

Anti-money laundering and counter-terrorist financing measures

Latvia

1st Enhanced Follow-up Report

December 2019

Follow-up report



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

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CONTENTS

I. INTRODUCTION.....	3
II. FINDINGS OF THE MUTUAL EVALUATION REPORT.....	3
III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE.....	4
3.1. Progress to address technical compliance deficiencies identified in the MER.....	4
3.2. Progress on Recommendations which have changed since adoption of the MER.....	12
CONCLUSION.....	14
GLOSSARY OF ACRONYMS.....	15

Latvia: 1st Enhanced Follow-up Report

I. INTRODUCTION

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

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Latvia as follows for technical compliance:

Table 1. Technical compliance ratings, July 2018

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

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

Source: Latvia Mutual Evaluation Report, July 2018, <https://rm.coe.int/moneyval-2018-8-5th-round-mer-latvia/16808ce61b>.

3. Given the results of the MER, Latvia was placed in enhanced follow-up¹. The assessment of Latvia's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Montenegro
- Slovenia

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

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

5. This section summarises the progress made by Latvia to improve its technical compliance by:
- a) Addressing the technical compliance deficiencies identified in the MER, and
 - b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.2, 18 and 21).

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

6. Latvia has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Latvia has been re-rated on Recommendations 2, 6, 7, 8, 10, 22, 26, 28, 32, 39 and 40.

Recommendation 6 (Originally rated PC – re-rated as LC)

7. In its 5th round MER, Latvia was rated PC with R.6, based on the following deficiencies: the legal basis for implementing FT-related targeted financial sanctions (TFS) presented major uncertainties and gaps; obligations imposed by the EU Regulations, the AML/CFT Law and the Law on Sanctions were not fully consistent, including on a number of critical points; the main gaps pertained to delays in transposing UN designations, the limited scope of the freezing obligation and the limited scope of persons obligated to comply with the freezing obligation, as well as the inability of the FIU to indefinitely order the freezing of assets without a court order.

8. Latvia has addressed the major deficiencies identified in the MER. In particular, through the adoption of new Cabinet of Ministers (CoM) Regulations and amendments to the Law on Sanctions, Latvia has introduced mechanisms for identifying targets for designation based on criteria set by UNSCRs 1267/1989, 1988 and 1373 and designating persons or entities that meet relevant criteria in line with the FATF standard.

9. In addition, designations under UNSCRs 1267/1989, 1988 are now implemented without delay pursuant to Section 11(1) of the Law on Sanctions. This section makes designations made by the relevant UN committees directly applicable in Latvia which apply to both asset freezing and prohibitions to make funds or other assets available. Designations under UNSCR 1373 made by Latvia upon its own motion or in response to a request by another country are also applicable without delay, pursuant to Section 11(3) of the Law on Sanctions. This section stipulates that designations are to be made by a cabinet order which shall come into force immediately at the moment it is signed.

10. Moreover, permanent freezing orders can now be made without a judicial order. Furthermore, the amended Law on Sanctions now states that all persons, whether natural or legal, are required to implement freezing obligations and the freezing obligation covers all the criteria mentioned under criterion 6.5(b)(i) to (iv). Both the AML/CFT Law and the Law on Sanctions now include an obligation to report assets frozen or action taken in respect of sanctions to State Security Service in compliance with criterion 6.5(e).

11. There are, however, some outstanding deficiencies. Freezing still does not apply to EU nationals at EU level (UNSCR 1373). The Law on Sanctions does not include a definition for “financial resources and financial instruments”, and therefore it is not clear that it will allow all “funds or other

assets" to be frozen. To the extent that sanctions are applied in Latvia through EU designations, these will however extend to "funds or other assets" covered through separate statutory instruments.

12. De-listing procedures have been introduced that are publicly known. There are mechanisms for communicating de-listings and unfreezing, but the procedures do not appear to explicitly highlight an obligation to respect de-listing or freezing actions. Access to funds frozen is provided under CoM Reg. No 327. However, the Regulation does not define the circumstances which must apply before authorising access to frozen funds or assets.

13. Overall, since the most serious deficiencies identified in the MER have been addressed, R.6 is re-rated as LC.

Recommendation 7 (Originally rated PC – re-rated as LC)

14. In its 5th round MER, Latvia was rated PC with R.7, based on the identified deficiency with regard to a lack of explicit requirement to implement PF-related TFS. Major technical deficiencies also related to delays in implementing sanctions; uncertainties in the scope of persons required to implement the freezing obligations and the scope of funds to be frozen; and the incapacity of the FIU to issue a permanent freezing order.

15. In June 2017, the Interpretive Note to R.7 was amended to reflect the changes made to the proliferation financing related UNSCRs since the FATF standards were issued in February 2012, in particular, the adoption of new UNSCRs.

16. The measures in place to ensure implementation of the EU and UN financial sanctions without delay and to ensure the freezing of funds and economic resources are described under the analysis of Recommendation 6. The scope of persons obligated to comply with TFS obligations has been broadened by including a clear reference to PF.

17. As regards c.7.3, the Law on Sanctions empowers supervisors to monitor and ensure compliance by FIs and DNFBPs. Moreover, a clear procedure has been established for sanctioning powers.

18. Concerning de-listing requests, in accordance with Section 24 of CoM Reg. No 327, Latvian citizens or residents should address their de-listing requests directly to the Focal Point (the MoFA).

19. The measures in place in Latvia enable the application of the requirements of all the UNSCRs.

20. Latvia has made progress with a number of criteria, with only one deficiency outstanding (the Law on Sanctions does not yet include a definition for "financial resources and financial instruments", and thus it is fully not clear that it will allow all "funds or other assets" to be frozen).

On that basis, R.7 is re-rated as LC.

Recommendation 8 (Originally rated PC – re-rated as LC)

21. In its 5th round MER, Latvia was rated PC with R.8, based on the following deficiencies: Latvia did not identify the subset of NPOs meeting the FATF definition or systematically identify higher FT risk NPOs and related threats; no CFT specific review was conducted of the adequacy of measures on NPOs; the sector was not periodically reassessed; no specific CFT outreach to NPOs and donors, best practices or encouragement to use regulated financial channels was demonstrated; the broad range

of relevant measures applied to NPOs were insufficiently informed by FT risks. The nature of the Enterprise Register checks on NPOs was unclear.

22. Latvia has identified the subset of organisations that fall within the FATF definition. This was identified on the basis of information about NPO activities as registered with the Enterprise Register on NPOs', and on the basis of analysis of NPO transactions.

23. Latvia has conducted a risk assessment of the NPO sector, which covered a wider scope of NPOs than the ones defined by the FATF. The outcomes of the assessment are reflected in the National Risk Assessment of Legal Persons, including the NPO Sector.

24. Latvian authorities have also taken steps to identify the nature of the threats posed by the terrorist entities to the NPOs that are identified as being at risk.

25. The Latvian authorities have taken steps to review the adequacy of laws and regulations governing at-risk NPOs and periodically reassess information on the NPO sector to ensure effective implementation of measures.

26. Latvia reported various initiatives aimed at raising awareness among NPOs about FT risks, including the publication of the National Terrorist and Proliferation Financing Risk Assessment Report for 2017-2018 and the Report on Money Laundering and Terrorist Financing Risks of Legal Persons, including the NPO Sector for 2017-2018 on the FIU website. A conference on the findings of the risk assessment for the NPOs was also held. However, there has not been specific outreach to the donor community and Latvia did not undertake any work to refine best practices relating to FT risks in the sector. Latvia did not provide any guidance or encouraged the use of formal financial channels.

27. Latvia reported introducing a number of amendments to the Associations and Foundations Law that came into force on 6 December 2017 (after the on-site visit stage of evaluation process). However, these measures are not linked with the subset of NPOs at risk of terrorism financing abuse. Latvia has clarified the nature of checks to be conducted by the Enterprise Register.

28. Latvia introduced amendments in the AML/CFT law in order to enhance the transparency of the NPO information.

29. Latvia has addressed the majority of deficiencies identified in the MER. While some deficiencies remain, this does not preclude the overall conclusion that **R.8 is brought to a level of LC**.

Recommendation 10 (Originally rated PC – re-rated as LC)

30. In its 5th round MER, Latvia was rated PC with R.10, based on the following deficiencies: there was no requirement for REs to undertake CDD measures when there are doubts about the adequacy of the previously obtained customer due diligence data; for legal arrangements there was no requirement to obtain the names of the relevant persons holding senior management positions in the arrangement; the language under the AML/CFT Law seemed to be ambiguous in the use of the terms "proxy" and "supervisor"; financial institutions were not required to conduct CDD of existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained; the only measure making enhanced CDD different from standard CDD was the enhanced monitoring of the customer's transactions, lack of requirement to refrain from opening accounts, commencing business relationships, performing

transactions, and to terminate business relationships whenever they are unable to comply with all relevant CDD measures.

31. The amended section 11(1)(6) of the AML/CFT Law remedies the deficiency highlighted in the MER and requires the undertaking of CDD measures when there are doubts that previously obtained CDD data is not true or appropriate. The amended definition of the BO provided under Section 1(4) of the AML/CFT Law extends to the trustee and protector of legal arrangements. The amended AML/CFT Law (Section 11¹) requires the conducting of CDD of existing relationships during the course of the business relationship (including for existing customers), on the basis of the risk assessment-based approach, including without delay in cases, *inter alia*, when changes in significant customer-related circumstances occur. Amendments to the AML/CFT Law (Section 22(1)) define measures that should be performed under enhanced due diligence.

32. The amended Section 11(7) of the AML/CFT Law now requires subjects of the Law to refrain from commencing a business relationship (including the opening of an account), to terminate the business relationship without delay, and not to execute an occasional transaction with the relevant person or legal arrangement if the subject of the Law is not able to apply CDD measures specified in that Law. While the provision on filing a STR with the FIU is contingent on the circumstance of suspecting ML/FT, the subjects of the Law are not yet required to consider making a STR whenever they are unable to comply with relevant CDD measures.

33. The requirement for legal arrangements to obtain the names of the relevant persons holding senior management positions has not yet been introduced.

34. The majority of deficiencies identified in the MER have been addressed. While some minor deficiencies remain, this does not preclude the overall conclusion that **R.10 is re-rated as LC**.

Recommendation 22 (Originally rated PC – re-rated as LC)

35. In its 5th round MER, Latvia was rated PC with R.22, based on the deficiencies identified in R.10, 11, 12, 15 and 17 which are equally relevant to DNFBPs.

36. For deficiencies under R.10, please see analysis above. Amended Section 11(8) of the AML/CFT Law covers both the vendor and the purchaser. The amended Section 37(2) of the AML/CFT Law does not encompass the FATF requirement to maintain the results of any analysis undertaken. Clarifications with regard to the coverage of PEP requirements has been provided, hence the deficiency noted under C.22.3 has been addressed.

37. The authorities have provided information on the risk assessment on virtual currencies conducted in 2019. However, they have not informed about other works done for the purpose of identifying and assessing ML/FT risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms.

38. The relying parties are not always required to obtain immediately, but only if necessary, all results of the customer due diligence and the customer due diligence data examination from the credit institution and the financial institution which it addressed. In addition, it is permitted to rely on third-party financial institutions if the latter applies the customer due diligence and information retention requirements similar to the requirements of the Latvian AML/CFT Law, and if they are

supervised and controlled at least to the same extent as laid down in the Latvian AML/CFT Law, which does not necessarily amount to compliance with the requirements set out in R.10-12.

39. Sworn lawyers, notaries, other independent legal professionals and accountants (tax advisors) are exempt from the requirement to terminate the business relationship where they are unable to obtain the necessary CDD information and documents in cases when they defend or represent their customers in pre-trial criminal proceedings or judicial proceedings, or advise on instituting or avoiding judicial proceedings. This exemption diverges from the FATF-defined legal professional-only privilege stipulated for STR reporting, hence the deficiency remains.

40. The majority of deficiencies identified in the MER have been addressed. While some deficiencies remain, this does not preclude the overall conclusion that **R.22 is re-rated as LC**.

Recommendation 26 (Originally rated PC – re-rated as LC)

41. In its 5th round MER, Latvia was rated PC with R.26, based on the following deficiencies: lack of licensing requirement for some alternative investment funds; there were no licensing requirements for lending activities conducted by non-bank FIs (only if they provide consumer lending services); associates of persons with criminal records were not covered in the national legislation; not all financial supervisors were conducting ML/FT risk-based supervision.

42. The authorities reported that amendments have been incorporated relating to the registration of alternative investment funds. However, there are still no licensing requirements for some types of alternative investment funds.

43. The authorities reported that non-bank lending services are not deposit-taking institutions. Therefore, it can be concluded that the lack of licensing requirements should not be considered as a deficiency under 26.2.

44. Associates of persons with criminal records are not covered under the AML/CFT Law. However, as reported by the authorities, under the FCMC Regulation the FCMC shall take into account any information obtained from other sources that is relevant in the assessment of the reputation of the person, including links with persons with criminal records. Therefore, the deficiency under 26.3 has been addressed with regard to the FCMC.

45. Based on the information provided by the authorities, it can be concluded that all financial supervisors (except the Consumer Rights Protection Agency, with regard to FIs providing consumer-lending services) are conducting ML/FT risk-based supervision. However, it should be noted that the risk-based approach applied by the SRS does not cover all the requirements under 26.5. It is also not clear what will be the impact of the risk criteria considered for the intensity and frequency of inspections.

46. The deficiency regarding the currency exchange offices has been partly addressed. Under the LB internal regulation 1550/8 the inspection plan shall be drafted considering, *inter alia*, significant changes in the capital company's turnover and negative information about the capital company's operation, including received complaints. However, it is not clear if this plan should be periodically revised and if other changes (not listed in the provision above) will be the basis for such a review.

47. Based on the information provided by the authorities, it cannot be concluded that all supervisors of non-bank FIs are required to review the risk assessments of the ML/FT risk profile of

FIs or groups periodically, and when there are major events or developments in the management and operations of the FI or group.

48. The majority of deficiencies identified in the MER have been addressed. While some deficiencies remain, this does not preclude the overall conclusion that **R.26 is re-rated as LC**.

Recommendation 28 (Originally rated PC – re-rated as LC)

49. In its 5th round MER, Latvia was rated PC with R.28, based on the following deficiencies: it was not clear if there were measures in place to prevent criminals from controlling DNFBPs (except for Notaries); and there were deficiencies in the ML/FT risk-based supervision conducted by the supervisory authorities.

50. The new requirement under Section 10.¹ of the AML/CFT Law prevents criminals from being members of the senior management or the compliance officer of the obliged entity. However, this requirement does not include associates of persons with criminal records. Shortcomings relating to the persons holding (or being the BO of) a significant or controlling interest also remain.

51. Amended Section 46(1)(11) of the AML/CFT Law provides that supervisory authorities should implement supervisory measures based on the ML/FT and PF risk assessment and conduct the risk assessment and regular revision thereof according to the risk level.

52. According to the internal rules of the Lottery and Gambling Supervisory Inspection (LGSI) appear to follow risk-based approach for supervising casinos.

53. The Latvian Council of Sworn Advocates (LCSA) uses risk classification system to classify risk categories of sworn advocates.

54. The Latvian Association of Certified Auditors (LACA) introduced some elements of risk-based supervision for conducting targeted inspections of certified auditors.

55. The State Revenue Service (SRS) is conducting ML/FT risk-based supervision. However, it should be noted that the risk-based approach applied by the SRS does not cover all the requirements under 28.5. It is also not clear what will be the impact of risk criteria considered on the intensity and frequency of inspections.

56. The majority of deficiencies identified in the MER have been addressed. While some deficiencies remain, this does not preclude the overall conclusion that **R.28 is re-rated as LC**.

Recommendation 32 (Originally rated PC – re-rated as LC)

57. In its 5th round MER, Latvia was rated PC with R.32, based on the following deficiencies: Latvia did not have an EU-internal border declaration system for cash and BNIs. For EU-external borders, sanctions for non-declaration or false declarations were not dissuasive enough.

58. Pursuant to item 4 of Section 5 of the Law on Declaration of Cash at the State Border (in force since 1 July 2019) natural persons crossing the EU internal borders with an amount of cash exceeding EUR 10,000 are required to complete in writing the cash declaration form upon the request of an official of the competent authority. The customs authorities use a system of risk indicators to identify such persons. The physical cross-border transportation of cash and BNIs by cargo within the EU (internal state borders) is not covered. Nevertheless, despite some minor deficiencies c.32.1 is mostly met.

59. As for the ability of state authorities to request and obtain further information upon discovery of a false or non-declaration, Latvia provided additional clarifications. In particular, it was pointed out that point 5 of the CoM Regulation No. 303 adopted on 2 July 2019, clearly empowers the competent authority to request and obtain further information on the origin of the currency or BNIs and their intended use.

60. The amendment to Article 19015 of the Latvian Administrative Violations Code increased the fine from 5 to 20% for falsely or non-declared cash and BNI.

61. It should be noted that failure to comply with internal cross-border obligations (false and non-declaration of cash or BNI when crossing EU borders) is still not sanctioned by the Latvian legislation.

62. The amendment to Article 1952 of the Criminal Code criminalises failure to declare or false declaration of cash on a large scale if the filling in of the declaration of cash in accordance with the procedures laid down by the law has been requested by the official of the competent authority.

63. According to item 3 of Section 5 of the Law on Declaration of Cash, the competent authority is entitled to request a person to complete the cash declaration form upon crossing the external state border if there are indications of possible illegal activities of the person. Mechanisms to restrain currency or BNI are foreseen under Section 257 of the Administrative Violation Code. Section 257 does not include any threshold for the possibility to restrain currency or BNI.

64. Pursuant to the information and explanation provided by the Latvian authorities, each cash or BNI declaration is registered in the Electronic Customs Data Processing System. However, this does not result in cash declarations being archived; hence there is no time-limit for their storage. The information from this database can be provided to a foreign country upon request.

65. Latvia has addressed the majority of deficiencies identified in the MER. While some deficiencies remain, this does not preclude the overall conclusion that compliance with R.32 is brought to a level of LC.

Recommendation 39 (Originally rated PC – re-rated LC)

66. In its 5th round MER, Latvia was rated PC with R.39 on account of the following deficiencies: no clear process for the timely prioritisation and execution of extradition requests; no clear case management system; unclear restrictions for the execution of extradition requests with regard to nationals from other EU member states to non-EU countries; and certain limitations that could hinder the prosecution of Latvian nationals in Latvia where their extradition is not possible on the sole ground of nationality.

67. Since the adoption of the 5th round MER in July 2017, Latvia has taken a number of measures to address these deficiencies, and further clarified the legal situation with regard to some other deficiencies.

68. Firstly, the General Prosecutor's Office (as the central authority for execution of extradition requests) adopted on 3 April 2019 an order which sets out rules for prioritisation and timely execution of extradition requests. The order stipulates that, upon receipt of requests for extradition, the priority order for their examination and enforcement is determined according to the category of a criminal offence. Requests for extradition of persons in relation to money laundering and terrorist financing are considered as priority requests. The introduction of a case management system is

planned but will not be finalised before 2021, as it appears to form part of a wider reform for electronic case management in the Latvian judiciary.

69. Secondly, Latvia has amended its Criminal Procedure Law (Section 704) in October 2018, following a preliminary ruling by the Court of Justice of the European Union in 2016 on a case concerning Latvia. These amendments address the situation that, before extraditing a citizen of another EU member state to a third non-EU state having requested such extradition, Latvia will give the EU member state concerned the opportunity to previously issue a European Arrest Warrant for the purposes of prosecution, in order to take into account the principle of freedom of movement and residence of EU citizens. In light of the fact that the amendments of October 2018 meanwhile clarify the procedure (including the setting of a specific deadline for the submission of a European Arrest Warrant) and that the restriction in any event derives from basic principles of the EU, no further deficiency under sub-criterion 39.1(c) persists.

70. Thirdly, with regard to certain limitations that could hinder the prosecution of Latvian nationals in Latvia where their extradition is not possible on the sole ground of nationality, these are in principle not objectionable (e.g. political offences, contravention of basic judicial principles, request not sufficiently substantiated). The Latvian authorities clarified that the requirement of an agreement between Latvia and the requesting state (which had been explicitly noted with concern by the assessors in the 5th round MER, see paragraph 444 of that report) does not actually require a specific additional agreement (in the form of an international treaty). Instead, the condition is simply met through the agreement by both States that the criminal proceedings should be taken over by Latvia. In light of this clarification, the deficiency may be considered to persist but does not appear to be a limitation with practical impact.

71. Latvia has addressed most of the deficiencies identified for R.39 in the 5th round MER. Minor deficiencies remain, since the introduction of a case management system is underway but not yet fully completed. **Therefore, R.39 is re-rated as LC.**

Recommendation 40 (Originally rated PC – re-rated as LC)

72. In its 5th round MER, Latvia was rated PC with R.40 on account of the following deficiencies: there was no explicit legal provision to provide assistance rapidly; there was no prioritisation of a case management system to process foreign requests; competent authorities, except for the FIU, did not have an obligation to provide feedback to foreign partners; the ability of the FIU to provide assistance was limited by some legal restrictions; there were limited provisions ensuring the confidentiality of foreign requests and information contained therein; and there was no explicit requirement or authorisation for supervisors to conduct inquiries on behalf of foreign partners.

73. In order to remedy the deficiency identified under C.40.1, Latvia has adopted Guidelines on international cooperation for supervisory and control authorities. According to item 3.2.1 of these Guidelines, the supervisory and control authorities are required to incorporate into their internal procedures an obligation to execute foreign requests without delay and not later than within 10 business days. However, it appears that the Guidelines are not applicable to the FIU and law enforcement authorities; therefore, this deficiency remains for these authorities. Following the adoption of the Guidelines, the supervisory and control authorities amended their internal regulations in order to provide foreign assistance rapidly.

74. With regard to clear and secure gateways, mechanisms or channels for transmitting and executing requests, items 3.2.1, 3.2.3 and 3.2.4 of the new Guidelines require the authorities to incorporate into their internal procedures an obligation to establish a priority order of requests received from foreign partners, to establish a procedure for protection and control of information received from foreign partners and to establish clear and secure mechanisms and channels for the exchange of international requests. In light of the Guidelines, the supervisory authorities implemented the relevant requirements into their internal regulations.

75. In general steps are taken by Latvia to address some of the deficiencies under C.40.2. However, it cannot be concluded that all deficiencies are remedied. Concerning feedback to foreign partners, there is an obligation for supervisors to provide feedback to foreign partners. However, it is not clear whether there is such an obligation for the FIU and the law enforcement authorities. As regards the FIU's ability to provide assistance, some measures were taken with respect to the AML/CFT Law (Art.62(3)4)), but Latvia has only partially addressed this deficiency (C.40.5). The authorities have clarified that the FIU and the FCMC are authorised to conduct inquiries on behalf of foreign partners and such inquiries are conducted in practice (C. 40.8, 40.15).

76. Latvia has addressed the majority of deficiencies identified in the MER. While some deficiencies remain, this does not preclude the overall conclusion that the level of compliance with **R.40 is brought to a level of LC.**

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

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

Recommendation 2 (originally rated LC – re-rated C)

78. In its 5th round MER, Latvia was rated LC with R.2, as cooperation and, where applicable, coordination mechanisms to combat the financing of proliferation of weapons of mass destruction were not clearly defined in the Latvian institutional system.

79. In October 2018, R.2 was amended to cover that countries should have co-operation and coordination between relevant authorities to ensure compatibility of AML/CFT requirements with Data Protection and Privacy Rules. The amended recommendation further requires a domestic mechanism for exchange of information. Pursuant to the information provided, it can be concluded that Latvia has the necessary mechanisms to exchange information domestically between its competent authorities concerning the development and implementation of AML/CFT policies and activities at both policy-making and operational levels. In particular, the relevant sections of the AML/CFT Law provide for this possibility. Moreover, Latvia has the necessary mechanisms to ensure compatibility of AML/CFT requirements with Data Protection and Privacy rules. As regards the outstanding deficiency identified above, this has been meanwhile addressed as amendments to the AML/CFT Law (entering into force in June 2019) have supplemented that Law with the term "proliferation" where relevant, thus extending the scope of the already existing coordination mechanisms also to proliferation financing.

80. Considering all the above-mentioned measures and steps taken by Latvia, it can be concluded that the revised requirements of R.2 are met and the remaining deficiency identified in the 5th round MER has been addressed. **Therefore, R.2 is re-rated as C.**

Recommendation 18 (Originally rated LC - no re-rating)

81. In its 5th round MER, Latvia was rated LC with R.18 as terms of the relevant powers and responsibilities, the position of the Board member did not appear to qualify for that of the compliance officer appointed at the management level as required by the FATF Standard. The MER also found that the requirement for employee screening applied to banks and PI/ EMIs only and availability of an independent audit function was made contingent on an undefined number of employees of the subject of the Law.

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

83. Subjects of the AML/CFT law (Section 3(2)) which are in the composition of a certain group shall implement the group-scale policy and procedures. However, since this term is neither defined nor elaborated upon elsewhere, it is not clear if this includes the specific measures set out in C.18.1 (C.18.2).

84. Information sharing policies and procedures under Section 3(2) of the AML/CFT Law define that the subjects of the law belonging to a certain group shall implement the information exchange policy and procedures established within the group for the purposes of AML/CFT, however the full scope of information to be exchanged under group-wide AML/CFT programmes is not clearly provided in the legislation (C.18.2(a)).

85. Under Section 3(2.1) of the AML/CFT Law there is a requirement on the provision of group-level compliance, audit, and/or AML/CFT functions, of customer, account, and payment information from branches, if necessary. However, it is not clearly indicated that this should include information and analysis of transactions or activities which appear unusual (if such analysis was done). There is no requirement that branches, and subsidiaries should receive such information from these group-level functions when relevant and appropriate to risk management (C.18.2(b)).

86. The Law provides for safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off (C.18.2(c)).

87. **On this basis, the rating of R.18 remains LC.**

Recommendation 21 (Originally rated C - no re-rating)

88. In its 5th round MER, Latvia was rated C with R.21.

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

90. The provisions that prohibit disclosure of information concerning a suspicious transaction report (STR) or related information are set out in Section 54 of the AML/CFT Law. The exemptions from this prohibition are provided under the same section and cover, *inter alia*, the sharing of information within a financial group.

91. Moreover, the AML/CFT Law contains safeguards concerning the sharing of information, including that the information shared should be used only for AML/CFT purposes (C.21.1).

92. **On this basis, the rating of R.21 remains C.**

4. CONCLUSION

93. Overall, Latvia has made a progress in addressing the TC deficiencies identified in its 5th Round MER and has been re-rated on 11 Recommendations (11 upgrades). Recommendations 6, 7, 8, 10, 22, 26, 28, 32, 39 and 40, initially rated as PC, are re-rated as LC. Recommendation 2, initially rated as LC, is re-rated as C.

94. Further steps have been taken to improve compliance with the other Recommendations, including those Recommendations that have been revised since the adoption of the MER, but some gaps remain. Latvia is encouraged to continue its efforts to address the remaining deficiencies.

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

Table 2. Technical compliance with re-ratings, December 2019

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

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

96. Latvia will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Latvia is expected to report back at the first Plenary meeting of 2021.

GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
HFIU	Hungarian Financial Intelligence Unit
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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December 2019

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

1st Enhanced Follow-up Report

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

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