisional basis (i.e., pending submission of full CDD documentation) and indicate that such can be used for transactions for up to three months. The banks interviewed informed the assessors that they do not engage in such a practice, and one bank referred to new accounts as being subject to blocking until the customer has satisfied all requirements.

Whilst the issues of verification and its timing now appear to be clearly set out in the new FCMC Regulation, both are still unclear for the bureaux de change and the Latvian Post.

Failure to satisfactorily complete CDD
5.15 – 5.16

The AML Law does not specifically address the consequences of a failure to satisfactorily complete the CDD. The general understanding is that the financial institutions are only entitled to enter into a business relationship or conduct an occasional transaction above the designated threshold after the full CDD has been conducted. *A contrario*, should the financial institutions be unable to satisfactorily complete the CDD, they should not proceed with the potential relationship or transaction.

The FCMC Regulation goes further by instructing the financial institutions not to provide financial services to a client who has not been fully identified (Article 24).

There are no explicit requirements to consider filing a suspicious transaction report to the FIU in the event that a financial institution is unable to complete CDD. According to the authorities, the financial institutions are nevertheless required to report such an event on the basis of the general requirement set in Article 11 paragraph 2 of the AML Law to report facts that give raise to suspicion of money laundering.

In respect of existing customers, the financial institutions are entitled under the AML Law to decide whether the relationship should be continued or not (Article19[2] paragraph 2). There is no specific legal requirement to put an end to the relationship.

Existing customers
5.17

With the entry into force in June 1998 of the AML Law, all financial institutions are required to identify the account holder (Article 7 paragraph 1 of the AML Law). Pursuant to the transitional provision, they are also required to identify the existing customers: the Transitional Provision mentions that "no action, except for closing of the account, may be performed after January 1, 1999 with regard to accounts which were opened prior to January 1, 1997 without identifying the client, until the identification of the account holder has been performed"

According to the authorities, the financial institutions subject to the FCMC's supervision are required to apply the CDD measures to existing customers on the basis of materiality and risk in accordance with the FCMC Regulation.

5.18
As mentioned above for criterion 5.1, under the Transitional Provisions of the AML Law of 1998, "no action, except for closing of the account, may be performed after January 1, 1999 with regard to accounts which were opened prior to January 1, 1997 without identifying the client, until the identification of the account holder has been performed". Therefore, re-identification in such cases is

required.

R. 6

6.1

The AML Law is silent on the issue of politically-exposed persons (PEPs). The FCMC Regulation, however, addresses it, albeit in a limited way: It provides a definition of PEPs that covers foreign PEPs, as well as the members of a PEPs' family (Article 4.3). PEPs are defined as a foreign natural person who holds a position of head of State, head of a government ministry, Chairman of a Supreme Court, Chairman of a Constitutional Court, member of Parliament, their family members (spouse, parents, siblings and children), as well as persons who have left these offices during the past year and their family members. According to Article 36.10, the fact that a person falls under the definition of a PEP automatically puts him/her in the higher risk category of clients. This entails that the banks may only start providing services to the PEP after having conducted a higher level of due diligence, as described under criterion 5.8 above.

There are no similar requirements set out in law, regulation or other enforceable means for the financial institutions that are not subject to the FCMC Regulation (bureaux de change and the Latvian Post).

6.2 and 6.4

There is no specific requirement set out in law, regulation or other enforceable means to obtain senior management approval for establishing a business relationship with a PEP. Similarly, there is no specific requirement for bureaux de change and the Latvian Post Office to perform enhanced ongoing monitoring.

6.3

According to the AML Law, the measures to be taken to establish the source of the wealth or the funds are the same as for the customers that are not deemed of higher-risk: Article 19^2 paragraph 1 of the AML Law only entitles the persons subject to the law to request their clients to inform them of the source of the funds.

The FCMC Regulation sets out however supplementary requirements in respect of PEPs. It states that banks and other financial institutions subject to the Regulation should introduce the following measures in relation to PEPs:

- Procedures on how to ascertain whether a person is a PEP (Article 38 of the FCMC Regulation); and
- Procedures for the verification of the veracity and adequacy of the information on PEPs whose accounts have been used mostly for personal activities, personal investment and savings, rather than for economic activities (Article 43 of the FCMC Regulation).

The banks informed the assessors that they implement enhanced due diligence for foreign (and, up to the entry into force of the new FCMC Regulation, domestic) PEPs of a senior standing, with identification using such products as Worldcheck.

Additional elements
6.5 Coverage of domestic PEPs is no longer included in the FCMC Regulation under the amendments adopted in May 2006.

6.6 The Republic of Latvia has signed the UN Convention Against Corruption on May 19, 2005 and deposited the ratification instruments on January 4, 2006.

R. 7

7.1 – 7.4

According to Article 5^1 of the AML Law, credit institutions shall, while engaging into a correspondent relationship with a foreign bank, conduct purposeful, proportionate and meaningful documented measures in order to ascertain whether the normative acts on the prevention of laundering of proceeds derived from a criminal activity and terrorist financing are in place in the country concerned and whether the given foreign bank complies with the respective normative acts. In addition, the new FCMC Regulation provides that banks should develop a procedure in order to evaluate the "efficiency and sufficiency of the internal control system" of their correspondents in the prevention of AML/CFT (Article 21).

However, the law provides that these requirements do not apply when a correspondent relationship is established with a bank registered in a member country of the Organization for Economic Cooperation and Development (OECD). In the view of the assessors, the FATF Recommendations provide no basis for a blanket exemption of this nature, not even by application of the permitted risk-based approach. Membership of the OECD does not automatically imply that all members have equally low risk or that they have adopted and implemented AML/CFT regimes that comply with the standard—the facts and risks would need to be considered on a country-by-country basis. While the authorities pointed to the similar exemption for EEA member countries in the EU Money Laundering Directive as a precedent, this exemption has been found to be inconsistent with the FATF Recommendations in assessments of some other countries. Moreover, while the EU approach is based on agreed mutual recognition of Member States' harmonized single-market legislative provisions, no such basis is available for OECD members, as a group.

The FCMC has also clarified their requirements under Article 5^1 of the AML Law, for the purposes of Recommendation 7, in a letter issued to the banks in October 2005, as follows:

Banks should define criteria for cooperation with foreign banks to verify whether AML/CFT legislation exists in the country and whether the foreign bank in question complies to such legislation. Bank should keep proper records of fact-finding. International certified auditor's findings or statement issued by supervising authority in the correspondent bank's country of residence are sufficient to prove compliance of the correspondent bank to the above requirements. Banks also should establish a procedure for checking the adequacy and effectiveness of internal control systems designed to supervise foreign bank correspondent accounts, monitor correspondent account transactions on a regular basis, and request additional information on customers and transactions from foreign banks.

Banks are not explicitly required to obtain senior management's approval before establishing new correspondent relationship. The requirements for banks to gather sufficient information to understand fully the nature of the respondent's business, to determine its reputation and the quality of supervision, and to document the respective AML/CFT responsibilities of each institution, though they could be regarded as included to some degree within the range of documented measures required by Article 5^1, need to be strengthened.

7.5

"Payable-through" accounts are not specifically addressed. According to the authorities and the banks interviewed, they are not currently used in Latvia.

Given the high level of international payments passing through the Latvian financial system, the maintenance of efficient correspondent banking relationships for settlement purposes is critical to the banks. Due at least in part to the requirements of the US PATRIOT Act, Latvian banks, like those in other countries, have had to strive to satisfy the information and due diligence requirements of their US correspondents. While the arrangements continue to be volatile, the larger Latvian banks in particular have been successful in maintaining direct correspondent relationships with New York-based banks for US$ clearing and settlement, despite the upheaval in that business. None of the Latvian banks has been without US$ correspondents, whether directly or indirectly. Pressure from US banks has augmented the efforts of the FCMC to achieve the substantially-improved level of AML/CFT compliance evident to the assessors.

Latvian banks provide correspondent bank relationships to other banks, mainly from CIS countries. The number of such accounts has fallen sharply in recent times, and the assessors were informed that the remaining accounts are primarily related to the needs of trading customers from Russia and other CIS countries. Client transactions passing through these accounts are subject to standard due diligence practices in accordance with the banks' internal AML/CFT policies and procedures. These procedures are reviewed in detail offsite by the FCMC to check for compliance, not alone with the relevant laws, but also with the guidance issued by the FCMC (e.g., as quoted above on the subject of correspondent banking).

The blanket exemption for correspondent banks from OECD countries under Article 5^1 of the AML Law is a concern, and is neither fully consistent with the FATF recommendations nor in keeping with current international market developments. The assessors did not encounter evidence in practice that banks interviewed were not conducting due diligence in such cases. It is nevertheless recommended to remove the exemption to the requirement set out in Article 5^1 of the AML Law in all cases.

"Payable-through" accounts do not appear to be used in Latvia. Criteria 7.5 therefore does not apply to the current situation.

R. 8

8.1 – There are no explicit requirements in the AML Law to address the additional risks posed by new or developing technologies. However, the general requirements of the AML Law (in particular Article 20 on the internal control system) apply equally to business done using new technologies, including the internet. Article 10^1 of the AML Law (see next section) contains some relevant provisions for non face-to-face business that would apply also to internet transactions. The FCMC partly expounded on this by stating, in Article 25 of its Regulation, that "in commencing provision of financial services to a client with whom the Participant establishes transaction relationship remotely through any electronic means of communication or post office services, the Participant may rely on the identification of a client conducted by a public notary. In this case, the public notary shall testify a will of a client to commence business relations with the Participant and a valid copy of document certifying the identity of a person". Nevertheless, the overall requirement (including the recent amendments) do not fully meet the standard according to which the financial institutions should be required to have policies in place or to take measures to prevent the misuse of technological developments in ML and TF schemes.

The authorities and the banks interviewed informed the assessors that Latvian banks no longer allow the opening of new accounts via the internet. It is possible to complete the account opening documentation and questionnaires online, but they must then be printed and brought or forwarded to the bank so that new customer clearance procedures can be conducted—see also the relevant discussion under 8.2 (below). Most Latvian banks have adopted an internet strategy, with some

conducting almost all their client business—particularly nonresident business but also increasingly business with residents of Latvia—over the internet. The assessors were informed by the banks that the procedures for ongoing monitoring are no different for internet or conventional business, with the same application of the requirements to understand the nature of the transactions and obtain supporting documentation in cases where the transactions are unclear to the bank or outside the normal pattern of the client's transactions or inconsistent with profile information.

8.2 and 8.2.1

Under Article 10^1 of the AML Law, when entering in a business relationship or conducting a transaction with a client who has not appeared in person before them, the persons and entities subject to the AML Law are required to "perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose, additional documents may be requested, checks made of the identification data and various types of certifications received". In addition, under Article 27 of the FCMC Regulation, a financial institution must determine and document the follow-up measures to be taken for ascertaining the veracity of the client identification data and information on the actual beneficiary provided by a client who has entered into the business relationship remotely. Article 28 provides a list of suggested follow-up measures, according to which the financial institution may:

- request that the client be physically present when entering into the first transaction;
- check the indicated address by sending documents to that address and the telephone number, by contacting the client on that number, or organize face-to-face visits, or otherwise check the information provided;
- check whether a client or actual beneficiary is on one of the international black lists;
- check whether the financial institution has terminated a business relationship with the client in the past;
- check the internet for the client's or the actual beneficiary's home page or e-mail address;
- make use of any other additional actions as defined in the financial institution's procedure.

In practice, banks informed the assessors that they apply enhanced due diligence to non face-to-face business.

Recommendations and comments

Recommendations

The assessors found that, in several instances, the current wording of the AML Law raised questions as to the mandatory or discretionary character of some of its dispositions. The assessors strongly recommended that:

- The authorities should amend the AML Law to introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations.

Recommendation 5

- Provide explicitly in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (to supplement Articles 6 and 7 of the AML Law relating to opening an account).
- Provide explicitly in law or regulation that financial institutions must verify customers' identity.
- Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares.
- Amend Article 7 paragraph 3 of the AML Law to provide a specific direct requirement for

financial institutions to identify the client, irrespective of any exemption or threshold, when there is a suspicion of terrorist financing.

- Clarify, in law or regulation, that identification of nonresident customers of the Latvian Post Office and the bureaux de change be performed on the basis of reliable, independent source documents, data or information, such as, for example, valid passports.
- Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons.
- Amend the AML Law or relevant regulation in order to clearly require the financial institutions that are not subject to the FCMC Regulation to obtain information on the purpose and intended nature of the business relationship.
- Enhance current practice by requiring explicitly, in law or regulation, the financial institutions to ensure that documents, data and information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, in particular for higher risk categories of customers or business relationships.
- Require, in law, regulation or other enforceable means, the bureaux de change and the Post Office to identify high-risk categories of clients and transactions and, for all financial institutions, to perform enhanced due diligence. Define the additional measures to be taken under the enhanced due diligence.
- Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9.
- For customers (and beneficial owners of the funds) of financial institutions that are not covered by the FCMC Regulation, clarify, in law or regulation or other enforceable means, the timing of verification in accordance with FATF criteria 5. 13, 5.14 and 5.14.1.

Recommendation 6

- Require, in law, regulation or other enforceable means, the bureaux de change and the Latvian Post Office to put in place appropriate risk management systems to determine whether a potential customer, an existing customer, or the beneficial owner is a PEP; to take reasonable measures to establish the source of wealth and the source of the funds of customers and beneficial owners identified as PEPs; and to conduct enhanced ongoing monitoring on the relationship with PEPs.
- Require in law, regulation or other enforceable means, all financial institutions to obtain senior management approval for establishing business relationships with PEPs or continuing a relationship with a customer or beneficial owner who subsequently becomes a PEP.

Recommendation 7

- The blanket exemption for correspondent banks from OECD countries under Article 5^1 of the AML Law should be removed.
- Require, in law, regulation or other enforceable means, that banks must obtain senior management's approval before establishing the new correspondent relationship. Enhance the current requirements for banks to gather sufficient information to understand fully the nature of the respondent's business, to determine its reputation and the quality of supervision; to assess the adequacy and the effectiveness of the correspondent's controls; and to document the respective AML/CFT responsibilities of each institution.

Recommendation 8

• Require, in law, regulation or other enforceable means, the financial institutions to have policies or take measures to address the additional risks that may arise from new and developing technologies.		
Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.5	PC	Although the law broadly meets the substance of the standards, it is insufficiently clear on a number of issues. • Although Latvia has implemented customer identification obligations, not all of the necessary details of CDD are adequately covered. • There is no explicit requirement in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (other than when opening an account). • There is no explicit requirement in law or regulation for financial institutions to verify the customer's identity. • In respect of business relationships that are not covered by the FCMC Regulation: the requirements are unclear as regards the timing of verification. • Measures taken to enable financial institutions to conduct full CDD on legal entities that may issue bearer shares need to be strengthened. • There are no specific, direct requirements in law or regulation to identify the customer when there is a suspicion of terrorist financing. • Current requirements to keep the information collected during the CDD up-to-date and relevant and to conduct reviews of existing records, in particular for higher risk categories of customers need strengthening. • There are no requirements, in law or regulation or other enforceable means, for the bureaux de change and the Latvian Post Office to identify high-risk clients or transactions and perform enhanced due diligence. • Exemptions to the identification requirement are not in line with the standard.
R.6	PC	For the bureaux de change and the Latvian Post Office, there are no legal or other enforceable requirements in place. For financial institutions subject to the FCMC supervision: Although customers or beneficial owners identified as PEPs are considered of higher risk, there are no requirements to obtain senior management approval for establishing the business relationship.
R.7	NC	Article 5^1 of the AML Law unduly provides a blanket exemption for correspondent banks from OECD countries. There is no legal, regulatory or other enforceable obligation to obtain senior management's approval before establishing new correspondent

		relationships. The following current measures need to be enhanced in law or regulation: • To gather sufficient information to understand fully the nature of the respondent's business and to determine its reputation and the quality of supervision; or • To document the respective AML/CFT responsibilities of each institution.
R.8	PC	Although the provisions of the AML Law apply equally to non face-to-face business, there are no supplementary requirements in law, regulation or other enforceable means to address the additional risk associated with new or developing technologies. Nevertheless, implementation of AML/CFT preventive measures for such business has improved in practice.

2.3 Third parties and introduced business (R.9)

Description and analysis

The law does not address the situation under which the financial institutions may rely on intermediaries and other third parties to perform elements of the CDD or to introduce business. However, the FCMC introduced relevant restrictions in its Regulation as follows:

Identification of the client or a potential client and verification of an actual beneficiary abroad may be carried out by a staff member of the Participant's representative office which is authorized to operate in the relevant foreign country pursuant to its regulatory enactments, or an intermediary (agent). (Article 26 of the FCMC Regulation).

The FCMC also indicated that for the purpose of ascertaining the veracity of the client identification data and the information on the actual beneficiary, the financial institutions may request that a client who has not appeared in person before the financial institution, be physically present when entering into the first transaction (Article 28 – see also other examples of follow-up measures mentioned under Recommendation 8 above).

A number of banks informed the assessors that they no longer allow accounts to be opened in their banks by intermediaries and they do not delegate the responsibility for conducting CDD. Third-party intermediaries are not commonly used, and where they are, their role is restricted to collecting information and documentation from the prospective client, for transmission to the bank in Latvia for decision.

As a result of the above, and in particular of Article 26 of the FCMC Regulation, the customer identification process may only be conducted by the financial institution itself or by an agent acting under contractual arrangement with the financial institutions, and not by third parties. Therefore, Recommendation 9 does not apply.

Recommendations and comments

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Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.9	N/A	Financial institutions do not rely on third parties intermediaries to perform elements of the customer identification process.

2.4 Financial institution secrecy or confidentiality (R.4)

Description and analysis
It is the legal duty of the credit institutions (i.e. banks and electronic money institutions) to guarantee the confidentiality of the identity, account, deposits and transactions of the client (Article 61.1 of the Law on Credit Institutions). The unauthorized disclosure (be it intentional or unintentional) of information on a client's account or on financial services provided to a client may entail criminal sanctions (Article 64 of the Law on Credit Institutions). However, the confidentiality is not absolute. There are a number of circumstances in which the confidentiality requirement may be lifted. Pursuant to Article 63 of the Law on Credit Institutions, the information may, in particular, be provided to the following authorities: • the FCMC, for the exercise of the supervisory functions as specified by law; • the Office for the Prevention of Laundering Proceeds Derived from Criminal Activity (Control Service), in accordance with the procedures and to an extent as specified by the AML Law; • the courts, within the framework of matters in adjudication on the basis of a ruling of a court (judge); • the investigation authorities, within the framework of a pre-trial criminal procedure on the basis of a request of a head of an investigation institution, which is accepted by a judge of district (municipal) court; • a prosecutor's office, within the framework of pre-trial criminal procedure on the basis of a request of a prosecutor which is accepted by a judge of district (municipal) court; • operative agents, within the framework of operative registration cases on the basis of a request of an operative agent, which is accepted by the chairman of the Supreme Court or his authorized judge of the Supreme Court; and • the Corruption Prevention and Combating Bureau (under the circumstances listed in the law). The law continues the listing of other circumstances under which the information may be disclosed to the authorities and to notaries. In accordance with the procedures set out in the law, the banks are required to provide the authorities with the requested information without delay and no later than within 14 days (Article 63 par. 3). Similar confidentiality requirements apply to insurance companies (Article 29 paragraph 1 of the law on Insurance Companies and Supervision Thereof) and securities intermediaries (Article 131 of the law on the Financial Instruments Market), but, as with banks, these requirements are not absolute: The FCMC may require from insurance and reinsurance intermediaries information and documents regarding their activities and the insurance and reinsurance intermediaries must submit the requested information within the time period specified by the FCMC. The law clearly specifies that the submission of the requested information to the FCMC may not be refused on the grounds of a commercial confidentiality (Article 41 paragraph 2 and 3 of the law on activities of insurance and insurance intermediaries). According to the law on the Financial Instruments Market, the securities intermediaries' confidentiality duty may also be lifted and the information provided to a range of authorities, including the FIU (Article 131 of the law). More generally, the AML Law provides that the supervisory authorities are entitled to request from natural and legal person the information which is necessary for them to perform their duties under the AML Law as well as to undertake any other activities that might be necessary to prevent or reduce the risk of misuse of the Latvian financial system and capital markets for money laundering or terrorist financing purposes (Article 26^1 of the AML Law). The AML Law thus ensures that the confidentiality or professional secrecy may not be opposed to the competent authorities when they perform their functions in combating money laundering and terrorist financing.

Pursuant to the AML Law, the confidentiality duty may even be lifted between financial institutions: Article 19[2] paragraph 4 entitles the financial institutions to exchange information on persons with whom business relations have not been initiated or have been terminated because the person did not provide the information required by the financial institution in accordance with the AML Law. The banks visited informed the assessors that they use the opportunity to exchange information amongst themselves.

Recommendations and comments

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Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.4	C	

2.5 Record keeping and wire transfer rules (R.10 & SR.VII)

Description and analysis

R. 10

10.1

Article 10 of the Law on Accounting (to which all financial institutions are subject) sets out that all "corroborative documents" must be maintained for five years in respect of all transactions of an enterprise. Corroborative documents include identification data, title, number and date of the document, description and basis of the transaction, quantifiers (volumes, amounts), participants (persons directly engaged in the transaction) and signatures. It is unclear if this requirement would also include the identification documents related to the beneficial owner. Although Article 10(2) of the AML Law includes a specific requirement to maintain documentation regarding beneficial owners for at least five years following a transaction, by linking this requirement to Article 7 of the AML Law (and not referring also to Article 6), this appears to limit its application to cases of occasional and suspicious transaction, with at best a tenuous link to covering identification documentation for beneficial owners of accounts.

The law on the Financial Instrument Market Law is more precise and more in line with the standard in the sense that it sets out a requirement to "ensure that the documents evidencing transactions in respect of financial instruments are stored for 10 years" (Article 124). However, the scope of this requirement is limited to investment brokerage companies and credit institutions that provide investment services or noncore investment services.

The new FCMC Regulation requires the financial institutions to establish the record keeping procedure for the documents related to their clients, but does not provide further details (Article 9 of the FCMC Regulation).

Overall the requirements are not sufficiently detailed or direct in their application to provide the required assurance that all financial institutions are obliged (by law or regulation) to maintain all necessary information that would be sufficient to permit reconstruction of individual transactions. In practice, financial institutions interviewed by the assessors confirmed that they maintain fully-documented records of transactions for at least five years–some have a 10-year policy of retention; at least one keeps records indefinitely.

10.2

Article 10 of the AML Law requires that identification data must be kept for at least five years after the business relationship has ended (for regular customers) or after the transaction has been conducted (for occasional customers).

There are, however, no obligations specified to keep records of the account files and business correspondence. Furthermore, no provision is included to ensure that the mandatory record-keeping period may be extended in specific cases on request of an authority. These are shortcomings that the authorities need to address in law or regulation.

In respect of beneficial owners and third parties, the following documents must be retained for at least five years after the transaction was conducted: a copy of the declaration concerning the beneficiaries signed by the client in accordance with Article 8 of the AML Law and copies of the documents that attest "the performance of transactions" (Article 10 paragraph 2 of the AML Law), but only in cases where the client is identified pursuant to the procedure set out in Article 7 which, as noted above, could be interpreted as only applicable to cases of occasional and suspicious transactions and not to account-holders.

10.3

Article 8 of the AML Law requires financial institutions to provide to the "supervisory and control authorities" upon request the information on the identification of the beneficiary, the structure of organization of the client (legal entity), the characteristic features of the client's economic activity, and the identification of the client's property rights and the control structure of the client. A similar approach is set out in Article 20 paragraph 1^1 of the AML Law. When asked whether "supervisory and control authorities" included the Control Service (i.e. the FIU), the authorities answered that it did not. Although the requirement is clear in respect of the supervisory authorities, it does not address the other authorities competent in the fight against money laundering and terrorist financing and does not explicitly require the financial institutions to ensure that customers and transactions records and information are available to all relevant authorities on a timely basis. The Credit Institution Law broadens the scope of authorities to which the information must be disclosed upon request: Articles 62 and 63 state that the information gathered by the credit institutions in providing financial services must be made available to "State institutions and State officials" which, according to the law, include the FCMC, the Office for the Prevention of the Laundering of the Proceeds Derived from Crime, courts, investigative institutions, the Prosecutor's Office, the Corruption Prevention and Combating Bureau, bailiffs, the State Treasury, the State Audit Office, the State Revenue Service.

None of the relevant competent authorities, including law enforcement and the Control Service, reported to the assessors having had any difficulty in getting current information they needed from the financial institutions for duly-authorized purposes. Delays and limitations have arisen from time to time when very old records were being sought and needed to be retrieved manually. Although the limitations in Articles 8 and 20 of the AML Law do not seem to have prevented the competent authorities from having access to the necessary information, all financial institutions should be clearly required to make the information available to all competent authorities in the fight against money laundering and terrorist financing on a timely basis.

SR. VII

Interbank payment systems in Latvia are operated by two systems that are monitored by the BoL (BoL Resolution 89/10 of September 13, 2001 on the BoL payment system policy; Regulation 65502), real-time gross-settlement system (RTGS) known as SAMS[7], and an interbank retail payments system

[7] The BoL's interbank automated payment system (SAMS), which functions as the core mechanism of the entire payment system. It ensures the settlement of large-value interbank payments and the BoL's monetary policy operations, as well as the final settlement of other payment systems. Banks may also use this system

known as EKS[8]. In both systems, data exchange is effected using SWIFT data transmission infrastructure. All fields of the SWIFT messages must be filled in order for the payment to be transferred. All Latvia's 23 banks are direct participants to both systems.

VII.1

Financial institutions are required under the general identification requirements set out in the AML Law to obtain and maintain originator information. However, there is no specific legal requirement as to the originator information that has to be included in the order for the transfer of the funds. The only clear requirement in respect of wire transfers is that all payments orders to be executed during a credit transfer must contain identical information on the originator, the originator's institution, the beneficiary and the beneficiary's institution (Article 2.6 of the BoL Regulation for credit transfers). The information must therefore remain with the transfer or related message throughout the payment chain. According to the authorities, separating the originator information from the transfer in any way would not meet the requirements set out in the BoL Regulation.

In practice, banks informed the assessors that the SWIFT message fields are typically populated automatically for account customers from the client database, and that all fields are completed so that full originator information is included. According to the banks interviewed, incoming wire transfers with incomplete originator information would be queried with the originator bank, and incoming transfers with incomplete recipient information would be rejected.

VII.2 and VII.3

There are no clear requirements under the Latvian laws or regulations to include full originator information in the domestic or cross-border transfers or the related messages.

VII.5

The only clear requirement in respect of wire transfers is that all payments orders to be executed during a credit transfer must contain identical information on the originator, the originator's institution, the beneficiary and the beneficiary's institution (Article 2.6 of the BoL Regulation for credit transfers). The information must therefore remain with the transfer or related message throughout the payment chain.

VII.4, VII.6, VII.7, VII.8 and VII.9

Other than maintaining the information with the wire, the Latvian laws and regulation do not specifically address wire transfers. There are therefore no distinctions made between batched and nonbatched transfers. There is no *de minimis* threshold.

There are no specific measures specified to monitor the compliance of financial institutions with the rules recommended under SR VII and to sanction the failure to comply with these rules. The BoL is the competent authority to monitor the payment system overall, but it does not monitor the individual

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for their customers' payments, but, because of the system's costs, the SAMS is predominantly used for processing large-value or urgent payments. The SAMS is a real-time gross settlement system.

[8] The BoL's electronic clearing system (EKS), an interbank retail payment system. The EKS is the only clearing (net settlement) system in Latvia that ensures the settlement of bulk customers' credit transfers among banks in Latvia. The EKS is an automated clearing house system, in which the processing of payments is fully automated and only electronic payment instructions are accepted and processed. The EKS also uses SWIFT infrastructure.

transactions. As an important part of the normal operations of a bank, wire transfers are covered within the scope of FCMC supervision. Sample on-site transaction testing for AML/CFT compliance includes wire transactions. Wire transfers are not expressly covered by the FCMC's on-site inspection procedures.

Recommendations and comments

Recommendation 10

- Require, in law or regulation, financial institutions to keep records of the account files and business correspondence.
- Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases.

Special Recommendation VII

- Require financial institutions to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, as set out under Special Recommendation VII and to conduct enhanced scrutiny of, and monitor for suspicious activity, funds transfers which do not contain complete originator information in compliance with Special Recommendation VII.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.10	PC	Record-keeping requirements, though they meet core aspects of R.10, lack the detail and clarity to oblige all financial institutions to be able to reconstruct individual transaction data. No explicit requirement in law or regulation to maintain records of accounts files and business correspondence.
SR.VII	NC	Other than the requirement to maintain the originator information with the wire, the Latvian laws and regulations do not specifically address wire transfers.

Unusual and Suspicious Transactions

2.6 Monitoring of transactions and relationships (R.11 & 21)

Description and analysis

R. 11

11.1 and 11.2

The financial institutions are required to pay special attention to all complex, unusual transactions or patterns of transactions in a way that largely complies with the standard. Article 20 of the AML Law requires all reporting entities to establish and document an internal control system for the prevention of money laundering and terrorist financing. Clear internal procedures for the identification of clients and the oversight of their economic activity should be established in that respect (idem). Article 20 paragraph 1^1 (in force since June 2005) of the AML Law further imposes an obligation on all reporting entities to carry out "purposeful, proportionate and meaningful measures in order to monitor the transactions of the clients as well as to ascertain whether the transaction conducted by the client corresponds with the actual specifics of the client's economic activity" (Article 20 paragraph 1^1). The

Cabinet of Ministers established a list of elements that, when met, define a transaction as being unusual (Regulation No 127 List of Indicators Pertaining to Unusual Transactions and the Reporting Procedures, of March 20, 2001). The financial institutions must report to the Control Service all transactions that meet at least one of the elements listed. In accordance with Article 20 paragraph 4 of the AML Law, the reporting entities must "register the reports provided to the Control Service and ensure the accessibility of such reports to the supervisory and control authorities". The FCMC Regulation states that the financial institutions to which it applies must determine and document the procedure for the identification of suspicious transactions (Article 30). They must determine indicators of suspicious transactions when assessing risks which arise from the structure of their clients and economic activities carried out by the clients (Article 31 of the FCMC Regulation). They must also establish what actions must be undertaken when it appears that a client conducts a transaction that is untypical for the economic or personal activity of the client, or otherwise raises suspicion of money laundering or terrorist financing (Article 32). The Regulation also provides two lists of indicators that may attest the suspicious nature of a transaction conducted by a) the client of a credit institution, a credit union, an investment brokerage company, an investment management company, the Latvian Central Depository, an organizer of a regulated market and a pension fund (Article 33); and b) the client of an insurance company and insurance intermediary (Article 34).

The requirements set out in the AML Law broadly comply with the standard but it would preferable if the current focus on the economic aspect of a transaction were extended to mention specifically transactions that have no apparent or visible lawful purpose.

11.3 (and documentation requirement of 11.2)

All actions taken in order to monitor the client's transactions in accordance with Article 20 paragraph1[1] of the AML Law must be documented and the documents must be made available to the supervisory authorities. Under the standard, all relevant authorities, and not only the supervisors, should be able to have access to the information. Although the assessors were not informed of particular problems encountered by the FIU and the law enforcement agencies to access the information they need to carry out their functions, it is recommended that the text of Article 20 paragraph 1[1] of the AML Law be amended in order to include all competent authorities. Transaction records must be maintained for five years as described under Recommendation 10 above but there are no specific requirements in the AML Law to maintain their findings on a specific transaction that appears unusual.

A major investment of time and effort has been made by the FCMC and the financial institutions over the past two years or more to achieve much-needed improvement in the ongoing monitoring of transactions for AML/CFT purposes. Frequent on-site inspections by the FCMC had revealed serious deficiencies in ongoing monitoring, mainly by the banks and particularly in relation to nonresident customers. Where necessary, the FCMC imposed sanctions for continuing noncompliance, particularly where banks were found not to have adequate information to explain the purpose of transactions passing through their accounts or where they could not identify the ultimate beneficial owner of the funds or the account. Banks were required to retroactively fill any gaps in their client files by contacting the client and requesting all additional information and documentation needed to satisfy the bank that it had a good understanding of the business of the client, and of the purpose of the account and/or transactions, supported by verifiable documentary evidence. While many customers cooperated with these efforts, some refused or did not respond. As one result of these efforts, many thousands of nonresident (and some resident) accounts were closed. Some 250,000 accounts in total were closed by Latvian banks in 2005.[9] Of these, it is estimated that more than 100,000 were closed due to compliance

[9] although a much larger number of new accounts were opened in the same period

difficulties. Many of these accounts already had zero or minimal balances at the time of closing, but some could nonetheless have previously been actively used for substantial transfers, particularly between CIS and western countries.

Many banks engaged consultants (from the 'Big 4' accountancy firms) to assess their systems, advise them on AML/CFT compliance matters and, in some cases, redesign their IT and other compliance systems and procedures. This process is recent in some banks and ongoing in others. The typical pattern is to reclassify the customer base into a number (four or five) levels based on risk, and to begin with the high-risk clients in terms of building profiles of typical patterns of operation, linking information on connected-company structures (particularly involving offshore companies), and obtaining from the client written explanations and supporting documentation (copies of contracts, agreements, invoices, customs documentation, etc.) to substantiate large transactions the purpose of which is unclear to the bank.

While the assessors are not in a position to conclude that the process is fully effective at this stage, the extent of the investment was clearly evident in all banks visited, the awareness levels of the reputational risks of poor AML/CFT practices were high both among management and staff, and the commitment to have effective systems in place was strongly expressed by all banks. Some banks are more advanced in the process than others and there is a need for these efforts to be sustained. A number of banks informed the assessors that they have withdrawn from some higher-risk business lines for nonresident customers (e.g., funds transmission business for nontrade-related business) to concentrate on services and clients whose business they understand and where the underlying transaction can be evidenced where appropriate by documentary evidence of the transfer of goods. Other (smaller) banks still seem to accept clients, types of payment (e.g., payment for consultancy), and corporate structures which are inherently risky from an AML/CFT perspective and very difficult to substantiate independently. Even in these cases, the banks concerned pointed to the extent to which they had cleaned out the customer base, and explained the efforts they were making to ensure they had documented explanations for large and unusual transactions. Banks reported that they are starting to get improved cooperation from customers as requests for explanations and supporting documentation from banks in Latvia become the norm. Certain types of nonresident client and transaction will present an ongoing challenge to effective implementation of monitoring measures, and the danger remains that some banks will concentrate mainly on building files to satisfy the FCMC's inspectors rather than genuinely seek to understand the clients' business. There is a continuing need for vigilance.

The FCMC has provided further guidance to its requirements in this area in its letter to the banks of October 2005, by stating that banks should develop procedures and methodology for monitoring of corporate and private transactions of companies and corporations not included in the high-risk category to detect ML and TF cases, and that this would entail regular compliance checks to verify the client's initial information against actual profile and business relationship.

R. 21

21.1- 21.2

According to Article 11 of the FCMC Regulation, the country of residence or of registration of a client is one of the elements that the financial institutions must take into account when determining eligible potential clients. Article 36 of the same Regulation provides that the fact that the country of residence of a customer is one of the countries listed by FATF as being noncooperative in the fight against money laundering or is a country included in one of the international lists of countries which are related to money laundering or terrorist financing activities is an element that characterizes the client as being of higher risk. As a consequence, the customer is subject to a higher level of scrutiny

(Articles 20 paragraph 1^1 of the AML Law, 39 to 45 of the FCMC Regulation). If it is then determined that a client conducts transactions which, according to the evaluation of the client, are untypical, the compliance officer of the financial institution has to be informed (Articles 20 paragraph 1^1 of the AML Law). As mentioned above under 11.3, all actions taken in order to monitor the client's transactions in accordance with Article 20 paragraph 1^1 of the AML Law must be documented and the documents must be made available to the supervisory authorities.

The FCMC issued guidance in its letter to the banks of October 2005 advising banks to develop procedures for opening accounts, carrying out transactions and monitoring of transactions of clients of countries in noncompliance with FATF Recommendations, other states under sanctions of the EU or UN, and countries with potentially harmful tax regimes identified in OECD countries. Banks are also entitled to decide for themselves what procedures shall apply to clients from countries recently removed from the FATF's NCCT list.

21.1.1

Financial institutions are provided on a regular basis by the FCMC and the Control Service with information regarding countries with weak AML/CFT systems. They also have online access to the US OFAC list, EU, and other lists. Banks visited during the assessment confirmed that they automatically check proposed transactions against these lists, and either stop payments or conduct enhanced due diligence for proposed transfers to/from such listed countries.

21.2

Under the assessment of Recommendation 11, the legal and operational basis for ongoing monitoring was explained and found to be largely in compliance with the standard. In the case of proposed transactions with residents of uncooperative countries or others appearing on lists, banks reported to the assessors that they have had a small number of hits (including some false positives) and that they have made appropriate reports to the Control Service.

21.3

The Latvian authorities did not identify to the assessors any mechanisms that may be in place that would enable the authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.

Recommendations and comments

Recommendations

- Require information to be made available to all authorities relevant in the fight against money laundering and terrorist financing, not only to the supervisors.
- Require financial institutions that are not subject to FCMC supervision to pay special attention not only when the customer is a resident of a country listed by FATF, but also to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF standard.
- Establish a mechanism that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating

R.11	LC	AML Law seems to limit access to information to supervisory authorities, rather than provide that the information should be made available to all relevant authorities.
R.21	PC	Other than the situation where the customer is a resident of a country listed by FATF or included in other international lists, there are no requirements in respect of business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF standard. There are no mechanisms in place that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.

2.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25 & SR.IV)

Description and analysis[10]

R. 13

13.1

Article 11 of the AML Law sets out a reporting obligation for both suspicious and unusual transactions:

a) The law first sets out an obligation to report "without delay" to the FIU any unusual transaction (Article 11 paragraph 1 (1) of the AML Law). The unusual character of a transaction is based on a series of indicators designated by the Cabinet of Ministers as being potential signs of money laundering activities (Regulation 127 of March 20, 2001 on the List of Indicators pertaining to Unusual Transactions and the Reporting Procedure). The presence of at least one of the indicators within a specific transaction entails a mandatory reporting. Most of the indicators are threshold-based. Some indicators apply to all transactions[11], whilst the others are specific to the gambling business[12], investments in securities[13] and the insurance industry.[14]

b) There is also an obligation to report "immediately" to the FIU all "discovered facts that do not conform to the list of indicators of unusual transactions, but which due to other circumstances cause suspicion regarding the laundering or attempted laundering of the proceeds derived from crime" (Article 11 paragraph 2 of the AML Law).

The AML Law provides a definition of "proceeds of crimes" that largely complies with the standard: Pursuant to Article 4 of the AML Law, must be acknowledged as proceeds of crime "financial resources and other property, which have been directly or indirectly acquired as a result of the

[10] The description of the system for reporting suspicious transactions in section 2.7 is integrally linked with the description of the FIU in section.1.5, and the two texts need to be complementary and not duplicative.

[11] For example, a cash transaction of or above LVL40,000, other than payments of salaries, pensions and social benefit payments and credit; or a transaction involving a person who is suspected of being involved in terrorist activities

[12] (e.g., Collection of winnings in an amount of or above LVL5,000).

[13] (e.g., The number of customers is low–up to five clients–and they represent any institutions registered in "no-tax or low-tax countries and zones that have been declared as such by the Cabinet of Ministers").

[14] (e.g. Premium life insurance contract or part of it is paid in cash in an amount equal to or above LVL25,000).

committing of the criminal offences provided for in the Criminal Law". Under the current Latvian legislation, this covers proceeds derived from all designated categories of predicate offences listed in the FATF Glossary. According to the AML Law, shall also qualify as proceeds of crime financial resources and other property, which are owned or controlled (directly or indirectly) by: 1) a person who is included in one of the lists of terrorists "compiled by a state or international organization in conformity with the criteria specified by the Cabinet of the Republic of Latvia", or 2) a person against whom the law enforcement agencies, the public prosecutor or the FIU hold information "which gives sufficient grounds to hold such person under suspicion regarding the committing of a crime—terrorism or participation therein".

In respect of money laundering, the reporting requirement set out under the AML Law is a direct, mandatory obligation and applies to funds derived from all the FATF categories of predicate offences.

In order to assist the credit institutions comply with the requirements to report suspicious transactions, the FIU issued a list of "indicators pertaining to suspicious transactions". The FIU list constitutes guidance and is only intended to provide examples of what may raise some suspicion. The indicators/examples given in the FIU list pertain to the customer's behavior (e.g., the customer appears nervous for no apparent reason or supplies uncounted money), the transaction (e.g., purchase of real estate for apparently incoherent price), the account (e.g., money is deposited with a foreign bank), the bank notes (e.g. denomination of banknote is unusual for the customer) or the direct transaction between private persons without using a bank account (e.g., the participants to the transactions have the same address).

The FCMC Regulation provides further that the financial institutions to which it applies must determine the procedure for the identification of suspicious transactions and must establish the indicators of suspicious transactions when assessing risks which arise from the structure of their clients and economic activities carried out by the clients (Articles 30 and 31 of the FCMC Regulation). The procedures in place must also indicate the type of action that must be undertaken when it appears that a client conducts a transaction which is untypical for his or her economic or personal activity or otherwise raises suspicion of money laundering or terrorist financing (Article 32). The Regulation also provides two lists of indicators that may attest the suspicious nature of a transaction conducted by a) the client of a credit institution, a credit union, an investment brokerage company, an investment management company, the Latvian Central Depository, an organizer of a regulated market and a pension fund (Article 33); and b) the client of an insurance company and insurance intermediary (Article 34).

The vast bulk of the reports filed with the FIU are based on the Cabinet of Ministers' list of indicators of unusual transactions and the FIU list of indicators/examples. Only a very small minority of the reports are based on suspicions formed under other circumstances. The assessors were informed that the financial institutions follow the FIU list and automatically report transactions that meet at least one of the examples (although the indicators are only examples). This would suggest that the financial institutions may be relying too heavily on the lists provided and might not be exercising appropriate discretion on the circumstances that are not covered by the lists of indicators. This could result in over-dependence on the indicators/examples results and submission to the Control Service of significant numbers of reports with little or no value for FIU analytical purposes. While it is useful that the indicators are provided as examples, the obligation is to exercise sufficient discretion in each case and, regardless of whether the circumstances match or not a specific indicator/example, to be able to identify the facts and circumstances which give cause for suspicion and to report them immediately. It was not possible for the assessors to determine whether or not financial institutions were giving sufficient attention to identifying and reporting real (as distinct from indicator-based) suspicious transactions, as there were some conflicting indications. While all of the institutions interviewed

expressed strongly the position that they report every suspicious transaction without delay, the confusion in terminology (e.g., that indicator-based transactions also count by definition as suspicious, whether the institution really regards them as such) makes it difficult to interpret the responses. The assessors were not provided by the Control Service with statistics separating indicator-based STRs from reports based on direct suspicion. According to the Control Service, of the total number of reports received in the past three years, some 50-60 percent were STRs. In 2005, 26,302 unusual and suspicious transactions were reported to the Control Service. The Control Service informed the assessors that, overall, it regards the current system as effective as all forms of reporting are providing valuable information for analysis, as evidenced by the fact that it was able to forward 155 files (via the Prosecutor's Office) for investigation by law enforcement, relating to more than 2,000 transactions. According to the banks interviewed, the number of nonindicator-based STRs for each bank per annum was in single digits, suggesting a total of less than 100 per annum. Increasing the emphasis on STR reporting is important in order to enhance the effectiveness of the reporting system and the operational effectiveness of the FIU.

13.2

The reporting of suspicious transactions related to terrorist financing is not fully consistent with the standard (see SR IV below).

13.3

The reporting requirement for suspicious transactions covers attempted money laundering and is not limited by the amount of the transaction. (The *de minimis* threshold set in the Cabinet of Ministers Regulation only applies to the reporting of unusual transactions and not that of suspicious transactions. One of the indicators/examples listed by the FIU is based on a threshold, but as mentioned above, the list is not mandatory and therefore cannot limit the scope of the requirement set in the law.)

13.4

There are no further obstacles to the reporting requirement such as the transactions involving tax matters.

SR. IV

IV.1

As mentioned under Recommendation 13 above, the reporting requirements are set out in Article 11 of the AML Law. In accordance with Article 11, financial institutions are required to report unusual as well as suspicious transactions, which are defined as follows:

- Are considered unusual and therefore subject to reporting, the transactions where at least one of the indicators of unusual transactions listed by the Cabinet of Ministers in its Regulation 127 is met (Article 11 paragraph 1 of the AML Law). One of these indicators refers to the persons whose name appear on the list of terrorist issued by the Latvian authorities (Article 6.1.7 of the Cabinet of Ministers Regulation 127);

- Are considered suspicious, transactions which "due to other circumstances cause suspicion regarding the laundering or attempted laundering of proceeds derived from crime"(Article 11 paragraph 1 and 2 of the AML Law). As defined under Article 4 of the AML Law, the proceeds of crime cover financial resources and property owned or controlled by a person listed by a state or an international organization in conformity with the criteria set out buy the Cabinet of Ministers of Latvia, or a person on whom the law enforcement agencies "have

information which gives sufficient grounds to hold such person under suspicion regarding the committing of a crime, terrorism or participation therein" (Article 4 paragraph 2 (2) of the AML Law).

Terrorist financing is not explicitly mentioned in Article 11. It is included in the reporting requirement by reference to either the list of indicators of unusual transactions or the definition of proceeds of crime, which only refer to designated persons. This raises two concerns: Firstly, whilst the reporting of designated persons may be technically covered in practice, it does not comply with the FATF criterion IV.1, which requires a direct mandatory obligation to report suspicious transactions related to terrorism. Secondly, both the list of indicators and the definition of proceeds of crime only refer to designated persons whilst the standard does not provide for such a limitation. This is also inconsistent with the Latvian legislation since terrorist financing, as criminalized in the Latvian Criminal Code, is not limited to those persons whose name appears on one of the lists.

Another disposition of the Latvian AML Law must be mentioned: Article 17 paragraph 1 requires financial institutions to refrain from conducting a transaction when there is cause to suspect that it is associated with money laundering (or attempted money laundering) or "with terrorist financing". Article 17 paragraph 2 of the AML Law further requires financial institutions to immediately report to the Control Service the fact that they have refrained from executing a transaction and to provide all relevant information. Paragraph 2 therefore imposes a direct mandatory obligation to report transactions which have been suspended on the basis of a suspicion of terrorist financing without limiting the scope of the reporting to persons who have been designated in the lists. However, whilst this could constitute a reporting requirement in line with the standard for transactions that have not yet been executed, it appeared to the assessors that the reporting requirements were implemented as defined under Article 11 of the AML Law. Furthermore, because the main purpose of Article 17 is to prevent the execution of transactions that appear unusual or suspicious, the scope of the reporting requirement does not cover transactions which have already been executed.

Article 32 of the new FCMC Regulation broadly requires the financial institutions to determine the type of action that must be taken when a transaction raises suspicion of terrorist financing. This requirement does not however rely on a clear definition of terrorist financing, nor does it entail an obligation to report the transaction to the Control Service. It is furthermore only applicable to the financial institutions that are under the supervision of the FCMC.

As a result of the above, the reporting requirement set out in the AML Law is broadly in line with the standard but does not fully comply with it. The authorities should address this by clearly requiring in law the reporting of suspicious transactions on funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limitation to the lists of designated persons.

IV.2

The limited reporting requirement may indirectly cover attempted transactions under the Article 11 paragraph 2 of the AML Law (reporting of suspicious transactions of money laundering and definition of proceeds of crime) as well as in application of the Cabinet of Ministers Regulation 127 under Article 11 paragraph 1.

There are no further limitations to the reporting requirement such as the fact that a transaction may involve tax issues.

R. 14

14a Protection from Liability

The reporting entities, their officials and employees who have filed a report to the FIU in accordance with the law are protected from "legal" liability for breach of any restriction on disclosure of information imposed by law or by contract, regardless of whether an illegal activity actually occurred or not (Article 16 of the AML Law). The protection granted is not limited to the reporting made in good faith. The waiver may thus include reporting made in "bad faith" and therefore be too broad in comparison with the standard.

However, Article 298 of the Criminal Law criminalizes the provision of false information "for purposes of causing initiation of criminal proceedings against a person". This takes care of the case of disclosures made in bad faith, but only in an indirect way.

14b Tipping-off

Pursuant to Article 14 of the AML Law, the officials and the employees of the persons and entities subject to the law are prohibited from informing a client or a third party of the fact that a client or a transaction has been reported to the FIU. According to the authorities, this also applies to the information related to the STR.

R. 19

19.1

As described above (Recommendation 13), the AML Law sets out a requirement to report unusual transactions on the basis of a list of indicators issued by the Cabinet of Ministers (Regulation 127 on the List of Indicators Pertaining to Unusual Transactions and the Reporting Procedure). Most of the indicators are based on thresholds that range from a LVL1,000 (for transactions involving exchange of coins or small denomination banknotes for other banknotes of larger denomination, or vice versa, or for other banknotes of equivalent denominating), to LVL100,000 (for property insurance contract whereby the policy holder appears to be any natural person or a legal entity registered in a no-tax or low-tax country designated by the Cabinet of Ministers). The indicators apply to domestic and international transactions equally. Latvia has recently adopted the Law on Cash Declaration at the Border which entered into force on July 1, 2006 and which entails an obligation to declare cross-border transport of cash and other financial instruments in an amount equivalent or exceeding EUR10,000 (see Special Recommendation IX above).

R.25

The FCMC and BoL provide detailed feedback to supervised financial institutions relating to the results of their off-site and on-site supervision. See also the section on the role of the FIU.

Recommendations and comments

Recommendation 13

Provide clarification and guidance to the reporting entities in order to increase the emphasis ensuring that suspicious transactions are reported promptly to the FIU. Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU.

Specifically require, in law or regulation, the reporting of suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the scope of the requirement to designated persons.

Recommendation 14a

- In order to fill the gap in the AML Law, the authorities should limit the scope of the waiver to reporting of suspicions transactions made in good faith. This can be done by amending the law which grants exemption from liability by adding that the exemption is limited to cases where disclosure is made "in good faith".

Special Recommendation IV

- The authorities should amend the AML Law to provide specifically that financial institutions are required to report suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the reporting to cases where potential terrorists have been designated.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 2.7 underlying overall rating
R.13	LC	The legal requirement for reporting of suspicious transactions related to terrorist financing is not fully consistent with the standard (see SR IV below). Additional focus needed on STR reporting
R.14	C	
R. 19	C	
R.25	PC	(Composite rating, see section on DNFBPs)
SR IV	PC	Although the AML Law contains some measures on FT reporting, they are not sufficiently explicit, direct, and complete. Need for additional focus on suspicion.

Internal Controls and Other Measures

2.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)

Description and analysis

R. 15

15.1

Article 20 of the AML Law requires all persons and entities subject to the law to have an internal control system in place and procedures for the oversight of economic activity of the client. As amended in May 2005, the AML Law also requires financial and credit institutions to carry out purposeful, proportionate and meaningful measures in order to monitor the transactions of their clients and to ascertain whether a specific transaction corresponds with the client's economic activities. All actions taken must be documented and the documents made available to the supervisory authorities (Article 20 paragraph 1^{1}).

The law also calls for the designation of a specific unit, or the appointment of one or several employees directly responsible for the observance of the requirements set out in the AML Law. Both the supervisory authority and the FIU must be informed of the designation of the relevant unit and the appointment of the compliance officers (Article 20 paragraph 3 of the AML Law). Timely access to all

relevant information is not specifically addressed in the law but the FCMC Regulation provide that the compliance officer must be granted "an authorization to familiarize himself or herself" with all the client identification information as well as with the information concerning his or her economic and personal activity (Article 52 of the FCMC Regulation). There is no explicit requirement that the compliance officer must be at the management level.

For financial institutions supervised by the FCMC, the requirement of Article 20 for an internal control system is a key element in the AML/CFT preventive measures. The FCMC Regulation draws its title from this requirement and sets out the core principles to be taken into account when formulating and documenting an internal control system for the purpose of identifying clients and actual beneficiaries as well as unusual and suspicious transactions. As part of its off-site AML/CFT supervision, FCMC staff require institutions to submit their AML/CFT internal control policies and procedures documentation, which are then analyzed line-by-line for compliance with the requirements of the law and the FCMC Regulation. Follow-up action is taken by the FCMC to require financial institutions subject to its supervision to amend and improve their AML/CFT policies and procedures to correspond with Latvian requirements.

In practice, all financial institutions interviewed by the assessors have in place documented AML/CFT policies and procedures that cover, in greater or lesser detail, the main components needed as a basis for an effective internal control system.

For bureaux de change, the BoL adopted in November 2004 recommendations on the development and implementation of internal control procedures on AML/CFT.

15.2

The Law on Credit Institutions (as last amended June 2005), which applies to banks and electronic money institutions, contains numerous references to the internal audit function and its important role in the overall governance structure. The internal audit function is among those to which the FCMC applies a fit and proper test in accordance with Article 24. With respect to insurance companies, Articles 20 and 21 of the Law on Insurance Companies and Supervision Thereof also contain requirements in relation to internal audit. Under Article 53 of the FCMC Regulation, which applies to all financial institutions other than the Latvian Post Office and the bureaux de change, the internal audit service of a financial institution shall include the assessment of AML/CFT policies and procedures and evaluate their day-to-day implementation. Article 53 further requires that, where the internal audit service determines that the board of directors does not pay proper attention to AML/CFT compliance, it shall notify without delay the financial institution's board and shareholders.

All of the financial institutions interviewed by the assessors confirmed that their internal audit functions involve themselves actively in evaluating the quality of AML/CFT compliance, particularly in the last 2–3 years. Internal audit findings are available to and reviewed by the FCMC as part of their on-site inspections. In addition, partly in response to the challenges and reputational risk to Latvian financial institutions in recent years arising from AML/CFT issues, compliance has also been tested extensively as part of the work of external auditors.

15.3

Employee training on AML/CFT is explicitly required under the law. Financial institutions are required to conduct regular training of their staff "in the determination of the indicators of unusual transactions or suspicious financial transactions and the implementation of the activities provided for in the internal control regulations"(Article 20 paragraph 2 of the AML Law). The FCMC Regulation provides further that the credit institutions should ensure continuous training and regular improvement

of the professional skills of their staff, and they should ensure that all staff members understand the policies and procedures formulated for governing the prevention of the laundering of proceeds derived from criminal activity in substance (Article 54 of the FCMC Regulation). The financial institutions are also required to document training programs for their staff and to keep copies of the training course and training aids (Article 55 of the FCMC Regulation).

The persons subject to the AML Law must ensure that their employees are familiar with the obligations that result from the AML Law and must conduct regular training in the application of the list of indicators of unusual/suspicious transactions and the internal control regulations (Article 20 par. 2 of the AML Law).

All financial institutions interviewed could demonstrate to the assessors that they had active employee training programs in place. Training has also been provided directly by the FIU and the BoL (for the bureaux de change). Moreover, the Association of Latvian Commercial Banks conducts AML/CFT training courses for its members, at three different levels of complexity related to the needs of the staff and their role in dealing with AML/CFT issues.

15.4

A requirement for financial institutions to put in place screening procedures to ensure high standards when hiring staff is not specifically mentioned in the Latvian legislation, except in relation to fit and proper tests for owners, management, and the internal audit function under the Law on Credit Institutions. In the case of the bureaux de change, owners and managers have to be of "impeccable reputation"(Article 2.1 of the BoL Regulation for Purchasing and Selling Cash Foreign Currencies). The assessors confirmed that financial institutions apply their own internal vetting procedures when recruiting staff.

R. 22

The AML Law provides that the requirements of the AML Law also apply to the "structural units and foreign subsidiaries of the persons referred to in Article 2, Paragraph two" of the same law (Transitional provisions, paragraph 2).

According to the Law on Credit Institutions, banks and electronic money institutions are required to obtain a authorization from the FCMC prior to opening a branch in a foreign State (Article 12 of the Law on Credit Institutions). The law also provides (in Article 100) that :

(1) "The Finance and Capital Market Commission shall conduct supervision of credit institutions if not otherwise specified by law.

(2) The Finance and Capital Market Commission in accordance with this Law and other laws shall perform the supervision of a branch of the credit institution in a foreign state if it is not specified otherwise in the regulatory enactments of the relevant foreign state."

There are therefore some requirements that address the necessity to apply the Latvian AML/CFT measures abroad in accordance with the Methodology Criterion 22.1.

However, there are no specific requirements in respect of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differ, nor are financial institutions required to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.

Similarly, the FCMC Regulation does not specifically address these points. The only relevant reference is found in industry guidance prepared by the Association of Latvian Commercial Banks and

approved by the Board of the FCMC in May 2004, which commits the banks to applying equivalent AML/CFT measures to their subsidiaries and branches abroad, of which there are few and none of material size. A number of banks interviewed confirmed to the assessors that they subscribe to and abide by the industry guidance.

Recommendations and comments

Recommendations

While there is good implementation in the banking sector, the authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations:

- for financial institutions (other than banks, electronic money institutions, and insurance companies) where warranted by size and risk of the business, to establish an independent audit function.
- for financial institutions to develop appropriate compliance management arrangements e.g. at a minimum the designation of an AML/CFT compliance officer at management level.
- for financial institutions (other than bureaux de change) to put screening procedures in place when hiring employees.
- for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that AML/CFT measures applied are consistent with the Latvian law in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs.
- for financial institutions to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.15	LC	There are no legal or regulatory requirements to establish an adequately resourced and independent audit function for financial institutions other than banks, electronic money institutions, and insurance companies, even where warranted by size and risk. There is no explicit requirement that the compliance officer should be at management level. Only bureaux de change are required to introduce screening procedures to ensure high standards when hiring employees.
R.22	PC	Whilst the AML measures do apply to foreign branches or subsidiaries, there are no specific requirements in respect of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs, nor are financial institutions required to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.

2.9 Shell banks (R.18)

Description and analysis

The AML Law gives a broad definition of shell banks that complies with the standard and which reads as follows: “a bank, the management, staff or the place where the financial services are provided of which are not located in the country in which it is registered and which has no supervisory institution – a shell bank shall also be a commercial company which conducts noncash transfers on behalf of the

third persons except for cases where such transfers are carried out by an electronic money institution or they are carried out among companies (participants) of a single concern registered according to the procedure established by the law".

Article 5^3 of the AML Law clearly forbids any of the persons and entities subject to the Law to conduct transactions with shell banks.

The FCMC clarified its requirements in the guidance letter to the banks of October 2005, by stating that banks must define criteria and set procedures to identify shell banks and that they should avoid establishing any correspondent banking relations with shell banks. However, the measures in place do not require the financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their account to be used by shell banks.

Although there is no explicit requirement that banks have a physical presence in Latvia, to ensure that they must do so the FCMC relies on a construction based on a number of its licensing requirements (Part 2 and point 6.7 of the Regulations on the Issue of Credit Institution and Credit Union Operating Licences, May 24, 2002) and also on the requirements of the Commercial Law (Articles 8 and 139) relating to the need for all companies to have a registered address in Latvia, which is the address at which the Board is to be located. The assessors are of the view that a more explicit text would be preferable to ensure that all banks are clearly obliged to have a physical presence and center of operations in Latvia. In practice, the assessors have no basis to indicate that any of the banks currently authorized and operating in Latvia have any characteristics of shell banks. All indications are that they all have a physical presence in Latvia, with mind and management based there. However, considering the lack of clear prohibition to establish a shell bank in Latvia and the absence of a clear requirement on the financial institutions to ensure that their correspondent institutions do not permit their accounts to be used by shell banks, the Latvian legislation does not fully comply with the standard.

Recommendations and comments

Recommendations

- Make more explicit the current measures to ensure that shell banks could not be established in Latvia.
- Require financial institutions to take measures in order to satisfy themselves that their respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.18	LC	Measures to prevent the establishment of shell banks are not sufficiently explicit. No specific requirement to check that foreign respondents ensure that they are not used by shell banks.

Regulation, Supervision, Guidance, Monitoring and Sanctions

2.10 The supervisory and oversight system–competent authorities and SROs:
Role, functions, duties and powers (including sanctions) (R.17, 23, 25, 29, 30 & 32)

Description and analysis

R. 23

With the exception of the Latvian Post Office and the re-insurance business, all relevant financial institutions are subject to adequate AML/CFT regulation and supervision.

Since the entry into force of the Law on the Financial and Capital Market Commission (Law on the FCMC), in July 2001, the licensing and supervision of the financial institutions covered by the AML Law have been divided between the FCMC and the BoL; only the Latvian Post Office remains outside this general framework and is supervised by the Ministry of Transport and Communication.

23.2

FCMC

The FCMC is the competent authority for the licensing and supervision of all the financial institutions except the bureaux de change (Articles 2, 4, 6 and 7 of the Law on the FCMC; Article 99^1, 100 of the Law on Credit Institutions: Article 26^1 of the AML Law). More specifically, the FCMC licenses and supervises the activities of banks, insurance companies, investment management companies, the Latvian Central Depository, private pension funds, credit unions, insurance brokerage firms, investment brokerage firms and the Riga Stock Exchange (Article 4 of the Law on the Financial and Capital Market Commission, Law on the FCMC). The FCMC does not however supervise the re-insurance business in Latvia.

BoL

The BoL is the central bank of Latvia (Article 1 of the law on the BoL). It is also the competent authority to issue licenses for the purchase and sale of foreign currency (as a commercial activity) to legal persons other than credit institutions (Article 11 paragraph 1 of the law on the BoL), in other words, to the bureaux de change. Article 10 of the law on the BoL gives mandate to the BoL to assess compliance with the regulation that it (i.e., the BoL) has issued. The law does not mention that the BoL is responsible for the supervision of the implementation of AML/CFT measures—this was addressed in the BoL Regulation for Purchasing and Selling cash Foreign Currencies (which was adopted by BoL Resolution 114/5 of September 9, 2004, and, BoL Resolution No 125/6 of March 14, 2006).

The Latvian Post Office operates under the supervision of the Postal Division of the Ministry of Transport and Communication but there is no specific supervision for AML/CFT purposes.

23.3

Founding persons of a credit institution must have an "unimpeachable reputation" and free capital (Article 16 paragraph 2 of the Law on Credit Institutions). When assessing a person's reputation, the FCMC has the right to examine that person's identity as well as criminal records. It may examine documents in order to determine whether "the invested funds have been acquired in unusual or suspicious transactions" (Article 16 paragraph 3 of the Law on Credit Institutions). The FCMC also has the right to request additional information regarding these persons "in order to evaluate their financial condition and reputation when investigating (...) 1) the adequacy of their financial resources, 2) the operations and management plans of the credit institutions, and 3) their previous activities, competence and experience (Article 17 of the Law on Credit Institutions).

The BoL has also taken measures in order to prevent criminals from owning or holding management functions of the bureaux de change by requiring that "owners of the enterprises and representatives of the executive body shall be of impeccable reputation". When considering granting a license for the purchase and selling of foreign currency, the BoL verifies that the relevant persons do not have criminal records.

23.4

All financial institutions in Latvia subject to the Core Principles are regulated by the FCMC. Latvia's compliance with the Core Principles was assessed as part of the IMF/World Bank Financial Sector Assessment Program (FSAP) in 2001, at which time the banks were still supervised by the BoL and the FCMC had yet to be created as the unified regulatory authority. The FSAP findings in relation to the Core Principles was generally favorable, particularly for those principles of relevance in supporting effective AML/CFT measures.[15]

23.5 and 23.6

Money transfer services may only be provided by banks and electronic money institutions (Article 9 paragraph 5 of the Law on Credit Institutions) or the Latvian Post Office (Articles 6 and 22 paragraph 3. 4 of the Postal Law). They are not subject to separate licensing or registration requirements but are authorized activities of credit institutions and the Post Office (see also Special Recommendation VI below). Supervision of the remittance services performed by credit institutions is conducted by the FCMC in the same way as other services and activities performed by the credit institutions. No separate or additional measures are applied.

23.7

The only financial institutions that are not subject to licensing or registration requirements and that are not subject to adequate supervision are the reinsurers. The assessors were informed that (three or four) reinsurance businesses operate in Latvia. Latvian insurance companies are restricted in their choice of reinsurer, which must either meet a minimum rating standard or be EU insurance companies. The Latvian reinsurance companies do not qualify under either heading. However, the assessors learned that the Latvian reinsurance companies are of some significance regionally, offering services mainly to insurance companies in other CIS countries. At least one of the reinsurance companies is of a substantial size, and another is a member of a locally-owned financial conglomerate which includes a Latvian bank within its structure. While reinsurance is not currently addressed by the FATF Recommendations, considering the potential for misuse of reinsurance contracts for money laundering purposes, the authorities should ensure that reinsurance activities are made subject to the general AML/CFT framework as soon as possible and duly supervised. The authorities informed the assessors that they expect the issue to be addressed in the context of the implementation of the EU Directive on reinsurance.

R. 17

Under the Latvian legislation the employee (including directors and senior management) of a financial institution may be held personally responsible for failure to comply with the reporting and customer identification requirements and be punished by a fine of LVL250 (Articles 165-4 and 164-5 of the law on Administrative Violations Code). The supervisors may apply sanctions to the financial institutions they supervise set out below.

FCMC

The FCMC has the authority to apply sanctions set forth by the regulatory requirements to the financial institutions that it supervises (Article 7 paragraph 5 of the Law on the FCMC). According to the gravity of the violation, it may apply a range of sanctions that appear effective, proportionate and

[15] The Core Principles specifically related to AML/CFT such as BCP 15, were an exception to this statement in 2001; however, in this aspect, the FSAP assessments have been overtaken by subsequent events and the current comprehensive AML/CFT assessment presents the up-to-date picture.

dissuasive.

The FCMC is specifically entitled to impose fines ranging from LVL5,000–100,000 for failure to comply with the requirements set out in the AML Law (Article 198 of the Law on Credit Institutions). The maximum fine was increased in 2005 from LVL5,000 to LVL100,000. On a number of occasions over the past two years, the FCMC applied the maximum fine of LVL5,000 to banks in which weaknesses in their AML/CFT control systems has been identified in the course of on-site inspections. For the most part, the deficiencies related to missing or inadequate customer or transaction documentation, but some cases were more serious in nature. Since the legislative amendment to increase the fine ceiling, there has been one fine applied to a bank at a level substantially above the previous maximum, for ongoing weaknesses in AML/CFT procedures.

In more severe cases (defined under Article 102 of the Law on Credit Institutions), the FCMC may apply the procedures of the so-called intensified supervision. The intensified supervision constitutes the general framework of a higher level of scrutiny and on-going supervision. It is also the pre-requisite to impose more severe sanctions. If the intensified supervision procedures are applied, the FCMC is entitled:

- to warn the credit institution;
- to request the Bank of Latvia to suspend the granting of its credits to the credit institution;
- to prohibit the credit institution from investing funds in illiquid assets;
- to restrict the acceptance of deposits or to prohibit the bank from accepting deposits;
- to restrict the granting of credits or to prohibit the bank from granting credits;
- to request the Bank of Latvia to suspend the accounts of the credit institution which are utilized as correspondent accounts at the Bank of Latvia;
- to prohibit the credit institution from conducting accounts and payments in cash which are utilized in correspondent accounts in other credit institutions and financial institutions;
- to suspend, partially or fully, the provision of other financial services; and
- to give the supervisory institutions and executive institutions of credit institutions, as well as the heads and members of such institutions, justified written orders, which are necessary in order to restrict or suspend the operations of a credit institution that threatens or may threaten the stability, solvency, or reputation of this credit institution.

At one point in 2005, 13 of the 23 Latvian banks were subject by the FCMC to the legal status of intensified supervision due to deficiencies in their AML/CFT systems, as the FCMC pursued strong measures to clean up the banking system. The status was imposed in each case based on the results of on-site inspections, and progress was reviewed periodically on-site. As this is an enabling power, it permitted the FCMC to apply sanctions which ranged in individual cases to threats to require the replacement of AML/CFT compliance officers or, in some cases, entire boards of directors, restrictions (or the threat of restriction) on the acceptance of further nonresident business. In a small number of cases, the FCMC threatened banks with a prohibition on conducting any further business with nonresidents. The impact of these sanctions on the banks has been dramatic—AML/CFT policies and procedures have been updated; huge number of accounts have had their documentation reviewed and updated; and, where this proved impossible, large numbers of accounts have been closed (reportedly more than 100,000 in 2005 for inadequacy of documentation). As a result of these improvements, all but one bank[16] had been removed from the status of intensified supervision by the time of the assessment. However, the FCMC is aware that certain ongoing implementation issues remain in some banks and will reassess these institutions during the upcoming program of on-site

[16] This case is understood to be for issues other than AML/CFT

inspections. The FCMC retains the power to apply fines for breaches of requirements, even without availing of the intensified supervision status.

Sanctions for noncompliance with the requirements set out in Articles 8 (identification of beneficial owner), 9 (exemption to identification requirements), and 20 (internal control system) of the AML Law, may be applied in accordance with Article 198 of the Law on Credit Institutions.

BoL

The BoL is entitled to suspend for a limited period of time or revoke the license granted for the buying and selling of foreign currencies if a bureau de change fails to comply with the requirements set out in the laws and regulation of the Republic of Latvia, including the failure to comply with the reporting and identification requirements set out in the AML Law (Law on the BoL, Article 11 paragraph 2, BoL Regulation No 114/5, Articles 2.9 and 4.4). Since the license to operate a bureau de change may only be granted to a legal person (Article 11 paragraph 1 of the law on the BoL), the sanctions only apply to the legal entity that holds the license, and thus not to its directors or senior management.

R. 25

The FCMC Guidelines of 2004 and Regulation of 2006 both impose requirements on financial institutions and provide detailed guidance. They include (in Article 3.5 of the 2004 Guidelines and Articles 33 and 34 of the 2006 Regulation) listings of indicators of suspicious transactions. The FCMC has supplemented and updated these requirements by issue of a series of guidance letters, the most significant of which was issued to banks in October 2005. Matters covered included measures in relation to implementation of the requirements for assessing the standing of correspondent banks in line with FATF Recommendation 7, guidance on documentation in relation to implementing the legislative requirements to identify beneficial owners, non face-to-face business, and practical guidance on reporting unusual and suspicious transactions.

In addition, the Association of Latvian Commercial Banks issued its own guidance in 2004, which was endorsed by the Council of the FCMC, and which covers many aspects of the FATF Recommendations. This industry guidance is in need of updating, and it would be useful for the banks and the FCMC to consider incorporating this material into officially-issued guidance or, to the extent appropriate under the FATF Recommendations, into an FCMC regulation.

The BoL issued in November 2004 the Recommendations to Business Ventures (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for developing an Internal Control System for the Prevention of Laundering of Proceeds Derived from Crime and Financing of Terrorists. These Recommendations provide the bureaux de change with further guidance on how best to comply with the requirements set out in the AML Law.

R. 29

FCMC

29.1. and 29.2

The FCMC has the authority to examine compliance of the activities of all financial institutions that operate under its supervision with the legislation and the regulation issued by the FCMC (Article 7 of the Law on the FCMC). Under Article 106 of the Law on Credit Institutions, the FCMC has the right to perform an examination of the operations of a credit institution, it is required to prepare a report of the examination under Article 108, and the institution has a statutory power of appeal against the examination findings.

The FCMC has conducted frequent, lengthy, and detailed AML/CFT inspections of all banks in recent years. Coverage included reviews of policies and procedures, practical implementation of the requirements of the AML Law and FCMC Guidelines (as evidenced by retained documentation), with sample testing of customer files and transactions. Particular emphasis was placed on nonresident business, and on the many thousands of accounts held in the names of companies registered in offshore centers, to determine if the banks had taken sufficient steps to identify the beneficial owner in each case. From 2004 to late-2005, the FCMC identified significant incidence of weaknesses in AML/CFT policies and implementation, sought remedial action, and sanctioned widely. Recent on-site inspections indicate that there has been a remarkable improvement in levels of compliance, though residual problems remain in the course of being addressed in certain banks. The FCMC plans to continue its AML/CFT on-site inspection program.

The BoL has similar powers to monitor the activities of the bureaux de change and to conduct on-site inspections (Article 4.11 of the BoL Regulation for Purchasing and Selling cash Foreign Currencies in force until April 2006 and Article 6.1 of the current Regulation). The inspections include examination of the books and records (cash register data) as well as review of the procedures on client identification and suspicious/unusual transactions reporting.

29.3

The FCMC is entitled to request from the financial institutions and receive information necessary to execute its functions (Article 7 of the Law on the FCMC). It also has specific access rights to all documentation related to the reporting, by the financial institutions, of unusual or suspicious transactions to the FIU (Article 20 paragraph 4 of the AML Law). The powers of the FCMC to compel production of documents is not predicated on the need to require and obtain a court order. As noted, the FCMC requires institutions to submit to it for off-site review its AML/CFT policies and procedures documentation. The FCMC has unrestricted access to all documentation and systems during its on-site inspections.

According to the authorities, the BoL enjoys similar rights in the ambit of its supervision of bureaux de change.

29.4

The FCMC has adequate powers of enforcement and sanction against the financial institutions. While, with the exception of the removal of the board members and the threat thereof, the sanctions available seem to be limited to the legal persons and not be applicable to their directors or senior managers, the FCMC has, in a number of cases as outlined earlier, successfully combined its power to place a bank under intensified supervision with the formal threat of removal from office of a director or senior officer, to provide a further effective basis for achieving corrective action.

The BoL's powers to sanction the bureaux de change are specified under Article 2.9 of the BoL Regulation for Purchasing and Selling Cash Foreign Currencies. They apply only to the legal persons.

R. 30

The FCMC is adequately resourced, both in terms of the numbers and experience of its supervisory staff and in availability of IT systems and other support, to carry out its duties, including in the area of AML/CFT. As set out in Section VII of the Law on the FCMC, the FCMC is financed from payments of the participants of the financial and capital markets and there is scope for additional contributions, should they be required. The FCMC employs close to 100 staff, of which 27 are in the Banking and Securities Market Division and seven in the Insurance Division. Staff turnover has been relatively low.

Many of the supervisory staff have been with the FCMC since it was created in 2001, and some had worked previously for the BoL.

The BoL also appears to be adequately resourced to conduct its supervisory role in relation to the bureaux de change. A total of six staff have been assigned to this area.

The Post Office is not currently subject to the type of prudential supervision applied to other financial institutions. A suitable form of supervision in the AML/CFT area should be devised and applied.

R. 32

The FCMC is entitled by Article 6 paragraph 5 of the Law on the FCMC to collect and analyze information related to the financial and the capital market, as well as to publish it.
The BoL is not specifically empowered to maintain and publish statistics on the operations of the bureaux de change.

Statistics maintained by the FCMC and BoL include numbers of on-site inspections conducted and numbers of sanctions imposed, as follows:

	FCMC		BoL	
	2004	**2005**	**2004**	**2005**
AML/CFT on-site inspections	35	21	24	39
Sanctions	9	14	–	15 licenses revoked

Recommendations and comments

Recommendations

- The Latvian Post Office should be made subject to appropriate supervision for AML/CFT purposes.
- There should be appropriate sanctions that apply to directors and senior staff of bureaux de change.

Comment

The Latvian authorities should assess the AML/CFT risks of domestic reinsurance business and introduce appropriate risk-based measures to supervise the sector.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 2.10 underlying overall rating
R.17	PC	(Composite rating)
R.23	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
R.25	PC	(Composite rating, see section on DNFBPs)
R.29	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
R.30	LC	(Composite rating)
R.32	LC	No power for BoL to publish AML/CFT statistics on bureaux de change (Composite rating)

Money or Value Transfer Services

2.11 Money or value transfer services (SR.VI)

Description and analysis

Under Latvian legislation, money transfer services may only be provided by banks and electronic money institutions (Article 9 paragraph 5 of the Credit Institution Law) or the Latvian Post Office (Articles 6 and 22 paragraph 3. 4 of the Postal Law. (N.B.: Although the English version of Article 9 paragraph 5 of the Credit Institution Law refers to "noncash means of payment" without defining the term, the original Latvian version refers to "payment instruments" which, as defined under Article 1 paragraph 38 of the same law, includes a broad range of cash and noncash instruments). The combination of the requirements set out in the Credit Institutions Law and the Postal Law leaves no gap in the system in respect of stand-alone remitters: they are not entitled to operate. Should money remittance outside the authorized system be encountered, a fine could be imposed by the FCMC on the basis of its general powers to sanction unauthorized credit institution activities (under Chapter VII of the Credit Institutions Law). The law enforcement authorities (in particular the economic police) would also be informed by the FCMC in order to shut down the illegal business. Money remittance services are authorized activities for banks and the Post Office; they are not subject to specific licensing or registration requirements. Compliance with all AML/CFT requirements in respect of remittance activities is the responsibility of the bank or the Post Office.

Banks which offer money remittance services do so primarily as licensed agents for either Western Union or MoneyGram. One bank participates in a money remittance network named PrivateMoney. PrivateMoney operates a remittance network for account holders at banks that are members of a bank holding company with banks in Ukraine, Russia, Latvia, and Cyprus. Only banks that are part of the holding company may use the PrivateMoney network. The organization and operating practices of PrivateMoney are similar to those of MoneyGram, including software filtering of all transactions for completeness of information and screening for prohibited or suspect transactions. Under each of these arrangements, all transactions are cash-in-cash-out. No transfers are deposited directly to bank accounts.

The Post Office operates a nationwide giro payments service which handles a large volume of small payments (typically utility bills, distribution of pensions and social welfare payments, etc). Noninterest-bearing current accounts are maintained but no credit is extended. As part of its payments activities the Post Office offers postal money orders, including international postal money orders. Both are paper based, with only 10 percent of postal transfers handled electronically. In addition, the Post Office is an agent for Western Union.

Customer identification procedures and documentation for Western Union and MoneyGram transactions follow these organizations standardized internal procedures, which conform to Latvian requirements. The requirements for PrivateMoney reportedly satisfy the same requirements. The identification requirements and documentation procedures for postal money orders is set out in Postal regulations and is substantially equivalent to those required under Western Union or MoneyGram.

The Post Office is organized as a state enterprise with the shares held by the Ministry of Transport. The Ministry has supervisory responsibility for postal activities but it has not exercised an oversight function with respect to AML compliance by the Post Office. The Post Office is expressly subject to the AML Law. It is categorized as a financial institution and is thus subject to the unusual transactions reporting procedures of Cabinet Regulation 127. The Post Office has detailed internal AML controls, including for client identification, risk rating of clients and transactions, monitoring of transactions, identification of unusual or suspicious transactions, appointment of a senior official responsible for AML compliance, training of staff, and reporting of unusual or suspicious transactions to the Control Service. Operation of the AML internal control regime is a topic specifically reviewed by the Post Office's internal auditors and external auditors. However, there do not appear to be any explicit sanctions applicable to the Post Office for noncompliance with AML obligations.

Analysis

The FCMC, the Post Office, and banks indicate that few anomalies have been encountered in operating money transfer arrangements and this area is believed to be well-controlled in Latvia and not a significant vulnerability for money laundering. Neither the FCMC, the banks, nor the Post Office were aware of any informal remittance activities in Latvia.

As the AML supervisor for banks, the FCMC has oversight and compliance enforcement responsibility for bank money remittance services. FCMC includes money remittance services within the scope of its overall examination procedures but has not singled out money remittance services for targeted examination. The operating practices of PrivateMoney have not been specifically examined by the FCMC.

While the Ministry of Transport has overall responsibility for the Post Office it does not have policies and procedures to oversee the AML arrangements of the Post Office. Nor is there any other external competent authority with a mandate to monitor and ensure compliance by the Post Office with its AML responsibilities.

Recommendations and comments

Recommendation

- Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
SR.VI	PC	The remittance services are adequately monitored and supervised when they are provided by banks and electronic money institutions, although a closer review of PrivateMoney appears to be warranted. The Post Office is not subject to monitoring and supervision by a competent authority to ensure AML compliance of its money transfer business.

3. Preventive Measures–Designated NonFinancial Businesses and Professions

3.1 Customer due diligence and record-keeping (R.12) (applying R.5, 6, 8 to 11, & 17)
Description and analysis

R. 12.1

In addition to the financial institutions described in Section 2 of this report, the provisions of the AML Law apply to the following designated nonfinancial businesses and professions (DNFBPs):

- organizers and holders of lotteries and gambling;
- professionals providing services associated with financial transactions (consultants and those who authorize transactions);
- tax consultants, sworn auditors and providers of financial services;
- notaries, advocates and their employees where they assist clients in managing or planning the management of financial instruments and other resources, the opening and management of all types of accounts, the creation, operation, and management of any person carrying out commercial activities and representing clients in any transaction relating to real estate;
- dealers in real estate;
- dealers in any means of transport; and
- dealers in precious metals and precious stones and dealers in art and cultural objects.

Accountants who are not sworn auditors and company service providers (other than sworn auditors and lawyers, advocates and notaries who provide this service) are not subject to the AML Law. Legally it is not possible to create a trust in Latvia and as such there are no trust service providers. Sworn auditors are not subject to the AML Law in relation to cases associated with pre-trial investigation and court proceedings and those from the legal profession are not subject to the AML Law when defending a client or representing a client in court proceeding.

R. 5: CDD

The description and analysis in Section 2.2 (Recommendation 5) of this report in relation to the AML Law applies to the following DNFBPs: Lawyers, advocates, sworn auditors, dealers in precious metals and precious stones, casinos, and tax consultants, when opening an account or accepting other financial instruments for safe keeping (Article 6 of AML Law). For all other activities of these DNFBPs and for all other DNFBPs the description and analysis of the CDD requirements of Recommendation 5 described in Section 2.2 of the report apply when these entities are conducting financial transactions of the equivalent of EUR15,000 and more, whether as a single transaction or several related transactions. If the threshold is determined at any time after the transaction is conducted the CDD obligations apply as soon as the threshold is determined or reached (Article 7 of the AML Law).

In addition to the CDD requirements of the AML Law, the following specific CDD requirements apply.

Casinos

Article 39 of the Law on Lotteries and Gambling (2006) provides that all persons entering a casino have to register each time they visit the casino by showing their identity document and the casino has to register the following information into the visitors register: name and surname of the visitor; identity number (persons to whom identity number is issued, title, number, issuing date and name of issuing authority of the identity document), date and time when person entered into premises, and

where the casino is located. In case of subsequent visits, the visitor can produce a special casino visitor's card issued by the owner of the casino, by which the visitor shall be clearly identified.

Article 36 paragraph 2(2) also requires identification of all persons buying or changing for money the funds for participating in the game at the casino amounting to EUR1,000 or higher. Information on the player and documents confirming transactions carried out must be kept by the casino for at least five years.

Procedures reviewed by the assessors indicate that casinos are applying the identification requirements of the Law on Lotteries and Gambling, which is triggered at a lower threshold (EUR1,000) than required by R 12 (EUR3,000).

Notaries

Sworn notaries are also required to identify their clients according to the Law on Notaries (Articles 75, 76, 77, 83, 113,117, 132, 134, 139, 140). These identification requirements cover the circumstances set out in Article 2 paragraph 2 of the AML Law but are not as prescriptive or detailed as the identification requirements set out in the AML Law.

Notaries are complying with the identification requirement of the Law on Notaries but do not systematically extend their due diligence to the additional CDD requirements of Chapter Two of the AML Law. Notaries appear to focus primary attention on identifying the contractual parties to an agreement, with less attention to identifying beneficial owners.

Dealers in precious metals and precious stones

Regulation 367 (August 20, 2000) on Procedures for the Registration of Places of Economic Activity with Precious Metals, Precious Stones and Articles Thereof, Procedures for their Mandatory Assaying and Marking and Procedures for the Safe-keeping of Unassayed Precious Metals, Precious Stones and Articles Thereof, imposes a requirement that dealers in precious metals and stones, when accepting precious metals or stones for repair, manufacture, or safekeeping, or who buy them, have an obligation to issue and keep copies of receipts of their transactions. These receipts must contain at a minimum the name, address and, in some cases, the identification number of the commissioning party or the seller or buyer as the case may be (Articles 54, 55, 56, 63, 64, 65).

Based on information provided by the State Assay Supervision Inspectorate, dealers in precious metals and precious stones, who are required to be registered and supervised by the Inspectorate, appear to be complying with the requirements under the AML Law to identify customers when engaging in transactions of EUR15,000 or more, as well as the more stringent identification requirements for those circumstances covered by Regulation 367.

Guidelines

A number of organizations have issued "guidelines" or "regulations" elaborating on the AML/CFT obligations of DNFBPs, including CDD requirements. These guidelines/regulations are adapted from the ***Model Regulation on the Internal Control System of the Prevention of the Laundering of the Proceeds from Crime and the Financing of Terrorism*** prepared by the FIU and endorsed by the Advisory Board of the FIU. These guidelines/regulations generally set out requirements for customer identification, record keeping, and internal controls, and incorporate the requirements to report STRs and UTRs as set out in the Cabinet of Ministers Regulation No 127 of March 20, 2001 "Regulations on the List of Indications of Unusual Transactions and Procedure of their Reporting." Nevertheless, the content and legal status of these guidelines/regulations varies considerably from sector to sector, and they are almost all advisory in nature and, therefore, do not qualify as "other enforceable means".

In addition, it should be noted that the provisions of Cabinet of Ministers Regulation 127 itself are applicable to "credit and financial institutions" and do not explicitly apply in all circumstances to all DNFBPs.

Some of the groups issuing AML/CFT guideline/regulations could qualify as "supervisory and control" agencies under the AML Law. This includes the Lotteries and Gambling Monitoring Inspectorate and the State Assay Supervision Inspectorate, and three recognized SROs: the Latvian Council of Sworn Advocates, the Sworn Notaries Council, and the Latvian Council of Sworn Advocates. However, while these supervisory and control agencies and SROs may be supervisory and control agencies for monitoring and enforcing compliance with their own applicable statutes, they have not been designated as supervisory and control authorities for purposes of implementing the AML Law. A Working Group was established, based on an Order of the Prime Minister, to bring forward legislative proposals to establish effective systems for monitoring and ensuring compliance with AML requirements. The Working Group was required to make its recommendations no later than June 1, 2006.

Nonenforceable, advisory AML/CFT guidelines/regulations have also been issued by various trade associations, including the Latvian Car Dealers Association (LAPPA), the Corporation of Real Estate Brokers and Dealers (NIMA) and the Latvian Real Estate Association (LANIDA). None of these organizations has the status of an SRO.

While these various guidelines/regulations have had the salutary effect of raising awareness of AML/CFT obligations among DNFBPs, they are relatively new and implementation of these guidelines is hard to gauge.

Criteria 12.2

R. 6: PEPs

There are no CDD obligations in relation to PEPs in the AML Law. The guidelines issued by the Lottery and Gambling Monitoring Inspectorate, by NIMA, and by the Latvian Car Dealers list PEPs as high-risk clients requiring enhanced identification procedures.

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R. 8: Modern technologies and Non face-to-face

Article 10 of the AML Law relating to measures to be applied for non face-to-face dealings apply to DNFBPs and the description and analysis in Section 2.2 of the report applies to DNFBPs.

R. 9: Third party intermediaries

There are no specific CDD requirements in relation to the use of third party intermediaries in the AML Law and similarly there are no CDD requirements in the guidelines issued to the DNFBPs that relate to the use of third party intermediaries.

R. 10 (record keeping)

Article 10 of the AML Law applies to DNFBPs and the description and the analysis in Section 2.5 of the report applies to them in relation to requirements of record keeping set out in Recommendation 10.

According to Article 2.3.2 of the Statutes of the Latvian Collegium of Sworn Advocates a sworn advocate shall organize record keeping and book keeping accounts in accordance with the laws of the Republic of Latvia and conditions set by the Latvian Council of Sworn Advocates. Sworn advocates as a matter of practice keep records indefinitely.

Organizer of Lotteries and Gambling

Article 39 paragraph 4 of the Law on Lotteries and Gambling (2006) requires that the identification information be stored electronically until submitted to the Lotteries and Gambling Supervisory Inspectorate and such information should be secured against loss or damage, unauthorized access by third parties and a summary of that information should be kept for five years (paragraph 5).

R. 11

Article 20 paragraph 1^1 of the AML Law on the monitoring of transactions only applies to financial and credit institutions. As a result, there are no explicit requirements in law for DNFBPs to monitor the transactions of their clients.

R. 17.1

Sanctions for noncompliance with AML Law

There are no sanctions in the AML Law for noncompliance with CDD requirements applicable to all the DNFBPs nor are there any sanctions for noncompliance with CDD requirements by DNFBPs in the Administrative Violations Code.

Lawyers and Notaries

Sanctions in Law on Bar

For violations of laws, including the AML Law and as well as for violating the instructions regulating the activities of sworn advocates and the norms of professional ethics of advocates, the Latvian Council of Sworn Advocates may initiate disciplinary proceedings upon the recommendation of the court or the prosecutor, as well as upon complaints from persons or upon its own initiative (Article 71, Law on the Bar). The Disciplinary Commission of the Council reviews these cases.

The Latvian Council of Sworn Advocates can issue a warning, issue a reprimand, or explain to the sworn advocates the impropriety of their actions (Article 73 of the Law on the Bar) or dismiss the sworn advocate (intentional violation of the law-Article 74 of the Law on the Bar)

Sanctions in Law on Notaries

According to Article 180 of the Law on Notaries, the Council of Sworn Notaries of Latvia or the Ministry of Justice may initiate a disciplinary matter for violations of laws or other regulatory enactments pursuant to a proposal by the court, prosecutor or a complaint or on its own initiative and according to Article 183 it has the right to explain to the sworn notary the wrongfulness of its actions. The Council of Sworn Notaries has the right to issue a reprimand or reproof while the Ministry of Justice may dismiss or suspend the sworn notary (Articles 183, 212, 213). The Minister of Justice also has the right to dismiss from office a sworn notary who has been sentenced for an intentional crime or who has committed an intentional crime (Article 212).

Auditors

According to Article 23 of the Law on Sworn Auditors, **t**he Latvian Association of Sworn Auditors is entitled to cancel a license issued to a commercial company of sworn auditors where it repeatedly violates other laws and regulatory enactments. This includes a violation of the AML Law.

Organizers of Lotteries and Gambling

Articles 86 and 87 of the Law on Lotteries and Gambling provide for the suspension and withdrawal of the license of organizers of gambling games and lotteries when it is established that the organizer of gambling games or lotteries regularly infringes statutory acts and other laws and regulations governing gambling and lotteries. Additionally Article 204.5 of the Administrative Violations Code imposes a fiscal penalty in the amount of up to LVL200 in relation to natural entities and in the amount of up to

LVL500 in relation to legal entities for breaches of the law of organizers and arrangers of lotteries or gambling. If the same acts have been committed repeatedly within a year following the application of the administrative penalty the fiscal penalty amounting to up to LVL250 shall be applied to natural entities and the fiscal penalty amounting to LVL1000 shall be applied to legal entities.

When the Lotteries and Gambling Supervisory Inspection passes a resolution on the cancellation of the license or suspension of the company operations the sanction applies to the legal entity, however the natural or legal entity can also be punished according to the Administrative Violations Code (Article 204.5 of the Administrative Violations Code).

Dealers in precious metals and stones
The State Assay Supervision Inspectorate can provide directions to rectify within a specified period of time the shortcomings and violations of regulatory enactments (Article 15.5 Regulation No. 547 of June 21, 2004, State Assay Supervision Inspectorate By-Law).

Analysis
The circumstances in which the AML Law requires Latvian DNFBPs to identify customers are narrower that those called for in Recommendation 12. The AML Law only requires identification when DNFBPs open accounts or accept financial instruments for safe keeping, or when conducting financial transactions of EUR15,000 or more. Recommendation 12 does not link the CDD requirement for DNFBPs to the opening of accounts or acceptance of financial instruments for safe keeping, which activities, in any case, are not the primary activities of most DNFBPs. Further, Recommendation 12 generally calls for real estate dealers, lawyers, notaries, and other independent legal professionals to carry out CDD whenever they prepare for or carry out certain transactions, regardless of the size of the transaction.

In addition, several specific CDD provisions that are called for in the FATF Recommendations are missing from the CDD requirements imposed on Latvian DNFBPs. Except for casinos, there are no requirements dealing with PEPs. The transactions monitoring requirements applicable to financial institutions have not been carried over to DNFBPs. For several sectors (real estate agents, car dealers, and antique dealers) no supervisory authority has been designated with the authority to monitor and enforce compliance with CDD requirements, including the power to impose sanctions for noncompliance. In other cases (Sworn Advocates, Sworn Notaries), a legally established SRO is in place but the SRO has not been given responsibility for AML/CFT monitoring and compliance. Furthermore, many legal and accounting professionals (i.e., independent lawyers who are not sworn advocates; independent accountants who are not sworn auditors) are formally subject to CDD requirements of the AML Law but are not subject to oversight because they do not come under the jurisdiction of any professional SRO.

Over the last two years there has been an extensive official campaign to raise awareness among DNFBPs of their obligations to apply preventive measures under the AML Law, including for CDD. The numerous guidelines/regulations issued by various organizations are testimony to the scope of this effort. Nevertheless because of the significant gaps in the legal framework for CDD by DNFBPs, and the lack of systematic compliance monitoring, the CDD regime for DNFBPs falls well short of international standards.

Recommendations and comments

Recommendations

- Broaden the provisions in the AML Law of the circumstances under which DNFBPs are subject to AML/CFT preventive measures requirements. The AML Law should apply to all DNFBPs identified in the FATF Recommendations when they engage in the activities specified in the FATF Recommendations.
- Broaden the specification of the circumstances under which DNFBPs are required to undertake CDD to conform with the FATF Recommendations, including eliminating the provision that professionals are only required to identify clients when they engage in transactions of EUR15,000 or more or when they are arranging for safekeeping or opening accounts. A requirement to identify PEPs should be included.
- Extend Article 20 paragraph 11 of the AML Law on the monitoring of transactions to apply also to DNFBPs.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 3.1 underlying overall rating
R.12	PC	Incomplete specification of scope and detail of circumstances in which CDD is required. PEP identification not generally required. No requirement for DNFBPs to monitor transactions for CDD compliance. No steps taken to implement CDD regime in important classes of DNFBPs (independent lawyers who are not sworn advocates, independent accountants who are not sworn auditors) Lack of effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors. Indications of gaps in CDD practices among DNFBPs. Comprehensive program of outreach to DNFBP sectors to raise awareness of CDD requirements and to introduce effective compliance practices.

3.2 Suspicious transactions reporting (R.16) (applying R.13 to 15, 17 & 21)

Description and analysis

R. 16.1

According to Article 11 of the AML Law, all the persons subject to the law have the obligation to report immediately to the FIU all transactions that "cause suspicion regarding the laundering or attempted laundering of the proceeds derived from crime". This requirement applies to all DNFBPs as described under criterion 12.1. Further description and analysis of the reporting requirements are provided under Recommendation 13 (Section 2.7 of this report).

As mentioned under Recommendation 13, the Cabinet of Ministers has set out, in its Regulation No 127, a list of indicators of unusual transactions and the reporting procedures. This Regulation applies to "credit institutions" and "financial institutions". According to the definition provided in the AML Law, "financial institutions" covers the conduct of financial transactions, including consultations or approval of such transactions (Article 1 paragraph 2). Many of the services provided by DNFBPs fall

within this category. However, the definition of "financial transactions" in the AML Law creates uncertainty as to whether all the activities required to be covered under Recommendation 16 are indeed covered.

Nevertheless, the Latvian Council of Sworn Advocates, the State Assay Supervision Inspectorate, the Lotteries and Gambling Monitoring Inspectorate, the Latvian Council of Sworn Notaries, the Latvian Council of Sworn Auditors, LANIDA, NIMA and the Latvian Car Dealers Association have issued guidelines/regulations that incorporate many of the procedures and indicators set out in Cabinet Regulation No 127. While these guidelines/regulations vary considerable across sectors, they typically incorporate elements of the *Model Regulation on the Internal Control System of the Prevention of the Laundering of the Proceeds from Crime and the Financing of Terrorism* prepared by the FIU. The guidelines/regulations generally include suspicious transactions indicators relevant for the specific profession or business, a specification of the main elements of internal control policies and procedures, a requirement to appoint an official responsible for AML/CFT matters and a requirement to train staff. The regulations issued by the Latvian Council of Sworn Notaries cover identification and reporting of UTRs and STRs, although formal internal control procedures are not addressed, in part because all notaries operate as sole proprietorships.

As noted above in Section 3.1 of the report, and further discussed in Section 3.3 below, the guidelines/regulations issued by the DNFBPs are advisory and do not constitute other enforceable means.

16.2

UTRs and STRs are reported directly to the FIU and do not have to be submitted to the SRO of the DNFBP before being reported to the FIU.

16.3

Description and analysis in Section 2.7 and 2.8 apply to DNFBPs as described under criterion 12.1.

R. 15: Internal Controls

Sworn Advocates The guidelines/regulations for sworn advocates enumerate advocates' responsibility to identify clients and risky transactions, and to report unusual and suspicious transactions, but they do not prescribe written internal policies and procedures for internal control and monitoring, nor the appointment of a responsible AML/CFT official, nor requirements for training.

Sworn Advocates The guidelines/regulations for sworn auditors call for internal policies and procedures with respect to: client acceptance, identification of clients and their risks, identification of unusual and suspicious transactions, risk management, an audit function, training and reporting procedures. Indicators of transactions to be reported are provided.

Sworn Notaries The guidelines/regulations for sworn notaries do not specifically address internal controls, in part because notaries all operate as sole proprietorships.

Casinos The guidelines issued by the Lottery and Gambling Monitoring Inspectorate require casinos to have written internal policies and procedures that cover: (a) identification of the scope of potential customers, (b) identification of customers and establishment of their true business, (c) identification of suspicious transactions (indicators included), (d) refraining from transactions that are possibly linked with legalization of criminal proceeds, (e) ongoing monitoring, (f) authorization of a responsible AML/CFT official, (f) training of staff, (g) an audit function, and (h) reporting procedures.

LANIDA The guidelines/regulations issued by LANIDA spell out the customer identification requirements (including for beneficial owners) and documentation procedures for real estate agents, including those for high risk clients. The guidelines call for written internal control policies and procedures to implement the identification procedures and to provide for ongoing monitoring of transactions, to appoint a responsible AML/CFT official, to train staff, to establish an audit function to monitor the effectiveness of the internal control regime, and to report to the Control Service. The guidelines mandate that the responsible AML/CFT official have access to all customer information (Criteria 15.1.2) but do not address employee screening procedures (Criteria 15.4).

NIMA The guidelines/regulations issued by NIMA closely follow those of LANIDA

LPPA (Car dealers). The guidelines/regulations issued by LAPPA closely follow those of LANIDA

R. 21

There is no binding requirement to pay special attention to business relationships and transactions from countries which do not or insufficiently apply FATF Recommendations. In the Guidelines/Regulations of the Lotteries and Gambling Monitoring Inspectorate, Latvian Council of Sworn Advocates, LANIDA, NIMA and the Latvian Car Dealers Association there is a requirement to report transactions with persons who are on the FATF NCCT list and a country which, in accordance with the requirements of the US PATRIOT Act has been included in the list of countries in relation to whom there are concerns on ML. As noted, however, these guidelines/regulations do not qualify as "other enforceable means" for purposes of this assessment.

R. 17.1

Sanctions for noncompliance with AML Law
Article165-5 of the Administrative Violations Code provides for administrative liability for failure to report unusual or suspicious financial transactions. Punishments may be imposed by the court or the respective supervisory authority if such actions fall under the competence of the respective authority. If a person knows that a serious crime or a serious crime in aggravating circumstances is to be or has been committed (crimes which are punished by deprivation of liberty for five or more years) then the failure to report about such crimes is subject to criminal liability under Article 315 of the Criminal Law. ML and TF fall under that category of crimes. There are no sanctions specified in the AML Law. See industry specific sanctions in the laws regulating the operations and activities of the DNFBPs in Section 3.1 of this report.

Analysis
The AML/CFT preventive measures regime for DNFBPs is relatively new, with most of the (advisory) guidelines/regulations issued beginning in 2004. The FIU has undertaken an active outreach program to familiarize DNFBPs with their obligations under the AML Law, including their responsibility to establish effective internal controls to ensure that these responsibilities are met and that reports of unusual and suspicious transactions are filed with the Control Service. The numerous guidelines/regulations issued by various organizations are testimony to the scope of this awareness raising campaign. As note, however, these regulations are almost all advisory rather than binding.

Gaps in the legal framework mean that many of the specific internal control and reporting requirements called for by the FATF recommendations are not legally binding on DNFBPs. For example, the mandatory reporting of unusual transactions spelled out in Regulation No 127 does not appear to be binding on all DNFBPs and (for those DNFBPs for which they are binding) not all activities of those DNFBPs are covered. While the internal control and reporting

regulations/guidelines that have been issued to DNFBPs generally cover the essential criteria of the FATF Recommendations, they are not binding, either because the issuing agency has not been designated as a supervisory and control authority for purposes of implementation of the AML Law, or the guidelines/regulations were not issued under the supervisory powers of one of the SROs, or because the issuing organization (a trade association) has no legal authority to issue binding regulations. Furthermore, only the Lottery and Gambling Monitoring Inspectorate, the Latvian Council of Sworn Auditors, and the State Assay Monitoring Inspectorate actively monitor the activities of their membership for compliance with internal control and reporting requirements.

Based on discussions with supervisors and individual DNFBPs, it appears that awareness of AML obligations among the DNFBPs is high across all sectors. However, with the exception of casinos, sworn auditors, and dealers in precious metals and stones, many DNFBPs appear uncertain of the specific internal control measures they need to establish. Compliance with internal control procedures appears to be improving, although most reporting to the FIU appears to be based on threshold reports. In practice, the distinction between unusual and suspicious transactions is blurred and, in general, DNFBP reporting parties appear to submit reports to the FIU based primarily on financial thresholds or by reference to the indicators of unusual transactions in Regulation No 127 and only to a lesser extent based on the suspicious transactions indictors in guidelines/regulations.

Recommendations and comments

Recommendations

- Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF Recommendations.
- Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs.
- Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means.
- A supervisory and control authority should be designated for each DNFBP sector with authority to monitor and enforce compliance with AML/CFT requirements. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 3.2 underlying overall rating
R.16	NC	Awareness of general AML/CFT obligations is high but knowledge of detailed requirements is limited. Because of gaps in the legal framework, the activities in relation to which DNFBPs are required to report suspicious transactions are significantly narrower than that required under the Recommendation 16 Compliance programs for DNFBPs set out in various guidelines/regulations generally conform well to the criteria for Recommendation 16 but, in most cases, such instructions are not enforceable means. Monitoring and enforcement of the internal controls and reporting requirements of DNFBPs is very limited.

		Many independent lawyers and independent accountants as well as a large number of car dealers and antique dealers are outside the oversight regime for DNFBPs because they are not members of an SRO or cooperating trade association.

3.3 Regulation, supervision and monitoring (R.17, 24-25) (applying criteria 25.1, DNFBP)

Description and analysis

R. 24

The AML Law is silent as to who monitors and ensures compliance of DNFBPs in respect of their AML/CFT obligations.

R. 24.1. **Regulatory and supervisory regime for casinos**

The operation of casinos is regulated by the Law on Lotteries and Gambling (valid until December 31, 2005) and the Law on Lotteries and Gambling (valid as from January 1, 2006). The Law on Lotteries and Gambling (valid as from January 1, 2006) empowers the Lotteries and Gambling Supervision Inspection to set out requirements for the organizers of casinos who wish to operate in Latvia - requirements with respect to the officials, owners, proof of the source of funding. According to the Law, only the following types of gambling will be allowed in Latvia: slot machine games, roulette, card games, dice, betting, totalizators, bingo, and interactive games. It is prohibited to operate casinos within, *inter alia*, state institutions, buildings of medical and educational institutions, drug stores, post offices and credit institutions, places granted the status of a market place, bars and cafeterias (except for betting and totalizators), stores, cultural institutions, railway stations, bus stations, airports, and ports (except for gambling halls which are separated by building structures and have a separate entrance from outside). Internet gaming is legally permissible but no internet licenses have been granted.

According to Article 9 of the Law on Lotteries and Gambling, a casino should ensure that at least one half of the members of council and board of directors of the gambling organizer are domestic taxpayers (residents). The member of council and board of directors and auditor of the gambling organizer should be a person having unblemished reputation; and not having been deprived of a right to engage in business activities. A person of unblemished reputation shall exclude any person sentenced for malicious crime or against whom criminal procedures for malicious crime are terminated on non-vindicatory grounds

According to Article 11 of the Law on Lotteries and Gambling, a person applying for a license shall submit, amongst other things: an annual report; the information proven by transaction documents about the origination of money and property contributed to the stock capital of capital company, and information about the holders of shares and stock of the capital company stock capital–natural persons. According to Article 15, the Lotteries and Gambling Supervisory Inspection may refuse a license if the applicant is in violation of laws or regulations of the Cabinet of Ministers established for the company's activities.

Supervision is performed by the Lotteries and Gambling Supervision Inspectorate which has the Control and Supervision Department, Licensing and Legal Department and Analytical Department in its structure. There are 32 employees in the Lotteries and Gambling Supervision Inspection. The Lotteries and Gambling Supervision Inspection is entitled to cancel the license, suspend the operations of the casino, or impose administrative penalties set out in the Administrative Violations Code. The Lottery and Gambling Supervision Inspection also undertakes examinations of casinos according to the requirements set out in Regulation No. 435 (December 19, 2000) on the Procedure of organization and maintenance of gambling and lotteries.

***Implementation*.**
Casino organizers are subject to detailed licensing requirements and each gaming hall is individually licensed. Fit and proper tests apply to both the owner and the responsible officials of the casino. Due diligence is carried out by the Lotteries and Gambling Supervision Inspection to identify the owners, including the beneficial owners, both natural persons and legal entities. For background checks, the Licensing and Legal department has access to Ministry of Interior databases and may request the assistance of the Control Service in collecting information on nonresidents. The authorities report that individuals have been denied licenses when background checks revealed such things as forged documents, fake credit agreements, or patterns of suspicious activities. As of 2005, 14 casinos were licensed, down from 22 in 2000.

Inspectors from the Supervision Department are on-site in casinos daily, primarily for purposes of financial control. Periodically, AML controls are subject to systematic examination following specific examination procedures. The examinations are undertaken pursuant to powers given to the Lotteries and Gambling Supervision Inspection under Article 39 of the Lotteries and Gambling Act. This includes a review of internal controls, verifying the appointment of a money laundering control officer, verifying training of personnel, review of the client identification information collected on entry and for purchases of chips worth EUR1,000 or more, cage procedures and record keeping for sales and redemption of chips, and electronic surveillance systems, including for the identification and reporting of suspicious transactions. Examiners also monitor risk mitigation procedures. For example, receipts for payouts may be given but are not volunteered. Transfer of large payouts via bank transfers may be arranged under controlled procedures but these are discouraged. Casinos may not provide credit and no accounts may be maintained at a casino nor are wire transfers authorized. Currency exchange is only permitted subject to licensing and supervision of a bureaux de change function by the Bank of Latvia.

24.2 .1

Dealers in Precious metals and stone
Regulations No. 547 of June 21, 2004 of the State Assay Inspectorate Supervision By-Law provides that the State Assay Supervision Inspectorate shall have the function of fulfilling the requirements prescribed in the AML Law. Officers of the Market Supervision Department are authorized in Article 4.1 of the by-law to inspect the place of business to ensure these dealers observe the requirements of regulatory enactments.

Implementation
Dealers in precious metals and precious stones, including sole proprietorships, are required to register with the State Assay Supervision Inspectorate. 300 companies with 1,000 places of business have been registered, a total which is believed to encompass the preponderance of the market. The Inspectorate includes a market surveillance department which carries out on-site examinations of registered dealers, including for AML/CFT compliance. These examinations are carried our pursuant to the State Assay Inspectorate Supervision By-Law, which provides a power of inspection for compliance with regulatory enactments, which would include AML/CFT obligations (Articles 3.1 and 4.1). Visits are scheduled to take place at least once every two years. Inspection visits review internal control systems for identifying clients and reporting of suspicious or unusual transactions, appointment of a responsible official for AML/CFT controls, as well as staff familiarity with their responsibilities under the AML Law. For dealers in precious metals and stones, the threshold for undertaking CDD or for reporting suspicious transactions is reached when, (a) a safe keeping arrangement is established, or (b), transactions are conducted in excess of EUR15,000. In practice, given the limited scale of the market

in Latvia, these thresholds are only reached on an occasional basis. The authorities report that few problematic issues have been encountered during their examinations. In addition to on-site visits, the Inspectorate, with cooperation form the Control Service, engages in outreach activities to raise awareness among the industry of money laundering vulnerabilities and AML/CFT responsibilities.

Lawyers

According to the Law on the Bar, The Latvian Council of Sworn Advocates is the managerial, control and executive body of the Latvian Collegium of Sworn Advocates. According to Article 34 of the Law on the Bar, the Latvian Council of Sworn Advocates has the power to review the activities of sworn advocates. For violations of laws, including the AML Law and as well as for violating the instructions regulating the activities of sworn advocates and the norms of professional ethics of advocates, the Latvian Council of Sworn Advocates may initiate disciplinary proceedings upon the recommendation of the court or the prosecutor, as well as upon complaints from persons or upon its own initiative (Article 71, Law on the Bar). However the council currently only reacts to complaints and does not have adequate resources to undertake the monitoring of compliance with the AML Law. There seems uncertainty as to whether the council can actually monitor compliance by sworn advocates in view of the confidentiality requirements in the Law on the Bar and the guarantee in the Law on the Bar that sworn advocates should be able to undertake their responsibilities without interference.

Lawyers who are unsworn advocates are not subject to any monitoring or review by any SRO.

Implementation

Although the Council of Sworn Advocates has the authority to act as a supervisor and controller for some purposes, it has not been designated as a supervisor and control authority for purposes of implementation of the AML Law. The Council does not have a tradition of proactively monitoring the internal policies and procedures of sworn advocates and it does not routinely monitor their activities. As noted in Sections 3.1 and 3.2 above, the Council has issued regulations setting out procedures that Sworn Advocates should follow to comply with the AML Law, but these regulations are not considered other enforceable means for purposes of this assessment. In cooperation with the FIU, the Council has engaged in a campaign to raise awareness among sworn advocates of their responsibilities under the AML Law, including organizing workshops and seminars, and issuing guidance. Practitioners report that in the normal course of business their client acceptance procedures equal or exceed the due diligence procedures required by the AML Law, including the identification of beneficial owners. The FIU reports that a limited number of suspicious transactions reports have been submitted by lawyers and that the reports that have been filed tend to be very high quality reports.

Independent lawyers who are not sworn advocates are not subject to any direct oversight for AML purposes, nor do they appear to be the target of outreach programs to raise awareness of their obligations under the AML Law. In interviews the assessors were told that independent lawyers who are not sworn advocates prepare for or carry out many of the transactions enumerated under Recommendations 12.d as well as handling several of the company services enumerated under Recommendation 12 definition of Trust and Company service providers. In addition, independent lawyers frequently provide tax advisory services.

Notaries

According to the Law of Notaries, the Council of the Sworn Notaries is a representational and supervisory institution of the sworn notaries as well as the administrative and executive institution of the Chamber of Sworn Notaries of Latvia and this Council is represented on the Chamber. However the regional court is the authority that exercises monitoring over sworn notaries. Both the Latvian Council of Sworn Advocates and the regional courts through the Latvian Council of Sworn Notaries

have the right of imposing sanctions for the noncompliance of laws, including noncompliance with the AML Law while the regional courts can examine notaries for compliance with laws. Thus far the regional courts are not monitoring compliance with the AML Law.

A judge sent by the regional court may at any time examine the activities of sworn notaries, their books and files. The chief judge of the regional court ensures that the activities, books and files of each sworn notary belonging to the relevant regional court are examined at least once a year. The chief judge of the regional court ensures the rectification of faults discovered in the activities of sworn notaries by giving instructions and orders to sworn notaries and, if necessary, by proposing that sworn notaries be held disciplinarily or criminally liable (Article 200–203 of the Law of Notaries).

Implementation

While the regional courts have the authority to monitor and control compliance by Notaries with their responsibilities under the AML Law, it appears that this authority is not being exercised. The Council of Sworn Notaries has issued nonbinding regulations covering CDD requirements of sworn notaries. Identification of parties to an agreement is an integral part of notarial work. However, based on interviews with notaries, it appears that due diligence extends primarily to identification of contractual parties to an agreement, but does not necessarily extend to identification of beneficial owners. Notaries commonly authenticate signatures on documents but identifications procedures do not extend beyond matching ID documents with the signature.

Auditors

The Latvian Association of Sworn Auditors is an independent professional corporation of Latvian sworn auditors and it has the role of ensuring the supervision of compliance with professional standards and ethical norms, as well as other regulatory enactments applicable to the profession, including the AML Law (Article 6 of the Law of Sworn Auditors). As noted in Sections 3.1 and 3.2, the Association has issued advisory regulations setting out recommended procedures for ensuring compliance with AML requirements. The Latvian Association of Sworn Auditors, and in particular the Control Division of the association, is responsible for monitoring and ensuring compliance of sworn auditors and sworn auditors commercial companies with the AML Law. The Latvian Association of the Sworn Auditors Quality Control Division reviews the internal control systems, policies, and procedures in order to ensure that sworn auditors are complying with the AML Law (LACA AML Regulation Article 4).

Implementation The Control Division of the Sworn Auditors Association has an active program for reviewing the work practices of members of the association, including a year-old program for reviewing compliance with AML requirements, with first reviews begun in September 2005. These quality control reviews include: checking to confirm that auditors and their staff have been trained in their AML responsibilities; reviewing all records, including for CDD and adherence to internal control requirement; reviewing procedures for reporting suspicious transactions, reviewing annual reports of working papers to verify that auditors audits of their clients' AML/CFT practices comply with IAS audit standards. Results of such quality control examinations are reported to the Quality Committee of the Sworn Auditors Association. A member of the Quality Committee reported that, to date, no evidence of noncompliance with AML requirements has been encountered.

Independent accountants who are not sworn auditors are not subject to any direct oversight for AML purposes, nor do they appear to be the target of outreach programs to raise awareness of their obligations under the AML Law. In interviews, the assessors were told that independent accountants who are not sworn advocates frequently prepare for or carry out many of the transactions enumerated under Recommendations 12.d as well as handling several of the company services enumerated under

Recommendation 12 definition of Trust and Company Service Providers. Also, independent accountants appear to provide tax advisory services.

Real Estate Agents
No supervisory and control authority has been appointed to oversee the activities of real estate agents. Real estate trade associations such as LANIDA and NIMA, have undertaken to provide guidance/regulations to their membership, outlining their obligations under the AML Law and the measures needed to comply with the law. However, these regulations are advisory only since the trade associations have no authority to regulate their members. In cooperation with the FIU, the trade associations have outreach programs to raise awareness of AML issues and obligations, but they do not oversee or discipline the practices of their members. No formal professional or regulatory standards need to be satisfied to act as a real estate broker and a large number of individuals are understood to act as real estate agents on an irregular or occasional basis. Representatives of the trade associations report that their membership encompasses less that half of the active real estate agents in Latvia, although the largest firms are members. Practitioners report that, in Latvia, real estate agents advise on the terms of a listing and bring buyers and seller together. However, as a matter of business practice they do not become directly involved in the sales/purchase agreement, nor do they handle settlement and property registration procedures.

Transport
No supervisory and control authority has been appointed to oversee the activities of the transport sector. The Car Dealers Association of Latvia (LAPPA) has undertaken to provide guidance/regulations to its membership outlining their obligations under the AML Law and the measures needed to comply with the law. However, these regulations are advisory only since the trade association has no authority to regulate its members. In addition, in cooperation with the Control Service, LAPPA has conducted outreach programs to raise awareness of AML issues and obligations among its membership. The membership of LAPPA consists of new car dealers. LAPPA members report that cash purchases of new cars is now relatively rare in Latvia and that three quarters of all sales take place under lease agreements, with credit provided directly by banks. An active market in used cars exists in Latvia but there is no association of used car dealers similar to LAPPA. It is understood that cash purchases are common in the used car market.

Under the AML Law preventive measures are required of all dealers operating in the transport sector. To date only the automobile sector has been targeted for a compliance regime.

Antiques
No supervisory and control authority has been appointed to oversee the AML/CFT compliance of antique dealers. It is understood that the market in antiques is relatively underdeveloped in Latvia. Indirect monitoring of the antique market for nonAML/CFT purposes is undertaken by the State Inspection for Heritage Protection, which has responsibility for safeguarding items of cultural and heritage value and for administering the control regime on exports of items of cultural value.

17. Sanctions
The sanctions available to the authorities responsible for oversight of DNFBPs are outlined in Sections 3.1 and 3.2 above under the discussion of Recommendation 17. In general, the AML Law includes no specific sanctions for noncompliance with required AML/CFT preventive measures. The Administrative Violations Code provides for administrative liability for failure to report unusual or suspicious financial transactions, with punishment to be imposed either by the court or the relevant supervisory authority. The authorizing legislation for each of the relevant SROs (the Latvian Council of Sworn Advocates, the Council of Sworn Notaries, and the Latvian Association of Sworn Auditors) gives each of these organizations authority to discipline its members in a variety of circumstances,

including where they repeatedly violate AML/CFT preventive measures requirements. Both the Law on Lotteries and Gambling and the Administrative Violations Code give the Lotteries and Gambling Supervisory Inspection authority to impose a range of sanctions on casinos for noncompliance with applicable laws and regulations, some of which overlap AML/CFT preventive measures requirements. The State Assay Supervision Inspectorate can provide directions to rectify within a specified period of time shortcomings and violations of regulatory enactments. On the other hand, the various trade associations that have issued AML/CFT guidelines for their members have no legal authority to sanction noncompliance.

25.1 Guidelines

The following is a list of guidelines or regulations issued by various DNFBP organizations. See Sections 3.1 and 3.2 above for a discussion of the status and contents of these guidelines/regulations:

Casinos

On March 1, 2005 the Lottery and Gambling Monitoring Inspectorate approved Order No. 14, *Guidelines For Working Out Internal Control System to Prevent Legalization of Criminal Proceeds and Financing of Terrorism.*

Sworn Advocates

With decision No. 46 of March 15, 2005, the Latvian Council of Sworn Advocates affirmed the *Regulation of the Internal Control System of the Prevention of the Laundering of the Proceeds from Crime and the Financing of Terrorism.*

Sworn Notaries

The Council of the Sworn Notaries has approved the *Regulation on the Reporting Procedure of the Unusual Transaction* (November 19, 2001, amended on August 27, 2004).

Sworn Auditors

Latvian Sworn Auditors Council adopted the *"Regulation on Application of the Law on Prevention of Legalization of Illegal Proceeds to the Basic Activities of Sworn Auditors and Commercial Companies of Sworn Auditors" (LACA AML regulation)* on March 7, 2005.

State Assay Supervision

State Assay Supervision Inspection issued Recommendations No. 4-16-10/2004 of July 22, 2004 *"on Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism" (amended on February 24, 2005)*

Real estate market:

LANĪDA (Real Estate Deals Association of Latvia) adopted at its general meeting (on May 18, 2005, protocol No. 01/2005) *the Regulation On the Internal Control System regarding Unusual and Suspicious Transactions with Real Estate*

NĪMA (the Real Estate Brokers and Agents Corporation of Latvia) adopted at the general meeting of its members *the Regulations On the Prevention of Laundering of Proceeds derived from Criminal Activity and Terrorist Financing.*

Car dealers:

The Council of Authorized Car Dealers Association of Latvia (LAPPA) adopted on December 8, 2005 *the Regulation On the Anti-money Laundering and Terrorist Financing Measures.*

Analysis

The regulatory and supervisory regime for casinos is satisfactorily established and implementation of AML/CFT requirements is systematically monitored and enforced. Compliance appears to be satisfactory. Likewise, the State Assay Supervisory Inspectorate has established effective arrangements for monitoring and ensuring compliance by dealers in precious metals and stones.

The SRO arrangements for sworn auditors appear to be effective in monitoring compliance with the requirements of the AML Law; issuance of binding guidelines or regulations would improve the regime. The Association of Sworn Advocates has the necessary SRO structure to take on the role of supervisory authority for AML/CFT monitoring and compliance but it currently lacks the resources to monitor its members' activities and is disinclined to take on that job, although it is active in raising awareness. The Association of Sworn Notaries likewise has the necessary SRO structure to take on the role of a supervisory authority for monitoring and compliance by its membership with AML requirements but it does not have that mandate. The courts, which oversee notaries, have so far not taken responsibility for monitoring compliance with the AML Law.

The various trade associations reviewed (LANIDA, NIMA, LAPPA) play a useful role in education and awareness raising but they do not have the necessary legal structure to monitor and ensure compliance with the AML/CFT obligations of their members.

An assessment of the money laundering risks in Latvia points to important vulnerabilities in real estate transactions and in the creation and operation of corporate vehicles (legal entities). Key professions and businesses in these activities are not brought under an effective compliance regime under current arrangements. Independent lawyers and independent accountants appear to be active in company formation and management services. In the case of real estate, many agents are not members of any real estate association. As important, within the normal conduct of business in Latvia, it appears that real estate agents have a limited perspective on key elements of real estate transactions since they conventionally do not arrange the purchase/sale agreement nor do the handle the settlement and recording of a transaction. An effective preventive measures regime for real estate may need to focus more directly on the oversight of the activities of other services providers involved in completing a real estate transaction, such as lawyers, notaries, business advisers, or the registrar of properties.

Recommendations and comments

Recommendations

- The arrangements for oversight of DNFBPs should be restructured to provide effective systems for monitoring and ensuring their compliance with AML/CFT requirements. A supervisory and control authority should be designated for each DNFBP sector. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements.
- Agencies assigned oversight responsibility should have adequate legal authority, resources and capacity to monitor and enforce compliance with AML/CFT requirements. The assessors recommended the selection of a governmental agency, appropriately authorized and adequately resourced, to act as the default supervisor to ensure AML/CFT compliance by those DNFBPs that are not effectively supervised by some other governmental agency or SRO. This includes lawyers who are not sworn advocates, independent accountants who are not sworn auditors, tax advisors, antique dealers, transport dealers, and real estate agents. The powers, duties and functions of the supervisory and control authority should be set out in the AML Law or in the relevant law for each DNFBP. Where applicable, the law(s) should override confidentiality provisions to allow supervisory and control authorities to monitor and enforce compliance with AML/CFT requirements.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 3.3 underlying overall rating
R.17	PC	For many DNFBP no supervisory and control authority has been appointed, hence, many DNFBPs are not subject to sanctioning for noncompliance with AML/CFT requirements by the supervisory and control authorities. The guidelines/regulations that have been issued are generally advisory and not enforceable means, and hence do not provide a basis for sanctioning member DNFBPs for noncompliance with many of the specific AML/CFT requirements specified in the FATF Recommendations. (Composite rating)
R.24	PC	A comprehensive regulatory and supervisory regime has been established for casinos and appears to be effectively implemented. Likewise the systems for monitoring and ensuring compliance by sworn auditors and for dealers in precious metals and stones appear to be effective. For other DNFBP sectors, the established regime for monitoring and ensuring compliance is not effective either because the authorities do not actively monitor members, or because oversight enforcement authority is inadequate, or because the designated agency is a trade association with no statutory authority to monitor and enforce compliance by members. A significant number of DNFBP professionals and business are not subject to any systematic compliance regime because they are not members of any of the designated groups.
R.25	PC	A range of guidelines/regulations have been issued by various DNFBP organizations but in most cases these instructions have not been issued under legal authority that would make them enforceable means. (Composite rating)

3.4 Other nonfinancial businesses and professions—Modern secure transaction techniques (R.20)

Description and analysis

20.1

The Latvian authorities have considered the need to apply AML/CFT measures to those nonfinancial businesses they regarded as presenting a potential ML or FT risk. As a result, they have applied the requirements of the AML Law to antique dealers and car dealers.

It is understood that the market in antiques is relatively underdeveloped in Latvia. Indirect monitoring of the antique market for nonAML/CFT purposes is undertaken by the State Inspection for Heritage Protection, which has responsibility for safeguarding items of cultural and heritage value and for administering the control regime on exports of items of cultural value.

The automobile sector is highly fragmented and there are no formal requirements governing the activities of car dealers. Most new car dealers are organized into a trade association which promotes

the interests of the membership. Used car dealers are less organized and business is frequently conducted on a casual basis. Approximately 70 percent of all new cars are sold to companies, and perhaps 75 percent of all new car are sold under leases provided directly by banks. Purchases of new cars with cash is understood to be the exception but appears to be more prevalent for used car purchases.

The risk of ML and TF from these sectors appears to be low. The basis of application of Recommendations 5, 6, 8-11, 13-15, 17 and 21 to each of these sectors is set out in Section 3 of this report in the description relating to DNFBPs.

20.2

Estimates of cash usage in the Latvian economy indicate that the level is not abnormally high by international standards. Modern means of conducting financial services using the latest technologies are widely available. There is an extensive ATM network in Latvia. All of the main financial services providers have facilities for conducting business over the internet. Use of internet banking domestically within Latvia is growing steadily, albeit from a very low base. Internet banking is already widely used by nonresident customers.

Latvian authorities use the tax system to reduce the usage of cash in the system and to encourage the use of modern and secure techniques of money management. Pursuant to Article 30 of the Law On Taxes and Duties, all taxpayers (other than natural persons) are required to declare to the State Revenue Service on a monthly basis all cash transactions (irrespective of whether it is a single transaction or several deals) exceeding LVL1,000. If the cash transactions have not been declared as prescribed by the law, a penalty in the amount of five percent of the total amount of undeclared deals shall be applied. If the cash transactions exceed LVL3,000, a penalty in the amount of 10 percent of the total amount of these transactions shall be applied. The above provisions are not applicable to credit institutions or cash payments to credit institutions. For transactions performed in relation to retail trade, the above requirements are applicable only to the purchaser of goods.

Recommendations and comments		
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Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.20	C	

4. Legal Persons and Arrangements & Nonprofit Organizations

4.1 Legal Persons–Access to beneficial ownership and control information (R.33)

Description and analysis

In Latvia, the following are the types of legal persons that can be created or established or otherwise recognized: a company, a partnership, a co-operative company, a proprietorship, a farmstead, fishing farm, an association, a foundation, a political organization, a trade union, European economic interest group, European commercial company, a branch of a foreign merchant, and a representative of a foreign organization. All these entities (except for a branch of a foreign merchant or a representative of a foreign organization) can engage in economic activities and can own property. The Commercial Law governs the activities of those entities undertaking commercial activities while the Law of Associations and Foundations regulate associations and foundations. All these entities are registered with the Register of Enterprises, the former in the Commercial Register, the latter in the Register of Associations.

33.1

All the entities registered with the Register of Enterprises acquire the status of legal person except for branches of foreign merchants and representatives of foreign organizations as these cannot have the status of a legal person in Latvia. For entities carrying out commercial activities, the information disclosed to the Register of Enterprises is recorded in the Commercial Register whilst all other information relating to the legal person is to be documented in the registration files of the relevant company.

The Commercial Law specifies the information to be submitted to the registry, as follows:

Governing bodies of legal person
All legal persons must disclose information about members of their governing bodies e.g., board of directors. Entities for which commercial activity is the basic operational activity and cooperative companies must submit information on members of governing bodies as follows: given name, surname, personal identity number and residential address. The following information about members of the governing bodies of entities that are created for noncommercial purposes must be disclosed: given name, surname and personal identity number. Information on founders of the entity must also be submitted.

Owners/Members of Legal Person
For some legal persons that carry out economic activities for profit-making purposes, information about their shareholders (limited liability companies), members (partnerships) or owners (individual proprietorships, farmsteads, fishing farms) must be disclosed to and shall be available at the Register of Enterprises. There is however no requirement to disclose the identity of the beneficial owners of these legal persons. For joint stock companies, the information on founders is publicly accessible, but further changes in the shareholders are not to be declared to the Registry of Enterprises. There is, therefore, no guarantee that the information contained in the register is relevant and up-to-date. However, for public joint stock companies this information is available from the custodians: banks and brokerage companies. For other joint stock companies and cooperatives, the legal person itself is obliged to maintain a register of shareholders/members. Entities having no profit-making purposes and cooperative companies are not required to declare their members to the Registry of Enterprises. Nonprofit entities are only required to submit information regarding their founders and the officials of the governing bodies. The board of the legal person must keep a register of members/shareholders of these entities. This information is available to members/shareholders but not to the general public. It is available, however, to the supervisory and law enforcement authorities (Article 28 (2) of the Law on Associations and Foundations).

All legal persons (including partnership) maintain information about their ownership as follows: given name, surname, personal identity number and residential address (for natural persons); and name; registration number, legal address (for legal persons). Information on the owners is available to the owners themselves as well as law enforcement agencies. Exceptions are joint stock companies that have issued bearer shares, political organizations and trade unions. The joint stocks companies that have issued bearer shares do not possess information on the owners of bearer shares. Political organizations and unions are not required by law to specifically compile and maintain information about their members. All legal persons possess information about board members, the same information which has been declared publicly.

Founding documents
The following founding documents must be submitted to the Registry of Enterprises: memorandum of

association and articles of association for companies; memorandum of association and articles of association for cooperatives; articles of association for associations; articles of foundations for foundations; articles of association for political organizations; articles of association for trade unions; memorandum of association for European economic interest group; articles of association for European commercial companies.

Changes in Information
If there are any changes to the information submitted to the Register of Enterprises, then the entity has to report the changes to the Registry within 14 days. If there is no disclosure of the changes or there is a late submission of the changes, the Registry informs the relevant court which can start proceedings. The entity may then be subject to a penalty under the Administrative Violations Code.

Verification of information
The Registrar of Enterprises upon receipt of the application for registration, verifies that the signatures on the documents have been certified by a sworn notary and relies on the notaries to check the identity of the applicant and to verify his/her identity and signature. The Registrar then cross-checks the information with that contained in the Register of Citizens and the Register of Invalid Documents. For noncitizens, the Registrar relies on the information provided by the sworn notary or on the legalization of documents.

Information of Beneficial ownership and control of legal person
There is no requirement for identification of the beneficial owners but legal persons can decide to require and maintain this information. However, there is no information on the number of legal persons, if any, who have required the identity of their beneficial owners. The information on the members of their governing bodies must be disclosed as described above.

Associations and Foundation
The Law on Associations and Foundations specifies the information that is to be disclosed by associations and foundations. For an association, information to be disclosed includes a decision to found an association; articles of association; a list of board members, indicating a given name, surname, personal identity number and residential address. For a foundation, the information to be submitted includes a decision to establish the foundation, articles of foundation, a list of board members, indicating a given name, surname, personal identity number and residential address.

Other measures to prevent unlawful use of legal persons
The Registrar of Enterprises has to file an STR upon receiving information that the entity is not located at the legal address that appears in the Register. An STR is also to be filed by the Registrar if they find a reference to an invalid document or find that the identification document submitted relates to a dead person

33.2 ***Access to Information***

Any person can have access to the information in the Register of Enterprises and this information is also available on line. Information in the register of shareholders is not public information but law enforcement agencies can have access to this information. But information on the shareholders, members and owners (not only of founders) of limited liability companies, cooperative societies, European Commercial companies, partnerships, sole proprietors, farmsteads, fishing farms, individual merchants is publicly available in the Registry of Enterprises.

Article 190 of Criminal Procedure Law provides for powers of judges, prosecutors, and investigators to require natural and legal persons to submit in writing objects and documents that are of significance to investigation purposes. Information on the beneficial ownership and control of legal persons can be

requested and obtained from the Registrar of Enterprises (on domestic legal persons and branches of foreign legal persons) and banks (on domestic and foreign legal persons that have accounts with the relevant bank).

If the requested objects and documents are not submitted by the set deadline, the prosecutor is entitled to carry out searches or seizures of the necessary objects and documents.

Article 31 of the AML Law obliges all State authorities including the Registrar of Enterprises to provide all information requested by the FIU for the performance of its functions.

While entities subject to the AML Law are entitled to request and receive information on beneficiaries, and the information in the Register of Enterprises is electronically available to them for a fee, information of beneficial ownership is not kept in the Register.

33.3 *Bearer shares*

Articles 235 and 238(3) of the Commercial Law stipulate that bearer shares can only be issued by joint stock companies. While the Register of Enterprises could obtain information on the number of companies that issue bearer shares, it is unable to verify how many companies have issued bearer shares and the number of bearer shares issued and there is no information on the beneficial owners of the shares.

Analysis
Latvia has a mechanism for the central registration of legal persons whereby the Registrar of Enterprises records information on the officials of the company, the founders of the company and, where the entity is engaged in commercial activity, the owners of the company. However nonprofit entities and joint stock companies have no obligation to disclose their shareholders and members, though they are required to keep this information in their own register. The information collected in the Register of Enterprises is publicly available but not the information in the register of shareholder/members. Beneficial ownership of an entity is not required to be disclosed nor is it therefore required to be kept. The information held by the Registrar of Enterprises is easily accessible as it is available online.

There are no mechanisms for ensuring that the information collected by the Registrar of Enterprises is accurate and current. While the law requires legal persons to inform the Register of Enterprises of any changes and amendments within 14 days and there is a penalty attached to noncompliance, the Registrar of Enterprises does not itself have the power to ensure that legal persons comply with this requirement but can refer the case to the court. The verification by the Registrar of the information submitted to it is minimal as the Registrar depends on the notaries to verify the identity and the signature of the founders and officials.

Law enforcement agencies are empowered to request information on the beneficial ownership and control of a legal person, but in relation to beneficial ownership this power is not of much value as this information is not legally required to be kept by legal persons and will not be readily available or accessible to law enforcement agencies.

Bearer shares can be issued in Latvia posing a possible risk of being used for ML purposes. While acknowledging that such a risk exists, the authorities do not appear to have undertaken an assessment of this risk. Furthermore, Latvia does not appear to have a mechanism to determine who the beneficial owners are or how many bearer shares have actually been issued and are in circulation. There was a provision to dematerialize bearer shares in the Commercial Law but this provision was deleted in 2004.

Recommendations and comments

Recommendations

The authorities should amend the law to:

- ensure that information on the ownership of all bearer shares is available.
- require that all legal persons collect and keep information on beneficial ownership and control and ensure that adequate, accurate, and timely information on the beneficial ownership and control of a legal person can be obtained by the competent authorities.
- Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration.
- Enhance powers to investigate and monitor compliance with these requirements.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.33	NC	There are no effective measures in place to ensure that competent authorities are able to obtain or have access in a timely fashion to the beneficial ownership and control information, in particular with respect to the legal persons that have issued bearer shares. There are no effective measures to ensure that the information provided to the Registrar of Enterprises is current and adequate.

4.2 Legal Arrangements–Access to beneficial ownership and control information (R.34)

Description and analysis

Trust as a legal arrangement is not recognized in the Latvian legal system. Although the Latvian laws sometimes refer to "trusts", this is a reference to fiduciary relationships and not to trusts as understood in Common Law systems. The private sector and the authorities are not aware of any trusts being created or established in Latvia under foreign laws. The credit and financial institutions indicated to the assessors that they do not open accounts for foreign trusts.

Recommendations and comments

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Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.34	N/A	

4.3 Nonprofit organizations (SR.VIII)

Description and analysis

With effect from 2004 a new Latvian Associations and Foundations Law was introduced which, among other things, required all nonprofit organizations (NPO) to register with the associations and foundations registrar. Registration is required whether or not the organization receives outside funding. Annual reports on NPO activities are required to be filed. Final deadline for registration was December 2005 and, as of March 2006, 10,097 NPOs were registered. Religious organizations are separately recorded by the Agency of Religious Issues.

A variety of laws and regulations impose internal control requirements on NPOs. The Law on Accounting extends to associations and foundations, to political organizations and their associations, and to religious organizations. Accounts must reflect all economic transactions and the status of property. The Associations and Foundations Law requires that income of an association or foundation may only be utilized for the achievement of goals specified in the articles of association. Likewise, the Public Benefit Organization Law requires that associations, and foundations, religious organizations and public benefit organizations should utilize their donations according to the goals stated in the articles of the organization, constitution or regulations. Those goals must be specified in the resolution

of the Ministry of Finance that confers the status of Public Benefit Organization. Regulation Nr 251 of the Cabinet of Ministers of August 1, 2000 requires association and foundations to submit to the State Revenue Service annual reports of donations and gifts.

Using a wide range of information systems, the State Revenue Service monitors the financial assets of NPOs, as well as donations to NPOs, both for tax compliance and, in cases of suspicion of ML or FT, informs the FIU.

In addition to registration information, financial data on NPOs is generated by:

- NPO reporting of charitable donations (1,507 cases in 2004);
- taxpayers claims for charitable deductions on tax filings (claims regarding about 800 NPOs were filed in 2004);
- applications from NPOs to be eligible to receive tax deductible charitable contributions (608 cases in 2004);
- information on payment of social contributions by NPOs; and
- a review of all donations above LVL4,500.

Based on extensive consultations with the FIU, analytical systems originally developed for tax needs are also used to identify suspicious transactions. In 2005 a new Order was issued ("Order on how the SRS tax administration units forwards information to the Financial Intelligence Unit") which details procedures for cooperation between the SRS and the FIU. The new order, which replaced instructions issued in 2001, defines indicators that could give evidence about the legalization, or attempts to legalize, illegal proceeds, the actions to be taken by an official who detects suspicious transactions or transactions related to the financing of terrorism, as well as the appointment of persons responsible for the exchange of information with the FIU. Indications of criminal activity are referred to the police and suspicious transactions are reported to the Control Service.

In addition the monitoring carried out by the Ministry of Finance, an extensive public awareness campaign has been conducted to inform NPOs of their obligation to register and to educate the public of its responsibility to know who they are donating money to and what those funds are being used for. Under Latvian law, donors have the right to receive such information from the NPOs they support.

Recommendations and comments
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Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
SR.VIII	C	

5. National and International Cooperation

5.1 National cooperation and coordination (R.31 & 32) (criteria 32.1 only)

Description and analysis

The AML Council

The main responsibility for the coordination of Latvia's anti-money laundering efforts is with the AML Council. The membership of the AML Council includes the Prime Minister, Minister of Justice, Minister of Interior, Chairman of the Supreme Court, the Prosecutor General, the President of the BoL, and the Chairman of the FCMC. The legal bases for the operation of the AML Council are the Cabinet of Ministers Regulation 55 of January 25, 2005, Article5, and the statutes of the Council. The primary

responsibility of the AML Council is to develop the coordination of the activities of the FIU, the financial sector, and law enforcement. The composition of the AML Council ensures that this is done at the highest policy level in Latvia. The AML Council is also responsible for the development of legislation in Latvia addressing AML/CFT issues. The AML Council is particularly concerned with addressing Latvia's international obligations with respect to AML/CFT issues. The fact that the Prime Minister chairs the AML Council is an indication of the political will of the authorities and how seriously the issue of AML/CFT is being taken in Latvia.

The FIU Advisory Board

The composition of the Advisory Board of the FIU (AML Law, Section IX) and its statutes ensure coordination with regard to actions directed at the implementation of international AML/CFT requirements.

The FIU Advisory Board is composed of representatives of the Ministry of Interior, Ministry of Justice, the BoL, the FCMC, and Supreme Court, the Association of Commercial Banks, the Association of Insurers, the Auditors Association and Sworn Advocates Collegium, and the Sworn Notaries Council. The Ministry of Finance delegates two representatives, one of whom represents the State Revenue Service.

The task of the Board is to coordinate the cooperation of the FIU, the financial sector, and law enforcement concerning compliance with the AML/CFT requirements. Among the work of the Advisory Board has been the production and distribution of the Guidelines for financial institutions based on the FATF Best Practice Paper for addressing Terrorist Financing.

Cooperation and Coordination Generally

The cooperation between the FIU and law enforcement is provided for under the AML Law, Sections VII and VIII. This consists of cooperating with the Prosecutor with Special Powers, providing training to the law enforcement community on the procedures to request information from the FIU, and providing additional information with regard to previously-sent materials or requests that the FIU has received.

Police and prosecution authorities can request information from the FIU for the purposes of criminal or preliminary investigations.

Under Article 29(6) of the AML Law, the FIU is required to provide the supervisory and control authorities with information about the proceeds from crime. This includes location and techniques for using the financial system and capital markets in Latvia for the laundering of the proceeds of crime and terrorist financing.

Article 32 of the AML Law specifically provides that the FIU should cooperate and provide information for pre-trial investigations or to a court.

The legislation provides for cooperation at a national level and, while there is a high level of commitment with respect to addressing AML/CFT, in practice this could be improved. The exchange of information between the FIU and LEAs is not as speedy as it could be, as information from the FIU has to be sent first to the Prosecutor with Special Powers before going to the LEA. Information requests to the FIU from LEAs also have to be routed through the Prosecutor with Special Powers.

Recommendations and comments

Recommendation

- The authorities should reconsider the procedure for information exchange between the FIU and LEAs and seek to simplify the process to improve efficiency.

Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.31	LC	Enhance information exchange between the FIU and LEAs
R.32	LC	(Composite rating)

5.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

Description and analysis

Ratification of Conventions:

The Convention against the Trafficking in Illicit drugs and Psychotropic Substances (Vienna 1988) was ratified on February 24, 1994.

The Convention against Transnational Organized Crime (New York, November 15, 2000) was signed by Latvia on December 13, 2000 and ratified on May 17, 2001.

The Convention for the Suppression of the Financing of Terrorism (New York, December 9, 1999) was signed by Latvia on December 18, 2001 and ratified on November 14, 2002.

Implementation of Vienna Convention:
Earlier sections of this report show that Latvia has enacted legislation that has encompassed the key requirements of the Vienna Convention. The trafficking in narcotics and other drug related offences are criminalized by virtue of the Criminal Law (for detailed description see Recommendations 1 and 2). Associated money laundering is also a criminal offence. The Criminal Law and the Criminal Procedure Law provide for the confiscation of proceeds derived from drug related offenses and narcotics and instrumentalities in drug related cases and associated money laundering (see Recommendation 3). Legislation in Latvia also provides for extradition of all offences and mutual legal assistance is available (see Recommendation 36). Latvia is a party to and has signed a number of bilateral and multilateral agreements to facilitate international cooperation in matters covered by the Vienna Convention. Controlled delivery is available as an investigative technique by the law enforcement authorities under the Criminal Procedure Law (see Recommendation 27).

The legislation should be amended to ensure that forfeiture includes property that is "intended" for use in the commission of an offence in order to comply fully with the Vienna Convention.

Implementation of Palermo Convention:
The Palermo Convention has been implemented in the AML Law, the Criminal Law and the Criminal Procedure Law. The legislation criminalizes the laundering of the proceeds of crime. The participation in an organized criminal group is also an offence under the Criminal Law, Article 21 (see also Recommendations 1 and 2). Confiscation is provided for in Article 358 of the Criminal Procedure Law (see Recommendation 3). Provisional measures are provided for in Article 361 of the Criminal Procedure Law (see Recommendation 3).

Some amendments are required to implement fully the Palermo Convention. Property should be defined for the purposes of the Criminal Law and the Criminal Procedure Law to fully comply with the Convention. The legislation should also be amended to include a definition of "proceeds of crime/illegally acquired property" that includes property obtained indirectly.

Natural persons acting on behalf of legal persons can be liable for money laundering under Article 12 of the Criminal Law. Legal persons are subject to administrative sanctions such as liquidation.

The authorities in Latvia are taking specific steps to maximize the effectiveness of law enforcement measures in respect to the participation in an organized criminal group, money laundering, or corruption (Palermo Convention: Article 11, paragraph 2–prosecution, adjudication and sanctions)

(see comments on Recommendation 27 with respect to Articles 215-235 of the Criminal Procedure Law).

Assistance to foreign countries is available in the legislation for the purposes of confiscation. MLA is not subject to unreasonable restrictions. Article 816 of the Criminal Procedure Law states that the request of a foreign country for assistance in process may be refused in cases where:

- Such request is related to a political offence;
- Execution of such request may be detrimental to state sovereignty, public order, or other substantial interests of Latvia; and
- Insufficient information is supplied and additional information cannot be obtained after such information has been requested.(See Section 5.3 of the report for a more detailed description).

There are no specific rules with respect to the disposal of confiscated assets, as required by Article 14 of the Palermo Convention.

Extradition for all offenses is possible on the basis of the treaties (or under the relevant provisions in national law if there is not a treaty with the requesting country). Latvia can extradite a person to a foreign country and the legal framework for extradition is set out in Chapter 66 of the Criminal Procedure Law. Generally a person may be extradited for criminal prosecution, to serve a sentence already imposed, or to be sentenced for an offence for which they have been convicted. Dual criminality is required. (see Section 5.4 of the report for a more detailed description)

Law enforcement agencies have a full range of investigative techniques at their disposal including those found in Articles 215-235 of the Criminal Procedure Law. These include: monitoring of correspondence, monitoring of means of communication, monitoring data in electronic information systems, monitoring of broadcasted data content, audio or video monitoring of a place or person, surveillance and tracking of a person, surveillance of facilities, and monitoring of criminal activity.

Implementation of the TF Convention:
Latvia has criminalized the financing of terrorism by virtue of Article 88.1 of the Criminal Law. These offences can be committed by both natural and legal persons. For the terrorism offence, the penalty is life imprisonment or imprisonment from eight to twenty years, with confiscation of property. For the activities stipulated in Article 88.1, if they have been carried out by a group of persons after prior agreement (a terrorist group), the penalty is life imprisonment or imprisonment from ten to twenty years, with confiscation of property.

However, there are still matters that need to be addressed with respect to the full implementation of the Terrorist Financing Convention. The legislation does not define property or funds in compliance with the Convention. The AML Law defines financial resources as payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments. This definition does not fully comply with the Terrorist Financing Convention. because it does not cover legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.

Extradition
Latvia can extradite a person to a foreign country and the legal framework for extradition is set out in Chapter 66 of the Criminal Procedure Law. This would include offences of terrorist financing. Generally a person may be extradited for criminal prosecution, to serve a sentence already imposed, or to be sentenced for an offence for which they have been convicted. Dual criminality is required.

Implementation of UNSCRs 1267 and 1373:
Mechanisms have been put in place for the implementation of UNSCRs 1267 and 1373 (for details see analysis dealing with SR II and SRIII below). The mechanisms only apply to the EU lists. There is no separate mechanism for the authorities to make designation, as required under UNSCR 1373.

Other Conventions:
Latvia signed the 1990 Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the proceeds from Crime on March 11, 1998, ratified it on December 1, 1998. The Convention came into force on April 1, 1999.

Latvia has ratified all twelve Universal Anti-terrorism instruments. This includes five United Nations Conventions, namely the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973 (approved by the Parliament of the Republic of Latvia on August 29, 1991, acceded on April 14, 1992, in force since May 14, 1992), the International Convention against the Taking of Hostages of 1979 (approved by the Parliament of the Republic of Latvia on September 26, 2002, acceded on the November 14, 2002, and in force since December 14, 2002), the International Convention for the Suppression of Terrorist Bombings of 1997 (approved by the Parliament of the Republic of Latvia on October 24, 2002, acceded on November 25, 2002, and in force since December 25, 2002), the International Convention for the Suppression of the Financing of Terrorism of 1999 (approved by the Parliament of the Republic of Latvia on September 26, 2002, ratified on November 14, 2002, and in force since December 14, 2002), and the International Convention for the Suppression of Acts of Nuclear Terrorism of 2005 (signed on September 16, 2005, which will be ratified in due course).

Latvia is a party to eight Multilateral Conventions on terrorism, namely: the Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963 (approved by the Parliament of the Republic of Latvia on March 24, 1997 and in force since September 8, 1997), the Convention for the Suppression of Unlawful Seizure of Aircraft of 1970 (approved by the Parliament of the Republic of Latvia on March 24, 1997 and in force since November 22, 1998), the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971 (approved by the Parliament of the Republic of Latvia on March 24, 1997 and in force since May 13, 1997), the Convention on the Physical Protection of Nuclear Material of 1980 (approved by the Parliament of the Republic of Latvia on September 19, 2002 and in force since December 6, 2002), the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 1988 (approved by the Parliament of the Republic of Latvia on October 31, 2002, acceded on December 4, 2002, and in force since March 4 2003), the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf of 1988 (approved by the Parliament of the Republic of Latvia on October 31, 2002, acceded on December 4, 2002, and in force since March 4, 2003 and the Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1991 (approved by the Parliament of the Republic of Latvia on April 29, 1998, and in force since October 16, 1999).

Recommendations and comments

Recommendations

- Property should be defined for the purposes of the Criminal Law and the Criminal Procedure Law. to comply fully with the Vienna and Palermo Conventions.
- The legislation should be amended to include a definition of "proceeds of crime/illegally acquired property" that includes property obtained indirectly, to comply fully with the Palermo Convention.
- The legislation should be amended to ensure that forfeiture includes property that is

"intended" for use in the commission of an offence to fully comply with the Vienna Convention. • For the purposes of complying with the Terrorist Financing Convention, the definition of funds needs to be amended to include legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.		
Compliance with FATF Recommendations		
	Rating	Summary of factors underlying rating
R.35	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property does not include property obtained indirectly. Forfeiture does not include property that is intended for use in the commission of an offence.
SR.I	LC	The definition of funds needs to be amended to include legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.
5.3 Mutual Legal Assistance (R.32, 36, 37, 38, SR.V)		

Latvia's mutual legal assistance (MLA) measures apply to both ML (Recommendation 36) and FT (SR.V). MLA is provided on the basis of international, bilateral, or multilateral agreements, where available. Where there is no agreement on MLA, the Criminal Procedure Law provides that, if there is no treaty or agreement with the country, MLA is provided on the basis of reciprocity (Article 675 paragraph 3 and 4 of the Criminal Procedure Law). MLA requests from foreign countries are executed in the same manner as domestic proceedings in the Criminal Procedure Law unless the requesting country requires a special procedure to be followed. Requests have to be made in writing.

36.1 Range of MLA:

Latvia is able to provide a wide range of MLA under the Criminal Procedure Law.
Latvia is therefore able to render MLA in

- search of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons (Article 18 and Article 179-185);
- seizure of information, documents, or evidence (Article 18 and Article 186-188);
- the taking of statements from persons (Article 18 and Article 145 -156), and from experts (Article 156);
- requiring the production of documents and records as well as any other information and evidentiary items (Article 18, Article 190-192);
- effecting service of judicial documents (Article 825);
- facilitating the voluntary appearance of persons for the purpose of providing information or testimony to the requesting country (Articles 820-823 and 828 -829);
- enforcement of confiscation orders of illegally obtained property, instrumentalities used for ML, and/or property of corresponding value (Article 785, Article 358);
- Taking over criminal proceedings (Article 15 of the Criminal Procedure Law);
- Transfer of convicted person for service of sentence (Chapter 70 of Criminal Procedure Law);
- Joint investigative operations (Chapter 75);
- Execution of foreign sentences (Chapter 71, Criminal Procedure Law);
- Special investigations (Article 819);
- Freezing and seizure of property (Articles 361, 362(3), 186).

MLA relating to procedural actions may be provided using technical aids (e.g., audio visual aids. (Article 817).

MLA treaties:
Latvia has signed the following agreements:

- Agreement between the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania on Legal Assistance and Legal Relations (in force April 3, 1994);
- Agreement between the Republic of Latvia and the Kyrgyz Republic on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force March 24, 2001);
- Treaty between the Republic of Latvia and the People's Republic of China on Mutual Judicial Assistance in Criminal Matters (in force September 18, 2005);
- Agreement between the Republic of Latvia and the Republic of Belarus on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force June 18, 1995);
- Agreement between the Republic of Latvia and the Republic of Moldova on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force July 18, 1996);
- Agreement between the Republic of Latvia and the Republic of Poland on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters (in force September 5, 1995);
- Agreement between the Government of the Republic of Latvia and the Government of the

Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters (in force May 12, 1997);
- Agreement between the Republic of Latvia and the Russian Federation on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in force March 28, 1995;
- Agreement between the Republic of Latvia and Ukraine on Legal Assistance Relations and Legal Relations in Civil, Family and Criminal Matters (in force August 11, 1996);
- Treaty between the Government of the Republic of Latvia and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters (in force September 17, 1999);
- Letter Agreement on Law Enforcement between the Government of the Republic of Latvia and the Government of the United States of America (in force September 27, 2004).

All these agreements include the provision of MLA for all criminal matters, which would include ML and TF as defined in Latvia.

36.2 *Reasonable restrictions to MLA*:
MLA is not subject to unreasonable restrictions. Article 816 of the Criminal Procedure Law states that the request of a foreign country for assistance in process may be refused in cases where:
- such request is related to a political offence;
- execution of such request may be detrimental to State sovereignty, public order or other substantial interests of Latvia;
- no sufficient information is supplied and additional information cannot be obtained after such information has been requested.

36.3. *Clear and efficient processes for the execution of MLA:*
The competent authorities for executing MLA requests are the Ministry of Justice, Ministry of Interior, and the Prosecutor General. Requests are sent directly. Competent authorities who receive the MLA request must evaluate the request and must notify the requesting country without delay and no later than 10 days as to its decision (Article 814 of the Criminal Procedure Law). However it can take between one to three months to fully implement the request depending on the complexity of the request.

The Ministry of Justice is the competent authority for requests relating to legal proceedings, while the Ministry of Interior and the Prosecutor's Office are the central authorities for requests relating to pre-trial investigation, i.e., when criminal investigations are initiated up to the phase when criminal proceedings are commenced.

On receiving legal assistance requests from foreign countries, the Ministry of Justice evaluates their conformity with provisions of the relevant international agreement, as well as conformity with national legislation, and submits the legal assistance request to a corresponding court for execution of the request.

All requests must be in writing. The competent authority sends materials obtained as a result of execution of the request to the foreign country.

36.4 *Refusal of MLA on fiscal grounds*:
The grounds of refusal in the Criminal Procedure Law do not include refusing requests on fiscal grounds.

36.5 *Refusal of MLA on financial secrecy grounds:*

The Criminal Procedure Law provides that the investigative judge's approval is required before requests for confidential information or documents from financial institutions for use in investigations may be made (Article 121 paragraph 5). The authorities informed the assessors that the investigative judge only verifies whether all conditions for providing MLA are satisfied. In addition to this, Article 63 paragraph 4 of the Credit Institutions Law stipulates that credit institutions must provide information, even if confidential, to member state and foreign state court and investigatory institutions according to the procedures specified in international agreements, such as the Vienna Convention, the Palermo Convention and the International Convention on the Suppression of the Financing of Terrorism.

36.6 *Use of law enforcement powers at the request of foreign judicial or law enforcement agencies:* According to the authorities, law enforcement agencies can compel production of records, search persons or premises for and seize and obtain records, documents and information by exercising its powers in the Criminal Procedure Law (Article 826 and 827).

36.7 *Mechanisms for determining best venue for prosecution (conflicts of jurisdiction)*:

Latvia is a member of Eurojust which assists member countries in enhancing the effectiveness of cooperation in investigations and prosecutions. Article 7 of Eurojust provides that Latvia may ask the competent authorities of the Member States concerned to undertake an investigation or prosecution of specific acts and to accept that one of them may be in a better position to undertake an investigation or to prosecute specific acts. No such case has arisen so far.

The Criminal Procedure Law also stipulates a mechanism for taking over a criminal proceeding commenced in a foreign country and turning over a criminal proceeding commenced in Latvia to a foreign country authority. Pursuant to Article 741 of the Criminal Procedure Law, turning over criminal proceedings is the suspension of proceedings in Latvia and continuing the prosecution in a foreign country where efficient and successful execution of criminal proceedings is impossible or difficult in Latvia while handing them over to a foreign country may facilitate the process.

Analysis
Latvia is able to provide a wide range of MLA on the basis of treaties, bilateral and multilateral agreements and, where such agreements do not exist, on the basis of the Criminal Procedure Law. The system is place for dealing with MLA from EU countries is better developed than with nonEU countries. Where there is no treaty or agreement, reciprocity is required. There is flexibility to allow the use of the procedures in the Criminal Procedure Law or the procedures of the requesting country, where not contrary to basic principles of criminal procedure in Latvia.

There is no single authority for executing requests. Competent authorities are the Ministry of Justice when a proceeding has been commenced/initiated in court and the Ministry of Interior and Prosecutor's Office for requests relating to any matters before the commencement or initiation of court proceedings. This arrangement allows for requests to be handled in a timely and efficient manner, preventing a backlog. Additionally, the law provides a 10-day limit by which Latvia has to notify the requesting country whether or not it is able to execute the request. This provision should ensure a timely response.

The processes for executing MLA requests appear to be efficient judging from the MLA already provided. MLA requests provided under this regime have been executed between one to three months depending on how much information is requested and how complex the request is. This is due to the provisions in the law and the processes already in place to deal with such request.

The restrictions on providing MLA are not unduly restrictive and MLA cannot be refused on grounds

that it relates to a fiscal offence. It is possible to use the powers in the criminal procedure law for compelling the production of information and documents for use by foreign law enforcement agencies.

37.1 and SR V *MLA in absence of dual criminality for nonintrusive/noncompulsory measures*:

International cooperation can be rendered in the absence of dual criminality for all nonintrusive/noncompulsory measures.

37.2 and SRV *MLA where dual criminality is required*
Generally dual criminality is required for enforcing foreign confiscation of proceeds of crime. Where there is no dual criminality, property can be confiscated if it is an instrumentality of crime or was obtained illegally. Dual criminality is also required for MLA requests relating to taking over of criminal proceedings and the performance of special investigative techniques.

Latvia may refuse to impose coercive measures in relation to an offence which is not subject to criminal punishment in Latvia unless there is a reciprocal agreement on mutual legal assistance with the requesting country and, where there is no treaty or agreement, dual criminality is required. Dual criminality is satisfied if all the elements of the offence are present and the conduct underlying the offence satisfies the requirements of the relevant law. Technical differences are not taken into account.

Analysis
Dual criminality is required for enforcement of confiscation orders (other confiscation of property that was an instrumentality of the offence or was obtained illegally) and in relation to coercive measures where there are no treaties or agreements between Latvia and the requesting country. Determination of dual criminality is not hampered by technical differences in the way each country defines its offences. The conduct underlying the offence is examined.

38.1 and 38.2 *Laws and procedures for MLA related to identification, freezing, seizure or confiscation (including with respect to property of corresponding value)*:
According to Article 785 of the Criminal Procedure Law, foreign confiscation orders in relation to an offence can be executed in Latvia where confiscation is available under the laws of Latvia as the main or an additional penalty. Where confiscation is not a main or additional penalty then confiscation is only enforced if the property is an instrumentality of the offence or has been obtained by criminal means. Where property to be confiscated is not available, property of a corresponding value can be confiscated (Article 358 paragraph 2 of the Criminal Procedure Law). As the provisions relating to enforcement of confiscation of proceeds of crime have not been used much, authorities could not confirm whether judgments relating to the confiscation of proceeds of crime could extend to benefits and profits derived from crime.

Pursuant to Article 361 and Article 362(3) of the Criminal Procedure Law, the competent authority (person leading the process, including the investigative judge or the court if the case is in trial) can determine whether property of the detained, suspected or accused person, as well as the property due to them from other persons, or the property of persons that are held materially responsible for the action of the suspected or accused person, is to be seized. Such seizure may also be imposed on the property that is obtained by criminal means or is related to criminal procedure and is kept with other persons. In urgent cases, where the property may be alienated, destroyed or concealed if there is a delay, the initiator of criminal process may impose seizure on the property with the public prosecutor's consent.

MLA relating to freezing and seizing can be executed. However there are no specific provisions for enforcing requests relating to the identification of property to be confiscated though there are

provisions being considered by a working group.

38.3 *Arrangements for coordinating seizure and confiscation actions with other countries:*
International treaties may be applied by Latvia and the respective country for coordinating seizure and confiscations. Latvia is party to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of November 8, 1990 and this allows the making of such arrangements with other parties. Additionally membership in Eurojust allows Latvia to coordinate investigations between competent authorities in the Member States. Eurojust improves cooperation between the competent authorities of the Member States, in particular by facilitating the execution of international mutual legal assistance and the implementation of extradition requests. Besides these, any arrangements would have to be made bilaterally. The Criminal Procedure Law provides for Latvia to participate in joint investigation teams. So far, there have been no cases where Latvia was involved in establishing a joint investigation team.

38.4 *Asset forfeiture fund*
There are no provisions establishing an asset forfeiture fund.

38.5 *Sharing of confiscated assets*:
In accordance with Article 785 of the Criminal Procedure Law, in each particular case a competent authority decides whether confiscated assets may be shared with a foreign country. Latvia has received two requests and in both instances confiscated assets has been shared with the countries involved.

38.6 *Foreign noncriminal confiscation orders:*
Civil confiscation orders are not enforced.

Analysis
There are sufficient measures to enforce foreign confiscation orders. However it should be clearly stated in law that all property that is proceeds of crime, instrumentalities, intended instrumentalities and terrorist property should be confiscated, allowing for the execution of these types of requests. Regarding the enforcement of MLA requests for the seizure of property, as each request has to be decided on a case-by-case basis and there is no indication of the basis upon which each case will be decided, there is uncertainty in relation to the execution of such requests

There are also no provisions enabling the execution of a foreign request to identify proceeds.

There are measures in place for coordinating seizures and confiscation, especially with EU countries. There are provisions allowing the sharing of confiscated assets but each case is to be decided on a case-by-case basis.

32.2 *Statistics on MLA made or received, including nature of request and whether it was granted or refused and the time required to respond:*

Year	MLA requests	Requests relating to ML	Requests Relating to Predicate Offence	Requests relating to TF	Extradition (all of which were for predicate offences)
2002	439	29	410	0	27
2003	440	37	403	0	15
2004	477	40	437	0	18
2005	449	42	407	0	28

The requests relate to assistance in procedural action i.e., requests for information and documents and

cross-examination of witnesses. The average period for the execution of requests for assistance in process is approximately two months.
The statistics above are statistics of the Prosecutor's Office. The Ministry of Justice also keeps statistics but they are aggregated figures for MLA on criminal and civil matters. In 2005, there were 88 requests, of which 30 have been executed and the rest are in various stages of being executed. Additionally, in relation to requests concerning the various EU conventions, the following requests were executed: one in relation to transfer of proceedings and three related to the transfer of persons and enforcement of judgments.

In the last four years, approximately two requests of MLA per year were refused on the grounds that the requested actions could not be fulfilled under the current legislation (mainly because the requests were sent by the individuals involved in the case and not by the competent authorities).

SR V
The provisions and arrangements outlined above are applicable also to FT cases.

Recommendations and comments

Recommendations

- The authorities should include in the Criminal Procedure Law the grounds on which enforcement of foreign requests for seizure of property can be executed or refused, rather than leaving it to the discretion of the competent authority.
- Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefor.
- A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered.
- Each competent authority should keep statistics on numbers of requests refused and grounds of refusal and the Ministry of Justice should keep separate statistics for civil and criminal matters.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 5.3 underlying overall rating
R.32	LC	No statistics kept on MLA requests refused and grounds for refusal. Statistics of MLA by Ministry of Justice not easily available. (Composite rating)
R.36	C	
R.37	C	
R.38	PC	Enforcement of foreign confiscation orders for property, other than instrumentalities and property obtained illegally, is only available if confiscation is a penalty for the same offence in Latvia. Unclear whether request for confiscation of property can extend to enforcement of confiscation of all proceeds of crime, intended instrumentalities and terrorist property due to deficiencies already identified. No provision for identification of property and related enforcement following a foreign request.
SR.V	PC	As R.32 and R.38 above (Composite rating)

5.4 Extradition (R.32, 37 & 39, & SR.V)

Description and analysis

Latvia can extradite a person to a foreign country and the legal framework for extradition is set out in Chapter 66 of the Criminal Procedure Law. Generally a person may be extradited for criminal prosecution, to serve a sentence already imposed, or to be sentenced for an offence for which they have been convicted. Dual criminality is required.

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See Section 5.3 for statistics of the Prosecutor's Office. The statistics from MOJ indicate that there have been two extraditions pursuant to the EU Convention. However, there have been no requests for extradition related to ML or TF.

39.1 ML an extraditable offence

Money laundering is an extraditable offence and requests for extradition are conditioned on the existence of a treaty. According to Article 696 of the Criminal Procedure Law, a person in Latvia may be extradited for criminal prosecution, execution of a sentence already imposed or to be sentenced for a conviction (verdict). Dual criminality is required and a person can be extradited for criminal prosecution and sentencing for an offence which is punishable by imprisonment of a maximum of at least one year. A person may also be extradited for execution of a sentence already imposed by a country and the person has been sentenced to imprisonment of not less than four months. A person may also be extradited where extradition is requested in relation to several offences and extradition is not applicable for one of these offences on the grounds that the offence fails to meet the condition relating to the minimum amount of the penalty to be imposed or awarded.

One of the conditions for agreeing to a request for extradition is that there has to be a treaty in place between the two countries. If Latvia and the requesting country are parties to a multilateral convention, including the Vienna Convention, the Palermo Convention, the International Convention for the Suppression of Terrorist Financing, or any other relevant conventions, as a matter of practice these conventions would be considered to constitute a treaty for purposes of an extradition request. However this is not provided for in the Criminal Procedure Law.

Extradition - EU Member States

As a member of the European Union, Latvia has adopted Article 714 of the Criminal Procedure Law to give effect to Council Framework Decision of June 13, 2002 on the European arrest warrant and the surrender procedures between EU Member States.

Article 714 of the Criminal Procedure Law permits the extradition of a person in Latvia to allow a criminal prosecution to be initiated or completed, to be sentenced, and for the execution of a European arrest warrant if with respect to this person, the requesting state has accepted a European imprisonment ruling and the conditions listed in Article 696 of the Criminal Procedure Law apply (conditions listed in paragraph above). Additionally, if the person is extradited for an offence listed in Addendum 2 (which includes ML but not terrorist financing) and there is a European arrest warrant issued by the country for an offence in relation to which prison sentence the maximum term of which is not less than three years could be applied, there is no examination of dual criminality.

Extradition pursuant to bilateral treaties

A person in Latvia can also be extradited in accordance with bilateral treaties, of which there are four (with Australia, Russia, Belarus and a new one with the US that supersedes a previous treaty dating from 1920).

Detention of person for purposes of extradition

An investigator or prosecutor may detain a person up to 72 hours for purposes of extradition if there is strong basis for believing that a person has committed an offence in another country for which extradition is applicable and the foreign country has announced a search for the person (Article 699 of the Criminal Procedure Law). A person may be detained temporarily if a foreign country requests for temporary detention until receipt of a request of extradition. An application for temporary detention is determined by a judge with the extraditable person and prosecutor in attendance (Articles 700–701 of the Criminal Procedure Law). Detention is lifted if the necessary documentation is received within the period stated. After receipt of a request for extradition, extradition custody is imposed after the petition is heard by the Prosecutor General or the presiding judge where the person is detained. (Article 702 of the Criminal Procedure Law)

Examination (Articles 704 -705 of the Criminal Procedure Law)
It is the prosecutor of the Prosecutor's Office who examines the request for extradition. The prosecutor of the Prosecutor's Office determines whether the basis for extradition exists and the grounds for extradition. If there is insufficient information received, the prosecutor of the Prosecutor's Office can request additional information. The purpose of this process is to examine the documents submitted with the extradition request and to verify whether the formal conditions for extradition in Articles 696 and 697 have been met. There is no examination of the substance. The person to be extradited is informed within 48 hours of receiving the request and the person is permitted to submit explanations.

39.2 Extradition of Latvian nationals

Extradition of nationals to EU Member States
According to Article 714 (1) and (3) of the Criminal Procedure Law, Latvia may extradite its own nationals to a EU Member States. The person is returned to Latvia to serve his sentence if that is his request.

In all other cases extradition of Latvian nationals is refused (Article 697 paragraph 2^1 of the Criminal Procedure Law).

Where extradition is refused, criminal proceeding initiated abroad may be transferred to Latvia (Chapter 67). Under Article 725(2) of the Criminal Procedure Law, consent to transfer criminal proceedings serves as grounds to continue proceedings in accordance with Latvian criminal procedures. But there is no specific requirement relating to the "extradite or prosecute" principle. The authorities informed the assessors that Article 6 of the Criminal Procedure Law obliges a prosecutor to initiate criminal proceedings once aware of a cause and grounds for initiating criminal proceedings.

39.3 "Extradite or prosecute" decision and evidentiary cooperation

Pursuant to Article 740(2) of the Criminal Procedure Law, the competent institution must notify the requesting country about the final decision, as well as about other procedural actions relating to the transfer of the criminal procedure, where this is provided for by treaties or mutual arrangements. Latvia is empowered to apply its own criminal procedure in prosecuting the person.

39.4 Measures for allowing extradition requests without delay

The examination by the Prosecutor's Office has to be completed within 20 days after the receipt of the request or from the date additional information requested is received. Once the prosecutor makes a ruling on the extradition, the person to be extradited can appeal to the Supreme Court (for nonEU countries) within 10 days of receiving the ruling. Both the requesting country and the person to be extradited are informed of the ruling. If the decision of the Supreme Court is appealed, the ruling is sent to the Ministry of Justice who sends it to the Cabinet of Ministers. The Cabinet of Ministers may

refuse extradition only if the extradition affects the State's sovereignty, or the offence is political or military in nature, or the extradition is for the purpose of prosecuting the persons for reasons relating to the person's race, religious affiliation, nationality, gender or political ruling, The Ministry of Justice informs the person and the requesting person of the decision. The Minister of Interior executes the extradition. It takes about one month for simplified procedures and longer for full proceedings including appeals.

39.5 Simplified extradition

A person may be extradited using a simplified procedure if that person consents in writing to the extradition, is not a Latvian citizen, and there are no criminal proceedings or sentence pending against him/her. Simplified procedures for extradition are also available for the European arrest warrant (EAW).

Analysis
Latvia can extradite for ML and the processes set out in law ensure that the process is generally an efficient one, except for the designation of the Cabinet of Ministers as the final forum for appeals for nonEAW extraditions which could potentially lengthen the process. As with MLA, the processes for extradition to EU Member States allows surrender of persons for extradition to be undertaken easily without the inherent delay and complexity normally existing in extradition matters. There is no specific provision that where extradition is refused Latvia has to prosecute. General provisions on cooperation on evidentiary and procedural matters apply but the existence of a provision for the taking over of criminal proceedings simplifies this cooperation and allows for the possibility for using Latvian procedural rules. Simplified procedures exist for EAW or where the person consents.

37.1 Absence of dual criminality

Dual criminality is required except for EAW and dual criminality is satisfied if all the elements of the offence are present. The authorities do not take an overly-technical approach to the application of such requirements.

37.2 Grounds of refusal for extradition or other practical impediments

There are mandatory and discretionary grounds for refusal of extraditions. Articles 697 and Article 714(4) and (5) of the Criminal Procedure Law provide for grounds for refusal to extradite a person to a foreign country. Mandatory grounds of refusal include refusing to extradite a Latvian national (except in relation to EAW), where the initiation of criminal prosecution or sentence is based on his/her race, religion, nationality or political views, or where a person's rights may be infringed, where a Latvia court ruling exists for the same offence, the limitation period has expired, on grounds of amnesty, no guarantee that capital punishment will not be executed, or the person is under threat of torture. Extradition of a person may be refused in cases where an offence has been committed in the territory of Latvia; the person is suspected of, convicted or under trial for the same offence in Latvia; Latvia has decided not to initiate or to terminate a criminal proceeding regarding the same offence; or extradition is requested in connection with political or military offences.

In the last four years, approximately two requests on extradition have been refused per year on the grounds that the person was suspected, accused or tried for the same crime in Latvia or on the basis of other legal grounds (such as expiry of statute of limitation, amnesty or other grounds).

Recommendations and comments
Recommendation

- Introduce specific provision dealing with "extradite or prosecute" principle.
- Introduce mechanism for consolidation of statistics relating to extradition.
- Introduce a time frame by which the Cabinet of Ministers has to make a ruling on appeals.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 5. 4 underlying overall rating
R.32	LC	Latvia maintains records of its extradition requests but there are two sets of statistics kept (by MOJ and the Prosecutor's Office) and these are not consolidated. No statistics are kept on requests refused and grounds of refusal. (Composite rating)
R.37	C	
R.39	C	
SR.V	PC	(Composite rating)

5.5 Other Forms of International Cooperation (R.32, 40, & SR.V)

Description and analysis

The authorities in Latvia are able to provide assistance outside of the formal structure for mutual legal assistance. The sharing of information on an informal basis is not unduly restricted. The legislation provides for a number of gateways by which information may be exchanged.

Latvia is able to provide mutual legal assistance in criminal matters (MLA) on the basis of international, bilateral or multilateral agreements to which Latvia is a party and where there is no agreement on MLA, the Criminal Procedure Law provides the legislative basis for providing MLA. The Criminal Procedure Law provides that if there is no treaty or agreement with the country, MLA is provided on the basis of reciprocity. The competent authority for international cooperation is the Ministry of Justice or the Prosecutor's Office depending on whether requests relate to pre-trial investigations or criminal proceedings. Latvia can provide assistance on a wide range of matters and MLA requests are not subject to unreasonable restrictions though the provisions in the Criminal Procedure Law regarding confiscation should be expanded to specifically include the enforcement of foreign confiscation orders relating to all proceeds of crime, intended instrumentalities, and terrorist property.

Money laundering and terrorist financing are extraditable offences in Latvia. Extradition is possible on the basis of treaties and dual criminality is generally required. Multilateral conventions, including the Vienna Convention, the Palermo Convention and the Terrorist Financing Convention are considered as equivalent to treaties for purposes of an extradition request.

Prosecutor's Office:

In Latvia, international cooperation is provided for by Part C of the Criminal Procedure Law adopted on April 21, 2005, which took effect on October 1, 2005. Pursuant to Article 673(1), international cooperation in the area of criminal law is requested from foreign countries and provided:

- in extradition of a person for criminal prosecution, conviction or execution of a court judgment, or for determining enforcement means of medical nature;
- in transfer of criminal procedure;
- in surrender of the convict for execution of confinement penalty;
- in execution of procedural act;
- in recognition and execution of a court judgment; and
- in other cases pursuant to international treaties.

See also comments with respect to Recommendation 36 dealing with mutual legal assistance.

State Police and Law Enforcement Agencies
The State Police can provide the widest range of international cooperation through the Interpol National Bureau and the Europol National Bureau. Both offices are within The International Cooperation Department of Latvian Criminal Police Division. The cooperation is provided based on the following legislation: Criminal Procedure Law, Law on Prosecutor's Office, the Police Law, and the Law on Convention Based on Article K.3 of the Treaty on European Union, on the Establishment of a European Police Office (Europol Convention) and Interpol Constitution.

Information exchange can be conducted both spontaneously and upon request. This is provided for by Article 675 of the Criminal Procedure Law. Any competent Latvian authority, the courts and the Prosecutor's Office may agree direct communication with a foreign competent authority.

The competent authorities in Latvia can conduct investigations on behalf of foreign counterparts pursuant to Article 815(1) of the Criminal Procedure Law.

Restrictions placed on the exchange of information are set out in Article 39 of the AML Law. The FIU may exchange information on its own initiative if 1) the confidentiality of data is ensured and the information will only be used for mutually agreed purposes. 2) It is guaranteed that the information shall be used to prevent and detect only those crimes that are crimes in Latvia.

The Latvian authorities cannot refuse to provide assistance on the basis of the request being a fiscal matter. Neither are there are no provisions in Latvian legislation that would prohibit the exchange of information on the basis that it was subject to secrecy or confidentiality requirements.

The Ministry of Justice
Article 673 of the Criminal Procedure Law prescribes international cooperation as follows:
in Latvia, international cooperation in the area of criminal law is requested from foreign countries and ensured:

- in extradition of a person for criminal prosecution, conviction or execution of a court judgment, or for determining enforcement means of medical nature;
- in transfer of criminal procedure;
- in surrender of the convict for execution of confinement penalty;
- in execution of procedural act;
- in recognition and execution of a court judgment; and
- in other cases pursuant to international treaties.

The role of the Ministry of Justice regarding the course of legal assistance comprises forwarding legal assistance requests from the Latvian courts to central or competent authorities of other countries. On receiving legal assistance requests from foreign countries, the Ministry of Justice evaluates their conformity with the provisions of the relevant international agreement, as well as conformity with national legislation. The request is then forwarded to a court for the execution of the request.

See also comments made with respect to Recommendation 36

Supervisory cooperation: FCMC
The FCMC is empowered under Article 6.10 of the Law on the FCMC to cooperate with foreign financial and capital market supervision authorities and to participate in relevant international organizations. As there is significant foreign ownership among the financial institutions in Latvia, the FCMC has developed a basis for cooperation with the appropriate home supervisory authorities. These

contacts are more active in some cases than others, and can include cooperation in the area of on-site inspections. At the international level, Latvia's membership of the EU results in its participation in a range of committees and structures that provide a firm basis for supervisor to supervisor cooperation.

FIU

The FIU is empowered by the AML Law, on its own initiative or upon request, to exchange information relating to ML and FT with a foreign FIU as well as with foreign or international anti-terrorism agencies. Such exchange of information is subject to the condition that the confidentiality of data is ensured, that the information is used only for mutually agreed purposes and is utilized for the prevention and detection of such criminal offences as are criminally punishable also in Latvia.

Additionally the FIU can also provide information at its disposal to foreign investigative institutions and courts in accordance with the procedures provided for by international agreements regarding mutual legal assistance in criminal matters and via the competent authorities.

According to the FIU, it treats an incoming foreign request as an STR and uses this as a basis to request additional information from credit and financial institutions (Article 11, paragraph 2 of the AML Law). The FIU also may retrieve information from its database or request data from State databases in order to obtain the information necessary to respond to such requests.

A request from a foreign FIU cannot be refused on grounds that it invokes banking and other professional secrecy provisions pursuant to Article16, paragraph 2 of the AML Law.

On the timing of the FIU's response to a foreign FIU's request for information, according to the authorities any information that is maintained in the FIU's database may immediately be provided to the foreign FIU, whilst gathering and forwarding the information maintained by the reporting entities may take up to two weeks (which is the time allotted by the AML Law to the reporting entities to respond to a request from the FIU; under Article 11 (1) 2 of the AML Law).

Analysis
While there are some provisions in place for the FIU to exchange information with foreign FIUs and noncounterparts, the FIU could benefit from clear provisions in the AML Law that would allow it to exchange information with nonFIU foreign agencies, upon request or on its own initiative, including the power to request and obtain information from the relevant entities and to access its databases.

Rec. 32

FIU:

The FIU is a member of the Egmont Group since 1999 and has signed 14 MOUs with foreign FIUs. The FIU is linked online to ESW (Egmont Secure Web) and the European FIU.NET and has designated employees who conduct information exchange with foreign FIUs.

Interaction of the Control Service (FIU) with foreign FIUs 2002–2005

Year	Number of requests received from foreign FIUs	Number of requests made to foreign FIUs	Number of reports forwarded on own initiative to foreign FIUs
2002	108	62	–
2003	133	79	–

2004	215	72	20
2005	284	69	43

Over the period 2002-2005, the Latvian FIU has never refused to provide information in response to a foreign request.

All legislative mechanisms are in place to support international cooperation. Statistics were provided only for the FIU. It is difficult, therefore, to assess the effectiveness of the other authorities.

Recommendations and comments

Recommendation

- Amend the AML Law to specifically provide that the FIU can request information from credit and financial institutions and other relevant institutions and to access information from its databases in response to requests from foreign FIUs.
- Amend the AML Law to specifically allow the FIU to request information from nonFIU foreign competent authorities.

Compliance with FATF Recommendations

	Rating	Summary of factors relevant to section 5.5 underlying overall rating
R.32	LC	Statistics on international cooperation available only for the FIU (Composite rating)
R.40	LC	Lack of statistics on cooperation undermines the assessment of effectiveness
SR.V	PC	Lack of statistics on cooperation undermines the assessment of effectiveness (Composite rating)

Table 2. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), NonCompliant (NC)), or could, in exceptional cases, be marked as not applicable (NA).

Forty Recommendations	Rating	Summary of factors underlying rating[17]
Legal systems		
1. ML offence	LC	The effectiveness of the money laundering offence is limited by the practice in the courts and adopted by the prosecutor's office according to which there needs to be a conviction for a predicate offence before a money laundering charge. This practice also applies to predicate offences committed abroad.
2. ML offence–mental element and corporate liability	C	
3. Confiscation and provisional measures	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property needs to be broadened to deal with property indirectly. Forfeiture does not include property that is intended for use in the commission of an offence, except in cases of preparation or attempt to commit a crime. There is no measure that would allow for the voiding of contracts or actions.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	
5. Customer due diligence	PC	Although the law broadly meets the substance of the standards, it is insufficiently clear on a number of issues. • Although Latvia has implemented customer identification obligations, not all

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

		of the necessary details of CDD are adequately covered. • There is no explicit requirement in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (other than when opening an account). • There is no explicit requirement in law or regulation for financial institutions to verify the customer's identity. • In respect of business relationships that are not covered by the FCMC Regulation: the requirements are unclear as regards the timing of verification. • Measures taken to enable financial institutions to conduct full CDD on legal entities that may issue bearer shares need to be strengthened. • There are no specific, direct requirements in law or regulation to identify the customer when there is a suspicion of terrorist financing. • Current requirements to keep the information collected during the CDD up-to-date and relevant and to conduct reviews of existing records, in particular for higher risk categories of customers need strengthening. • There are no requirements, in law or regulation or other enforceable means, for the bureaux de change and the Latvian Post Office to identify high-risk clients or transactions and perform enhanced due diligence. • Exemptions to the identification requirement are not in line with the standard.
6. Politically exposed persons	PC	For the bureaux de change and the Latvian Post Office, there are no legal or other enforceable requirements in place. For financial institutions subject to the FCMC supervision: Although customers or beneficial owners identified as PEPs are considered of higher risk, there are no requirements to obtain senior management approval for establishing the business relationship.

7. Correspondent banking	NC	Article 5[1] of the AML Law unduly provides a blanket exemption for correspondent banks from OECD countries. There is no legal, regulatory or other enforceable obligation to obtain senior management's approval before establishing new correspondent relationships. The following current measures need to be enhanced in law or regulation: • To gather sufficient information to understand fully the nature of the respondent's business and to determine its reputation and the quality of supervision; or • To document the respective AML/CFT responsibilities of each institution.
8. New technologies & non face-to-face business	PC	Although the provisions of the AML Law apply equally to non face-to-face business, there are no supplementary requirements in law, regulation or other enforceable means to address the additional risk associated with new or developing technologies. Nevertheless, implementation of AML/CFT preventive measures for such business has improved in practice.
9. Third parties and introducers	N/A	Financial institutions do not rely on third parties intermediaries to perform elements of the customer identification process.
10. Record keeping	PC	Record-keeping requirements, though they meet core aspects of R.10, lack the detail and clarity to oblige all financial institutions to be able to reconstruct individual transaction data. No explicit requirement in law or regulation to maintain records of accounts files and business correspondence.
11. Unusual transactions	LC	AML Law seems to limit access to information to supervisory authorities, rather than provide that the information should be made available to all relevant authorities.
12. DNFBP–R.5, 6, 8–11	PC	Incomplete specification of scope and detail of circumstances in which CDD is required. PEP identification not generally required.

		No requirement for DNFBPs to monitor transactions for CDD compliance. No steps taken to implement CDD regime in important classes of DNFBPs (independent lawyers who are not-sworn advocates, independent accountants who are not sworn auditors) Lack of effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors. Indications of gaps in CDD practices among DNFBPs. Comprehensive program of outreach to DNFBP sectors to raise awareness of CDD requirements and to introduce effective compliance practices.
13. Suspicious transaction reporting	LC	The legal requirement for reporting of suspicious transactions related to terrorist financing is not fully consistent with the standard. Additional focus needed on STR reporting.
14. Protection & no tipping-off	C	
15. Internal controls, compliance & audit	LC	There are no legal or regulatory requirements to establish an adequately resourced and independent audit function for financial institutions other than banks, electronic money institutions, and insurance companies, even where warranted by size and risk. There is no explicit requirement that the compliance officer should be at management level. Only bureaux de change are required to introduce screening procedures to ensure high standards when hiring employees.
16. DNFBP–R.13–15 & 21	NC	Awareness of general AML/CFT obligations is high but knowledge of detailed requirements is limited. Because of gaps in the legal framework, the activities in relation to which DNFBPs are required to report suspicious transactions are

		significantly narrower than that required under the Recommendation 16 Compliance programs for DNFBPs set out in various guidelines/regulations generally conform well to the criteria for Recommendation 16 but, in most cases, such instructions are not enforceable means. Monitoring and enforcement of the internal controls and reporting requirements of DNFBPs is very limited. Many independent lawyers and independent accountants as well as a large number of car dealers and antique dealers are outside the oversight regime for DNFBPs because they are not members of an SRO or cooperating trade association.
17. Sanctions	PC	For many DNFBP no supervisory and control authority has been appointed, hence, many DNFBPs are not subject to sanctioning for noncompliance with AML/CFT requirements by the supervisory and control authorities. The guidelines/regulations that have been issued are generally advisory and not enforceable means, and hence do not provide a basis for sanctioning member DNFBPs for noncompliance with many of the specific AML/CFT requirements specified in the FATF Recommendations. (Composite rating)
18. Shell banks	LC	Measures to prevent the establishment of shell banks are not sufficiently explicit. No specific requirement to check that foreign respondents ensure that they are not used by shell banks.
19. Other forms of reporting	C	
20. Other NFBP & secure transaction techniques	C	
21. Special attention for higher risk countries	PC	Other than the situation where the customer is a resident of a country listed by FATF or included in other international lists, there are no requirements in respect of business relationships and transactions with persons

		from or in countries which do not or insufficiently apply the FATF standard. There are no mechanisms in place that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.
22. Foreign branches & subsidiaries	PC	Whilst the AML measures do apply to foreign branches or subsidiaries, there are no specific requirements in respect of branches or subsidiaries in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs, nor are financial institutions required to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures.
23. Regulation, supervision and monitoring	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
24. DNFBP - regulation, supervision and monitoring	PC	A comprehensive regulatory and supervisory regime has been established for casinos and appears to be effectively implemented. Likewise the systems for monitoring and ensuring compliance by sworn auditors and for dealers in precious metals and stones appear to be effective. For other DNFBP sectors, the established regime for monitoring and ensuring compliance is not effective either because the authorities do not actively monitor members, or because oversight enforcement authority is inadequate, or because the designate agency is a trade association with no statutory authority to monitor and enforce compliance by members. A significant number of DNFBP professionals and business are not subject to any systematic compliance regime because they are not members of any of the designated groups.
25. Guidelines & Feedback	PC	A range of guidelines/regulations have been issued by various DNFBP organizations but in most cases these instructions have not been

		issued under legal authority that would make them enforceable means. (Composite rating)
Institutional and other measures		
26. The FIU	LC	The FIU generally meets the requirements of the standard and appears to function in an effective way but its effectiveness could be enhanced through additional focus on STRs. The AML Law contains two provisions dealing with dissemination of the FIUs information which could potentially conflict with each other.
27. Law enforcement authorities	C	
28. Powers of competent authorities	C	
29. Supervisors	LC	Latvian Post Office is not subject to adequate supervision for AML/CFT purposes
30. Resources, integrity and training	LC	More staff needed for the FIU and correspondingly more budget. Training needed for law enforcement agencies. (Composite rating)
31. National cooperation	LC	Enhance information exchange between the FIU and LEAs
32. Statistics	LC	No statistics kept on MLA requests refused and grounds for refusal. Statistics of MLA by Ministry of Justice not easily available. Statistics on international cooperation available only for the FIU. No power for BoL to publish AML/CFT statistics on bureaux de change. No statistics yet on cross-border cash. Latvia maintains records of its extradition requests but there are two sets of statistics kept (by MOJ and the Prosecutor's Office) and these are not consolidated. No statistics are kept on requests refused and grounds of refusal. (Composite rating)

33. Legal persons–beneficial owners	NC	There are no effective measures in place to ensure that competent authorities are able to obtain or have access in a timely fashion to the beneficial ownership and control information, in particular with respect to the legal persons that have issued bearer shares. There are no effective measures to ensure that the information provided to the Registrar of Enterprises is current and adequate.
34. Legal arrangements – beneficial owners	N/A	
International Cooperation		
35. Conventions	LC	Property has not been defined for the purposes of the Criminal Law and the Criminal Procedure Law. The definition of proceeds of crime/illegally acquired property does not include property obtained indirectly. Forfeiture does not include property that is intended for use in the commission of an offence.
36. Mutual legal assistance (MLA)	C	
37. Dual criminality	C	
38. MLA on confiscation and freezing	PC	Enforcement of foreign confiscation orders for property, other than instrumentalities and property obtained illegally, is only available if confiscation is a penalty for the same offence in Latvia. Unclear whether request for confiscation of property can extend to enforcement of confiscation of all proceeds of crime, intended instrumentalities and terrorist property due to deficiencies already identified. No provision for identification of property and related enforcement following a foreign request.
39. Extradition	C	
40. Other forms of cooperation	LC	Lack of statistics on cooperation undermines the assessment of effectiveness
Nine Special Recommendations		
SR.I Implementation of UN instruments	LC	The definition of funds needs to be amended to include legal documents or instruments in any

			form such as electronic or digital, and evidencing title to, or interest in, such assets.
SR.II	Criminalize terrorist financing	PC	"Financial resources" has not been defined in accordance with the Terrorist Financing Convention. Effectiveness could not be assessed as there has not been any prosecution for terrorism financing.
SR.III	Freeze and confiscate terrorist assets	PC	Financial resources and property are not defined in accordance with the Terrorist Financing Convention. Within the context of UNSCR 1373, Latvia does not have a national mechanism to consider requests for freezing from other countries (outside the EU mechanisms) or to freeze the funds of EU internals (citizens or residents). There is no publicly known and clearly defined procedure for de-listing of suspected terrorists listed by Latvia apart from those on the EU List. There is no access to funds for basic living expenses and legal costs.
SR.IV	Suspicious transaction reporting	PC	Although the AML Law contains some measures on FT reporting, they are not sufficiently explicit, direct, and complete. Need for additional focus on suspicion.
SR.V	International cooperation	PC	Enforcement of foreign confiscation orders for property, other than instrumentalities and property obtained illegally, is only available if confiscation is a penalty for the same offence in Latvia. Unclear whether request for confiscation of property can extend to enforcement of confiscation of all proceeds of crime, intended instrumentalities and terrorist property due to deficiencies already identified. No provision for identification of property and related enforcement following a foreign request. Mechanism on how confiscated assets are to

		be shared is not in place. There is no asset forfeiture fund. Lack of statistics on international cooperation undermines the assessment of effectiveness
SR.VI AML/CFT requirements for money/value transfer services	PC	The remittance services are adequately monitored and supervised when they are provided by banks and electronic money institutions, although a closer review of PrivateMoney appears to be warranted. The Post Office is not subject to monitoring and supervision by a competent authority to ensure AML compliance of its money transfer business.
SR.VII Wire transfer rules	NC	Other than the requirement to maintain the originator information with the wire, the Latvian laws and regulations do not specifically address wire transfers.
SR.VIII Nonprofit organizations	C	
SR.IX Cash Border Declaration & Disclosure	NC	No measures were in place at the time of the assessment as the Law on Cash Declaration at the Border came into force after the assessment was conducted.

Table 3: Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1, 2 & 32)	Take appropriate measures to ensure that prosecutions can be commenced without the need for a conviction of a predicate offence.
Criminalization of Terrorist Financing (SR.II & R.32)	Define "financial resources" in accordance with the Terrorist Financing Convention.
Confiscation, freezing and seizing of proceeds of crime (R.3 & 32)	Extend forfeiture to property that is intended for use in the commission of a criminal offence. Define "property" and "assets" for the purposes of the Criminal Law and Criminal Procedure Law. Amend definition of "proceeds of crime" to reflect definition of property for the purposes of the Criminal Law and the Criminal Procedure Law. Amend definition of illegally acquired property to ensure that it would cover property obtained directly and indirectly as a result of the commission of an offence.
Freezing of funds used for terrorist financing (SR.III & R.32)	Define "financial resources" and "property" in accordance with the Terrorist Financing Convention. Implement a national mechanism to give effect to requests for freezing assets and designations from other countries and to enable freezing funds of EU internals (citizens or residents). Develop a clearly defined procedure for de-listing of suspected terrorists listed by Latvia (apart from those on the EU List for whom a procedure already exists). Provide for access to funds for basic living expenses and legal costs.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	Address the contradiction in the AML Law regarding dissemination, for example by providing that the FIU disseminates its information to the Prosecutor's Office (and not law enforcement). Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU.

Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	Latvia should also consider requiring the FIU to publish an annual report. Provide the FIU with additional staff in view of the expected increased workload. Specialized training needed for police and other law enforcement officers responsible for AML/CFT. Specialized training needed for the Prosecutor's Office in AML/CFT. Provide the FIU with additional staff in view of the increased workload to come.
3. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing Customer due diligence, including enhanced or reduced measures (R.5– 8)	The authorities should amend the AML Law to introduce clearer, unambiguous language, in particular when seeking to set mandatory obligations. *Recommendation 5* Provide explicitly in law or regulation for financial institutions to undertake CDD measures when establishing a business relationship (to supplement Articles 6 and 7 of the AML Law relating to opening an account). Provide explicitly in law or regulation that financial institutions must verify customers' identity. Enhance measures in order to enable all financial institutions to conduct full CDD on all legal entities that may issue bearer shares. Amend Article 7 paragraph 3 of the AML Law to provide a specific direct requirement for financial institutions to identify the client, irrespective of any exemption or threshold, when there is a suspicion of terrorist financing. Clarify, in law or regulation, that identification of nonresident customer of the Latvian Post Office and the bureaux de change be performed on the basis of reliable, independent source documents, data or information, such as, for example, valid passports. Amend the AML Law in order to require all financial institutions to obtain further information on the beneficiaries and third persons.

	Amend the AML Law or relevant regulation in order to clearly require the financial institutions that are not covered by the FCMC Regulation to obtain information on the purpose and intended nature of the business relationship. Enhance current practice by requiring explicitly, in law or regulation, the financial institutions to ensure that documents, data and information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, in particular for higher risk categories of customers or business relationships. Require, in law, regulation or other enforceable means, the bureaux de change and the Post Office to identify high-risk categories of clients and transactions and, for all financial institutions, to perform enhanced due diligence. Define the additional measures to be taken under the enhanced due diligence. Remove from the AML Law the automatic exemption from CDD requirements provided under Article 9. For customers (and beneficial owners of the funds) of financial institutions that are not covered by the FCMC Regulation, clarify, in law or regulation or other enforceable means, the timing of verification in accordance with FATF criteria 5. 13, 5.14 and 5.14.1. *Recommendation 6* Require, in law, regulation or other enforceable means, the bureaux de change and the Latvian Post Office to put in place appropriate risk management systems to determine whether a potential customer, an existing customer or the beneficial owner is a PEP; to take reasonable measures to establish the source of wealth and the source of the funds of customers and beneficial owners identified as PEPs; and to conduct enhanced ongoing monitoring on the relationship with PEPs. Require in law, regulation or other enforceable means, all financial institutions to obtain senior management approval for establishing business relationships with PEPs or continuing a relationship with a customer or beneficial owner who subsequently becomes a PEP. *Recommendation 7* The blanket exemption for correspondent banks from OECD countries under Article 5^1 of the AML Law should be removed.

	Require, in law, regulation or other enforceable means, that banks must obtain senior management's approval before establishing the new correspondent relationship. Enhance the current requirements for banks to gather sufficient information to understand fully the nature of the respondent's business, to determine its reputation and the quality of supervision; to assess the adequacy and the effectiveness of the correspondent's controls; and to document the respective AML/CFT responsibilities of each institution. *Recommendation 8* Require, in law, regulation or other enforceable means, the financial institutions to have policies or take measures to address the additional risks that may arise from new and developing technologies .
Third parties and introduced business (R.9)	N/A
Financial institution secrecy or confidentiality (R.4)	—
Record keeping and wire transfer rules (R.10 & SR.VII)	*Recommendation 10* Require, in law or regulation, financial institutions to keep records of the account files and business correspondence. Allow, in law or regulation, for the extension of the record keeping period beyond five years on request of an authority in specific cases. *Special Recommendation VII* Require financial institutions to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, as set out under Special Recommendation VII and to conduct enhanced scrutiny of, and monitor for suspicious activity, funds transfers which do not contain complete originator information in compliance with Special Recommendation VII.
Monitoring of transactions and relationships (R.11 & 21)	Require information to be made available to all authorities relevant in the fight against money laundering and the fight against terrorist financing, not only to the supervisors. Require financial institutions that are not subject to FCMC supervision to pay special attention not only when the customer is a resident of a country listed by FATF, but also to business relationships and transactions with persons from countries which do not or insufficiently

	apply the FATF standard. Establish a mechanism that would enable the Latvian authorities to apply counter-measures to countries that do not apply or insufficiently apply the FATF recommendations.
Suspicious transaction reports and other reporting (R.13, 14, 19, 25 & SR.IV)	*Recommendation 13* Provide clarification and guidance to the reporting entities in order to increase the emphasis ensuring that suspicious transactions are reported promptly to the FIU. Increase the emphasis on STR reporting in order to enhance the operational effectiveness of the FIU. Specifically require, in law or regulation, the reporting of suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the scope of the requirement to designated persons. *Recommendation 14a* In order to fill the gap in the AML Law, the authorities should limit the scope of the waiver to reporting of suspicions transactions made in good faith. This can be done by amending the law which grants exemption from liability by adding that the exemption is limited to cases where disclosure is made "in good faith". *Special recommendation IV* The authorities should amend the AML Law to provide specifically that financial institutions are required to report suspicious transactions of funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts, or by terrorist organizations or those who finance terrorism, without limiting the reporting to cases where potential terrorists have been designated.
Cross Border Declaration or disclosure (SR IX)	The authorities should put in place mechanisms to ensure the effective implementation of the new Law on Cash Declaration on the Border.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	The authorities should expand the scope of the current requirements and introduce, in law or regulation, obligations: • for financial institutions (other than banks, electronic money institutions, and insurance companies) where warranted by size and risk of the business, to establish an independent audit function. • for financial institutions to develop appropriate compliance management arrangements e.g. at a

	minimum the designation of an AML/CFT compliance officer at management level. • for financial institutions (other than bureaux de change) to put screening procedures in place when hiring employees. • for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that AML/CFT measures applied are consistent with the Latvian law in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs. • for financial institutions to inform their Latvian supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country.
Shell banks (R.18)	Make more explicit the current measures to ensure that shell banks could not be established in Latvia. Require financial institutions to take measures in order to satisfy themselves that their respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 25 & 32) Money value transfer services (SR.VI)	The Latvian Post Office should be made subject to appropriate supervision for AML/CFT purposes. There should be appropriate sanctions that apply to directors and senior staff of bureaux de change. Address in law or regulation the lack of adequate supervision of the money transfer services provided by the Latvian Post Office.
4. Preventive Measures–Nonfinancial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	Broaden the provisions in the AML Law of the circumstances under which DNFBPs are subject to AML/CFT preventive measures requirements. The AML Law should apply to all DNFBPs identified in the FATF Recommendations when they engage in the activities specified in the FATF Recommendations. Broaden the specification of the circumstances under which DNFBPs are required to undertake CDD to conform with the FATF Recommendations, including eliminating the provision that professionals are only required to identify clients when they engage in transactions of EUR15,000 or more or when they are

	arranging for safekeeping or opening accounts. A requirement to identify PEPs should be included. Extend Article 20 paragraph 1^1 of the AML Law on the monitoring of transactions to apply also to DNFBPs.
Suspicious transaction reporting (R.16)	Revise the legal framework to require all DNFBPs to report suspicious transactions in all those circumstances called for in the FATF Recommendations. Revise Cabinet of Ministers Regulation No 127 to make its provisions applicable to all DNFBPs. Essential elements of internal controls relevant to DNFBPs should be spelled out in law, regulation, or other enforceable means. A supervisory and control authority should be designated for each DNFBP sector with authority to monitor and enforce compliance with AML/CFT requirements. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements.
Regulation, supervision, monitoring, and sanctions (R.17, 24 & 25)	The arrangements for oversight of DNFBPs should be restructured to provide effective systems for monitoring and ensuring their compliance with AML/CFT requirements. A supervisory and control authority should be designated for each DNFBP sector. All DNFBPs subject to the AML Law should be subject to oversight for compliance with AML/CFT requirements. Agencies assigned oversight responsibility should have adequate legal authority, resources and capacity to monitor and enforce compliance with AML/CFT requirements. The assessors recommended the selection of a governmental agency, appropriately authorized and adequately resourced, to act as the default supervisor to ensure AML/CFT compliance by those DNFBPs that are not effectively supervised by some other governmental agency or SRO. This includes lawyers who are not sworn advocates, independent accountants who are not sworn auditors, tax advisors, antique dealers, transport dealers, and real estate agents. The powers, duties and functions of the supervisory and control authority should be set out in the AML Law or in the relevant law for each DNFBP. Where applicable, the law(s) should override confidentiality provisions to allow supervisory and control authorities to monitor and enforce compliance with AML/CFT requirements.
Other designated nonfinancial	—

businesses and professions (R.20)	
5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	The authorities should amend the law to: • ensure that information on the ownership of all bearer shares is available. • require that all legal persons collect and keep information on beneficial ownership and control and ensure that adequate, accurate, and timely information on the beneficial ownership and control of a legal person can be obtained by the competent authorities. • Require a competent authority to verify the identity of the persons owning or controlling the legal persons or arrangements seeking registration. • Enhance powers to investigate and monitor compliance with these requirements.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	N/A
Nonprofit organizations (SR.VIII)	—
6. National and International Cooperation	
National cooperation and coordination (R.31 & 32)	The authorities should reconsider the procedure for information exchange between the FIU and LEAs and seek to simplify the process to improve efficiency.
The Conventions and UN Special Resolutions (R.35 & SR.I)	Property should be defined for the purposes of the Criminal Law and the Criminal Procedure Law to comply fully with the Vienna and Palermo Convention The legislation should be amended to include a definition of "proceeds of crime/illegally acquired property" that includes property obtained indirectly to comply fully with the Palermo Convention. The legislation should be amended to ensure that forfeiture includes property that is "intended" for use in the commission of an offence to fully comply with the Vienna Convention. For the purposes of complying with the Terrorist Financing Convention, the definition of funds needs to be amended to include legal documents or instruments in any form such as electronic or digital, and evidencing title to, or interest in, such assets.
Mutual Legal Assistance (R.36, 37, 38, SR.V & 32)	The authorities should include in the Criminal Procedure Law the grounds on which enforcement of foreign

	requests for seizure of property can be executed or refused rather than leaving it to the discretion of the competent authority. Expand confiscation provision to include the confiscation of all proceeds of crime (including benefits, property indirectly derived etc), intended instrumentalities and terrorist property and include provision to allow for identification of proceeds for confiscation and to allow execution of foreign requests therefor. A mechanism for the establishment of an asset forfeiture fund and for the sharing of confiscated assets should be considered. Each competent authority should keep statistics on numbers of requests refused and grounds of refusal and the Ministry of Justice should keep separate statistics for civil and criminal matters.
Extradition (R. 39, 37, SR.V & R.32) Other Forms of Cooperation (R. 40, SR.V & R.32)	Introduce specific provision dealing with "extradite or prosecute" principle. Introduce mechanism for consolidation of statistics relating to extradition. Introduce a time frame by which Cabinet of Minister have to make a ruling on appeals. Amend the AML Law to specifically provide that the FIU can requests information from credit and financial institutions and other relevant institutions and to access information from its databases in response to requests from the foreign FIUs. Amend the AML Law to specifically allow the FIU to request information from nonFIU foreign competent authorities.
7. Other Issues	
Other relevant AML/CFT measures or issues	The Latvian authorities should assess the AML/CFT risks of domestic reinsurance business and introduce appropriate risk-based measures to supervise the sector.

Authorities' Response to the Assessment

The Latvian authorities have reviewed the ROSC and confirmed their agreement with all of the assessment findings. The authorities indicated that the report's recommendations have already been put into an action plan in order to implement appropriate corrective measures.

The Latvian authorities would like to pay special attention to the instances where the opinions of the authorities and the assessors diverged. We note that out of 49 FATF recommendations, 5 were rated as non-compliant – namely Recommendations 7, 16 and 33, Special Recommendations VII and IX.

We appreciate the recognition of the assessment team that, subsequent to the on-site assessment visit and prior to the publication of the report, Latvia brought into force legislation to address FATF Special Recommendation IX on Cash Border Declarations, effective July 1, 2006. We regret that this could not have been reflected fully in the evaluation due to interpretations of evaluation methodology.

We understand that the opinion of the authorities and opinion of the assessment team differed on the approach taken by the Latvian authorities to exempt banks from the obligation to carry out due diligence on credit institutions from OECD countries. We understand that this exemption has been the main reason for ranking Latvia as non-compliant with Recommendation 7. While the Latvian authorities wish to reiterate that the main risks to its financial system are not posed by correspondent relationships with financial institutions from developed financial markets in OECD countries, the authorities will ensure that the exemption will no longer be available after implementation of the EU Directive 2005/60/EC.

Notwithstanding the divergence of opinions about this particular exemption, we fully agree with the coverage in the report (points 7.1.-7.4. of Recommendation 7) of the extensive due diligence efforts that are being put in practice by the banks in Latvia on their correspondent banks.

Annex I

Details of All Bodies Met During the On-Site Mission:

I. MINISTRIES

1. Ministry of Economy and Finance
   - *Tax Policy Department*
   - *State Revenue Service*
   - *Customs*

2. Ministry of Foreign Affairs
   - *Security Policy Department*
   - *Coordination Legal Issues Division*
   - *International Trade and Investment Division*
   - *International Law Division*

3. Ministry of Justice
   - *Specialized Prosecution Office to Combat Organized Crime and Other Specific Kinds of Crime*
   - *Department of International Legal Cooperation*
   - *Register of Enterprises*

4. Ministry of Interior
   - *State Secretary*
   - *State Police*

5. Ministry of Transportation
   - *Department of Communication – Postal Division*

6. Prime Minister's Office
   - *AML/CFT Council*

II. OPERATIONAL AND LAW ENFORCEMENT AGENCIES

1. State Police of Latvia
   - *Economic Crime Police*
   - *Organized Crime Police*
   - *International Co-operation Department*
   - *Pre-trial investigation support*
   - *Police Intelligence*
   - *Investigation Support Board*
   - *Special Operational Activities*
   - *Security Police*
   - *Finance Police*

2. Office for Prevention of Laundering of Proceeds Derived from Criminal Activity – Latvian FIU

3. Corruption Prevention and Combating Bureau (KNAB)

III. PROSECUTORIAL AUTHORITIES

1. Public Prosecutor's Office

IV. FINANCIAL INSTITUTIONS

1. Supervisory bodies:
   - Financial and Capital Market Commission (FCMC)
     - *Supervision Department*
     - *Legal Department*
     - *Regulation and Statistics Department*

   - Bank of Latvia (BoL)
     - *Governor's Office*
     - *Cashier's and Money Operations Department*
     - *Payment Systems Department*
     - *Legal Department*

   - Ministry of Communication
     - *Postal Division*

2. Professional associations:
   - *Association of Latvian Commercial Banks*
   - *Latvian Tax Consultant Association*
   - *Stock Exchange*
   - *Association of Latvian Insurers*

V. Representatives from the Financial Institutions Sector

1. Banks
2. Insurance companies
3. Money/value transfer service providers
4. Securities sector participants
5. Post
6. Asset Management Companies

VI. Designated Non-financial Businesses and Professions

1. Supervisory bodies and Professional organisations
   - *Latvian Collegium of Sworn Advocates*
   - *Council of Sworn Notaries*
   - *Latvian Association of Sworn Auditors*
   - *State Assay Supervision Inspectorate*
   - *Lotteries and Gambling Supervision Inspection*
   - *Latvian Tax Consultant Association*
   - *Real estate dealers associations: LANIDA, NIMA*
   - *Car dealers association of Latvia (LAPPA)*

VII. Representatives from the Designated Non-Financial Businesses and Professions Sector

1. Sworn auditors
2. Lawyers and Sworn Advocates
3. Notaries
4. Real estate agents
5. Casinos
6. Dealers in precious stones and metals
7. Car Dealers

VIII. Other

1. State Inspection for Heritage Protection

Annex II

LATVIA–Extracts from Principal Laws and Regulations

Index

Latvia - Relevant Extracts from the Criminal Law.

Section 12. Liability of a Natural Person as the Representative of a Legal Person

(1) In a legal person matter, a natural person who has committed a criminal offence acting as an individual or as a member of the collegial institution of the relevant legal person on the basis of a right to represent the legal person, to act on behalf of or to take decisions in the name of such legal person, or realising control within the scope of the legal person or while in the service of the legal person, shall be criminally liable therefor.

(2) For legal persons, who are not public law legal persons, the coercive measures provided for in Chapter VIII[1] of this Law may be applied.

[5 May 2005]

Section 15. Completed and Uncompleted Criminal Offences

(1) A criminal offence shall be considered completed if it has all the constituent elements of a criminal offence set out in this Law.

(2) Preparation for a crime and an attempted crime are uncompleted criminal offences.

(3) The locating of, or adaptation of, means or tools, or the intentional creation of circumstances conducive for the commission of an intentional offence, shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. Criminal liability shall result only for preparation for serious or especially serious crimes.

(4) A conscious act (failure to act), which is directly dedicated to intentional commission of a crime, shall be considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party.

(5) Liability for preparation for a crime or an attempted crime shall apply in accordance with the same Section of this Law as sets out liability for a specific offence.

(6) A person shall not be held criminally liable for an attempt to commit a criminal violation.

Section 16. Voluntary Withdrawal

(1) Voluntary withdrawal from the commission of a criminal offence means the complete discontinuance by a person, pursuant to his or her will, of a criminal offence commenced by such person while knowing that the possibility exists to complete the commission of the criminal offence.

(2) A person who has voluntarily withdrawn from the commission of a criminal offence shall not be held criminally liable. Such person shall be liable only in the case where the constituent elements of another criminal offence are present in his or her actually committed offence.

Section 17. Perpetrator of a Criminal Offence

A person, who himself or herself has directly committed a criminal offence or, in the commission of such, has employed another person who, in accordance with the provisions of

this Law, may not be held criminally liable, shall be considered the perpetrator of a criminal offence.

Section 18. The Participation of Several Persons in a Criminal Offence

The participation by two or more persons knowingly in joint commission of an intentional criminal offence is participation or joint participation.

Section 19. Participation

Criminal acts committed knowingly by which two or more persons (that is, a group) jointly, knowing such, have directly committed an intentional criminal offence shall be considered to be participation (joint commission). Each of such persons is a participant (joint perpetrator) in the criminal offence.

Section 20. Joint Participation

(1) An act or failure to act committed knowingly, by which a person (joint participant) has jointly with another person (perpetrator), participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it, shall be considered to be joint participation. Organisers, instigators and accessories are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(3) A person who has induced another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who knowingly has promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instruments or means for committing the criminal offence, evidence of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to sell these objects shall be considered to be an accessory.

(5) A joint participant shall be held liable in accordance with the same Section of this Law as that in which the liability of the perpetrator is set out.

(6) Individual constituent elements of a criminal offence which refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

(7) If a joint participant has not had knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.

(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.

(9) Voluntary withdrawal, by an organiser or instigator from the completing of commission of a criminal offence shall be considered as such only in cases when he or she, in due time, has done everything possible to prevent the commission with his or her joint

participation of the contemplated criminal offence and this offence has not been committed. An accessory shall not be held criminally liable if he or she has voluntarily refused to provide promised assistance before the commencement of the criminal offence.

Section 21. Organised Groups

(1) An organised group is an association formed by more than two persons, which has been created for purposes of jointly committing criminal offences or serious or especially serious crimes and whose participants in accordance with previous agreement have divided responsibilities.

(2) Liability of a person for the commission of an offence within an organised group shall apply in the cases set forth in this Law for formation and leadership of a group, and for participation in preparation for a serious or especially serious crime or in commission of a criminal offence, irrespective of the role of the person in the jointly committed offence.

[25 April 2002]

Section 22. Previously Unpromised Concealment or Failure to Inform

(1) Previously unpromised concealment of a perpetrator or joint participants in a crime, or of tools or means for commission of a crime, evidence of a crime or objects acquired by criminal means, or failure to inform about a crime are not joint participation, and criminal liability regarding such shall apply only in the cases provided for in this Law.

(2) The betrothed, spouse, parents, children, brothers and sisters, grandparents and grandchildren of a person who has committed a crime are not liable for previously unpromised concealment or failure to inform.

(3) In the cases set out in this Law other persons are also not liable for failure to inform.

Section 42. Confiscation of Property

(1) Confiscation of property is the compulsory alienation to State ownership without compensation of the property owned by a convicted person or parts of such. Confiscation of property may be specified as a basic sentence or as an additional sentence. Property owned by a convicted person, which he or she has transferred to another natural or legal person, may also be confiscated.

(2) Confiscation of property may be specified only in the cases provided for in the Special Part of this Law.

(3) A court, in determining partial confiscation of property, shall specifically indicate which property is to be confiscated.

(4) The indispensable property of the convicted person or of his or her dependants, which may not be confiscated, is that specified by law.

[12 February 2004]

Section 195. Laundering of the Proceeds from Crime

(1) For a person who commits laundering of criminally acquired financial resources or other property,

the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property.

(2) For a person who commits the same acts, if the commission thereof is repeated or if committed by a group of persons pursuant to prior agreement,

the applicable sentence is deprivation of liberty for a term of not less than three and not exceeding eight years, with confiscation of property

(3) For a person who commits the acts provided for by Paragraphs one or two of this Section, if commission thereof is on a large scale, or if commission thereof is in an organised group,

the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property.

[25 April 2002; 28 April 2005]

Section 195.[1] Knowingly Providing False Information regarding Ownership of resources

(1) For a person who commits knowingly providing false information to a natural or legal person who is not a State institution and who is authorised by law to request information regarding transactions and the financial resources involved therein or the true owner of other property or the true beneficiary,

the applicable sentence is custodial arrest or community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the same acts, if commission thereof is repeated, or by them harm is caused to the State or business, or to the rights and interests of other persons protected by law,

the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage.

[28 April 2005]

Chapter VIII[1]
Coercive Measures Applicable to Legal Persons

Section 70.[1] Basis for the Application of Coercive Measures to Legal Persons

(1) For the criminal offences provided for in the Special Part of this Law, coercive measures may be applied to a legal person, if the criminal offence has been committed in the interests of the legal person by a natural person in conformity with the provisions of Section 12, Paragraph one of this Law.

(2) Coercive measures applicable to legal persons shall not apply to State, local government and other public law legal persons.

[5 May 2005]

Section 70.[2] Types of Coercive Measures Applicable to Legal Persons

(1) For a legal person one of the following coercive measures may be specified:

1) liquidation;

2) limitation of rights;

3) confiscation of property; or

4) monetary levy.

(2) For a legal person the following additional coercive measures may be specified:

1) confiscation of property; and

2) compensation for harm caused.

(3) For the criminal violations provided for in the Special Part of this Law and less serious crimes by a legal person, as a basic coercive measure only a monetary levy may be applied, except in cases where the legal person, a branch, representation or structural unit thereof has been especially established for the committing of a criminal offence.

(4) For the serious and especially serious crimes provided for in the Special Part of this Law by a legal person, as basic coercive measures liquidation, limitation of rights, confiscation of property or monetary levy may be applied.

(5) Confiscation of property may also be applied to a legal person as an additional coercion measure, if as a result of the offence by the legal person it has gained a material benefit and as basic coercion measures limitation of rights or monetary levy has been applied to it.

(6) Compensation for harm caused may be applied as an additional coercive measure to a legal person, if as a result of the criminal offence by the legal person it has caused significant harm or serious consequences are caused thereby.

[5 may 2005]

Section 70.[3] Liquidation

(1) Liquidation is the compulsory termination of the activities of a legal person, a branch, representation or structural unit thereof.

(2) A legal person, a branch, representation or structural unit thereof shall be liquidated only in such cases, if the legal person, a branch, representation or structural unit thereof has been especially established for the committing of a criminal offence or if a serious or especially serious crime has been committed.

(3) In liquidating a legal person, a branch, representation or structural unit thereof, all of the existing property thereof shall be alienated without compensation to the ownership of the State. Such property, which is necessary for the legal person to fulfil its obligations to employees, the State and creditors, shall not be alienated.

[5 May 2005]

Section 70.[4] Limitation of Rights

Limitation of rights is the deprivation of rights as to a specific form of entrepreneurial activity, to the acquisition of permits or rights provided for in regulatory enactments or a

prohibition to perform a specific type of activity for a term of not less than one and not exceeding five years.

[5 May 2005]

Section 70.[5] Confiscation of Property

(1) Confiscation of property is the compulsory alienation to State ownership without compensation, fully or partially, of the property owned by a legal person, which may be applied as a basic coercive measure or as an additional coercive measure.

(2) A court, in determining partial confiscation of property, shall specifically indicate which property is to be confiscated.

(3) In determining full confiscation of property, the property owned by a legal person, which is necessary to fulfil its obligations to employees, the State and creditors, shall not be confiscated.

(4) Property owned by a legal person, which has been transferred to another legal or natural person, may also be confiscated.

[5 May 2005]

Section 70.[6] Monetary Levy

(1) A monetary levy is a compulsory levy, which in conformity with the seriousness of the criminal offence and the financial circumstances of a legal person, shall be determined in the amount of not less than one thousand and not exceeding ten thousand times the minimum monthly wage specified in the Republic of Latvia at the moment of the rendering of the judgment, indicating in the judgment the amount of the monetary levy in the monetary units of the Republic of Latvia.

(2) A monetary levy, which has been imposed upon a legal person, shall be paid from the funds of the legal person for the benefit of the State.

(3) If a legal person avoids the payment of the monetary levy, such coercive measure shall be implemented by compulsory procedures.

[5 May 2005]

Section 70.[7] Compensation for Harm Caused

(1) Compensation for harm caused is the compensation of the material losses caused as a result of a criminal offence, as well as the rectification of other interests protected by law and rights jeopardised.

(2) Harm shall be compensated or rectified from the funds of a legal person.

(3) If a legal person avoids the compensation for harm caused, such coercive measure shall be implemented by compulsory procedures.

[5 May 2005]

Section 70.[8] Conditions for the Application of Coercive Measures to Legal Persons

(1) In determining coercive measures, a court shall take into account the nature of the criminal offence and the harm caused.

(2) A court in applying coercive measures to a legal person shall observe the following conditions:

1) the actual actions of the legal person;

2) the status of the natural person in the institutions of the legal person;

3) the nature and consequences of the acts of the legal person;

4) measures, which the legal person has performed in order to prevent the committing of a new criminal offence; and

5) the size, type of activities and financial circumstances of the legal person.

(3) The coercive measures provided for in this Law may be applied by a court to a legal person on the basis of a proposal from the Office of the Prosecutor.

[5 May 2005]

Section 88.[1] Financing of Terrorism

(1) For a person who commits the direct or indirect collection or transfer of any type of acquired funds or other property for the purposes of utilising such or knowing that such will be fully or partially utilised in order to commit one or several acts of terror or in order to transfer such to the disposal of terrorist organisations or individual terrorists (financing of terrorism),

the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than eight and not exceeding twenty years, with confiscation of property.

(2) For a person who commits the financing of terrorism if commission thereof is by a group of persons pursuant to previous agreement or it committed on large scale,

the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than fifteen and not exceeding twenty years, with confiscation of property.

[28 April 2005]

Section 89. Subversion

For a person who commits any act or failure to act as is directed towards destruction of the financial system, industrial, transport, agricultural, trade or other economic sectors, or destruction of the operations of any institutions or organisations, with the purpose of harming the Republic of Latvia,

the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property.

Section 89.[1] Criminal Organisation

(1) For a person who commits the establishment of such a criminal organisation (association), in the composition of which are at least five persons, for the purpose of committing especially serious crimes against humanity or peace, war crimes, to carry out genocide or to commit especially serious crimes against the State, as well as for involvement

in such an organisation or in an organised group included within such organisation or other criminal formation,

the applicable sentence is deprivation of liberty for a term of not less than eight and not exceeding seventeen years, with confiscation of property.

(2) For a person who commits the leading of a criminal organisation or participates in the committing of the crimes provided for in Paragraph one of this Section by such an organisation,

the applicable sentence is deprivation of liberty for a term of not less than ten and not exceeding twelve years or life imprisonment, with confiscation of property.

[25 April 2002]

In effect as of 1 June 2005.

The Saeima (Parliament of the Republic of Latvia) has adopted and the President has proclaimed the following law:

Amendments to the Criminal Law

3. The Law is supplemented by Section 88.[1] in the following wording:

" Section 88.[1] Financing of Terrorism

(1) For a person who, directly or indirectly, performs fund raising or transfer of financial resources obtained in any way on purpose to utilize them, or knowing that they will be used in full or partially in order to commit one or a number of terrorist acts, or in order to transfer them to a terrorist organisation or an individual terrorist at their disposal (for financing of terrorism), —

the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than eight and not exceeding twenty years, with confiscation of property.

(2) For financing of terrorism if commission thereof is by a group of persons pursuant to previous agreement or is commited on a large scale, —

the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than fifteen and not exceeding twenty years, with confiscation of property."

6. To state Section 195 as follows:

"Section 195. Laundering of the Proceeds from Crime

(1) For a person who commits laundering of criminally acquired financial resources or other property, —
the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property.

(2) For a person who commits the same acts, if commission thereof is repeated, or by a group of persons pursuant to prior agreement, —

the applicable sentence is deprivation of liberty for a term of not less than three and not exceeding eight years, with confiscation of property.

(3) For a person who commits the acts provided for in Paragraphs one or two of this Section, if commission thereof is on a large scale or if commission thereof is in an organised group, —
the applicable sentence is deprivation of liberty for a term of not less than five and not exceeding twelve years, with confiscation of property."

7. The Law is supplemented by Section 195.[1] in the following wording:

"Section 195.[1] Knowingly Providing False Information Regarding Resource Possession

(1) For a person who knowingly commits providing false information to a natural or legal person which is not a State authority and which is authorised by law to request

information on a transaction and an actual owner of financial resources or other property drawn into it, or a beneficial owner, —

the applicable sentence is custodial arrest, or community service, or a fine not exceeding forty times the minimum monthly wage.

(2) For a person who commits the same acts, if such acts are committed repeatedly or if such acts have resulted in a substantial harm to the State or entrepreneurial activity, or to rights and interests protected by law of another person, —

the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding one hundred times the minimum monthly wage."

Latvia - Relevant Extracts from the Criminal Procedure Law

Article 129. Relevance of evidence

Evidence is relevant to the specific criminal process if the information about facts directly or indirectly proves the existence or non-existence of the circumstances in the criminal process or other evidence credibility or non-credibility, its usage possibility or impossibility.

Article 145. Questioning

Questioning is an investigatory activity in which the substance is information extraction from the person being questioned.

Article 146. Invitation to questioning

(1) A person is invited to questioning by means of a formal notice or in other way, disclosing who and in what case they are invited to give evidence, what the procedural status of the person will be and what are the consequences of not attending.

(2) An imprisoned person is invited for questioning with the help of the institution he/she is held at. An imprisoned person can be questioned on the premises of that institution.

(3) A minor is usually invited together with his/her representative in law, or with the help of an educational institution or the Youth Matters Department. It is possible to invite a minor without mediation if circumstances that prevent or burden such invitation exist.

(4) A person who is granted special protection is invited for questioning with the mediation of the institution which provides such special protection.

Article 147. Questioning procedure

(1) Questioning starts with clarification of the invited person's identity and determination of the preferred language of communication. It is necessary to determine if the person knows the language of the process and in what language he/she is able to give evidence.

(2) The conductor of investigatory activity explains the rights and obligations of the invited person drawn in this act.

(3) Name, surname and personal number of the questioned person is a part of testimony.

(4) If part of the testimony consists of numbers, dates or any other information that is hard to recall, the questioned person has the right to use his/her documents and/or records and to read from them. Records of the questioned person can be added to a case file.

(5) It is permissible to show objects, documents and audiovisual materials related to the particular case to the questioned person, as well as to read the documents to that person and to playback voice records during the questioning. Appropriate records must be made in a protocol. Materials can only be shown after testimony on a particular question is acquired and is entered into the protocol.

(6) Reading out the preceding testimony of the questioned person is allowed if:

1) serious inconsistency exists between prior and current testimony;

2) the questioned person refuses to testify;

3) the case is in court while the questioned person is absent.

(7) If special procedural protection is granted to the person, Article 308 of this act must be adhered to.

Article 148. Length of questioning

(1) The length of questioning of the adult person cannot exceed 8 hours, including breaks, during 24 hours.

(2) Questioning of a minor is implemented according to chapters 152 and 153 of this act.

Article 149. Recording of questioning

Acquired evidence is recorded in the protocol of questioning in the first person. If the questioned person makes a request to write the testimony by him/herself, such request is granted.

Article 150. Questioning of a detained, suspected or convicted person

In the beginning of the first questioning of a convicted, suspected or detained person:

1) Biographical information is determined, such as birthplace and time, citizenship, education, marital status, work or education place, occupation, residence address and punishability;

2) The procedural status of the person is explained and the copy of the document confirming this status is issued;

3) An extract from the law, determining procedural rights and obligations of the person, is issued if such extract has not yet been issued in course of the specific criminal process;

4) The right not to testify is explained to the person as well as is the fact that everything said by him/her can be used against him/her.

Article 151. Questioning of the witness and victim

(1) Before the questioning of the witness or victim, their rights and obligations are explained. Warning of liability for refusing to witness or for providing false testimony is issued.

(2) Witness and victim can be questioned about all circumstances that may have meaning in the case, about a suspected or convicted person, or about other persons involved in the criminal process.

Article 152. Particularities of the questioning of a minor

(1) The length of questioning, without a minor's consent, cannot exceed six hours in one day, including breaks.

(2) A minor, who has not reached 14 years of age, or by the order of the conductor of investigatory activities, any minor is questioned in presence of a pedagogue or in presence of such specialist, who has psychological training to work with children in a criminal process (further down - psychologist). One representative-in-law of the minor, close adult relative or authorized person has the right to be present during the questioning, if he/she is not the person against whom the criminal process has been initiated, detained, suspected or convicted and if the minor has no obligations against the presence of this person. The above person can, with the agreement of the conductor of investigatory activities, ask questions to the minor.

(3) The minor, who has not reached 14 years of age, is not warned of the liability for refusing to testify or for knowingly providing false testimony.

(4) If the psychologist indicates that recurrent direct questioning may endanger the psyche of the minor under 14 years of age or of the minor, who is considered a victim of violence, which was done by the person upon whom the minor is financially or in any other way dependent, or of sexual exploitation, the recurrent questioning can only be done with the agreement of an investigatory judge and in court – by a court ruling.

Article 153. Questioning of the minor in presence of a psychologist

(1) If a psychologist indicates that direct questioning may endanger the psyche of a minor under 14 years of age or of the minor, who is considered victim of violence, which was done by the person upon whom the minor is financially or in any other way dependent, or of sexual exploitation, the questioning may be accomplished in mediation with a psychologist and technical equipment. If the investigator or prosecutor does not agree with that, direct questioning can only be done with the agreement of an investigatory judge and in court – by court ruling.

(2) A process conductor and other invited persons are present in another room where technical equipment ensures that the questioned person and the psychologist are seen and heard. The questioned minor and psychologist are in a room that is suitable for talking to the minor and it is ensured that the questions asked by the process conductor are only heard by the psychologist.

(3) If the questioned minor has not reached 14 years of age, a psychologist, depending on the obstacles, explains to the minor what work is done and its necessity and the value of information the minor provides, determines personal data, asks the questions of the process

conductor in the form according to the minor's psyche and if necessary – informs of the break and resumption time of investigatory activity.

(4) If the minor has reached 14 years of age, the process conductor in mediation with a psychologist, informs the minor of the essence of the investigatory work, determines his/her personal data, explains the rights and responsibilities, warns of liability for not performing his duty, asks the questions according to the minor's psyche and, if necessary, informs of the end and resumption time of the investigatory activity.

(5) The process of the questioning is recorded in accordance with Articles 141-143 of this act. The minor does not sign the protocol.

Article 154. Obligation to expose the source of information

(1) The court may ask the journalist or editor to expose the source of published information.

(2) An investigatory judge, after listening to the issuer of the suggestion - mass media journalist or editor – and reading the materials, decides on the suggestion of the investigator or prosecutor.

(3) The decision to expose the source of information is made in accordance with personal rights and society interest commensurability.

(4) The decision of the judge may be appealed against by a mass media journalist or editor and is dealt with in accordance with Part 24 of this act.

Article 155. Inquiry

(1) If the fact that the testimony is not recorded in detail does not prevent reaching the goal of the criminal process, information about the facts of the proving subject can be acquired by means of inquiry.

(2) The inquiring conductor of investigatory activities meets in person with the witness, explains him/her his rights and obligations and determines the information about the investigation that is known to this witness or inexistence thereof.

(3) It is permissible to write down in protocol or in notes or make audiovisual recordings of the process of inquiry.

(4) If during the enquiry, records in the protocol are not made, the conductor of the enquiry writes the report in which he/she states:

1) the place of inquiry, start and end time;

2) name, surname and occupation of the inquiry conductor;

3) name, surname and address of the inquired person;

4) testimony of each person, if it is the same, it is only written down once;

5) scientifically technical equipment used.

(5) One report may contain numerous testimonies.

Article 156. Questioning of expert or auditor

(1) Process conductor can invite an expert or auditor for questioning to:

1) determine the questions that do not require any further research with the mediation of an expert or auditor;

2) define the method used in the expert's or auditor's research and terms used;

3) acquire information about facts and circumstances that are not a part of adjudication but are related to the participation of an auditor or expert in the pre-trial process;

4) determine the qualification of an expert or auditor.

(2) Questioning of an expert or auditor is performed as if he/she would be a witness.

Article 179. Search

(1) Search is an investigatory activity the purpose of which is coercive searching of premises, area, transport vehicle and separate persons with the view to find and seize the sought for object, if there is enough basis to think that the sought for object is present at the place of search.

(2) Search is conducted with the view to find objects, documents, corpses or wanted persons important in the criminal process.

Article 180. Decision to conduct search

(1) Search can only be conducted with the agreement of the investigatory judge or a court ruling. An investigatory judge makes the decision to search based on the request of the process conductor and the materials attached to the request.

(2) The decision to allow search discloses who, where, at what premises, regarding which case and what objects and documents will be sought for and seized.

(3) In cases when any delay might cause the sought objects and documents to be destroyed, hidden or damaged or a wanted person to escape, the process conductor may conduct the search with the agreement of a prosecutor.

(4) The allowance of search is not required if the detained person is searched as well as in the case described in part five of Article 182.

(5) After the search specified in part three of this Article, the process conductor, no later than the next working day, must inform the investigatory judge, disclosing materials that were the basis of this investigatory activity and its immediate status, as well as the search protocol. A judge must verify the correctness and validity of such search. If investigatory work was not carried out in accordance with law or such performance was not valid, the judge rules the evidence seized in this way to be not permissible and decides on action to be taken with the evidence.

Article 181. Persons present during the search

(1) The search must be conducted in the presence of the person at whose premises the search is conducted or in the presence of a close adult relative of such person. If such persons' presence is not available or such persons refuse to take part in the search; the search must be carried out in the presence of an administrator or maintenance person of the searched premises or in the presence of a representative of the local authority.

(2) The search of the premises of a legal person is conducted in the presence of the representative of the legal person and in the presence of the person, in relation to whose activity or non-activity the search on the premises of the legal person is to be carried out, if no obstacles to deliver such persons exist. If the presence of a representative is not possible or the representative refuses to take pert in the search, the search must be carried out in the presence of the representative of the local authority.

(3) Search must be conducted in the presence of the suspected or accused person, if it is carried out on the premises of a declared residence or work place, excluding cases when this is not possible due to objective reasons.

(4) A witness or victim can be involved in the search to identify the sought objects.

(5) The obligation to be present all the time during the search and to make notes with regard to the search are explained to all present persons.

(With amendments made by 19.01.2006 Law)

Article 182. Order of search

(1) The investigatory activity conductor, together with the present persons, has the right to enter the premises or area specified in the search decision to find objects, documents, corpses or wanted persons specified in that decision. It is possible to arrange guarding of the place of search.

(2) In the beginning of the search, the investigatory activity conductor familiarizes the person on whose premises the search is to be conducted with the search warrant. This person acknowledges the fact by his/her signature. After that, the investigatory activity conductor invites the person to voluntary hand out the sought for object.

(3) If the person, on whose premises the search is conducted, refuses to open the premises or storerooms, the investigatory activity conductor has the right to open them without making unjustified damage.

(4) Persons present during the search may be prohibited to leave the premises, move, and speak to each other until the search is finished. If the persons are obstructing the search by action or obstruction is due to a high number of present persons, they may be moved to other premises.

(5) In the premise or area searched, the search of persons or transport vehicles on these premises or in that area can be conducted. If necessary, persons may be searched in the beginning or the end of a premise or area search.

(6) The documents and objects mentioned in a search decision are seized during the search, as are other documents and objects that may have an importance in the case. If objects prohibited to be kept are found, they are seized, recording the reason of such action in the protocol.

(7) If the witness or victim present during the search identifies some object, the relevant entry is made in the protocol.

(8) All objects seized during the search are shown to the persons present, described in the protocol and, if possible, packed and sealed.

(9) If the process conductor ordered to carry out the necessary expertise to an expert or an auditor during the search, the entries of these objects, their locality, identifiable marks or properties, the fact of seizure and of the expertise institution or auditor, in whose responsibility the seized objects are placed, are made in the search protocol.

(10) After the end of search, the search place is put, by as much as possible, into the previous order.

Article 183. Personal Searches

(1) A personal search can be performed if there is sufficient basis to believe that objects or documents important/related to the criminal proceedings are located in an individual's clothing, personal belongings present, on his body or in open body cavities.

(2) A personal search can be performed only by an official of the same gender, if necessary, including medical personnel of either gender.

Article 184. Searches in diplomatic and consular representative premises

(1) A search in diplomatic and consular agency premises and premises used by foreign parliament and government official delegations and missions can be conducted only after said agency's, delegation's or mission's director request or with his consent.

(2) A search in the living premises of foreign diplomatic representatives and other office employees and their family members, as well as foreign parliament and government official delegation and mission employees and their family members, who in accordance with Latvia's binding international agreements enjoy diplomatic immunity, can be performed only upon their request or with their consent.

(3) The claimant requests the consent mentioned in this Article through the Ministry of Foreign Affairs of the Republic of Latvia.

(4) When performing a search in diplomatic and consular representative premises, the presence of a Ministry of Foreign Affairs representative is mandatory.

Article 185. Search record copy

A copy of the search record is submitted to the investigated person or other person as indicated in sections one and two of Article 181 of this Law.

Article 186. Seizure

Seizure is an investigative operation that consists of the removal of objects or documents relative/important to the case if the investigator knows where or with whom the said/specific object or document is and it is not necessary to search for them or they are located in publicly accessible places.

Article 187. Warrant for seizure

(1) Seizure is performed with a warrant by the claimant.

(2) The seizure warrant indicates what, where, from whom, in what case and what objects or documents are to be seized.

Article 187. Seizure procedure

(1) At the start of the seizure, the investigator presents the seizure warrant to the person to whom the removal is being conducted. This person signs the warrant accordingly. Then the claimant requests the person to immediately provide the seizable object.

(2) Seized objects or documents are described in the seizure record.

(3) Upon completion of the seizure, a copy of the seizure record is submitted to the person to whom the seizure has been conducted.

(4) If a person refuses to provide the seizable object or if the seizable object or document cannot be found at the specified place, but there is reason to believe that it is located elsewhere, a decision to search can be made in accordance with the procedure of Article 180 of this law and a search to find it can be performed.

Article 189. Object and document submission

(1) People have the right to submit, to the claimant, objects and documents which they believe to be significant to the criminal proceedings.

(2) The submission is documented in a report that specifies the objects or documents by identifying features, as well as the submitter's statement about the object's origin or conditions of acquisition.

(3) If a person submits objects or documents during the investigation, it is recorded in the investigation report.

(4) If it is ascertained that a submitted object or document is not significant to the criminal proceedings, it is returnable to the submitter.

Article 191. The preservation of data in an electronic information system

(1) The claimant, by his decision, can require the owner or legal master (i.e., a person who secures personal communications with the aid of an information system or who within the realm of this service, processes or saves data) of an electrical information system to immediately secure the preservation, in unchanged condition, of specific data necessary for investigation and its inaccessibility to other system users.

(2) The data securing obligation can be designated for a time up to thirty days, but if necessary, the investigative judge can extend the term an additional thirty days.

Article 192. The disclosure of data saved in an electronic information system

Based on a decision by the investigative judge or by the consent of the subject of the data, the claimant can request that the owner or legal ruler of an electronic information system disclose data saved in the information system.

Article 215. Methods of Special Investigation Activities

(1) In accordance with the provisions of this Section, these special investigation activities may be conducted:

1) monitoring of legal correspondence;

2) monitoring means of communication;

3) monitoring data in electronic information systems;

4) monitoring of broadcasted data content;

5) audio monitoring of a place or person;

6) video monitioring of a place;

7) surveillance and tracking of a person;

8) surveillance of a facility;

9) special investigation experiments;

10) special methods of acquisition of samples required for comparative investigation;

11) monitoring of illegal activity;

(2) In order to conduct the investigation activities provided for in the first part of this Article, or to place technical devices necessary to ensure said activities, the secretive entry into publicly inaccessible places is allowed, if the investigative judge has allowed it in his decision.

Article 216. Recording of Special Investigation Activities

(1) When the claimant conducts investigation activities, he keeps the minutes.

(2) If special investigation activity is conducted by a specialized state agency, its representative writes a review and submits it to the claimant together with the materials obtained as a result of this activity.

(3) If special investigation activity, by claimant's assignment, is conducted by another person, he submits a review to the claimant and submits it to him the materials obtained as a result of this activity.

(4) The performer of special investigation activity does everything possible to record the facts pertinent to the investigation with technical devices.

(5) Regarding information that points to another criminal offence or its conditions of commitment, the claimant informs the authority under whose jurisdiction lies the corresponding offence's investigation.

(6) Regarding information that is essential to prevent an immediate vital threat to the safety of society, the claimant or specialized agency immediately informs state security authorities.

Article 217. Monitoring correspondence

(1) Postal offices or persons who perform shipment delivery services conduct monitoring of shipments given to their accountability without the knowledge of sender and addressee, based on a decision by the investigative judge, if there is reason to believe that shipments contain or could contain information about contained facts in verifiable conditions and, if without this activity, obtaining the necessary information is impossible or difficult.

(2) Postal offices or persons who perform shipment delivery services inform the official listed in the decision of the existence at their disposal of a shipment subject to monitoring. The official promptly, but no later than 48 hours after the moment of receiving the information, acquaints himself with the content of the shipment and decides about the seizure

of this shipment or its further shipment with or without copying, photographing or otherwise recording its content. In all cases, the official writes a shipment inspection report in the presence of the delivery representative.

(3) A shipment is seized only when there is basis to believe that in the proving process its original will have a substantially larger implication than a copy or visual recording.

(4) If a shipment is seized or if a seized shipment is delivered to the addressee or sender with a substantial delay, he is informed of the reasons of shipment delay and the basis of monitoring, insomuch as that is possible without harming the interests of the criminal proceedings.

(5) Losses incurred by the post or other delivery service as a result of shipment seizure are compensated by procedure defined by the State Cabinet of Ministers.

Article 218. Monitoring means of communication

(1) Monitoring of telephone and other means of communication without the knowledge of the parties of conversation or the sender or receiver of information is conducted based on a decision by the investigative judge, if there is reason to believe that conversations or given information could contain information about contained facts in verifiable conditions and, if without this activity, obtaining the necessary information is impossible or difficult.

(2) Monitoring of telephone and other means of communication with the written consent of a party of conversation, sender or receiver of written information is conducted, if there is reason to believe a crime may be committed against this person or his immediate family or also if this person is or could become involved in the perpetration of a crime.

Article 219. Monitoring Data in Electronic Information Systems

(1) The searching for, access to, as well as obtaining information stored in, information systems (henceforth - monitoring data in information systems) without the knowledge of this system's or data's owner, master or holder in criminal proceeding is conducted based on a decision by the investigative judge, if there is reason to believe that information existing in the specific information system could contain information about contained facts in verifiable conditions.

(2) If there is reason to believe that the data (information) being sought is being stored in another system within the territory of Latvia, which can be accessed with authorization, using the system indicated in the investigative judge's decision, a new decision is not necessary.

(3) To begin the examination activities, the claimant can request that the person who manages the system's functioning or conducts tasks related to data processing, storage or securing of transmission (henceforth - the system's administrator), to submit the necessary information, as well as caution this person about not disclosing examination secrets.

(4) While conducting, at the claimant's assignment, the information system's data monitoring, the system's administrator's duty is to take over or otherwise secure the system

(its part, data storage environment), prepare data copies, store, unchanged, relevant data, ensure the entirety of the information resources in the system, render the controllable data inaccessible to other users or forbid other activities with it.

Article 220. Monitoring of Broadcasted Data Content

The interception, collection and recording of data that are broadcasted by means of an information system, using communication devices existing in the territory of Latvia (henceforth – broadcasted data monitoring), without the knowledge of this system's owner, master or holder, is conducted based on a decision by the investigative judge, if there is reason to believe that information obtained from broadcasted data could contain information about contained facts in verifiable conditions.

Article 221. The Audio or Video Monitoring of a Place

The audio or video monitoring of a place without the knowledge of this place's owner, master or visitors, is conducted based on a decision by the investigative judge, if there is reason to believe that conversations, other sounds or processes that take place in this location can contain information about contained facts in verifiable conditions. The audio of video monitoring of a publicly inaccessible place is conducted only then, if, without this activity, it is impossible to obtain the necessary information.

Article 222. The Audio Monitoring of a Person

(1) The audio monitoring of a person without this persons knowledge is conducted based on a decision by the investigative judge, if there is reason to believe that a person's conversations or other sounds can contain information about contained facts in verifiable conditions, and if, without this activity, it is impossible to obtain the necessary information.

(2) The audio monitoring of a person, with the written consent of this person, is conducted, if there is reason to believe a crime may be committed against this person or his immediate family or also if this person is or could become involved in the perpetration of a crime.

Article 223. Surveillance and Tracking of a Person

(1) The surveillance and tracking of a person without his knowledge is conducted based on a decision by the investigative judge, if there is reason to believe that a person's behaviour or contact with other persons can contain information about contained facts in verifiable conditions.

(2) In his decision, the investigative judge specifies if authorization is given to continue, for up to 48 hours, the surveillance and tracking of another person who was in contact with the person under observation.

Article 224. Surveillance of a Facility or Place

The surveillance of a facility or place is conducted based on a decision by the investigative judge, if there is reason to believe that a result of the surveillance can contain information about contained facts in verifiable conditions.

Article 225. Special investigation experiments

(1) A special investigation experiment is conducted based on a decision by the investigative judge, if there is reason to believe that:

1) a person has previously committed a crime and is preparing to commit or has begun similar criminal activities;

2) the specific crime can be interrupted within the framework of the commenced criminal proceedings;

3) as a result of the experiment it is possible to obtain facts in verifiable conditions and, if without this activity, obtaining the necessary information is impossible or difficult.

(2) In a special investigation experiment, a situation or conditions characteristic to a person's daily activity are created, which encourages the exposure of criminal intent, and the person's behaviour in these conditions is recorded.

(3) It is forbidden to provoke a person's behaviour or to influence it by force, threats, extortion or to make use of his condition of helplessness.

(4) If the special investigation experiment concludes with the open finding of a person's criminal activity, a report is written about it in the presence of the testable person.

Article 226. Special Methods of Acquisition of Comparative Samples

(1) If the interests of the process require not to divulge to a person, that there is suspicion about his connection to the perpetration of a crime, samples for comparative investigation, based in a decision by the investigative judge, can be obtained without informing the respective person.

(2) Samples, which can be obtained repeatedly and which have evidentiary significance in the criminal proceedings, are produced openly when the necessity to keep their investigation a secret has disappeared.

Article 227. Monitoring of Criminal Activity

(1) If a united criminal offence or a portion of a mutually related criminal offence is ascertained, but its immediate interruption would lose the opportunity to prevent a different criminal offence or to clarify all of the related persons, especially its organizers and contracting authority or all of the targets of the criminal activity, based on a decision by the investigative judge, monitoring of criminal activity may be conducted.

(2) During monitoring, the delay of interruption of a criminal offence is not allowed, if it is impossible to completely prevent:

1) the threat of persons' lives and health;

2) the spread of a substance dangerous to many people;

3) the escape of dangerous criminals;

4) an ecological disaster or irreversible material damage.

(3) If, during the monitoring of criminal activity, it is necessary to conduct other special investigation activities, authorization to conduct such activities must be obtained according to general procedures.

(4) Those conducting the monitoring submit reviews to the claimant in accordance with the special investigation activity's course, but not less frequently than is called for in the decision.

Article 228. Measures to Ensure Special Investigation Activities

(1) In order to ensure special investigation activities, officers and persons involved in them can utilize previously specially prepared information and documents, previously specially established organizations or enterprises, objects and substance imitations, specially prepared technical aids, as well as imitate participation in the perpetration of a criminal offence or collaboration in the form of a supporter.

(2) While imitating criminal activities, it is forbidden to threaten the lives and health of people, to inflict any kind of losses, if not absolutely necessary to the exposure of the most serious and dangerous crimes.

(3) Regarding the use of provisional aids, as mentioned in the first part of this Article, outside of the essential realm of conducting special investigation activities, a person is accountable according to general procedure.

Article 229. The Utilization of the Results of Special Investigation Activities During Argumentation

(1) The special investigation activity records, reviews, sound and image recordings, photographs, other results recorded with technical aids, seized objects and documents or their copies are used during argumentation just like other investigative activity results.

(2) If, during argumentation, a person's secretly recorded sayings or activities are utilized, this person must be questioned about it. When the person is introduced to the facts that were obtained without his knowing, this person is informed about the secretly performed activity insofar as it applies to the specific person.

(3) If the special investigation activity was performed disregarding the regulations of authorization receipt, the acquired information cannot be used in argumentation.

(With amendments that were made with the Law September 28, 2005)

Article 230. The Utilization of the Results of Special Investigation Activities For Other Purposes

(1) Evidence obtained as the result of special investigation activities are utilized only in those criminal proceedings, in which the respective activities were conducted. If information about facts was obtained that point to the perpetration of another criminal activity or evidentiary circumstances in other criminal proceedings, that can be used in the respective case as evidence only with the approval of that prosecutor or investigative judge who oversees special investigation activities in the criminal proceedings in which the respective activity was conducted. This restriction is not applicable to the utilization of vindicative evidence within other criminal proceedings.

(2) The decision of the investigative judge or prosecutor is not necessary if the information obtained as a result of special investigation activities is used to prevent an immediate threat to the safety of society.

Article 231. Acquaintance With Materials That Are Not Incorporated in the Criminal Case.

(1) Reviews about special investigation activities, as well as materials recorded with technical aids about which the claimant has admitted that they have no evidentiary meaning in the criminal proceedings, are not incorporated in the criminal case and are stored in the office that completes the pre-trial process.

(2) A person involved in the criminal proceedings who has the right to acquaint himself with the materials of the criminal case after the pre-trial investigation has ended, can submit an application to the prosecutor or investigative judge, requesting to be acquainted with the unincorporated materials.

(3) The prosecutor or investigative judge evaluates the application, taking into consideration the potential significance of the materials in the criminal proceedings and committed human rights infringements, and can forbid the possibility of acquaintance with the unincorporated materials, if that can substantially threaten the life, health or rights protected by law of a person involved in the criminal proceedings or if that touches upon a secret of only a third party's private life.

(4) A person involved in the criminal proceedings that the prosecutor or investigative judge has acquainted with materials unincorporated in the criminal case can petition the claimant for the incorporation of these materials into the criminal proceedings. The petition is decided in the same order as other petitions submitted after the completion of the investigation.

(5) The same court personnel decides about a petition during the hearing to become acquainted with special investigation activity materials unincorporated into the criminal case, becoming acquainted with the petition and the materials of the criminal case, if necessary, requesting explanations from the submitter and prosecutor.

Article 232. Conduct With the Results of Special Investigation Activities That Have No Evidentiary Meaning in the Criminal Proceedings

(1) Regarding conduct with reviews, audio recordings and video recording, photographs, with other materials that were recorded with technical aids, with seized objects and documents and their copies, if the claimant has concluded that they have no evidentiary meaning in the criminal proceedings, the prosecutor or the investigative judge who oversees the special investigation activities in criminal proceedings decides in a way that, within reason, would diminish the aftermath of human rights invasion.

(2) Seized documents and objects, if at all possible, are returned to their owners, informing them about the special investigation activity insomuch as it touches these persons.

(3) Reviews, copies, materials that were recorded using technical aids, are destroyed if it is established that they have no evidentiary meaning in the criminal proceedings.

(4) In criminal proceedings where the criminally responsible persons have not been established, the conduct with the materials mentioned in this Article can be decided no earlier than six months after the conclusion of special investigation activity.

(5) In completed criminal proceedings the conduct with these materials can be decided after the appeal deadline has passed.

(6) In criminal proceedings which have been sent for trial review, the conduct with the mentioned materials is decided after the court ruling becomes effective.

Article 233. Measures to Protect Information in Criminal Proceedings

(1) Information about special investigation activity facts, until their completion, are confidential investigation data, about whose disclosure officials or persons involved in its conducting, are liable in accordance with the law. Defenders, who have the right to become acquainted with all of the materials of the criminal proceedings from the moment an indictment is submitted, are not acquainted with the documents that pertain to the special investigation activity until the conclusion of this activity.

(2) The claimant uses all means provided for by law to curtail the spreading of such information which has evidentiary meaning in the criminal proceedings if that touches on a secret of a person's personal life or if it touches other legally protected information.

(3) Creating copies of materials obtained as a result of special investigation activity is allowed only in situations as prescribed by law, making note of such in the corresponding activity report.

Article 234. Measures to Protect Information Contained in Materials Unincorporated in the Criminal Case

(1) Special investigation activity conducting methods, techniques and means, as well as information gained at their result, which have no evidentiary meaning in the criminal proceedings in which this activity was conducted, or whose use in different criminal proceedings is not allowed, or which are not necessary to prevent the immediate threat to the security of society, are state or investigation secrets and persons revealing them are liable in the order provided for in Criminal Law.

(2) The claimant warns persons who are involved in conduction special investigation activities of their responsibility as described in the first part of this Article. If conducting special investigation activity is a person's professional responsibility, the employer ensures the forewarning.

(3) The prosecutor or investigative judge warns persons who are acquainted with materials unincorporated into the criminal case of their responsibility.

(4) When deciding on conduct with materials unincorporated into the criminal case, the prosecutor and investigative judge verify that all persons have been warned and that all measures have been taken to prevent the spreading of information and give assignments to prevent omissions.

Section 12. Conduct With Material Evidence and Documents

Article 235. Material Evidence or Document Incorporation in the Case

(1) The claimant registers objects and documents obtained during the course of investigation, if there is reason to believe that they may have evidentiary meaning henceforth in the criminal proceedings, in the existing evidence and document list of the criminal case.

(2) Objects and documents obtained during the course of investigation but which, as determined in the subsequent process, have no evidentiary meaning in the criminal proceedings are, against a signature, immediately returned to their owner or legal controller or decided about other conduct specified in the law, registering it in the existing evidence and document list.

(3) During the course of investigation, State archive collection permanently stored document originals are removed only to conduct a document's technical or handwriting examination, but in all other situations certified copies are attached to the case materials.

Article 355. Property obtained by unlawful means

(1) Property shall be recognized as obtained by unlawful means, in cases where a person has acquired the same for ownership or possession as a result of a criminal offence.

(2) Unless the opposite is proved, property, including funds that are owned by the following persons shall be considered to be obtained by unlawful means:

1) a member or supporter of an organized criminal group;

2) a person involved in terrorist activity by himself/herself or maintaining permanent relations with a person involved in terrorist activity;

3) a person involved in human trading by himself/herself or maintaining permanent relations with a person involved in human trading;

4) a person involved in criminal activity with drugs or psychotropic substances by himself/herself or maintaining permanent relations with a person involved in such activity.

(3) For the purposes of this Article, maintaining permanent relations with a different person involved in specific criminal activity means that a person resides together with another person or controls, determines or impacts on behavior thereof.

Article 358. Seizure of Property Obtained by Unlawful Means

(1) Property obtained by unlawful means shall be seized by the court ruling, and funds shall be credited to the state budget, where storage thereof for achievement of the purposes of criminal procedure is not required any longer and the same is not to be returned to the owner or lawful possessor thereof.

(2) In cases where property obtained by unlawful means has been alienated, destroyed or concealed and it is impossible to seize the same, other property, including funds, to the amount of the value of property to be seized may be liable to seizure or recovery.

(3) In cases where the accused has no property that might be liable to seizure pursuant to (2) of this Article, the following may be seized:

1) property alienated by the accused to a third person free of charge after committing the criminal offence;

2) property of the spouse of the accused, unless separation of property of the spouses has been established at least three years before the criminal offence commenced;

3) property of a different person, in cases where the accused has joint (undivided) property with such person.

(4) The following shall be credited to the state budget:

1) funds obtained from sale, according to procedures set forth by the Cabinet, of property of unknown ownership or that whose owner has no lawful title to such, or whose owner or lawful possessor abandoned the same;

2) funds obtained by a person from sale of property, being aware of unlawful origin thereof;

3) benefit resulting from use of property obtained by unlawful means;

4) seized funds;

5) material value of benefit of property or other nature accepted by a state official as a bribe.

Article 359. Use of Receipts from Sale of Property Obtained by Unlawful Means

In cases where the victim has sought indemnity for harm and a specific criminal procedures has receipts pursuant to Article 358(4) of this Law, the same shall be used to secure and pay such sought indemnity first.

Article 360. Rights of Third Persons

(1) In cases where property obtained by unlawful means is found with a third person, the same shall be returned to its owner or lawful possessor as appropriate.

(2) In cases where property is returned to its owner or lawful possessor, a third person who acquired or accepted such property as a pledge in good faith, shall be entitled to file a claim for indemnity of the loss according to civil procedures, including against the accused or the convict.

Article 361. Seizing of property

(1) To ensure solution to property disputes in criminal procedure as well as possible property confiscation, property of detainee, suspect, as well as property they are entitled to from other persons or property of persons who are financially responsible for actions of detainee or suspect is to be seized in criminal procedure. Also illegally acquired property or property related to criminal procedure that is in other person's possession might be seized.

(2) Property also can be seized in legal processes where coercive methods are applied to legal entity and in legal processes where coercive methods of medical nature are applied, if it is necessary to ensure solution to property dispute under criminal procedure or possible financial collection, or property confiscation.

(3) During pre-trial process property is seized under the decision of the performer of procedure which is approved by investigation judge, but during trial, decision is taken by court.

(4) In urgent cases, when delaying can cause property confiscated, destroyed or hidden, performer of procedure can order property seizure with procurator's consent. Performer of procedure at the latest the next business day must inform investigation judge concerning this seizure, by submitting protocol and other materials justifying the necessity and urgency of this seizure. If investigation judge does not approve the decision of the performer of procedure on executing property seizure, the property must be released.

(5) In the decision of seizure the purpose of the seizure must be stated ad well as the current owner of the property, but, if the size of property dispute is known - required safety deposit as well.

(6) Performer of procedure can issue an order to the state police to seize property, collaterally informing respective public register, where rights to this property are registered, in order to permit to this register to file a prohibition to seize or encumber the property in any kind with other case or liability rights.

(7) If before seizing the property there is a mortgage registered on this property, all kind of action with mortgaged property can be carried out only after receiving consent from the performer of procedure. If this property is recognized by court as illegally acquired, property seizure has priority over mortgage.

(8) It is not allowed to seize the prime necessities of life used by the person owning the property to be seized, this person's family members and dependent persons. The list of such property is defined in Appendix 1 of this law.

Article 362. Protocol of property seizure

(1) A protocol of property seizure must be written.

(2) In protocol following items must be filed:

1) Every item seized, including its name, brand, weight, degree of depreciation, as well as other individual details;

2) If all property is seized, - protocol of seizure must state all items not seized;

3) Form for every item on which a third party announces proprietary rights.

(3) When seizing property, its owner, manager, user or holder must be informed of prohibition of further use of property, and if necessary the property is drawn and transferred to storage.

(4) If the property is drawn, protocol must state where, what has been drawn and who is storing these items.

(5) If during seizure an attempt to hide, destroy or damage the property is committed, it must be filed in the protocol of seizure.

Chapter 66. Extradition of persons

Article 696. Basis for extradition

(1) A person who is located within the territory of Latvia may be extradited for criminal prosecution, sentencing or execution of a verdict, if a request has been received from a foreign country to extradite this person for an offense, which in accordance with Latvian and the foreign country's laws is a crime.

(2) A person may be extradited for criminal prosecution and sentencing for an offense which is punishable by a sentence of deprivation of liberty, which maximum length is not less than one year, or a more severe punishment.

(3) A person may be extradited for execution of a verdict to the country, which has returned the verdict and sentenced the person with a punishment that relates to deprivation of liberty for a time period no less than four months.

(4) If extradition is requested for several criminal offenses, but extradition is not applicable to one of them, because it does not conform to the requirements regarding the possible or imposed punishment, the person may be extradited for this criminal offense as well.

Article 697. Reasons for refusal of extradition

(1) A person's extradition may be refused if:

1) the criminal offense was committed in whole or in part in the territory of Latvia;

2) the person is held in Latvia on suspicion of, accused of, or convicted of the same criminal offense;

3) Latvia has passed a decree not to initiate or dismiss criminal proceedings for the same criminal offense;

4) extradition is requested in connection with political or military criminal offenses;

5) the foreign country requests extradition of the person for execution of a punishment imposed *in absentia* and not enough guarantees have been received that the extradited person will have the right to request a new trial in the case;

6) extradition is requested by a country with which Latvia doesn't have a treaty about extradition.

(2) A person's extradition is not allowed if:

1) the person is a citizen of Latvia;

2) the person's request for extradition is related to the goal of initiating criminal prosecution or to punish the person for reasons of race, religious affiliation, nationality or political beliefs, or if there are enough reasons to believe that the person's rights may be violated due to the reasons mentioned;

3) with respect to this person a ruling has taken effect regarding the same criminal offense;

4) in accordance with Latvian law regarding the same criminal offense, the person cannot be charged with criminal liability, convicted or sentenced to punishment due to the running of the statute of limitations, amnesty, or other legal basis;

5) the person was pardoned in a proper legal procedure for the same criminal offense;

6) the foreign country does not sufficiently guarantee that the person will not receive the death penalty, or that such penalty will not be carried out;

7) the person may be subject to torture in the foreign country.

(3) An international treaty may stipulate other reasons for rejection of request for extradition.

Article 698. Extraditable persons and their rights

(1) An extraditable person is a person, whose extradition is requested or who is arrested or incarcerated for purposes of extradition.

(2) An extraditable person has the following rights:

1) to know who is requesting and for what the person is requested to be extradited;

2) to use of a language understandable to the person;

3) submit explanations regarding the extradition;

4) submit requests, including request for simplified extradition;

5) to become acquainted with all examination materials;

6) request an attorney for judicial aid.

Article 699. Detention of a person for purposes of extradition

(1) An investigator or prosecutor can detain a person for up to 72 hours for the purposes of extradition, if there is a strong enough basis to believe that the person has committed a criminal offense within the territory of another country, for which extradition is provided for, or if the foreign country has announced the search for said person and has requested temporary extradition or full extradition

(2) The investigator or prosecutor makes a report regarding the person's detention for purposes of extradition, indicating the person's first name, last name and other necessary personal data, the reason for detention, as well as where, when and by whom detention occurred. This detention report is signed by the detainor and the extraditable person.

(3) The detainor informs the extraditable person of his rights, and this is included in the detention report.

(4) The Prosecutor General must be informed immediately, but no later than within 24 hours, of the person's detention, by sending that person's detention documents. The Office of the Prosecutor General then informs the country, which has announced the search for the person.

(5) If within 72 hours from the time the person is detained no temporary custody or extradition custody is effected, the detained person is to be released from custody, or a different security measure is to be applied.

Article 700. Basis for temporary imprisonment

(1) After the foreign country's request for temporary detention until receipt of the request for extradition the extraditable person may be held in temporary imprisonment.

(2) If in the request for temporary custody a ruling from the foreign country regarding the person's incarceration is indicated or a verdict has taken effect regarding this person, as well as the fact that the foreign country will submit a request for extradition and for what criminal offense extradition will be sought, information regarding the extraditable person and, if no circumstances are known that would bar extradition, the prosecutor delivers to the trial judge, in whose jurisdiction the person is detained or where the Prosecutor General is, a petition for application of temporary custody and substantiating materials.

Article 701. Application of temporary imprisonment

(1) Application of temporary imprisonment is determined by a judge in a court hearing, attended also by the prosecutor and the extraditable person.

(2) The judge, after listening to the prosecutor, the extraditable person and his attorney, if he participates, makes a grounded ruling, which is final.

(3) Temporary imprisonment is applied for 40 days from the date of detention, unless international treaty stipulates otherwise.

(4) The prosecutor may release a person from temporary imprisonment, if no request from a foreign country regarding this person's extradition is received, or no substantiated explanation for such delay has been received within 18 days after detention.

(5) The prosecutor releases the person from imprisonment if:

1) a request for extradition has not been received with in 40 days;

2) imposition of extradition custody has not occurred within 40 days;

3) circumstance which bar extradition have become known.

(6) A person's release does not impede renewed arrest or extradition if the request for extradition is received later.

Article 702. Extradition custody

(1) Extradition custody is imposed after a request for extradition is received, along with:

1) the ruling from the foreign country regarding this person's imprisonment or the taking effect of a verdict with respect to the person in question;

2) description of criminal offense or the ruling regarding the person's criminal liability charges;

3) the text of the Article of the law, under which the person has been charged with criminal liability or convicted, as well as the text of the law which regulates the statue of limitations;

4) information about the extraditable person.

(2) If no circumstances barring extradition are known, the investigator submits the petition for extradition custody and the evidentiary materials to the presiding judge in the jurisdiction where the person is detained, or where the Prosecutor General is located..

(3) The petition for extradition custody is to be heard by the same procedure as for a request for temporary imprisonment.

(4) If the extraditable person is incarcerated in Latvia or is serving a sentence for a different criminal offense, the term of extradition custody is counted from the time the person is released from incarceration.

(5) The extraditable person's term of custody is not to exceed one year, and cannot be longer than the sentence imposed by the foreign country, if that is less than one year, beginning from the time of detention or imprisonment.

Article 703. Notification of imprisonment

The Office of the Prosecutor General notifies the foreign country of the extraditable person's imprisonment or release therefrom.

Article 704. Examination of the request for extradition

(1) Upon receipt of a request for extradition from a foreign country, the Prosecutor General begins the examination process. The prosecutor determines, whether a basis for the person's extradition exists according to Article 696 of this law, and what the reasons for the person's extradition are according to Article 697 of this law.

(2) If the request does not contain sufficient information in order to make a decision regarding the extradition, the Prosecutor General requests additional information from the foreign country, as well as stipulates a term for the submission of same.

(3) The examination must be completed within 20 days of receipt of the request for extradition. If additional information was necessary for the examination, the time limit begins from the day the information is received. The time limit for examination may be extended by the prosecutor general.

(4) The prosecutor informa the extraditable person of the extradition request within 48 hours of receiving it, and permits the person to submit explanations.

(5) During the examination period, the prosecutor may perform all investigative actions provided for in criminal procedure.

Article 705. Completion of examination

(1) The prosecutor, having evaluated the basis and permissibility of the person's extradition, makes a substantiated ruling regarding:

1) the permissibility of the person's extradition;

2) denial of extradition.

(2) If a ruling is made regarding the permissibility of the person's extradition, a copy of the ruling is given to the person in question.

(3) A ruling regarding permissibility of extradition can be appealed by the extraditable person to the Supreme Court within 10 days of receiving the ruling. If the ruling is not appealed, it takes effect.

(4) The Office of the Prosecutor General informs the person in question and the foreign country of a ruling regarding denial of extradition. The prosecutor releases the person from temporary or extradition custody immediately..

Article 706. Appellate procedure regarding the permissibility of extradition

(1) An appeal regarding permissibility of extradition is heard by the Supreme Court in a three judge panel.

(2) The judge, to whom the duties of reporter are assigned, requests the examination materials from the Prosecutor General and determines the time limit for review of the appeal.

(3) The Prosecutor General and the appellant and his attorney are informed of the time limit for review of the appeal and their rights to take part in the hearing. If required, the court requests other necessary materials and subpoenas persons to give explanations.

(4) The appellant is ensured the opportunity to participate in the appellate hearing.

(5) If the extraditable person's attorney is absent without leave, another attorney may be asked to provide judicial aid, if the person so desires..

Article 707. The court's ruling

(1) Having heard the appellant, his attorney and the prosecutor, the court retires for deliberations and makes one of the following rulings::

1) to leave the prosecutor's ruling unchanged;

2) reverse the prosecutor's ruling and finds the extradition impermissible;

3) transfer the extradition request for additional examination.

(2) The court's ruling is final.

(3) The court sends the ruling and materials to the Office of the Prosecutor General.

(4) If the court finds the extradition to be impermissible, the person in question is immediately released from custody.

Article 708. Ruling regarding a person's extradition

(1) The effective ruling regarding the permissibility of extradition along with the examination materials are sent to by the Prosecutor General to the Ministry of Justice.

(2) The ruling regarding the person's extradition to a foreign country is enacted by the Cabinet of Minister at the request of the Ministry of Justice.

(3) The Cabinet of Ministers may refuse extradition only if one of the following circumstances exists:

1) the person's extradition may harm the State's sovereignty:

2) the offense is considered political or military in nature;

3) there is reason enough to believe that the extradition is for the purpose of prosecuting the person for reasons stemming from race, religious affiliation, nationality, gender or political belief.

(4) The Ministry of Justice informs the extraditable person, the respective foreign country, and the Prosecutor General of the ruling.

(5) The Ministry of the Interior executes the extradition.

(6) As soon as a ruling of refusal to extradite is received, the prosecutor general immediately releases the person from custody..

Article 709. Extradition upon the request of various countries

(1) If the Office of the Prosecutor General has received several requests for extradition for the same person, the requests are examined together in one proceeding, as long as no ruling has been made regarding::

1) the person's extradition;

2) refusal to extradite the person;

3) the permissibility of extradition of the person.

(2) If a ruling regarding the person's extradition has been made, a request for extradition received after such ruling is denied. The requesting foreign country is informed of such.

(3) If, at the time a request for extradition is received from another foreign country, a ruling regarding the permissibility of extradition has just taken effect, the ruling is not sent to the Cabinet of Ministers until the request for extradition is examined.

(4) If extradition has been requested by various foreign countries, the Cabinet of Ministers, at the request of the Ministry of Justice, taking into consideration the character of offense, where it was committed and the order of receipt of the requests, in order to determine to which country the person is to be extradited.

Article 710. Transfer of the extraditable person

(1) The Interior Ministry notifies the foreign country of the place and time for transfer of the extraditable person, as well as about the length of time which the extraditable person spent in incarceration.

(2) The Interior Ministry and the foreign country agree upon a different date for transfer, if for independent reasons the transfer cannot happen on the date initially stipulated.

(3) If the foreign country does not receive the extraditable person within 30 days from the extradition ruling date, the prosecutor releases the person from custody..

Article 711. Postponement of extradition or temporary extradition

(1) If Latvia must complete criminal proceedings against the extraditable person or must complete execution of a sentence after a ruling regarding the person's extradition has been made, the Prosecutor General or the Minister of Justice may postpone the extradition of the person to the foreign country according to this law.

(2) If the postponement of transfer can cause the running of the statute of limitations for criminal liability or encumber the inquiry in the criminal case in the foreign country, and the transfer would not impede legal proceedings in Latvia, the Minister of Justice may extradite the person temporarily to the foreign country, stipulating the return date.

Article 712. Renewed extradition

If an extradited person avoids criminal prosecution or punishment in a foreign country and has returned to Latvia, upon request of the foreign country the person may be extradited anew, based upon the previous ruling permitting extradition.

Article 713. Simplified Extradition

(1) A person may be extradited to a foreign country using a simplified procedure, if:

1) the extraditable person's written consent to simplified extradition procedure has been received;

2) The extraditable person is not a Latvian citizen;

3) Latvia has not criminal proceedings pending against this person, or there is no sentence to execute.

(2) The extraditable person acknowledges his consent to simplified extradition to the prosecutor in the presence of his lawyer prior to the ruling of the extradition's permissibility.

(3) After receipt of consent, the prosecutor determines only the requirements set forth in part one of this Article and immediately submits the materials regarding the extradition to the prosecutor general.

(4) The prosecutor general makes one of the following rulings:

1) to extradite the person;

2) to refuse to extradite the person;

3) regarding the impermissibility of simplified extradition.

(5) The prosecutor general's ruling is final.

(6) The foreign country and the extraditable person is informed of the decision to extradite or refusal to extradite and submits the respective ruling to the Ministry of Interior for execution.

Article 714. Extradition to a European Union Member State

(1) A person who is present in the territory of Latvia may be extradited for initiation of criminal prosecution, completion thereof, conviction, or execution of verdict to a European Union Member State, if with respect to this person the foreign country has accepted the European imprisonment ruling and the basis for extradition as specified in Article 696 of this law exists.

(2) If a person is extradited for an offense listed in the Addendum 2 of this law and if for commitment of such crime the country having accepted the European imprisonment ruling provides a sentence of deprivation of liberty, the maximum length of which is no less than three years, no examination of whether the offense constitutes a crime under Latvian law is made.

(3) If the foreign country has accepted the European imprisonment ruling with respect to a citizen of Latvia, then this person's extradition occurs conditioned upon the return of the person after conviction, to Latvia for the service of a sentence of deprivation of liberty. The execution of the sentence occurs according to the procedure outline in Articles 782-8001 of this law.

(4) A person's extradition may be refused if:

1) reasons listed in Article 697, part one, subparts 1 -3 exist;

2) according to Latvian law, a person is not criminally liable for such an offense, or if he cannot be convicted or sentenced due to the running of the statute of limitations;

3) the offense was committed outside the territory of States acknowledging the European imprisonment ruling, and the offense is not a crime under Latvian law.

(5) A person's extradition is not permissible if:

1) according to Latvian law, a person cannot be charged with criminal liability, convicted or sentenced for such an offense due to amnesty;

2) the person has been convicted of the same criminal offense and has served or is serving a sentence in one of the European Union Member States, or this sentence can no longer be executed;

3) the person, in accordance with Latvian law, is not reached the age to be held criminally liable;

4) a Latvian citizen is requested to be extradited to a European Union Member State for execution of an imposed sentence.

Article 715. Requirements for extradition to a European Union Member State

(1) The extraditable person has the rights indicated in Article 698 of this law, the right to consent or not to consent to extradition, as well as the right to be held criminally liable and be convicted only for the criminal offenses for which he was extradited, except in the cases provided for in Article 695 part 2 of this law.

(2) The extraditable person acknowledges to the prosecutor in the presence of an attorney his consent to extradition and relinquishment of rights to be held criminally liable and tried only for those criminal offenses, for which he is being extradited, and a record of this is written.

(3) If the extraditable person is a Latvian citizen, he has the right to relinquish his rights that guarantee, that a Latvian citizen, after being convicted in a European Union Member State is to be returned to Latvia for service of the imposed sentence.

(4) Regarding a person who has immunity from criminal proceedings, the term of execution of the European imprisonment ruling begins to run from the time that this person loses their immunity according to legal procedure.

(5) Latvia accepts European imprisonment rulings for execution written in Latvian or English.

Article 716. Examination regarding a person's extradition to a European Union Member State

(1) The Office of the Prosecutor General, upon receipt of a European imprisonment ruling, arranges for its examination.

(2) The prosecutor performs the examination according to Article 704 of this law, determining whether there is a basis for extradition and whether there is a bar to extradition according to Article 714 of this law.

(3) If the Office of the Prosecutor General has simultaneously received extradition requests from third countries and European imprisonment rulings from European Union Member States with respect to the same person, the examination for ruling is joined into one proceeding, unless a ruling regarding the person's extradition or refusal to extradite has already been made. In examining the simultaneously received requests for extradition and deciding the question regarding which country has priority, the severity of the offense, the place it was committed, the time and the order in which the requests for extradition were received are considered.

Article 717. European Union Member State extraditable person's detention and imprisonment

(1) A person's detention for the purpose of extradition occurs according to the procedure set out in Article 699 of this law, if a European imprisonment ruling is made or a notice of such ruling has been submitted into the international search system.

(2) If no circumstances are known that would bar the person's extradition, the examiner submits a petition regarding the application of extradition custody and European imprisonment ruling is submitted to the circuit (city) court in the location where the detained person is located, or where the Prosecutor General is located.

(3) Extradition custody is applied by the procedure in Article 701 of this law for 80 days from the date of the person's detention. The court can, in exceptional cases, extend this term limit once for 30 days. The Prosecutor General notifies the country's competent authority of the reasons for the delay of the execution of the European imprisonment ruling.

Article 718. Temporary actions until ruling is made

If a European Union Member State has accepted a European imprisonment ruling, to ensure a person's criminal prosecution, before a ruling regarding the person's extradition or refusal to extradite, at the Member State's competent judicial authority's request, the Prosecutor General may interrogate the person, with the participation of a person chosen by the Member State's competent judicial authority, or may agree to such temporary extradition of the person, stipulating the date for return.

Article 719. A foreign country's extradited person's further transfer to a European Union Member State

(1) An extradited person may be transferred on to another European Union Member State in cases where the State, upon extraditing the person, had consented to such further extradition.

(2) If a European imprisonment ruling is received with respect to a person, who has been transferred to Latvia from another country, without that country's consent to such person's further extradition, the Prosecutor General addresses the country which extradited the person to Latvia, to obtain consent before further extradition to a European Union Member State.

Article 720. Ruling regarding extradition to a European Union Member State

(1) The Office of the Prosecutor General rules within 10 days of the application of a security measure regarding the person's extradition, or the refusal to extradite to a foreign country. The ruling regarding the person's extradition is final, if the person consents to the extradition.

(2) If the extraditable person does not consent to the extradition, the ruling of the Prosecutor General regarding the extradition may be appealed to the Supreme Court within 10 days of receipt of the ruling.

(3) An appeal of the Prosecutor General's ruling is to the Supreme Court must be heard according to Articles 706 and 707 of this law, and the ruling on appeal is sent to the Prosecutor General within 20 days from the receipt of appeal.

Article 721. Ruling regarding the execution of extradition to a European Union Member State

(1) The Prosecutor sends an effective ruling to the Ministry of the Interior immediately for execution.

(2) The execution of the extradition ruling occurs in accordance with the procedure outlined in Article 710, parts 1 and 2 of this law.

(3) After making the ruling regarding a person's extradition, the Prosecutor General may postpone the requested person's extradition to a European Union Member State in order to finish a pending criminal proceeding in Latvia or to serve out an imposed sentence, as well in the case of human interest, if three are reasons to believe that extradition in the specific situation would seriously harm the person's life of health. In the case of postponement of extradition, the Prosecutor General informs the European Union Member State's competent judicial authority and another date for transfer is agreed upon.

(4) If the person is not transferred within 10 days from the day that the ruling for extradition was made, or from the day an agreement was reached with the European Union Member State's competent judicial authority, the person is to be released from custody.

(5) If a ruling refusing extradition of the person is made, the Prosecutor General informs the Member State's competent judicial authority.

Article 722. Transfer of items to a European Union Member State

(1) The Prosecutor General, at the request of a European Union Member State, or on its own initiative may seize and transfer to a Member State items:

1) that are necessary as material evidence;

2) which the extraditable person acquired are a result of a crime.

(2) Items necessary as material evidence are to be handed over even in the case that a European imprisonment ruling cannot be executed due to the death or escape of the extraditable person.

(3) If the items are necessary in a pending criminal proceeding in Latvia, a later transfer date may be stipulated. The Prosecutor General may request the return of the items.

Article 785. Determination enforceable property seizure in Latvia

(1) Enforcement of property seizure in Latvia is determined, if it is imposed in a foreign country and for the same offense as the main punishment or supplemental punishment provided for in the Latvian Criminal law, or the property would be seizable in a criminal proceeding in Latvia based on different basis provided by law.

(2) If property seizure is contemplated by the verdict from the foreign country, but Latvian Criminal law does not provide for property seizure as the main punishment or supplemental punishment, property seizure is only permitted within the scope contemplated

by the foreign country's verdict that the property to be seized is an instrument in the commission of the crime or was obtained illegally.

(3) Requests for return of confiscated property or part of the property to the foreign country is determined by a competent authority on a case by case basis.

Chapter 70. Transfer of a person convicted in Latvia to a foreign country for service of sentence

Article 764. Basis for convicted person's service of sentence

(1) Basis for transfer of a person sentenced to deprivation of liberty to a foreign country for service of sentence:

1) request from a foreign country's competent authority to transfer the convicted person and a competent Latvian authority's consent to such;

2) A competent Latvian authority's request to transfer of a convicted person and the foreign country's competent authority's consent to such.

(2) A competent authority performs the actions provided for in this Chapter if it has received a request from the convicted person or their representative, information or a request from a competent authority in a foreign country, or on its own initiative.

Article 765. Authority with jurisdiction

The request regarding transfer of a person convicted in Latvia to a foreign country for service of sentence and consent to such are received and sent by the Prosecutor General.

Article 766. Conditions for transfer of a person for service of sentence

(1) A convicted person's transfer to a foreign country for service of sentence is permissible if:

1) the convicted person is a citizen of the country where sentence will be served;

2) the court's verdict has taken effect;

3) at the time of receipt of the request the convicted person had at least six months left until the completion of service of sentence;

4) the offense for which the person was sentenced is considered a crime in according to the law of the foreign country;

5) the convicted person has expressed a desire to be transferred, or has consented to transfer.

(2) The competent authorities in Latvia and the foreign country may agree on the convicted persons transfer without the person's consent if there is a reason to believe that, considering

the person's age or physical or mental state, transfer for service of sentence is necessary and a representative of the convicted person agrees.

(3) A competent authority may transfer for service of sentence in a foreign country a person who is not a citizen of that country if there is a reason to believe that the country in question is the person's place of permanent residence and the person's transfer is going to further justice and the person's social rehabilitation.

(4) A competent authority may transfer to a foreign country a person who due to psychological disorder or mental disability is subject to special treatment in a psychiatric hospital with security guards or treatment in suitable institutions, applying equivalent treatment measures.

(5) In exceptional cases a person may be transferred for service of sentence even if the length of sentence is less than stipulated in the first past of this Article, subpart 3.

Article 767. Notification of the convicted person

The administration of the institution executing the deprivation of liberty sentence must within 10 days after receiving the judge's order regarding the execution of the verdict, inform the convicted foreign country's citizen or person whose place of permanent residence is not Latvia, of the person's rights to express his desire to be transferred for service of sentence to the country of his citizenship or where he is a permanent resident. The convicted must be told of the consequences of transfer.

Article 768. Person's request for transfer for service of sentence

(1) The convicted person submits his request for transfer for service of sentence in a foreign country in written form to the competent authority.

(2) The competent authority informs the convicted person in writing of the notification sent to the foreign country and of the results of the examination of request without delay.

Article 769. Receipt of convicted person's consent

(1) If a request from a convicted person's representative or a request from a foreign country is received regarding the person's transfer and this request does not contain written indication of the person's wish to be transferred, or consent to transfer, a competent authority must in 10 days time inform the convicted person of this request, explain the judicial consequences for such and invited the person to express his opinion of the received request.

(2) A person's consent or refusal is to be in written form, and the convicted person attests to it with his signature.

(3) If the foreign country has indicated such a desire, a competent authority ensures the opportunity for a representative of the foreign country, upon which both countries have agreed, to verify the circumstances under which the person has given his consent.

Article 770. Notifying the foreign country

(1) If a request from the convicted person or consent to his representative's submitted request regarding the person's transfer for service of sentence in a foreign country has been received, the competent authority informs the foreign country without delay, but no later than within 10 days.

(2) The information for the foreign country includes:

1) the convicted person's first name, last name, birthplace and date;

2) the convicted person's address in the foreign country, if available;

3) the offense, for which sentence is imposed;

4) the type and length of sentence, as well as the time, when the service of sentence was begun.

(3) Along with the information the competent authority may send to the foreign country a request to transfer the person for service of sentence to this foreign country, if in the initial materials no facts barring transfer are found. In this case the request must specify that it is effective on the condition that such facts are not found in the foreign country.

Article 771. Examination of request for transfer

(1) After a request has been received to transfer the convicted person for service of sentence in a foreign country, the competent authority verifies that all conditions for transfer exist.

(2) If in the received materials there is not enough information to rule on the question of transfer, a competent authority may additionally request from the foreign country:

1) a document or notification that the convicted person is a citizen of that country or is a permanent resident of that country;

2) the text of the law according to which the offense, for which the person was convicted, is deemed a crime in this country.

(3) If necessary, the competent authority , prior to completion of examination, may request that the foreign country notify which type of determination of sentence – continuance or modification – will be applied.

Article772. Completion of examination

The competent authority examines the request within 10 days after its receipt, or the receipt of additional information, and makes one of the following rulings:

1) to submit the request for the person's transfer for service of sentence in a foreign country;

2) consent to the person's transfer;

3) deny the request for the person's transfer.

Article 773. Request to ensure service of sentence for an escapee

(1) A competent authority may submit a request to the foreign country to ensure the service of sentence for a citizen of this country, who was convicted in Latvia and has escaped from service of sentence to his country of citizenship. The convicted person's consent is not required..

(2) Prior to submission of request, the competent authority may request that the competent authority in the foreign country apply temporary custody to that person, indicating the person's data, offense for which the sentence was imposed, the corresponding sentence type and length, as well as the date of commencement of service of sentence.

Article 774. Request for transfer for service of sentence of a person subject to expulsion

(1) A competent authority without the consent of the person may submit to the foreign country a request for transfer of this person for service of sentence, if in the verdict a supplemental sentence of expulsion from Latvia or other personally binding punishment, as a result of which this person is not allowed to remain in Latvia after the service of sentence.

(2) A copy of the verdict or ruling regarding the expulsion of the person is attached to the request, along with the person's opinion regarding the transfer.

Article 775. Transfer of convicted person

If Latvia has consented to transfer the convicted person or the foreign country has consented to take over the person, a competent authority instructs the Ministry of the Interior to coordinate with the foreign country this person's transfer and to transfer the person to the respective foreign country.

Article 776. Judicial consequences of transfer of a person

(1) Upon the convicted person's crossing the border of Latvia the service of sentence is suspended. Execution of the sentence cannot be reinstated if the foreign country has notified that the service of sentence was completed.

(2) Execution of sentence may be reinstated if the foreign country notifies that:

1) the person has escaped from the incarcerating institution:;

2) the service of sentence has not been completed and the person has returned to Latvia.

(3) A competent authority informs the foreign country without delay of pardon, amnesty or reversal or amendment of the verdict.

Chapter 71. Execution in Latvia of a sentence imposed by a foreign country

Article 777. Contents and requirements for execution of a sentence imposed by a foreign country

(1) Execution in Latvia of a sentence imposed by a foreign country is the acknowledgement of that sentence's basis and legality, and is to be executed according to the same procedure as if the sentence were imposed in a criminal proceeding in Latvia

(2) The acknowledgement of proper basis and legality of a sentence imposed by a foreign country does not preclude the sentence's harmonization with the sanctions provided for in Latvia's Criminal law for the same crime.

(3) Execution of a sentence imposed by a foreign country is possible, if:

1) Latvia and the foreign country have a treaty governing execution of sentences from the other country;

2) the foreign country has submitted a request regarding the execution of a sentence imposed by it;

3) the sentence in the foreign country was determined by the taking of effect of a final ruling in criminal proceedings;

4) the convicted person would receive punishment in Latvia for the same crime in accordance with the Latvian Criminal law;

5) The statute of limitations has not run in the foreign country, nor in Latvia;

6) at the time the verdict was returned, the statute of limitations regarding criminal liability had not tolled according to Latvian Criminal law;

7) at least one of the reasons for submission of request for execution of sentence listed in Article 804 of this law is in effect in the foreign country..

Article 778. Authority with jurisdiction

The request for execution in Latvia of a sentence imposed by a foreign country is received by and decided by the Ministry of Justice.

Article 779. The basis for execution of a sentence imposed by a foreign country

The basis for execution of a sentence imposed by a foreign country is:

1) the foreign country's competent authority's written request, to which the ruling taking effect after dismissal of the criminal proceedings, and documents pertaining to the handing off of sentence execution, or notarized copies thereof, are attached;

2) the ruling of the competent authority pertaining to the receipt of the request for examination and transfer to a Latvian court for determination of the executable sentence;

3) The ruling of the Latvian court regarding the determination of the executable sentence;

4) The order of the Latvian court regarding the transfer of the verdict to Latvia.

Article 780. Reasons for refusal of execution of a sentence imposed by a foreign country

A request for execution of a sentence imposed by a foreign country may be refused if:

1) there is reason to believe that the sentence was determined by the person's race, religious affiliation, nationality, sex or political beliefs, or the offense is found to be of political or markedly military;

2) the execution of the sentence would conflict with Latvia's international responsibility with respect to another country;

3) the execution of the sentence would conflict with Latvia's legal system's basic principles;

4) a criminal proceeding regarding the same crime, as the one for which a sentence was imposed in the foreign country, is pending or has received a final ruling in Latvia;

5) execution of the sentence is impossible in Latvia;

6) Latvia's competent authority believes the foreign country itself is capable of enforcing the verdict;

7) the crime was not committed in the foreign country that has imposed the executable penalty.

Article 781. Procedure to decide request for execution of a sentence imposed by a foreign country

(1) The request for execution of a sentence imposed by a foreign country is to be decided by a competent authority within 10 days.

(2) The competent authority determines whether a basis for the execution of the imposed sentence by the foreign country exists, what regulations there might be, if there are any reasons to refusing execution, and then makes a ruling regarding the determination or refuses the request.

(3) if the competent authority believes that the information received is not adequate, it may require additional information or documents and determines the term for submission of

such. The length of time for deciding this issue as per this Article's first part shall begin upon receipt of the requested material.

(4) If the ruling concerns two or more crimes, of which not all have sentences that are possible to execute in Latvia, the competent authority requests a specification of which part of the sentence is corresponds to the criminal offense.

(5) The competent authority informs the requesting country of its ruling without delay.

(6) If the request is accepted for hearing, the Ministry of Justice sends the request along with any addenda to a court in Latvia for determination of the enforceable sentence.

Article 782. Determination of enforceable sentence in Latvia

(1) After the request of the foreign country for enforcement of a sentence imposed by it, determination of enforceable sentence in Latvia is made by the same level court in the convicted person's place of residence and with the same number of judges, as a court that could have held a hearing in the case, if the criminal proceedings had been held in Latvia.

(2) The factual circumstance and guilt of the person found in the foreign country's court's ruling are binding on the court in Latvia.

(3) The sentence determined in Latvia cannot worsen the status of the convicted, however as par as possible it must correspond to the sentenced imposed in the foreign country.

(4) The issue regarding the executable sentence in Latvia is heard according to the procedure outlined in Chapter 61 of this law. The convict may ask an attorney to give judicial aid.

(5) If a person is in custody in a foreign country as the time of the hearing of the issue, the court with the aid of the Ministry of Justice requests that person's transfer to Latvia or ensures his participation in the determination of executable sentence proceedings using technical means.

(6) The court's ruling nay be appealed within 10 days by the convicted party or the prosecutor to the Senate of the Supreme Court in a cassation procedure.

(7) The appeal is heard the same way an appeal in cassation is heard, which is submitted in a Latvian criminal proceeding, and within the same scope as is permitted by international treaties binding on Latvia and this Chapter.

Article 783. Determination of executable deprivation of liberty sentences in Latvia

(1) Deprivation of liberty or arrest is determined by the court, if the sentence imposed by the foreign country consists of deprivation of liberty, and the Latvian Criminal law provides a sentence consisting of deprivation of liberty for the same offense.

(2) The duration of the sentence should as far as possible conform to the duration of the sentence as imposed by the foreign country, however it cannot exceed Latvian Criminal law provisions for the maximum deprivation of liberty or arrest level for the same offense.

(3) Sentencing minimums for deprivation of liberty or arrest in the Latvian Criminal law are not applicable in ruling on the issue of executable sentence in Latvia.

(4) The entire period for which the convicted person was detained and the time he spend in imprisonment and in the location for enforcement of the verdict in connection with the offense for which the foreign country imposed a sentence, is to be applied to time served.

(5) The type of institution of deprivation of liberty, commencing the enforcement of the sentence, is determined using the same criteria, as in the case the sentence would have been determined in a criminal proceedings heard in Latvia.

(6) A sentence of deprivation of liberty imposed in a foreign country may not be replaced by a fine.

(7) A sentence involving deprivation of liberty in Latvia may be conditional, if the court is convinced that the convicted person, not having served the sentence, will not continue to commit new criminal offenses. In such a case the same provisions apply as when if the person had been conditionally convicted according to a criminal proceeding held in Latvia.

Article 784. Determination of enforceable fine in Latvia

(1) A fine enforceable in Latvia is determined by a court, if the foreign country imposed a fine and the Latvian Criminal law provides a fine or more severe punishment for the same crime, or if the fine is a supplemental punishment.

(2) The amount of the fine imposed in a foreign country is calculated by the Bank of Latvia currency exchange rate which was valid on the date of the promulgation of the verdict.

(3) The fine enforceable in Latvia may not exceed the limits provided in the Latvian Criminal law for the same offense, except in the case that in Latvia for such an offense only a more severe sentence is contemplated. In such a case the fine to be enforced in Latvia may not exceed the fine provided for in the Criminal law at the time of the ruling.

(4) Payment of the fine enforceable in Latvia may be split into installments by the court, or postponed for a time, which does not exceed one year from the day the ruling took effect.

(5) A determination of payment in installments or payment postponement in the foreign country is binding in Latvian courts, however the court may rule for additional enforcement relief, so long as they do not exceed the limits determined by this Article's fourth part.

(6) If it is not possible to collect the fine enforceable in Latvia, is may be replaced with a type of sentence that includes deprivation of liberty, if this is permitted law in the country that returned the verdict. In this case the substitution of punishments occurs according to

Latvian legal procedure. Replacing a fine is not permitted if the foreign country specifically disallows it in the request for enforcement of the sentence.

Article 785. Determination enforceable property seizure in Latvia

(1) Enforcement of property seizure in Latvia is determined, if it is imposed in a foreign country and for the same offense as the main punishment or supplemental punishment provided for in the Latvian Criminal law, or the property would be seizable in a criminal proceeding in Latvia based on different basis provided by law.

(2) If property seizure is contemplated by the verdict from the foreign country, but Latvian Criminal law does not provide for property seizure as the main punishment or supplemental punishment, property seizure is only permitted within the scope contemplated by the foreign country's verdict that the property to be seized is an instrument in the commission of the crime or was obtained illegally.

(3) Requests for return of confiscated property or part of the property to the foreign country is determined by a competent authority on a case by case basis.

Article 786. Determination of executable limitation of rights in Latvia

(1) All punishments involving limitation of rights or disqualification imposed in a foreign country are enforceable in Latvia, as long as they conform to the criteria in the Latvian Criminal law regarding imposition of supplemental punishment.

(2) Limitation of rights may be imposed for a time from one year to five years, if the foreign country's verdict does not stipulate a shorter time.

(3) A court which determines the enforcement of the punishment in Latvia may also decline to impose limitation of rights, if it does not see any utility for it in Latvia.

(4) Latvia may impose limitation of rights even in the case that such a punishment is being executed in a foreign country.

Article 787. Procedure for determining enforcement in Latvia of a sentence imposed in a foreign country

(1) The enforcement in Latvia of a sentence imposed in a foreign country occurs by the same procedure as if it were an enforcement of a sentence imposed by a criminal proceeding in Latvia.

(2) Acts enacted in Latvia regarding amnesty, pardon and early release from imprisonment apply to persons who are serving a sentence imposed by a foreign country in Latvia.

(3) Service of sentence is terminated and the foreign country's request for enforcement of imposed sentence cancelled by a foreign country's ruling to reverse a verdict of guilty.

(4) Rulings in the foreign country regarding reduction of sentence, amnesty or pardon are binding in Latvia.

(5) Notification from a foreign country regarding the legal facts listed in this Article's third and fourth parts are received and the enforcement is arranged by a competent authority. If the foreign country's ruling contains unequivocal information regarding the immediate termination of sentence or termination date, the information is given to the institution enforcing the sentence, but in other cases – to the court, which rules on issues concerning the execution of verdicts.

(6) A person who is serving a sentence consisting of deprivation of liberty is to be immediately released, as soon as information is received about reversal of a verdict of guilty, unless simultaneously a request is received from the foreign country regarding application of temporary custody in cases discussed in this Chapter.

Article 788. Detention of a person convicted in a foreign country

(1) A competent authority may instruct the police to detain for a time up to 48 hours a person, who is convicted in a foreign country of such an offense, for which a sentence of imprisonment would be imposed in proceedings occurring in Latvia, if:

1) the foreign country informs of its intention to request enforcement of a sentence consisting of deprivation of liberty in Latvia and requests detention of the person due to his avoidance of punishment;

2) a competent authority sees the possibility that the convicted person, regarding whom the foreign country has submitted a request for enforcement of a sentence consisting of deprivation of liberty, will avoid participating in a court hearing for determination of the sentence to be enforced in Latvia;

3) a competent authority believes, that the person convicted *in absentia*, finding himself in freedom, will illegally influence testifying witnesses or will falsify evidence.

(2) A detained person must be released if no application for temporary custody was made within the time limit indicated in the first part of this Article.

Article 789. Temporary custody of a person convicted in a foreign country

(1) If a person is detained according to the procedures in Article 788 of this law, the Ministry of Justice submits a petition to the trial judge to apply temporary custody.

(2) A competent authority's petition is reviewed in the same procedure as a petition for application of temporary custody in cases where the criminal proceedings were held in Latvia.

(3) Temporary custody may also be imposed by a court, which is ruling on a request from a foreign country enforce a sentence consisting of deprivation of liberty in Latvia, is there is reason to believe that the convicted person will avoid court.

(4) A person must be released from temporary custody if:

1) within 18 days from the day of detention the foreign country has not submitted a request for enforcement of sentence along with the necessary addenda;

2) a competent authority has notified that it refused to rule on the request;

3) the court has found that enforcement of the punishment is not possible in Latvia;

4) the court, in imposing the sentence to be served in Latvia, has not applied imprisonment as a security measure;

5) circumstances have been found that bar the person's holding in custody.

Article 790. Application of security measure

Determining the enforceable sentence in Latvia, the court may, until the ruling takes effect and an order for execution of sentence is imposed, the court can apply any security measure in the same way as in a criminal proceeding in Latvia.

Article 791. Order for enforcement of sentence in Latvia

(1) If the court's ruling regarding the enforcement in Latvia of a sentence imposed in a foreign country is not appealed in the time limit provided by law, the same court's judge issues an order for the enforcement of sentence.

(2) If the court's ruling is appealed and the Senate of the Supreme Court affirms the court's ruling, the reporting judge issues an order for the enforcement of sentence.

Article 792. Procedure for request for enforcement of sentence imposed in a foreign country *in absentia*

(1) If the verdict in the foreign country was returned *in absentia*, a competent authority, having received a request from the foreign country regarding its enforcement in Latvia, delivers a notice to the convicted, which indicates that:

1) a request for enforcement of sentence has been submitted by a foreign country, with which Latvia has a treaty regarding enforcement of sentences imposed in another country *in absentia*;

2) the person has the right to appeal within 30 days from the receipt of the notice, requesting the *in absentia* case be heard in his presence in the foreign country or in Latvia;

3) the sentence will be applied and enforced according to general procedure, if within 30 days no request is made for a hearing in the presence of the convicted or the appeal is dismissed or denied due to the absence of the convinced person.

(2) The convicted submits the appeal provided for in this Article's first part to a competent authority in Latvia. If the appeal does not indicate which country should hear the case, it is heard in Latvia.

(3) A copy of the notice with a note regarding its delivery to the convicted person is sent by the Ministry of Justice without delay to the requesting foreign country.

Article 793. Submission of appeal to a foreign country

(1) If the convicted person submits an appeal within the time limit imposed by law, requesting new hearing of his case with his participation in the country, which imposed the sentence, a competent authority postpones hearing of the request.

(2) If the defendant is inexcusably absent from the country after being subpoenaed by the court, which was issued no later than 21 days before commencement of new hearing, the appeal is deemed not submitted and a competent authority, after receiving the information, examines the request according to the same procedure, as if the case were heard anew in the presence of the convicted.

(3) If as a result of the appeal hearing the verdict of guilty is reversed, a competent authority sends the request without further ruling to the submitting country..

(4) If a person convicted *in absentia* is in Latvia in temporary custody based on a request by a foreign country, this person is transferred to the foreign country for appellate hearing in his presence. In this case the issue of further incarceration is determined by the country which imposed the original sentence.

(5) If the person convicted in a foreign country *in absentia*, who has submitted an appeal to the country, which imposed the sentence, is in custody in Latvia due to a different criminal proceeding or is serving a sentence for a different offense, a competent authority informs the requesting country and coordinates a time, when the convicted person van be transferred to the foreign country for participation in the appellate hearing.

(6) If the foreign country's law allows, the convicted person may participate in the appellate hearing using technical aids. Participation using technical aids does not influence the convicted person's procedural rights in the proceedings in the foreign country. If the convicted person has invited an attorney from a foreign country to provide legal assistance, the attorney has the right to meet with the convicted person in confidential surroundings in Latvia and to participate in the appellate process together,, using technical aids.

(7) The inviting of an attorney from the foreign country does not influence the convicted person's right to legal assistance in Latvia.

Article 794. Submission of appeal in Latvia

(1) If a person convicted *in absentia* requests an appeal in a Latvian court, a competent authority informs the foreign country without delay and delivers the appeal, as well as the

request from the foreign country, along with the addenda, to the court, under which jurisdiction the case would be tried, if the criminal proceedings had occurred in Latvia.

(2) From the moment the court received the appeal, the criminal proceedings continue in Latvia and the convicted person receives defendant's status and all the rights a defendant has, including the right to counsel according to the procedure set out in this law.

Article 795. Appellate procedure in Latvia

(1) Subpoena for the convicted person is delivered no later than 21 days before appellate hearing, unless he has indicated unequivocal agreement to application of a shorter time frame.

(2) If the convicted person is absent from court without excuse, the court is released from hearing the case and questions regarding the enforcement in Latvia of the foreign country's verdict *in absentia* is heard according to the same procedure as for a sentence imposed in the presence of the convicted.

(3) If the law of the foreign country permits, procedural actions with regard to the appellate proceeding with persons located in foreign countries may be done using technical aids.

(4) As a result of the hearing, the court makes one of the following rulings:

1) a ruling of dismissal of appeal and determination of the enforceable sentence in Latvia without a hearing of the case;

2) a ruling regarding the reversal of the foreign country's verdict *in absentia* and regarding the continuation of criminal proceedings in Latvia beginning from criminal prosecution.

Article 796. Use of materials from a foreign country

(1) A court which receives an appeal from a person convicted by a foreign country *in absentia* may, with the assistance of a competent authority, request materials concerning the case trial which are in possession of the foreign country.

(2) Evidence acquired in a foreign country in that country's procedural order are valued the same as evidence acquired in Latvia.

Article 797. Enforcement in Latvia of a sentence imposed in out of court proceedings if a foreign country

(1) In cases provided for in international treaties, a sentence imposed in an out of court procedure in a foreign country is enforceable in Latvia in the same manner as a sentence imposed as a result of court hearing.

(2) Upon receipt of a request for enforcement in Latvia of a sentence imposed in an out of court procedure by a foreign country, a competent authority delivers to the person, upon whom sentence is imposed, a notice which indicates that:

1) the request for enforcement of sentence is submitted by a foreign country, with which Latvia has a treaty regarding enforcement of another country's out of court imposed sentences;

2) by submitting an appeal to a Latvian competent authority within 30 days, the person can request a case hearing in a foreign country or in Latvia;

3) the sentence is applied and enforced according to general procedure, if within 30 days time no request for renewed court hearing in the presence of the person is made, or the appeal is denied or dismissed due to the person's absence.

(3) An appellate hearing in the case of a sentence imposed in an out of court procedure has the same consequences and further hearing procedure as an appeal regarding a verdict *in absentia*.

Article 798. Statute of limitations for criminal liability and enforcement of sentences

(1) The enforcement of a sentence in Latvia imposed in a foreign country is subject to the limitations on criminal liability provided for in Latvian Criminal law, as well as in international law.

(2) Circumstances, which influence the running of the statue of limitations in a foreign country also have the same effect in Latvia.

Article 799. Impermissibility of double jeopardy

Latvia does not enforce a sentence imposed in a foreign country if the person has already served such a sentence in Latvia or a third country, has been convicted without determination of sentence, has been released from sentence in accordance with an amnesty or pardon or has been found not guilty of the crime.

Article 800. Observation of a verdict from a foreign country verdict in a criminal proceeding in Latvia

(1) In determining sentence for a person in a criminal proceeding held in Latvia, depending on which country has requested enforcement of the sentence in Latvia, sentence to be enforced in Latvia is added to the foreign country's imposed sentence according to the procedure in which sentence determination due to several verdicts is provided for in the Criminal law.

(2) Classification of the offense according to Latvian Criminal law, for which a sentence is being enforced in Latvia which was imposed in a foreign country, has the same meaning as for an offense, which is heard in a criminal proceeding in Latvia.

Article 801. Postponement of enforcement of sentence

The enforcement in Latvia of a sentence imposed in a foreign country can be postponed in the same cases and according to the same procedures as for enforcement of sentences imposed in Latvia.

Article 816. Reasons for refusal to execute request by foreign country

Execution of a request from a foreign country may be refused, if:

1) the request is connected to political malfeasance;

2) execution of the request could harm the sovereignty of the Latvian State, its security, public order or other vital interests;
3) not enough information has been submitted and it is not possible to receive further information.

Article 819. Performance of special investigations
At the request of a foreign country, performance of special investigations is only allowed if it were permissible in a criminal proceeding in Latvia for the same crime.

Article 820. Delivery of person into temporary custody

(1) At the request of a foreign country, a person who is detained, imprisoned or is otherwise serving a sentence of deprivation of liberty in Latvia, can be delivered to a foreign country for giving testimony or for cross-examination with the condition, that this person shall be returned to Latvia immediately after the dismissal of the proceedings, but no later than the last day of the delivery period.

(2) Delivery may be rejected, if:

1) the detained, imprisoned or convicted person does not agree;

2) this person's presence is required in a criminal proceeding going on in Latvia;

3) the person's removal would impede the dismissal of a criminal proceeding in Latvia within a reasonable time frame:

4) there are other material reasons.

(3) The length of time, which the person spends in custody in a foreign country at the request of that foreign country, is applied against the length of the person's custody or imprisonment in Latvia.

Article 821. Receipt of person in to temporary custody

(1) If a foreign country requests that a person imprisoned or otherwise deprived of their liberty in such foreign country be transferred to Latvia during the course of proceedings, a competent authority may accept the person into custody for the duration of the proceedings.

(2) A person who is transferred to Latvia according to a request from a foreign country, is held in custody on the basis of the documents indicated in Article 702, part one, subpart 1. After the execution of the request the person is to be returned to the foreign country without delay, but no later than the last day of the transfer period.

Article 822. Execution of a person's temporary delivery or receipt

A competent authority instructs the Ministry of Interior to coordinate with the foreign country and perform the temporary delivery or receipt of a person.

Article 823. Personal immunity

(1) Criminal proceedings cannot be commenced or continued against a person who has arrived in Latvia with the consent of the Latvian State to execute a request from a foreign country, if such offense was committee prior to such person's arrival.

(2) The immunity described in part one of this Article terminates 15 days after such time as the person was able to leave territory of Latvia, as well as in the case the person left Latvia and returned voluntarily.

Article 824. Delivery of objects to a foreign country

According to a request from a foreign country, an object necessary as material evidence may be delivered to a foreign country. If necessary, a competent Latvian authority can request a security guarantee, that the object shall be returned.

Article 825. Foreign country procedure for delivering documents

According the request of the foreign country, a competent authority organizes the delivery of foreign procedural documents to a person located in Latvia. A record of such delivery is recorded according to Article 326 of this law.

Chapter 74. Request for a foreign country to perform procedural actions

Article 826. Procedure for submitting a request

(1) If it is necessary in a criminal case for some procedural actions to be performed in a foreign country, the claimant addresses the competent authority with a written proposal to request the foreign country to perform procedural actions. According to Article 827 of this law, the suggested request and other documents are to be attached to the proposal.

(2) The proposal is to be examined within 10 days and the petitioner is then informed of the results.

(3) If the proposal is found to be grounded, the competent authority sends the request to the foreign country.

Article 827. Request for performance of procedural actions in a foreign country

(1) The request for performance of procedural actions in a foreign country must be written in accordance with Article 678 of this law, and any the same documents are attached to the request as would be necessary, if the procedural actions were to be performed in Latvia in accordance with this law.

(2) The foreign country may be requested to:

1) allow a Latvian official to participate in the performance of procedural actions;

2) inform of the time and place of the performance of the procedural action:

3) perform procedural action using technical means.

Article 828. Request for a person's temporary transfer

(1) A competent authority, after receiving a written petition from the claimant, may request that a person detained, in custody or otherwise serving a sentence of deprivation of liberty in a foreign country, be transferred temporarily for the performance of procedural actions.

(2) A competent authority, after receiving a written petition from the claimant, may request that a foreign country accept transfer of a person detained, in custody or otherwise serving a sentence of deprivation of liberty in Latvia, if that person's presence is necessary for the execution of procedural actions in the foreign country.

Article 829. Immunity of persons invited to Latvia

(1) Criminal proceedings may not be initiated nor continued against a person, who has arrived in Latvia on invitation from a Latvian institution for performance of procedural actions.

(2) The immunity in part one of this Article terminates within 15 days after the time that the person was able to leave Latvia, as well as in the case the person left Latvia and subsequently voluntarily returned.

The Saeima has adopted and
the President has promulgated the following law:

ON THE PREVENTION OF LAUNDERING OF PROCEEDS DERIVED FROM CRIMINAL ACTIVITY

Chapter I
GENERAL PROVISIONS

Section 1

The following terms are used in this Law:

1) financial transaction (hereinafter also – transaction):
a) attraction of deposits and other repayable funds;
b) lending, also in accordance with financial leasing regulations;
c) making cash and other than cash payments;
d) emitting and servicing of payment instruments other than cash;
e) trading with foreign currency in one's own name or in the name of a client;
f) fiduciary transactions (trusts);
g) provision of investment services and investment non-core services and management of investment funds and pension funds;
h) issuing of guarantees and other such obligation documents, whereby someone undertakes an obligation to a creditor for the debt of a third person;
i) safekeeping of valuables;
j) participation in the issue of stock and the provision of services related thereto;
k) consultation for clients regarding services of a financial nature;
l) the provision of such information, as is associated with settlement of the debt liabilities of a client;
m) insurance;
n) the organization and maintenance of lotteries and gambling; and
o) other transactions which essentially are similar to the aforementioned.

2) financial institution: an **entrepreneur** registered in the Enterprise Registry of the Republic of Latvia, also a branch or a representation office which is founded to perform one or more of the financial transactions referred to in this Law, except attraction of deposits and other repayable funds, or in order to acquire participation in the equity capital of other **entrepreneurs**. Within the meaning of this Law, other legal or natural persons or associations of such persons whose professional activity includes the conduct of financial transactions, the provision of consultations related to such or the approval of these transactions, shall also be considered financial institutions.

3) financial resources – are payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments;

4) client – a legal or natural person or an association of such persons who is associated by at least one financial transaction with a credit institution or a financial institution;

5) credit institution – **a bank registered in the Republic of Latvia, an electronic money institution or a branch of a foreign and member country bank or an electronic money institution**;

6) list of indicators of unusual transactions – a list approved by the Cabinet, the indicators included therein may be indicative of the laundering of the proceeds from crime or an attempt at laundering;

7) beneficiary – a natural person who owns the fixed capital or shares giving the right to vote (including participation obtained indirectly) or controls (directly or indirectly) the client of a person referred to in Section 2, Paragraph two of this Law in whose interests a transaction is conducted. A natural person who owns 25% or more of the share capital or shares giving the right to vote (including participation obtained indirectly) shall be considered the beneficiary of an entrepreneur;

8) shell bank – a bank, the management, staff or the place where financial services are provided of which are not located in the country in which it is registered and which has no supervisory institution [a shell bank shall also be a commercial company which conducts non-cash transfers on behalf of the third persons except for cases where such transfers are carried out by an electronic money institution or they are carried out among companies (participants) of a single concern registered according the procedure established by the law].

Section 2

(1) This Law determines the duties and rights of the persons referred to in Paragraph two of this Section and their supervisory and control authorities regarding the prevention of the laundering of the proceeds from crime, as well as the procedures for establishing an Office of the Prevention of Laundering of Proceeds Derived from Criminal Activity (hereinafter – the Control Service) and an Advisory Board, and the duties and rights of these institutions and authorities.

(2) The requirements of this Law shall apply to:

1) participants in the financial and capital markets, including:
a) credit institutions,
b) insurers, private pension funds and insurance intermediaries,
c) stock exchanges, depositaries and brokers of brokerage companies, and
d) investment companies, credit unions and investment consultants;

2) organizers and holders of lotteries and gambling;

3) **entrepreneurs**, which are engaged in foreign currency exchange;

4) natural persons and legal persons who perform professional activities associated with financial transactions (provision of consultations, authorization of transactions), including:
a) providers of postal services and other similar institutions, which perform money transfers and transmissions,
b) tax consultants, sworn auditors, sworn auditor commercial companies and providers of financial services, except in cases which are associated with the pre-trial investigation professional activities thereof or within the scope of court proceedings,
c) notaries, advocates and their employees and self-employed lawyers if they assist their client to plan the management of financial instruments and other resources, the opening or management of various types of accounts, the organization of the necessary investments for the creation, operation and management of **entrepreneurs** and similar structures, as well as if they represent their client or act on his or her behalf in financial transactions or transactions with immovable property, except in the cases which are associated with the fulfillment of the defense or representation function in court proceedings,

d) persons whose professional activity includes trading in immovable property, means of transport, art and cultural objects, as well as intermediation in the referred to trading transactions, and
e) performers of economic activities who are engaged in the trading of precious metals, precious stones and the articles thereof.

Section 3

The purpose of this Law is to prevent the possibility of laundering the proceeds from crime in the Republic of Latvia.

Section 4

(1) As proceeds from crime shall be acknowledged financial resources and other property, which have been directly or indirectly acquired as a result of the committing of the criminal offences provided for in the Criminal Law.

(2) As proceeds from crime shall also be acknowledged financial resources and other property, which are controlled (directly or indirectly) or the owner of which is:

1) a person who in connection with suspicion of committing an act of terror or participation therein is included in one of the lists of such persons compiled by a state or international organization in conformity with the criteria specified by the Cabinet of the Republic of Latvia; or

2) a person regarding whom institutions referred to in Section 33 of this Law have information, which gives sufficient grounds to hold such person under suspicion regarding the committing of a crime – terrorism or participation therein.

(3) In respect of the persons referred to in Paragraph two of this Section, the Control Service shall notify the persons referred to in Section 2 of this Law in conformity with the conditions of the provider of the information.

Section 5

(1) The laundering of the proceeds from crime are the following activities, if such are committed with intent to conceal or disguise the criminal origin of financial resources or other property:
1) the conversion of financial resources or property into other valuables, changing their disposition or ownership;
2) the concealment or disguising of the true nature, origin, location, placement, movement or ownership of financial resources or other property;
3) the acquisition of ownership to, possession of or use of financial resources or other property, if at the time of the creation of these rights it is known, that these resources or property have been derived from crime; and
4) participation in the performance of the activities referred to in Clauses 1-3 of this Section.

(2) As the laundering of the proceeds from crime shall be deemed to be such also when the criminal offence provided for in the Criminal Law as a result of which directly or indirectly such proceeds have been acquired, has been committed outside of the territory of the Republic of Latvia and in the place of the commitment of the criminal offence criminal liability is provided for such offence.

Section 5^1

(1) A credit institution, while engaging into correspondent relationships with a foreign bank, shall conduct purposeful, proportionate and meaningful documented measures in order to ascertain whether the normative acts on the prevention of laundering of proceeds derived from criminal activity and terrorist financing are in place in the country concerned and whether the given foreign bank complies with the respective normative acts.

(2) The requirements referred to under this Section, Paragraph 1 of the Law shall not apply to cases when correspondent relationships are being established with a bank which is registered in a country which is a member of the Organization for Economic Cooperation and Development.

Section 5^2

In order to fulfill the requirements of the Law a credit and financial institution shall be entitled to demand and receive information on beneficiaries, the third persons and their current and potential clients and employees from the Register of Invalid Documents, the Penalty Register and the Population Register ensuring adequate protection of the information received.

Section 5^3

The persons referred to in Section 2, Paragraph two of this Law shall be forbidden to conduct transactions with shell banks.

Chapter II
IDENTIFICATION OF CLIENTS

Section 6

The persons referred to in Section 2, Paragraph two of this Law have the right to open an account or accept financial resources or other valuables for safe keeping, requesting client identification documents in which the following information is provided:

1) regarding a natural person:
a) regarding a resident – given name, surname, personal identity number, or
b) regarding a non-resident – given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents; and

2) regarding a legal person – the legal basis for the founding or legal registration, address, as well as the given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents of the authorized person, as well as the authorizations of such natural person and status, and if necessary – the given name and surname of the manager or the highest official of the administrative body of the legal person.

Section 7

(1) Any of the persons referred to in Section 2, Paragraph two of this Law shall identify a client, pursuant to the procedures specified in Section 6 of this Law, also in the performance of any other financial transaction, if the total amount in lats, on the basis of the exchange rate specified by the Bank of Latvia on the day of the performance of the transaction, of a single separate transaction or several clearly related transactions is the equivalent of 15 000 euro or larger, and if previously when

opening the account or accepting the financial resources for safe keeping the identification of the client had not been conducted.
(2) If the total amount of the financial transaction is not determinable at the time of its performance, the identification of the client shall be conducted as soon as the total amount of the transaction becomes known, which in lats on the basis of the exchange rate specified by the Bank of Latvia is the equivalent of 15 000 euro or larger.

(3) Irrespective of the amount of the financial transaction, the persons referred to in Section 2, Paragraph two of this Law shall identify a client if the indicators of the transaction conforms to at least one of the indicators included in the unusual transaction element list, or also if due to other circumstances, there is cause for suspicion regarding the laundering or attempted laundering of the proceeds from crime.

(4) A client shall be re-identified as soon as there is cause to suspect the veracity of the information acquired in the initial identification.

Section 8

(1) The persons referred to in Section 2, Paragraph two of this Law shall require a signed declaration of the client concerning the beneficiaries, including the third persons where the transactions referred to under the Sections 6 and 7 of this Law are conducted on behalf of the third persons, as well as conduct purposeful, proportionate and meaningful measures in order to identify the beneficiaries, including the third persons, and the person submitting the declaration.

(2) The declaration referred to under Paragraph 1 of this Section shall be filled in when conducting the transactions listed under Sections 6 and 7 of this Law.

(3) The information referred to under Section 6 of this Law shall be included in the declaration on the beneficiaries , including the third persons.

(4) The volume, type and frequency of the activities referred to under Paragraphs 1 and 2 of this Section shall be established by the persons referred to in Section 2, Paragraph two of this Law while assessing the possible risks in respect of laundering of proceeds derived from criminal activity or terrorist financing concerning a given client and a transaction.

(5) The persons referred to in Section 2, Paragraph two of this Law shall be obliged to document the actions directed towards the identification of the beneficiary, including the third person, the structure of organization of the client, the characteristic features of the client's economic activity as well as the identification of the client's property rights and the control structure and to provide the said documents upon request to the supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law.

Section 9

The client identification and beneficiary, including the third persons, identification requirements prescribed in this Law shall not apply to the following:

1) financial transactions in which the client of a person referred to in Section 2, Paragraph two of this Law is :

a) a credit institution or a financial institution licensed in the Republic of Latvia,
b) a credit institution or a financial institution that has been granted a license in a state the normative acts whereof comply with the normative acts of the European Union in the area of prevention of the use of the financial system for laundering of proceeds derived from criminal activity and terrorist financing,
c) the state or municipality or a state or municipal institution or an entrepreneur controlled by the state or a municipality;

2) a financial instruments market organizer registered in a European Union country or a market organizer which is a member of the International Stock Exchange Federation or an entrepreneur (its subsidiary) the share capital whereof is listed in the official lists of the said market organizers;

3) insurance companies (insurers), if the periodic insurance premium payments of a client within a period of one year do not exceed a total of 1000 euro equivalent in lats on the basis of the exchange rate specified by the Bank of Latvia or a single insurance premium payment does not exceed 2500 euro equivalent in lats on the basis of the exchange rate specified by the Bank of Latvia – irrespective of the amount of the insurance.

Section 10

(1) If a client is identified pursuant to the procedures set out in Section 6 of this Law, the persons referred to in Section 2, Paragraph two of this Law shall preserve copies of the documents attesting to the identification data of the client for at least five years after the transaction relationship with the client has ended.

(2) If a client is identified pursuant to the procedure set out in Section 7, the beneficiary or the third person referred to under Section 8 of this Law has been identified following the procedure set our under Sections 7 and 8 of this Law and the person submitting the declaration has been identified following the procedure set our under Section 8, the person referred to in Section 2, Paragraph two of this Law shall preserve the document copies attesting to the identification data of the person submitting the declaration, the performance of transactions and the copy of the declaration on the beneficiary, including the third person, for at least 5 years following the transaction.

Section 10^1

(1) Any of the persons referred to in Section 2, Paragraph two of this Law in commencing transaction relations or in conducting transactions with a client who has not personally appeared before such persons, shall perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose additional documents may be requested, checks made of the identification data and various types of certifications received.

(2) The special measures referred to in Paragraph one of this Section, shall be determined by the relevant internal regulatory enactments of the authorized administrative body of the persons referred to in Section 2, Paragraph two of this Law.

Chapter III
REPORTING UNUSUAL AND SUSPICIOUS FINANCIAL TRANSACTIONS

Section 11

(1) The persons referred to in Section 2, Paragraph two of this Law have an obligation to:

1) notify the Control Service without delay regarding each financial transaction the indicators of which conform to at least one of the indicators included in the list of indicators of unusual transactions. The list of indicators of unusual transactions and procedures for notification shall be prepared by the Control Service, taking into account the recommendations of the Advisory Board, and shall be approved by the Cabinet; and

2) pursuant to a written request of the Control Service, provide within 14 days, for the performance of its functions provided for by this Law, additional information and documents regarding the financial transaction of a client concerning which a report has been received from the persons referred to in Section 2, Paragraph two of this Law or information exchange has been conducted with the authorities and institutions referred to under Section 39, but on the other transactions of the client concerned with the consent of the Prosecutor General or a specially authorized prosecutor. Taking into account the volume of the information or the documents to be provided the time for fulfilling the request may be prolonged by making an agreement with the Control Service.

(2) Officials and employees of the persons referred to in Section 2, Paragraph two of this Law also have a duty to **immediately** notify the Control Service regarding discovered facts which do not conform to the indicators included in the list of indicators of unusual transactions, but which due to other circumstances cause suspicion regarding the laundering or attempted laundering of the proceeds derived from crime.

Section 12

In the report, which is submitted to the Control Service by the persons referred to in Section 2, Paragraph two of this Law, the following, if possible, shall be included:

1) client identification data;
2) a copy of the client identification document;
3) a description of the transaction conducted or proposed, as well as the addressee of the transaction and the amount of the transaction, the time and place of the transaction conducted or proposed; and
4) the indicators, which give a basis for considering that the transaction is suspicious or conform to the indicators included in the list of indicators of unusual transactions.

Section 13

The Control Service has the right to utilize information, which is reported in compliance with the requirements of this Law, only to perform the functions provided for by this Law. An employee of the Control Service who has utilized this information for other purposes or has disclosed it to persons who do not have the right to receive the relevant information, shall be subject to criminal liability pursuant to the procedures prescribed by law.

Section 14

The persons referred to in Section 2, Paragraph two of this Law and the officials and employees of such persons do not have the right to inform a client or a third person that information regarding the client or his or her transaction (transactions) has been reported to the Control Service.

Section 15

A pre-trial investigation regarding the fact of the laundering of the proceeds from crime may not be commenced against a person who has reported this to the Control Service.

Section 16

(1) If the persons referred to in Section 2, Paragraph two of this Law or an official or employee of such persons has reported to the Control Service in compliance with the requirements of this Law, irrespective of whether the fact of the laundering of the proceeds from crime is proved or not proved during the investigation or at trial, as well as irrespective of the provisions of the contract between the persons referred to in Section 2, Paragraph two of this Law and the client, the reporting to the Control Service shall not be deemed to be the disclosure of information not to be disclosed and therefore the persons referred to in Section 2, Paragraph two of this Law and the official or employee of such persons shall not be subject to legal liability.

(2) Compliance with the provisions of this Law shall not be a violation of the norms regulating the professional activities of the persons referred to in Section 2, Paragraph two of this Law or their supervisory and control authorities, as well as the officials and employees thereof.

Section 16^1

(1) For the purpose of implementing the objectives of this Law a credit institution, following a request of a correspondent bank registered in a European Union country or a country which is a member of the Organization for Cooperation and Development, shall provide identifying information on their clients, beneficiaries, including the third persons, and data on conducted transactions if the normative acts of the respective country prescribe an analogous requirement applying to credit institutions under its jurisdiction.

(2) The respective credit institution, its official or employee shall not carry legal liability for providing the information referred to under Paragraph 1 of this Section.

Chapter IV
REFRAINING FROM THE CONDUCT OF SUSPICIOUS FINANCIAL TRANSACTIONS AND THE SUSPENSION OF SUCH TRANSACTIONS

Section 17

(1) The persons referred to in Section 2, Paragraph two of this Law shall refrain from conducting a transaction or several linked transactions, including certain type of debit operations in the account of the client if there is cause for suspicion that this transaction is associated with laundering or attempted laundering of the proceeds from crime or terrorist financing.

(2) The persons referred to in Section 2, Paragraph two of this Law, pursuant to the requirements of Section 12 of this Law, shall immediately report to the Control Service about the refraining to execute a transaction enclosing with the report the available documents associated with the fact of refraining to execute a transaction.

(3) Within 14 days following the receipt of a report on refraining to execute a transaction the Control Service shall:

1) issue an order pursuant to the requirements set out under Section 17^2, Paragraph 1 of this Law and inform in writing the person referred to in Section 2, Paragraph two of this Law;

2) inform in writing the person referred to in Section 2, Paragraph two of this Law that additional analysis of the information contained in the report is to be conducted and that information and documents about the client and his transactions are to be requested from the client, including by way of intermediation from the part of the persons referred to in Section 2, Paragraph two of this Law, in order to decide whether debit operations with financial resources in the account of the client or the movement of other property should be stopped or notify in writing the person referred to in Section 2, Paragraph two of this Law that there is no ground to issue an order pursuant to the requirements set out under Section 17^2, Paragraph 1 of this Law.

(4) The Control Service may inform the person referred to in Section 2, Paragraph two of this Law as well as its supervisory and control authority about the fact that information has been sent to pre-trial investigation authorities pursuant to the procedure set out under Section 32 of this Law or inform that information concerning the refraining to execute a transaction cannot be sent.

Section 17^1

(1) If financial resources or other property in accordance with Section 4, Paragraph two of this Law is qualified as proceeds of crime, the Control Service may give the persons referred to in Section 2, Paragraph two of this Law an order to suspend the debit operation of such financial resource into the account of the client or other movement of property for the time specified in the order, but for not longer than six months.

(2) The persons referred to in Section 2, Paragraph two of this Law shall without delay implement the order referred to in Paragraph one of this Section.

(3) The Control Service has the right to revoke its own order to suspend the debit operation of such financial resource into the account of the client or other movement of property before the end of the time period.

Section 17^2

(1) If, on the basis of information at the disposal of the Control Service, there is cause to suspect that a criminal offense, including laundering, attempted laundering of the proceeds from crime or the financing of terrorism is taking place, the Control Service may give the persons referred to in Section 2, Paragraph two of this Law an order to suspend debit operations with the financial resources in the account of a client or the movement of other property for a period of time which shall not exceed 45 days.

(2) The persons referred to in Section 2, Paragraph two of this Law shall implement the Control Service order without delay and request from the client the information indicated in the Control Service order.

(3) The Control Service shall revoke the order regarding the suspension of the debit operation of financial resources into the account of a client or other movement of property if the client has provided justified information regarding the lawfulness of the origin of the financial resources or other property. The information referred to shall be submitted by the client to the persons referred to in Section 2, Paragraph two of this Law, who shall transfer such information without delay to the Control Service.

(4) If the order is not revoked, the Control Service shall, within a period of 10 working days after the issue thereof, provide information to the pre-trial investigation institutions pursuant to the procedures specified in Section 32 of this Law.

Section 17[3]

(1) In cases provided for under Section 17[1], Paragraph 1 and 17[2], Paragraph 1 of this Law the Control Service may issue an order to the holder of property register to take appropriate measures in the frame of its competence in order to stop its re-registration for the period of time stipulated in the order.

(2) The holder of property register shall fulfill the order immediately and report back to the Control Service about the mode of execution and the results.

(3) Where an order has not been lifted, the Control Service shall provide pre-trial investigation authorities with information within 10 weekdays following the issuance of the order.

Section 18

If the persons referred to in Section 2, Paragraph two of this Law are not able to refrain from conducting a suspicious transaction, or if refraining from the conducting of such a transaction may serve as information, which would assist persons involved in the laundering of the proceeds from crime to evade liability, the credit institution or financial institution has the right to conduct the transaction, and report it to the Control Service pursuant to the procedures set out in Section 12 of this Law after the transaction has been conducted.

Section 19

If the persons referred to in Section 2, Paragraph two of this Law have refrained from a transaction in accordance with the requirements of Section 17 of this Law, in relation to such refraining from or delaying of the transaction, the persons referred to in Section 2, Paragraph two of this Law or an official or employee of such persons shall not be subject to legal liability, irrespective of the results of the utilization of the information provided.

Section 19[1]

(1) If the persons referred to in Section 2, Paragraph two of this Law have suspended the debit operation of financial resources into the account of a client or other movement of property in compliance with the requirements of Section 17.[1] of this Law, then irrespective of the fact of what is the result of the suspension of the financial resources debit operation or other movement of property, the persons referred to in Section 2, Paragraph two of this Law, as well as an official or employee of such institution shall not be subject to legal liability.

(2) If the order regarding the suspension of the debit operation of financial resources into the account of a client or other movement of property has been given in conformity with the provisions of this Law, the Control Service and its officials shall not be subject to legal liability for the consequences of the order.

Section 19^2

(1) To enable the persons referred to in Section 2, Paragraph two of this Law to fulfill the requirements of this Law they shall be entitled to request from their clients and the clients have an obligation to provide information and documents concerning the beneficiaries, including the third persons and any transaction conducted by the client, his economic, personal activity, the financial standing and the sources of funds.

(2) If a client fails to provide or refuses to provide the information and documents referred to under Paragraph 1 of this Section, the persons referred to in Section 2, Paragraph two of this Law shall decide whether the business relationship with the client is to be continued or terminated or the client should be requested to settle all his liabilities before term as well as whether the same actions should be instituted in respect of other clients who have the same beneficiaries or who conduct transactions on behalf of the same third persons. The said actions shall be documented and the documents shall be accessible to the supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law.

(3) If a financial or credit institution terminates business relationships with its client the accounts of the client concerned at the respective financial or credit institution shall be closed and the monetary resources or financial instruments held there shall be transferred upon the request of the client only to the account of the same client at another financial or credit institution from which the monetary resources or financial instruments have been received or which has been registered and provides financial services, including the receiving of deposits, in the country of registration which appears to be another country of the European Economic Zone.

(4) Financial and credit institutions shall be entitled to exchange, directly or via a specially designated institution created for that purpose, with data on persons with whom business relations have not been initiated or have been terminated pursuant to the procedure set out under this Section as well as to create and maintain appropriate registers on such persons.

(5) The data referred to under Paragraph 4 of this Section shall be considered classified information which shall be divulged only to financial, credit institutions themselves and the institution which has been created for the exchange of such information as well as to the state institutions listed under Section 63 of the Law on Credit Institutions pursuant to the procedure established by law.

(6) A credit institution shall carry no legal liability for terminating business relationships with a client or for requesting to settle his liabilities before term in the cases and following the procedure prescribed by this Section.

Chapter V
INTERNAL CONTROL

Section 20

(1) The persons referred to in Section 2, Paragraph two of this Law shall establish and document a laundering of the proceeds from crime and prevention of the financing of terrorism internal control system, providing for the regular assessment of the operational effectiveness thereof, as well as clear procedures for specifying the identification of clients and the procedures for the oversight of economic activity.

(1^1) Financial and credit institutions shall carry out purposeful, proportionate and meaningful measures in order to monitor the transactions of their clients as well as ascertain whether the transactions conducted by the client correspond with the actual specifics of the client's economic activity. The said actions shall be documented and the documents shall be accessible to the supervisory and control authorities of financial and credit institutions.

(2) The persons referred to in Section 2, Paragraph two of this Law shall ensure that their employees are familiar with the requirements of this Law, as well as conduct regular training of their employees in the determination of the indicators of unusual transactions or suspicious financial transactions and the implementation of the activities provided for in the internal control regulations.

(3) The persons referred to in Section 2, Paragraph two of this Law shall designate a unit or appoint one employee or several employees who are entitled to take decisions and shall be directly responsible for the observance of the requirements of this Law. The persons referred to in Section 2, Paragraph two of this Law shall notify the Control Service in respect of the designation of such unit or the appointment of such employees, as well as the relevant supervisory and control authorities of such persons.

(4) The persons referred to in Section 2, Paragraph two of this Law shall register the reports provided to the Control Service and ensure the accessibility of such reports to the supervisory and control authorities.

Section 21

(1) The persons referred to in Section 2, Paragraph two of this Law, the supervisory and control authority of such persons, the Control Service and their officials and employees do not have the right to disclose to a third person data regarding the employees of the units thereof, or employees specially designated who are responsible for maintaining contact with the Control Service.

(2) The Control Service does not have the right to disclose data about those persons who have reported unusual or suspicious financial transactions. This restriction shall not apply to cases, which are provided for in Section 33 of this Law.

Chapter VI
DUTIES OF THE SUPERVISORY AND CONTROL AUTHORITIES

Section 22

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law, if such have been established in accordance with the regulatory enactments regulating the activities of such persons, have a duty to report to the Control Service the facts discovered during the course of examinations which conform to the indicators which are included in the list of

indicators of unusual transactions, and regarding which the relevant persons referred to in Section 2, Paragraph two of this Law have not notified the Control Service.

Section 23

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law have the right to notify the Control Service regarding facts discovered during the course of examinations which do not conform to the indicators which are included in the list of indicators of unusual transactions, but which due to other circumstances cause suspicion of the laundering or attempted laundering of the proceeds from crime.

Section 24

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law and their employees do not have the right to inform the clients of the persons referred to in Section 2, Paragraph two of this Law, or third persons, that the Control Service has been notified in the cases referred to, and pursuant to the procedures set out in Sections 11, 12, 22 and 23 of this Law.

Section 25

Notification of the Control Service pursuant to the procedures set out in this Chapter shall not constitute the disclosure of information not to be disclosed, and therefore the persons referred to in Section 2, Paragraph two of this Law or their employees shall not be subject to legal or financial liability irrespective of whether the fact of the laundering of the proceeds from crime is proved or not proved during the pre-trial investigation or at trial.

Section 26

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law have an obligation, pursuant to a request from the Control Service, to provide it with methodological assistance for the performance of the functions provided for in this Law.

Section 26^1

In order that the supervisory and control authorities may perform the duties specified in this Law, they have the right, within the scope of their competence specified by law, to request from natural persons and legal persons information, which is associated with the implementation of the requirements of this Law, as well as to perform activities **in order to prevent or reduce the possibility of utilizing the financial system and the capital market of the Republic of Latvia for laundering of proceeds derived from crime or terrorist financing.**

Section 26^2

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law shall have the right to publish statistics concerning the violations of this Law and the sanctions imposed.

Chapter VII
THE CONTROL SERVICE

Section 27

The Control Service is a specially established State authority which, in accordance with this Law, shall exercise control over unusual and suspicious financial transactions, and shall acquire, receive, register, process, compile, store, analyze and provide information to pre-trial investigative institutions and the court, which may be utilized for the prevention, detection, pre-trial investigation or adjudication of the laundering or attempted laundering of the proceeds from crime or other criminally punishable activities associated with it.

Section 28

(1) The Control Service is a legal person monitored by the Office of the Prosecutor; such monitoring shall be directly exercised by the Prosecutor-General and specially authorized prosecutors. The Council of the Prosecutor-General shall approve the by-laws of the Control Service.

(2) The Control Service shall be financed from the State budget.

(3) The structure and the staff of the Control Service shall be determined by the Prosecutor-General in accordance with the amount of funds allocated from the State budget.

(4) The Head of the Control Service shall be appointed to office, for a four year term, and dismissed from office by the Prosecutor-General, but the Head of the Control Service may be removed from office during his or her term of office only for the committing of a criminal offence, an intentional violation of the law, or for negligence which is related to his or her professional activities or has resulted in substantial consequences, or for a shameful offence which is incompatible with his or her status.

(5) The other employees of the Control Service shall be hired, as well as dismissed, by the Head of this Service. The Cabinet shall determine the salaries of the employees of the Control Service.

(6) The Head and employees of the Control Service must comply with the requirements which are provided for in the Law On Official Secrets, in order to receive a special permit to access especially secret information. Their compliance with these requirements shall be examined and certified by the Constitution Protection Bureau.

Section 29

The duties of the Control Service are:

1) to receive, compile, store and analyze reports by the persons referred to in Section 2, Paragraph two of this Law, as well as information obtained by other means in order to determine whether such information may be related to the laundering or attempted laundering of the proceeds from crime;

2) to provide to pre-trial investigative institutions and to the court information that may be utilized for the prevention, detection, pre-trial investigation or adjudication of the laundering or attempted laundering of the proceeds from crime or other criminally punishable activities associated with such;

3) to analyze the quality of the information reported and the effectiveness of its utilization, and to inform the persons referred to in Section 2, Paragraph two of this Law thereof;

4) to conduct analysis and research of the laundering or attempted laundering of the proceeds from crime methods, and to improve the methodology for the hindrance and detection of such activities; and

5) in accordance with the procedures set out in this Law, to co-operate with international authorities, which are engaged in combating the laundering or attempted laundering of the proceeds from crime;

6) to provide supervisory and control authorities with information on the most typical techniques and locations used for generating proceeds derived from crime and their laundering in order to carry out actions which would reduce the possibility of utilizing the financial system and the capital market of the Republic of Latvia for laundering of proceeds derived from crime or terrorist financing;

7) to provide upon the request of the supervisory and control authorities, in the frame of their competence, data on the statistics, quality and the effectiveness of utilization concerning the reports made by the persons referred to in Section 2, Paragraph two of this Law.

Section 30

The Control Service shall perform the necessary administrative, technical and organizational measures, in order to ensure the protection of information, to prevent unauthorized access to and unauthorized tampering with, or distribution or destruction of such information. The procedures for the registration, processing, storage and destruction of the information received by the Control Service shall be determined by the head of the Control Service by coordinating the issue with the Prosecutor-General. The Control Service shall retain information regarding financial transactions for at least five years.

Section 31

All State authorities have a duty to provide information requested by the Control Service for the performance of its functions, pursuant to the procedures prescribed by the Cabinet. In performing the information exchange with the Control Service, the person who manages the personal data processing system or performs the data processing is prohibited from disclosing to other natural or legal persons the fact of the information exchange and the information.

Chapter VIII
CO-OPERATION BETWEEN THE CONTROL SERVICE AND STATE AUTHORITIES

Section 32

Upon its own initiative the Control Service may provide information to pre-trial investigative institutions or to a court, if such information allows the making of a reasonable assumption, that the relevant person has committed or attempted to commit a criminal offence or has performed the laundering of the proceeds from crime.

Section 33

At the request of persons performing investigative field work, or of pre-trial investigative institutions, as well as of the court, pursuant to an assessment from the point of view of lawfulness

and justification and the approval of the Prosecutor-General or specially authorized prosecutors, the Control Service, in compliance with the requirements of this Law, shall provide information, if, regarding criminally punishable offences provided for in Section 4 of this Law, at least one of the following actions has been commenced:

1) a criminal matter has been initiated pursuant to the procedures set out in the Criminal Procedure Code of the Republic of Latvia, or

2) an operative registration case has been initiated in accordance with the procedure set out in Sections 21 and 22 of the Law On Operative Activities.

Section 34

Pursuant to a request from the State Revenue Service, which has been accepted by the Prosecutor-General or a specially authorized prosecutor, the Control Service shall provide the information at its disposal necessary for the examination of the income declarations of State officials provided for by the Law On Prevention of Conflict of Interest in Activities of Public Officials, if there is substantiated cause for suspicion that the official has provided false information regarding his or her financial circumstances or income.

Section 35

(1) The submitter of a request for information and the prosecutor who accepts it shall be liable for the validity of the request.

(2) The information provided by the Control Service may be published at the moment when the relevant person is subjected to criminal liability.

(3) In the cases referred to in Sections 32-34 of this Law, the Control Service shall submit the materials to the Prosecutor-General or to specially authorized prosecutors for transfer to the relevant authorized institutions.

Section 36

(1) The Control Service may use the information at its disposal only for the purposes provided for in this Law and in accordance with the procedures prescribed by this Law.

(2) Information, which has been acquired by the Control Service pursuant to procedures monitored by the Prosecutor-General or specially authorized prosecutors, shall not be transferred to the control of investigative institutions or to the court or be utilized for their needs.

(3) The State institutions referred to in this Law may use the information issued to them by the Control Service only for the purpose for which it has been received.

Chapter IX
THE ADVISORY BOARD OF THE CONTROL SERVICE

Section 37

In order to facilitate the work of the Control Service and to co-ordinate its co-operation with law enforcement institutions, the persons referred to in Section 2, Paragraph two of this Law, an Advisory Board shall be established, the tasks of which are:

1) to co-ordinate co-operation among State institutions and the persons referred to in Section 2, Paragraph two of this Law with respect to the implementation of this Law;

2) to develop recommendations to the Control Service for the performance of its functions as provided for in this Law;

3) to prepare and submit to the Control Service proposals for supplementing or amending the list of indicators of unusual transactions; and

4) pursuant to a petition of the Prosecutor-General, or on it's own initiative, to inform the Prosecutor-General regarding the work of the Control Service and to submit proposals on improving the work of this Service.

Section 38

(1) In the composition of the Advisory Board:

1) the Minister for Finance shall designate two representatives, including one from the State Revenue Service; and

2) the following shall designate one representative:
a) the Minister for the Interior,
b) the Minister for Justice,
c) the Bank of Latvia,
d) the Finance and Capital Market Commission,
e) the Latvian Association of Commercial Banks,
f) the Latvian Association of Insurers,
g) the Latvian Sworn Auditors Association;
h) the Latvian Sworn Notaries Council;
i) the Latvian Sworn Advocates Collegium, and
j) the Supreme Court.

(2) The Prosecutor-General shall chair meetings of the Advisory Board.

(3) The head of the Control Service and experts shall be invited to participate at the meetings of the Advisory Board.

(4) The Control Service shall ensure record keeping for the Advisory Board.

Chapter X
INTERNATIONAL CO-OPERATION

Section 39

(1) The Control Service may freely, on its own initiative or pursuant to a petition, conduct an exchange of information with foreign authorized institutions the duties of which are essentially similar to the duties referred to in Section 27 of this Law, as well as with foreign or international

anti-terrorism agencies concerning the issues of the control of the movement of financial resources or other property linked to terrorism if:

1) the confidentiality of data is ensured and they shall be used only for mutually agreed purposes; and
2) it is guaranteed that the information shall be utilized to prevent and detect only such types of criminal offences as are criminally punishable also in Latvia.

(2) Information at the disposal of the Control Service shall be provided to foreign investigative institutions and courts in accordance with the procedures provided for by international agreements regarding mutual legal assistance in criminal matters and through the Latvian State institutions specified in such agreements, moreover only regarding criminal offences, which are also criminally punishable in Latvia, if the international agreements regarding mutual legal assistance in criminal matters do not specify otherwise.

Transitional Provisions

1. No actions, except for closing of the account, may be performed after 1 January 1999 with regard to accounts which were opened prior to 1 January 1997 without identifying the client, until the identification of the account holder has been performed.

2. The requirements of this Law shall also apply to the structural units and foreign subsidiaries of the persons referred to in Section 2, Paragraph two of this Law.

Informative Reference to European Union Directives

This Law contains legal norms arising from European Union Directives 91/308/EEC and 2001/97/EC.

This Law shall come into force on 1 June 1998.

This Law has been adopted by the *Saeima* on 18 December 1997.

President G. Ulmanis

Rīga, 6 January 1998

Transitional Provisions Regarding Amendments
to the Law On Prevention of the Laundering
of the Proceeds from Crime

Transitional Provision
(regarding amending law of 18 December 2003)

This Law shall come into force on 1 February 2004.

The Law has been enacted by the Saeima on May 26. 2005.

In lieu of the President of the State
The Chairwoman of the Saeima

I. Ūdre

Rīga, June 10, 2005.

Text consolidated by Tulkošanas un terminoloģijas centrs (Translation and Terminology Centre) with amending regulations of:

13 August 2002 (No. 357).

If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet
Regulation No 127
Adopted 20 March 2001.

Regulations regarding List of Elements of Unusual Transactions and Procedures for Reporting

Issued pursuant to Section 11, Paragraph one, Clause 1 of
the Law on Prevention of Laundering of the Proceeds from Crime

1. These Regulations prescribe a list of elements of an unusual transaction, in which the elements incorporated may testify to the laundering of the proceeds from crime or a laundering attempt, and the procedures for reporting thereof.

2. Credit institutions and financial institutions shall in compliance with the law notify the Prevention of the Laundering of Proceeds from Crime Service (hereinafter – Control Service) without delay regarding every transaction intended, commenced or performed, the elements of which correspond to at least one of the elements referred to in these Regulations, as well as regarding the facts discovered which do not correspond to the elements referred to in these Regulations, however, which due to other circumstances provide grounds for suspicion regarding the laundering of the proceeds from crime or a laundering attempt.

3. Notifications regarding the transactions and facts referred to in Paragraph 2 of these Regulations shall be submitted in written and electronic form in accordance with the sample specified by the Control Service.

4. In compliance with the Law on Prevention of the Laundering of Proceeds from Crime, credit institutions and financial institutions must provide a report regarding each financial transaction that conforms with the amount in lats set out in these Regulations or the equivalent thereof in any other currency.

5. In submitting to the Control Service the reports and the additional information requested, credit institutions and financial institutions shall ensure that the content and fact of the

submission thereof is not disclosed to third parties, as well as to those natural persons and legal persons regarding which the report is submitted.

6. A transaction shall be considered to be an unusual transaction if it complies with at least one of the following elements:

6.1. in all transactions:

6.1.1. a transaction made in cash the amount of which is 40 000 and more lats (except disbursement of salaries, pensions and social benefits and credits);

6.1.2. a transaction in the amount of 1000 and more lats, in which coins or banknotes of a low par value are exchanged for banknotes of a higher denomination (or vice versa) or for other banknotes of the same denomination;

6.1.3. a transaction in the amount of 10 000 and more lats which is related to the purchase and sale of traveller's cheques or other payment instruments in cash;

6.1.4. a client withdraws 40 000 and more lats in cash using credit cards or other accounting cards within a period of a month;

6.1.5. a transaction, utilising a transfer, in which 40 000 and more lats have been transferred without opening an account (transfer – a transfer of money that is performed by a client utilising postal, telegraph or electronic mail services (including Internet network), and which does not involve an inter-bank telegraph transfer in which the banks are clients – consignor and the real beneficiary);

6.1.6. an exchange of currency at a currency exchange point for an amount the equivalent of which is 5000 and more lats; or

6.1.7. a transaction, in which a client participates who is suspected of committing a terrorist act or of participation therein and is included on the list of persons regarding which the Control Service has informed credit institutions and financial institutions;

6.2. in gambling:

6.2.1. a client wins 5000 and more lats;

6.2.2. by exchanging the means for participation in a game (for example, chips), a client performs a non-cash transfer or exchanges the currency for the amount the equivalent of which is 5000 and more lats; or

6.2.3. a client obtains the means in a gambling hall for participation in a game (for example, chips) in the amount of 5000 and more lats;

6.3. in investments in securities :

6.3.1. for services received and in transactions in transferable securities, a client of a credit institution or brokerage company pays by making a single payment in cash the amount of which is 10 000 and more lats;

6.3.2. a commercial intermediary (except a credit institution) or a natural person purchases privatisation certificates, the market value of which is 10 000 and more lats, and they are transferred into the account of the commercial intermediary or a natural person by a single transfer, or privatisation certificates, the market value of which is 25 000 and more lats, have been transferred to the account of a natural person. The market value of property refund certificates and other privatisation certificates shall be determined in accordance with the average price of the purchase contracts entered into in tenders and stock exchange within a period of the last ten days published in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia]; and

6.3.3. in the establishment and operation of brokerage companies:

6.3.3.1. the founders of a brokerage company do not represent any financial institution or undertaking (company), and monies in the amount of 25

000 and more lats are invested in securities, or clients are not being attracted, and information regarding services of this company does not appear on the market;

6.3.3.2. the number of clients is small (up to five clients), and they represent institutions registered in tax-free or low-tax countries and territories which have been determined as such by the Cabinet; or

6.3.3.3. transaction disbursements, commission or earned profit are unreasonably increased;

6.4. in insurance:

6.4.1. the premium for a life assurance contract or a part thereof has been paid in cash in the amount of 25 000 and more lats;

6.4.2. the payment of the insurance premium has been made by a company or other legal person registered in a tax-free or low-tax country or zone which has been determined as such by the Cabinet, and the amount of the premium is 25 000 and more lats;

6.4.3. an insurance contract is terminated before the expiry of the term, and the insurer makes a payment the amount of which is 10 000 and more lats;

6.4.4. a life assurance policy is utilised as a guarantee for a loan, and the insurance premium provided for in the insurance contract is 25 000 and more lats;

6.4.5. a property insurance contract is entered into, the insurance money for which is 200 000 and more lats, and the insurance policy holder is any natural person or such legal person that is registered in a tax-free or low-tax country or zone which has been determined as such by the Cabinet; or

6.4.6. a vehicle (an air, water or land vehicle) is insured for insurance money of 40 000 and more lats, and the insurance policy holder is any natural person or such legal person that is registered in a tax-free or low-tax zone which has been determined as such by the Cabinet.

[13 August 2002]

7. Cabinet Regulation No. 437 of 28 December 1999, Regulations on List of Elements of Unusual Transactions (*Latvijas Vēstnesis*, 1999, No. 444/445) is repealed.

Prime Minister A. Bērziņš

Acting for the Minister for Finance,
Minister for Special Assignments
for Co-operation with International Financial Institutions R. Zīle

CABINET OF MINISTERS OF LATVIA REPUBLIC

December 29, 1998
Rīga

Regulation Nr 497
(min. Nr 69 para 13)

Procedure pursuant to which public institutions furnish information to the Office for prevention of laundering of proceeds derived from criminal activity

Issued in accordance with
Article 31 of the Law On
Prevention of Laundering
of Proceeds derived from
criminal activity

1. The present Regulation shall specify the procedure pursuant to which public institutions furnish information to the Office for prevention of laundering of proceeds derived from criminal activity (hereinafter the Control Service).

2. The Control Service shall submit the information request in a written or electronic format with a description according to which the required data can be identified. The request shall be signed by the Head of the Control Service.

3. The Control Service shall not be obliged to substantiate the necessity of the requested information. Information shall also be furnished to the Control Service regardless of the informer considering it to be insignificant for the Control Service to perform its functions.

4. To ensure the fulfillment of the functions prescribed by law the Control Service shall be authorized to request public institutions to furnish information in a written or electronic format.

5. The Control Service and the informer shall agree upon the requirements and procedure according to which information is to be submitted in electronic format.

6. The informer shall not disclose the subject matter of the furnished information to the third persons as well as to the natural and legal persons on which the information is furnished.

7. Information shall be furnished to the Control Service free of charge should the law prescribe no other procedure.

8. State secret related information shall be furnished pursuant to the requirements of Regulation by the Cabinet of Ministers Nr 225 Regulation On Security of State Secret as of June 25, 1997.

9. The response to the request of the Control Service shall be furnished within 14 days from the day of receipt of the request.

Prime Minister V. Krištopans

Minister of Finance I. Godmanis

APPROVED BY
Council of Prosecutor General
of the Republic of Latvia
Decision 70
of June 17, 1998

BY-LAW OF FINANCIAL INTELLIGENCE UNIT (DISLOSURE OFFICE)

Issued in accordance with:

- Law on Prosecutor General of July 1, 1994;
- Anti-Money Laundering Law of December 18, 1997.

Amendments:

- Council of Prosecutor General Decision 78 of June 4, 1999 to amend Article 12 of Chapter II (June 4, 1999).

Chapter I

General

1. Financial Intelligence Unit, further "Disclosure Office", is a state institution working under supervision of Prosecutor General's Office. According to the legislation, Disclosure Office is responsible for collecting, processing and analysis of reports on unusual and suspicious financial transactions and forwarding of information to prosecution, investigation or court institutions in cases required by law.

2. Disclosure Office is a legal person funded from the state budget and having own balance section in Prosecutor General's budget, along with separate account. Disclosure Office has its own stamp, extended version of official coat of arms of the Republic of Latvia with full name of the institution *Financial Intelligence Unit.*

3. The overall objective of the Disclosure Office is to minimize use of Latvia's financial system for money laundering.

4. Functions of Disclosure Office are to:

4.1 follow recommendations of the Advisory Council in developing unusual financial transaction indicator list to be submitted to the Cabinet of Ministers and prepare necessary amendments to the list;

4.2 disclose unusual and suspicious financial transactions;

4.3 collect, register and analyze unusual and suspicious financial transaction reports;

4.4 use all legal intelligence gathering methods to disclose money laundering attempts or acts;
4.5 analyze collected transaction and persons information and decide whether to forward it to investigators or court, if the information is enough to form reasonable suspicion of money laundering attempt or act;
4.6 provide information about transactions registered in the data base upon request of institutions legally authorized to demand the information in cases and according to procedures prescribed by law;
4.7 assess the quality and effectiveness of received information and give feedback to credit or financial institution that submitted such information;
4.8 provide information and request legal assistance from counterparts in other countries having the same responsibilities as Disclosure Office according to international law and agreements;
4.9 cooperate with international organizations in training, organizing and participation at workshops on money laundering topics;
4.10 analyze and research money laundering attempt or act conducting methods to improve anti-money laundering measures;
4.11 cooperate with the Advisory Board and arrange its records according to the by-law of the Board.

Chapter II

Management and Staff

5. Disclosure Office is managed by Prosecutor's appointed Head who bears full responsibility for operations of the Office.

6. Head of Disclosure Office is entitled to hire or dismiss Office staff members.

7. In order to receive access to high confidentiality information, Head and staff of the Office shall comply with requirements of State Secrets Law.

8. Head of Disclosure Office is entitled and obliged to:
8.1 represent the Office without further authorization;
8.2 prepare and submit Prosecutor General Disclosure Office's budget estimates;
8.3 instruct Administrative Director about use of assigned funds;
8.4 prepare and submit staff salary rates for approval to the Advisory Board;
8.5 plan, organize and manage Office work;
8.6 give job descriptions to staff;
8.7 control subordinates;
8.8 apply disciplinary penalties and pay out bonuses to employees;
8.9 issue orders and instructions binding to staff members;
8.10 review complaints, claims and requests to reply to them pursuant to legislation;
8.11 organize and control implementing of Prosecutor General and other attorneys' orders on supervision functions;

8.12 implement or follow all other orders/instructions of Prosecutor General and recommendations/guidance of the Advisory Board;

9. Leave of the Head of Disclosure Office is approved by the Prosecutor General.

10. During vacation Head of Disclosure is substituted by the Deputy Head.

11. Except cases when legislation allows so, Disclosure Office employees, neither after working hours, nor after termination of work relationship, are prohibited to reveal work-related information.

12. Employees of Disclosure Office are obliged to give an oath to Code of Professional Ethics on the first day of work.

Chapter III

General Information Flow

13. Information sources:
13.1 credit and finance institutions;
13.2 international counterparts having the same field of operation;
13.3 data storage units of the Ministry of Interior;
13.4 other sources containing information vital for prevention, prosecution, pretrial investigation and court proceedings on money laundering and other criminal offences.

14. Disclosure Office shall register all information on scheduled, commenced, suspended and completed financial transactions.

15. Disclosure office is entitled to request from credit or finance institutions that have reported and/or are involved in transaction additional data or information necessary to decide if this is not key information for prevention, prosecution, pretrial investigation and court proceedings on money laundering and other criminal offences, therefore reported to supervising and prosecuting agencies.
Any information received from other countries, mass media or other sources is the basis for requesting additional information.

16. Disclosure office is obliged to comply with the following restrictions on access to information:
16.1 Information requested by the State Revenue Service from Disclosure Office is provided only to check the income declarations of government officials listed under Anti-Corruption Law, if there is reasonable evidence to believe that declaration contains false information on property and income.
16.2 Information requested by pretrial investigation agencies and courts is provided according to Article 33 of the Anti-Money Laundering Law.

16.3 Regular supervision information delivered by the Disclosure Office to the Prosecutor General and attorneys shall not be revealed to investigating agencies or court.

Chapter IV

Cross-Border Information Exchange

17. Disclosure Office may exchange information with international counterparts on voluntary or legal assistance basis.

18. National and international laws and agreements set forth the procedure for cross-border information exchange with foreign investigation and prosecution agencies.

19. Access to information:

19.1 when the other country can provide sufficient legitimacy in use of information and protection of privacy.
Information is subject to confidentiality equal to local information from sources protected by the national legislation of the country;

19.2 information is provided only for purposes on basis of which it was requested;

19.3 information is withheld when it may be used in investigation of the case to prosecute, punish or influence individuals for their political beliefs, nationality, race, wealth or social status and/or commit other types of human right offences;

19.4 information is withheld when it may be used in criminal investigation of cases against persons prosecuted and found innocent, released or convicted in Latvia;

19.5 information is also withheld in cases described under Latvian and international laws, including Convention of 1990 on Laundering, Search, Seizure and Confiscation of the Proceed from Crime after its ratification.

Chapter V

Other Rights and Obligations of the Disclosure Office

20. Head of Disclosure Office shall be present in meetings of Advisory Board as requested by the law.

21. Disclosure Office must report upon request of Advisory Board about the effectiveness of reporting procedure supervision and deliver any other information necessary for functioning of the Advisory Board.

22. Disclosure Office may ask Advisory Board to review any requests on operational matters.

23. Disclosure Office is entitled to require credit and finance institution supervision and control agencies ensure technical assistance to exercise powers under Anti-Money Laundering Law.

Chapter VI

Confidentiality of Content and Flow

24. Information flow at Disclosure Office is regulated by *Financial Intelligence Unit Manual for Registration, Processing, Storage and Termination of Information* commended by the Advisory Board and adopted by the Council of Prosecutor General.

25. Disclosure Office shall take all reasonable administrative, technical and other measures to ensure confidentiality of received, registered, stored and forwarded information, and prevent access violations, twisting of information, illegal dissemination of information or its termination.

26. Disclosure Office shall provide information only in circumstances set out by law.

27. General Prosecutor or attorneys are ensuring integrity and legitimacy of information in cases under Article 32-34 of the Anti-Money Laundering Law through explanatory notes attached to requested information to inform recipient about legal requirements on copying and rewriting of information to data basis, declassifying of information in case of criminal offence against individual.

28. Disclosure Office is prohibited to reveal identity of reporters who have disclosed information about unusual and suspicious financial transactions, furthermore, such information shall not be used as evidence in prosecution of credit or financial institutions and their employees in business relationship with client convicted of actual or attempted money laundering.
    Above provisions are not applicable in cases when credit or finance institutions and their employees have themselves been convicted of actual or attempted money laundering.

(Unofficial translation)

LAW "ON THE FINANCIAL AND CAPITAL MARKET COMMISSION"

In effect as of July 1, 2001

Note.
This Law will be effective as of July 1, 2001, except for Article 13, on the appointment of Chairperson and his/her Deputy, and Items 1, 2, and 4 of the Transition Rules that are effective as of the day following its promulgation.

With amendments passed by the Saeima of the Republic of Latvia on 8 November 2001, which took effect on 1 January 2002 [1].

SECTION I
GENERAL PROVISIONS

Article 1. This Law shall specify the provisions for the establishment and operation of the Financial and Capital Market Commission (hereinafter, the Commission).

Article 2. (1) The Commission shall enjoy full rights of an independent/autonomous public institution and, in compliance with its goals and objectives, shall regulate and monitor the functioning of the financial and capital market and its participants.
(2) The Commission shall make independent decisions within the limits of its authority, execute functions assigned to it by law, and be responsible for their execution. No one shall be entitled to interfere with the activities of the Commission, except institutions and officials authorised by law.

Article 3. (1) The Commission's legal ability and capacity shall comply with the objectives set forth in this and other laws. The Commission shall be assigned property owned by the state and have an independent balance sheet.
(2) The Commission shall have a seal bearing its full name, other corporate requisites and an account with the Bank of Latvia.

Article 4. Participants in the financial and capital market shall be issuers, investors, credit institutions, insurers, private pension funds, insurance brokers, stock exchanges, depositories, broker companies, brokers, investment companies, credit unions and investment consultants. [1]

SECTION II
COMMISSION'S GOALS, FUNCTIONS, AUTHORITIES AND RESPONSIBILITIES

Article 5. The goal of the Commission's activities shall be to protect the interests of investors, depositors and the insured, and to promote the development and stability of the financial and capital market.

Article 6. The Commission shall have the following functions:
1) to issue binding rules and regulations and directives setting out requirements for the functioning of financial and capital market participants and calculation and reporting of their performance indicators;
2) by controlling compliance with regulatory requirements and directives issued by the Commission, to regulate activities of the financial and capital market participants;
3) to specify the qualification and conformity requirement for the financial and capital market participants and their officials;
4) to establish the procedure for licensing and registration of the financial and capital market participants;

5) to collect and analyse information (data) relating to the financial and capital market and to publish it;

6) to ensure accumulation of funds with the Deposit Guarantee Fund, and Protection Fund for the Insured, their management and payment of compensation from these funds in accordance with the Laws on Deposits of Individuals and the Insurance Companies and their Supervision;

7) to ensure payment of compensations to investors in accordance with the Investor Protection Law; [1]

8) to analyse regulatory requirements pertaining to financial and capital market and draft proposals for their improvement and harmonisation with the regulatory requirements Community;

9) to engage in systemic studies, analysis and forecasting of the financial and capital market development;

10) to cooperate with foreign financial and capital market supervision authorities and participate in international organizations of the financial and capital market supervision institutions.

Article 7. (1) Executing the functions specified under Article 6 hereof, the Commission shall have authority:

1) to issue regulations and directives, governing the activities of the financial and capital market participants;

2) to request and receive information necessary for the execution of its functions from the financial and capital market participants;

3) in cases stipulated under the regulations, to set forth restrictions on the activities of the financial and capital market participants;

4) to examine compliance of the activities of the financial and capital market participants with the legislation, and regulations and directives of the Commission;

5) to apply sanctions set forth by the regulatory requirement to the financial and capital market participants and their officials in case said requirements are violated;

6) to participate in the general meeting of the financial and capital market participants to initiate convening of meetings of the financial and capital market participant management bodies, specify items for their agenda, and participate therein;

7) to request and receive, from the Commercial Register and other public institutions, any information required for execution of its functions free of charge;

8) to cooperate with foreign financial and capital market supervision authorities and, upon mutual consent, exchange information necessary to execute its functions set forth by law;

(2) In order to execute its functions specified by law, the Commission is entitled to carry out other activities permitted under the normative acts.

Article 8. Regulations and directives issued by the Commission are binding upon the financial and capital market participants. Regulations are effective as of the day following their publication in the government journal Latvijas Vestnesis, if same regulations do not provide for otherwise.

Article 9. The Commission shall be responsible for:

1) stability and development of the financial market;

2) promotion of free competition within the financial market.

SECTION III
Relation of the Commission with the Bank of Latvia and the Ministry of Finance

Article 10. (1) At least once per quarter the Commission shall submit information summary on the situation in the financial and capital market to the Bank of Latvia and the Ministry of Finance.

(2) Of short-term liquidity problems of a particular financial and capital market participant or its potential or actual insolvency, the Commission shall inform the Governor of the Bank of Latvia and the Minister of Finance in writing. The Commission shall be authorised to request the Bank of Latvia to extend a loan against collateral to any such credit institution.

(3) The Commission and Bank of Latvia shall share the statistic relevant to execution of their tasks.

Article 11. The Commission shall provide information on the financial status of specific credit-institutions upon a written request of the Governor of the Bank of Latvia.

Article 12. If not otherwise specified by regulatory requirements, the information referred to in this Section shall be considered restricted.

SECTION IV
Establishment and Management of the Commission

Article 13. (1) The Commission shall be governed by its Council.
(2) The Council shall be comprised of five members: the Chairperson of the Commission (hereinafter, Chairperson), his/her Deputy and three members, who are also directors of the Commission's Departments.
(3) The Parliament shall appoint the Chairperson and his/her Deputy for a period of six years upon a joint proposal of the Minister of Finance and the Governor of the Bank of Latvia.
(4) The Chairperson shall appoint and remove other members of the Council coordinating his/her decision with the Governor of the Bank of Latvia and the Minister of Finance.
(5) A person may be appointed to the position of Chairperson, Deputy Chairperson or a Council member provided that he/she:
1) is competent in financial management;
2) is of good repute;
3) has at least five years experience in the financial and capital market.
(6) The position of Chairperson, Deputy Chairperson or Council member shall not be taken by a person who:
1) has a criminal record for committing a deliberate offence, irrespective of its annulment or removal;
2) has been deprived of the right to engage in a particular or any type of entrepreneurial activity.

Article 14. The Parliament shall dismiss the Chairperson or Deputy Chairperson from his/her position before the end of their terms as specified under Paragraph 2 of Article 13 only if:
1) an application on resignation is submitted by the respective person;
2) a court judgement whereby the Chairperson or his/her Deputy is convicted for criminal offence becomes effective;
3) the Chairperson or Deputy Chairperson is not able to officiate for a period of six consecutive months due to illness or for any other reason;
4) an application submitted jointly by the Governor of the Bank of Latvia and the Minister of Finance, on his/her early dismissal has been received.

Article 15. (1) The meeting of the Council shall be convened and presided over by the Chairperson or, during his/her absence, by the Deputy Chairperson.
(2) The Council shall be considered competent if no fewer than four of its members are present at a meeting, provided that one of them is the Chairperson or Deputy Chairperson.
(3) Each member of the Council shall have the right to call a meeting of the Council by submitting a written application.
(4) Meeting of the Council shall be convened on an as-needed basis, however, not less frequently that once a month.

Article 16. (1) The Council shall pass resolutions by a simple majority. In case of vote parity, the vote of the chairperson of the meeting shall be decisive.
(2) The Governor or Deputy Governor of the Bank of Latvia and the Minister of Finance may participate in Council meetings in the capacity of advisors. Heads of the public organizations (professional associations) of the financial and capital market participants may also take part in Council meetings in such capacity, provided that these meetings have not been declared closed by a resolution of the Council.
(3) All Council members attending a Council meeting shall sign its minutes.
(4) If any Council member does not agree with a resolution of the Council and votes against it, his/her

individual opinion shall be recorded in the minutes and he/she shall not be held responsible for this resolution of the Council.

Article 17. The Council shall have the exclusive right:

1) to approve supervisory and regulatory policies for the financial and capital market;

2) to issue binding regulations and directives regulating the activities of the financial and capital market participants;

3) to issue special permits (licenses) or certificates authorising operation in the financial and capital market;

4) to suspend and renew the validity of the special permits (licenses) or certificates issued;

5) to annul any special permit (license) or certificate issued;

6) to take decisions on the applications of sanctions against persons in breach of any of the regulatory requirements pertaining to the financial and capital market;

7) to specify payments to be made by the financial and capital market participants to finance the activities of the Commission;

8) to approve the structure of the Commission, its Statutes and structural units;

9) to approve the annual budget of the Commission;

10) to establish remuneration for the Commission's staff;

11) to approve the Commission's performance and annual report;

12) to approve the procedure for registration, processing, storage, distribution and liquidation of information at the disposal of the Commission;

13) to pass resolutions on signing cooperation agreements with the Bank of Latvia and foreign financial supervision authorities on the exchange of information necessary for supervision and regulation of the financial and capital market;

Article 18. (1) The Chairperson shall represent the Commission and shall be responsible for the organization of its activity. In the Chairperson's absence, his/her duties shall be performed by the Deputy Chairperson.

(2) The Chairperson shall hire and dismiss the Commission's staff.

(3) The Chairperson shall represent the Commission in its relations with state institutions, the financial and capital market participants and international organizations.

SECTION V
Responsibility of the Officials and Staff of the Commission

Article 19. (1) The members of the Council, heads of its structural units, and other employees are officials of the Commission. The list of the employees to be ranked as government officials shall be approved by the Chairperson;

(2) To determine the restrictions on entrepreneurial activities, gaining income, combining positions and execution of tasks, as well as other related restrictions, duties and responsibilities of the officials of the Commission, the provisions of the Anti-corruption law apply.

Article 20. (1) The Council members as well as heads and employees of the structural units of the Commission are prohibited from publicly disclosing or disseminating in any other manner, both during the their office term, and after termination of their employment or any other contract relationship with the Commission, data or any other information related to the financial and capital market participants that has not been previously published in accordance with procedures set by law or whose disclosure has not been approved by the Council.

(2) The persons specified under Clause (1) of this Article, in compliance with the regulatory requirements, shall be held responsible for any illegal disclosure of restricted information as well as for any loss incurred by third parties as a result of unlawful actions of the Commission's employees.

SECTION VI
Consultative Council of the Financial and Capital Market Commission

Article 21. (1) Consultative Council of the Financial and Capital Market Commission (hereinafter, the Consultative Council) shall be established to promote the efficiency of the monitoring of the financial and capital market and promotion of its safety, stability and growth. It shall be a collegial, advisory body charged with the following tasks:

1) to review legislation drafted for the regulation of the financial and capital market participant activities;

2) upon a financial and capital market participant's request and prior to consideration by the Commission, to review the participant's complaints regarding the findings of the Commission's inspections;

3) to prepare policy recommendations for the Council relevant to the execution of the Commission's functions as set by law, and improvement and development of the financial and capital market regulation and monitoring;

4) to review the Commission' s annual budget and issue its opinion thereupon;

5) to submit proposals to the Chairperson of the Commission regarding improvement of the Commission's activities;

6) to supervise the accrual of funds with the Deposits Guarantee Fund and the Fund for the Protection of the Insured and compensation payments from these Funds.

(2) If the Council's decision does not agree with the opinion previously made by the Consultative Council on the same issue, the minutes of the Council meeting shall reflect the motivation for declining said opinion.

(3) The Consultative Council shall be comprised of representatives of the Commission and heads of the public organizations (professional associations) of the financial and capital market participants on the principle of parity.

(4) The Consultative Council shall be considered competent if at least half of its members are present at its meeting. It shall pass resolutions by a simple majority of vote of the members present. In case of vote parity, the resolution shall be considered not passed.

(5) The meeting of the Consultative Council shall be presided by the Chairperson or Deputy Chairperson of the Commission.

(6) The Commission shall be responsible for the record keeping of the Consultative Council.

SECTION VII
Financing of the Commission

Article 22. (1) Activities of the Commission shall be financed from payments of the participants of the financial and capital market made in the amounts specified by the Council and not exceeding the amount set by law. The participants' payments shall be transferred to the Commission's account with the Bank of Latvia and utilized solely for the purpose of financing its activities.

(2) Payments by permanent representative offices and branches of foreign undertakings (business enterprises) engaging in entrepreneurial activity in the Republic of Latvia as participants of the financial and capital market shall be made as provided for under Article 23 of this Law.

Article 23. (1) The Commission's revenue shall be comprised of:

1) insurers' payments calculated from the total sum of the received quarterly insurance premiums:

a) up to 0.4% (inclusive) of life insurance transactions related to the accrual of funds;

b) up to 0.2% (inclusive) of transactions related to the third party mandatory civil liability insurance of land vehicle owners;

c) up to 0.7% (inclusive) of other insurance;

2) private pensions fund payments of up to 0.4% (inclusive) of quarterly contributions made by or on behalf the pension plan members within pension plans licensed by private pension funds;

3) credit institutions' payments of up to 0.033% (inclusive) of the average quarterly value of their assets;

4) brokerage companies' payments of up to 1% (inclusive) of the average quarterly gross income from their transactions, but not less than 2,000 lats per year;

5) Stock Exchange payments of up to 2% (inclusive) of the average quarterly gross income from the Stock Exchange transactions, but not less than 5,000 lats per year;

6) Depository payments of up to 2% (inclusive) of the average quarterly gross income from the Depository's transactions, but not less than 5,000 lats per year;

7) investment companies' payments of up to 0.033% (inclusive) of the quarterly average asset value of investment funds managed by the investment companies, but not less than 2,500 lats per year;
8) income from services provided by the Commission as set by law;
9) payments of credit unions for financing the activities of the Commission of up to 0.033% of the average quarterly value of their assets. [1]

(2) Payments for the financing of the Commission are made by each participant of the financial and capital market in compliance with Paragraph 1 of this Article and Paragraph 2 of Article 22.

Article 24. (1) In accordance with the provision and terms set forth by the Commission, the financial and capital market participants shall file with the Commission reports as necessary for the calculation of payments determined by Article 23 and make payments for the financing of the Commission by 30th day of the first month following the end of each quarter.
(2) The Commission shall issue binding regulations on the filing of the reports specified under Paragraph 1 of this Article and on calculation of payments.
(3) The Payments made by the financial and capital market participants for the financing of the Commission shall be accounted for as their expenditure.

Article 25. (1) A delayed or incomplete transfer of payment to the Commission's account with the Bank of Latvia shall incur a penalty in the amount of 0.05% of the outstanding amount per each of delay.
(2) The financial and capital market participants shall transfer the calculated penalty for payment delay to the Commission's account with the Bank of Latvia.

Article 26. The end of the year balance of the Commission's accounts with the Bank of Latvia shall remain at the disposal of the Commission and shall be utilized in the succeeding year for the financing of the budget expenditure approved by the Council.

SECTION VIII
Control over the Commission's Activity

Article 27. The Commission shall annually - but no later than 1 July - file with the Parliament and the Ministry of Finance a written report on its performance during the proceeding year and full annual accounts audited by a sworn auditor. [1]

Article 28. The Commission shall publish its balance sheet statement and the opinion of the sworn auditor in the government journal Latvijas Vestnesis not later than on July 1 following the end of the reporting year.

Transition Rules

1. The Credit Institutions Supervision Department of the Bank of Latvia, the Securities Market Commission and the Insurance Supervision Inspectorate shall merge by June 30, 2001.

2. The Commission shall commence its activities on July 1, 2001.

3. The Commission shall be the legal successor of the rights, obligations and liabilities of the Securities Market Commission and the Insurance Supervision Inspectorate, rights pertaining to the management of the Deposits Guarantee Fund, and Bank of Latvia's rights, obligations and liabilities credit institution's supervision.

4. By August 31, 2000 the Chairperson shall set the Commission's draft budget for 2001. The expenses related to the establishment pertaining to the supervision of its activities shall be proportionally covered from the funds of the Bank of Latvia, Securities Market Commission and Insurance Supervision Inspectorate.

5. Within the period from July 1, 2001 to December 31, 2006, activities of the Commission shall be financed from payments made by the participants in the financial and capital market, the state budget and the Bank of Latvia as follows:

1) expenses related to the supervision of credit institutions:

a) in the years 2001, 2002 and 2003, 1,200,000 lats shall be provided by the Bank of Latvia;

b) in the year 2004, 960,000 lats shall be provided by the Bank of Latvia and the rest by credit institutions in compliance with the provisions set out in Section VII hereof;

c) in the year 2005, 600,000 lats shall be provided by the Bank of Latvia and the rest by credit institutions in compliance with the provisions set out in Section VII hereof;

d) in the year 2006, 240,000 lats shall be provided by the Bank of Latvia and the rest by credit institutions in compliance with the provisions set out in Section VII hereof;

2) expenses related to the supervision of insurance shall be covered by the insurers in compliance with the provisions set out in Section VII hereof;

3) expenses related to the supervision of securities market and private pension funds:

a) in the year 2001, 100% of the total shall be covered from the state budget;

b) in the year 2002, 80% of the total shall be covered from the state budget and 20% by the financial and capital market participants, except credit institutions and insurers, in compliance with the provision set out in Section VII hereof;

c) in the year 2003, 60% of the total shall be covered from the state budget and 40% by the financial and capital market participants, except credit institutions and insurers, in compliance with the provision set out in Section VII hereof;

d) in the year 2004, 40% of the total shall be covered from the state budget and 60% by the financial and capital market participants, except credit institutions and insurers, in compliance with the provision set out in Section VII hereof;

e) in the year 2005, 20% of the total shall be covered from the state budget and 80% by the financial and capital market participants, except credit institutions and insurers, in compliance with the provision set out in Section VII hereof;

f) in the year 2006, 250,000 lats shall be provided by financial and capital market participants in compliance with the provisions under Section VII hereof; [1]

4) expenses related to the supervision of credit unions shall be covered by credit unions in compliance with the provisions set out in Section VII hereof. [1]

6. The payment defined under Paragraph 1 of Article 5 of the Transition Rules shall be executed by the Bank of Latvia once per quarter by the 15th day of the first month of each quarter in an amount equal to one fourth of the amount that the Bank of Latvia is due to cover in the respective year.

7. Commencing with the year 2007, the activities of the Commission shall be fully financed from the payments of the financial and capital market participants.

8. Licenses (permits) and professional qualification certificates issued by the Securities Market Commission. Insurance Supervision Inspectorate and the Bank of Latvia for operation in the financial and capital market still valid on July 1, 2001 shall be valid until their expiration. Provisions for intensified supervision and restrictions on financial services applied by the Bank of Latvia in accordance with the Law "On Credit Institutions" that are effective on July 1, 2001 shall remain valid until the Commission resolves to abolish them.

9. Until the passage of the respective regulatory requirements of the Commission, yet not later than by January 1, 2002, the following Cabinet of Ministers Regulations shall remain effective, unless this law stipulates otherwise:

1) the Cabinet of Ministers Regulation No. 401 of October 6, 1998 for "Payments to the Protection Fund of the Insured";

2) the Cabinet of Ministers Regulation No. 421 of October 27, 1998 for the "Annual Reports of Insurance Companies";

3) the Cabinet of Ministers Regulation No. 436 of November 17, 1998 for the "Registration Rules for Insurance Companies and Insurers";

4) the Cabinet of Ministers Regulation No. 441 of November 24, 1998 for "Accounting for

Insurance Broker's Services in Insurance Brokerage Companies";

5) the Cabinet of Ministers Regulation No. 442 of November 24, 1998 for "Insurance Brokerage Companies Civil Liability Insurance";

6) the Cabinet of Ministers Regulation No. 18 of January 19, 1999 for the "Certification of Insurance Brokers";

7) the Cabinet of Ministers Regulation No. 91 of March 17, 1998 for "Special Permits (Licenses) for the Operation of Private Pension Fund";

8) the Cabinet of Ministers Regulation No. 234 of July 7, 1998 for the "Calculation of Additional Capital Accrued with Private Pension Fund ";

9) the Cabinet of Ministers Regulation No. 253 of July 14, 1998 for "Private Pension Fund's Annual Report".

10. Until the adoption of the respective regulatory documents by the Commission, but not later than January 1. 2002, binding regulations, issued by the Securities Market Commission, Insurance Supervision Inspectorate and the Bank of Latvia, governing the operation of the financial and capital market participants, calculation of their performance indicators and reporting shall remain effective unless this law stipulates otherwise.

11. As of July 1, 2001, the Law On Securities Market Commission shall be no longer in effect (Zinotajs of the Parliament of the Republic of Latvia and the Cabinet of Ministers, 1995, No. 20; 1997, No. 14; 1998, No. 23).

Riga, May 12, 2006 Regulations No. 93
(Minutes No. 21 Paragraph 2 of the Board of the Financial and Capital Market Commission)

Regulations for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism

Issued pursuant to Section 7, Paragraph one, Clause 1
and Section 17, Clause 2
of the Law on the Financial and Capital Market Commission.

1. General Provisions

1. These Regulations determine the provisions which credit institutions, credit unions, investment brokerage companies, investment management companies, insurers, the Latvian Central Depository, organizers of a regulated market (stock exchanges), private pension funds and insurance intermediaries (hereinafter referred to as the Participant) shall take into account when formulating and documenting an internal control system for the purpose of identifying clients and verifying actual beneficiaries as well as unusual and suspicious transactions.

2. These Regulations are binding on the Participant insofar as the formulation of these Regulations may be applicable to the relevant Participant or its operation.

3. The Participant shall develop and document the adequate policy and procedures mentioned in these Regulations to comply with the provisions of the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity (hereinafter – the Law), to minimise the possibility for the Participant to co-operate with clients involved in transactions linked to the laundering of proceeds derived from criminal activity or financing of terrorism as well as to preclude damages for a rapid loss of confidence.

4. Terms used in these Regulations as follows:

4.1. groups of clients at risk – classification of clients by the Participant on a basis of indicators determined by internal control system documentation where the clients shall be classified pursuant to the assessment of the Participant in respect of the risks caused by the clients regarding the laundering of proceeds derived from criminal activity or financing terrorism;

4.2. high-risk client – a client who, or the indicators of transactions conducted by whom, testify to an increased risk with respect to the possible laundering of proceeds derived from criminal activity or financing of terrorism and such indicators are specified in the Participant's internal control system documentation;

4.3. politically exposed person – a foreign natural person who holds a position of the head of a state, head of a government, minister, Supreme Court Chairman, Constitutional Court Chairman, MP, family members of such persons (a spouse, parents, siblings and children) shall be deemed to be politically exposed persons, as well as persons who have left the said offices during the past year, and family members of such persons;

4.4. group of mutually associated clients – two or more persons who constitute one joint exposure for a credit institution because one of such persons controls another person or other persons directly or indirectly, except for cases where the persons who control another person or other persons directly or indirectly are the Latvian State or local governments, Member States of the European Union, Organisation for Economic Co-operation and Development and European Economic Area states, and local governments of the Member States of the European Union and European Economic Area states;

4.5. internal control system (for the purposes of these Regulations) – a set of policy and procedures of the Participant, their control and assessment mechanism for the purpose of ensuring operations of the Participant in the manner that the management of the Participant can be assured that the Participant is protected against the risk of being involved in the laundering of proceeds derived from criminal activity and transactions linked to the financing of terrorism, operational risks are constantly supervised and assessed, operations (transactions) are conducted pursuant to the procedures prescribed by the Participant, the Participant acts prudently, cautiously and efficiently in full compliance with the requirements of the Law and other regulatory enactments;

4.6 offshore business entity – a business entity registered with a low-tax or non-tax country as determined by the Cabinet of Ministers' Regulation No. 276 On Low-tax or Tax-free Countries and Territories of 26 June 2001, or any substitutive regulatory enactments

2. Core Elements of Internal Control System

5. The documentation of internal control system (policy and procedures) developed by the Participant shall include the following core elements:
5.1. determination of eligible potential clients;
5.2. identification of clients and verifying of an actual beneficiary;
5.3. identification of suspicious transactions;
5.4. identification of high-risk clients;
5.5. on-going monitoring of transactions performed by clients which size and regularity depend on the relevant risk group;
5.6. procedure for refraining from effecting suspicious transactions.

6. In the documentation of internal control system, the Participant shall determine the procedure according to which it commences and terminates business relations with intermediaries (agents), who under the order of the Participant carry out identification of clients and verifying of actual beneficiary, which prescribes mutual obligations, responsibilities and requirements set for such intermediaries (agents), incl. impeccable reputation, sound financial standing.

7. Staff members of intermediaries (agents), referred to in point 6, who perform identification of client and verification of actual beneficiary shall be identified by the Participant in accordance with the provisions of the Law in respect of identification of the client.

8. The use of services by intermediaries (agents), referred to in point 6, shall not release the Participant from responsibility for identifying of clients, verifying of actual beneficiary and managing economic activity.

9. In the documentation of internal control system, the Participant shall determine the procedure that regulates keeping of the documents related to a client.

2.1. Determination of Eligible Potential Clients

10. In the documentation of internal control system, the Participant shall determine eligible potential clients and define indicators characterising clients with whom the Participant does not wish to co-operate.

11. When determining eligible potential clients, the Participant shall consider the reputation of the client, the country in which the client is registered (country of residence), the general type of economic activity (transactions) of the client and the accessibility to information and documents on these transactions.

12. In the documentation of internal control system, the Participant shall define minimum criteria (procedures) for discontinuing co-operation with the client.

2.2. Identification of Client and Verification of Actual Beneficiary

13. In the documentation of internal control system, the Participant shall determine the procedure determining the client identification and actual beneficiary verification procedures.

14. Prior to commencing cooperation with the client the Participant shall require information from the client on scheduled transactions of which the Participant shall be involved, as well as types and volumes of transactions.

15. In the documentation of internal control system (procedures), the Participant shall determine the procedure for verifying actual beneficiary, including targeted, adequate and useful activities so that the Participant shall make sure that it possesses adequate information regarding the actual beneficiary, his or her personal or economic activity and the origin of funds.

16. To comply with requirements set in point 15 of these Regulations, the Participant may use (incl. requiring a client to submit the following documents):
16.1. statements or extracts from the registries of immovable properties or other properties (Land Registry, Road Traffic Safety Directorate, Ship Registry etc.);
16.2. statements or extracts from public registries on stocks and capital shares held by an actual beneficiary;
16.3. information from an account holder about the funds owned by an actual beneficiary;
16.4. statements or information of other kind on workplace, job positions, occupation, profession, education of actual beneficiary etc.;

16.5. declaration of income (tax) of actual beneficiary or documentary information of other kind on the income rate of actual beneficiary and ways of earning income (salaries and wages, dividends, income from corporate contracts (transactions), legacy, grant, income from confiscation of property, etc.);
16.6. other documentation or information which attest to the property status of actual beneficiary.

17. A natural person, non-resident, who has personally appeared before the Participant in Latvia, shall be identified only by the document valid for immigration into Latvia.

18. The Participant may rely on the identification of the client, verifying the actual beneficiary and managing of client's economic or personal activities conducted by another financial institution under supervision of the state authorized institution which is part of group of enterprises registered with the European Union (EU) Member State, a foreign state, which is a member state of the Organization for Economic Cooperation and Development or the Financial Action Task Force (FATF), if such procedures are documented in the procedures of the Participant.

19. If the Participant conducts activities referred to in point 18, it shall be responsible for the compliance with the law requirements for identification of the client, verifying of the actual beneficiary and managing of client's economic or personal activities.

20. In the documentation of internal control system , a credit institution shall define criteria for a foreign credit institution with which co-operation is not commenced.

21. In the documentation of internal control system, the Participant shall develop the procedure for a foreign credit institution which has opened an account with the Participant to evaluate efficiency and sufficiency of the internal control system in the area of prevention of laundering of proceeds derived from criminal activity and transactions linked to the financing of terrorism as well as the procedure for on-going monitoring transactions on the client's account.

22. If among the potential clients the Participant envisages co-operation with offshore-registered business entities or business entities whose registration (residence) country legislation in point of fact enables the business entity to carry out economic activity in common with an offshore-registered business entity, the Participant shall define methods in the documentation of internal control system which ensure that adequate information is available to the Participant regarding purposes for the use of account and origin of the funds.

23. To comply with the requirements of point 22, the Participant may use:
23.1. documented information about the previous economic activity of the business entity;
23.2. documented information about economic or personal activities of the newly founded business entity or his/her actual beneficiary, as well as his/her business co-partners;
23.3. schematic representation of cooperation between the business entity and co-partners;
23.4. other kind of reasonable and verifiable information which, under the procedure, the Participant uses for verifying the origin of the money.

24. The Participant is not authorized to commence providing financial services to a client until the identification of the client and verification of actual beneficiary have been accomplished pursuant to the Law.

25. In commencing provision of financial services to a client with whom the Participant establishes transaction relationship remotely through any electronic means of communication or post office services, the Participant may trust in the identification of a client conducted by a public notary. In this case, the public notary shall testify a will of a client to commence business relations with the Participant and a valid copy of document certifying the identity of a person.

26. Identification of the client or a potential client and verification of an actual beneficiary abroad may be carried out by a staff member of the Participant's representative office which is authorized to operate in the relevant foreign country pursuant to its regulatory enactments, or an intermediary (agent).

27. In the documentation of internal control system, the Participant shall determine and document the follow-up measures to be taken to ascertain the veracity of the submitted client identification data and information on actual beneficiary provided to the Participant by the client who has entered into transaction relationship remotely, instead of appearing before the Participant in person.

28. Complying with the provisions of point 27, the Participant may:
28.1. request a client to be physically present when entering into the first transaction;
28.2. carry out checking the indicated address and the phone number by sending documents to the address indicated by the client via courier or organising face-to-face visits, or contacting the client by the indicated phone number or otherwise checking the information provided;
28.3. check whether a client or an actual beneficiary is not put on lists of undesirable clients via internationally acknowledged and verified Internet sources which are stipulated by the Participant's procedure, or public and commercial data bases;
28.4. check whether the Participant has not terminated business relationship with the client in the past;
28.5. check the Internet home page and e-mail address of the client or actual beneficiary searching through the Internet;
28.6. make use of additional actions other than those mentioned in points 28.1. – 28.5. which are set in the Participant's internal control system documentation and which provide for equivalent checking of data and information as indicated in the said points of these Regulations.

29. A credit institution, investment brokerage company and investment management company shall require the client at least the following information on the actual beneficiary in a form of a statement:
29.1. the information identifying the client in accordance with the Law;
29.2. attestation by the client that the person indicated in the statement is the actual beneficiary of the client;
29.3. determination by the client to, without delay, inform the Participant in writing of any changes in the information concerning the actual beneficiary of the funds.

2.3. Identification of Suspicious Transactions

30. The Participant shall determine and document the procedure for identifying suspicious transactions.

31 The Participant shall determine indicators of suspicious transactions when assessing risks, which arise from the structure of its clients and economic activities, carried out by the client.

32. In the documentation of internal control system, the Participant shall determine the procedure for the action of the Participant when ascertaining that the client conducts a transaction which is untypical of the economic or personal activity of the client, or causes suspicion of the laundering of proceeds derived from criminal activity or financing of terrorism.

33. The following indicators may attest to the suspicious nature of a transaction of a client of a credit institution, a credit union, an investment brokerage company, an investment management company, the Latvian Central Depository, an organizer of a regulated market and a pension fund client:

33.1. the transaction is not apparently unlawful;
33.2. the type or volume of the transaction, which is untypical of the economic activity of the client and explanatory notes to transactions conducted by the client arise reasonable suspicion;
33.3. the transaction is not related to economic or personal activity;
33.4. the client effects a large number of identical transactions involving small quantities, which arises suspicion of a deliberate avoidance of conducting such a transaction as in accordance with the Law conforms to the indicators of an unusual transaction;
33.5. the transaction is related to another transaction, which has already been reported to the Office for the Prevention of Laundering of Proceeds Derived from Criminal Activity (hereinafter – the Financial Intelligence Unit) by a credit institution, credit union, investment brokerage company, investment management company, depository, organizer of a regulated market or pension fund;
33.6. changes in the turnover of the client's funds which are untypical of the economic activity of the client and explanations provided by the client arise reasonable suspicion;
33.7. the funds on the account, which is opened not for business but personal activity, are often deposited by a person other than the client, a family member of the client (spouse, parents, siblings and children), an actual beneficiary, or a person authorised by the client, and explanations provided by the client arise reasonable suspicion;
33.8. the number of accounts or payments of the client is disproportionately large for his or her economic activity;
33.9. the client hands over banknotes with a nominal value or packaging untypical of his or her economic or personal activity, and;
33.10. other indicators which are untypical of the payments effected erroneously f the economic or personal activity of the client.

34. The following indicators may attest to the suspicious nature of a transaction of an insurer and insurance intermediary of the client:
34.1. the insured risk does not exist;

34.2. the interests of the person to be insured do not exist;
34.3. the client expresses his or her desire that the place of entering into the contract stated in the insurance contract be different from the actual place of entering into the insurance contract,
34.4. unjustifiable involvement in transactions of third persons, incl. insurance payouts to a third person unambiguously not related to the client or to a third person not indicated in the insurance contract;
34.5. the client expresses his or her desire that the provisions regarding insurance premiums or payouts which are untypical of the economic or personal activity of the client be included in the insurance contract, or untypical, unclear use of means of payment of third persons for insurance premiums;
34.6. recurring termination of insurance contracts before expiry of their term;
34.7. an untypical or unclear change of credit institutions or credit unions' accounts of the client within the insurance transaction period;
34.8. activities of the client which do not facilitate the possibilities of the insurer to obtain adequate and true information concerning the contractual obligations of the client, including unclear (complex) information or information expensive for verification;
34.9. the use of cash for insurance transactions in an untypical manner to usual practice or lacking explanation from the client;
34.10. untypical or unclear use of insurance intermediaries in transactions (high or untypical insurance premiums or remuneration to insurance intermediaries, an untypical increase in sales etc.);
34.11. regular overpayment of insurance premiums and claim to repay the payments effected erroneously by the client;
34.12. the insurer determines other indicators specific to transactions of the client which he or she deems as untypical or unclear to the transaction.

2.4. Identification of High-risk Clients

35. In the documentation of internal control system, the Participant shall define indicators characterising high-risk clients.

36. At least one of the following indicators attests to the fact that the client is of high risk:
36.1. the country in which the client is registered (country of residence) is included in the internationally recognized list of countries which are related to the laundering of proceeds derived from criminal activity or financing of terrorism;
36.2. the country in which the client is registered (country of residence) is included in the Financial Action Task Force on Money Laundering (FATF) list of countries not cooperating in the fight against money laundering;
36.3. the client regularly enters into unusual and suspicious financial transactions, of which the Participant notifies the Financial Intelligence Unit;
36.4. the client, without reason, strives to decrease the amount of information to be provided to the Participant regarding verification of the actual beneficiary (the volume of his or her economic or personal activity, or transactions effected by him or her);
36.5. inquiries from law enforcement agencies or judicial authorities have been received regarding the client in relation to the laundering of proceeds derived from criminal activity or financing of terrorism;

36.6. the client that is a commercial company in which the actual beneficiary owns a majority of bearer shares, except in cases where the purpose of establishing the client and its economic activity are known to the Participant and properly documented, and the actual beneficiary of the client is not a high-risk client;
36.7. the client is a person regarding which no financial statements are available to the Participant in cases where such statements shall be prepared under the legislative enactments of the country in which the client is registered (country of residence);
36.8. a new client (for a period up to three months), who is registered as a business entity in an offshore or legal enactments of the country in which the client is registered (country of residence) in its terms entitles the client to carry out economic activity in the same manner as an offshore-registered business entity where the actual monthly turnover exceeds 200,000 lats or its equivalent in another currency;
36.9. the client's operations materially differ from the general type of operations declared by him or her and the client has not notified of causes for these differences;
36.10. the client is a politically exposed person.

37. In the documentation of internal control system, the Participants may determine additional criteria so as the provisions of point 35 shall be applied taking account of a risk degree deriving from the client activity as well as the relevance and significance of the client in the total client base.

38. In the documentation of internal control system, the Participant shall determine procedures as to how ascertain politically exposed persons. The Participant may rely on the information provided by the client himself/herself that he or she is a politically exposed person.
39. The Participant shall determine a client acceptance system based on risk assessment before commencing business relations with the client. The Participant shall commence providing services to high-risk clients after applying a due diligence process.

40. In the documentation of internal control system, the Participant shall determine periodicity as to how information regarding the economic or personal activity of high-risk clients is to be updated.

41. The Participant is obliged to verify the managerial structure of the high-risk client (legal person).

42. In the documentation of internal control system, the Participant shall determine methodology for visiting high-risk clients and the procedure for recording such visits. When determining necessity and regularity of visits, the Participant may take account of the client's relevance and importance within a joint clients' base of the Participant.

43. In the documentation of internal control system, the Participant shall determine the procedure as to how the Participant shall verify adequacy and veracity of the information about the sources of origin of the of the high-risk client's funds. The Participant shall determine criteria for verification whether the veracity and adequacy of information on high-risk clients (incl. politically exposed persons) whose accounts have been used mostly for personal activity - personal investments and saving funds, rather than for economic activities.

2.5. On-going Monitoring of Clients' Transactions

44. In the documentation of internal control system, the Participant shall determine the procedures and periodicity for on-going monitoring of transactions in accounts of clients. When applying the set procedure, the Participant may take account of client groups at risk, the client's relevance and importance within a joint clients' base of the Participant.

45. In the documentation of internal control system, the Participant shall determine the procedure as to how provide documenting of economic or personal activities of high-risk clients and groups of mutually associated clients.

46. For the client to whom an annual account is available on which a report from a certified auditor or certified auditor commercial company is submitted, the Participant, at minimum, shall periodically conduct a comparison of activities in the account with the data indicated in the respective annual report. In relation to the client on whom such annual account is not available to the Participant, the Participant shall analyse documentation certifying or explaining the most voluminous transactions in the account of the client or any other documentation, and make certain that and the transactions effected comply with economic or personal activities of the client and whether they do not arise suspicion of the laundering of proceeds derived from criminal activity or financing of terrorism.

47. The Participant shall determine the procedure for opening the accounts, performing transactions (and monitoring) transactions of the client who is registered with the country which is included on the list of countries that do not co-operate with FATF in the area of the prevention of laundering of proceeds derived from criminal activity and financing of terrorism, as well as other countries against which the sanctions of the United Nations Organization and European Union are taken, or the countries which are classified as "malicious tax heaven" by the Organization for Economic Cooperation and Development.

48. For the purposes to maintain an on-going monitoring, the Participant's management shall ensure the following:

48.1. the information system of the Participant shall allow to analyse and control accounts of the client and transactions conducted by the client;
48.2.. staff members of the Participant who are responsible for dealing or cooperation with the client shall know the scope of economic and personal activity of the client and pay attention to the transactions untypical of the client;
48.3. in the documentation of internal control system, the procedure shall be formulated for an on-going monitoring of transactions in the account of a foreign credit institution which has opened an account with the Participant and shall determine the criteria when the Participant requires additional information to a foreign credit institution about its client and transactions conducted;
48.4. in the documentation of internal control system, the procedure shall be formulated for the identification of unusual and suspicious financial transactions and reporting thereof to the Financial Intelligence Unit.

49. In the documentation of internal control system, the Participant shall determine the procedure for the registration and keeping of information regarding reports on suspicious transactions not presented by the Participant to the Financial Intelligence Unit, and the procedures as to how information that explains causes of the failure to report is to be documented.

2.6. Refraining from Effecting Suspicious Transactions

50. In the documentation of internal control system, the Participant shall determine the procedure under which it refrains from effecting a transaction, providing that the transaction of which the client has notified or which is effected by the client arises a suspicion of a possible use of the transaction for the laundering proceeds derived from criminal activity or financing of terrorism.

51. In the documentation of internal control system, the Participant shall determine the procedure for making a decision on refraining from effecting a suspicious transaction and the procedure for its documenting.

3. Supervision and Constant Improvement of an Internal Control System

52. The supervisory board and board of directors of the Participant shall ensure that the Participant's procedure shall contain policy and procedures for the prevention of laundering of proceeds derived from criminal activity and financing of terrorism based on the assessment of a particular Participant's client risk degree as well as ensure their effective implementation into day-to-day activities. The said policy and procedures shall be explained to the Participants' staff in order that they may duly ascertain suspicious transactions and report them to the staff member or the unit responsible for the compliance with requirements of the Law. The staff member or the unit responsible for the compliance with requirements of the Law and maintaining of contacts with the Financial Intelligence Unit, shall be granted an authorisation to familiarise himself or herself with all the information available to the Participant concerning the client, actual beneficiary, economic and personal activity of the client.

53. In the documentation of internal control system, the Participant shall determine that the internal audit (control) service in its on-site inspections shall also include the assessment of policy and procedures governing the prevention of laundering of proceeds derived from criminal activity and financing of terrorism, and the evaluation of their implementation into day-to-day activities. When ascertaining that the executive institution of the Participant fails to pay proper attention to the compliance with the said policy and procedures, and that the adequate financing for the implementation of the said policy and procedures is not envisaged in the annual budget of the Participant, the internal audit (control) service shall, without delay, notify the Participant's board which in turn, without delay, shall take the necessary steps for the prevention of the ascertained shortcomings.

54. The Participant shall ensure continuous training and regular improvement of professional skills of the staff. The Participant shall ensure that new staff members understand goals and the essence of the policy and procedures formulated by the Law and other regulatory enactments for

governing the prevention of laundering of proceeds derived from criminal activity and financing of terrorism.

55. The Participant shall document training programmes for the staff, as well as keep registration of the course of training and training aids in accordance with the procedure prescribed in the documentation of internal control system.

4. Closing Provision

56. With the coming into force of these Regulations, the Guidelines for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism, approved by Decision No. 214 of the Board of the Financial and Capital Market Commission of 1 October 2004, are repealed.

Deputy Chairman
Financial and Capital Market Commission J. Brazovskis

Annex III

LATVIA

List of Principal Laws and Regulations

Criminal law

1. The Criminal Law (updated May 26 2005)
2. Amendments to Criminal Law, 1 June 2005, Section 88 - Financing of Terrorism and Section 195. Laundering of the Proceeds from Crime
3. Law on Corruption Prevention and Combating Bureau (18 April 2002)
4. Law on the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (23 October 1998)
5. Law on Prosecution Office (1994)
6. Law on Investigatory Operations, of 30 December 1993
7. Law on Criminal Procedure
8. Law on Police of 4 June 1991

AML/CFT

9. Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity – (AML law)
10. Cabinet Regulation No 127 - Regulation Regarding the List of Elements of Unusual Transacitons and Procedures for Reporting (20 March 2001)
11. Cabinet of Ministers Regulation No 497 of 29 December 1998, Procedures pursuant to which public institutions furnish information to the Office of prevention of laundering of proceeds derived from criminal activity
12. Charter of the Advisory Board of the Office for the prevention of laundering proceeds derived from criminal activity
13. Bye-Law of FIU document

Banking and other financial laws (including postal)

14. Law on activities of Insurance and reinsurance Intermediaries (1 April 2005)
15. Law on Financial Instruments Market (as amended by law 9 June 2005)
16. Credit Institution Law (with amendments up to 2005)
17. Credit Union Law (as amended by law of 20 November 2003)
18. Law on Private Pension Funds (as amended last by law of 10 November 2005)

19. Law on the Financial and Capital Market Commission (1 July 2001)
20. Law on Insurance Companies and Supervision Thereof (30 June 1998 – last amended by law of 27 March 2003)
21. Law on Investment Management Companies of 30 December 1997 (last amended by law of 18 mars 2004
22. The Law on the BoL (1992)
23. Association of Latvian Commercial Banks Declaration on Taking Aggressive Action Against Money Laundering
24. Postal law of 31 May 1994

Civil and Commercial laws/regulations

25. Civil law
26. Associations and Foundations Law (23 September 2004)
27. Commercial Law (21 December 2000)
28. Code of Administrative Violations
29. Law on Accounting of 14 October 1992
30. Law on European Commercial Companies
31. Law on Group of Companies of 13 April 2000

Tax law

32. Law on Enterprise Income Tax (with amendment up to 24 December 2004)
33. Law on State Revenue Service

FCMC Regulations

34. Regulations for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activity and Financing of Terrorism (Minutes No. 21 Paragraph 3) – Regulations No. 93 of May 12, 2006
35. Decision of the Board of the Financial and Capital Market Commission No. 214 (Minutes No. 37, Paragraph 3) On the Approval of Guidelines for the Formulation of an Internal Control System for the Prevention of Laundering of Proceeds Derived from Criminal Activities and Financing of Terrorism (1 October 2004)
36. FCMC – Regulation on the Issue of Credit Institution and Credit Union Operating Licenses (Decision No 153 of 24 May 2002)
37. FCMC – Guidelines for establishing an internal control system (Decision 24/7 of 21 December 2001)

Bank of Latvia Regulations

38. BoL Resolution No. 115/7 – Recommendations to Business Ventures (Companies) and Entrepreneurs Purchasing and Selling Cash Foreign Currencies for Developing an Internal Control System for the Prevention of Laundering of Proceeds Derived from Crimes and Financing of Terrorists (11 November 2004)
39. BoL Regulation No 114/5 for Purchasing and Selling Cash Foreign Currency (9 September 2004) = *Recommendations to currency exchange bureaux for developing procedures for identification of suspicious and unusual transactions ?*[BOTH ONLY IN LATVIAN on BoL website] 57bis – BoL Reg. 461/5 of 21 September 2000 for buying and selling foreign currency [REPLACED BY No 114/5 ? Still on BoL website]
40. BoL Regulation No 98/6 - Regulation for issuance and maintenance of electronic money (14 November 2002)
41. BoL Regulation No 96/4 for Credit Transfers (11 July 2002)
42. BoL Regulation No 89/9 - Recommendations for transactions effected by means of electronic payment instruments (13 September 2001)

Lawyers

43. Statutes of the Latvian Collegium of Sworn Advocates
44. On the Bar – Latvian Council of Sworn Advocates

Auditors

45. Law on Sworn Auditors

Notaries

46. Notoriate Law (17 June 1996)
47. Loi sur le Notariat (1 June 1993 – amendments 2004)
48. Regulation No 12 of the Sworn Notaries Councilon Reporting Procedures

Precious metals/stones

49. Law about the Control and Marking of Articles of Precious Metals (19 January 1995)
50. Cabinet of Ministers Regulation No 547 - State Assay Supervision Inspectorate By-Law, (21 June 2004)
51. Procedures for the Registration of Places of Economic Activity with Precious Metals, Precious Stones and Articles Thereof, Procedures for their Mandatory Assaying and Marketing and Procedures for the Safe-keeping of Unassayed Precious Metals, Precious Stones and Articles Thereof. Cabinet Regulation (20 August 2002)

Casinos/Gambling

52. Law on Lotteries and Gambling (NB: valid until 31.12.2005)
53. Gambling and Lotteries Law (NB: in force since 1.1.2006)
54. Regulation of the Cabinet of Ministers No 176, dated 25 March 2004 on the lotteries and gambling supervisory inspection
55. Law on Lotteries and Gamblings Tax and Fee

Miscellaneous

56. Law on Protection of Cultural Monuments (1992)
57. Law on Personal Identification Documents of 5 June 2002
58. .Law on the Register of Enterprises
59. Law on Taxes and Fees
60. Regulation on the Reporting Procedure of the Unusual Transaction, Annex of Sworn Notary Council (27 August 2004)