

EAG

Mutual Evaluation Report of the Republic of Belarus



2019

EAG

ЕВРАЗИЙСКАЯ ГРУППА
по противодействию легализации преступных доходов
и финансированию терроризма

EURASIAN GROUP
on combating money laundering
and financing of terrorism

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EXECUTIVE SUMMARY

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1. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in place in the Republic of Belarus (Belarus) as of the date of the EAG assessors' on-site visit (March 11-21, 2019). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Belarus' AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

1. The NRA-2018 does not make full use of comprehensive qualitative and quantitative information. A number of conclusions are based on expert opinion and analysis of global trends, and insufficient attention is paid to the analysis of risks associated with abuse of legal entities and NPOs, as well as to cross-border risks.
2. The competent authorities have a good understanding of the current ML and TF threats in the country. Inter-agency cooperation and coordination on AML/CFT issues is carried out at an appropriate level. Interaction on PF issues is limited.
3. Competent authorities have comprehensive access to financial intelligence, especially operational and strategic analysis of DFMs, for the purpose of detection, investigation and suppression, as well as for the prosecution of ML/TF crimes and predicate offences. Competent authorities always carry out parallel financial investigations.
4. Although the confiscation of crime proceeds and instrumentalities is considered as a national priority, the lack of adequate statistics makes it difficult to assess the effectiveness of the measures taken.
5. The competent authorities understand the TF risks and are more focused on preventing terrorism and extremism. Reporting entities are properly informed of their obligations with regard to the implementation of measures for the use of the TFS.
6. The competent authorities do not carry out comprehensive risk-based supervision of the NPO sector for the purposes of the CFT, and there is practically no work to raise awareness of the sector regarding the risks of their use for TF purposes, which results in a limited understanding of TF risks by this sector.
7. FIs and DNFBPs have a good understanding of their ML/TF risks and take adequate measures to manage them, taking into account their sectoral specificities. Banks, real estate registrars and gambling operators have demonstrated the deepest understanding of risks and responsibilities. While FIs have demonstrated the effective application of CDD measures and enhanced monitoring procedures, the DNFBP sector has demonstrated limited application of these measures, which nevertheless correlates with the specifics of the activity. All private sector representatives demonstrated an understanding of, and compliance with the requirements for the filing of special forms, but there were shortcomings related to sub-optimal thresholds and the mismatch between the number of special forms filed and the risks identified in the DNFBP sector.
8. Supervisors have a good understanding of the ML/TF risks in the relevant sectors. AML/CFT supervision until 2018 was carried out without exception as part of the overall supervision. With the exception of the National Bank, the RBA was based on financial and

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economic performance indicators. Supervisors apply different sanctions mechanisms in practice for AML/CFT violations, but they do not always improve the situation in the supervised sectors. There is active engagement with the private sector (FIs and DNFBPs) in the context of helping to understand ML/TF risks and raising general awareness among supervised entities through a wide range of mechanisms.

9. All types of legal entities are subject to mandatory registration and inclusion in the Unified State Register. Basic information on legal entities is publicly available. Mechanisms are in place to gain access to beneficial ownership information. Law enforcement and other competent authorities have lack of understanding of the concept of beneficial ownership of a legal entity. The Republic of Belarus has not conducted a comprehensive assessment and analysis of the vulnerability of legal entities to ML/TF, as well as the extent to which legal entities established in the country are or may be used for ML/TF purposes.
10. The competent authorities make significant efforts to identify and investigate predicate offences, including through the implementation of MLA. FIU has established effective exchanges with foreign financial intelligence units, which are actively used by other competent authorities in the detection and investigation of crimes, as well as other financial intelligence and beneficial ownership information, but the lack of detailed statistics does not allow a full assessment of the effectiveness of the measures taken.

Risks and General Situation

2. NRA-2018 identified the main ("high") threat areas where the proceeds of crime could be generated: tax crimes, corruption-related crimes, shell companies activities, drug related crimes (drug trafficking) and information technology related crimes.
3. However, competent authorities need to conduct a comprehensive analysis of the threats posed by illegal drug trafficking, as well as an analyze the private sector vulnerabilities to risks associated with information technology related crimes. In the current version of the NRA, these risks have been identified based on the opinion of the expert community and analysis of global trends, rather than comprehensive qualitative and quantitative information.
4. In addition, the NRA does not sufficiently address the analysis of risks associated with the abuse of legal entities and NPOs for ML/TF purposes, as well as lacks comprehensive analysis of cross-border risks.
5. Competent authorities have a good understanding of TF risks and share the NRA conclusion that they are low. The low TF risk is explained by subjective as well as objective factors. Objective factors include the country's geographical position; absence of ethnic and inter religious conflicts; specific social and cultural background (no sizeable extremists movements); strict migration policy; insignificant trade, economic, and cultural ties to elevated terrorist activity areas; also, Belarus is neither a global nor regional financial center. The overarching subjective factor is competent authorities' comprehensive activities aimed at prevention of crimes related to the terrorism financing.

Overall Level of Effectiveness & Technical Compliance

6. The Republic of Belarus is compliant or largely compliant with most of the FATF Recommendations. ML and TF crimes are properly criminalized, a regime of confiscation and mechanisms of freezing assets related to TF and PF are established by law. The AML/CFT powers of law enforcement, supervisory and other competent authorities are established. Mechanisms of

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cooperation and coordination at the national and international levels are being implemented. There are legislative measures for CDD, record keeping and STRs reporting.

7. The Republic of Belarus achieved a substantial level of effectiveness in: assessing ML/TF risks and in internal coordination, areas related to international cooperation, - use of financial intelligence for the purposes of detection, investigation and prevention, as well as for the prosecution of ML/TF crimes and predicate offences, combating terrorism and its financing aimed at preventing such crimes, use of targeted financial sanctions against PF.. A moderate level of effectiveness has been demonstrated in terms of supervisory measures for FIs and DNFBPs, implementation of preventive measures by FIs and DNFBPs, investigation of ML-related crimes and confiscation of criminal proceeds and property. Low effectiveness has been demonstrated in preventing the abuse of legal persons. In general, the Republic of Belarus needs to improve the collection and maintenance of comprehensive ML/TF statistics in order to better demonstrate the effectiveness of the actions taken and the results achieved, as well as to update the ML/TF risks.

Assessment of risks, coordination and policy setting (Chapter 2 – IO.1, R.1, R.2, R.33)

8. The Republic of Belarus approved the National Risk Assessment (NRA) in 2018. All competent authorities involved in AML/CFT policymaking and operational activities, as well as representatives of the private sector, took part in the work.

9. In general, competent authorities demonstrated a good understanding of ML/TF risks. At the same time, there are areas where little attention has been paid, such as the analysis of abuse of legal persons and NPOs, as well as cross-border risks.

10. With a view to mitigate the identified risks, an Action Plan on mitigation of the identified ML/TF risks for 2018-2020 has been developed and approved, which defines 4 strategic areas requiring implementation in the AML/CFT system, improve the institutional environment, improve legal and regulatory framework, improve the national AML/CFT system and strengthen human and technical capacity.

11. Interagency cooperation and coordination in the Republic of Belarus are carried out at a fairly good level. The necessary mechanisms and legal framework for interaction and exchange of information on AML/CFT issues are in place. However, cooperation on PF issues is limited.

12. The Republic of Belarus has effective mechanisms to ensure that FIs and DNFBPs are informed about ML/TF risks.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

13. Law enforcement agencies of the Republic of Belarus and the DFM have wide access to various sources of information, including those containing financial intelligence that they actively use to execute their powers.

14. The results of the operational and strategic analysis of the DFM are used by all law enforcement agencies in conducting investigations of criminal cases and identifying the perpetrators of predicate offences and their involvement in ML activity. Information on tax crimes and corruption is mainly requested. There is also a high degree of use of the DFM data when investigating possible suspicions.

15. The DFM is the central authority for obtaining information on suspicious transactions and on transactions subject to mandatory control. Sufficient resources of DFM enable to effectively fulfill its duties, thus having positive impact on the speed of collection, processing and dissemination of

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financial intelligence to law enforcement agencies.

16. Law enforcement agencies are actively using the powers of DFM in international information exchange, noting that this method allows for more rapid cooperation.

17. The Republic of Belarus has a sufficient regulatory framework and a system of state authorities to detect and investigate ML. At the same time, there are rare facts of prosecution for ML, including in relation to a predicate offence abroad, laundering by third parties, as well as stand-alone ML.

18. The law enforcement agencies of the Republic of Belarus carry out parallel financial investigations in all cases as part of the pre-investigation and investigation of the predicate offences. These investigations also make active use of the financial intelligence of the DFM.

19. The law enforcement agencies carry out comprehensive investigations of the predicate offences, have the opportunity to mobilize joint investigation teams and use advanced investigative tools. Operational officers have the appropriate skills and experience.

20. The main focus of the authorities, in accordance with the state policy, is on prevention and suppression of predicate crimes, confiscation of criminal proceeds and their reimbursement to the state budget, which leads to a limited number of ML convictions.

21. The Republic of Belarus provides for the application of special confiscation, which involves forced forfeiture for the benefit of the State of instrumentalities of crime belonging to convicts, seized items withdrawn from circulation, assets obtained through crime and proceeds derived from the use of such assets, items related to the committed crime that are not subject to return to the victims or third parties, and also transport vehicles driven by the criminals. This procedure is used quite extensively. There is also a mechanism in place to implement a set of security measures aimed at minimizing negative damage from tax crimes.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9- 11; R.5-8)

22. The Republic of Belarus has demonstrated a fairly effective practice of combating terrorism-related crimes, as well as possible cases of terrorist financing.

23. The competent authorities are constantly working to identify persons involved in terrorist activities on the basis of various sources of information and are monitoring persons for whom information on their possible involvement in terrorist activities is available.

24. The competent authorities of the Republic of Belarus have demonstrated a proper understanding of the TF risks, this understanding aimed at preventing terrorism and extremism to a greater extent.

25. Thus, one of the positive results of such work was the fact that the country is no longer considered as a transit destination for FTFs. In addition, no cases of terrorist attacks have been registered in the Republic of Belarus, neither have been persons financing terrorism.

26. The Republic of Belarus has a legal and institutional framework for the implementation of the TFS to TF and PF without delay.

27. The reporting entities generally understand their obligations with regard to the implementation of TFS measures.

28. In the Republic of Belarus some measures have been taken to identify the types of NPOs in respect of which there are risks of their possible use for TF purposes, while no cases of NPOs being used for TF purposes have been identified. At the same time, the competent authorities do not carry out comprehensive risk-based supervision of the NPO sector for the purposes of the CFT, and there

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is limited approach to raise awareness of the sector in terms of the risks of their use for TF purposes, which results in a limited understanding of TF risks by this sector.

29. The Republic of Belarus has a unified legal framework and a single competent authority responsible for combating the financing of proliferation of weapons of mass destruction and terrorism financing.

30. The Republic of Belarus has an export and import licensing system, and the Interagency Commission for Military Technical Cooperation and Export Control has been established and is operating under the aegis of the State Security Council.

Preventive Measures (Chapter 5 - IO4; R.9-23)

31. FIs and DNFBPs understand their AML/CFT obligations. The most comprehensive understanding of these responsibilities among FIs has been demonstrated by banks, and among DNFBPs by real estate and gambling sectors. Reporting entities take measures to mitigate ML/TF risks through the use of enhanced CDD measures and monitoring of transactions.

32. All FIs and DNFBPs demonstrated an understanding of ML/TF risks based on their own comprehensions, the findings of NRA, and the training provided by competent authorities.

33. Almost all FIs and DNFBPs have demonstrated a good understanding of CDD and record keeping obligations and their application in their practices, taking into account sector specificities.

34. All supervised entities understand and apply the enhanced CDD measures in the cases determined by the FATF. The identification of beneficial owners of customers under CDD is carried out by FIs and DNFBPs using the information provided by the customer itself, as well as by examining their business relationships through a variety of other sources. However, due to sector specificities, not all DNFBPs have sufficient resources to properly identify PEPs and beneficial owners.

35. Targeted financial sanctions are applied by all FIs and DNFBPs. In the banking sector, there is evidence of application of freezing measures due to "false positives" associated with the partial matching of customer data with that included in the lists. All reporting entities understand their obligations with regard to the implementation of measures to apply the TFS.

36. The obligation to file special forms is actively fulfilled by all supervised entities. Special forms are sent according to the criteria established by law and in accordance with their own criteria agreed with the supervisory authorities.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)

37. FIs and DNFBPs in the Republic of Belarus are supervised. Licensing requirements for FIs generally prevent persons with a criminal record from exercising management functions and being the beneficial owner. However, (for FIs other than banks), this approach may not be fully considered as protection against the infiltration of criminals and their affiliates into management or beneficial ownership. For DNFBPs, there are no requirements to verify affiliated persons during licensing, nor are there effective mechanisms for determining beneficial ownership.

38. Supervisors have demonstrated a good understanding of the ML/TF risks in the supervised sectors. ML/TF risk assessments were conducted in all sectors, including at the entity level, which formed the basis of the NRA. The National Bank demonstrated the most comprehensive understanding of sectoral risks.

39. Risk-based supervision is set out in law and applied in the country, however, specialized criteria

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that take into account AML/CFT risk factors have been developed only by the National Bank. AML/CFT risk-based supervision is carried out by all supervisory authorities, however, the effectiveness of recent legislative changes cannot be assessed due to their recent implementation.

40. Various types of sanctions and corrective actions for AML/CFT violations are actively applied to FIs and most DNFBBs. At the same time, the sanctions applied are not fully proportionate and dissuasive, as evidenced by the statistics of the violations identified.

41. Supervisors actively engage with the private sector in the context of facilitating understanding of ML/TF risks and raising awareness among supervised entities through letters, workshops and specialized training courses on various AML/CFT issues.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

42. In the Republic of Belarus, all types of legal entities established in its territory are subject to mandatory registration and inclusion in the Unified State Register. Basic information about legal entities is publicly available, although on a chargeable basis. The competent authorities have direct free-of-charge access to the Unified State Register.

43. The Republic of Belarus has mechanisms for obtaining of beneficial ownership information. Law enforcement authorities rely on the existing CDD system to identify beneficial owners, and also use the powers of the DFM. At the same time, law enforcement and other competent authorities in general have a limited understanding of the concept of beneficial ownership of a legal entity, which leads to the fact that most often the founder is deemed as the beneficial owner.

44. The Republic of Belarus has not conducted a comprehensive assessment and analysis of the vulnerability of legal entities to ML/TF, as well as the extent to which legal entities created in the country are or may be used for ML/TF purposes.

45. Legal arrangements in the context of the FATF Recommendations cannot be established in the Republic of Belarus, however, foreign trusts may be clients of FIs and DNFBBs. They are subject to all requirements in accordance with the FATF Recommendations.

46. A number of sanctions exist in the country for violations of legal requirements relating to transparency of legal persons. However, comprehensive statistics and data have not been demonstrated to fully assess effectiveness and dissuasiveness.

International Cooperation (Chapter 8 - IO2; R. 36-40)

47. The Republic of Belarus has adopted sufficient legislative and regulatory mechanisms for the implementation of MLA, including extradition and other forms of international cooperation.

48. The authorities are making significant efforts to identify and investigate predicate offences, including by making MLA requests. However, in the absence of detailed statistics, it is not possible to draw a conclusion whether the extent of international cooperation, including on MLA issues, is in line with the identified ML risks.

49. Legal assistance in criminal cases of terrorist financing was not requested, which corresponds to country's risks. Cooperation on TF in other forms of international cooperation is conducted at a sufficient level and also corresponds to the country context.

50. The DFM actively uses its international cooperation powers to gather the necessary intelligence to build a complete picture of the identified suspicious transactions. Information exchange is carried out on both ML/TF related crimes and predicate offences.

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51. Supervisory and other competent authorities, in the framework of international cooperation, provide basic and BO information of legal entities, but such information exchange is limited.

Priority Measures

The Republic of Belarus is recommended the following measures:

1. Develop mechanisms to ensure the effective collection of comprehensive ML/TF statistics in order to ensure end-to-end recording from the stage of detection of suspicious indicators to sentencing(conviction).
2. Continue to improve the risk assessment methodology and update the risks and mitigating measures based on actual qualitative and quantitative data.
3. Conduct a comprehensive assessment of the vulnerability of legal persons to ML/TF and develop a set of measures aimed at raising awareness and understanding of the concept of beneficial ownership among competent authorities and the private sector.
4. Analyze the available results of predicate offence investigations in order to make more efficient use of resources, as well as to increase the focus on identifying potential ML cases in accordance with country risks.
5. Competent authorities should use the potential for international cooperation in ML/TF investigations and focus their efforts on asset recovery from abroad using MLA, as well as maintain proper statistical records.
6. Competent authorities should conduct a comprehensive analysis of the NPO sector in the context of terrorist financing and develop mechanisms to apply risk-based supervision to the sector.
7. Supervisors should continue to work to implement risk-based supervision and take steps to ensure that supervision measures are commensurate with the current ML/TF risks.

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Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 Assessing risks and applying a risk-based approach	IO.2 International cooperation	IO.3 Supervision	IO.4 Preventive measures	IO.5 Legal persons and arrangements	IO.6 Financial intelligence
Substantial	Substantial	Moderate	Moderate	Low	Substantial
IO.7 ML investigation & prosecution	IO.8 Confiscation	IO.9 TF investigation & prosecution	IO.10 TF preventive measures & financial sanctions	IO.11 PF financial sanctions	
Moderate	Moderate	Substantial	Moderate	Substantial	

Technical Compliance Ratings

National AML/CFT Policies and Coordination

R.1	R.2
LC	LC

Money laundering and confiscation

R.3	R.4
C	C

Terrorist financing and financing of proliferation

R.5	R.6	R.7	R.8
C	LC	LC	PC

Preventive measures

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R.9	R.10	R.11	R.12	R.13	R.14
C	LC	LC	LC	LC	C
R.15	R.16	R.17	R.18	R.19	R.20
PC	LC	LC	LC	LC	C
R.21	R.22	R.23			
C	LC	LC			

Transparency of beneficial ownership or legal persons and arrangements

R.24	R.25
LC	LC

Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
LC	LC	PC	C	C	C
R.32	R.33	R.34	R.35		
LC	LC	C	LC		

International cooperation

R.36	R.37	R.38	R.39	R.40
C	LC	LC	LC	LC

MUTUAL EVALUATION REPORT

Introduction

52. This report provides a summary of the anti-money laundering and combating the financing of terrorism (AML/CFT) measures in Belarus as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Belarus' AML/CFT system, and provides recommendations on how the system could be strengthened.

53. This evaluation was based on the 2012 FATF Recommendations and the 2013 Methodology, using information provided by Belarus, and information obtained by the assessment team during its on-site visit to Belarus on 11-21 March 2019.

54. The evaluation was conducted by an assessment team consisting of:

- Tatiana Bahareva (Russian Federation);
- Aziz Abasov (Republic of Uzbekistan);
- Ermek Beisheev (Kyrgyz Republic);
- Alexander Shin (Kyrgyz Republic);
- Mirzosharif Sharipov (Republic of Tajikistan);
- Daria Kudryashova (Russian Federation);
- Nikita Bobryshev (EAG Secretariat);
- Aibek Turdukulov (EAG Secretariat).

52. The report was reviewed by the following representatives of the EAG member-states: the Republic of Kazakhstan and the Republic of Uzbekistan.

56. The previous mutual evaluation of Belarus was conducted in 2008 using the FATF 2004 Methodology. The Mutual Evaluation Report of Belarus, conducted as part of the EAG first round of AML/CFT mutual evaluations, was approved by the EAG 9th Plenary in December 2008. This report is a public document accessible via EAG website (<https://eurasiangroup.org/en/mutual-evaluation-reports>).

57. Based on the results of the first mutual evaluation, Belarus was placed under the EAG regular monitoring procedures.

58. In November 2016, Belarus presented its 7th detailed follow-up report with a request to exit the EAG monitoring procedures. As a result of the discussion, Belarus has addressed the deficiencies in all basic and key recommendations. The level of technical compliance of these recommendations was assessed as corresponding to the level of "Largely compliant" (LC). The 7th progress report is available on the EAG website.

CHAPTER 1. ML/TF RISKS AND CONTEXT

General Information

59. The Republic of Belarus is located in the eastern part of Europe. Belarus shares a border with Poland, the Baltic States, Russia and Ukraine.

60. The length of the territory of the Republic from north to south is 560 km, from west to east - 650 km. The total length of the State border is 3617 km, including 1250 km with the European Union. The Republic of Belarus borders with Lithuania in the north-west, Latvia and Russia in the north, Russia in the north-east and east, Ukraine in the south and Poland in the west.

61. The Republic of Belarus is a unitary democratic social state governed by the rule of law. The Constitution of the Republic of Belarus of 1994 is in force, with amendments and additions adopted at the national referendums of 24 November 1996 and 17 October 2004.

62. The Head of State is the President of the Republic of Belarus. The representative and legislative body is the Parliament - the National Assembly of the Republic of Belarus, consisting of two chambers - the House of Representatives (110 delegates) and the Council of the Republic (64 members). Executive power is exercised by the Council of Ministers of the Republic of Belarus headed by the Prime Minister.

63. State power in the Republic of Belarus is exercised on the basis of its division into legislative, executive and judicial power. State bodies are independent within the limits of their powers: they interact with each other, hold each other in check and balance each other.

64. The Republic of Belarus is a founding member of the United Nations and the Commonwealth of Independent States (CIS), the Collective Security Treaty Organization (CSTO), the Eurasian Economic Community (EurAsEC) and other international organizations. In 2004, Belarus became one of the founder states of the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG), and in 2012 - the Council of Heads of Financial Intelligence Units of the Commonwealth of Independent States (CHFIU CIS).

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

65. According to the National Statistical Committee¹ of the Republic of Belarus, the overall crime rate in the Republic of Belarus has a constant downward trend. In 2018, 83,813 crimes were registered, 36% of which were related to theft, 6% to drugs, 5% to fraud and 5% to hooliganism and other crimes in a lower percentage ratio. At the same time, a drop in crime rate is observed for all categories of crime, including the number of identified perpetrators, which is in line with the general trend.

66. The analysis presented in the NRA revealed the main ("high") threat areas where the proceeds of crime may be generated: tax crimes, corruption-related crimes, shell company activities, illicit drug trafficking and information technology-related crimes.

67. For example, in 2017, the greatest material damage was caused by the following crimes: tax evasion - 89 million rubles, abuse of power or authority - 56.1 million rubles, fraud - 29.7 million rubles, official forgery of power - 20.2 million rubles.

68. The analysis of ML/TF threats conducted by the Republic of Belarus has shown that criminal

¹ <http://www.belstat.gov.by/en/ofitsialnaya-statistika/social-sector/crime/>

proceeds identified in the Republic of Belarus are, mainly, legalized through the acquisition and use in entrepreneurial activities of automobiles and real estate, as well as through the investment of funds in the activities of affiliated economic entities. The national peculiarities include the fact that a significant part of the proceeds of crime is not legalized, but stored in cash.

69. Belarus is also one of the transit countries for importing/exporting goods to/from Europe and Russia, which is confirmed by the data² on foreign trade with Russia, Ukraine, China, as well as the countries of central Europe and the Baltic States. The geographical location of the Republic of Belarus and simplified control at the border of the Republic of Belarus with the Russian Federation are considered to be systemic factors affecting the degree of ML/TF threats in the Republic of Belarus. These factors have been noted in the commission of crimes related to illegal migration, trafficking in human beings, as well as drug trafficking.

70. With regard to terrorist financing threats and risks, TF risk is defined as low at the country level. The activities of international terrorist organizations, their cells, members and affiliated persons have not been detected in the territory of the Republic of Belarus; no cases of persons and organizations included in the UN sanctions list have been detected in the territory of the Republic of Belarus; no local organizations have been recognized as terrorist by the decisions of the courts of the Republic of Belarus; no citizens of the Republic of Belarus participating in the conflicts as FTFs have been identified.

71. In addition, the main focus of the competent authorities is on the prevention of crimes related to the financing of terrorism, as well as the prevention of potential threats in the field of terrorism, radicalization and extremism.

72. There were no instances of NPOs being used for TF purposes. Factors that reduce risks in the NPO sector include control over the receipt and targeted use of donations (funds and property) at the legislative level, both domestically and from abroad.

73. As a result of the NRA, the banking sector was assessed as a sector exposed to a high threat, but with a low vulnerability, which eventually led to a moderate ML/TF risk for banks. Leasing, forex, and microfinance companies have low risk despite the fact that the understanding of their ML/TF risks among these FIs is not uniform. There was no evidence of their use for ML/TF purposes, moreover all these entities are AML/CFT supervised. Securities market participants (non-banking sector) have moderate risk level, due to the fact that there were examples of sector abuse for ML purposes in the past, besides the size of the sector is quite small. Insurance companies and the postal sector were assigned a low level of risk as a result of NRAs for similar reasons.

74. In the DNFBP sector, the vulnerability of the casino sector was assessed as low due to the fact that there was only one use for ML purposes, but given the potential threats, the final level of risk was assessed as moderate. Similar assessments were given to real estate registrars, representatives of the precious metals sector and notaries - low vulnerability, medium level of threats, which led to a moderate ML/TF risk. For the other DNFBP categories, ML/TF risks were assessed as low.

National ML/TF Risk Assessment

75. Pursuant to RB Council of Ministers Presidium Resolution dated February 27, 2018, Belarus conducted the first national ML/TF Risk Assessment (hereinafter "NRA") in 2018.

76. The Interagency Committee under the RB Council of Ministers, established by the RB Prime Minister's directive, oversaw the conduct of the NRA. The Interagency Committee, established to conduct the NRA, was made up of deputy heads of the State Control Committee, the General

² <http://www.belstat.gov.by/en/ofitsialnaya-statistika/real-sector-of-the-economy/>

Prosecutor's Office, the Supreme Court, the Investigative Committee, the State Security Committee, the Interior Ministry, the State Customs Committee, the State Border Committee, the Ministry of Finance, the Ministry of Justice, the Ministry of Taxes, the Ministry of Antimonopoly Regulation and Trade, the Ministry of Communications and Informatization, the State Property Committee, a member of the Board of the National Bank, and the head of the State Control Committee's Department of Financial Monitoring. Private sector organizations and their associations (unions) were also involved in the assessment.

77. The NRA findings were communicated to all competent authorities, including supervisors and LEAs. The NRA summary was made public through its publication on the websites of the relevant competent authorities.

78. On February 4, 2019, Belarus adopted the National ML/TF Risk Mitigation Action Plan 2019-2020. In pursuance of the National Plan, all competent authorities adopted action plans to mitigate the ML/TF risks, which, among other, include activities on sharing NRA findings with private sector.

79. The private sector is aware of the NRA findings, including its summary. In addition, supervisors organized trainings and outreach for all categories of FIs and DNFBPs.

Scoping of higher-risk issues

Predicate Offences and ML

80. **Investigation and prosecution of the main categories of predicate offences and related ML.** According to the NRA findings, the threat emanating from the following predicates was rated as high: fiscal crimes, illegal business activities, shell company activities, drug-related offences, IT crimes and corruption, with tax evasion and corruption responsible for most of the financial damage caused.

81. The **banking** sector, which is responsible for the bulk of financial transactions carried out in Belarus and whose compliance with AML/CFT/CPF requirements is key to the country's financial security, was the focus of the assessment. Given the export driven model of Belarusian economy, assessors also focused on the country's compliance with the FATF recommendations concerning domestic and foreign PEPs, as well as the use of banking services and products in the country in general.

82. **Casinos.** Belarus has a casino industry. As a priority, assessors reviewed supervisory measures adopted in the sector and its participants' compliance with AML/CFT/CPF requirements.

83. **Beneficial ownership and transparency of legal persons.** Belarus applies a declarative approach to the registration of business entities (companies, non-profit organizations and individual entrepreneurs), which takes place on the day of submission of the necessary documents to the registering authority. Details of business entities are entered in the Unified State Register. Assessors focused on the reliability and accuracy of beneficial ownership information contained in this register. Special attention was also paid to the mechanisms for the identification of beneficial owners used by supervisors, financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) to ensure compliance with AML/CFT/CPF requirements.

84. Due to the nature of their activities and regional specifics (only certain types of transactions are covered by the FATF Recommendations, which are carried out by a small number of DNFBPs), less attention during the assessment was paid to the following representatives of the DNFBP sector: individual entrepreneurs, lawyers and law firms that provide legal services, audit firms and auditors operating as individual entrepreneurs. At the same time, compliance of the sector with AML/CFT/CPF requirements is supervised.

Materiality

85. Belarus has an export-driven, socially oriented market economy with well-developed manufacturing, agricultural and services sectors.

86. The country's GDP per capita (at purchasing power parity) in 2017 stood at USD 18,800, the third place among the CIS countries behind Russia and Kazakhstan.

Table 1.1 Economic indicators

	2014	2015	2016	2017	2018
Growth domestic product (GDP), USD billion	36.77	41.11	44.56	49.71	57.45

87. Among the country's dominant sectors are manufacturing, agricultural, construction, trade, transport and logistics.

88. Financial services of the Republic of Belarus can be characterized as having high level of financial inclusion.

Table 1.2 Financial inclusion/exclusion³

	January-February 2012**	September 2015**	June-July 2016
Individual financial inclusion, %	85.8%	90.3%	
Household financial inclusion, %	74.6%	98.6%	
Access to a bank account			74.5%
Access to credit			24.0%
Access to a savings account			11.0%
Access to insurance			55.0%
Share of financially excluded individuals, %*	14.2%	9.7%	
Share of financially excluded households, %*	25.4%	1.4%	

89. The popularity of cashless payments is growing in Belarus. According to the National Bank's analytical reports, the share of cashless transactions involving bank cards in first half of the year reached 53.9%, or 18.3 billion rubles (USD 8.65 billion), up 4% from 2018. Cashless payments account for 88.1% of the total number of transactions. Since 2010, the volume of cashless payments has increased from 13% to 53.9%, and the number of transactions from 50% to 88%.

90. In addition, the country pursues an aggressive policy to reduce the share of cash payments in the economy. The value of export foreign currency cash transactions by legal entities and individual entrepreneurs is capped at 1,000 base values (approx. USD 12,000); and import transactions by individual entrepreneurs at 100 base values (USD 1,200). There are also restrictions on the use of cash in transactions between legal entities and with banks, which are capped at 100 base values (USD 1,200) per transaction. The measures taken by government agencies in Belarus help increase legal entities and individual entrepreneurs' reliance on FIs with AML/CFT controls in conducting transactions.

Background and other Contextual Factors

³ According to national opinion surveys conducted jointly by the National Bank and the Financial Inclusion Alliance. Full survey findings are accessible at www.nbrb.by/today/FinLiteracy/Research/

AML/CFT strategy

91. In accordance with the decision of the RB Council of Ministers Presidium dated February 27, 2018, Belarus conducted in 2018 a national ML/TF risk assessment (hereinafter "NRA").

92. The Interagency Committee under the RB Council of Ministers, established by RB Prime Minister's Directive No. 81p dated March 27, 2018 and led by the First Deputy Prime Minister of Belarus, oversaw the conduct of the NRA. Among the Committee members were deputy heads, board members of government agencies that are participants of the national AML/CFT/CPF system. The responsibility for providing organizational and methodological support for the Committee was assigned to its Secretariat, established by the same directive and led by the director of the Department of Financial Monitoring Director of the State Control Committee (DFM, FIU).

93. The Interagency Committee was instructed, until September 10 of this year, to review the final version of the NRA report and submit to the Prime Minister of Belarus proposals for mitigating the identified risks.

94. In accordance with the NRA Schedule, Belarus has drawn up a ML/TF Risk Mitigation Action Plan 2019-2020. The Action Plan was approved and submitted it to the RB Council by the Prime Minister of Belarus on the 4th of February, 2019

95. Among other policy documents being implemented by Belarus are:

- Belarus's National Security Strategy (adopted by Presidential Decree No. 575 dated November 9, 2010, as amended by Presidential Decrees No. 621 dated December 30, 2011 and No. 49 dated January 24, 2014).
- The Anti-Crime & Anti-Corruption Programme 2017-2019 (adopted by the republican coordination meeting No. 16 dated May 26, 2017);
- The Comprehensive Plan of Measures to Improve the Fight against Drug Trafficking and Drug Abuse, including among Children and Youth, and to Promote the Social Rehabilitation of Drug Addicts 2017-2018 (adopted by RB Deputy Prime Minister V I. Semashko No. 33/202-156/255 dated June 2, 2017);
- The Action Plan to Identify and Combat Corruption for the country's prosecution, law enforcement, national security, state control, and other state bodies and organizations.
- The Joint Action Plan of Government Agencies and Financial Market Participants to Improve Financial Literacy of the Population of the Republic of Belarus 2013-2018, adopted by Council of Ministers and National Bank Resolution No. 31/1 dated January 17, 2013.
- Strategic initiative "Improving AML/CFT in the Banking and Non-Credit Financial Institution (NFI) Sectors", adopted by the National Bank, as part of which:
 - amendments are made to legislative acts;
 - measures are being taken to assess risks in the banking and non-credit financial institution sectors and take steps to mitigate them;
 - employees of the National Bank and reporting entities carrying out financial transactions undergo AML/CFT training.

Legal & institutional framework

96. The legal system of Belarus belongs to the so-called family of Romano-Germanic law. The primary sources of law in Belarus are legislative acts. The Constitution is the highest law in Belarus.

97. Laws and presidential acts have equal legal force, while the legal force of some of the presidential acts is higher than of laws. The country's government, ministries and agencies are entitled to issue legislative acts that are binding in the territory of Belarus.

98. The Constitutional Court of Belarus exercises control over the constitutionality of legislative acts.

99. The country's AML/CFT law has been regularly updated to bring it into line with the EAG assessors' recommendations set out in the Mutual Evaluation Report of Belarus of 2008.

100. Belarus, with a view to improving its AML/CFT system, adopted on June 30, 2014 a new version of the Law "On Measures to Combat Money Laundering and Financing of Terrorism and Proliferation" (hereinafter –Law No. 165-Z of June 30, 2014).

101. All government agencies monitoring compliance of entities carrying out financial transactions with AML/CFT requirements have developed and approved internal control requirements for such entities that take into account their specifics.

Ministries

102. Pursuant to Article 16 of the Law No. 165-Z of June 30, 2014, compliance of entities carrying out financial transactions with AML/CFT/CPF requirements is supervised by: National Bank, Ministry of Finance, Ministry of Justice, Ministry of Communications, Ministry of Taxes, Ministry of Antimonopoly Regulation and Trade, The State Property Committee.

103. DFM is the center for collection, processing and analysis of information on financial transactions subject to special control and an AML/CFT coordinating body responsible for;

- collecting, processing and keeping suspicious transaction reports (STRs);
- reviewing submitted STRs with the help of additional information available to it or obtained from other government agencies;
- suspending ML/TF/PF transactions and freezing the assets of persons and entities involved in terrorist activities and proliferation, in cases where appropriate measures have not been taken by the obligated entities;
- sharing information with foreign FIUs;
- disseminating materials related to ML/TF/PF to prosecution authorities;
- representing the interests of the Republic of Belarus related to AML/CFT/CPF in international organizations.

104. The State Control Committee exercises state control over the implementation of the national budget, the use of state property and the implementation of the acts of the President, Parliament, Government and other state bodies regulating state property, economic, financial and tax relations.

105. The National Bank exercises supervision over banks, non-bank credit and financial institutions, the Development Bank of the Republic of Belarus JSC, leasing and microfinance companies, including pawnshops, with respect to activities related to obtaining and providing microloans; of forex companies and the National Forex Centre;

106. The Ministry of Finance exercises supervision over professional securities market participants; traders in precious metals and precious stones, pawnshops, including those dealing in precious metals and precious stones, audit firms, individual auditors providing professional accounting and bookkeeping services and (or) filing financial statements, with respect to activities related to the execution on behalf and (or) at the direction of the client of financial transactions; insurance companies and insurance brokers; and organizers of lotteries and electronic interactive games;

107. The Ministry of Justice exercises supervision over notaries public; organizations providing real estate services and participating in transactions related to buying and selling of real estate property for their clients; entities and individual entrepreneurs, lawyers and law firms providing legal services related to the creation of companies or management thereof, buying and selling of an enterprises as a property complex, conducting financial transactions and (or) managing money or other property on behalf of and (or) at the direction of the client;

108. The Ministry of Communications exercises supervision over postal service providers;

109. The Ministry of Taxes exercises supervision over gambling organizers;

110. The Ministry of Antimonopoly Regulation and Trade exercises supervision over commodity exchanges;

111. The State Property Committee exercises supervision over state registrars of real estate property, titles thereto and transactions therewith.

112. Law enforcement agencies (KGB, Ministry of Internal Affairs, FID) and investigative bodies have dedicated AML/CFT/CPF units.

113. Judicial authorities deliver judgements concerning ML/TF prosecutions.

114. The General Prosecutor of Belarus and its subordinate prosecutors ensure strict and uniform implementation of AML/CFT/CPF requirements.

115. Belarus has established the Interagency Working Group for Coordination and Cooperation between State Bodies in Combating ML/TF, led by the DFM director and made up of representatives of the following agencies: the General Prosecutor's Office, National Bank, Ministry of Internal Affairs, State Security Committee, Ministry of Taxes, Department of Financial Investigations and the Department of Financial Monitoring. Main functions of the group are the following:

- Drawing up proposals regarding the procedure for collecting, reviewing and sharing information on suspicious transactions.
- Developing joint measures in response to information on suspicious transactions.
- Drawing up proposals for improving the AML/CFT system.
- Developing recommendations and suggestions for improving the current legislation governing financial and economic relations on the basis of the experience in combating money laundering and terrorist financing.
- Considering issues relating to the provision of training for government officials involved in combating money laundering and terrorist financing.

Table 1.3 Official Web-sites of Key Authorities

Name of competent authority	Link to website
State Control Committee	http://kgk.gov.by/ru
incl:	
Financial Monitoring Department of the State Control Committee	http://kgk.gov.by/ru/dfm-ru/
Financial Investigations Department of the State Control Committee	http://kgk.gov.by/ru/dfr-ru/
Supreme Court	http://www.court.gov.by/
General Prosecutor's Office	http://www.prokuratura.gov.by/ru/
Investigative Committee	https://sk.gov.by/ru
Ministry Internal Affairs	http://mvd.gov.by/

State Security Committee	http://www.kgb.by/ru/
State Customs Committee	http://www.customs.gov.by/ru
State Border Committee	http://gpk.gov.by/
National Bank	https://www.nbrb.by/
Ministry of Finance	http://www.minfin.gov.by/
Ministry of Taxes	http://www.nalog.gov.by/ru/
Ministry of Justice	https://minjust.gov.by/
Ministry of Communications and Informatization	http://www.mpt.gov.by/
Ministry of Antimonopoly Regulation and Trade	http://mart.gov.by/sites/mart/home.html//
State Property Committee	http://www.gki.gov.by/ru/

Financial sector

Table 1.4 Overview of Financial Sector

Organization type*	AML/CFT legislation** / preventive measures enforcement instruments	Supervision
Banks	Law No. 165 of June 30, 2014, NB Board Resolution No. 818 dated December 24, 2014, NB Board Resolution No. 24 dated January 18, 2017,	National Bank
Non-bank credit and financial institutions		National Bank
Development Bank of the Republic of Belarus JSC	NB Board Resolution No. 783 dated December 17, 2014	National Bank
Leasing companies	Law No. 165 of June 30, 2014,	National Bank
Microfinance companies	NB Board Resolution No. 494 dated September 19, 2016,	National Bank
Forex companies		National Bank
National Forex Centre	NB Board Resolution No. 783 dated December 17, 2014	National Bank
Professional securities market participants	Law No. 165 of June 30, 2014,	Ministry of Finance
Insurance companies and insurance brokers	Resolution of the Ministry of Finance of 04.11.2016 No. 96	Ministry of Finance
Postal operators	Law No. 165 of June 30, 2014, Ministry of Communications and Informatization Resolution No. 1 dated January 6, 2015	Ministry of Communications and Informatization
Commodities exchanges	Law No. 165 of June 30, 2014,	

Table 1.5 Entities reporting to the National Bank

FI type		Total of ent. as of 1/1/2018	Total of ent. as of 1/1/2019
Banks	Banks	28	28
	incl. undergoing bankruptcy/liquidation proceedings	4	4
	Non-bank credit and financial institutions (NCFIs)	3	3
	Development Bank of the Republic of Belarus JSC	1	1
NFIs (non- credit financial institutions)	Leasing companies	103	97
	Microfinance companies (MFC), incl.	121	104
	pawnshops	108	95
	foundations	8	5
	credit consumer cooperatives	5	4
	forex companies	10	10
	National Forex Centre	1	1
Other	-	-	

116. Responsibilities for AML/CFT/CPF issues within the National Bank are assigned to two departments: the Department of Financial Monitoring and Methodology (DFMM) and the Department of Corporate Governance and Internal Control Assessment (DCGICA). According to the DFMM Regulations, its responsibilities include, but are not limited to: remote monitoring of compliance of reporting entities with AML/CFT/CPF requirements; preparation of proposals for the inclusion of banks and non-credit financial institutions in the consolidated audit plan; participation in the review of findings of inspections of banks and non-credit financial institutions conducted by the Chief Inspection Directorate and structural units of the National Bank; preparation of proposals for the use of sanctions against banks, non-credit financial institutions and their employees for non-compliance with AML/CFT/CPF requirements; preparation of administrative cases for a review; participation in activities to monitor the implementation by banks of supervisory response measures and elimination by banks and non-credit financial institutions of identified violations and deficiencies;

setting up AML/CFT/CPF internal controls at the National Bank.

117. On-site inspections of banks and NFIs on compliance with AML/CFT/CPF legislation shall be carried out based on the principle of territorial location of the controlled entity with the involvement of employees of the National Bank's structural units located in the regions. In the city of Minsk and the Minsk Region, employees of the DCGICA of the Main Inspection Department of the National Bank take part in inspections. The authorized personnel complement of the DCGICA is 13 persons, including two heads. In each of the 5 structural subdivisions of the National Bank of the Republic of Belarus by regions, the economic department consists of 10 employees, each of whom participates in the inspections

118. Below is a breakdown of the sectors supervised by the National Bank. The banking sector accounts for over 85% of the total assets of FIs supervised by NB.

Table 1.6 supervised by the National Bank FIs' total assets, USD mln.

	1/1/2014	1/1/2015	1/1/2016	1/1/2017	1/1/2018	1/1/2019
Banks	19 055	23 167	30 368	30 980	32 125	34 471
<i>Non-bank credit and financial institutions</i>	x	x	57	79	62	109
<i>Development Bank of the Republic of Belarus JSC</i>	1 580	1 888	2 518	2 814	3 017	3 830
<i>Leasing companies</i>	x	1 056	1 385	1 522	1 952	2 777
<i>Total MFCs</i>	x	x	9	11	13	14
<i>pawnshops</i>	x	x	9	10	11	12
<i>foundations</i>	x	x	0	0	1	2
<i>credit consumer cooperatives</i>	x	x	0	0	0	0
<i>Forex companies</i>	x	x	x	1	3	8

Ministry of Finance

119. The Ministry of Finance monitors compliance of reporting entities (FIs and certain categories of DNFBPs) with AML/CFT/CPF requirements. The list of reporting FIs includes professional securities market participants, insurance companies and brokers, microfinance companies issuing microloans secured against precious metals and precious stones (pawnshops, regarding activities with precious metals and precious stones).

120. Among the main responsibilities of the Chief Directorate of Insurance Supervision is the monitoring of compliance of the insurance sector participants with applicable regulations, including compliance of insurance companies and brokers with AML/CFT/CPF requirements. The Insurance Control and Supervision Section of the Chief Directorate's Department of Insurance Supervision and Insurance Legislation Application Practice is directly responsible for monitoring compliance with AML/CFT/CPF requirements. The Section employs 7 persons.

121. The Directorate of Coordination, Control and Reporting of the Finance Ministry's Securities Department is directly responsible for monitoring compliance of professional securities market participants with AML/CFT/CPF requirements. The Directorate employs 8 persons.

Table 1.7 Professional securities market participants

Indicators	1/1/2015	1/1/2016	1/1/2017	1/1/2018
Total registered PSMPs incl:	72	65	60	62
banks	29	27	25	25
NCFIs	0	0	1	1

non-bank FIs	43	38	34	36
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Table 1.8 Insurance companies

	1/1/2015	1/1/2016	1/1/2017	1/1/2018
Companies providing insurance services	22	19	19	17
incl:				
life insurance	3	3	3	2
non-life insurance (incl. reinsurance)	19	16	16	15
Insurance intermediaries/insurance brokers;	25	30	29	30

Table 1.9 Information on total assets of insurance companies, in USD millions

	2014	2015	2016	2017	2018	2019
Insurance companies	859	988	1 178	1 317	1 479	1 666
Total	859	988	1 178	1 317	1 479	1 666

Table 1.10 Information on total assets of professional securities market participants companies (non-bank FI), in USD millions

	2014	2015	2016	2017	2018	2019
Securities market participants companies (non-bank FI)	x	x	29	14	17	28
Total	x	x	29	14	17	28

Ministry of Communications and Informatization

122. The Ministry of Communications and Informatization monitors compliance of postal operators with AML/CFT/CPF requirements. The Postal Services Section employs 2 persons: director and consultant.

Table 1.11 Postal operators reporting to the Ministry of Communications and Informatization

#	Postal operator	License issue date
1	Belpochta RUE	8/20/2004
2	Nash Pochta CJSC	14/9/2015
3	GloBel24 LLC	11/1/2016
4	AutoLightExpress LLC	6/6/2016
5	DPD Bel LLC	8/1/2016
6	SDEK-Bel LLC	7/5/2017
7	Roscherk LLC	9/28/2017
8	Kur'erBuy LLC	10/18/2017

Ministry of Antimonopoly Regulation and Trade (MART)

123. The Commodity Exchanges activity was carried out by 1 organization - JSC "Belarusian Universal Commodity Exchange". At the MART, 3 persons are responsible for supervising activities, including AML/CFT issues.

DNFBP sector

Table 1.12 Overview of DNFBP Sector

Organization type*	AML/CFT legislation** / preventive measures enforcement instruments	Supervision
Dealers in precious metals and precious stones	Law No. 165 of June 30, 2014, Ministry of Finance Resolution No. 96 dated November 4, 2016	Ministry of Finance
Audit firms and individual auditors		Ministry of Finance
Organizers of lotteries and electronic interactive games		Ministry of Finance
Gambling organizers	Law No. 165 of June 30, 2014, MT Resolution No. 27 dated September 16, 2016	Ministry of Taxes
Notaries	Law No. 165 of June 30, 2014, Ministry of Justice Resolution No. 184 dated October 4, 2016	Ministry of Justice
Lawyers	Law No. 165 of June 30, 2014, Ministry of Justice Resolution No. 183 dated October 4, 2016	Ministry of Justice
Persons providing legal services		Ministry of Justice
Real estate agents		Ministry of Justice
Real estate registrars	Law No. 165 of June 30, 2014, State Property Committee Resolution No. 186 dated October 4, 2016	State Property Committee

Table 1.13 Quantity of DNFBPs performing transactions as of 1/1/2018

DNFBPs	1/1/2018
Pawnshops dealing with precious metals and precious stones	108
Dealers in precious metals	18
Retail/wholesale dealers in precious metals and precious stones	266

DNFBPs	1/1/2018
Gambling organizers:	86
<i>Casinos</i>	25
<i>Gambling halls</i>	168
<i>Betting houses</i>	189
Organizers of lotteries and electronic interactive games	3
Notaries	842
Lawyers and persons providing legal services	2,127
Real estate agents	146
Audit firms and individual auditors:	470
<i>incl. providing services in compliance with the framework law No. 165 of June 30, 2014:</i>	30
<i>audit firms</i>	9
<i>auditors working as individual entrepreneurs</i>	21
Real estate registrars - regional state registrars (126 regional offices and about 700 registrars)	7

Table 1.14 Human resources of DNFBP sector supervisors

Supervisors	DNFBPs	1/1/2018
Ministry of Finance	Dealers in precious metals and precious stones, audit firms and individual auditors, organizers of lotteries and electronic interactive games;	7
Ministry of Taxes	Gambling organizers	5
Ministry of Justice	Notaries, lawyers, persons providing legal services and real estate agents	7
State Property Committee	Real estate registrars - regional state registrars (126 regional offices and about 700 registrars)	7

Preventive measures

124. According to the AML/CFT/CPF Law, all categories of FIs and DNFBPs are subject to legal requirements and should operate in the context of preventing ML/TF risks, and report relevant transactions to the DFM.

Legal persons and arrangements

125. The following types of entities can be registered in Belarus:

- Companies;
- non-profit organizations;
- individual entrepreneurs.

126. Since February 1, 2009, registration of business entities (other than banks and non-bank credit and financial institutions) and non-profit organizations has been carried out on a declarative basis.

127. In accordance with Presidential Decree No. 1 dated January 16, 2009 "On State Registration and

Liquidation (winding up) of Business Entities", the Ministry of Justice provides organizational and methodological support for, as well as coordinates and oversees, the activities of registrars responsible for state registration and liquidation (winding up) of business entities.

128. The Ministry of Justice, by its Resolution No. 8 dated January 27, 2009 "On Some Measures to Implement Presidential Decree No. 1 dated January 16, 2009", approved state registration application forms for companies and non-profit organizations.

International cooperation

129. The General Prosecutor's Office and the Supreme Court are the designated central authorities responsible for the provision of all types of mutual legal assistance. DFM, whose capabilities are leveraged in parallel financial investigations by law enforcement agencies, plays a major role in facilitating international cooperation.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

1. The Republic of Belarus conducted the NRA in 2018, yet, parts of the analysis lack comprehensive qualitative and quantitative information, and some conclusions of the NRA are based on expert opinion and analysis of global trends. However, the competent authorities of the Republic of Belarus demonstrated good understanding of the current ML and TF threats inherent in the country.
2. NRA-2018 pays insufficient attention to the analysis of risks associated with the abuse of legal entities and NPOs.
3. Based on the results of the NRA-2018, the Republic of Belarus adopted the National Plan and other state programs which contain a set of mitigation measures of ML/TF risks, as well as respond to current threats.
4. NRA-2018 results did not lead to the adoption of simplified or enhanced measures.
5. The tasks and priorities of the competent authorities are consistent with the identified risks and primarily focus on prevention of criminal acts.
6. Interagency cooperation and coordination on AML/CFT issues are carried out at a sufficient level. The legal framework and the necessary mechanisms for effective cooperation are in place. However, there is limited interaction on PF issues.
7. Information on ML/TF risks is regularly communicated to FIs and DNFBPs, and actively used by them in their activities.

Recommended actions

1. Continue to improve the Methodology applied to risk assessment, including by reviewing the existing mechanisms for collecting and updating appropriate comprehensive statistics.
2. Update risks and measures to minimize them based on actual qualitative and quantitative data.
3. Conduct a comprehensive analysis of vulnerabilities of legal entities and NPOs.
4. Strengthen the interaction of competent authorities on PF issues, including by discussing relevant issues on the margins of AML/CFT Interagency working group.

130. The relevant Immediate Outcome considered and assessed in the Chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1 and 2.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's understanding of its ML/TF risks

131. The Republic of Belarus approved the National Risk Assessment (NRA) in 2018. All competent authorities involved in AML/CFT policymaking and operational activities, as well as a sufficient number of private sector representatives (response to the questionnaire) took part in this exercise.

132. At the first stage, law enforcement agencies conducted an analysis of the criminal situation in the country and identified specific threats, and each supervisory agency conducted its own sectoral assessment, thus identifying vulnerabilities. The results of this work formed the basis for the NRA 2018.

133. The analysis of predicate offences revealed the main ("high") threats within which the proceeds of crime could be generated: tax crimes, corruption-related crimes, shell companies activities, drug related crimes (drug trafficking) and information technology related crimes.

134. Assessors agree with the identified ML risks. However, competent authorities need to conduct a comprehensive analysis of the threats posed by drug crimes, as well as an analysis of private sector vulnerabilities to risks associated with information technology. In the current version of the NRA these risks have been identified based on expert opinion and analysis of global trends, rather than specific factual information.

135. In addition, the use of a wider range of quantitative and qualitative information, including comprehensive statistical data, will provide a more complete picture of the risks relevant to the country and focus efforts to minimize them. Thus, the identified high threats from crimes in the field of illegal drugs and information technologies are not significant in terms of the volume of accumulated criminal proceeds, i.e. they represent the risks from the point of view of public safety in general, but at the moment the high level of risk for the Republic of Belarus is not confirmed by sufficient quantitative and qualitative data.

136. Moreover, assessors have a view that the NRA pays insufficient attention to the analysis of risks associated with the abuse of legal entities and NPOs for ML/TF purposes, as well as to cross-border risks.

Money Laundering Risks

137. In general, the competent authorities have demonstrated a good understanding of the risks associated with economic crime in the country, as evidenced by the discussions with representatives of all government agencies during the on-site visit. The assessors base this view on ongoing operational work, monitoring of the crime situation in the country and region, and this is also confirmed by the national "follow the money" approach and the priorities and results of operational work.

138. In order to minimize these risks, the competent authorities are implementing a set of measures, including parallel financial investigations, and are widely applying the mechanism of judicial and special confiscation, as well as implementing security measures (seizure of property, including property of third parties), which allow for further confiscation of an amount equivalent to or exceeding the damage caused" (see IO.8).

Terrorism Financing Risks

139. The low TF risk is explained by subjective as well as objective factors. Objective factors include the country's geographical position; absence of ethnic and inter religious conflict; specific social and cultural background (no sizeable extremists movements); strict migration policy; insignificant trade, economic, and cultural ties to elevated terrorist activity areas; also, Belarus is neither a global nor regional financial center. The overarching subjective factor is competent authorities' comprehensive activity to prevent criminal conduct related to the financing of terrorist activity.

140. During on-site mission, the competent authorities (primarily the Committee of State Security and DFM) demonstrated a good understanding of potential terrorist threats, financial and support schemes, as well as methods and techniques used by both terrorist groups and individual terrorists. The knowledge is based on a wide range of materials and information, on the results of continuous

monitoring of the terrorist threat at the national, regional and global levels, as well as on continuous interaction with the competent authorities of the partner countries in order to raise awareness on the "anti-terrorist" track.

141. The main focus of the competent authorities is on the prevention of terrorist financing offences and the suppression of potential threats in the area of terrorism, radicalization and extremism. For example, necessary measures are taken to prevent transit of FTF through Belarus, moving of Belarusians to the areas of terroristic activities, attempts of mercenaries to destabilize the situation in the country, outreach and dissemination of radical ideology.

142. There is no evidence of freezing funds or blocking the financial transactions of organizations and individuals involved in terrorist activities, which generally corresponds to the country context. At the same time, reporting entities have a good understanding of their obligations with regard to the application of targeted financial sanctions.

143. There was no evidence of abuse of NPOs for TF purposes at the time of the on-site mission. At the same time, the competent authorities, primarily the supervisory authorities, do not pay due attention to the vulnerability of NPOs to TF risks, which was confirmed during the meetings, including by the NPOs themselves (see IO.10).

National policies to address identified ML/TF risks

144. Based on the findings of the NRA, the Action Plan to Mitigate the Identified ML/TF Risks for 2019-2020 was developed and approved, which defines 4 strategic areas requiring implementation in the AML/CFT system in order to minimize ML/TF risk - improve the institutional environment, improve legal and regulatory framework, improve the national AML/CFT system and strengthen human and technical capacity.

145. Assessors positively assess the approved Plan and believe that strategic objectives will help to minimize the identified risks in the future. As a result of the NRA, all competent authorities have developed their own Risk Mitigation Plans, which correlate with the national Plan and provide, among other things, for the adjustment of regulations.

146. In addition, the following measures are currently in place in the Republic of Belarus: the Concept of National Security of the Republic of Belarus, the Concept of Counter Terrorism of the Republic of Belarus, the Program to Combat Crime and Corruption for 2017-2019, the Comprehensive Plan of Measures Aimed to Counteract Illicit Drug Trafficking and Prevent Drug Use, Including Among Children and Young People, Social Rehabilitation of Drug Addicts for 2019-2020, the Action Plan of the Prosecutor's Office, Internal Affairs, State Security, State Control and other Competent Authorities and Institutions to Prevent Corruption Related Crimes. Thus, in the Republic of Belarus the work on identification, monitoring, management and mitigation of risks is a state priority, and is carried out on an ongoing basis.

147. The National Bank has approved and is implementing the strategic initiative "Improvement of the AML/CFT System in the Banking and Non-Credit Financial Institutions Sector", under which the amendments are being made to legislative acts, measures are being taken to assess risks in the relevant sectors and to identify how to mitigate risks, and organized trainings for the employees of the National Bank. This initiative is supervised by the Deputy Chairman of the Board of the National Bank. A similar plan was presented by the Ministry of Finance, which partially echoes the document of the National Bank, thus allowing to build a unified approach to supervision of key financial sectors.

148. The Ministry of Justice, the Ministry of Taxes, the Ministry of Antimonopoly Regulation and Trade, the State Committee on Property and the Ministry of Communications have also developed and approved plans to improve their supervision activities, according to these plans measures to improve the legal framework in the respective sectors were already taken in the first half of 2019.

Exemptions, enhances and simplified measures

149. The legislation of the Republic of Belarus provides for the application of all requirements of the FATF Recommendations with regard to FIs and DNFBPs (see Criterion 1.6 in TC Annex). The AML/CFT/CPF Law provides for the application of enhanced and standard CDD measures (see R.1 and R.10 in TC Annex). The legislation of the Republic of Belarus does not provide for the application of simplified CDD measures (criterion 1.8 in TC Annex).

150. The legislation provides for the requirements for special (enhanced) procedures for monitoring of financial transactions of public officials, organizations and persons involved in terrorist activities, as well as with respect to high-risk countries. It also requires the identification of individuals to whom electronic wallets are opened regardless of the amount of electronic money in such electronic wallets.

151. The NRA did not identify any additional factors that would facilitate the expansion of enhanced monitoring or CDD measures or exceptions, which confirms that the findings that the NRA generally reflects country risks and the relevance of recent supervision policy.

Operational objectives and activities of competent authorities

152. The priorities and objectives of law enforcement, investigative and tax authorities respond to the identified national risks. Law enforcement agencies focus on the prevention of tax crimes, corruption, drug trafficking and shell companies' activities. However, taking into account the country context as well as the potential threat of cross-border drug trafficking, the assessors came to the conclusion that the Republic of Belarus should continue to improve the mechanisms for effective cooperation in order to counteract cross-border crimes, especially those related to the transit and smuggling of drugs and cash.

153. Law enforcement authorities pay due attention to TF issues, focusing on its prevention, which corresponds to the risk profile of the Republic of Belarus.

154. The priorities and tasks of the supervisory authorities in ML/TF risk management meet the identified risks. As part of the sectoral assessment, the National Bank conducted an analysis of the transactions of the reporting entities on the accounts related to criminal cases. The results of such analysis confirmed the correctness of the identified risks and allowed to synchronize the understanding of threats and vulnerabilities. Representatives of other supervisory authorities noted that the NRA exercise had allowed for the consolidation of existing supervisory experience and for more accurate focus of the supervisory strategy in the relevant sectors, and the start of work on improving the criteria for supervisory activities.

155. The priorities and objectives of the supervisory bodies in the DNFBP sector are consistent with the identified national risks. Currently, the supervisory authorities are implementing appropriate measures in accordance with national and sectoral plans to minimize the identified risks.

National cooperation and coordination

156. The competent authorities of the Republic of Belarus actively cooperate and coordinate with each other. There are established channels of communication between the competent authorities, and the mechanism of "joint investigation teams" is often used in the course of conducting investigations with a view to more effective cooperation in complex cases. A large number of examples of such cooperation have been demonstrated to assessors (see IO.7).

157. Supervisors have also demonstrated a sufficient level of effectiveness in their cooperation within the framework of supervisory activities. Cooperation between the FIU and supervisors is at an adequate level to allow for the rapid exchange of relevant information and best practices, as well as,

where necessary, for the adjustment of activities, including improving the understanding of reporting entities of their obligations under special forms.

158. The necessary mechanisms and legal frameworks are in place for national cooperation and coordination on both operational and high-level issues.

159. Since 2005, the Interdepartmental Working Group on AML/CFT Coordination and Cooperation of State Authorities has been operating in the Republic of Belarus, that acts as the main coordinating body. The organizational structure and composition of the IWG ensure its successful and effective activity, including in terms of amending legislation in order to enhance efficiency of national AML/CFT system.

160. Under GPO, there are coordination meetings at both national and regional levels. The chairs of the coordination meetings are the Prosecutor General of the Republic of Belarus and the lower-level prosecutors of territorial and specialized prosecution offices. Membership of the coordination meetings includes heads of state authorities and other institutions involved in the fight against crime and corruption, as well as heads of crime prevention authorities.

161. Commissions for countering extremism and combating terrorism have been set up as an interdepartmental collegial body responsible for coordinating the activities of counter-terrorism authorities and other State bodies and institutions at the territorial level to counter extremism and combat terrorism.

162. State authorities of the Republic of Belarus establish national headquarters for the implementation of measures of interstate programs to combat crime, terrorism and violent manifestations of extremism, illegal trafficking of narcotic drugs, psychotropic substances and their precursors, human trafficking, illegal migration, crimes committed with the use of information technologies.

163. There are Interdepartmental agreements on operational cooperation between all competent authorities. In addition, the existing legal framework makes it possible to create joint investigative teams, involve experts in crime investigations, and allow for secondment between agencies. Special working groups, for instance National Bank Working Group, are also being set up to deal with specific tasks in an expeditious manner.

164. In addition, as part of the strengthening of inter-agency cooperation and awareness of ML/TF risks, a number of working groups also operate under the DFM:

- to study typologies of money laundering and terrorist financing (State Control Committee, National Bank, Ministry of Internal Affairs, Ministry of Taxes, commercial banks);
- on issues related to combating terrorist financing (State Control Committee, National Bank, Ministry of Foreign Affairs, State Security Committee).

165. Based on the results of the meetings held and the information provided, the experts concluded that the competent authorities are actively using the available mechanisms for fruitful coordination and cooperation in the AML/CFT field.

166. There is limited interaction on PF issues. These issues are discussed at the meeting of working groups established under the DFM. In addition, the Interagency Commission on Export Controls operates at the national level. However, the regulations do not provide for cooperation at the operational level and policy development in the area of PF.

Private sector's awareness of risks

167. Representatives of the private sector were briefed on the results of the NRAs and relevant sector assessments. Although the NRA itself is classified as confidential, supervisors have undertaken a

number of activities and developed recommendations to integrate the results of the NRA into operational practices to minimize risks. A summary of the NRAs is available on the websites of all competent authorities.

168. The private sector has demonstrated a sufficient understanding of the risks identified, including those specific to the sector, as well as the effectiveness of preventive measures. For example, the banking sector applied a risk-based approach before it was formalized at the legislative level, and, in general, the banking sector demonstrates a more developed and established approach. Banks generally demonstrated a high level of understanding of their ML/TF risks, and major representatives from other FIs sectors demonstrated a better understanding of their risks than smaller participants, due to the availability of resources to build more sophisticated internal analytical mechanisms.

169. The understanding of country risks in the DNFBP sector is good and is consistent with the size and nature of the business practices of individual DNFBP categories,

170. DFMs and other supervisors regularly conduct training activities to raise awareness of ML/TF risks among reporting entities. Training materials are prepared using ML/TF risk assessments and analytical materials, primarily from DFM, as well as the results of international typologies and other studies.

171. Belarus is rated as having a substantial level of effectiveness for Immediate Outcome 1.

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

1. The authorities of the Republic of Belarus have comprehensive access to financial intelligence and regularly use it and other relevant information to investigate ML, predicate offenses and TF. The use of financial intelligence is the strength of the national system, as well as the central pillar of the approach to combating economic crime and terrorism.
2. The FIU of the Republic of Belarus (DFM) regularly disseminates financial operational information spontaneously and upon request of the competent authorities, and also exchanges information with foreign FIUs.
3. DFM provides high quality financial intelligence and analysis that fully meets the operational needs of all competent authorities.
4. DFM has a well-developed IT system for operational and strategic analysis, which also allows to identify current trends in ML/TF.
5. DFM, as the coordinating body of the anti- money laundering system, on an ongoing basis provides a high degree of coordination, cooperation and interaction at the national level.

Immediate Outcome 7

1. Law enforcement agencies in all cases conduct parallel financial investigations using the up-to-date financial intelligence of all competent authorities, including the DFM and the Ministry of Taxes.
2. Law enforcement agencies carry out comprehensive investigations of predicate offenses, have the opportunity to mobilize joint investigation teams and use advanced investigative tools. Operational officers possess relevant professional skills and experience.
3. The main focus of the authorities, in accordance with state policy, is focused on the prevention and suppression of predicate offenses, confiscation of criminal proceeds and their reimbursement to the state budget, which leads to a limited number of ML sentences.
4. The investigation and prosecution of ML is consistent with the country's risk profile, in particular with regard to corruption and tax crimes. Cases of drug trafficking are focused on individual small drug distributors, rather than organized crime groups, which also fits the country's context.
5. Sanctions for ML offenses are proportionate, deterrent and sufficiently effective

Immediate Outcome 8

1. Law enforcement agencies assess the importance of confiscating criminal proceeds and the means of committing crimes as a priority.
2. There are court decisions made on confiscation of property, including the confiscation of the equivalent cost of illicit enrichment.
3. Law enforcement agencies are taking measures to seize and confiscate property, especially for corruption and tax crimes, which is broadly consistent with country's risks

and context.

4. The statistics available in the competent authorities do not allow to assess the effectiveness of the applied special confiscation of predicate offenses and money laundering, as well as the appointment of confiscation of predicate offenses and facts related to money laundering by court judgment.

Recommended Actions

Immediate Outcome 6

1. Consider allocation of additional human resources to the DFM, since in case of potential increase in number of special forms and/or requests from the competent authorities the DFM could experience shortage of staff.
2. More actively forward spontaneous disseminations to the competent authorities and continue outreach to promote the best application and utilization of such information and materials, inter alia, through the existing working groups.
3. Enhance available mechanisms on collection of statistical data on ML/TF investigations.

Immediate Outcome 7

1. Enhance the mechanisms for collecting comprehensive statistical data, including at the level of courts and prosecutors, thereby providing a cross-cutting report from the stage of detecting a crime to sentencing in ML cases.
2. Strengthen the interaction between fiscal and law enforcement agencies in identifying potential cases of money laundering as part of tax audits.
3. Analyze the available results of investigations of predicate offenses in order to make more efficient use of resources, as well as to pay more attention to identifying potential cases of ML in accordance with country risks.

Immediate Outcome 8

1. The Republic of Belarus should further develop its policies and internal guidelines on confiscation and asset recovery from abroad within MLA framework.
2. The Republic of Belarus needs to revise the procedure for collecting relevant, comprehensive and up-to-date statistics on the use of the institution of confiscation of predicate offenses and ML, as well as on the assignment of confiscation of predicate offenses and ML related facts by court sentence, including the volumes of actually confiscated means of committing crimes, as well as statistics on the confiscation of property of an equivalent cost.
3. Strengthen the work of the State Customs Committee in the fight against the illegal movement of funds, tax evasion and smuggling, in order to more effectively apply interim measures.

172. The relevant Immediate Outcomes considered and assessed in the Chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.3, R.4 and R.29-32.

Immediate Outcome 6 (Financial intelligence ML/TF)

Use of financial intelligence and other relevant information

173. Law enforcement agencies have wide access to a variety of sources of information, including financial intelligence, without the need for a prior court order, among others:

- DFM information, whose database is the primary repository of financial intelligence and includes, inter alia, information on financial transactions and other information that DFM may receive from other sources;
- Tax information, including information on the founders of legal entities;
- Customs information;
- Databases of law enforcement agencies, including "Passport", "GAI-Center" (traffic police), the Single State Databank on Offences (information on administrative offences and crimes);
- Unified State Register of Immovable Property, Rights Thereto and Transactions Therewith, as well as information on legal registration of real estate;
- Unified State Register of Legal Entities;
- commercial databases.

174. LEAs may also receive information through the channels of Interpol and other relevant operational associations, as well as through bilateral agreements (see IO.2)

175. Financial intelligence is used at all stages of investigation, evidence collection and prosecution of predicate offences and ML. The DFM provides financial intelligence related to potential terrorist financing activities, both upon request and spontaneously. A total of 92 such materials were sent between 2014 and 2018. Using that intelligence, LEAs conducted further analysis on these 92 disseminations and found no evidence of terrorism or terror financing (see IO.9 and 10).

176. LEAs effectively use financial intelligence to investigate and trace criminal proceeds. In all cases, law enforcement agencies conduct parallel financial investigations and rely primarily on DFM analysis. Given the country context and the risks identified, the information is more commonly used to investigate predicate offences. For tax crime and corruption cases (consistent with the risk profile), financial intelligence is used to identify the amount of assets concealed, which LEAs use to file an order with the legal entity to oblige them to repay the assets. When repayment is not possible in serious cases, financial intelligence is used to assist the courts with the confiscation of assets.

177. Based on DFM financial intelligence provided to law enforcement agencies, either by request from LEAs or spontaneous dissemination by DFM, crimes related to ML and other different categories of predicate offences are identified on a regular basis. In 2014-2018, through these requests or disseminations, the majority of the crimes identified were tax crimes (979), corruption crimes (499), and shell-companies' activities (115), which corresponds to the main risks. During the same period, 26 crimes under Article 235 of the Criminal Code of the Republic of Belarus ("legalization") were detected (more detailed statistics are presented in Table 6.6). These 26 cases used DFM financial intelligence.

178. The quality of information provided by the DFM is high. This conclusion was made by assessors based on quantitative and qualitative information available to law enforcement agencies and the DFM, confirmed by examples, statistics and personal interviews.

179. For example, the experts were provided with examples demonstrating the ability of law enforcement agencies to obtain and use financial intelligence in their investigations. Case Study 6.1. demonstrates the possibilities of prompt interaction in obtaining and using financial intelligence, which is ultimately aimed at suppressing criminal activity and initiating proceedings, including under Article 235 of the Criminal Code of the Republic of Belarus, as well as demonstrates the possibility of taking provisional measures (seizure of property, including the property of third parties), which allow to ensure the confiscation of an amount equivalent to or in excess to the damage caused.

Case Study 6.1

In 2015, DFI in cooperation with SSC conducted parallel financial investigation using information from DFM during all stages of investigation identified potential crime and initiated criminal proceedings under CrC Art.424, Para 3 (abuse of power or official position) against Mr. "CH", who holding the position of the general director of company "O" (at the time of detection of the criminal offence, 26% of shares of this company was owned by the government) and acting in conspiracy with Israeli national "F" (who was the authorized representative and beneficial owner of company «P.I. LLP» (UK)) and other unidentified individuals, abused his official powers to sign the unfavorable contract for the supply and installation of equipment. This contract resulted in the exceptionally large losses suffered by company "O" which amounted to 890,500 euro.

Mr. "CH" knew about the business negotiations held with the Ukrainian manufacturer of the equipment (furnace) and was aware that the price of the furnace was 701,500 euro. Later on, he signed the documents showing that this furnace was allegedly purchased for 1,592,000 euro from the affiliated UK company "P.I. LLP".

Further operational support of investigation led to two other criminal proceedings initiated by the Central Investigation Department of the Investigative Committee. In February 2016, the criminal proceedings under CrC Art.209, Para 4 (fraud) was initiated against the aforementioned Israeli national "F". Mr."F" and Mr."K" arranged, on 26.07.2011, for signature of the EUR 1,592,000 worth contract between company "P.I. LLP" and company "O" for manufacturing and supply of the THERMO gas furnace. Since September 2011 through May 2012, funds of company "O" in amount of EUR 1,592,000 were transferred to the bank account of company "P.I. LLP" under this contract. A part of these funds in amount of EUR 890,500 was misappropriated by Mr. "F" and Mr. "K", who further spent this money at their own discretion.

In parallel, the second criminal case was opened under CrC Art.235 Para 2 (legalization of proceeds obtained through crime) against the beneficial owner of «P.I. LLP» (UK), the aforementioned Israeli national "F" (who was born in Gomel city, Belarus).

Later on, in order to give the appearance of legitimacy to possession, use and disposal of these funds and to conceal and disguise their origin, Mr. "F", Mr. "K" and other unidentified individuals carried out financing transactions involving transfer of these funds from the foreign bank account of company "P.I. LLP", controlled by them, to the account opened with the Belarusian bank and controlled by Mr. "F". After that, they invested these funds into their personal businesses, and part of these funds was transferred to the accounts held by Mr. "K" and further invested in his personal businesses.

It should be noted that the Financial Investigation Department has seized property in the course of its operational support of criminal cases in order to compensate the State for the damage caused by the offence in the amount of €890,500 at the exchange rate at the time of the offence.

The cases are ongoing, being handled directly by the Investigative Committee.

180. Other examples of completed and adjudicated investigations, including complex crimes involving various sources of information at all stages (operational search activities, investigation, trial and enforcement) are given in IO.7, 8, 9 and 2.

181. Law enforcement agencies rely on the DFM as a key source of financial intelligence. In addition to the above information, the DFM has access to a wide range of information from specific forms, including information on STRs and TTRs (Suspicious transaction report and trash hold report), as well as information from supervisory authorities. Operational financial data are generated both using own databases and information sources of other competent authorities.

182. The powers of the DFM allow to collect and transmit the data containing banking and other information protected by law. The DFM may request any additional information required from the reporting entities in the course of its analytical work, regardless of whether or not the original STR was sent by the institution.

183. In addition, the DFM has the authority to suspend account transactions independently if there are sufficient suspicions and grounds for doing so, and to further transmit this information to law enforcement authorities.

Table 6.1 Information on decisions taken by the DFM on suspension of financial transactions

Year	Decisions on suspension, in total	Total amount of funds suspended at the moment, in USD equivalent
2014	384	6 028 157
2015	139	8 371 259
2016	125	2 909 705
2017	59	4 500 077
2018	6	1 065 190

Case Study 6.2

A citizen of the Russian Federation registered LLC "L" and LLC "S" in the Republic of Belarus. In 2016 LLC "S" received funds from card accounts of foreign banks. More than 820 attempts were made, of which 230 were successful. A total of approximately USD 2.3 million was paid in. The funds were then transferred to the account of LLC "L" and then to the account in Latvia. Thus, 1 tranche was made.

The DFM received a special form from banks on the suspicious nature of the transactions. Within three hours, the DFM suspended accounts of Belarusian banks, blocking about \$1.7 million.

Based on the results of the investigation, the case was referred to the court and the trial is currently underway.

Suspicious transaction reports received and requested by competent authorities

184. Competent authorities have at their disposal a wide range of different reports, most of which contain accurate and up-to-date information. The authorities actively request and receive these reports in order to carry out their duties.

185. The DFM is the main competent authority that accumulates financial intelligence. The DFM receives information on specially controlled transactions - special forms that include STRs and TTRs.

186. Special forms are sent electronically, after which the system automatically checks them for compliance and, if an error is detected, notifies the reporting entity for immediate correction. If a specific form is accepted, the reporting entity is also notified.

187. The reporting entities are well aware of their obligations to provide special forms. This is also due to the ongoing advocacy by the DFM and the supervisory authorities. To ensure the quality of incoming special forms, the DFM provides feedback to FIs and DNFBPs. The DFM has developed about 100 indicators of suspicion and, if necessary, revises them, including by using the experience of FIs and DNFBPs, taking into account the specifics of relevant sectors, as well as global and

regional trends. This work has led to a reduction in the number of special forms with errors. In 2015 the DFM returned 14,215 special forms for revision, and in 2018 12,060 of them were returned.

Table 6.2: Statistics on special forms with and without Suspicious Indicators

	2014	2015	2016	2017	2018
Suspicious SFs received from:	83 552	99 909	104 272	84 854	86 840
FIs	79 568	86 905	88 716	65 372	50 127
DNFBPs	3 984	13 004	15 556	19 482	36 713
Threshold SFs received from:	46 686	52 977	50 413	49 854	57 299
FIs	5 282	5 824	7 816	8 184	12 533
DNFBPs	41 404	47 153	42 597	41 670	44 766
TOTAL SFs	130 238	152 886	154 685	134 708	144 139

188. Table 6.2 shows a downward trend in the number of special forms on suspicion filed by financial institutions. This is primarily due to the explanatory work carried out by the DFM and competent authorities, aimed at raising awareness of FIs of their obligations, as well as changes of legislation. The increase in the number of special forms by DNFBPs is also related to the awareness raising activities carried out by competent authorities, including in the context of NRA, thus improving the understanding of the sector's AML/CFT obligations.

189. The growth of the number of special forms on the basis of the threshold is equally related to professional securities market participants and leasing organizations. Thus, the securities market saw an increase in the number of transactions (for example, in 2018 the number of transactions almost doubled compared with 2017 at the Belarusian Currency and Stock Exchange). In turn, the growth related to leasing organizations was also associated with the growth of this sector. The number of leasing companies' clients over the last three years has increased by more than 10 times.

190. The information-analytical complex of DFM not only unites available databases, but also allows to carry out effectively primary processing of arrays of the information. All special forms are stored in the DFM database and can be used if necessary.

Table 6.3 Information on the number of special forms analyzed

Year	SF Received	Reports Sent	Number of SFs analyzed in DFM reports to LEAs	Number of analysed legal entities and individuals	Identification of crimes based on the results of the review of DFM information
2014	130 238	1 785	305 751	8 747	352
2015	152 886	2 252	688 150	9 207	448
2016	154 685	1 908	399 009	7 745	551
2017	134 708	1 857	381 997	7 561	631
2018	144 139	1 714	468 926	8 407	488

191. Thus, despite the relatively low ratio between the special forms received and the reports sent to law enforcement agencies (see section 6.3), the DFM on average analyzes 300,000 to 400,000 special forms per year (including those previously received) to generate reports to law enforcement agencies.

The assessors are in the view that this fact is a positive example of operational work of the DFM, which shows the ability to accumulate and analyze big data. In this regard, the DFM has invested significant resources in IT systems to conduct preliminary analysis, identify trends and typologies, and systematize and compare data. The system also avoids duplicating the analysis of the same special forms.

192. The received special form is checked and filtered according to the level of risk, and then the case is assigned to the relevant analyst, who identifies the additional information required, collects it using available databases, or requests data from reporting entities, government agencies or foreign counterparts, and performs the analysis.

193. As mentioned earlier, the DFM may request information from FIs and DNFBPs when they have not sent a special form. Such requests may relate to specific accounts, individuals or entities, financial instruments, and operational and/or strategic analysis.

194. The DFM also receives information on the cross-border movement of money and/or monetary instruments from the State Customs Committee, which is directly integrated into its database. Also, the DFM automatically receives information from the Ministry of Taxes on a weekly basis, which is also integrated into the database.

Case Study 6.3

In the course of analysis of information received from the Customs on the cross-border movement of foreign currency, the DFM identified Ms. J., a citizen of the Russian Federation, who in the period of 2015-2017, repeatedly leaving the Republic of Belarus through the airport declared the export of cash. The total amount of declared funds amounted to more than \$1.3 million. Destination countries in the declarations were African countries, as well as the Netherlands (at the same time, the Republic of Belarus does not have direct flights with these African countries). The DFM sent a request to the FIU of Russia regarding the Russian citizen. According to the information received, Ms. J. could have been involved in the scheme of withdrawal of funds abroad. The relevant information was provided to LEAs of the Republic of Belarus on an initiative basis. As feedback to the DFM, it was reported that the information was used in investigative activities.

195. When sending materials to law enforcement agencies, the DFM includes not only STRs, but also TTRs, customs and tax information, and other information from available sources. Taking into account the quantity and quality of STRs, TTRs and other information received by the DFMs, as well as taking into account the developed IT system and the existing automation of processes, the quality of the information accumulated by the DFMs from various sources is classified by assessors as high. This conclusion was also confirmed during interviews with representatives of law enforcement and other competent authorities.

Operational needs supported by analysis and dissemination

196. DFM is the FIU of the administrative type. It collects, processes, analyzes, stores and provides information within its competence. Financial intelligence is formed with the use of own databases, information sources of other competent authorities, as well as using data received from special forms from reporting entities. As mentioned earlier, the DFM has access to a wide range of information in databases (Table 6.4), which are actively used in the analysis. If it is necessary to cross-check the relevance of the information, the DFM has the authority to make an additional requests. There were no cases of refusals to provide information in practice.

Table 6.4: DFM's Information Sources

No.	Information Sources	Accessible Information	Frequency of Updates to DFM
1.	Entities engaged in financial transactions	1. Information on financial transactions that are subject to special control (special forms used for recording financial transactions that are subject to special control)	On daily basis
2.	Belarus Interbank Settlement Center	1. Information on non-cash payments in Belarusian rubles and foreign currency 2. Register of accounts and e-wallets 3. Regulatory reference data	On a daily basis
3.	State Customs Committee	1. Updated information generated based on data contained in the declarations related to goods cleared by the RB customs authorities and in the statistical and periodic statistical declarations registered by the customs authorities 2. Updated information contained in passenger customs declarations related to transport vehicles imported by natural persons for personal use and cleared by the RB customs authorities for free use and disposal in the territory of the Eurasian Economic Union 3. Updated information contained in passenger customs declarations related to private goods, including cash and (or) monetary instruments (except for transport vehicles) cleared by the RB customs authorities 4. Regulatory reference data in form of National Indices, Reference Manuals and Reference Lists	Twice a month
4.	National Cadastral Agency	1. Single State Register of Real Estate Property, Titles thereto and Transactions therewith	Remote access
5.	Department of Humanitarian Affairs of the Belarus President Property Management Directorate	5. Information on received and registered foreign grant aid that is exempt of taxes (duties) 6. Information on received but unregistered foreign grant aid 7. Information on incoming funds transferred to natural persons in amount exceeding 500 base units 8. Information on intended use of foreign grant aid indicated in plans, including information on targeted (untargeted) use of foreign grant aid based on inspection results	On monthly basis
6.	Securities Department of the Finance Ministry	1. Information on the securities market performance	On quarterly basis
7.	Foreign databases	1. World-Check database 2. SPARK database	Remote access Remote access
8.	State Security Committee	1. List of entities and individuals linked to terrorist activities 2. Information on persons put on the interstate wanted list for committing acts punishable under the national criminal legislation of the CIS ATC-member countries, and information on mercenaries	As new information becomes available
9.	Ministry of Internal Affairs	1. Database of lost and stolen machine-readable documents that have not been duly destroyed 2. PASSPORT automated information system; TRAFFIC POLICE CENTER automated information system; Unified State Criminal Record Database (information on administrative and criminal offences)	Remote access
10.	Ministry of Foreign Affairs	1. VISA subsystem database	Remote access

11.	Ministry for Taxes	<ol style="list-style-type: none"> 1. Information on taxpayers (other obliged persons) 2. Information on liquidated (defunct) taxpayers (other obliged persons) 3. Information on founders (owners) 4. Information on founders (owners) of liquidated taxpayers (other obliged persons) and on individuals/entities that lost their founder status 5. Information on accounts held by taxpayers (other obliged persons) 6. Information on closed accounts and accounts of liquidated (defunct) taxpayers (other obliged persons) 7. Details of ID documents of directors and accountants 8. Regulatory reference data and MTMT reference manuals 9. Register of business entities and individual entrepreneurs featured by higher risk of involvement in economic crime 	<p>On daily basis</p> <p>On weekly basis</p> <p>On weekly basis</p> <p>On weekly basis</p> <p>On weekly basis</p> <p>On weekly basis</p> <p>On weekly basis</p> <p>As data change</p> <p>On weekly basis</p>
12.	Ministry of Finance	<ol style="list-style-type: none"> 1. Information on owners of the shares of joint stock companies registered in Belarus 	On quarterly basis
13.	National Bank	<ol style="list-style-type: none"> 1. Information on non-cash payments in Belarusian rubles and foreign currency contained in the Central Interbank Settlement Archive of the RB National Bank 2. Reports encoded 2209 – Information on cross-border payments 3. Reports encoded 1028 – Reports on foreign exchange transactions carried out in the RB foreign exchange market 4. Reports encoded 1044 – Information on targeted use of foreign grant aid 	<p>On daily basis</p> <p>On monthly basis</p> <p>On monthly basis</p> <p>On monthly basis</p>
14.	Belarusian Currency and Stock Exchange	<ol style="list-style-type: none"> 1. Information on transactions in the stock market 2. Information on transactions in the OTC market 3. Information on transaction parties (stock market) 4. Information on professional intermediaries (OTC market) 5. Shares 6. Transaction types 7. Information on transacted securities (OTC market) 8. Types of transaction parties 9. Information on transaction parties (OTC market) 	On daily basis
15.	Beltelecom Company	<ol style="list-style-type: none"> 1. Electronic database of phone numbers of the fixed public electronic communication network subscribers (residential and office sectors) 	On monthly basis
16.	Minsk City Registration and Cadastral Agency	<ol style="list-style-type: none"> 1. Information on legal registration of real estate property 	Remote access
17.	Social Protection Fund	<ol style="list-style-type: none"> 1. Personalized accounting records 	<p>Remote access</p> <p>Thrice a year full information contained in the database is provided</p>

197. The DFM disseminates the results of its analysis to the competent authorities, both spontaneously and upon request. On the basis of the initial analysis of the special forms, the reports are selected for in-depth examination with a view to identify financial transactions possibly related to ML/TF. Based on the results of the in-depth analysis, if there are sufficient grounds for doing so, the relevant information and analytical materials are sent to the competent authorities.

Table 6.5: Cooperation between DFM and LEAs

	LEAs	Types of Disseminations	2014	2015	2016	2017	2018
1.	Financial Investigation Department	Spontaneous disseminations	185	102	83	118	63
		Request-based disseminations	391	597	371	355	282
2.	Ministry of Internal Affairs	Spontaneous disseminations	17	0	14	28	29
		Request-based disseminations	435	643	655	538	541
3.	State Security	Spontaneous disseminations	29	36	43	31	29

	Committee	Request-based disseminations	216	376	347	232	146
4.	General Prosecutor's Office	Spontaneous disseminations	0	0	3	0	0
		Request-based disseminations	2	4	2	1	5
5.	Investigative Committee	Spontaneous disseminations	4	0	3	0	0
		Request-based disseminations	48	79	95	173	289
6.	State Customs Committee	Spontaneous disseminations	1	0	0	3	3
		Request-based disseminations	11	16	20	24	7
		TOTAL	1339	1853	1636	1503	1394
		SUB-TOTAL at request	1103	1715	1490	1323	1270
		SUB-TOTAL spontaneous	236	138	146	180	124

Table 6.6: Feedback received from law enforcement agencies and other competent authorities (including the Ministry of Taxes and other supervisory authorities) on the implementation of DFM information (by year)

	Reports sent	Funds Seized, in mln. \$	Total Crimes Reveiled		
			Total	Including Art. 235 («legalization»)	Including based on Spontaneous Reports from DFM
2014	1 785	17,2	352	1	23
2015	2 252	19,6	448	11	44
2016	1 908	20,5	551	7	67
2017	1 857	94,7	631	4	40
2018	1714	92,1	488	3	71

198. As shown in the table, DFM information is actively used to identify, investigate and prosecute both predicate offences and ML. According to the information received, an average of 25% of the total number of financial crimes detected are disclosed using both requested and spontaneous DFM materials. At the same time, the initiative information of the DFM reveals an average of 6-10% of the total number of crimes detected. These statistics show that law enforcement and other competent authorities actively use financial information to collect evidence and identify crimes.

Table 6.7: Types of crimes identified using DFM spontaneous information

Article		Spontaneous Information from DFM				
		2014	2015	2016	2017	2018
209	Fraud			2		1
210	Theft through abuse of authority		1		6	
212	Theft through the use of computer technology			1		
216	Infliction of property damage without signs of theft			2		
233	Illegal business activities	2	2	2	2	3
234	Use of shell companies	9	14	3	1	7
235	Money laundering (legalization)		2	3	1	
237	Luring a loan or subsidy			9		
240	Deliberate economic insolvency (bankruptcy)					1
242	Evasion from repayment of accounts payable			1		

243	Evasion of taxes and fees	11	17	33	30	41
328	Illicit traffic in narcotic drugs, psychotropic substances, their precursors and analogues	1				
424	Abuse of power or authority			6		1
427	Official forgery			2		
430	Bribery (received)		4	2		9
431	Bribery (given)		2	1		8
433	Acceptance of illegal remuneration		2			

199. On average, the number of spontaneous disseminations by the DFM to law enforcement agencies remains at the level of 10 - 15% of the total mass of information exchange. These statistics indirectly indicate that the DFM lacks human resources to carry out proactive analysis to a greater extent. At the same time, all law enforcement agencies expressed interest in increasing the number of initiative materials from the DFM and noted their high quality.

200. Experts noted a decrease in the number of requests sent to the DFM by the vast majority of law enforcement agencies. Law enforcement authorities explained that this trend is not related to the deterioration of the quality of information provided by the FIU, but primarily results from the explanatory work carried out by the DFM over the past few years to improve the efficiency of cooperation (for example, in the framework of bilateral meetings, discussions were held as to in which cases it was not necessary to request information) and the availability of direct access to databases for law enforcement agencies (for example, PASSPORT automated information system, Unified State Register of Legal Entities, etc.). The significant increase in requests from the Investigative Committee is explained by the fact that, since 2016, in accordance with Instruction No. 16 of the General Prosecutor's Office, each investigator, including from territorial units, has the authority to directly request the DFM. During the on-site mission, the assessors received clarifications from both the FIU and the Investigative Committee that work is underway to establish a mechanism for cooperation with the Investigation Committee, similar to that of other law enforcement agencies.

Case Study 6.4

In the Republic of Belarus, annual training seminars are held for employees of the Ministry of Internal Affairs, in which representatives of the DFM take part and provide information on the possibilities, functions, powers of DFM. They also explain the provisions on interaction, on the correctness of requests to the DFM, including in order to avoid the sending of duplicate requests, on the need for feedback, etc. Examples of requests that are left unexecuted, etc., are also provided. Thus, the work is being done to improve the quality of sent requests, including reducing the number of requests due to their duplication, requesting information that the DFM does not have, or sending a request to foreign FIUs if there is no reason to do so. Similar activities are carried out for other competent authorities

201. Since 01.07.2017, the DFM has been keeping statistics on the topics of replies sent to law enforcement agencies. At the same time, based on the meetings with the authorities, assessors believe that the interaction between law enforcement agencies and the DFM is more consistent with the ML/TF risks identified in the country. Thus, the main ML risks were identified as tax and corruption crimes. According to the presented statistics, out of the total number of responses in 2018, the DFM sent 170 responses to the queries related to tax evasion or illegal VAT refund, 52 responses to the queries related to corruption, 155 responses to the queries related to money laundering, which is about 30% of total responses.

202. Law enforcement is actively using FIU information to investigate and trace crime proceeds, including the use of confiscation mechanisms, as evidenced by statistics (see table 6.6). Given the country context and the risks identified, information is more commonly used to investigate predicate offences, and there are also instances of ML investigations.

Case Study 6.5

Based on the results of an in-depth analysis of the special forms received by the DFM, 390 individual entrepreneurs were identified as allegedly carrying out illegal currency exchange operations. Information and analytical materials were sent to the Ministry of Internal Affairs' subdivision and contributed to the analysis and forecasting of the criminal situation in the foreign exchange market of the Republic of Belarus, this part of possible negative phenomena and development of effective response measures.

Based on the results of the operational measures taken, 25 criminal cases were initiated under Articles 233 (illegal business activities) and 243 (tax evasion) of the Criminal Code of the Republic of Belarus with regard to persons who systematically engage in illegal foreign exchange transactions with large amounts of income; 673 administrative protocols were drawn up for the offences provided for in Articles 11.1 and 11.2 of the Administrative Offences Code of the Republic of Belarus, and the funds in the amount equivalent to USD 312,700 were withdrawn from illegal circulation.

Case Study 6.6

In 2017, criminal proceedings were initiated on the grounds of an offence under Part 3 Article 430 (bribery) and Part 2 Article 216 (infliction of property damage without signs of theft) of the Criminal Code of the Republic of Belarus against one of the managers of a State enterprise who had received a bribe of USD 200,000 for granting the right to purchase and sell products of the plant in a foreign country to dealers, and against other persons. At the same time, representatives of the dealer company did not make mutual settlements for the supplied equipment, and with the use of the controlled entities carried out financial transactions on bank accounts in order to give a legal appearance to the ownership, use and disposal of property.

Currently, measures are being taken to compensate the guilty parties for the damage caused in the criminal case. As of January 2019, the amount of damage repaid amounted to more than USD 20 million.

203. Cooperation between the DFM and the supervisory authorities is also carried out as part of the planning and preparation for supervisory activities.

Case Study 6.7

With the purpose of preparation for the National Bank inspections of the supervised entities, DFM submits materials that are believed to indicate that there are AML/CFT violations at the bank. These materials are used by the National Bank when planning and conducting inspections. The National Bank shall inform the DFM about the results of the audit. For example, in 2016, as a result of the analysis of the information provided by the DFM, the National Bank found violations of the procedure of registration of financial transactions subject to special control by four leasing organizations. These administrative violations resulted in the application of a fine to 4 employees of leasing organizations. The National Bank informed non-bank credit and financial institutions

about these cases by its letter, and subsequently no similar violations were revealed.

Case Study 6.8

In 2017, the financial investigation authorities, together with the State Control Committee using information and analytical support of DFM, including foreign FIU information, identified and stopped the illegal activities of a group of persons that carried out illegal business activities on behalf of the group of non-resident companies in the territory of the Republic of Belarus with the use of bank accounts and details of the companies controlled by this group, using the details, seals and bank accounts of commercial entities controlled by them from the UK and Hong Kong. The criminal group organized a scheme for the purchase of cattle skins at meat processing and procurement plants of the Republic of Belarus for the purpose of further processing into leather raw materials, removal from the territory at lower prices and subsequent sale at world prices in the markets of the European Union, China and India.

As a result of the inspections carried out, criminal proceedings were instituted against citizens under Article 23 Paragraph 3 of the Criminal Code; the amount of damage caused by such illegal activities amounted to BYR 5.7 million. Based on the results of the investigation, the case was referred to the courts and proceedings are currently under way.

204. The DFM conducts strategic analysis and individual staff members are assigned to this work. The DFM monitors risks and vulnerabilities on an ongoing basis, analyzing information obtained from special forms, as well as taking into account global trends. For example, DFM has developed, adopted and is using Methodical Recommendations for the analysis of financial transactions. All STRs and TTRs are used as a basis for strategic analysis, including the identification of new risks, typologies and indicators.

205. Recently, the DFM has conducted research on the following topics: analysis of reports on transactions subject to special control, related to the sending of international money transfers; use of shopping centers for the purpose of legalization of proceeds of crime; monitoring of transactions with budgetary and other funds aimed at the implementation of the State Program for the development and maintenance of roads in the Republic of Belarus for 2015-2019; identification of schemes for obtaining and (or) legalization of proceeds of crime in sphere of housing and communal services; identification of foreign companies registered specially for money laundering; analysis of trans-border financial flows within the projects of CHFIU CIS, EAG, etc..

206. DFM analytical materials are also used as guidelines for FIs and DNFBPs to identify ML/TF risks, as well as to strengthen the STR and TTRs reporting regime.

Cooperation and exchange of information/ financial intelligence

207. There is effective cooperation and information sharing on ML and predicate offences between the DFM and competent authorities. Cooperation and information sharing on TF is less intensive, which is consistent with the country's context.

208. The DFM has signed the interagency cooperation agreements with all competent authorities, which govern, among other things, the information sharing procedure. If necessary, e.g. for more quick response, cooperation may be pursued through informal channels.

209. The DFM coordinates the efforts of all AML/CFT system stakeholders, inter alia, through three working groups, which are the standing interagency consultative bodies headed by the DFM:

Working Group on ML/TF Typologies; Working Group on Combating Terrorist and Proliferation Financing; and Interagency Working Group on Coordination of AML/CFT Efforts of the Government Authorities.

210. The DFM, together with law enforcement officials, holds working meetings at the Situation Centre using an automated system for recording, processing and analysing information on financial transactions subject to special control. As part of this work, thematic monitoring is conducted in various areas.

211. In the course of such monitoring, the Ad-Hoc working group determines the factors indicating the presence of possible risks of transactions related to ML/TF/PF, creates algorithms and identifies groups of persons and entities involved in a scheme by matching their transactions against the typical chain of settlements for each subject.

212. Such thematic meetings using the DFM Situation Centre (Integrated Information Technology System) are a standard practice. Such work is carried out on an ongoing basis at least twice a year with Financial Investigation Department, and with other competent authorities, depending on the risks identified.

213. In addition, the Financial Investigation Department's staff are seconded to the relevant departments of the DFM in order to enhance operational interaction.

214. The DFM has built the autonomous information network that is not connected to the Internet and to local networks for properly securing the stored information. The restricted information protection and security measures to be applied in the process of using personal computers and transmitting data are set out in the relevant DFM's instruction, which is classified as the confidential document. Special personal logins and passwords are assigned for accessing the DFM's system and all information contained therein.

215. The databases of other government authorities and institutions are remotely accessed via the dedicated secure certified communication channel from a separate computer, which is not connected to DFM internal network, with the use of personal logins and passwords provided by the relevant government authorities and institutions.

216. All disseminations sent by the DFM constitute the banking or other secrets protected by law and, therefore, are classified as restricted/ confidential information. Information is shared among the DFM, LEAs, investigative, judicial and other competent authorities through the postal (government courier) communication channels, and also via the secure electronic communication channels.

217. The good understanding of the importance of close cooperation for combatting ML, predicate offences and TF was demonstrated to the assessors. No shortcomings that limit or impede cooperation have been revealed.

218. Belarus is rated as having a substantial level of effectiveness for Immediate Outcome 6.

Immediate Outcome 7 (ML investigation and criminal prosecution)

Identification and investigation of ML cases

219. Law enforcement authorities (the Ministry of Internal Affairs (MIA), the State Security Committee (SSC), the Department of Financial Investigations of the State Control Committee (DFI), and the State Customs Committee (SCC), investigation agencies and the General Prosecutor's Office of the Republic of Belarus (GPO), in accordance with their competence, identify and investigate crimes, including those related to ML. A number of competent authorities have established special units responsible for combating certain types of predicate offences.

220. For instance, the MIA has units for combating drug trafficking and trafficking in human beings, high-tech related crimes, economic crimes, corruption and organized crimes (this unit has an anti-money laundering division). The customs authorities have established a special unit responsible for operational activities. This specialization has been introduced in the investigation agencies and the SSC. The GPO has established a special unit for the investigation of particularly important cases.

221. In accordance with the legislation, there are instructions and provisions setting out the predicate offences to ML and regulating the conduct of parallel financial investigations in the Republic of Belarus. The evaluation team were provided with evidence of financial investigations in every case of a predicate offence investigation.

222. The competent authorities have the necessary powers to collect operational financial information for the purpose of detecting and investigating cases of predicate offences and ML. Cases are investigated on the basis of financial intelligence from a variety of sources, mainly from the financial intelligence unit (the Department of Financial Monitoring - DFM). The interaction between the DFM and law enforcement authorities is quite active, both in terms of spontaneous dissemination of information and responding to requests (see IO 6).

223. The competent authorities of the Republic of Belarus have sufficient resources to conduct financial investigations. Their specialists regularly undergo advanced training in combating ML and participate in typological research. The DFM forwards them the results of typological research for use in their activities, which contributes to strengthening the capacity of competent authorities.

224. At the initial detection of the signs of a crime, an investigation is conducted to identify the elements of a crime, but not all crimes include ML, due to the insignificance or immateriality of ML episodes. As a result of these activities, 80 criminal ML cases were initiated in 2014-2018. There were no cases of refusal to initiate criminal ML cases. ML cases can be initiated on a case-by-case basis, which can be combined into a single case in court.

225. In addition, law enforcement officers have access to financial intelligence (article 121 of the Banking Code) and other databases. Information containing banking secrets is available to: the prosecutor; special units for combating corruption and organized crime of MIA; units for combating economic crimes of MIA- with the prosecutor's sanction; departments of the State Control Committee of the Republic of Belarus; SSC; tax and customs bodies.

Case study 7.1.

The General Directorate for Combating Organized Crime and Corruption of the MIA (GDCOCC) received DFM's spontaneous dissemination regarding suspicious financial transactions related to changes in the authorized capital of one of the commercial banks of the Republic of Belarus. As a result of the investigative measures carried out in 2014-2015, the criminal activity of officials of one of the commercial banks was stopped. They have used their official position through various financial operations on the accounts of the companies under control and transactions with securities. They have stolen funds of a foreign bank on a particularly large scale, converted them into foreign

currency in the amount of EUR 5.5 million and legalized the proceeds of crime by contributing the indicated amount to the authorized capital of the newly created bank. Criminal cases have been initiated on the grounds of crimes provided for in paragraph 4 of article 210 (embezzlement by abusing of power), paragraph 2 of article 235 (legalization ("laundering") of crime proceeds) of the Criminal Code (CC), and the investigation is ongoing.

226. The examples given by the Republic of Belarus with regard to detection and subsequent investigation of criminal cases involving predicate offences and ML, indicate that the practice of joint financial investigations between competent authorities, has been developed. In complex and multi-episode criminal cases, the practice of "appointing" a specific officer of an inquiry body (usually an operative officer) to accompany the investigation process is widespread, which makes it possible to improve the quality of the execution of inquiries and reduce their duration, since the actual tasks are set "face to face". According to the presented data, there are positive examples at the level of the DFM and the DFI, the DFM and the GDCOCC, the IC and the DFI, the IC and the SCC, as well as the DFI and the MIA, the DFI and the SSC, the SSC and the State Border Committee (SBC).

227. The SCC in the Republic of Belarus is a fiscal authority with law enforcement functions and has the right to detect predicate offences related to possible ML within its competence. They mainly identify offences (administrative and criminal) in terms of evasion from customs duties, smuggling, and illegal import/export of export control goods across the border of the Republic of Belarus. Subsequent offenders are prosecuted. The geographical location of the country and its membership in the Eurasian Economic Union creates prerequisites for its use for the purpose of committing customs offences. The customs authorities have demonstrated a partial understanding of ML risks, in particular with regard to crimes related to the transit of narcotic drugs and the cross-border movement of cash.

Case study 7.2.

It has been identified by GDCOCC that one of the leaders of the organized group Sh., previously convicted, being the founder and head of LLC "K" together with other persons in the organized group headed by him, acting with a single intent out of mercenary interest in order to enrich and generate income on a particularly large scale, in the period from 2015 to 2018 carried out illegal business activities related to smuggling of foreign goods to business entities of the Russian Federation. The goods were marked with forged labels and subsequently moved to be sold in Russia. The established amount of criminal proceeds exceeded USD 6.5 million. With a purpose of legalization of the received proceeds, Sh. with other persons, performed various financial transactions under the guise of commercial entities' settlements with LLC "K". Four criminal proceedings were initiated against Sh. and other persons: under part 4 of article 228 (smuggling), part 3 of article 233 (entrepreneur activity without a special permission (license), part 3 of article 235 (legalization ("laundering") of crime proceeds), part 2 of article 234 ((illegal business activity: use of false structures, nominee directors and the use of complex corporate structures) of the CC of the Republic of Belarus. Five active participants were detained in this criminal case and the investigation is ongoing.

228. In accordance with the agreement between the Ministry of Taxes (MTMT) and the DFI during the tax audit conducted by the MTMT, in case if the additional amount of taxes exceeds 1000 basic amounts (about 12,500 US dollars in equivalent), the MTMT transmits this information to the DFI, which gives them a legal assessment. Where there is an offence, the DFI initiates criminal proceeding. At the same time, assessment team believes that there is the following vulnerability in this mechanism: in the case of compensation of damage due to unpaid tax amounts by individuals, identified during the analysis of income and expenses of the inspected person, the MT in some cases is limited only to compensation of damage. Further, the statistics of initiated cases on tax evasion from the number of received reports from the MT is presented.

Table 7.1. Information on cooperation between the DFI and MT

	2014	2015	2016	2017	2018
Reports received	1103	1631	1567	1009	591
Cases initiated	40	73	57	73	27

Table 7.2. Number of cases initiated on tax crimes (article 243 of the CC) submitted to the court

	2014	2015	2016	2017	2018	Total
Cases initiated	343	485	482	415	243	1 968
Cases dismissed	35	44	47	32	32	190

229. A significant amount of cases are investigated through the use of information received from foreign competent authorities, including materials from the FIU. Law enforcement authorities noted the high speed and effectiveness of information exchange involving DFM resources.

230. The Republic of Belarus has a mechanism in place to implement a set of provisional measures. Thus, Decree No. 14 establishes the obligation of counterparties of a shell company structure to pay tax payments by themselves in the event of establishing the facts of committing an offence in the economic sphere by this structure and its use for committing such an offence. A person voluntarily reimburses damages upon the instruction of the DFI. If the person does not agree, an inspection is appointed. As a result of this provisional measure, 3,539 economic entities of the real sector of the economy have been identified, which were inspected on the facts of their relations with shell company structures and have voluntarily paid 4,908,774.35 rubles of tax payments concealed from the tax authorities. As of today, 98.19% of the identified counteragents of false structures have been subjected to the measures provided by Decree No. 14.

Case study 7.3.

In 2016, the DFI, with the use of information and analytical materials of the DFM, carried out a special operation to suppress the activities of an international organized criminal group, which in the territory of the Republic of Belarus, the Russian Federation, the Baltic States and other EU countries, using the settlement accounts and details of more than 60 illegal structures under its control, registered in the Republic of Belarus and 29 non-residents provided assistance to officials of more than 2,000 commercial enterprises in tax evasion, legalization of goods and materials. The criminal income of the criminal group from 2011 to 2016 amounted to more than 54 million US dollars.

Based on the results of the DFI's operational search and verification activities with regard to the organizer of the criminal activity of citizen B-K., as well as active members of this group B., a criminal case was initiated on the grounds of an offence under part 3 of article 233 of the CC (illegal business activity: use of false structures, nominee directors and the use of complex corporate structures). Twelve criminal cases were brought against officials of real sector organizations using the services of this criminal group under article 243 (tax evasion) of the CC.

In order to compensate for the illegal income received and the damage caused to the state in the form of unpaid taxes, more than US 3 million in seizure of the defendants' property (real estate and expensive cars) was imposed.

The DFI initiated two criminal proceedings for offences under article 235, paragraph 3 (legalization ("laundering") of crime proceeds as part of an organized group) of the CC in respect of the aforementioned B-K citizen and other unidentified persons.

231. The Republic of Belarus is taking measures to combat drug trafficking and understands the related threats. The evaluation team came to this conclusion based on the following facts. The competent authorities are focused on the suppression of drug and precursor supply channels, which has led to the fact that the market in the country is not significant. In cases where the production or transportation of drugs is detected, drugs are most often used for personal use and local sales. Supply chains are most often intercepted at the pre-investigation stage. The geographical location of the country is a factor that exposes the territory of the Republic of Belarus to the transit of drugs. However, according to the assessment of the competent authorities, this route is not used on a large scale, which is confirmed by a single case of drug supply during the reporting period. No cases of proceeds laundering from the transit of drugs have been identified in the country, so there are no ML related criminal cases that come into existence from drug trafficking. Case study 7.4 illustrates the types of drug related cases the authorities are mostly dealing with.

Table 7.4. Identified seizures of narcotic and psychotropic substances

Year	Facts	Seizures of narcotic drugs and precursors (kg)	Seizures of medicines (thousand pieces)	Criminal cases (independently and by other law enforcement agencies on the basis of the maintenance)
2014	90	572,75	2,6	59
2015	193	871,1	474	76
2016	563	16,4	32,3	98
2017	533	1 016	15,7	68
2018	435	225,2	10	127

232. At the same time, there is a systematic approach to the detection of ML from drug trafficking in the country. There is interaction between the DFM and the responsible structural unit of the MIA in the mentioned direction in the form of requests and spontaneous dissemination, as well as active operational interaction with border countries.

Table 7.5. Number of DFM spontaneous disseminations to the specialized unit of the MIA to combat illicit drug trafficking

	2014	2015	2016	2017	2018
Total	15	15	10	16	32
Including on initiative	-	1	1	6	10

Case study 7.4.

Citizen Y., having created a criminal group consisting of a number of persons, organized the production and sale of falsified alcohol-containing products in the amount of about 17 thousand rubles, with an attempt to generate criminal income in the amount of 80 thousand rubles. However, his activities were stopped by law enforcement authorities.

In addition, he bought seeds of the cannabis plant for mercenary motives, collected and produced 4.9 kg of the drug for the purpose of sowing and growing to be further sold. Later on he carried out transportation and storage of this substance. In the course of the investigation it was identified that a dwelling house and a land plot were registered in the name of citizen L., which actually belonged to citizen Y.

Cases were considered under part 3 of article 233 (illegal business activity: use of false structures, nominee directors and the use of complex corporate structures), part 1 of article 14 and part 3 of

article 233 (attempt to commit illegal business activity: use of false structures, nominee directors and the use of complex corporate structures), part 2 of article 380 (forgery, production, use or sale of forged documents, stamps, seals, forms), part 3 of article 261-1 (production, sale or use counterfeit excise stamps of the Republic of Belarus), part 3 article 328 (illegal trafficking of drugs, their precursors or analogues) of the CC of the Republic of Belarus. The property, including the property registered to the citizen L., is under arrest. The case was transferred to the court.

233. The activities of law enforcement authorities are aimed at suppressing the predicate offences, the investigation of which results in the confiscation of all identified criminal assets and property, as well as the implementation of preventive measures. This is provided for in state programs to combat crime, corruption and drug trafficking.

234. The peculiarity of the Republic of Belarus is that most often the proceeds of corruption activities are concealed by keeping them in cash, most often in caches. As a rule, such money is not legalized. This is explained by the preventive work carried out and national strategies to suppress corruption related crimes. Law enforcement authorities have experience, methodologies and tools to investigate such cases. These measures are effective in countering the introduction of the proceeds of such crimes into the legal economy, including through the acquisition of movable and immovable property.

Case study 7.5.

On July, 8 2016, the Pervomaisk district court of Minsk, having considered the criminal case against V., an employee of the emergency services, found him guilty of committing a crime under part 2 of article 430 of the CC (taking a large bribe) and sentenced him to 6 years' imprisonment. In addition to the apartment and car, 89.9 thousand US dollars, 20 thousand euros and 900 thousand Russian rubles, which the convicted person did not try to legalize, were turned to the government revenue.

Compliance of ML investigations and prosecutions with the nature of national threats and risks, as well as national AML policy

235. The main ML risks in the Republic of Belarus are related to tax crimes, including the use of false structures, nominee directors and the use of complex corporate structures, as well as corruption crimes, and the national AML/CFT system puts in place measures preventing the legalization of the proceeds of above indicated crimes. Fraud does not have a significant public resonance due to the volume of criminal income, and the detected facts of fraud are not systemic in nature, which generally confirms the conclusions of the NRA about the medium risk.

Table 7.6. Number of initiated ML cases

Law enforcement authority	2014	2015	2016	2017	2018	Total
MIA	7	9	6	9	7	38
DFI	1	10	6	2	15	34
Investigation Committee (IC)		1		4	1	6
SSC		1		1		2
Total	8	21	12	16	23	80

236. As shown in the table above, the majority of ML cases are initiated by the relevant law enforcement authorities, namely, the DFI and the MIA, which corresponds to the country's risk profile, i.e., the predicate offences that fall under the responsibility of these agencies. 90% of tax crimes related cases are investigated by the DFI. Due to the existence of a provision in the Criminal Procedural Code (CPC) on termination of criminal proceedings on the grounds of compensation for damages (payment of taxes to the budget), there are no legal grounds for further ML investigation.

The main types of predicate offences related to the jurisdiction of the MIA is fraud, which generally corresponds to the medium risk level assigned to NRAs.

237. The Republic of Belarus takes effective and consistent steps in accordance with the main types of predicate offences (high and medium risk), which is confirmed by the statistics presented below.

Table 7.7. Number of ML cases (by predicates)

Predicate offences	2014	2015	2016	2017	2018	Total
Fraud						
cases initiated	-	11	5	5	9	30
transferred to court	-	1	2	13	8	24
Corruption and bribery						
cases initiated	3	1	3	2	3	12
transferred to court	3	-	3	2	3	11
Tax crimes, including illegal entrepreneurship						
cases initiated	2	-	4	1	10	17
transferred to court	2	-	1	2	9	14
Related to information technology						
cases initiated	-	2	-	3	-	5
transferred to court	-	2	-	3	-	5
Trafficking in human being						
cases initiated	3	-	-	-	-	3
transferred to court	3	-	-	-	-	3
Without predicate (theft committed abroad)						
cases initiated	-	7	-	5	1	13
transferred to court	-	7	-	1	-	8
Total						
cases initiated	8	21	12	16	23	80
transferred to court	8	10	6	21	20	65

Case study 7.6.

In 2018, the IC initiated 8 ML related criminal cases against several persons who legalized criminal proceeds from tax evasion. Business entities registered in the Republic of Belarus and abroad were used in the criminal scheme. On the basis of fictitious loan and consulting service agreements, the proceeds of crime were received (about 17.5 million US dollars in equivalent), which were subsequently included in the legal turnover.

In May 2018, during the course of operational support of the criminal investigation to obtain additional evidence of illegal activities of citizen A. and other persons aimed at tax evasion and embezzlement of VAT amounts from the budget in Belarus and Russia, the DFI requested the Department of International Tax Cooperation of the Ministry of Taxes to provide assistance in obtaining the following information from the tax authorities of Russia and non-CIS countries:

- 1) information on the cash flow (bank statements), if possible, in electronic form for all settlement accounts of the Russian subjects controlled by citizen A. for the period from 01.01.2010 to

31.12.2016;

2) lists of suppliers and purchasers of goods of the above entities according to the accounting data for the above period;

3) information on cash flow (bank statements), if possible, in electronic form for all settlement accounts of non-residents controlled by citizen A. of non-CIS countries, specified in the request, for the period from 01.01.2010 to 31.12.2016;

4) information on cash flow (bank statements) on settlement accounts of one-day firms specified in the request for the period from 01.01.2010 to 31.12.2016;

5) explanations of officials of the above entities controlled by citizen A. and one-day companies, information on the location (absence) of these organizations at their legal addresses (places of registration).

On the basis of requests from the DFI, the Ministry of Taxes applied to the relevant competent authorities of foreign countries (the Russian Federation, the Republic of Kazakhstan, the United States of America, the United Arab Emirates, Hong Kong, Cyprus, the United Kingdom and Germany) to obtain the necessary information.

The information obtained was used in the course of the investigation.

Types of money-laundering cases investigated and prosecuted in courts

238. Mitigating factors (national and departmental plans to minimize ML risks, including increased prosecution of drug trafficking related offences), the existing system of detection of the predicate offences and ML within the framework of the operative search activity (competent law enforcement authorities), further criminal prosecutions and investigations (IC, GPO), referral of these cases to the courts, conviction of criminals under the predicate offences and ML, including the capacity of competent authorities to investigate various types of crimes, including self-laundering, ML by third parties and the commission of the predicate offence abroad suggests that the country's priorities are in line with the country's current threats.

239. The following statistics indicates the experience and capacity of law enforcement agencies in detecting and investigating various categories of ML offences (predicate offence abroad, third party laundering, etc.).

Table 7.8. Number of ML cases (by type)

Type of ML	2014	2015	2016	2017	2018	Total
Third party laundering						
cases initiated	1	-	2	-	-	3
transferred to court	1	-	-	-	-	1
Self - laundering						
cases initiated	7	13	10	10	21	61
transferred to court	7	3	5	20	19	54
Predicate offence in a third country						
cases initiated	-	8	-	6	2	16
transferred to court	-	7	1	1	1	10
Total						
cases initiated	8	21	12	16	23	80
transferred to court	8	10	6	21	20	65

240. Thus, analyzing the above data, the evaluation team came to the conclusion that these statistics correspond to the risk profile of the country, taking into account that the Republic of Belarus is not a financial center in the region and legalization mainly takes place abroad.

241. In total, the courts examined 26 cases against 41 persons accused under article 235 of the Criminal Code (legalization) and convicted 28 persons in 2014-2018. The number of ML cases referred to and considered by the courts differs for the following reasons. Some of the 63 criminal cases were sent in 2018 and were not reviewed at the time of the assessment. Some criminal cases involving the same defendants were combined in court into a single case and one sentence was handed down.

**Table 7.9. Information on the consideration of ML related cases
by the courts of the Republic of Belarus**

	2014	2015	2016	2017	2018	Total
Cases considered	5	5	4	9	3	26

Case study 7.7. (Committing the predicate offence abroad, same example for third parties)

As a result of joint operational and investigative measures taken by officers of the Main Criminal Investigation Department of the Criminal Police of the Ministry of Internal Affairs of the Republic of Belarus and the Main Criminal Investigation Department of the Ministry of Internal Affairs of the Russian Federation, a criminal group of citizens of the Republic of Belarus who stole cars in the territory of the Russian Federation and then sold them or legalized them in the Republic of Belarus was uncovered.

Also, according to the materials of the MIA of the Republic of Belarus in 2017, four criminal cases were initiated under part 2 of article 235 of the Criminal Code against two other members of the above-mentioned group, Y. and H., who forged car identification numbers and, acting in accordance with a previously developed plan, registered and sold stolen cars in Russia on the territory of the Republic of Belarus, thereby involving them in the legal civil turnover and carrying out various financial transactions related to the purchase and sale of cars in the territory of the Republic of Belarus with a view to distorting the sources of their suspension. These facts are under investigation.

In addition, the officers of the MIA have uncovered a citizen of the Republic of Belarus who was engaged in international criminal activities aimed at legalizing stolen cars in the Russian Federation, most of which were expensive SUVs.

In 2017, this citizen was sentenced to 6 years' deprivation of liberty for 11 months with confiscation of property and deprivation of the right to engage in entrepreneurial activity for a period of three years.

Case study 7.8 (Self – laundering).

T., being the director of a private enterprise "T" by deception, not intending to fulfill the obligations on payment of delivered production, has received at the state enterprise commodities (a flour in weight over 231 tons) for the total sum of 120 thousand US dollars.

Criminal proceedings were instituted against T. under article 209, part 4, of the CC - theft of property by means of deception (fraud) on a particularly large scale.

Preliminary investigation demonstrated that T., in order to give a lawful appearance to the possession, use and disposal of the stolen property with a view to distorting the origin of the stolen property, made forged documents according to which the flour belonged to the private enterprise "A", in which he was a commercial director, and delivered flour from the enterprise

"A" to other economic entities. The money received into the current account of enterprise "A" were involved in the economic turnover, used in the commercial activities of enterprises "T" and "A".

T. was convicted of a combination of crimes (fraud and legalization), including imprisonment and confiscation of property.

Case study 7.9. (ML without a predicate offence)

Molodechno district's IC unit is investigating a criminal case initiated by the law enforcement authorities of the Republic of Latvia against a citizen of the Republic of Belarus, K., whose bank account in one of the Baltic banks, as a result of fraud on the internet, received funds in the amount of 217.5 thousand US dollars. An investigation is currently ongoing according to article 235.2 of the CC of the Republic of Belarus.

Efficiency, proportionality and deterrent effect of sanctions

242.ML is punishable by a fine, imprisonment for a term of 2 to 10 years with confiscation of property. These examples of convictions in ML cases and the level of sanctions demonstrate the existence of effective, proportionate and dissuasive sanctions in the country.

Table 7.10. Criminal record dynamics for legalization ("laundering") of criminal proceeds (article 235 of the CC)

Year	Cases considered/in respect to persons	Persons convicted	Justified persons	Proceedings have been discontinued
2014	5/10	8	2 (with a conviction for the predicate offences)	-
2015	5/5	3	2 (with a conviction for the predicate offences)	-
2016	4/7*	6	-	-
2017	9/14**	6	2	5 (4 persons – the public prosecutor's dismissal of the charges; 1 person – p. 8 p.1 art. 29 of the CPC)
2018	3/5	5	-	-
Total	26/41	28	6	5

* Qualification under article 235 of the CC in respect of 1 person is excluded by the court as excessively imputed

** One person's sentence under article 235 of the CC was overturned by the court of appeal, and the case was referred to a new court of appeal, and the conviction for the predicate offence was upheld.

Table 7.11. Number of ML convictions and convicted persons (by predicate)

Predicate offences	2014	2015	2016	2017	2018	Total
Fraud						
number of convictions	-	1	2	2	1	6

convicted persons	-	1	2	2	1	6
Corruption and bribery						
number of convictions	2	-	-	1	1	4
convicted persons	3	-	-	3	1	7
Tax crimes, including shell companies						
number of convictions	1	-	-	-	1	2
convicted persons	1	-	-	-	3	4
Related to information technology						
number of convictions		1	-	-	-	1
convicted persons		1	-	-	-	1
human trafficking						
number of convictions		1	-	-	-	1
convicted persons		1	-	-	-	1
Without predicate (theft committed abroad)						
number of convictions	1	-	1	1	-	3
convicted persons	4	-	4	1	-	9
Total						
number of convictions	4	3	3	4	3	17
convicted persons	8	3	6	6	5	28

Table 7.12. Number of ML convictions and convicted persons by predicate (by type of ML)

Type of ML	2014	2015	2016	2017	2018	Total
Third party laundering						
number of convictions	1	-	-	-	-	1
convicted persons	2	-	-	-	-	2
Self - laundering						
number of convictions	2	3	2	3	3	13
convicted persons	2	3	2	5	5	17
Predicate offence in a third country						
number of convictions	1	-	1	1	-	3
convicted persons	4	-	4	1	-	9
Total						
number of convictions	4	3	3	4	3	17
convicted persons	8	3	6	6	5	28

Table 7.13. Number of convicted persons for ML and ML with predicates by length of imprisonment

Convictions	2014	2015	2016	2017	2018
5-8 years	8	2	5	3	5
8-10 years	-	-	-	2	-
More than 10 years	-	1	1	1	-
Total:	8	3	6	6	5

Case study 7. 10.

In April 2015, the IC for theft of funds with the use of forged bank payment cards and a payment terminal in one of the casinos of the city of Mogilev (Belarus) initiated the criminal proceedings against a foreign citizen S. under part 4 of article 212 (Theft through the use of computer equipment) of the CC, under article 352 (Misappropriation of computer information) of the CC and two criminal cases under part 2 of article 235 (Legalization ("laundering") of criminal proceeds) of the CC. In the course of the search operations, the same particularly serious crime committed by the foreign national in a casino owned by him in Brest was also uncovered.

In total, S., using with the use of forged bank cards stole more than 1.5 billion pre-denominated rubles. After the theft of the money, he legalized it by means of fictitious accounting in the form of loss (participation in gambling) by casino visitors, after which he entered the knowingly false information into the automated system of accounting for the winnings in the tax inspectorate. Subsequently, S., having the intention to legalize the funds acquired as a result of theft, with the purpose of concealing and distorting the nature of the origin of the funds, used them to finance and carry out the economic activities of the controlled LLC, thus legalizing illegally obtained funds.

S. was sentenced to 13 years' imprisonment under article 14, part 1, article 212 (attempt to theft through the use of computer equipment, part 4), article 235, part 2 (legalization ("laundering") of criminal proceeds), article 352 (Misappropriation of computer information) of the CC with confiscation of property and deprivation of the right to hold office and engage in activities for 5 years.

243. The competent authorities are mainly focused on detecting predicate offences, and where there is evidence of ML, a criminal ML case is also subsequently initiated or an additional ML qualification is assigned to an existing fact. At the same time, as part of the investigation of the predicate offence, due to the time-consuming process of collecting evidence for ML, law enforcement authorities are limited to the prosecution of the predicate offence.

Application of other criminal justice measures

244. During the on-site mission, the representatives of the Supreme Court of the Republic of Belarus provided information that there are no other criminal proceedings for ML in the country, when there is no conviction of a person for ML. As a rule, if there is no evidence of ML, the person is convicted for the predicate offence. At the same time, the punishment for the predicate offences identified as the main threats (except for tax crimes), is proportional to or exceeds the punishment for ML. The identified proceeds of crime are fully confiscated, including for tax offences, provisional measures are applied in the absence of a court decision (see IO 8). In general, this measure is effective given the country's context, as well as the focus on prevention, in particular preventing the commission of predicate offences by competent authorities.

245. At the same time, the law enforcement authorities of the Republic of Belarus indicated that the legislation provides for the termination of criminal prosecution of tax crimes on the basis of "active repentance" the conditions of which are the commission of the crime for the first time and full compensation for damages.

246. Belarus is rated as having a moderate level of effectiveness for Immediate Outcome 7.

Immediate Outcome 8 (Confiscation)

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

247. In accordance with the Criminal Procedure Code, in the course of the investigation, preliminary investigation and trial of a criminal case and in the event that criminal proceeds or instrumentalities of crime or their equivalent value are identified, decisions are immediately taken by the investigator

on the recognition of such objects as material evidence or their seizure for the purpose of subsequent confiscation. Identification and confiscation of property and assets obtained by proceeds of crime with a view to turn it into the state income is one of the priority tasks of the national policy in the field of AML/CFT.

248. Belarus applies a special confiscation procedure. The procedure involves forced forfeiture for the benefit of the State of instrumentalities of crime belonging to convicts, seized items withdrawn from circulation, assets obtained through crime and proceeds derived from the use of such assets, items related to the committed crime that are not subject to return to the victims or third parties, and also transport vehicles driven by the offenders. This procedure is used quite extensively, as evidenced by the data provided by the GPO (see Table 8.1 below). Special confiscation is applied irrespective of the category of offence (ML, TF and predicate offences) and the type of penalty imposed.

Table 8.1 Application of Special Confiscation

Application of Special Confiscation (number of criminal cases involving all categories of offences)	2014	2015	2016	2017
	2,162	2,735	2,591	2,108

249. Where special confiscation of assets is not possible, a sum of money corresponding to the value of the property (equivalent) and/or the amount of income received from the use of the property shall be collected from the convicted person for the benefit of the State. As explained by the representatives of the competent authorities, it does not matter in what order (within the framework of special confiscation or as an additional punishment) the volumes of confiscated property and the total amount of money received in the budget were formed. At the same time, there are no detailed statistics on the types of property confiscated within the framework of special confiscation.

Table 8.2 Application of Confiscation Measures as an Additional Penalty

Confiscation of property as an additional penalty (number of persons)	2014	2015	2016	2017
	1308	1812	2088	1871

250. Between 2014 and 2017, on 7,079 persons or 4.1 % of convicted persons confiscation as an additional penalty was applied. Out of this number, 3,427 (48.4 % of the total number of persons convicted with the application of confiscation) were convicted of crimes against property and economic activity and 2,046 (29 per cent) for trafficking in narcotic drugs, psychotropic substances, their precursors and analogues which were seized in Belarus.

251. Money and other valuables acquired by criminal means, upon a court sentence or decision of a criminal prosecution body shall be subject for compensation for damage caused by a crime to the victim or to another person or upon a court sentence shall be subject to confiscation.

252. The Republic has a mechanism in place to implement a set of provisional measures. Thus, Decree No. 14 establishes the obligation of counterparties of a shell company structure to pay tax payments independently in the event of establishing the facts of committing an offence in the economic sphere by this structure and its use for committing such an offence. A person voluntarily reimburses damages upon the instruction of the DFI. If the person does not agree, an inspection is appointed. As a result of this provisional measure, 3,539 economic entities of the real sector of the economy have been identified, which were inspected on the facts of their relations with shell company structures and have voluntarily paid 4,908,774.35 rubles of tax payments concealed from the tax authorities.

253. As of today, 98.19% of the identified counteragents of shell companies have been subjected to the measures provided for by Decree No. 14. At the same time, based on the results of the DFI inspections, an additional 10,151,781.05 rubles were submitted for payment. (of which RUB 3,441,422.02 were received) and based on the results of tax authorities, an additional 13,451,540.16 rubles were submitted for payment (of which RUB 1,254,073.39 were received).

254. Thus, the net economic effect from the adoption of the Decree in the form of voluntary and forced budget revenues amounted to 9,604,269.76 rubles (about \$4.5m). This measure also made it possible to promptly eliminate the negative consequences of the use of shell companies for tax evasion.

Example 8.1

A special operation was carried out to disrupt the activities of an international organized criminal group, which in the territory of the Republic of Belarus, the Russian Federation, the Baltic States and other EU countries, using the settlement accounts and details of **more than 60 shell company structures** under its control, **registered in the Republic of Belarus and 29 non-residents**, provided assistance to officials of more than 2,000 commercial enterprises in tax evasion, legalization of goods and materials obtained by criminal means, and committing other economic crimes. The criminal income of the criminal group from 2011 to 2016 amounted to at least **110 million rubles. (USD 54.87 million** at the exchange rate as of 06.07.2016).

In order to reimburse the illegally received income and damage caused to the state in the form of unpaid taxes, the defendants' property (real estate and expensive cars) was seized for the total amount of **more than USD 3 million**.

In addition, the expenditure operations of 15 clients from the real sector of the economy using the services of shell company structures were suspended from current accounts, where (as of 06.07.2016) **394.7 thousand rubles, 4.1 million Russian rubles, 23 thousand US dollars and 64 thousand euros were blocked**.

255. The assessors concluded that the competent authorities of the Republic of Belarus have a good understanding of applying confiscation measures to criminal proceeds, instrumentalities and assets of equivalent value. At the same time, law enforcement, judicial and other state bodies of the Republic of Belarus are endowed with sufficient powers, which are applied in practice upon application of confiscation measures on proceeds, funds, instrumentalities and assets of equivalent value.

256. However, despite the high-level engagement and legislative powers, the authorities do not have enough systematic data to fully demonstrate and assess whether the policies are actually successful. There are some global figures on proceeds of crime confiscated through court decisions over the last years, which support the commitment to follow the criminals' money. Although cases mentioned by the Republic of Belarus during the on-site indicate that confiscations measures are imposed in accordance with the country's risk and context.

Example 8.2 Confiscation by court order

An attempt to take a bribe in the Republic of Belarus resulted in the conviction of a person who's vacation with family members outside Belarus was paid as an illegal reward for certain actions. In addition to the sentence of imprisonment and a fine, the court also imposed a fine on the convicted person for the value of the illegally obtained enrichment.

Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

257. In accordance with the legislation of the Republic of Belarus, the proceeds of crime can be returned through a number of measures and the competent authorities choose the most appropriate instrument in each case. When issuing investigative orders, within the framework of the parallel financial investigation mechanism, including potential cases of ML, the task is set for search for assets (property) for the purpose of their possible confiscation, determination of the amount of proceeds of crime and their subsequent recovery by a court sentence.

Example 8.3

In 2018, the main Department for combating organized crime and corruption of the MIA as a result of the measures taken established that the actual manager and owner of one of the large private companies operating in the field of food retail, acting with the assistance of other persons through transactions with securities (bonds), overstated the expenses of the controlled company taken into account in taxation, and as a result of which he evaded to pay income tax in the amount exceeding 2 million rubles. Taking into account the available operational information that the guilty person is going to withdraw funds from the country and sell the controlled real estate, the relevant measures were taken to suspend financial operations of the guilty persons and limit the disposal of property (real estate) for a period of 10 days. Subsequently, a criminal case of Part 2 of Article 243 of the Criminal Code of Belarus was initiated and property was arrested.

258. The Republic of Belarus has not provided complete statistical data to properly assess the volume of actually confiscated out of seized means of committing crimes, as well as quantitative data on the confiscation of property of an equivalent volume. These circumstances does not allow to assess the effectiveness of the implementation of confiscation as an additional punishment in practice, as well as to identify confiscated property by type - money, transport, real estate, etc. Statistics on confiscation of the equivalent value is not recorded, including in cases related to the illicit movement of funds abroad.

259. Information on the amount of damage established in the cases where confiscation was applied was not provided as well. In this regard, it is not possible to draw a conclusion about the effectiveness of the provisional measures applied by law enforcement agencies for all types of predicate offences, as well as for ML.

260. The country's policy is primarily aimed at reimbursing the state budget for the proceeds of tax crimes and corruption. The Republic of Belarus has provided statistics on damage and compensation for such predicates. The analysis of the provided statistics in comparison with the damage caused confirms the commitment of the authorities to the "follow the money" approach. Thus, in the period from 2014 to 2017, about 233,000,000 rubles were reimbursed to the state budget, which is about 55% of the damage caused.

Table 8.3 Amount of damage caused by tax and corruption crimes, in rub.

	2014	2015	2016	2017
Corruption crimes	5,1 mln	5,4 mln	2,3 mln	58,8 mln
Tax and customs crimes	7,4 mln	14,8 mln	102 mln	20,3 mln
Total	24,5 mln	55,4 mln	245,6 mln	100,1 mln

Table 8.4 Amount of confiscations

Period	Voluntarily. Reimbursed until the end of the investigation (denomination. rubles)	Property seized to ensure compensation for damages, confiscation and other property penalties (denomination rubles)
2014	8,6 mln	9,9 mln
2015	28,4 mln	26,2 mln.
2016	53 mln	38,9 mln.
2017	26,3 mln	42,4 mln.

261. The above Tables 8.3 and 8.4 show that there are no statistics on asset tracing and recovery from abroad. However, with a view to subsequent seizure and confiscation, requests are always sent on such cases to foreign counterparts to establish the location of property located outside the Republic of Belarus and belonging to the person who committed the predicate offence.

262. Thus, DFM requests for international cooperation usually included requests for information on the movement of funds through accounts, beneficial owners, identification of assets, etc. As explained by DFM, the statistics on the identified crimes are formed on the basis of available data from law enforcement agencies in the country.

263. In addition, the Supreme Court of the Republic of Belarus sent four requests for MLA during the reporting period. The overwhelming majority (3 out of 4) were related to the enforcement of sentences for confiscation of assets located in Russia, Ukraine and Spain. However, court decisions on confiscation have not yet been implemented. Assessors were provided with evidence of repeated requests from the Republic of Belarus, which reflects their commitment to the implementation of confiscation measures.

264. The seized (confiscated) assets are managed and disposed of by the authorized agencies in a manner prescribed by the Regulation on procedure of registration, storage, valuation and disposal of restrained, seized or confiscated property adopted by RB Presidential Order No.63 of 19.02.2016 *on Improvement of Management of Property Restrained, Seized or Forfeited for the Benefit of the State*.

265. Evaluation of such property is performed by the relevant specialists in the field of asset valuation (Belarusian Chamber of Commerce and Industry) on the basis of an agreement with the Investigative Committee directly at the time of the transfer of property to the authorized bodies responsible for its disposal (sale, etc.).

266. Property is preserved as per the provisions of CPC Art.132 and 94, according to which such property is either transferred to both defendants and third parties for safekeeping, or is seized and placed in safe custody with the Investigative Committee, where it is kept in the special storage areas.

267. The safety of the registered property (real estate, transport, etc.) as well as cash and securities are additionally ensured by a ban on their alienation, the decisions on seizure of confiscation objects is sent to the relevant registration organizations, banks, non-commercial financial institutions, depositories, etc.

Confiscation of falsely or undeclared cross-border transaction of currency/ BNI

268. There are both administrative and criminal penalties provided for in the national legislation for the offences related to the illicit movement of foreign currency. Since 2016, illegal movement of large amounts of cash or monetary instruments across the EAEU customs border is criminally punishable.

269. The average amount of seized cash illegally transported into/ from the EAEU customs territory in 2014-2017 are presented in the table below. At the same time, the assessors were not provided with quantitative information on the amount of confiscated assets out of the seized ones.

Table 8.5 Average amount of seized cash (in USD)

	2014	2015	2016	2017
Average amount of seized cash illegally transported into EAEU customs territory	7 640	5 924	1 649	829
Average amount of seized cash illegally transported from EAEU customs territory	7 296	8 898	6 533	2 132

270. In this context, the customs authorities instituted 12 criminal proceedings in 2016 and 9 criminal proceedings in 2017 (of which 13 cases resulted in criminal convictions). Taking into account the geographical location of the Republic of Belarus and the existing opportunities for the illegal transit of funds and property, the assessors concluded that the measures applied by the competent authorities are insufficient, which results in a relatively small amount of confiscated funds and property.

Table 8.6 Customs figures

Indicator		Years				
		2014	2015	2016	2017	2018
1	Total number of facts of declaration of cash (monetary instruments) when imported into the customs territory of EAEU	3738	16627	29592	30996	38 547
2	Average amount of declared cash (monetary instruments) when imported into the customs territory of the EAEU (in US dollars)	49706,75	6379,28	3694,59	2960,44	2007,95
3	Total number of facts of declaration of cash (monetary instruments) at export from the customs territory of the EAEU	3656	5686	5781	4221	6 394
4	Average amount of declared cash (monetary instruments) exported from the customs territory of the EAEU (in US dollars)	15996,1	47212,17	7883,43	14238,29	12 864,19

5	Total number of cases of administrative offences related to the illegal movement of cash through the EAEU detected during the importation into the customs territory of the EAEU	115	314	621	936	688
6	Average amount of cash seized that were detected during import into the customs territory of the EAEU (in US dollars)	7640	5 924	1 649	829	400,68
7	Total number of cases of administrative offences related to the illegal movement of cash through the EAEU that were detected when leaving the customs territory of the EAEU	91	67	96	187	91
8	Average amount of cash seized that were detected when leaving the customs territory of the EAEU (in US dollars)	7 276	8 898	6 533	2 132	2 482,38

Example 8.4 illegal cross-border transportation of cash

The customs authorities instituted criminal proceedings under CrC Art.228, Para 2 (illegal transportation of large amount of cash across the EAEU customs border) against individual “T”. The customs controls detected cash in amount of Euro 27,910, RUR 3,750 and BYN 591 (equivalent of USD 33,921.14) that this individual attempted to smuggle in his hand-luggage through the “green corridor”. The court imposed the fine in amount of 500 base units (around USD 6.1 thousand) on individual “T”. Besides that, additional funds in the amount equivalent to around USD 23,787.74 were forfeited to the State through application of the special confiscation procedure under CrC Art.61 Para 6.

271. The SCC have powers to stop and restrain currency in order to ascertain whether ML/TF may be found. If the Customs receive operational information/signals from own intelligence or other law enforcement, or DFM that persons believed to be carrying property or cash for ML or TF will cross the border, the Customs can seize such suspected property as evidence and refer the case to the relevant law enforcement authorities and the FIU.

Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

272. The results of confiscation do not fully correspond to the level of ML risks identified by the country, thus not all proceeds of crime from high-risk predicate offences are confiscated. In this regard, it should be noted that there is a small number of convictions with confiscation of ML property that have been punished with confiscation. At the same time, damages are reimbursed at the investigation stage as part of the existing provisional measures (mainly on tax returns), but there are positive cases of confiscation of property on the basis of court sentences for some high-risk crimes (mainly corruption and tax crimes).

273. Due to the lack of relevant statistics in the Republic of Belarus, the assessors were not able to conduct a comprehensive analysis of the current situation of confiscation.

274. **Belarus is rated as having a moderate level of effectiveness for Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

1. While there have been no domestic terrorist attacks, and no terrorist financiers have been identified on national territory, authorities still demonstrate a proper understanding of the country's TF risks.
2. Country's efforts are largely focused on the prevention of terrorist activity and extremism, in line with the ML/TF NRA findings and the Counter Terrorism Concept, which is aimed at integrating the approaches to prevention, identification, disruption and mitigating of consequences of terrorist activities, including TF, as well as at improvement of the terrorist activity legal and institutional framework.
3. Belarus demonstrated a fairly effective practice of combating terrorism-related crimes, including possible TF.
4. Belarus does not have TF prosecution or conviction – which appears to be generally in line with its TF risk profile.
5. Authorities effectively identify and stop FTFs travelling through the national territory from/to the EU countries.
6. DFM and the SSC undertake continuous efforts to identify persons connected to terrorist activities based on variety information sources and closely monitor persons known to be potentially linked to terrorism.

Immediate Outcome 10

1. The Republic of Belarus has the legal and institutional framework for the immediate implementation of TFS to persons and organizations involved in terrorist activities.
2. A significant part of the reporting entities use automated systems for timely access to the List for the most effective implementation of their obligations on TFS.
3. Belarus has not identified any of organizations involved in terrorist activities under UNSCR 1267 and 1373, which corresponds to the level of TF risk.
4. Reporting entities understand their obligations with respect to implementation of TFS, with the exception of certain categories of DNFBPs.
5. While Belarus has taken some measures to identify organizations falling within FATF definition of NPOs, there is no comprehensive analysis of TF risks faced by NPOs. Authorities have not identified the features and types of NPOs, which are at risks of possible abuse for TF purposes.
6. Competent authorities do not carry out comprehensive risk-based supervision of the NPO sector for the purposes of the CFT, and there is no work done to raise awareness of the sector with regard to the risks of their use for TF purposes, which indicates a limited understanding of TF risks by this sector.

Immediate Outcome 11

1. Belarus has a comprehensive legal framework and an authorized body for combating proliferation (PF) and terrorist financing.
2. Majority of the reporting entities use the automated IT systems to access the List in a timely manner to fulfill their TFS-related obligations.

3. The reporting entities, except for some categories of DNFBPs, are aware of their obligations related to TFS for PF. UN designated persons or entities were not identified during the assessed period.
4. The Republic of Belarus has the export and import licensing system in place, and has also established the Interagency Commission for military and technical cooperation and export control, which operates under the National Security Council.

Recommended actions

Immediate Outcome 9

1. Authorities should ensure that their approach to terrorism and TF is tailored to the evolving TF risks, in Europe and in the region.
2. Belarus should continue its efforts to identify persons linked to terrorist activity who may potentially travel or transit through its territory and undertake their financial profiling, through the conduct of a comprehensive financial analysis (which includes the analysis of financial footprints and links).
3. Belarus should continue its efforts to detect possible TF offences, particularly in cases where no terrorist act or attempt has been detected.
4. Belarus should continue to develop special guidelines for the obliged entities engaged in financial transactions for detection of potential TF at early stages and better understanding of TF-related threats and risks.

Immediate Outcome 10

1. Supervisory authorities shall continue raising awareness and understanding among reporting entities of the set of actions to implement TFS.
2. Competent authorities should review the methods used to identify the risks of terrorist abuse of NPOs and deepen the analysis through a more targeted approach. The Republic of Belarus should develop a mechanism for applying a risk-based approach to NPOs and carry out risk-based supervision of the sector on an ongoing basis.
3. Competent authorities are encouraged to intensify their work, including through training activities to raise awareness of the NPO sector on CTF issues.
4. The Republic of Belarus should consider amendments and additions to the current legislation to eliminate deficiencies indicated in the TC Annex.

Immediate Outcome 11

1. Supervisory authorities shall continue to raise awareness and understanding among reporting entities of the set of actions to implement TFS.
2. The Republic of Belarus should consider amendments and additions to the current legislation to eliminate deficiencies indicated in the TC Annex.

275. The relevant Immediate Outcomes considered and assessed in this Chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness are R.5-8 (and R.1, 2, 30-32, 37, 39, 40).

Immediate Outcome 9 (TF investigation and prosecution)

Prosecution/ conviction of types of TF activity consistent with the country's risk-profile

276. Belarus has not presented cases of TF prosecution and conviction for the reporting period, which

is consistent with the country's context and low TF risk, as reported on IO.1.

277. The low TF risk is explained by subjective as well as objective factors. Objective factors include the country's geographical position; absence of ethnic and inter religious conflict; specific social and cultural background (no sizeable extremists movements); strict migration policy; insignificant trade, economic, and cultural ties to elevated terrorist activity areas; also, Belarus is neither a global nor regional financial center. The overarching subjective factor is competent authorities' comprehensive activity to prevent criminal conduct related to the financing of terrorist activity.

278. Belarus has established the multi-level system for combating terrorism and terrorist financing. The State Security Committee (SSC) of Belarus is the key government authority responsible for detection and investigation of criminal offences related to terrorism and TF. The SSC has demonstrated good understanding of internal, external and regional TF factors and threats. Together with the SSC, 38 other government bodies participate in government CT/CFT efforts.

279. For better understanding of the way the Belarussian LEAs contribute to the national CFT system, the assessment team is providing the following explanation of the country's definition of "terrorist activity. In Belarus "terrorist activity" covers terrorist financing and any other forms of support for terrorism, as well as act(s) of terrorism per se (See R. 5). Since there are no acts of terrorism in the country, the competent authorities are focused on countering and preventing various forms of support for terrorism, primarily terrorist financing.

280. The List of persons linked to terrorist activities included only individuals and entities designated by the relevant UNSCRs. There has been no designation of persons by Belarus independently, because no grounds for nomination were found.

281. Since 2011, no terrorism-related crimes have been detected, and no terrorist cells or persons related to terrorist activities (including TF) have been identified in Belarus. No organizations have been formally recognized as the extremist ones in accordance with the procedure established by the laws and regulations of Belarus.

282. In this context, the competent authorities of Belarus continuously screen the migrant and passenger flows and identified, in 2014-2018, 71 terrorist fighters/terrorist supporters, of whom 26 individuals were on the wanted list and, therefore, were extradited to their home countries. During the identification of these individuals the measures were taken to research the possible financial trail in the country, inter alia, in close cooperation with the DFM. Since 2016, the intensity of attempts to transit through Belarus has declined, as a result of the comprehensive measures implemented at the Belarussian borders.

283. Since 2014, over 15 700 foreign nationals potentially linked to terrorism have been put on the watch list used for screening travelers entering Belarus.

TF identification and investigation

284. Belarus has the legal framework in place to detect and investigate criminal offences committed by persons who raise, move and use funds for terrorist purposes. The LEAs utilize the entire range of intelligence gathering and investigative methods and techniques provided by the law to prove TF. The DFM has the system in place that generates audio and visual alerts upon receipt of TF-related STRs, so that immediate and appropriate measures can be taken to analyze the received information.

285. In the context of the Belarus, "investigation" is defined as two-step process: criminal intelligence and public investigation.

- First stage – *Criminal intelligence*. Under Belarus legal framework, criminal intelligence represents government action to prevent, detect, and disrupt criminal conduct, pursued largely prior to the opening of a criminal case. This stage may include a broad spectrum of activities,

such as field interviews, surveillance, or interceptions of telephone conversations. In Belarus, counter-terrorist criminal intelligence necessarily includes looking into the target(s)' "financial footprint," in which DFM and other CFT stakeholders' capabilities are routinely instrumental. The objective of the criminal intelligence is collecting comprehensive information for the subsequent opening of a criminal case. In the CT context, that includes identifying targets' connections to other persons or organizations, and any financial and other assets used for terrorist purposes.

- Second stage - *Public investigation*. If the information collected as a result of criminal intelligence is enough to establish *corpus delicti*, the criminal intelligence file is presented to the public investigator, and a criminal case is opened. The opening of a criminal case starts the stage of public investigation. This stage may also include criminal intelligence as necessary. Proof obtained as part of criminal intelligence may be used in court as evidence.

286. There are several examples of criminal intelligence conducted for the purposes of detecting and disrupting possible TF activity. The starting point of criminal intelligence in this context is usually a "lead" (signal) suggesting that a person's profile is consistent with a TF risk. Such a lead may come from another LEA/SIA, from a foreign counterpart, from an undercover source, or from the DFM as a spontaneous dissemination of an STR-based file.

287. TF risk profiles are built on learnings from international partners, and TF-related typologies published by the FATF, EAG, and other relevant international bodies.

288. In order to acquire information and exchange experience the SSC leverages the capabilities of DFM, and communication with the Ministry of Interior, Customs, and the Border Force.

289. The designated staff members of SSC undergo special professional development training at the Belarusian National Security Institute as well as other training courses on prevention of terrorism, extremism and TF, including CIS ATC trainings and those arranged and delivered through videoconferencing system by the International Training and Methodology Centre for Financial Monitoring (ITMCFM). Authorities share the best practices with their foreign partners in the framework of bilateral cooperation.

290. The main threat of terrorist activity in Belarus are FTFs, which is due to the geographical location of the country, which is located on the routes from the European region to the zones of increased terrorist activity and back. To identify persons linked to terrorist activities, including FTFs, authorities utilize the lists of wanted and suspected of terrorism and terrorism financing are disseminated by the UN, Interpol, CIS and other relevant organizations. The bilateral relationships of the SSC with its counterparts in the CIS and EU-member countries play one of the key roles in this work.

291. Furthermore, FTFs who use false documents or have not been identified earlier by the security authorities and special services, are identified at border checkpoints on the basis of the SSC's methods of identification and profiling of persons of this category.

292. According to the LEAs two (2) individuals formerly residing in Belarus probably operated as the FTFs in the zones featured by increased terrorist activities (conflict zones). The appropriate measures have been taken to establish potential links of these persons with individuals/entities in Belarus and to trace movement of funds. One of those individuals was identified as the citizen of other country, and no links with individuals/entities in Belarus were revealed. The other individual was a Belarusian citizen whose connections were only based on intelligence, and on whom no financial footprint or linkages to persons or organizations in Belarus were confirmed.

Case Study 9.1

Based on the aforementioned “risk profiles”, the Belarusian competent authorities, acting in close cooperation with the competent authorities of the foreign country, disrupted the attempt to redeploy the subversive terrorist group from Syria to the North Caucasus. The field commanders planned to smuggle dozens of terrorist fighters using the commercial Istanbul-Minsk flights popular among migrants.

However, only the first member of this group managed to freely leave the Belarusian airport. The second terrorist-fighter, who travelled two days later, was detained upon arrival to Minsk. Despite the perfect documents, neat appearance, smart suit and confident behavior, the passenger was identified as the terrorist fighter based on a number of indirect detectable indicators.

Case Study 9.2

In 2018, another two foreign nationals suspected of involvement in terrorist activity were denied entry to Belarus upon their approval. One of those individuals was flagged by the Interpol as the dangerous person. Currently, the operational environment is featured by a new element – the terrorist fighters’ wives and widows, along with children, flee from the conflict zones. This paves the way for emergence of additional threats and requires in-depth coordinated screening of such persons.

In 2018, three such women were identified, During the inquiry, they tried to disclose minimum information or provide false information about their husbands. The screening measures taken by the SSC and denial of entry to Belarus did not allow them to use the situation for penetrating the Schengen Zone borders.

293. These examples demonstrate that the development of profiles of persons is actively used by the Belarusian competent authorities as the method of crime prevention for counter terrorism purposes.

294. LEAs provided the following information on FTFs identified in the passenger flows:

Table 9.1

Time Period	FTFs, identified among passengers (including internationally wanted)
2014	11(5)
2015	20(11)
2016	14(4)
2017	14(3)
2018	12(3)
Total	71(26)
January - February 2019	5(1)

295. Table 9.1 shows 26 individuals identified with the use of the lists of internationally wanted persons (ATC CIS, Interpol, partner country lists, etc.). The other 45 individuals were identified with the use of the profiling methodology designed by the SSC, which demonstrates its effectiveness. In case of FTF detection, Belarus routinely informs the country of citizenship and any countries the FTF may constitute a threat to, judging by their intended route and other information.

296. The competent authorities and the DFM jointly look into the financial footprint for every identified FTF to detect their financial assets and transactions in Belarus and potential connections

with other individuals (accessories). This effort has not yet led to identification of assets or possible accessories in Belarus.

297. Apart from the effort to counter the FTFs, Belarus is active in identifying and preventing other FT-related threats.

298. Further examples reflect the work conducted in respect to persons potentially linked to/affiliated with individuals involved in terrorist activities, including TF. When these persons are identified, the SSC always conducts parallel financial investigations and examines the financial trail of the persons concerned, inter alia, in close cooperation with the DFM.

Case study 9.3

In 2018, a commercial bank reported an incoming wire transfer to an account owned by Mr. A, a foreign national, as a suspicious transaction. The money was wired by a tour operator, with the stated purpose of reimbursing the account holder for a tour to Belarus, booked for a third person. According to the customer complaint filed by that third person, they could not use the tour because they had been denied entry into Belarus. The DFM thoroughly analyzed the chain of transactions, querying the available databases, and disseminated the file to the SSC. The SSC, upon collecting additional intelligence to this spontaneous dissemination, informed the DFM that no indication of terrorist involvement or affiliation were found in that case.

299. Due to the absence of the threat of terrorism in Belarus, the focus of law enforcement agencies is on identifying possible infrastructure to support terrorism abroad. The main role here is played by interaction with foreign partners. Between 2014 and 2018, Belarus received 1,144 notices on over 1,900 terrorist suspects from foreign LEAs and international organizations, without requesting TFS. Each of them has been subject to a financial investigation in order to establish financial traces and links in the territory of the Republic of Belarus. Despite the fact that such information has not been established, all of these persons have been put on the “active monitoring” list for their possible entry into Belarus.

Table 9.2

Time Period	Outgoing Spontaneous Disseminations and Requests	Persons Checked
2014	110	134
2015	175	207
2016	229	311
2017	364	850
2018	266	420
Total	1144	1922

300. LEAs, in all cases of criminal intelligence, pursue a parallel financial investigation to detect any signs of terrorist financing. In all cases mentioned in Tables 9.1 and 9.2, and vis-à-vis persons designated by CIS ATC, Interpol, partner countries, and terrorist suspects on entry “active monitoring” lists, comprehensive financial investigations were performed. On those persons, no information on their involvement in terrorist activity was available, which meant there was no reasonable ground to open a criminal case.

301. In 2017, foreign FIUs requested from the DFM information on 438 terrorist suspects. The DFM found no information on assets or financial transactions of those persons in Belarus. Together with the SSC, the DFM raised the issue of including those persons on the national terrorist suspect list at the interagency CFT Working Group. However, the Working Group found that those persons did not constitute a threat to the national security of Belarus. Therefore, they were not designated onto the

national list, but put on the “active monitoring” list for entry into, and financial transactions in, Belarus.

302. There is a high level of cooperation between the SSC and the DFM on various aspects of ongoing work related to countering terrorism and TF.

303. Additionally, Belarus established the CFT Working Group under the DFM, this working group (among other things), participates in the regional programs (noted below).

304. In 2017 the DFM (jointly with SSC) developed the financial profile of persons involved in terrorist activities, as well as the methodological guidelines for identifying TF-related transactions/individuals by FIs and DNFBPs. Financial profiles and methodological recommendations were communicated to the persons carrying out financial transactions.

305. DFM and SSC also conduct trainings for private sector representatives on a regular basis on the premises of the SSC training center, which, among other things, include methods of identification of persons in line with the said financial profiles. Despite the fact that so far no signals, for instance in the form of STRs, have been generated based on these profiles, the assessors were satisfied that the bank employees, including the front office staff, were well informed about these profiles and had a clear understanding of their practical application.

306. Since 2014, the SSC checked, jointly with the DFM, around 90 individuals suspected of involvement in terrorist activities. The SSC has informed that after the performed criminal intelligence they had not found proof that those persons were involved in terrorist activity.

307. The Republic of Belarus, represented by the DFM, is a permanent member of the regional operation "Barrier", which is aimed at identifying international terrorist organizations and their cells operating in the CIS region. Within the scope of "Barrier" operation the geographical areas of high risk of TF are defined, profiles of participants of financial transactions, possibly involved in TF, are developed, after which the financial flows are analyzed for the purpose of detection of matches with the criteria of the profiles. In the framework of the "Barrier" operation DFM collected and analyzed the data on the persons who are citizens of the Republic of Belarus, corresponding to the abovementioned profiles of TF.

308. In the framework of the Barrier operation, the DFM compiled, jointly with the CIS ATC-member countries, the list of higher TF risk countries in 2017. For the analysis purposes, the DFM sent requests to the Belarusian banks for information on money transfers carried out by natural persons through the private payment systems to/from the zones with increased terrorist activity.

309. As a result, over 40 thousand money transfers were reported by banks, in aggregate, to around USD 20 million (in equivalent) carried out by this category of persons. These financial transactions have been analysed for possible links to TF, as well as to identify individuals put on the interstate wanted list for committing terrorism-related crimes and included by the CIS ATC in the mercenary lists. Based on the results of the analysis of data on financial operations, DFM carried out additional checks of the financial footprint in respect of 612 individuals, which included requests of additional information from banks about 9 Belarusian nationals and 1 foreign national, moreover 2 spontaneous disseminations were sent to the foreign FIU. On the results of the checks, the involvement of these persons in terrorist activities was not confirmed.

310. On the results of the work in the frames of Operation Barrier in 2018, DFM analyzed over 2.4 thousand financial transactions related to transfer of funds through the countries' cities selected under this operation. On the results of the performed analysis the DFM sent to the Belarusian LEAs reports on 28 natural persons, of whom 21 individuals were foreign nationals. According to the SSC, information presented by DFM, as of the time of the on-site visit, did not constitute corpus depict.

311. Furthermore, as part of the operation Barrier, the DFM conducted ongoing monitoring in respect of around 10 thousand individuals put by the CIS Anti-Terrorism Center (CIS ATC) on the inter-state wanted list for terrorism-related crimes and identified as mercenaries.

TF investigation integrated with, and supporting of, national strategies

312. Criminal intelligence action taken by the competent authorities is consistent with the TF risk level and the relevant national strategies.

313. Republic of Belarus Council of Ministers' Resolution No.658 of July 25, 2013 adopted the Counter Terrorism Concept (the Concept), which is aimed at integrating the approaches to prevention, identification, disruption and mitigating of consequences of terrorist activities, including TF, as well as at improvement of the terrorist activity legal and institutional framework.

314. The government authorities responsible for prevention, identification and disruption of terrorist activities are listed in RB Council of Ministers' Resolution No.1129 of December 10, 2012. The competent authorities use, within the scope of powers vested in them, a number of mechanisms to prevent and disrupt terrorist activities, which includes the outreach and educational efforts.

315. According to the Counter Terrorism Concept the main efforts in the framework of international anti-terrorism cooperation are focused on various aspects of combating terrorism, including practical steps to dismantle terrorist financing channels, disrupt illicit trafficking in dual-use technologies and equipment, weapons, ammunition, radioactive, chemical, biological and other hazardous materials and substances, prevent terrorist from travelling across the national borders, counter the terrorist propaganda and prevent dissemination of information about methods of carrying out terrorist attacks.

316. The TF part of the NRA was based on the analysis of a large number of quantitative and qualitative data, the Counter Terrorism Concept, the results of research by international organizations and assesses the risks of terrorism financing as low. While the Counter Terrorism Concept and the LEAs efforts are focused, to a large extent, on prevention of terrorism and its financing, the prompt response mechanisms have been created for timely identifying, disrupting and mitigating consequences of terrorist activity. Despite the minimum level of risks and threats of terrorist activity, primarily TF, the assessors came to a conclusion that, all competent authorities pay serious attention to the fight against terrorist activity, which is also reflected in the Counter Terrorism Concept.

317. The systemic work for countering terrorist activity, including TF is conducted in Belarus at the national, regional and global levels. The CIS Anti-Terrorism Center is main coordinating mechanism in the fight against terrorism at the regional and global levels.

318. The important role in this area is also played by other regional mechanisms, such as the Meeting of Heads of Special Services, Security Authorities and Law Enforcement Agencies and the Council of Heads of the CIS Financial Intelligence Units, which approve regional strategies and develop common policies for combating terrorism and TF.

Effectiveness, proportionality and dissuasiveness of sanctions

319. Financing of terrorist activity is criminalized by the RB CrC Art.290/1 as the grave offence and is punishable by imprisonment for 8 to 12 years with confiscation of property. In the aggravated circumstances (TF by persons through abuse of official position, by organized group, etc.), it may carry of a sentence of 8 to 15 years of imprisonment with confiscation of property.

320. Although no judgments of conviction have been rendered under this Article so far, in the assessors' opinion imprisonment for 12 – 15 years is sufficiently dissuasive and effective sanction. Confiscation as the supplementary (additional) punishment may serve as the effective tool to deprive terrorists and their supporters of funds.

Alternative measures used where TF conviction is not possible (e.g. disruption)

321. In recent years, Belarus witnesses increase in the number of ethnic Slavs converted into radical Islam (proselytes) under the influence of propaganda on the Internet.

322. A total of around 100 such proselytes have been identified in Belarus, one of whom was arrested and prosecuted for illicit handling of ammunition and explosives. The actions committed by this individual included the elements of preparation for committing a terrorist attack. Under the influence of the radical websites, this national of Belarus studied the relevant instructions and began to assemble the improvised explosive device using the freely available components.

323. Four other individuals were prosecuted for committing the ordinary offences, and one person has been prosecuted for an offence criminalized by CrC Art.130, Para 1 (incitement to racial, national, religious or other social hatred or discord).

324. Furthermore, the special services undertake the systemic efforts to identify and close the websites and the social media accounts that spread information facilitating incitement to racial, national or religious hatred and disseminate terrorist and other extremist publications.

Case Study 9.4

In 2014, the unregistered community of Salafi Muslims was identified in Belarus, whose members used the underground mosque for holding illegal religious meetings and events. The search conducted in the mosque and other premises of the community resulted in seizure of around 40 religious books, brochures and leaflets and over 40 electronic data storage devices, some of which were recognized as the extremist ones under the Belarusian legislation.

325. It should be noted that, in cooperation with the relevant competent authorities of foreign countries, the following illegal activities of individuals/entities were identified and disrupted:

326. In 2014, six (6) instances of extremist propaganda in the social media were identified, which led to the termination of functioning of these Internet resources. The Investigative Committee instituted criminal proceedings under of CrC Art.130 (incitement to racial, national or, religious hatred or discord).

327. In 2015, twelve (12) Internet users were identified, who published information on technologies of manufacturing and use of explosives and improvised explosive devices and called online for launching terrorist attacks. As a result of the completion of necessary checks, the activities of these individuals were disrupted.

328. In 2015, fourteen (14) terrorist and extremist websites, including ISIL-associated websites, were identified. Four (4) identified users of these websites were subject to check on suspicion of their links with terrorist organizations.

329. In 2016, twenty-five (25) identified users of the terrorist and extremist websites, including ISIL-associated websites, were subject to check on suspicion of their links with terrorist organizations;

330. In 2017, nine (9) websites, twenty-one (21) groups in the social media (v Kontakte, Facebook, etc.), eight (8) video files, four (4) audio files, and 1500 publications (articles, books, brochures) were officially recognized by the court as the extremist ones.

331. Belarus is rated as having a substantial level of effectiveness for Immediate Outcome 9.

Immediate Outcome 10 (TF preventive measures and financial sanctions)

Implementation of targeted financial sanctions for TF

332. Belarus has a legal and institutional framework for the implementation of TFS related to persons and entities involved in terrorist financing, without delay.

333. The SSC of the Republic of Belarus develops and maintains a List of persons involved in terrorist activities (the List) on the basis of the relevant UN Security Council Resolutions, which is posted on the body's website and is available online.

334. The List includes persons and organizations who have connections to Al-Qaeda, Taliban, ISIL and other persons involved, directly or indirectly, in terrorist activities pursuant to UNSCR №1267 (1999), №1989 (2011), №1988 (2011), №1718 (2006), №2140 (2014), №2253 (2015), №1518 (2003), №1751 (1992), №1907 (2009), №1970 (2011), №2206 (2015) and other relevant successor Resolutions.

335. SSC of the Republic of Belarus has a special internal procedure according to which the List is updated and disseminated to the competent state bodies and reporting entities. Based on Resolution 1256 of the Council of Ministers, the SSC of the Republic of Belarus as the authorized body for the compilation of the List, conducts a daily check of information with the lists posted on the UN Security Council website with the help of specialized software.

336. In case of discrepancies, a specially authorized officer of the SSC conducts a crosscheck of the discrepancies, including on the basis of press releases of the UN Security Council. Within a few hours, the SSC makes changes to the List and disseminates it to the reporting entities by posting an up-to-date version on the website. From the moment the List is published on the website, there is an obligation to apply the TFS to the listed entities.

337. The main stages of this procedure are given below:

Table 10.1 The process of updating and disseminating the List

№	Stage	Timeframe
1	Publication of information on the UNSC website	Starting point
2	Monitoring of changes on the UNSC website and identification of discrepancies in the UNSC and SSC list	Daily, starting at 8:00 a.m.
3	Compilation of the updated list and its posting on the SSC website - at this point obligations to implement the TFS arise	Until 10:00 a.m.
4	Checking the SSC website and downloading of the List by reporting entities	Daily from 10:00 a.m.
5	Reconciliation of the customer base with the updated SSC List and application of freezing measures	Immediately, but not later than the end of the working day
6	Possible delay in the implementation of the TFS upon publishing the list on the UN website, e.g. at 3 p.m. New York time	From 11 hours (10 a.m. in Minsk) to 19 hours. (6 p.m. in Minsk)

338. The SSC appoints a responsible officer to monitor information on the UNSC website at weekends and holidays.

339. The assessors were provided with individual examples of the software logs with the specified dates and time of posting the information on the UN Security Council website, and the publication of the List on the SSC website, which demonstrated the urgency of the TFS implementation. Despite the time difference between Minsk and New York, which is 8 hours, the procedure described above to disseminate the List to FIs and DNFBPs and its implementation in practice takes about 12-14

hours from the moment the information is posted on the UNSC website. In this regard, the assessment team considers that the Republic of Belarus implements TF TFS without delay, which occurs within 24 hours.

340. Financial institutions and DNFBPs monitor daily updates to the List on the website, including through their software products. When establishing a business relationship with a customer and conducting an operation, FIs and DNFBPs check the customer's presence in the List.

341. In accordance with the existing requirements, the reporting entities shall immediately, but not later than the end of the working day from the moment of publication of the List, identify the funds of the persons included in this list and freeze these funds. In addition to the above mentioned measures, the reporting entities shall check their client base against the List every three months.

342. As an additional measure of TFS implementation the relevant version of the List is integrated into the National Bank's processing center. Thus, all transactions of the designated persons or entities are blocked until the intervention of the bank's responsible employee who sends the relevant information to the DFM, after which the operation and the funds belonging to the designated person are frozen.

343. If a designated person or organization is identified, freezing measures are applied, and FIs and DNFBPs must immediately inform the FIU, as evidenced by the examples of partial matches (see below).

344. In addition to publication on the website, the SSC brings the updated list to the attention of law enforcement and supervisory authorities (the Ministry of Internal Affairs, the Ministry of Justice, the Belarusian Interbank Settlement Center, the Ministry of Taxes and Levies, the Ministry of Finance, the Customs Committee, etc.) via technical communication channels. Supervisory bodies, in turn, send relevant notifications to the supervised entities as an additional information measure.

345. In accordance with the established practice, a large number of reporting entities (except for pawnshops and operators of lotteries) upload the list from the SSC website immediately after its publication, even before the relevant supervisory authority notifies them.

346. The assessors had the opportunity to get familiarized with the work of the mechanism for updating and disseminating the List, including methods of updating information, reacting to possible technical failures, etc., which resulted in the conclusion that the mechanism works, information is disseminated to the competent authorities and reporting entities, and, if necessary, immediate measures are taken to apply the TFS.

347. Some of the banks have access to commercial databases that contain the current version of the List. In addition, a number of DNFBPs (casinos, realtors, notaries, real estate registrars) use alternative systems to work with the List. For example, casinos use SCCS (Special Computer-Cash System) system.

348. The mechanism of implementing the TFS by FIs and DNFBPs is as follows:

- the initial freezing of the financial transaction by the reporting entity, unconditionally and for an unlimited period of time from the moment of freezing until the DFM's decision to unfreeze is received (e.g., in the case of a "false positive" or "partial match");
- immediate notification of the DFM of the fact of freezing by sending a special form;
- the DFM should carry out an immediate verification of the information received, as well as an analysis of the information available in the databases regarding sender\recipient (identification data, nature of activities, availability of other special forms with their participation, etc.) - this takes about **3 hours**, depending on the amount of information;

- preparation and sending of a disclosure to the SSC of the Republic of Belarus, and providing relevant feedback to the reporting entity that froze the funds, **not later than the day of freezing**;
- based on the results of the examination of the information provided by DFM, the SSC of the Republic of Belarus informs the DFM whether person\persons is a match with a person/persons from the List;
- taking into account the information received from the SSC of the Republic of Belarus, the DFM takes a decision on freezing\unfreezing of funds and prepares a corresponding notification and sends it to the reporting entity, as a result of which the entity, acting in accordance with the instructions of the DFM unfreezes the funds.

349. In 2018, there were 2 cases of application of the TFS by 2 different banks due to the partial matching of the names of participants in financial transactions with the names of persons in the List.

Example 10.1.

Example of freezing by the bank of the funds received from the person whose identification data partially matched the data of the designated person (20.12.2018).

1. Money transfer was transferred from a foreign citizen from abroad to a citizen of the Republic of Belarus using SWIFT system and received by the bank - 20.12.2018;
2. In the daily monitoring of financial transactions for the identification of persons in the List, the compliance unit of a bank found that the sender's full name partially matches the full name of the person from the List;
3. As a result of the verification of the available information, the bank immediately (20.12.2018) blocked the financial transaction and sent a special form to the DFM;
4. After receiving the special form, the DFM carried out the verification and analysis of its database with respect to the foreign sender and Belarusian recipient of the money transfer (identification data, nature of activities, availability of other special forms with their participation, etc.)
5. On the next working day (21.12.2018) the DFM prepared and sent:
 - a disclosure to the SSC of the RB containing information on the fact of blocking a financial transaction and all the information revealed in the DFM database;
 - a feedback to the bank that blocked the financial transaction about informing the DFM to the law enforcement body.
6. Based on the results of the verification of the information received, the SSC informed the DFM that the person who was found to be a match was not on the List.
7. Based on the SSC's response, the DFM decided to unblock the financial transaction and, having prepared the relevant notification, sent it to the bank that, upon receipt, carried out the financial transaction.

Note: A person whose data partially matched with the data of a foreign participant of the above mentioned operation, was included in the UN Security Council list in 2003. This person has been included in the List maintained by the SSC since 2015 (the date of entry into force of the obligation to apply the TFS).

350. In order to ensure the implementation of the TFS in accordance with the obligations outlined in UNSC Resolution No. 1373, the court's decision is as one of the basis to list a person. The assets of

the person undergoing legal proceedings are blocked, which is a preventive mechanism regarding the possible use of funds. At the time of the on-site mission, there are no persons on the List included in the Republic of Belarus on their own or at the request of 3rd countries.

351. The decision to freeze assets may also be made by the DFM when conducting remote monitoring of the databases of reporting entities, unless the freezing action was carried out by the reporting entity (either intentionally or by mistake). In practice, this mechanism has not been used.

352. There are no cases of exclusion of persons from the List and unfreezing of assets, with the exception of the above 2 cases of partial match, as a result of which the funds were frozen by the reporting entities. Since there are no cases of freezing for unlimited period of time, there are no examples of access to frozen funds.

353. Almost all FIs and DNFBPs (with the exception of some members of the lottery and pawnshop sector) understand their responsibilities with regard to the use of the List and the freezing and unfreezing of funds.

354. As part of the supervision activities, if reporting entities do not fully implement the TFS, measures are introduced to eliminate the shortcomings in the form of prescriptions and development of the Action Plan (see IO.3). In addition to the above, the reporting entities shall also be subject to administrative liability in the form of fines and warnings.

355. In 2014-2018, the Republic of Belarus held several dozens of trainings for FIs and DNFBPs on the legal requirements and practices of the TFS implementation. The Republic of Belarus could not provide more detailed statistics.

Targeted approach, outreach and oversight of at-risk non-profit organizations

356. The Republic of Belarus has taken some steps to assess potential abuse of the NPO sector for TF purposes. International and domestic public associations (unions), domestic and international foundations and religious organizations are identified in the NRA as the non-profit organizations that fall within the FATF definition of NPO. All NPOs are subject to mandatory registration and monitoring.

357. The Ministry of Justice (MoJ) is the designated government agency responsible for overseeing operation of all NPOs, except for religious organizations, and monitoring consistency of their activities with the statutory goals.

358. In accordance with the law legislation of the Republic of Belarus "On Public Associations" (article 13), "On political parties", the Ministry of Justice, as well as the main departments of justice of Executive Committee (regional executive committees) have the right to verify the authenticity of documents submitted for state registration of a public association, political party, their unions (associations). In particular, it implies verification of the involvement of the founders of the above mentioned organizations in terrorist organizations according to the list posted on the SSC of the Republic of Belarus website.

359. However, according to the information received, the Ministry of Justice does not perform reconciliation of applicants and/or founders in accordance with the list of persons involved in terrorist activities posted on the SSC of the Republic of Belarus website.

360. The authorized body responsible for registration and control over the activities of religious organizations is the Office of the Commissioner on religious and national affairs. When registering, a personal interview is mandatory, after which a decision is made based solely on the opinion of the authorized employee of the Office. At the same time, it is not clear whether the interview includes questions about the potential risks of their use for TF purposes, as well as the requirement to check the applicant and/or founder in the list of persons involved in terrorist activities.

Table 10.2: Number of NPOs in the Republic of Belarus

Type of organization	2015	2016	2017	2018
International and domestic public associations/ unions; and domestic and international foundations	995	1009	1047	1060
Religious organizations	3510	3511	3532	3550

361. The law requires NPOs, except for religious organizations, to provide annual financial reports. In case of breach of this requirement, the MoJ may issue the remedial order, and in case of repeated non-compliance, the activities of NPO may be suspended through the court. Neither the MoJ, nor the Office of Commissioner for Religious Affairs conduct risk-based CFT inspections (both on-site and off-site) of the supervised organizations.

362. It should be noted that, in fact, the Republic of Belarus does not have the competent authority to control and monitor NPOs for CFT purposes. As of the time of the on-site visit, no licenses have been revoked both by the MoJ and of by the Office of Commissioner for Religious and Ethic Affairs for CFT breaches or for suspected TF activities.

363. At the same time, the Republic of Belarus has the mechanism in place enabling it to monitor activities of NPOs involved in charitable and humanitarian programs. Clause 4 of the Regulation on Procedure of Receipt, Registration and Use of Foreign Grant Aid, Monitoring its Receipt and Targeted Use and Registration of Humanitarian Programs (approved by Presidential Decree №5 on Foreign Grant Aid dated 31.08.2015) and Paragraph 4 of Presidential Decree №300 on Provision and Use of Grant (Sponsor) Aid dated July 1, 2005 provide that funds and property received as grant aid and other assets obtained through the use of grant aid may not be used for pursuing extremist and other activities prohibited by the law.

364. The NRA indicates that no cases of abuse of NPOs for TF purposes have occurred, since the overall TF risks existing in the country are low. However, the Republic of Belarus has not conducted assessment of risks associated with particular types of NPOs.

365. The MoJ has only some insight into risks associated with the potential NPO misuse for terrorism purposes. In contrast, the Office of Commissioner for Religious Affairs has a more sound understanding. In order to raise awareness of religious organization, the outreach events are held, inter alia, with the direct involvement of the DFM, to discuss the CFT issues. As of the time of the on-site visit, no such awareness raising events have been held by the MoJ.

366. In general, the authorities of the Republic of Belarus do not pay sufficient attention to the NPO sector. At the same time, all NPOs, including religious organizations, did not demonstrate an awareness of the terrorist and terrorist financing threats and have insufficient understanding of associated risks.

367. The 2018 NRA concluded that the Republic of Belarus had no clear policy in place to ensure adequate CFT monitoring of the NPO sector, and the assessors agreed with this conclusion. However, Republic of Belarus has strong overall monitoring and prevention mechanisms of any potential terrorism or TF related activities. It was demonstrated during the on-site by the competent authorities (DFM and SSC) who conduct regular monitoring of various activities, including those related to NPOs for CFT purposes.

368. Simplicity and relatively easy procedures for registration of NPOs in the Republic of Belarus, including religious organizations, lack of clear government policy and limited understanding of risks by both designated authorities and NPOs, open the door for potential misuse of NPOs for TF purposes.

Deprivation of TF assets and instrumentalities

369. In the assessed period, there were no cases of TF-related assets freezing in Belarus

370. An additional set of measures is being implemented in the Republic of Belarus to monitor persons with regard to whom there is information on their involvement in terrorism and terrorist financing listed by the CIS ATC, as well as those corresponding to the high TF risk profile, that was developed as part of operation "Barrier".

371. In addition to the above, under operation "Barrier" DFM permanently monitors about 10,000 individuals designated by the CIS ATC on the international wanted list for terrorist offences, including for terrorism financing, or mercenaries.

372. As a result of the analysis described above, no financial transactions or assets related to the designated persons were identified.

Consistency of measures with overall TF risk profile

373. Assessors believe that the measures taken by the Belorussian competent authorities to freeze the assets of the designated persons correspond to the low level of TF risk, as noted in IO.1 and IO.9.

374. Belarus is rated as having a moderate level of effectiveness for Immediate Outcome 10.

Immediate Outcome 11 (Targeted financial sanctions for proliferation financing)

375. The Republic of Belarus does not share common borders with the states that are currently subject to sanctions regime applied by the UNSC or bodies established by the decision of the UNSC. Although diplomatic relations with these jurisdictions are maintained, the volume of trade is negligible. In addition, the Republic of Belarus is not a financial center or a manufacturer of a wide range of dual-use goods.

Implementation of targeted financial sanctions related to proliferation financing without delay

376. The Republic of Belarus has legal and institutional framework to implement PF TFS to natural persons and legal entities designated by the by UNSC or bodies established by the UNSC without delay.

377. The Republic of Belarus has a legally established mechanism for disseminating information contained in UNSC PF lists to the competent authorities and reporting entities as well as for making this information publicly available.

378. The current mechanism for implementing PF TFS (development, update, communication, taking freezing measures) is identical to the mechanism for TF TFS (see IO.10).

379. The SSC of the Republic of Belarus has a special internal procedure according to which the List is updated and disseminated to the competent state bodies and reporting entities. Based on Resolution 1256 of the Council of Ministers, the SSC of the Republic of Belarus, as the authorized body for the development of the List, conducts a daily check of the information contained in the List with the lists posted on the UN Security Council website with the help of specialized software.

380. In case of discrepancies, a specially authorized officer of the SSC conducts a crosscheck, including on the basis of press releases of the UN Security Council. Within a few hours, the SSC makes changes to the List and disseminates it to the reporting entities by posting an up-to-date version on the website. From the moment the List is published on the website, there is an obligation to apply the TFS to the listed entities.

381. The SSC of Belarus also disseminates the updated list to the law enforcement authorities and supervisors (Ministry of Interior, Belarus Interbank Settlement Center, Ministry for Taxes and

Levies, Ministry of Finance, Customs Committee etc.) through technical communication channels. As an additional dissemination measure, supervisors send notifications to their reporting entities.

382. Financial institutions and DNFBPs monitor updates of the list on the SSC website on a daily basis using specialized software. FIs and DNFBPs check their clients against the List upon establishing a business relationship or conducting a transaction.

383. In line with the existing requirements reporting entities identify and freeze (see the stages of TFS implementation in IO.10) funds of designated persons without delay, but not later than the end of the day when the list is published. In addition to the above measures, reporting entities check their client base against the List once every three months.

384. As an additional measure of TFS implementation the relevant version of the List is integrated into the information system of the National Bank's processing center. Thus, all transactions of the designated persons or entities are blocked until the intervention of the bank's responsible employee who sends the relevant information to the DFM, after which the operation and the funds belonging to the designated person are frozen.

385. During the evaluation period there were no cases of implementing PF TFS. However, the assessors were provided with the software logs that contained the dates and time of publications on the UN website and publications on the SSC website, which demonstrated the capacity for implementing TFS without delay. Despite relevant circumstances, namely the 8-hour time difference between Minsk and New-York, the above-stated procedure of communicating the List to the FIs and DNFBPs and possible TFS implementation takes 12-14 hours from the moment the information is published on the UNSC website. In this regard, the assessment team considers that the Republic of Belarus implements TF TFS without delay, which occurs within 24 hours.

386. There is an obligation for FIs and DNFBPs to immediately inform DFM in case designated person or entity is identified and the funds are frozen, which was confirmed by the provided case example in regard to a partial match (see example in IO.10).

387. Belarus has a legal mechanism for providing exemptions (access to frozen funds) in line with the procedures set by UNSC or bodies established by UNSC, however such requests have never occurred as there are no designated persons in the financial system or within the territory of the Republic of Belarus.

Identification of funds and other assets held by designated entities/ individuals and prohibitions

388. As mentioned above FIs and DNFBPs identify funds and other assets held by designated persons and entities by conducting systematic checks of their client database against the relevant version of the List. Up to the end of the on-site, no such cases were revealed.

389. As outlined in IO.4, FIs, especially banks, routinely identify beneficial ownership of their clients (see IO4), thus preventing possible evasion of TFS.

390. The Republic of Belarus abides to the international treaties and agreements pertaining to export control matters. That said Belarus has established a comprehensive multilevel system for controlling the movement of the dual-use goods. Even though this falls out of the scope of the FATF Standards, the FATF 2018 PF Guidance recognizes a well-established export control mechanism as a contextual factor that provides added value to the country's CPF regime (see Para 375).

391. In the Republic of Belarus, the export control policy is pursued on the basis of the joint resolution of the State Customs Committee and the State Defense Industry Committee, which provides for the mechanisms that enable monitoring specific transactions and contracts that are subject to export control. The Republic of Belarus has the export and import licensing system in place, and has also established the Interagency Commission for Military Technical Cooperation and Export Control, which operates under the National Security Council.

392. Within the framework of the abovementioned Interagency Commission, the list of intermediaries and manufacturers of exported and imported materials has been compiled, and the database of issued licenses has been established. The Republic of Belarus controls the use of means of delivery and WMD components by unscrupulous persons.

393. In 2016, the Republic of Belarus adopted the law “On export control”, which was drafted with due consideration for the international export control practices. It introduced new definitions such as “items that are subject to export control” and “intermediation” and imposed prohibitions and restrictions on foreign trade and intermediary activities with international organizations, foreign states, entities and individuals.

FIs and DNFBPs’ understanding of and compliance with obligations

394. Reporting entities, except for certain categories of DNFBPs (lottery operators and pawnshops), have demonstrated substantial understanding of their TFS obligations by systematic outreach efforts of the SSC and supervisory authorities.

395. The National bank has disseminated to its supervised entities, as a TFS awareness-raising measure, an Instruction on freezing and blocking financial operations. All supervisory authorities have similar instructions for the sectors.

396. The SSC also conducts TFS training and outreach with FIs and DNFBPs.

397. In two cases, FIs and DNFBPs took action following a partial match of a customer name with a name of a UN designated person (see IO.10), which the assessment team sees as indirect proof of adequate understanding of their TFS obligations. Also, supervisory authorities have not identified any non-compliance with TFS implementation rules.

398. Even though lottery operators and pawnshops have demonstrated a lesser understanding of PF issues, their weight and materiality are not significant.

Competent authorities monitoring and ensuring compliance by FIs and DNFBPs with obligations

399. The competent authorities Belarus conduct overall monitoring of reporting entities’ compliance with AML/CFT/PF requirements including TFS is a significant element of remote and onsite inspections.

400. There were no cases of non-application of the TFS by the reporting entities. For instance, the total number of inspections of the reporting entities of the National bank for compliance with the relevant legislation for the period under review (2014-2018) was more than 100 (see tables 3.10 and 3.11 in IO.3).

401. Supervisors identified individual TFS deficiencies such as the absence of internal rules on TFS implementation in several pawnshops. These entities received a non-compliance prescription, and adopted action plans to address the deficiencies. In addition to the above, the reporting entities are also subject to administrative liability in the form of fines and warnings.

402. Belarus is rated as having a substantial level of effectiveness for Immediate Outcome 11.

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

Financial institutions

1. Among FIs, banks demonstrated the highest level of understanding of ML/TF risks, and risk mitigation measures applied by banks are generally adequate. Non-bank FIs have lower level of understanding of ML/TF risks compared to banks. This is due to the fact that the other category of FIs (due to sector specificity) are limited in terms of volume and range of services provided, which is a factor mitigating ML/TF risks, and have less resources to deal proactively with ML/TF risks.
2. FIs agreed with the NRA findings and noted that they reflect the sectoral specificities.
3. All FIs have demonstrated an overall understanding of ML/TF risks based on their own understanding, the findings of NRAs, and the training provided by competent authorities. It should be noted that FIs have updated their internal documents in line with the results of the NRAs, but the effectiveness of the updated measures and the extent to which the results of the NRAs are being used to adjust current activities is difficult to assess due to their recent publication.
4. All FIs demonstrated a good understanding of the CDD and record keeping procedures and their implementation in practice. The most effective CDD measures were demonstrated by the banking sector. FIs demonstrated examples of business relationship and transactions refusal when CDD information is incomplete or controversial. FI demonstrated ability to determine the beneficial owners by gathering information from different sources.
5. Identification of PEPs among customers and their beneficial owners is mostly carried out with the use of publicly accessible lists or through examining business relations based on information available in commercial sources (databases). The use of the special software and other program tools enables to effectively monitor application of TFS.
6. All FIs demonstrated a good understanding and implementation of their reporting obligations. General statistics on submitted Special forms is consistent with the specificities of the FI business and the NRA findings. DFM indicated the increase of quality of analytical information accompanying Special forms. The vast majority of Special forms originate from banks. Professional securities market participants, leasing organizations submit mainly threshold Special forms.
7. Banks have the most advanced internal control mechanisms and compliance functions followed by the leasing companies, securities market participants, insurance companies. Other FIs have appointed compliance officers and have basic internal controls in place

DNFBPs

8. DNFBPs understand their AML/CFT responsibilities at a significant level, taking into account sectoral specificities. Among them, the most comprehensive understanding of these responsibilities and a proactive approach have been demonstrated by real estate registrars and gambling operators.
9. DNFBPs have demonstrated a good understanding of their ML/TF risks, in accordance with their sectoral specificities. DNFBPs adopt ML/TF risk mitigation measures by implementing enhanced CDD measures and monitoring of transactions, taking into account

the specificities of their businesses. Gambling operators have developed additional measures beyond the mandatory requirements set out in the legislation.

10. CDD is conducted based on information provided by customers, which is verified and cross-checked against data available in open sources. DNFBPs demonstrated good understanding and practical implementation of the CDD and record keeping procedures. The CDD measures correlate with the size of entities and specificity of DNFBP sectors.
11. Some DNFBPs apply enhanced CDD measures to both foreign and domestic PEPs and also use various IT tools. Audit firms and auditors, lottery and electronic interactive gaming operators, pawnshops and buying-up centers (when they deal in precious metals and stones) demonstrated a limited understanding of their obligation related to identifying the foreign PEPs, which, however, correlates with the specificities of their activity.
12. All DNFBPs demonstrated understanding of their obligations related to reporting suspicious transactions and transactions that are subject to special control. The number of Special forms has upward trend but varies across different categories of DNFBPs and correlates with the specificity of the categories of the DNFBPs.
13. Casino sector demonstrated the most advanced internal control mechanisms and compliance functions followed by big audit firms. Other DNFBPs have appointed compliance officers and have basic internal controls in place. The complexity of the internal AML/CFT controls correlates with the specificities of businesses.

Recommended Actions

1. The FIs and DNFBPs should assess the impact of the updated policies and procedures in line with the findings of the NRA, and actively implement measures to mitigate the risks identified.

Financial institutions

2. Interaction with NFIs representatives should be strengthened to better understand ML/TF risks.
3. FIs should more thoroughly analyze potential ML/TF risks associated with the use of new technologies implemented in the financial sector.
4. Belarus should consider streamlining suspicious criteria for FIs, except for banks.

DNFBPs

5. Belarus should consider streamlining transaction thresholds and suspicious criteria for different categories of DNFBPs taking into account specificities of their business models.
6. Strengthen communication in the context of developing explanations, recommendations and best practices for identifying the foreign PEPs.

Immediate Outcome 4 (Preventive Measures)

403. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23.

404. To assess the effectiveness of the measures according to IO 4, the assessment team took a use of the following weights for different categories of FIs and DNFBPs. Taking into account the size and importance of the banking sector (about 80% of FIs assets are concentrated in the banking sector, see Chapter 1), as well as the country's ML/TF risks, the banking sector is the main barrier to the financial system of the Republic of Belarus. Accordingly, this sector has been focused on in the assessment of

the effectiveness of measures with regard to IO 4. Among the FIs, the second and third most important ones were the insurance sector and the sector of professional securities participants (non-bank institutions). Also, the casino sector was given special attention in the assessment of the immediate outcome, as it has a moderate level of risk in terms of ML/TF. The other categories of FIs and DNFBPs were given much less weight in the rating (detailed information on sectoral ML/TF risks presented in Chapter 1, articles 72 and 74).

405. Money and value transfer operators (MVTs) operate only through banks and post offices. It should be noted that DNFBPs, such as lawyers, legal service providers and auditors, provide very limited services in the context of the FATF Recommendations. Precious metals market is regulated by the state - prices for precious metals and stones are set and regulated by the state (market participants are not able to set the price of the product higher than the official raw material tariffs), unpurchased products are used by the state and prices in the Republic of Belarus are lower than in the neighboring countries, that significantly reduces ML/TF risks in the mentioned sector. Lotteries (3 entities, Table 1.13) in the Republic of Belarus are conducted by state enterprises, founded by the Ministry of Sport and Tourism and the Presidential Property Management Directorate. The only commodity exchange in the country is also established by the state body - the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus.

406. The real estate market in Belarus is composed of real estate agents, notaries and real estate registrars, all of which fall under requirements of the AML/CFT Law.

- Real estate agents are involved in the search and purchase/sale of property; they also provide assistance during preparation of documents, but they do not perform legally significant actions and do not participate in the financial side of the transaction;
- Notaries only verify and certify transactions on the basis of original documents (i.e. not involved in the financial transactions);
- Real estate registrars (as specially authorized employees of state organizations) have the exclusive right to make decisions on registration of both real estate transactions and provide supervision over the transfer of ownership rights and payment.

407. All these actors are obligated and conduct to apply CDD procedures. Each time a client applies to a real estate agent, notary and real estate registrar, the client undergoes the appropriate CDD procedures, which is a factor reducing the risk of ML/TF of this sector.

Understanding of ML/TF risks and AML/CFT obligations

408. In the course of the meetings with representatives of the private sector, the assessors did not identify any significant shortcomings in the application of preventive measures. All categories of FIs and DNFBPs are subject to AML/CFT obligations when carrying out activities. Significant categories of FIs and DNFBPs sectors have demonstrated good awareness and understanding of AML/CFT obligations and measures.

409. The analysis and conclusion on IO 4 are based on meetings with the private sector (assessors met with representatives of all categories of FIs and DNFBPs), on examples and statistics provided, and on information received from supervisory bodies.

Financial institutions

410. Banks and certain non-FIs (non-bank securities companies and leasing companies) demonstrated the highest level of understanding of ML/TF risks inherent in Belarus due to the wide range of financial transactions executed, large client base and IT and analytical personnel in place and due to

their active involvement in the risk assessment exercise and provision of information and responses to the questionnaires.

411.FIs, particularly banks, have a good understanding of their roles in the financial sector, their customer base and the operational environment to assess existing and potential ML/TF risks.

412.During the meetings with the banking sector, the main ML/TF risks identified were cash transactions, including currency exchange, money transfers, the use of new technologies in banking products, and cross-border transactions, which are consistent with the identified country risks.

413.In the course of communication with other representatives of the private sector, such risks as corruption and drugs, abuse of the real estate sector were also noted. Almost all private sector representatives noted the importance of identifying beneficial owners and the challenges encountered in this process, especially for legal entities, when different sources of information and analytical capacities should be in place (for more detail please refer to Chapter - Application of CDD and record-keeping requirements).

414.Banking sector representatives noted that many industry representatives had begun to analyse the risks inherent in an individual organisation before the NRA was even prepared, for example as part of annual reports or reports to boards of directors, so the results of the NRA were not unexpected. Internal risk assessment, including ML/TF, is carried out when new products and services, access channels and internal audits are carried out.

415.During the meetings with representatives of the private sector, assessors noted the conservative approach of banks to the introduction of products with advanced information technologies. Representatives of the sector noted that the complexity of the implementation of these products is due to continuous technological improvement and rapid changes, which negatively affects the understanding of ML/TF risks in this segment. According to the opinion of the private sector, the level of training of employees and the existence of effective internal control systems in the AML/CFT sphere in most banks mitigate the level of probability of the mentioned risk realization, nevertheless, banks are cautious about the introduction of such products.

416.NFIs (non-credit financial institutions) demonstrated a more limited understanding of ML/TF risks compared to banking sector. In particular, all NFIs met by the assessors believe that they are involved in low risk activities (i.e. assess their vulnerability to ML/TF risks as low). In support of this view, NFIs cite the small size of their sectors and total value of transactions (compared with the banking sector), a limited range of offered services, and almost complete absence of non-resident customers and international transactions. This is consistent with the findings of the NRA and assessors also agree with this point of view.

417.Most of the representatives of microfinance organizations (pawnshops, foundations and credit consumer cooperatives) have sufficient understanding of measures they need to take for thorough assessment of risks emanating from their customers. Some of the microfinance organizations have a number of vulnerabilities, such as insufficient understanding of ML/TF risks, lack of AML/CFT training of staff, and improper CDD procedures. Although large majorities of organizations have sufficient technical resources, such as computers and software, for maintaining their AML/CFT systems, some organizations (particularly pawnshops) need additional clarifications for ensuring effectiveness of the AML/CFT system, as a whole.

418.Interviews with leasing companies about operation of the AML/CFT system show that they have a good understanding of the legal requirements, which enable them to comply with the AML/CFT obligations. At the same time, understanding of ML/TF risks varies across different leasing companies.

419.Analysis of responses to the NRA questionnaires conducted by the supervisors show that not all forex companies have sufficient understanding of measures they need to take for thorough

assessment of risks associated with their customer base. Some of them have insufficient understanding of ML/TF risks, do not provide proper AML/CFT training to their staff, and lack adequate PEP CDD measures. It should be noted that the National bank started to supervise this sector related to AML/CFT compliance only in 2017 and is currently actively working to strengthen the AML/CFT systems of organizations (see analysis in IO 3), which, given the size of the sector and the absence of serious irregularities, is not considered by assessors to be a serious shortcoming.

420.FIs noted that they understand the complexity of working with high-risk customers, as noted above, so they try to keep the number of such customers within 1-5% of the total number (average indicator for all banks for all categories of high-risk customers as of 1 January 2018 - 0.2% of the total number of customers).

421.The private sector assesses TF risks as low, which is consistent with the findings of the NRA and the understanding of assessors (see IO 9). In the interviews, good explanatory work of supervising bodies in this direction was noted - check of lists, methodological recommendations on identification of transactions related to AML/CTF/PF.

422.Almost all FIs demonstrated a general awareness and understanding of ML/TF risks based on the NRA findings and trainings conducted by the competent authorities, and also noted that they agreed, in general, with the NRA results which reflected the specificities of the sectoral business models. Pursuant to the risk management and remedial action plans developed by the regulators in the course of the NRA, FIs revised and updated their internal documents, which included the obligation for each reporting entity to conduct internal assessments of ML/TF risks and document results of these assessments.

DNFBPs

423.DNFBPs understand their AML/CFT obligations. In the DNFBP sector, the most complete understanding of these obligations was demonstrated by real estate registrars and gambling operators.

424.Almost all DNFBPs have a general awareness and understanding of ML/TF risks based on the NRA findings and trainings conducted by the competent authorities.

425.The analysis of ML/TF threats conducted in the NRA process showed that criminal proceeds generated in Belarus were laundered by acquisition and use corporate motor vehicles and real estate property, investment of proceeds in entrepreneurship, there were also cases of using casino for ML. Representatives of real estate agents, real estate registries and the gambling sector noted that they were aware of such cases and took them into account in their work. When contacting the real estate agent, the customer is checked in the context of AML/CFT (completion of the AML/CFT questionnaire and verification of identity documents, identification of the source of funds) by the real estate agent during deal preparation, and by notary (during certification), and by the registrar during the registration of property rights, which also helps to mitigate these risks.

426.Meetings with the legal services sector (notaries, lawyers, real estate agents, individual and corporate legal services providers) showed that all representatives of this sector were informed about the NRA results and findings.

427. All categories of DNFBPs, without exception, participated in the NRA (entities participated in a whole range or selectively, depending on the total number). During the meetings, all representatives expressed their consent to the results of the NRA and noted the importance of the work done, particularly the results that were useful to small actors in the sector.

428.In the opinion of the private sector entities, operation of lotteries and electronic interactive games is not associated with high risk due to clearly defined operational procedures by the government. As noted in the introduction to IO 4, these organizations are state-owned, the lottery tickets are printed at the state enterprise, and the recipients of the winnings undergo the necessary identification

procedures, including the information is provided to the DFM and law enforcement authorities, which corresponds to the conclusions of the NRA and is consistent with the opinion of assessors.

429. During the on-site visit, assessors mentioned the significant awareness of country risks among all FIs and DNFBPs actors, as well as an adequate understanding of the relevant sector risks.

Application of ML/TF risk mitigating measures

Financial institutions

430. FIs use the 3-vector model ML/TF risk assessment (3 risk vectors – high, moderate and low level of risks) and management model developed in compliance with the regulatory requirements. In accordance with this model, the overall customer risk level is assessed by the number of specific factors divided into three major categories: risk by customer profile, risk by geographical region and risk by type of transactions. The final level of customer risk determines the methods FI uses for the purposes of risk mitigation. This approach has been implemented in the FIs' activities starting from 2008.

431. Each bank has an electronic database of customer profiles, which operates as an analytical software complex. Since 2014, suspicion criteria were developed that provided grounds for FI to refuse to carry out financial transactions and services to high-risk, unreliable customers. Since 2015, a methodology for assessing the risk of banking products (services) has been introduced. Since March 2018, all banks have been conducting an annual ML/TF self-assessment using the established indicators. Based on its results banks analyze and review their risks.

432. In practice, different methods of risk analysis are used (a large FI can afford a more sophisticated IT infrastructure), depending on the size of FIs, for instance in addition to the three-pronged model, banks and large FIs also use IT instruments and group-wide recommendations for the customer base. Nevertheless, the assessors concluded that the depth of such analysis is consistent with the nature of FIs activities and it helps to mitigate them.

433. FIs adopt ML/TF risk mitigation measures by implementing enhanced CDD measures, conducting transaction monitoring, denying remote banking services, and onboarding non-resident customers only upon approval by the compliance services and/or terminating certain types of transactions.

434. Banks demonstrated that, when a customer is assessed as posing high risk, the enhanced CDD measures are applied to such customer, which include completion of the extended questionnaire, collection of additional documents, and monitoring of transactions. The authorities also presented the examples of refusal to provide certain types of services related, in particular, to money transfers.

435. Representatives of leasing and forex sectors also apply additional control measures for high-risk clients - additional requests for verification of the received information. Representatives of leasing noted that they also request additional information on the purpose of using the object of leasing.

436. Representatives of microfinance institutions noted that all of their subjects initially fall into a low risk category, except for those clients for whom there have been requests from law enforcement agencies or seizures, but such clients usually do not re-apply for services.

437. The private sector demonstrated awareness of the NRA findings, which are reflected in the internal policies. It was noted that the identified risks are broadly consistent with the private sector's vision of the situation, and FIs plan to integrate this information in their internal control rules in future.

438. The representatives of the banking sector also noted that they assess ML/TF risks associated with new products and services and conduct risk assessments every year as part of preparation of

annual reports. The results and findings of such assessments are reflected in the internal documents governing compliance procedures.

DNFBPs

439. DNFBPs adopt ML/TF risk mitigation measures by implementing enhanced CDD measures and, conducting transaction monitoring. DNFBPs apply a sector-specific 3-vector (for real estate registrar) or two-vector (for other DNFBPs categories) ML/TF risk assessment and control model in their practice which takes into consideration sector specific factors. The major categories of the risk specific factors are similar to those used by FIs, i.e. risk by customer profile, risk by geographic region, risk by type of transaction. These models were implemented for the first time in 2014-2015 and continue to improve.

440. Almost all categories of DNFBPs carrying out financial transactions have the special software that provide for automation of the AML/CFT process (monitoring operations, filing STRs and checking terrorist lists), and apply other ML/TF risk mitigation measures, including cooperation with the LEAs. Various supervisory bodies have developed their IT software products for these purposes. Approximately 99.6% of STRs are sent using software packages. The complexity of the internal automation system correlates with the size of the company and the specifics of the business.

441. The special computerized cash register system used in the country since December 1, 2013 for monitoring cash flows in the gambling sector is multifunctional and effective. Special computerized cash register system (SCCS) is a software containing a package of application programs designed to ensure control over the activities in the gambling business by means of automated transfer, reception, registration, processing, accounting, accumulation and storage of data on transactions. As well as, the system is used for carrying out cash operations on the receipt of cash from individuals and payment of cash to individuals. All financial operations of gambling establishments, including those for AML/CFT purposes, are conducted through this system, including information on drawing up and submission by gambling operators of a Special form in the form of an electronic document to the financial monitoring agency. The Ministry of Taxes and Levies and SCC has full remote access to the system, which, in assessors' opinion, has a positive impact on reducing ML/TF risks in the sector.

442. Upon identification of high ML/TF risks, all categories of DNFBPs apply extended internal controls to mitigate (decrease) such risks, and the respective extended CDD measures are provided for in the DNFBP internal control rules.

443. During on-site visit the gambling operators mentioned that, in order to minimize the identified risks, they use additional suspicious transaction criteria and indicators beyond those provided for in the internal control rules.

Application of CDD and record-keeping requirements

Financial institutions

444. Banks demonstrated a good understanding of the CDD and record keeping procedures and their practical implementation.

445. The customer onboarding process is based on the requirements set out in the legislation and involves verification of the relevant information and documents.

446. Belarus has a system for collecting and verifying beneficial ownership information. The primary information collected during the CDD process comes from questionnaires completed by clients. Legislation allows for the inclusion of additional items in client questionnaires, in addition to those

established by law. Some banks provided examples of such additional fields aimed at identifying the detailed nature of business relationships and beneficial ownership structure.

447. In addition to the information gathered from CDD questionnaires, FIs use information from Single State Register (SSR) for Belarus registered companies to analyze the structure of the company as part their BO identification procedure. BO identification of national or other foreign company information is done through open and other paid BO databases. The use of paid databases among FIs is uneven (i.e. mostly by large FIs that have sufficient financial resources). Other FIs rely on a large number of open source resources through which additional verification of beneficial ownership information is conducted (open public databases in other countries, free versions of commercial databases, the Internet, and other open sources). In general, FIs representatives demonstrated a good understanding and implementation of BO identification.

448. In addition, in the banking sector in the country there is an inter-bank identification system, a general register that uploads information about clients (natural persons and legal entities) already identified by a representative of the banking sector, based on which another bank can also double-check the information received.

449. In accordance with the requirements of the legislation, information on the nature of the business relationship is requested for individual entrepreneurs and organizations in the course of the questionnaire. Banks can include additional questions in the questionnaire and, among other things, request additional information about the main counterparties and the nature of the relationships.

450. Banks are entitled to apply the right to refuse suspicious customers to carry out operations based on suspicious indicators identified by the National Bank (out of 49 suspicious indicators - 20 for refusal) as well as their own developed criteria agreed with the National Bank. In 2018, banks sent about 50,000 Special forms (without taking into account substituted and corrected forms). Of these, about 6,500 could be rejected by the bank (i.e., with indicators of refusal established by the National Bank) and rejected in 422 cases (7%).

451. Representatives of FIs know and exercise their right to refuse to carry out business relations or to carry out suspicious transactions. The best understanding was demonstrated by representatives of the banking sector (422 refusals were implemented in 2018, including 223 refusals to carry out financial transactions and 19 refusals to enter business relationships, other – refusals related to remote banking services).

452. Among examples submitted above, 143 cases of refusal were related to the procedure of identification of the beneficial owner - refusal to submit documents (66 cases); the submission of documents questioning their authenticity (37 cases); signs of the client's behavior giving grounds to believe that he acts in the interests of a third party (40 cases). These examples demonstrate refusal cases on different analysis stages (front desk or during compliance procedures) also confirm a deep understanding of beneficial ownership identification issues.

453. Representatives of other categories of FIs also noted that they exercised their right to refuse, but no statistics were kept.

454. Representatives of microfinance organizations, taking into account the specifics of their activities (most of their clients are individuals), also use the client's psychological profile to analyze the risk of business relationships with such client (the client's psychological profile is formed based on the identification criteria and suspicious financial transactions indicators, which include excessive concerns of the client about confidentiality issues, unjustified refusal to submit documents, attempts to surrender stolen property, and suspicious behavior giving grounds to believe that he acts in the interests of a third party and other indicators).

455. At the same time, in 2014-2017, supervisory authorities identified cases of non-compliance by banks with the customer identification procedure resulting from the following reasons: technical

failures (imperfection) of the software used for identification of natural persons; non-compliance by bank employees with customer identification requirements. These were isolated cases of non-compliance, which were later investigated and sanctioned which assessment team consider have no significant impact on ML/TF risk situation.

456. Other FIs also demonstrated understanding of the CDD and record keeping procedures and their practical application, taking into consideration limited resources compared to banks.

457. Almost all FIs stated that they encountered situations where they submitted information and documents related to the customers' activities over the previous years at request of the competent authorities. Thus, this may indicate that they keep records and data in proper and adequate manner, which has been confirmed by law enforcement authorities.

DNFBPs

458. All DNFBPs categories fall under the full requirements of the AML/CFT law and have to comply with CDD and record keeping requirements. In addition, the main category of clients are individuals.

459. In the course of CDD, DNFBPs identify beneficial owners of their customers by using information provided by customers and also by examining their business relations based on information available in various open (publicly accessible) sources paid and governmental databases, any other information available on the Internet.

460. International auditing organizations apply enhanced control measures and use their own software products in order to identify the beneficial owners. Other sector representatives also apply enhanced control measures, but rely on open source databases.

461. Casino representatives noted that their clients are also individuals and they are very attentive to CDD and identification issues, as they are often subject to appropriate checks by supervisory authorities. There were cases when access to an ATM (for personal purposes without the intention to visit a casino) located in a gambling house required an identification procedure. All data during the CDD process are uploaded to the SCCS system database to be used by the representatives of the gambling and government sectors.

462. The real estate registrars separately noted the special attention of the State Committee on Property to the identification of participants in financial transactions regardless of whether such transactions were carried out or not, that is in line with the relevant ML/TF risks. Like the other categories of DNFBPs, they record financial transactions in a Special form in accordance with internal controls if there is a high degree of risk in the conduct of a financial transaction, after that submit to the DFM. This is consistent with the country risks identified.

463. Dealers in precious metals and stones: one-off transactions with customers prevail, the main risks are related to attempts to obtain services under fraudulent documents or sale of stolen goods. In addition to a thorough examination of the documents provided, an additional measure was the use of a client's psychological profile (e.g. analysis of the client's behavior and image or frequent attempts to request services without appropriate documents).

464. Other categories of DNFBPs demonstrated their understanding of CDD requirements and practical implementation of such requirements including verification of information in various open sources or limited access paid databases related to beneficial ownership information,

465. DNFBPs retain CDD data and business correspondence for over five years after termination of business relationships or completion of transactions, as prescribed by the legislation.

466. DNFBP know and exercise their right to refuse a transaction when there is a lack of information in the implementation of CDD measures, but no specific statistics are being maintained on the regular basis. This information is available to the DFM. To date, there has been 26 cases of refusal to conduct

financial operation during CDD measures due suspicious behavior (doubts about the authenticity of documents and suspicious behavior). STRs were sent to the DFM in all cases, which followed by the relevant investigation.

467. Given the specific nature of the sector and the nature of the ML/TF risks involved, the assessors concluded that the private sector has demonstrated a sufficient understanding of CDD and data retention procedures and their application in their practice.

Application of enhanced or special CDD

Financial institutions

PEPs

468. The list of PEPs is available on the official website of the State Control Committee of the Republic of Belarus at http://kgk.gov.by/ru/spisok_pdl/. The list does not contain a list of family members and associates, but in practice various IT products are used to identify them.

469. The requirement established by the National Bank for banks to use software and online tools for collecting and verifying information on customers and their beneficial owners to identify PEPs significantly increases the effectiveness of identification of such persons among banks' customers. The information sources used for identifying PEPs and establish sources of their funds/wealth, their family members and close associates include, inter alia, the commercial databases held by Thomson Reuters, Accuity, Dow Jones, etc., and other open information sources, including information provided on the SCC website. Similar measures are used by representatives of the securities market, insurance companies and large NFIs.

470. As of the beginning of 2018, the share of PEPs in the banking sector was 0.01% (about 2,000 persons, including national and foreign PEPs, their family members and close associates) of the total number of clients – natural persons, and the volume of their operations - 0.02% of the total volume of banking sector operations. Among NFI customers - in 2017, 9 organizations were identified as having PEPs as their beneficial owners, and in 2018 - 1 person was accepted for services.

471. In order to identify PEPs, microfinance organizations use information and documents received in the course of customer identification, the PEP list posted on the SCC website and information obtained by them from publicly accessible sources, such as online searching services, periodicals and available public databases of EU countries. Acquisition and use of commercial databases (such as Dow Jones, Accuity, World-Check) is too expensive for non-bank FIs.

472. Where a customer or its beneficial owner is identified as the PEP, the financial service agreement with such customer is signed only upon written approval of the senior manager (director) of a professional participant of the securities market or a person authorized by him. If a customer is categorized as the PEP after signature of the financial services agreement with him/her, such agreement is extended only upon written approval of the senior manager (director) of a professional participant or a persons authorized by him.

473. In addition, in accordance with the regulatory requirements, FIs verify the origin of funds/wealth of this category of customers by requesting and verifying the relevant documents, as well as carry out enhanced (more frequent) monitoring of these customers and their transactions. The quality of this monitoring is correlated with the size of the FI, as it is based on the IT infrastructure. Taking into consideration the specificity of the FI sector the overall effectiveness of these measures has been assessed at a significant level.

Correspondent banking

474. Only banks can establish correspondent relationships. In practice, the CDD on correspondent banking relationships is conducted by banks through exchange of questionnaires completed in accordance with the Wolfsberg Principles (updated questionnaire). Banks in Belarus consider the operation of opening correspondent accounts to be a high-risk operation, therefore, they fill detailed questionnaire in with subsequent detailed verification of information, and a signature of a manager is always required to obtain permission to establish such relations. The Republic of Belarus has introduced a legal prohibition on the use of pass-through accounts and a ban on working with "shell - banks", which all the participants in the meetings were aware of. In the case of opening correspondent accounts with foreign banks (mainly European), banks in Belarus undergo a thorough assessment of their internal control systems, including AML/CFT requirements, which may be stricter than national legislation.

475. As it was noted in the course of the meetings, the banking market has been formed quite a long time ago and a certain number of banks have been operating in the market that have been involved in correspondent relations for a long time, and have extensive experience in applying AML/CFT measures in this area.

New technologies

476. Most FIs consider provision of financial services with the use of new technologies primarily as the way of reducing transaction costs, pursuing marketing strategy or entering a new market segments. Therefore, application of any extended measures to new technologies is considered in terms of extent to which such measures will impede development of this segment. The only thing mentioned by the private sector in this regard during the on-site visit, was that they reserved the right to deny such serviced to customers identified as posing high risk. Examples of such behavior when the bank's management considered products related to new technologies as representing a high risk for business and special orders were classified as high risk, high attention or restrictions on transactions were presented to assessors. The above behavior of a private sector representatives correlates with the identified country risks and demonstrates a conservative approach of business.

Wire transfers

477. FIs representatives are aware of the necessary information to accompany transactions. During the meetings, private sector mentioned that the money transfer systems are implemented within the framework of IT software products, which at the stage of receiving the transfer information request all the necessary information, without which it is impossible to carry out the money transfer. As the software product itself does not allow for a transaction without a complete set of supporting information, the FIs carrying out the transfer do not have procedures in place to deal with incomplete information.

478. Banks integrated most of suspicious indicators into the automated/ semi-automated transaction processing systems, in the first instance, indicators related to cross-border transfers (to offshore zones and non-cooperative territories identified by the FATF and to accounts of customers' counterparties opened in countries other than the counterparty registration country). These measures have proved to be effective in the course of inspections conducted by the National Bank. In particular, failure to transmit information on wire transfer originators was identified only in isolated cases, and no failures of reporting entities to provide the DFM with the Special forms on transactions that are subject to special control and related to non-cooperative territories identified by the FATF were detected.

Targeted financial sanctions

479. To identify persons linked to terrorism among their customers, banks, non-bank financial institutions, RB Development Bank and Belarusian Currency and Stock Exchange use the list of

organizations and individuals, including individual entrepreneurs, involved in terrorist activities, prepared by the State Security Committee through the special software system, which is used for searching information on terrorists and terrorist organizations and contains the structured data convenient for automated processing (see IO.10 and IO. 11).

480. To identify persons linked to terrorism among their customers professional securities market participants, which are non-bank FIs, use the same list of entities and individuals, including individual entrepreneurs, posted on the SSC website.

481. All categories of entities supervised by the Ministry of Finance during identification process shall also verify the presence of organizations and natural persons, including individual entrepreneurs, included in the list of organizations and individuals linked to terrorist activities among participants in financial transactions or beneficiaries. For this purpose, they use the information available on the official website of the State Security Committee of the Republic of Belarus.

482. All FIs apply TFS measures. Given that the general TF risk factors in Belarus were assessed as low, the only freezing actions taken in the banking sector were triggered by the false positive alerts (2 cases) generated because of the partial match of the customers' data with the designation lists. However, this fact demonstrates an understanding of the work of the relevant mechanisms.

483. It is noteworthy, that FIs also use other external and internal solutions for monitoring terrorist lists, but effectiveness and coverage of such solutions depend directly on financial capabilities of institutions and, therefore, they are better implemented by FIs with larger capital.

Higher risk countries

484. The level of FIs' accounting and understanding of higher risk non-cooperating countries, whose list is published on the DFM website, is sufficient to ensure a close monitoring of transactions involving customers or counterparties that are residents of such countries. All FIs representatives are aware of this list and its location. Representatives of large FIs or FIs involved in working with foreign counterparts mentioned that they are also aware of the list published directly on the FATF website. The forex companies mentioned during the meetings with private sector, that they do not establish relationships with clients from high-risk countries, identified by the FATF, to minimize their own risks.

DNFBPs

PEPs

485. Some DNFBPs apply enhanced CDD measures to both foreign and domestic PEPs. Where a customer or its beneficial owner is identified as the PEP, the financial service agreement with such customer is signed only upon written approval of the senior manager (director) or a person authorized by him. It should be noted that representatives of the DNFBP sector work mainly with individuals.

486. With a view to identifying PEPs, some gambling operators use third-party commercial databases (e.g. Dow Jones, Accuity, World-Check) and also their own financial monitoring databases. Commercial database World-Check, which is implemented in a Special Computerized Cash Register system that provides control over the turnover in the gambling business (hereinafter - SCCS). Connection to the SCCS is a mandatory condition for carrying out activities in the field of gambling business in Belarus. However, gambling operators have not identified any PEPs among their customers so far.

487. When dealing with customers, notaries use questionnaires or conduct interviews and cross-check customers' data against open sources to identify PEPs. Notaries met by the assessor during the on-

site visit stated that they did not apply special controls in respect of PEPs. At the same time, notaries mentioned that in the light of other factors such customers might pose high risk.

488. The lottery and electronic interactive gaming operators, pawnshops (buying-up centers dealing in precious metals and stones) were unable to demonstrate procedures for identifying foreign PEPs, officials of public international organizations and persons holding positions included in the list of public offices of Belarus due to the specifics of their business (absence of such category of clients). However, given the specifics of the activities, the results of the NRAs (lack of similar ML typologies) and the control (supervision) coverage of these sectors, this deficiency does not have a significant impact.

489. Audit firms and auditors operating as individual entrepreneurs and providing professional accounting and financial reporting services related to financial transactions on behalf of a client use software and commercial databases which allow them to receive online the updated lists of PEPs (e.g. Dow Jones, Accuity, etc.).

Higher risk countries

490. The level of DNFBPs' accounting and understanding of higher risk non-cooperating countries, whose list is published on the DFM website, is sufficient to ensure a close monitoring of transactions involving customers or counterparties that are residents of such countries. In addition, due to the specificities of their businesses, only some categories of DNFBPs may come across customers from the listed countries, and there is adequate understanding of the relevant risks in the sector.

Targeted financial sanctions

491. Representatives of the DNFBP sector demonstrated an understanding of the TFS-related obligations (for details see IO.10 and IO.11). In their activities, they use the list of organizations and individuals, including individual entrepreneurs, involved in terrorist activities, which is available on the website of the State Security Committee of Belarus. Some categories of DNFBPs check without the use of specialized IT products; accordingly, the lack of automatic identification of persons included in the list may be a vulnerability for the purpose of timely and effective identification of these persons.

492. Representatives of the casino mentioned that the corresponding module is included in the SCCS program and, among other things, contains instructions on the operator's behavior in case of detection of matches in the lists. Representatives of the private sector did not identify any matches.

Reporting obligations and tipping-off

Financial institutions

493. All FIs demonstrated understanding and implementation of their obligations related to submission of special forms (Special forms) (see tables 4.1, 4.2 and analysis of IO 6). Overall, the reporting level and dynamics across FIs is consistent with their business specificities and the NRA findings. Table 4.2 shows a downward trend in the number of suspicious Special forms due to awareness raising activities, improvement of analytical methods for detecting suspicious schemes and, as a result, improvement of the quality of information accompanying special forms.

494. For all categories of financial transactions, there is a need to record financial transactions subject to special control in a Special form and submit it as an electronic document to the DFM during 1 business day. In practice, as has been demonstrated to the assessment team, suspicious and threshold related Special forms (STRs and SOCs) are sent without delay when an suspicion indicator or threshold is reached.

495. It is possible to submit Special forms to the DFM in hard copy only if it is impossible to submit them due to technical reasons. Thus, in 2014, the DFM received 93% of the total number of special forms in electronic form, 98% in 2015, 99.4% in 2016, 99.6% in 2017 and 99.6% in 2018. The facts presented show that the information provided to the FIU is timely.

Table 4.1 Special forms sent by FIs representatives

FIs/Year	2014	2015	2016	2017	2018
Banks and non-bank FIs	79 558	86 879	88 634	65 314	50 051
Professional securities market participants (except for banks and non-bank FIs)	4 334	4 432	5 575	5 067	7 271
Commodity Exchange	129	257	355	732	781
Insurance companies and insurance brokers	158	278	303	271	381
Postal communication operators	2	10	9		12
Leasing companies	669	868	1 654	2 158	4 135
Forex companies, National Forex Center			2	14	29
Total	84 850	92 729	96 532	73 556	62 660

Table 4.2 Special forms with signs of suspicion and mandatory referral

	2014	2015	2016	2017	2018	Total
Suspicious Special forms	79 568	86 905	88 716	65 372	50 127	370 688
Non-suspicious Special forms	5 282	5 824	7 816	8 184	12 533	39 639
Total number of Special forms by FIs	84 850	92 729	96 532	73 556	62 660	410 327
Percentage of suspicious Special forms to their total number	93,77%	93,72%	91,90%	88,87%	80,00%	90,34%

496. Banks duly comply with the suspicious transaction reporting obligations. Banks submit Special forms on transactions that meet both suspicious indicators that are set out in the legislation and indicators that are developed by banks independently and approved by the supervisor. During the on-

site visit, the authorities provided examples of indicators developed by the banks' compliance services and approved by the regulator. The presented information allows concluding that the banks understand their obligations on submitting information, as well as desire to protect the business from potential ML/TF risks.

497. The inspections conducted by the National Bank in 2014-2017, revealed some shortcomings in arrangement and implementation of the AML/CFT ongoing and follow-up controls, which resulted in untimely submission of suspicious transaction Special forms to the DFM. It should be noted that such cases are also identified by internal control and audit measures of the FI, but even in this case, the National Bank and the DFM are informed, and they conduct an inspection of each individual case to identify possible elements of ML/TF.

498. Most of such breaches are identified in banks that do not pay enough attention to integration of suspicious transaction indicators in their automated system. Based on the results of communication with representatives of the private sector and supervisory bodies, the assessors concluded that such individual violations do not have a negative impact on the overall situation (detailed information is provided in IO.3 and trend is downward).

499. In addition to that, banks are obliged to determine, at least once a year, the percentage of non-reported transactions (if any) identified by the internal audit services, the National Bank and other oversight authorities from the total number of submitted reports. The 2017 annual reports provided by banks show adequate performance of the suspicious transaction identification system in the banking sector, since instances of non-reporting do not exceed the 5 percent threshold set out in the regulations.

500. The special forms completed and filed with the DFM by professional securities market participants are mainly related to threshold transactions (i.e. when amount of financial transactions is equal to or exceeds 2,000 base units when carried out by natural persons, and 20,000 base units when carried out by legal entities and individual entrepreneurs). Non-bank securities market participants carried out all operations in non-cash form and pass through bank accounts, which are additionally subject to control by the banking sector.

501. According to the statistics provided by the DFM, during the period under review banks submitted 3 (three) Special forms on the criterion of suspicion indicator "financing of terrorism", which indicates that the private sector understands its obligations taking into consideration the absence of TF sentences and low TF risk on the country level (see IO.9 for details).

502. For certain categories of FIs, such as leasing organizations and securities market representatives, special threshold forms related to the size of transactions and peculiarities of doing business prevail. Experts note that the optimization of threshold values and signs of suspicion in these sectors will help to improve the quality of sent special forms.

503. Legislative requirements protect representatives of the private sector in case of sending a special form and at the same time set requirements to prevent them from tipping-off. These requirements are also contained in the FIs internal control rules and the responsible officers are aware of them. None of the representatives of supervisory authorities or private sector could remember the incidents of tipping-off in this context.

DNFBPs

504. DNFBPs submit Special forms on transactions that meet both criteria that are set out in the legislation and criteria that are developed by DNFBPs independently and approved by the supervisors (see tables 4.3, 4.4 and 4.5). The increase in the number specific forms submitted by the DNFBPs is also related to the awareness raising efforts being undertaken by competent authorities, including in the context of NRAs, thus improving the understanding of the sector's AML/CFT obligations,

resulting in an overall increase of special forms and also in the proportion of special forms that are suspicious.

505. Real estate registrars and notaries duly comply with the suspicious transaction reporting obligations. Gambling operators file Special forms with the financial monitoring agency with the use of the special computerized cash register system, which incorporates encryption-based safeguards, i.e. Special forms are transmitted to the DFM via the secure communication channel.

506. The Law and the internal control rules of all DNFBPs prohibit them from tipping-off parties to financial transactions about AML/CFT/CPF measures being taken. The responsible officers are aware of the relevant rules and responsibilities, and it was also noted that these issues are addressed in seminars and trainings with the supervisory bodies. The representatives of the Republic of Belarus could not recall the case of disclosure of such information.

507. All DNFBPs demonstrated understanding and implementation of their obligations related to reporting without delay of suspicious transactions and transactions that are subject to special control (see IO 6) by means of electronic channels of communication, when appropriate suspicions or thresholds are triggered.

Table 4.3: Special form Statistics by DNFBP Categories for the Assessed Period

№	DNFBP Categories	2014	2015	2016	2017	2018	Total	%
1	Entities engaged in state registration of real estate property, title thereto and transactions therewith	40 003	44 385	40 831	40 163	50 689	216 071	70,02%
2	Notaries	4 764	14 229	16 245	20 270	30 158	85 666	27,76%
3	Casino and gambling operators	525	729	678	471	425	2 828	0,92%
4	Real estate agents engaged in transactions involving acquisition and sale of real estate property for their customers	-	561	308	181	173	1 223	0,40%
5	Lawyers, law firms and corporate and individual legal service providers	12	179	35	24	19	269	0,09%
6	Lottery and electronic interactive gaming operators	84	72	56	19	13	244	0,08%
7	Pawnshops and buying-in centers dealing with precious metals and stones	-	-	-	22	1	23	0,01%
8	Dealers in precious metals and stones	-	-	-	2	1	3	0,00%
9	Audit firms and individual auditors operating in the capacity of individual entrepreneurs	-	2	-	-	-	2	0,00%
	Total	45 388	60 157	58 153	61 125	81 479	306 329	100%

508. In general, the assessors believe that the statistics provided correspond to the country specifics and the nature of the business of certain categories of DNFBPs. It is noteworthy that some categories of DNFBPs, in particular pawnshops, buying-in centers and dealers in precious metals and stones, audit firms, individual auditors (operating in the capacity of individual entrepreneurs) submitted small number of reports to the DFM. The private sector representatives mentioned during the on-site visit that given the specifics of their business there is a small number of Special forms, but the representatives demonstrated their understanding of working with the Special form, which is confirmed by the facts of reporting to the FMD (see Table 4.3). For pawnshops, precious metals and gemstones shops, one-off transactions prevail. Interaction is based on psychological portrait

analysis (in case of attempts to sell stolen goods) or frequent attempts to apply for services without appropriate documents.

509. The presented statistics testifies that there was 1 case of sending a special form on the basis of TF suspiciousness, which demonstrates that the sector understands its obligations taking into consideration the nature of business of DNFBP sector and country context (see chapter 1 and IO.9).

510. Presented in the Table below is the DFM's statistics on received reports on both transactions that meet and do not meet suspicious indicators.

Table 4.4

#	Types of Reports	2014	2015	2016	2017	2018	Total
1	Suspicious Special forms	3 984	13 004	15 556	19 482	36 713	88 739
2	Non-suspicious Special forms	41 404	47 153	42 597	41 670	44 766	217 590
	Total number of Special forms by DNFBPs	45 388	60 157	58 153	61 152	81 479	306 329
	Percentage of suspicious Special forms in total volume of received Special forms	8,78%	21,62%	26,75%	31,86%	45,06%	28,97%

511. During meetings with notaries and real estate registrars, it was noted that, in the past, they submitted a significant number of threshold Special forms related to financial transactions carried under the fee-based property conveyance and mortgage contracts. However, the development of AML/CFT/CPF methodological guidelines and application of the risk-based approach facilitated the effective risk management, as evidenced by the increased number of suspicious Special forms in the total volume of submitted Special forms.

Table 4.5 Suspicious Indicators

Primary Suspicious Indicators	2014	2015	2016	2017	2018	Total	%
Immovable (movable) property transactions carried out with the use of cash	178	1 740	1 838	5 660	18 780	28 196	31.8%
Real estate property transaction, where the party to such transaction is a non-resident, except for the situation when the property is legally inherited and the certificate of title is issued to a surviving spouse in the name of deceased spouse	0	4 282	5 526	4 322	4 625	18 755	21.1%
Funds are granted as a gift between financial transaction parties who are not close relatives or custodians/guardians and supervisees	1 206	2 214	2 278	2 031	2 400	10 129	11.4%
Price of real estate property (title thereto) significantly differs from the market price	1 125	1 459	1 799	1 441	1 822	7 646	8.6%
A financial transaction party grants (receives) an interest-free loan or a loan, where the amount of interest and (or) other payments due significantly differs from the standards market practice	0	4	246	963	980	2 193	2.5%
A party to a real estate property transaction obtained state registration less than one year ago	0	287	276	335	493	1 391	1.6%
A series of financial transactions, each of which is not suspicious, but in aggregate they raise suspicion that they are carried out for evasion of taxes, duties, charges as a result of false declaration of imported goods and/or money laundering	246	346	297	223	161	1 273	1.4%

Primary Suspicious Indicators	2014	2015	2016	2017	2018	Total	%
A preliminary agreement that provides for advance payments or deposits or payment of amounts due under the main contract before signature of the main contract	0	240	239	303	299	1 081	1.2%
A party to a financial transaction insists on prompt completion of the transaction without obvious justification	7	38	28	60	837	970	1.1%
Reduction of transaction amount to avoid its registration in the special form	28	69	92	41	123	353	0.4%
Obvious discrepancy between the contractual and actual price of transacted object (except for real estate property and title thereto)	9	44	63	58	59	233	0.3%
A financial transaction has no obvious economic rationale	4	39	53	26	29	151	0.2%
Repeated financial transactions with the same counterparty involving sale and repurchase of the same items, except for securities sale and repurchase transactions	17	26	21	17	41	122	0.1%
Other Indicators	1 107	1 975	2 539	3 766	5 870	15 257	17.1%
Total						87 750	98.9%
Total Suspicious Special forms							

512. Assessors note that the frequency distribution of suspicious transaction indicators is consistent with the main risks identified in the NRA, as well as with the nature of the activities of individual DNFBP entities.

513. It should be noted that representatives of the private sector noted the need to adjust the threshold criteria to the specifics of doing business, with which the assessors agree.

Internal controls and legal/ regulatory requirements impeding implementation

Financial institutions

514. For all categories of FI detailed information on the internal AML/CFT control mechanisms for FI are provided in the relevant legislation, which sets standards for internal control rules. FI have robust internal controls and procedures in place, including skilled and trained AML/CFT personnel, internal rules describing various aspects of AML/CFT activity aimed to mitigate relevant risks. Banks have the most advanced internal AML/CFT systems that include IT resources, dedicated compliance departments, control mechanisms that take into account the type of the bank's organizational structure, the nature and volume of its banking operations, and the level of the ML/TF risk. Banks have a special automatic software for TFS purposes.

515. Representatives of the leasing companies, securities market participants, insurance companies are second to bank in the context of complexity on internal control structures, other FIs have appointed compliance officers and have basic internal controls in place.

516. FI compliance teams or officers have autonomy, unlimited access to information, and are accountable to the Director or Board of Directors. FI employees (compliance officers, members of compliance department, front desk employees and others) are trained for AML/CFT purposes on a regular basis and supervisory authorities and DFM conduct regular outreach including mandatory training for new and dedicated categories of the employees, guidelines, professional skills development programs, participation in the Working Group to Study ML/TF Typologies and other. The complexity of the internal control system of FI correlates with sector specificity (availability of IT and human resources, access to paid databases and other) and private sector representatives were able to prove their effectiveness.

517. Banks typically conduct AML/CFT audits on annual basis. Based on the audit findings, effectiveness of the bank's business processes and AML/CFT internal control system is assessed.

The audit results are communicated to the superior management bodies, i.e. the supervisory board (the board of directors).

518. Despite some shortcomings (improper delineation of responsibilities, breaches of the identification and surveying procedures, failures to timely submit reports to the financial monitoring agency, untimely training and briefing, inconsistency of software with the established requirements and improper risk levels assigned to customers), the internal control systems are usually found to be consistent with the requirements of the AML/CFT legislation based on the audit findings. Based on the audit findings, effectiveness of the bank's business processes and AML/CFT internal control system is assessed and recommendations for their improvement are made.

519. The statistics of the revealed violations of FIs internal control measures (see IO 3) tend to decrease, which is noted by both private sector representatives and supervisory bodies. The work of internal audit as well as inspections of supervising bodies contribute to the improvement of measures applied by representatives of FIs. The private sector noted very close cooperation with the National bank, exchange of experience on improving AML/CFT systems.

520. In case of FIs that belong to financial groups, the internal controls are arranged with consideration for the group-wide policies, which may extend beyond the requirements of the domestic legislation, what have been demonstrated by the representatives of the private sector.

521. Assessors were unable to assess the effectiveness of implementation in practice of regulatory requirements for control of groups/holdings and entities controlled by the NB due to that they were approved during the on-site visit.

DNFBPs

522. The internal control systems of DNFBPs are developed with consideration for the specificities of their business activities. The requirements for arrangement and application of internal controls are set out in the regulations of the respective supervisory authorities. The approved internal control rules that meet the established requirements enable effective implementation of ML/TF risk management procedures.

523. The entities supervised by the Ministry of Finance (dealers in precious metals and stones, buying-in centers (when dealing with precious metals and stones), pawnshops, audit firms, individual auditors operating in the capacity of individual entrepreneurs and providing professional services involving maintenance of accounting records and preparation of accounting and (or) financial statements related to financial transactions carried out on behalf of, or at the instruction of customers, and lottery and electronic interactive gaming operators) have appointed the executive officers, from among their senior managers, who are responsible for arranging and operating the internal control system and ensuring its consistency with the requirements set out in the AML/CFT legislation.

524. At the same time, all entities involved in state registration of property have also appointed the internal control compliance officers at the senior management level, who have higher education and knowledge of the AML/CFT legislation.

525. During interviews with all DNFBPs, good understanding and implementation of their internal control obligations was demonstrated.

526. Besides that, according to the applicable Belarusian legislation submission of reports to the DFM by entities engaged in financial transactions for the AML/CFT/CPF purposes does not constitute infringement of secrets protected by law.

527. Belarus is rated as having a moderate level of effectiveness for Immediate Outcome 4.

Key Findings and Recommended Actions

Key Findings

Financial institutions

1. Licensing requirements for FIs generally prevent criminals from exercising management functions and being the beneficial owner of the FIs. However, (for FIs other than banks), this approach may not fully prevent criminals and their associates holding the FIs' management or beneficial ownership.
2. Supervisors have demonstrated a good understanding of the ML/TF risks in the supervised sectors. A ML/TF risk assessment was carried out in all sectors and formed the basis of the NRA. The most comprehensive understanding of sectoral risks was demonstrated by the National Bank.
3. All categories of FI were subject to AML/CFT/CPF supervision. Risk-based supervision is set in law and implemented in the country, but specialized criteria taking into account ML/TF risk factors have been developed only by the National bank. At the time of the on-site mission, the results of the NRAs had not been fully implemented into the risk-based oversight framework. The AML/CFT/CPF supervision until 2018 was carried out without exception within the framework of the general supervision, except for the National bank, the risk-based approach (RBA) was based on the financial and economic performance indicators.
4. Various sanctions mechanisms for violations of AML/CFT/CPF requirements are actively applied to most FIs. However, according to the statistics provided by the supervisory authorities, it is difficult to assess whether the measures and sanctions are dissuasive. The number of detected irregularities from sector to sector remains at approximately the same level, or shows an increase in individual FS categories. The number of prescriptions and fines tends to decrease.
5. Supervisors actively engage with the private sector in the context of facilitating understanding of ML/TF risks and raising general awareness among supervised entities through informational letters, workshops and specialized trainings.

DNFBPs

6. There are no requirements for the verification of criminals associates in the licensing process. In addition, there are no effective mechanisms for determining beneficial ownership.
7. Representatives of supervisory authorities have demonstrated an understanding of ML/TF risks in their sectors, sectoral risk assessments have been conducted and appropriate measures are being implemented in accordance with the DNFBP's risk minimization plan based on the results of the national risk assessment.
8. The AML/CFT/CPF supervision until 2018 was carried out without exception as part of the overall supervision. The risk-based approach to the supervision of DNFBPs' AML/CFT/CPF activities is being implemented and improved in line with the national risk assessment. Risk-based AML/CFT/CPF supervision is carried out by all supervisors, however, the effectiveness of recent legislative changes cannot be assessed due to their recent implementation.

9. Sanctions for violations of AML/CFT requirements are actively applied to most DNFBPs. However, the sanctions applied are not always proportionate and dissuasive, as evidenced by the statistics of the violations identified.
10. Supervisors actively engage with the private sector in the context of facilitating understanding of ML/TF risks and raising general awareness among supervised entities through informational letters, workshops and specialized trainings.

Recommended actions

1. Supervisory authorities should continue to implement the findings of the NRA in risk-based supervision and to take steps to ensure supervisory activities (frequency, scope, type of inspections) correspond to ML\TF risks identified.
2. Supervisory authorities (except for the National Bank in relation to the banking sector) should consider the advisability of developing (optimizing) certain AML/CFT indicators to be taken into account when determining the level of risk of subjects in planning supervisory activities.
3. The Republic of Belarus should take additional steps to prevent criminals and their associates from having major ownership (including beneficial ownership) and/or managerial positions in all categories of FIs (including non-bank securities market participants, insurance companies and postal operators) and DNFBPs (see R 26 and R 28).
4. The Republic of Belarus should change the approach to identifying and recording violations from quantitative to qualitative to further improve the effectiveness of corrective measures.

Immediate Outcome 3 (Supervision)

528. This Section discusses and assesses the achievement of Immediate Outcome 3. This section uses Recommendations 26-28 as well as Recommendations 34 and 35 to assess effectiveness.

529. To assess supervisory activities under Immediate Outcome 3, the main weight was given to the banking sector because financial operations of the entities of the Republic of Belarus are carried out through it and it stands as a major gatekeeper for the financial system. While assessing this immediate outcome special attention was paid to the casino sector due to the fact that it possesses a moderate ML/TF risk. Then, securities sectors (non-bank institutions) and the insurance market were taken into account in terms of importance as sectors with significant financial assets. The DNFBP sector (other than casinos), as well as the commodity exchange and postal sector, were considered with the lowest weights, taking into account the specifics of their operations, AML/CFT/CPF controls over all entities, and a predominantly low level of risk.

530. Conclusions on the effectiveness of the measures taken were made on the basis of the submitted statistics, on the basis of the materials submitted by the country during the field mission and face-to-face meeting, as well as on the basis of communication with representatives of supervisory authorities (National bank, Ministry of Finance, Ministry of Communications and Informatization, Ministry of Antimonopoly Regulation and Trade, Ministry of Taxes, Ministry of Justice, State Property Committee).

Licensing, registration and control measures to prevent criminals and their associates from entering the market

Financial institutions

531. The general requirement for state registration of legal persons in the Republic of Belarus are:

- citizen - owner of property (founder, participant) of a commercial organization or citizen who applied for state registration as an individual entrepreneur, has no outstanding or unexpunged criminal record for crimes against property and economic activity
- citizen - owner of the property (founder, participant), head of the legal entity created in the form of municipal institution or association (union), is not on the preventive account in accordance with the legislation on prevention of offenses.

532. In practice, only information on the fact that a criminal record has been filed is checked, which subsequently serves as a basis for refusing to agree to become a participant (shareholder, owner, founder, etc.) in a FI and to hold managerial positions in the FI. Preventive measures, as a possible element in the identification of affiliates, are not conducted.

533. In addition, each category of FIs has specific requirements for owners, beneficiaries and management that relate to sector specificities.

534. **National bank (NBRB)** The NBRB's supervised entities are subject to additional requirements for shareholders, founders, beneficial owners who own or will own shares of the bank, NFSC in an amount equal to or exceeding five percent in accordance with Instruction No. 640. In addition, the State registration of the newly established bank (non-credit FI), the issuance of a permit for the acquisition of bank shares (non-credit FI), obtaining a special permit (license) to carry out banking activities (expansion of licensing powers) is not allowed, if at least one of the founders, shareholders of the bank or one of its beneficial owners, who owns or will own five or more percent of the shares of the bank does not comply with the requirements established by the National Bank (Articles 82, 96, 123 of the Banking Code). Requirements include a positive business reputation, absence of criminal record, absence of involvement in complicity in terrorism, sufficient funds and financial stability, and more.

535. The National Bank uses various instruments other than the Unified State Register of Legal Entities to identify the beneficial owners. In addition to the various open channels for obtaining information (UN Lists, information from the special listing software system, and databases such as World Check), examples of requests to various foreign registration authorities and registries for further information were provided. In addition, in order to verify the information about the beneficial owners of one of the banks, it was decided to send two representatives of the NBRB to participate in the annual meeting of shareholders of the bank, that took place in the Swiss Confederation.

536. The NBRB implements an active safeguard policy in the context of the vetting of managers and senior management. There were examples of refusal to enter the banking and non-credit FIs markets to persons against whom the NBRB had doubts about their business reputation due to criminal charges against the director, absence of criminal records statements, location of potential investors in high-risk countries (offshore, FATF lists) and received information about possible involvement in fraud and money laundering, as well as the inability to determine the ultimate beneficial owner. To verify the information provided, both the channels of interaction with law enforcement agencies and the mechanisms of international cooperation are used (see IO 2).

537. In 2014-2018, there were 3 refusals to register participation in the bank's authorized capital in 2014, 2015, 2018). For microfinance organizations - 2 refusals to register an organization in 2015-2016 and 2 refusals in 2017. These examples demonstrate the effective work of the NBRB in this area.

538. For the non-credit FI sector, leasing organizations and forex companies there were no refusals in registration

539. It should be noted that legal entities and sole entrepreneurs have the opportunity to carry out leasing activities without inclusion in the register and obtaining a license, provided that no more than three financial lease agreements are concluded within one calendar year and (or) the total value of the leased items transferred under one or more financial lease agreements concluded by these lessors in one calendar year is less than 10,000 basic units (about \$120,000). Such legal entities are not considered as leasing organizations.

540. This decision was taken by Presidential Decree in 2014 even before the implementation of the NRA. Transactions of less than 10,000 basic units are usually performed for the organizations' own needs and are not related to entrepreneurial activity, and the number of transactions is limited to a one-off nature of such activity. In addition, taking into account the results of the sectoral risk assessment and NRA, the degree of vulnerability of leasing organizations' activities to ML is assessed as low and the risk of using leasing organizations in ML/TF schemes is assessed as low by the experts, who conclude that such practices do not cause damage to the national AML/CFT system

Ministry of Finance

541. The procedure of licensing of professional participants of the securities market is carried out in the general order established by the legislation on licensing of certain types of activities. It should be noted that around half of the professional participants of the securities market are banks (25 out of 62). In the context of professional participants of the securities market and insurance market, there are no requirements to verify the founders, beneficial owners and shareholders. The requirements for management and key positions are similar to those of the NBRB, and there is an additional requirement for professional certification in the securities market, which also require the applicant to provide information on the presence or absence of a criminal record.

542. There are no requirements to the founders and shareholders or beneficial owners in respect of professional participants of the Securities Market, but during registration the founders are checked using the Unified State Register of Legal Entities, which entails certain restrictions on the quality of such check (see IO.5).

Table 3.1

Information on certified employees who have passed the testing for obtaining and prolongation of qualification certificate of a securities market specialist of the 1st and 2nd categories			
	positive result	negative outcome	%
2015	192	48	25
2016	246	29	11,8
2017	263	28	10,6
2018	263	43	16

543. The certification requirements for the securities market also include AML/CFT/CPF issues. The presented statistics allows us to draw a conclusion about the presence of barriers to the entry of low-skilled employees into the securities market.

544. It should be noted that the securities market is quite conservative (see statistics in chapter 1). From 2015 to 2018, the Ministry of Finance issued six new licenses to operate as a professional participant in the securities market, while there were no refusals to issue licenses due to the absence of violations.

545. For the purpose of state registration of the insurance organization, along with the documents for registration of the organization (application, charter, certificate of registration of the legal entity), the information on the professional suitability of candidates for the posts of managers, their deputies and chief accountants of the insurance organization is to be sent in addition and the business plan of the

insurance organization development corresponding to the requirements established by the Ministry of Finance is to be submitted. For founders, the criminal record is checked during the registration of a legal entity. There were no refusals on state registration of insurance companies in the reporting period, as there were no facts of registration (the market was rather conservative), for insurance brokers there were facts of refusals due to non-confirmation of sources of funds, as well as in case of non-confirmation of the managers to fit of professional suitability.

546. For the period 2014-2018 The Ministry of Finance registered 29 insurance brokers, including 16 in 2014, 7 in 2015, 1 in 2016, 2 in 2017 and 3 in 2018. At the same time, 1 insurance broker was refused state registration in 2016.

Table 3.2 Statistics on professional aptitude of insurance companies' candidates and insurance brokers:

A year.	Insurance companies		Insurance brokers	
	Prof. Availability confirmed	Denied proof of professional fitness	Prof. Availability confirmed	Denied proof of professional fitness
2010	53	3	4	0
2011	41	1	3	1
2012	50	3	8	1
2013	20	0	7	4
2014	54	1	28	6
2015	95	0	14	0
2016	59	0	8	1
2017	67	0	4	0

547. Based on the presented statistics, the experts concluded that the Ministry of Finance controls the quality of candidates for insurance brokers.

Ministry of Communications and Informatization

548. The Ministry of Communications and Informatization carries out licensing of postal operators, but there are no requirements for managers, founders and beneficial owners.

549. In general, the country has a good safeguard policy in place, in light of current practice. There are some shortcomings in relation to prevent criminals from entering the insurance sector, the securities and postal sector, also there are no requirements for affiliated persons. Shortcomings noted for individual subjects of FS, taking into account weights, risk factors and peculiarities of the sector, do not have a critical impact on the sector.

DNFBPs

550. The Republic of Belarus has measures in place to prevent criminals and their associates from infiltrating the ownership or beneficial ownership, significant or controlling ownership or management functions of DNFBPs.

551. According to the Decree of the President of the Republic of Belarus "On licensing of separate kinds of activity" № 450 from 01.09.2010 the activity of all kinds of DNFBP is licensed by corresponding supervisory bodies or procedures on admission to a corresponding kind of activity are legislatively established. In addition, all DNFBPs are subject to mandatory registration as legal entities and individual entrepreneurs. According to the legislation, the requirements for DNFBPs prevent criminals from exercising management functions and being beneficial owners. However, these requirements do not apply to associate parties.

Ministry of Taxes

552. The right to carry out activities in the sphere of gambling business is granted exclusively to legal entities of the Republic of Belarus. In the course of meetings with employees of the Ministry of Taxes, it was established that within the framework of licensing of gambling organizers there are no legislative requirements to identify the actual beneficial owners of the licensee.

553. It should be noted that despite the absence of requirements for verification of owners, the data are checked against the information from the Unified State Register of Legal Entities (see deficiencies noted in IO.5), and in the case of foreign founders international information exchange is used (see IO.2) to identify the actual owners, while The Ministry of Taxes uses its right to appoint the head of the gambling company as the beneficial owner, in case of failure to identify him/her. Three gambling organizers (2.8 per cent of the total) have founders from offshore zones

554. Virtual gaming establishments are subject to a licensing requirement that they have no criminal record for crimes against the economic activity of their founders (individuals), managers and deputy gambling organizers. In order to confirm the compliance with the license requirements on the absence of criminal record, the list of documents submitted by the applicant for a license to carry out activities on the maintenance of virtual gambling establishments additionally includes the relevant information of the internal affairs bodies. To confirm compliance with the license requirement that there are no violations of AML/CFT legislation, the information contained in the automated information system "Unified State Databank on Offences and Crimes" is used.

Ministry of Justice

555. In the country, notarial activity is not an entrepreneurial activity. Also, according to the Law of the Republic of Belarus "On Notaries and Notarial Activities" there are requirements for notaries. Restrictions to notarial activity are the previously committed intentional crime, dismissal on the grounds recognized as discrediting the circumstances of dismissal in accordance with the legislation, previously revoked certificate and other factors.

556. Certificate of notary activity is issued by the Ministry of Justice of the Republic of Belarus on the basis of the decision of the Qualification Commission on Notary Activity about the admission of a person applying for the notary status to notary activity.

557. For lawyers, real estate agents and legal service providers, principles similar to those of notaries apply.

558. The Ministry of Justice, in practice, checks the criminal record, the fact of dismissal from the law enforcement bodies, the facts of termination of the license of the subject, the absence of the business entities among them. Inspections are conducted through the databases of relevant agencies, requests to law enforcement agencies and their own databases.

Table 3.3 Information on decisions taken by the Qualification Commission on notary activities, admission to notary activities

	Issued.	Ineligibility to engage in notarial activities is denied:					
		total	among them				
			Not passed the qualification exam	The application is withdrawn.	Refused due to absence of legal education	Refused due to absence of necessary legal experience	Refused due to non-compliance with the admission procedure (refusal to take the qualification exam)
2014	8	6	1	2	1	1	1
2015	10	0	0	0	0	0	0

2016	3	1	1	0	0	0	0
2017	6	2	2	0	0	0	0
2018	10	0	0	0	0	0	0

Table 3.4 Information on the decisions taken by the Qualification Commission on Notary Activities, on the cancellation of the notary activity certificate

Grounds for cancellation of the notarial deeds (hereinafter referred to as the certificate)	Number of certificates revoked					
	2014	2015	2016	2017	2018	Total in 2014-2018
Exclusion of a notary from the members of the Belarusian Chamber of Notaries (type of disciplinary sanction)	0	1	0	0	0	1

Table 3.5 Information on Decisions Made by the Qualification Commission on Matters Relating to Advocacy in the Republic of Belarus

	Licenses issued	Refusal to issue licences to practice as an advocate	
		total	among them
			Mismatch between the capacity of applicants and license requirements and conditions
2014	73	85	85
2015	134	48	48
2016	126	38	38
2017	97	26	26
2018	67	23	23

Table 3.6 Information on decisions taken by the Commission on licensing of legal services with an indication of a component - real estate services

	Licenses issued	Refusal to issue licenses for the provision of legal services (with an indication of the component - real estate services)		
		total	among them	
			Availability of inaccurate information in the submitted application for issuance of a license and attached documents	Non-compliance of the licensee's capabilities with the license requirements and conditions
2014	20	0	0	0
2015	18	1	1	0
2016	22	1	0	1
2017	31	0	0	0
2018	14	0	0	0

Table 3.7 Information on real estate agent certification

	Evidence has been issued about the real estate agent attestation	Certificate of real estate agent's attestation has been refused	
		total	among them
			Noncompliance of the applicant with the requirements

2014	35	155	16	139
2015	39	209	43	166
2016	45	144	10	134
2017	83	196	13	183
2018	57	176	8	168

Table 3.8. Information on decisions taken by the Commission on licensing of legal services with an indication of the component - legal services

	Licenses issued	Refusal to issue licenses for the provision of legal services (with indication of the component - legal services)		
		total	among them	
			Availability of inaccurate information in the submitted application for issuance of a license and attached documents	Non-compliance of the licensee's capabilities with the license requirements and conditions
2014	114	0	0	0
2015	253	0	0	0
2016	273	10	2	8
2017	198	5	0	5
2018	200	2	0	2

Ministry of Finance

559. The auditors shall be required to have higher education and to have no outstanding or unexpunged criminal record for crimes against the interests of the service, property and economic activity, as well as for other crimes related to the use of official powers and info

560. In addition to the above, the auditors - individual entrepreneurs and the head of the audit firm shall be required to provide audit services as an employee of the audit firm (employee of the auditor individual entrepreneur) for at least two years.

561. With regard to the organizers of lotteries and gambling - this activity is licensed, at the time of the on-site mission private sector representatives have been operating for more than eight years. Over the period under review in the MER there were no facts of obtaining or revoking the license.

State Property Committee

562. The Law of the Republic of Belarus of 22.07.2002 № 133-3 "On state registration of real estate, rights to it and transactions with it" stipulates that the republican organization for state registration conducts certification of real estate registrars, keeps a register of registrars. Persons with a criminal record or engaged in entrepreneurial or intermediary activities, as well as those performing other paid work, other than teaching or scientific work, may not be admitted to the certification, which is verified through the relevant databases and law enforcement agencies.

563. Certification of registrar of real estate is conducted before appointment to the position of registrar, as well as after five years from the date of previous certification, the main purpose of which is to verify the professional knowledge of registrars and the ability to apply such knowledge in practice. In particular, in 2016 196 out of 202 real estate registrars (applicants for the position of registrar) were certified, in 2017 – 160 out of 166, in 2018 – 176 out of 178.

564. When issuing licenses and certificates for the categories of DNFBPs presented above, the requirements for knowledge of the relevant AML/CFT/CPF legislation are also checked. However, there are no separate statistics taking into account the failure to issue a license/certificate. Given the specificities of the DNFBP categories represented, experts conclude that the DNFBP categories are

subject to restrictive policies, but it is not possible to assess the AML/CFT/CPF knowledge component.

Understanding and identifying ML/TF risks by supervisory bodies

Financial institutions

565. Supervisors have demonstrated a good understanding of the ML/TF risks in the supervised sectors. In relation to other supervisory authorities, the NBRB has demonstrated a broader and more complete understanding of country and sector ML/TF risks. The overall risk assessment methodology, which affected almost all FIs, was that the relevant supervisors collected information from their supervised entities on the inherent risks (in the form of a questionnaire), then processed and analyzed by the supervisors in the light of their activities, and included in the sectoral risk assessment, which complemented the NRA. Prior to the events, thematic seminars were organized to explain the work to be done. As a result of the work carried out with all categories of supervised entities, activities aimed at informing and explaining the results obtained were carried out.

566. Due to the relatively small number of FIs under review and the fact that almost all entities participated in the NRA survey, the supervisory bodies were able to conduct a risk analysis both at the sectoral level and by specific financial institutions when reviewing the materials received. A significant level of understanding of risks at different levels was demonstrated by the NBRB, including due to the fact that the assessment of ML/TF risks in the banking sector at the level of individual institutions was practiced before the NRA. The rest of the supervisory bodies demonstrated a moderate level of understanding of ML/TF risks.

567. Sectoral report is a part of the NRA conducted by the country and represents a rather extensive analysis of the current situation in the regulated sector from the point of view of compliance of market participants with AML/CFT/CPF legislation requirements, their level of understanding of risks, causes of violations, trends in services and technologies development and potential risks.

568. Based on the results of the analysis, vulnerabilities and risks of the AML/CFT system in the banking sector and in the sector of noncredit financial institutions were determined, the level of risk was assessed, and measures to reduce them with specific time frames were proposed. Similar measures and documents were also prepared by other oversight bodies of the Republic of Belarus.

569. In addition to the general information provided in IO.1, the ML/TF risks of insurance companies, audit companies. There are ML risks in the securities market; for the financial and credit sector, the main ML risks are associated with cash transactions, the use of new IT-based banking products, and the use of money transfer systems to make transfers without opening an account.

570. Banks and non-credit FIs have implemented the results of the NRA in their current operations. Banks are required to conduct their own ML/TF risk assessment on an annual basis. Clause 1 of the Plan of Measures of the National Bank aimed at mitigating the revealed risks of money laundering and financing of terrorism in the banking sector and the sector of noncredit financial institutions for 2019- 2020 includes the control over documenting risk assessments of banks and noncredit financial institutions, due in April 2019.

571. The remaining FIs supervisory authorities have also prepared plans, but it is not possible to assess their effectiveness as they were approved prior to the field visit.

DNFBPs

572. Based on the results of the risk assessment, moderate ML risks were assigned to the following DNFBP categories: organizers of gambling, real estate registrars, representatives of the precious

metals sector and notaries. Other DNFBPs were rated as low risk. The methodology for sectoral assessment and interaction with supervised entities in this context are similar to FIs.

573. Due to the large number of supervised entities, the NRA questionnaire was completed selectively in some DNFBP categories. However, more than half of the participants in the sectors were respondents in a sample survey. Similarly to the FIs, the DNFBP supervisory bodies in the DNFBP sector analyzed the assessments of individual actors and generated sectoral assessments, which were used in the NRAs, as well as other additional information. All supervisory authorities generally have a good understanding of the risks in their sectors.

574. Supervisors identify and maintain an adequate level of understanding of ML/TF risks. Supervisory authorities implement methodological guidelines and develop recommendations for supervised entities on risk management, identification criteria and indicators of suspicious financial transactions related to gaining and/or legalization of proceeds of crime, financing of terrorism. The assessors were unable to obtain information on the implementation of the information reflected in the NRA in the internal documents of the entities under review.

575. Supervisors understand the ML/TF risks associated with regulated sectors. In the course of the meetings, representatives of the supervisory authorities noted that sectoral risk assessments had been conducted and that appropriate measures were being implemented in accordance with the plans on mitigation of risks identified in DNFBP's sector based on the results of the national risk assessment report (plans of the Ministry of Taxes, the Ministry of Finance, the Ministry of Justice and the State Property Committee).

Risk-based supervision of compliance with AML/CFT requirements

576. The State Control (Supervision) based on risk assessment was introduced in the Republic of Belarus by Presidential Decree No. 510 of 16 October 2009 "On Improvement of Control (Supervision) Activity in the Republic of Belarus", amended by Decree No. 376 of 16 October 2017. Thus, the approach to the identification of risk entities was changed that was found out while studying the amendments during the on-site mission. The updated methodology has been in effect for all oversight bodies since 2019. The updated methodology includes the allocation of a separate AML/CFT/CPF indicator for supervised entities, which will be taken into account in the formation of selective inspections of supervised entities. In accordance with the methodology, selective inspection are assigned only to a group of entities with a high degree of risk and in conjunction with the results of the analysis of information available to the regulatory body on the violation of the law by the subject, as well as the inability to identify and (or) eliminate violations of the law and other forms of control.

577. Until 2018, the RBA in the supervisory activities was carried out, as part of the prudential supervision. It should be noted that during prudential supervision actions, an AML/CFT/CPF assessment was conducted as part of the organization's risk control framework. During a meeting with experts, state authorities informed that until December 2017, on-site inspections could be carried out when included into coordinated plan of supervisory activities, the frequency of the inspections is determined by the risk category of the entity (high/medium/low) based on the criteria approved by Decree No. 510, also on-site inspection could be conducted based on the decision or instruction of the President of the Republic of Belarus. This methodology was used by all supervisory bodies.

578. In addition, there existed and continue to exist a mechanism of unscheduled inspections in cases where there are grounds to believe that the organization is carrying out violations of the law, including AML/CFT/CPF issues. However, in practice, unscheduled inspections were not carried out exclusively on AML/CFT/CPF issues, the inspection was always associated with the inspection of financial and economic factors.

579. The edition of Decree 510 before January 2018 provided for forms of control, specifics of their appointment, etc., approved the regulations on the procedure for organizing and conducting inspections, the procedure for monitoring, the list of control (supervisory) bodies and areas of their control (supervision) activities, as well as the Criteria for attributing inspectional entities to the risk group for the appointment of scheduled inspections. The old version of the Decree applied fully to the AML/CFT/CPF inspections of subjects.

580. It should be noted that the previous version of the Decree did not identify specific AML/CFT/CPF indicators, but AML/CFT/CPF elements were taken into account within the framework of the prudential supervision indicator. ML/TF inspections were conducted on the basis of information obtained from past inspections, violations revealed by remote monitoring, reported by competent authorities, and general AML/CFT/CPF inspections were always carried out as part of a comprehensive field visit.

581. In connection with the update of the supervisory system, a planned moratorium on FIs inspections was imposed in 2018, but the oversight bodies continued remote supervision and unscheduled field visits.

582. At the time of the visit of the assessors' experts, the updated indicator was used to develop a plan of inspections for the second half of 2019, which does not allow us to assess the effectiveness of the updated supervision methodology, so the results of the previous methodology were taken into account in the rating. It should be noted that the supervisory authorities have the right to optimize the developed indicators taking into account law enforcement practices.

583. Given that the new methodology was introduced shortly before the on-site visit (March 2019) and there were no comprehensive statistics for 2019, further analysis describes the evolution of the supervisory system in the country and analyzes the practical results of supervision according to the "old" methodology.

Financial institutions

NBRB

584. The country has established supervision based on risk assessment of the degree of risk to carry out inspection activities; a single procedure for carrying out control (supervisory) activities to create additional conditions for the development of efficient forms of economic management has been determined; bodies and forms of state control (supervision) have been determined.

585. The NBRB can carry out the following forms of supervision (this is true both until 2018 and at present): remote and contact supervision. The remote supervision is carried out on a quarterly and annual basis, and, if necessary, in an expeditious manner, when banks send the relevant information (reports with financial indicators, reports on the application of internal control measures) to the NBRB.

586. There are both scheduled and unscheduled inspections during the on-site supervision (Table 3.10). Unscheduled inspections are carried out on the basis of violations detected by the regulator on the basis of remote supervision or on the basis of reports of violations received from other competent authorities, the inspection covers only the issues identified at the preparatory stage. Planned inspections are based on semi-annual inspection plans, which are based on the developed indicators and risk categories of supervised entities (similar approach until 2018 and now). Based on the results of the analysis of indicators and risk categories (Table 3.9) - planned inspections can be thematic and complex, within the framework of complex inspections the AML/CFT/CPF system of the bank is always checked.

587. Remote AML/CFT/CPF controls in respect of banks include controls on a monthly, quarterly, annual basis and as information becomes available. The results of remote supervision may also lead to the application and application of supervisory response measures or a decision to conduct a full inspection.

588. Within the framework of remote control over banks, the NBRB collects, among other things, information on AML/CFT/CPF transactions subject to special control, the bank's involvement in suspicious transactions (since 2018), analysis of special forms from the DFM, transactions with offshore zones, refusal to carry out suspicious transactions and others.

589. On a quarterly/monthly basis, NFIs reports on its activities to the National Bank, which includes information on prudential supervision and the nature of its operations, as well as receives information from the FIU in the context of special forms.

590. According to the new methodology of 2018, the National Bank uses as a basis for conducting inspections in the banks the assessment of 12 indicators (3 qualitative and 9 quantitative indicators, including the suspicious transactions engagement ratio) characterizing the level of assumed risks. 2 indicators - one qualitative and one quantitative indicator responsible for AML/CFT/CPF. The supervised entity shall be subject to verification if the value of the aggregate of signs indicating the possibility of violation by the subject of legislation is equal to or greater than 30 points, with a maximum scale of 100 points.

591. It follows from the explanations and regulatory documents received that the weight of a separate ML/TF indicator focused on assessing the volume of risky operations of a bank is 3 points, the AML/CFT/CPF internal control system is a part of the general internal control system of FIs (banks in particular), and its share in the risk assessment scale is higher - 20 points. The total amount of AML/CFT/CPF points is 23 points, so in order to be included in the list of FIs to be verified, it is necessary that the risks in the bank according to the other criteria give additional 7 points, which is quite reasonable and realistic. In practice, if necessary, supervising agencies have no difficulties in defining FIs as high-risk and include it in the plan of inspections for the nearest future. Using this approach, the NBRB has the ability to inspect the entities under its control every year.

592. The National Bank demonstrated the availability of instruments of analysis that allow commercial banks to be rated in accordance with the indicators affecting the risk level of one or another FIs, both on the basis of the results of remote and field supervision.

593. As indicators that were used by the National Bank earlier and are now used to assess the bank's AML/CFT/CPF internal control system:

- the bank's engagement ratio in suspicious transactions conducted by its customers, which is calculated as the ratio of the amount of suspicious transactions to the total amount of transactions on the bank's customers' accounts;
- Specific weight of special forms with the right to refuse, in the total number of sent special forms;
- the rate of exercise of the right to refuse to carry out suspicious financial transactions, defined as the ratio of the number of special forms when a bank refused to carry out the financial transaction to the number when it was entitled to refuse to carry out the financial transaction;
- the share of high-risk clients in the breakdown of client groups (individuals, individual entrepreneurs, organizations);
- Staff/actual number of AML/CFT/CPF units;
- data from banks' annual reports on self-assessment of ML/TF risks and improvement of the AML/CFT/CPF system in the bank;
- as well as other indicators that give more detail (deepening), for example: the amount of

suspicious transactions that fall on the sign of suspicion in the context of banks, the form of the transaction (cash, non-cash, electronic money), up to the register of special forms of data.

594. The National Bank, in turn, noted that the results of the NRA are used in the current activities and to determine the risk FIs to conduct unscheduled inspections. Criteria developed for appointment of selective inspections, including those that assess the nature of operations of the supervised entity (except for AML/CFT/CPF criteria for banks), were developed taking into account the identified risks and threats. For example, "making changes in the provided reporting", "the founder of the forex company is an offshore resident", "carrying out leasing activities with residential premises" and others.

595. Supervisory activities until 2019 were carried out according to similar criteria, but they were not formalized in regulations. The experts were provided with examples of calculations and selection of subjects, as well as materials that were prepared before the inspection. According to the NRA in the banking sector, banks that are considered to be high-risk are subject to on-site inspections in the current period, and contact supervisory measures were applied to them. Banks classified as medium risk are reviewed in a subsequent period. High risk banks could also be re-examined (or monitored) during the next period to ensure compliance with the prescription and recommendations of the National Bank. Banks with medium and low risk were subject to remote control measures.

596. Based on the results of the inspection, a conclusion is drawn up that contains the main information on the inspection results, identified violations, corrective measures and deadlines for their implementation. An oversight cycle is not considered to be complete until all the deficiencies in the inspection have been addressed, so the NBRB is closely monitoring compliance with the timelines. The supervised entity should provide evidence of the correction of the identified violations, and if the violations are not corrected in time, additional sanctions should be applied. As it was noted during the meetings, all supervisory bodies of the Republic of Belarus use a similar system of control over the inspection results.

597. In 2014-2017, active supervisory activities were carried out, as shown in the table below.

Table 3.9. Number of FIs controlled by NBRB in each risk category

	2014			2015			2016			2017			2018		
	H ⁴	M	L	H	M	L	H	M	L	H	M	L	H	M	L
Banks	8	5	18	6	8	12	9	8	7	4	8	12	4	10	10
Non-bank financial institutions	0	0	0	0	0	1	0	0	3	0	0	3	0	0	4
Development Bank	0	0	0	0	0	0	0	0	1	0	1	0	0	1	0
Leasing organizations	0	0	0	9	0	90	21	0	74	25	0	78	13	0	84
Microfinance institutions	0	0	0	0	0	0	35	55	25	50	57	14	44	48	12
Forex companies	0	0	0	0	0	0	6	0	0	10	0	0	10	0	0
National Forex Center	0	0	0	0	0	0	0	0	1	0	0	1	0	0	1

Table 3.10 Number of AML/CFT/CPF inspections of banks

Banks	2014	2015	2016	2017	2018
Number of scheduled inspections	6	9	9	7	0

⁴ - H/M/L – high, moderate, low

Number of unscheduled (field and office) inspections, monitoring (at the initiative of the National Bank, on the basis of information from law enforcement agencies, appeals of citizens and legal entities, etc.)	1	2	3	1	7
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Table 3.11 Number of AML/CFT/CPF inspections of other FIs supervised by NBRB.

	categories of reporting entities non-lending financial institutions										
	leasing companies			microfinance institutions							forex
	2015	2016	2017	2015	pawn shops	funds	CC C	pawn shops	funds	CC C	2015 -2017
					2016			2017			
Total number of AML/CFT/CPF inspections (including desk inspections)	11	10	10	0	6	0	0	19	0	1	0
including the number of on-site AML/CFT/CPF inspections	11	10	10	0	6	0	0	18	0	0	0
including the number of unscheduled inspections	0	0	0	0	0	0	0	1	0	1	0

598. It was demonstrated to the experts that all banks had been subject to on-site inspections at least once every three years, and repeated inspections had been assigned to high-risk entities.

599. For the banking sector, taking into account the number of NBRB staff able to participate in the field inspections (see Chapter 1), the depth of inspections (about 30 days), the measures of remote supervision applied on an ongoing basis, and the RBA taking into account the developed coefficients, including AML/CFT/CPF issues, the experts concluded that the implementation of the NBRB RBA is effective.

600. With regard to non-credit FIs, the supervisory cycle was structured as follows (Table 3.11). Leasing organizations have been under the supervision of the NBRB since 2015, microfinance organizations only since 2016, and the company's forex market since 2017. The sector of microfinance companies gradually developed supervisory activities and AML/CFT/CPF regime, and awareness raising activities were carried out. Leasing companies were often included in bank holdings, so the regulator often conducts counter-verifications (simultaneous verification of the bank

and the leasing company from the holding), so the frequency of inspections was active. Forex companies became subjects of supervision, in accordance with the law, only in 2017 and did not fall under the supervision of the old methodology.

601. As noted earlier, subjects were divided into three risk categories, the high-risk category was subjected to scheduled inspections (see introduction to the section on risk-oriented supervision). The risk was based on expert assessment, external information, including from the DFM, remote analysis of monthly reporting, separate AML/CFT/CPF criteria for scheduled inspections. It should be noted that during the scheduled inspection of non-credit FIs the AML/CFT/CPF sphere was always checked in full.

602. Taking into account the size of the sector, close cooperation within the framework of remote supervision and work with different risk categories of supervised entities, this supervision mechanism has demonstrated good effectiveness. The effectiveness of the updated AML/CFT/CPF indicators cannot be assessed due to the lack of supervisory practices at the time of the visit.

Ministry of Finance

603. Compliance with AML/CFT/CPF legislation is checked, including within the framework of inspections of compliance with securities legislation (Table 3.12).

Table 3.12. Information on the AML/CFT/CPF field inspections conducted by the Ministry of Finance with regard to the professional participants of the Central Bank during 2014-2017

		2014	2015	2016	2017
1	Total number of professional securities market participants (end of year)	72	65	60	62
	including				
	Banks	29	27	25	25
	Non-credit FIs	0	0	1	1
	non-banking institutions	43	38	34	36
2	Total number of inspections of professional securities market participants	6	3	5	3
	including				
	Banks	0	0	0	0
	Non-credit FIs	0	0	0	0
	non-banking institutions	6	3	5	3
3	Number of inspections of professional securities market participants who have identified AML/CFT/CPF violations	1	2	1	0
	including				
	Banks	0	0	0	0
	Non-credit FIs	0	0	0	0
	non-banking institutions	1	2	1	0
4	Number of violations of AML/CFT/CPF legislation identified during inspections of professional securities market participants	3	3	3	0
4.1	including the number of violations of AML/CFT/CPF measures not implemented:	0	3	1	0
4.1.1	Absence of internal control rules at the time of the inspection		1 fact	1 fact	
4.1.2	an official responsible for compliance with internal control rules has not been appointed		1 fact		

4.1.3	There are no developed programs to ensure internal control, which should include: measures to improve the efficiency of procedures and internal controls, conditions and procedures for training (professional development) of employees involved in financial operations		1 fact		
4.2	including the number of violations of the procedure for registering financial transactions subject to special control:	3	0	2	0
4.2.1	Wrong filling in the SF fields	1 fact			
4.2.2	failure to submit the SF	1 fact		3 facts.	
4.2.3	late submission of the SF	5facts		4facts	

604. The Securities Department conducts regular desk inspections (remote supervision), as well as field inspections, depending on the risk categories of the subject (the methodology is described in the introduction to the section). The degree of risk was assigned on the basis of monthly, quarterly and annual reports, operational information (appeals and claims of citizens), the results of previous inspections or information from other state bodies. The risk assessment was based on the expert opinion of the employee.

605. There were no separate AML/CFT risk indicators prior to the update of the methodology in 2018, but the quality of the entity's AML/CFT/CPF system was always inspected in full as part of any field visit. There were no unscheduled AML/CFT/CPF inspections, and banks who were professional securities market participants were inspected by the NBRB.

606. In respect of insurance companies, in 2015-2018, the department carried out 21 field scheduled inspections of insurance market participants on the issues of compliance with the legislation on insurance, including compliance with AML/CFT/CPF legislation (in 2015 - 7, in 2016 - 6, in 2017 - 7, in 2018 - 1). In 2015-2018, 9 unscheduled inspections, including: 3 in 2015, 3 in 2016, 2 in 2017, and 1 in 2018. Distance inspections are carried out on a monthly basis.

607. The presented statistics allows us to conclude that the supervisory cycle in respect of insurance companies is about three years. In addition to the methodology of the RCB Department, the Insurance Supervision Department uses checklists containing AML/CFT/CPF block as part of remote inspections. As noted earlier, there were no separate AML/CFT/CPF inspections, which were always part of the overall supervision.

608. The compliance of insurance companies and insurance brokers with the AML/CFT/CPF legislation was inspected by the Ministry's employees during scheduled inspections of insurance legislation compliance. This issue is a mandatory part of the list of issues to be checked and is inspected along with other issues.

609. In 2014-2017, the State Inspectorate of Assay Control of the Ministry of Finance of the Republic of Belarus conducted 52 inspections of controlled persons:

Table 3.13

A year.	Number of inspections carried out			
	Manufacturing companies	Jewelry workshops for individual orders of the population	Pawnshops	Retailers
2014	6	6		

2015	1	7		
2016		12	2	
2017	1	5	3	

610. The pawnshops are supervised jointly by the NBRB and the Ministry of Finance. Mainly from the point of view of AML/CFT/CPF inspection of NBRB's conductors, the Ministry of Finance carries out supervision in the context of operations with precious metals and stones. Based on the results of the inspections carried out by the NBRB, eight materials on the inspections were sent to the Ministry of Finance. The State Inspectorate of Assay Control of the Ministry of Finance of the Republic of Belarus conducted one monitoring of the trade organization on AML/CFT/CPF issues.

Ministry of Communications and Informatization

611. The postal market has been demonopolized since 1 January 2016. Within the framework of the control activity for the reporting period 8 objects of postal communication were inspected. The approach to AML/CFT supervision is similar to that of the Ministry of Finance.

612. As part of the control activities for the reporting period, 8 postal facilities were visited:

- in 2014 - 4 postal facilities;
- in 2015 - in 2 postal facilities,
- in 2017, 3 postal facilities.

613. All categories of FIs fall under supervisory activities, as demonstrated in practice by all supervisory authorities. AML/CFT/CPF inspections have always been carried out as part of the general inspections of the supervised entities. Until 2018, with the exception of banks, no special indicators were used for other categories of supervised entities to implement the NRA in the AML/CFT/CPF sphere, while the RBA was based on the financial and economic performance of the organization. Since 2018, the updated supervisory approach is linked to the identification of individual AML/CFT/CPF indicators, but the effectiveness of the new methodology could not be assessed by the evaluators, as an active supervisory cycle will begin in the second half of 2019. Given the weight of the banking sector, the approach to FIs supervision in the country can be characterized as moderate.

DNFBPs

614. In the Republic of Belarus, the issues of control (supervisory) activity are regulated by the Decree of the President of the Republic of Belarus No. 510 of 16.10.2009. "Improvement of control (supervisory) activity in the Republic of Belarus" (together with the "Regulation on the procedure of organization and conduct of inspections", "Regulation on the procedure of monitoring"). The Decree provides for a risk-based approach to the implementation of inspection activities; it defines a single procedure for conducting control (supervisory) activities in order to create additional conditions for the development of effective forms of economic management; and it defines the bodies and forms of state control (supervision). As noted in the introduction to the chapter, prior to 2018, AML/CFT/CPF supervision has always been carried out, and to the fullest extent, within the framework of overall supervision, there were no separate AML/CFT risk criteria.

615. Since 2018, the risk-based approach to the supervision of DNFBPs' AML/CFT/CPF activities has been implemented and improved based on the national risk assessment. Risk-based AML/CFT/CPF supervision is carried out by all supervisory authorities, but the effectiveness of recent legislative changes cannot be assessed due to their recent implementation. (The new methodology was introduced only in the second half of 2019).

616. **Ministry of Taxes** MT An integral part of remote and field inspections of financial institutions are compliance with AML/CFT/CPF legislation, identification and assessment of core risks, timeliness and accuracy of sending special forms on transactions subject to special control, execution of DFM requests and reporting.

617. The Ministry of Taxes has applied the following forms of control as part of its supervisory detail:

- Remote - remote monitoring actively uses special tool, that allows comparing winnings and sent special forms;
- an unscheduled inspection;
- planned inspections;
- administrative process
- Tax post - stay on the territory of the institution to track current activities. Such inspections are mainly carried out in accordance with the tax legislation, but within the framework of this type of inspections AML/CFT/CPF violations were revealed.

618. The Ministry of Taxes is active in verifying the subjects under its control. In the course of on-site inspections, the AML/CFT/CPF system in the organization is always checked.

- In 2014, there were 3 planned inspections;
- In 2015, there were 6 planned inspections;
- In 2016, there were 4 planned inspections;
- In 2017, there were 6 planned inspections.

619. Until 2018, The Ministry of Taxes applied the RBA based on financial and economic activity criteria, and AML/CFT/CPF issues were always checked during field inspections (see introduction to this chapter).

620. In accordance with the updated 2019 methodology, separate AML/CFT indicators were developed, which were already reviewed and optimized in the summer of 2019.

Ministry of Justice

621. The Ministry of Justice carries out inspections of notaries with the help of a self-regulating organization - the Belarusian Chamber of Notaries (BCN). The Chamber of Notaries regularly monitors notaries for compliance with notary law and AML/CFT/CPF legislation. Based on the results of the monitoring, the Chairman of the Chamber of Notaries has the right to initiate disciplinary proceedings and transfer the information to the Ministry of Justice, which can challenge the decision and apply additional measures, including for AML/CFT/CPF violations.

622. Also as supervision methods there is an annual departmental reporting (electronic), which also contains information on the number of suspended financial transactions, receipts for violation of filling in special forms and the number of special forms. In a four-year cycle, all notaries are tested.

Table 3.14 Information on the results of the monitoring of notary public's compliance with notary public laws, AML/CFT/CPF legislation in 2014-2017

Number of monitoring of notaries' compliance with notary's legislation	493
Number of notaries monitored	705

Number of notaries who committed AML/CFT violations based on the results of the monitoring	68
Measures taken by notaries: recommendations were sent	69
have been taken disciplined measures	16
have been brought to administrative responsibility	4

623. For lawyers, legal professionals and real estate agents, the approach to supervision is similar to that of FIs (except for banks). For lawyers, there is a limited set of functions that fall under AML/CFT/CPF legislation. Between 2014 and 2017, 13 bar associations were inspected as part of the control activities. Over the period 2014-2017, 8 organizations and individual entrepreneurs providing legal services were inspected for compliance with license requirements and AML/CFT/CPF legislation. Over the period 2014- 2017, 11 organizations providing real estate services were checked for compliance by licensees with licensing requirements and conditions for carrying out the licensed activity. For real estate agents, there is also an annual reporting that takes into account the number of concluded contracts.

Ministry of Finance

624. For auditors, the approach to and supervision is similar to that of FIs (except for banks).

Table 3.15 Number of Auditors Inspections

	2015	2016	2017
Number of DNFBPs in total:	21	27	26
including..: audit organizations	7	8	8
auditors - individual entrepreneurs	14	19	18
DNFBP audits inspections total:	1	3	-
including..: audit organizations	1	2	-
auditors - individual entrepreneurs		1	-

625. In 2016, the national unitary enterprise for the organization of lotteries "National Sports Lotteries" was inspected on the issue of compliance with the legislation in the field of lottery activity and AML/CFT/CPF issues.

State Property Committee (SPC)

626. For real estate registrars, the approach to supervision is similar to that of FIs (except for banks). Approximately 700 real estate registrars are checked every year. Registrars use IT products to conduct their business, this is automated workplace without which the registrar cannot work - special

forms, questionnaires, built-in questionnaires of the participant of the financial transaction, all of which allows to minimize risks, including ML/FT risks.

627. The regulator noted that the same amount of information is analyzed within the framework of field and remote monitoring. Monthly information on special forms is collected - total number, threshold percentage and suspicion percentage.

Table 3.16 Data on the number of inspections carried out by the republican organization for state registration in 2014-2017

2014	2015	2016	2017
27	122	157	122

Table 3.17 Data on the number of inspections carried out by territorial organizations on state registration of inspections in 2014-2017

2014	2015	2016	2017
181	199	239	239

Table 3.18 Data on impact measures applied by territorial organizations on state registration based on the results of inspections conducted in 2014-2017

2014	2015	2016	2017
17	16	9	18

628. In general, all DNFBP entities are subject to supervisory activities. The most complete remote information about its subjects is collected by the Ministry of Taxes, which corresponds to country risks. In 2014-2017, the RBA was based on financial and economic activities, but AML/CFT/CPF inspections were always conducted in full. The assessors concluded that the AML/CFT/CPF supervisory approach implemented for DNFBPs could be characterized as moderate.

Remedial measures and effective, proportionate and dissuasive sanctions

Financial sector

NBRB

629. Sanctions for AML/CFT/CPF violations are actively applied to banks and non-credit FIs, which is due to the wide powers of supervisory authorities (Tables 3.19 - 3.22).

630. For banks, these statistics show a decrease in the number of detected violations of the procedure for registering financial transactions from 247 in 2017 to 102 in 2018. Statistics on such a significant violation as failure to identify and/or questioning the customer is gradually decreasing and no violations were identified in 2018. Also, the number of fines for the identified violations and deficiencies in the AML/CFT/CPF sector in the banking sector decreased by half.

631. It should be noted that the counting of violations is done in a specific way and does not exactly reflect the seriousness of the detected violations. For example, a violation of the special form filing may result in several violations at once, if mistakes are made in different sections of document, similar to those for other categories of violations. The statistics on remedial actions more accurately reflect the real picture, as measures are based on all identified violations, depending on their severity.

Table 3.19 Characteristics and number of detected violations in banks

characteristics and number of detected violations in banks
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		2014	2015	2016	2017	2018
3.1.	Total number of violations of the law identified inspections, including	527	812	1190	2698	265
3.1.1.	Violation of the procedure for identification and questioning clients, including:	274	357	237	108	150
	Failure to identify and/or questioning the customer	33	10	22	8	0
	Failure to transmit information about the beneficiary of a bank transfer	8	40	0	10	0
	Failure to complete, incorrectly filled in the fields of customer profiles	154	199	135	58	64
	Failure to fill in the client form fields in a timely manner	29	62	29	17	45
	Absence or untimely updating (updating) of information in client questionnaires	49	37	41	5	35
	disposition of the beneficial owner	1	9	10	10	6
3.1.2.	violation of the established procedure for registration of financial transactions, including	226	371	316	247	102
	failure to submit special forms	87	141	54	114	7
	late submission of special formss	66	150	139	90	51
	Errors in the fields of the special forms	73	80	123	43	44
3.1.3.	Other violations and shortcomings, including	31	104	641	2343	13
	Inconsistency of Internal control rules (ICR) provisions (norms) with legal requirements, including:	2	6	2	4	5
	Lack of monitoring of money (banking, postal) transfers to (from) (to) (or to) the territory or a State that does not comply with the recommendations of the Financial Action Task Force on Money Laundering (FATF)	0	0	2	1	1
	late introduction of changes to the ICR	0	4	0	1	0
	Absence of criteria in the ICR to identify and detect suspicious financial transactions appropriate to the nature of the customers' activities	1	0	0	2	0
	the analyzed period the bank's ICR has not been established/is incorrectly established	0	2	0	0	4
	Lack of compliance of ICRwith the law in terms of customer questionnaire procedure	1	0	0	0	0
	Deficiencies in local legal acts provisions (norms) that do not constitute a violation of the law, including	2	7	2	2	0
	Lack of proper distribution of job duties among employees	1	7	2	2	0
	Absence of a procedure for analysis of the adequacy of the system of criteria for identification and suspicious indicators of financial transactions in the local legal acts	1	0	0	0	0
	Insufficient automation, including	4	11	3	25	2
	Inconsistency of the database of questionnaires with the legislation	2	5	1	22	2
	Lack of automatic identification of persons involved in terrorist activities	0	1	0	0	0
	Lack of automatic identification of PEPs	1	2	0	0	0

	Lack of or insufficient automation to detect suspicious financial transactions	1	3	2	3	0
	Violation of the terms of keeping of information and documents	0	5	0	0	0
	failure to comply with qualification and educational background requirements for the bank's employees	3	11	2	14	0
	violation of the established procedure for registration of identity documents of natural persons who purchase foreign currency (revoked as of June 1, 2017)	1	48	618	2297	0
	failure to file notifications	19	14	14	1	6
	failure to notify the National Bank of the establishment of additional information in the bank's internal control rules	0	2	0	0	0

Table 3.20 Response Measures of the National Bank to the Identified AML/CFT/CPF Violations and Deficiencies in the Banking Sector (Remote and Field Supervision)

	Indicator/year	2014	2015	2016	2017	2018
	1. Bringing to administrative responsibility					
1.1.	Number of fines (pcs), including:	45	21	28	8	4
	<i>Art. 11.72 para. 1 (violation of AML/CFT/CPF measures)</i>	2	0	0	0	0
	<i>Article 11.72 part 2 (violations of the questionnaire procedure)</i>	6	7	6	0	1
	<i>Art. 23.20 (violation of registration of financial transactions)</i>	36	13	22	8	3
	<i>Art. 23.16 (failure to provide documents, reports)</i>	1	1	0	0	0
1.2.	Total amount of fines (USD), including	13 397	119	139	43	23
	<i>Art. 11.72 para. 1 (violation of AML/CFT/CPF measures)</i>	13 232	0	0	0	0
	<i>Article 11.72 part 2 (violations of the questionnaire procedure)</i>	21	30	30	0	6
	<i>Art. 23.20 (violation of registration of financial transactions)</i>	116	55	109	43	17
	<i>Art. 23.16 (failure to provide documents, reports)</i>	28	34	0	0	0
1.3.	Average fine amount (US dollars)	298	6	5	5	6
1.4.	Number of warnings for violation of AML/CFT legislation	10	14	13	33	6
	2. Dissemination of information					
2.1.	Publication of information about the bank's administrative responsibility on the official website of the National Bank in the Internet	0	0	0	0	0
	3. Application of supervisory response measures					
3.1.	Number of directed regulations, including	7	6	12	6	3
	Elimination of violations identified during the inspection	7	6	12	6	3
	licensing power limitation				1	0
	sending a letter to management bodies to review the issue of management bonuses	1	0	1	0	0
	Request for a letter stipulating the obligation to eliminate the identified violation (deficiency) and/or action (inaction) within a certain period of time	7	6	12	6	3
3.2.	Number of recommendations on elimination of identified deficiencies or conditions contributing to violations made on the basis of the results of inspections and monitoring, including	6	5	11	6	8
	consideration of the issue of increasing the number of employees in the special division	0	1	2	0	0
	Introduction (improvement) of automated control procedures aimed at detecting suspicious financial transactions	4	4	7	4	2
	Finalization of the database of customer profiles	0	2	7	2	1
	Amendments and additions to the local legal acts (ICR, orders, etc.)	5	2	6	3	2
	Updating customer profiles	2	0	2	1	0
	Improvement of the software complex where currency exchange transactions are carried out	0	0	1	0	0
	Conducting training activities and knowledge tests	5	8	7	1	0

Adjusting the indicators of suspicious financial transactions	0	0	1	0	0
appoint responsible persons and establish quality and correctness control	0	1	2	2	0
follow-up inspection	1	2	2	0	0
Development of additional internal control procedures for identification of non-resident individuals	0	0	0	0	1
Analyse the activities of customers conducting suspicious financial transactions	0	0	0	0	2
Ensure proper internal control	0	0	0	0	4

632. The upsurge in the number of violations in 2016 and 2017 is related to the registration of identity documents of individuals purchasing foreign currency and temporary software failure, which, based on the methodology of calculating the number of violations, led to a significant upsurge in the number of violations (untimely update of the database). A technical failure was identified and corrected in the first half of 2017.

633. As a result of the inspections, the NBRB not only uses financial measures, but also actively applies the impact on business reputation. Following the recommendation to eliminate the violation, the bank's management may be invited to a meeting at the NBRB, and a reasoned judgment may be prepared for the bank's clients, which carries significant reputational risks. Information on the results of the inspections is also published on the NBRB website. Such sanctions have a significant deterrent effect.

Case study 3.1 NBRB

Withdrawal of license, ban on distribution of profits, prescription

The inspection of Bank B found that it was unable to take measures to implement effective AML/CFT/CPF policies and procedures, which could have resulted in threats to depositors and other creditors. A high risk of the bank's business reputation loss and the risk of the bank's involvement in financial operations related to ML/TF was identified.

Based on the results of the inspection of Bank B in 2017, the following supervisory response measures were applied:

- revocation of the permit (license) for certain banking operations;
- ban on distribution of profits to shareholders,
- Instructions were issued to introduce additional indicators to prevent customers from engaging in suspicious financial transactions and to analyse suspicious transactions of a number of customers with enhanced internal control measures in place

Table 3.21 Regulation and Supervision of Non-Credit Financial Institutions

No. n/a.	Indicator	categories of reporting entities								
		non-lending financial institutions								
		leasing companies			microfinance institutions					
					pawnshops	funds	CCC	pawnshops	funds	CCC
2015	2016	2017	2016			2017				
1	Total number of supervised entities (end of year)*	78	84	103	115			121		
	including	x	x	x	107	4	4	108	8	5
2	Total number of AML/CFT/CPF inspections (including desk inspections)	11	10	10	6	0	0	19	0	1
2.1	including the number of on-site AML/CFT/CPF inspections	11	10	10	6	0	0	18	0	0
2.2	including the number of unscheduled inspections	0	0	0		0	0	1	0	1
3	Number of inspections (including desk inspections) that detected AML/CFT/CPF violations	9	9	10	4	0	0	15	0	1
4	Number of AML/CFT/CPF violations identified during inspections	53	103	203	25	0	0	96	0	8
5.1	including the number of violations of AML/CFT/CPF measures not implemented:	29	45	40	11	0	0	73	0	7
5.1.1	Absence of local legal acts at the time of the inspection	3	1	1	2	0		1	0	0
5.1.2	Non-compliance of the local legal acts provisions with the requirements of the legislation (number of facts)	18	29	25	5	0	0	46	0	5
5.2	including the number of violations of the identification and polling procedure:	9	15	22	13	0	0	16	0	0
5.3	including the number of violations of the financial transaction registration procedure:	10	36	137	1	0	0	3	0	0
	others	5	7	4	0	0	0	4	0	1

Table 3.22 Response Measures of the National Bank to the Identified AML/CFT Violations and Deficiencies in the Non-Credit Financial Institutions Sector

Indicator	non-lending financial institutions											
	leasing companies			microfinance institutions						Forex companies, National Forex Center		
				pawn shops	funds	CCC	pawnshop s	funds	CCC			
	2015*	2016	2017	2016			2017			2015	2016	2017
Number of fines for violation of AML/CFT/CPF legislation		6	9	0		0	2			0	0	0
Including under Art. 11.72 part 1 (violation of AML/CFT/CPF measures)		0	2	0		0	1			0	0	0
including Article 11.72 part 2 (violations of the survey procedure)		0	3	0		0	1			0	0	0
Including under Art. 23.20 (violation of registration of financial transactions)		6	4	0		0	0			0	0	0
Total amount of fines for violation of AML/CFT/CPF legislation (USD)		30	1 228	0		0	549			0	0	0
Including according to Article 11.72 part 1 (to the legal entity)		0	1 087	0		0	543			0	0	0
Including according to Art. 11.72 part 2 (natural person)		0	120	0		0	5			0	0	0
including Art. 23.20 (special forms)		30	22	0		0	0			0	0	0
Average amount of fine (US dollars)**		5	136	0		0	274			0	0	0
Number of warnings for violation of AML/CFT/CPF legislation (pcs.)		3	1	0	0	0	0			0	0	0
Number of revoked licenses (business discontinuances, exclusions from the register)	0	0	0	0	0	0	0		0	0	0	0
Number of prescriptions sent to legal entities on AML/CFT/CPF violations (pcs.)	7	6	6	3	0	0	8	0	1	0	0	0
Number of recommendations, letters on elimination of deficiencies (pcs.) (on sending to the SF, on organization of work, on identification procedure)	3	1	0	2	2	2	0	0	0	0	2	1

634. For the non-credit FIs sector, statistics are not indicative, as noted earlier, these FIs categories have come under the control of the NBRB relatively recently.

635. Numerous violations of the threshold forms by leasing companies with low involvement of the sector in money laundering resulted in amendments to the AML/CFT Law on exclusion of the threshold control of financial transactions of leasing companies' clients.

636. As a result of the analysis of the given statistics it is possible to notice that the sums of fines for pawnshops, as legal bodies, have considerable and deterrent character.

637. For all supervised subjects of NBRB it is possible to note low statistics of fines to individuals. This is due to the fact that in case of a guilty plea, the employee is fined only 0.5 basic units (about \$6). The main emphasis is placed on the initiation of administrative proceedings, information about which is recorded in the Unified State System for the Registration and Record-Keeping of Offences (this system is operated by the Ministry of Internal Affairs), which in the future significantly complicates the employment of the said employee (makes impossible) in the FIs.

Ministry of Finance

638. Information on violations of the procedure for registration of financial transactions subject to special control, identified as a result of the inspection of the professional securities market participant, conducted in 2014, was sent to DFM (see Table 3.12).

639. According to the results of inspections of professional securities market participant conducted in 2016, two employees of the professional securities market participant were subject to administrative penalties in the form of a warning for violations of the procedure for registration of financial transactions subject to special control (Article 23.20 of the Code of Administrative Offences of the Republic of Belarus (CAO)).

640. Based on the results of control (supervisory) activities in 2015, two insurance companies found facts of failure to comply with the requirements of the AML/CFT/CPF legislation, which manifested itself in the absence of registration of financial transactions subject to special control in special forms and failure to submit (untimely submission) them to the financial monitoring body.

641. Persons guilty of violating the AML/CFT/CPF legislation were brought to administrative responsibility in the form of a fine and a warning.

642. Control over elimination of the revealed violations is carried out within the framework of the following AML/CFT/CPF legislation compliance inspections and within the framework of supervision over fulfillment of the requirements (prescriptions) of the authorized body. Facts of failure to eliminate the identified violations have not been established.

643. No violations of the AML/CFT/CPF legislation in the sphere of auditing, lottery activities were revealed.

Ministry of Communication and Informatization

644. Ministry of Communications: In 2017, the Ministry of Communications conducted a field inspection, including in the field of AML/CFT/CPF, of an entity.

645. In the course of control, special attention was paid to the organization of internal control: the procedure for revealing financial transactions subject to special control, identification of participants in financial transactions, documentary fixation of financial transactions subject to special control; terms and procedure for keeping the executed documents; appointment of officials responsible for compliance with internal control rules.

646. As a result of the control of serious violations requiring sanctions in accordance with Articles 11.72 and 23.20 of the Code of Administrative Offences of the Republic of Belarus (CoAO), no serious violations were revealed.

Ministry of Antimonopoly Regulation and Trade

647. In December 2016, the Ministry of Antimonopoly Regulation and Trade carried out an inspection of the financial and economic activities of the Belarusian Universal Commodity Exchange, which did not reveal any violations of AML/CFT/CPF legislation.

DNFBPs

648. As part of the meetings with the responsible officials of the Ministry of Taxes, information was provided that in 2014-2017, during the inspections of the financial and economic activities of gambling organizers, the tax authorities checked the issues related to their compliance with AML/CFT/CPF legislation. The organizer of gambling is responsible for non-fulfillment or improper fulfillment of the assigned duties in accordance with the legislation. In case of detection of violations of legislation in the gambling business, based on the actual circumstances and the nature of such violations, are subject to application:

- Making a demand (instruction) to eliminate the revealed violations;
- measures of administrative responsibility.

649. Thus, in 2014-2017, The Ministry of Taxes issued 208 decisions on administrative violations, including 15 warnings and fines amounting to 12,252 Belarusian rubles (5730 USD). However, according to the information provided, the number of violations related to inappropriate CDD measures (admission to gambling establishments of self-limited, minors, natural persons without verification of identity documents) is increasing every year.

Tables 3.23

2014

Norm of CoAO	number of resolutions issued	Sanction	
		warning notice	Penalty USD
Part 10 Article 12.11 (other violations in the field of gambling)			
Inadequate CDD measures	10		320
violation of the established procedure for recording winnings in the winnings register	88	3	1371
payment of the winnings without presentation of identity documents	3		140
Total:	101	3	1831

2015

Part 10 Article 12.11 (other violations in the field of gambling)			
Inadequate CDD measures	15		580
violation of the established procedure for recording winnings in the winnings register	27	7	270
payment of the winnings without presentation of identity documents	21		1128
Article 23.20 (CoAO, violation of the established procedure for sending a special forms)			

	1		8
Total:	64	7	41986

2016

Part 10 Article 12.11 of the Administrative Offences Code (other violations in the field of gambling)			
Inadequate CDD measures	16	1	982
violation of the established procedure for recording winnings in the winnings register	1		49
Payout of winnings without registration in the «SCCS»	1		58
Article 23.20 (CoAO, violation of the established procedure for sending a special forms)			
	5	1	177
Total:	23	2	1266

2017

Part 10 Article 12.11 (other violations in the field of gambling)			
Inadequate CDD measures	20	3	645
Total:	20	3	645

650. It should be noted that some of the violations are recorded by the «SCCS» in automatic mode, and the system has been implemented recently, so the increase in the number of violations may also be associated with the improvement of algorithms and automation. The representatives of The Ministry of Taxes noted during the meetings that the supervised subjects eliminate the revealed violations and the regulator had no precedents for the withdrawal of licenses.

651. No violations of the AML/CFT/CPF legislation in the field of audit and lottery activities were revealed in respect of the Ministry of Finance.

652. Also, in 2014-2017, the State Property Committee and its territorial departments conducted 716 field and 1286 remote inspections of real estate registrars, based on the results of these inspections, 60 types of sanctions were applied to them as a measure of influence. All identified cases involve violations of the established procedure for sending special forms. The main sanction mechanism was the bonus deprivation of a staff member. Despite the fact that the CGI has the capacity to apply administrative sanctions, in practice there have been no such decisions.

653. The Ministry of Justice in the course of its supervisory activities (see Table 3.14) has brought 6 notaries to administrative responsibility for violations of the procedure of registration of transactions subject to special control with the use of a warning under the relevant article of Code of Administrative Offences. In addition, notaries were brought to disciplinary responsibility for a set of violations in the AML/CFT/CPF field and the legislation on notaries, and recommendations were made to improve the AML/CFT/CPF regime in the context of the accounting of operations in special forms and their timely submission. During the period under review, 8 organizations providing legal services were ordered to eliminate the identified violations, and 6 organizations providing real estate services were ordered to do so. Administrative responsibility for these two categories of organizations was not applied.

654. Not all agencies maintain detailed statistics on AML/CFT/CPF violations.

655. Sanctions for violations of AML/CFT/CPF requirements are actively applied to most DNFBPs. However, the sanctions applied are not always proportionate and dissuasive, as evidenced by the statistics of the violations identified.

656. The supervisory bodies of FIs and DNFBPs have demonstrated the application of the supervisory mechanisms established by law. The NBRB and MT have demonstrated the most comprehensive range of sanctions mechanisms used to combat AML/CFT/CPF violations. Not all supervisors maintain complete and comprehensive statistics, and in the context of the NBRB, statistics on violations require further development for better analysis. Taking into account the presented statistics on sanctions, examples of the use of financial and non-financial mechanisms as well as the main focus on the banking sector and the sector of gambling institutions (NBRB and MT), it can be concluded that the level of proportionate and dissuasive sanctions in the Republic of Belarus is moderate.

Influence of supervisory measures on compliance with established requirements

Financial institutions

657. Sanctions for violations of AML/CFT/CPF requirements are actively applied to most FIs. However, according to the statistics provided by the supervisory authorities, it is difficult to assess whether the measures and sanctions are dissuasive. The number of detected irregularities from sector to sector remains at approximately the same level, or shows an increase in individual FIs. The number of prescriptions and fines tends to decrease.

658. It follows from the National Bank's explanations that the main reason for the upsurge in the number of violations was the changes in the procedure for identifying and fixing financial transactions subject to special control. While the banking system was adapting to the new requirements, there was a certain increase in the number of violations. Thus, in 2015, there were 371 violations, compared to 2014, where 226 violations were recorded. Over the next 2016-2017, there has been a gradual decrease in the number of such violations (316 and 247 respectively).

659. However, in addition to the violations related to the provision of STRs, a similar trend has been observed with regard to CDD violations. In this regard, explanation may be that supervisory authorities take a holistic approach to identifying violations.

660. For example, in the case of violations under STRs, if a special form is found to be filled in incorrectly by FIs, several points of the instruction that regulate the filling in of different fields in one special forms are imputed to be violated. Thus, a bank, in fact, sent a special forms with errors to several legal requirements, which, when extrapolating this approach to a large number of banks and inspected episodes, increases the number of detected violations in the progression. The same applies to cases of irregularities in part of the CDD process, where the majority of them are related to incorrectly completed questionnaires. The assessors believe that the optimization of the system of accounting for identified violations will help to improve the effectiveness of the supervisory system.

661. Statistics on violations and measures taken are given in tables 3.19-3.22. In 2018, no AML/CFT/CPF inspections of non-credit FIs were conducted. For banks, these statistics show a decrease in the number of detected violations of the procedure for registering financial transactions from 247 in 2017 to 102 in 2018. Also, the number of fines for the identified violations and deficiencies in the AML/CFT/CPF sector in the banking sector decreased by half.

Table 3.24 (except from table 3.19 Characteristics and number of detected violations in banks)

	2014	2015	2016	2017	2018
The type of violation (quantity)					

violation of the established procedure for registration of financial transactions, including	226	371	316	247	102
failure to submit special forms	87	141	54	114	7
late submission of special forms	66	150	139	90	51
Errors in the fields of the special form	73	80	123	43	44

662. Taking into account the information received from supervisors, the private sector and the statistical data provided by the banking sector, the assessors concluded that the existing mechanisms have a good impact on the level of compliance of supervised entities with the AML/CFT/CPF regime.

DNFBPs

663. The Code of Administrative Offences of the Republic of Belarus provides for administrative liability in the form of a warning or a fine in respect of the guilty parties, including the heads of organizations, for failure to implement AML/CFT/CPF measures, which allows for its flexible application depending on the severity of the offence:

664. according to article 11.72:

- Failure by the financial transaction operator to comply with the AML/CFT/CPF measures provided for by law results in a fine ranging from twenty (approximately USD 240 in equivalent) to one hundred (approximately USD 1,200 in equivalent) basic units, per individual entrepreneur - from fifty (about 600 USD in equivalent) to five hundred (about 6,000 USD in equivalent) basic units, and per legal entity - from fifty (about 600 USD in equivalent) to one thousand (about 12,000 USD in equivalent) basic units;
- repeated (two or more times within one year) violation of the established procedure of customer survey results in a warning or a fine of up to twenty (about USD 240 in equivalent) basic values;

665. according to Article 23.20:

- Violation of the established procedure for registration of financial transactions subject to special control entails a warning or a fine of up to twenty (about USD 240 in equivalent) basic units.

666. The Law of the Republic of Belarus "On Amendments and Additions to Certain Codes of the Republic of Belarus", providing for amendments to Article 11.72 of Code of Administrative Offences in terms of unambiguous enshrinement of the possibility of administrative responsibility to officials (heads) of organizations, was adopted on 29 October 2018.

667. Starting from 04.01.2015. in accordance with articles 3.15, 3.21, 3.30 of the procedural-executive code of the Republic of Belarus on administrative offences, officials of the Ministry of Finance, the Ministry of Taxes, the Ministry of State Property, the Ministry of Antimonopoly Regulation and Trade, the Ministry of Justice, the Ministry of Communications and Informatization are empowered to draw up protocols and consider cases of administrative offences provided for by articles 11.72 "non-compliance by a person carrying out financial operations". of the Code of Administrative Offences of the Republic of Belarus.

668. It should be noted that earlier the vast majority of special forms were sent by real estate registrars due to the fact that the threshold value of the financial transaction under the payable contracts for alienation of real estate objects and mortgage contracts was exceeded (see statistics in NR.4). The development of methodological documents explaining AML/CFT/CFT issues and preventing the

financing of proliferation of weapons of mass destruction, as well as the application of a risk-based approach, contributes to more effective risk management, which, in particular, is confirmed by the increase in the number of special forms to be sent in case of suspicions in the course of a financial transaction up to 10% of the total number of special forms to be sent.

669. The information and statistics provided indicate that the violations identified are not serious, particularly in view of the specificities of individual DNFBPs categories of businesses, but that there is no clear downward trend, which suggests that the impact of the measures on the sector as a whole is moderate.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

Financial sector

670. For 2014-2017. The National Bank sent 30 letters to the banking system containing general clarifications of AML/CFT/CFT legislation, a review of typical violations identified in the course of inspections, and a typology of suspicious transactions; it took part in 39 seminars, meetings, workshops, and consultations on issues related to the organization of internal control in the field of AML/CFT/CFT. To Non-credit FIs for the period 2015-2017. The National Bank sent 10 generalizing letters and held 10 training seminars and workshops. In addition, private explanations are provided to the persons under their control upon their request, continuous consultations are provided by telephone, e-mail, and working interactions are carried out through associations

671. The statistics provided by the NBRB may indicate that the supervisory authority is active in developing a clear understanding of financial institutions' AML/CFT/CFT obligations and ML/TF risks.

672. The MART noted 9 events dedicated to AML/CFT/CFT issues between 2014 and 2018.

673. Other FIs supervisory bodies also actively conduct explanatory and training activities on AML/CFT/CFT issues. The assessors were provided with agendas and meeting materials on various aspects of AML/CFT, such as explanations of regulatory requirements, discussion of typologies, joint activities with the DFM, NRA events, and others.

Table 3.25 Training activities for persons carrying out financial operations on AML/CFT/CFT issues:

	2014	2015	2016	2017	2018
DFM	10	8	6	16	9
National Bank (AML/CFT/CPF)	1	7	12	19	19
Ministry of Finance (AML/CFT/CPF)	5	4	4	4	20
Ministry of Justice (AML/CFT/CPF)	74				
Ministry of Taxes (AML/CFT/CPF)	1	1	2	2	2
Ministry of Communications and Informatization (AML/CFT/CPF)	2	2	2	2	2
Ministry of Antimonopoly Regulation and Trade (AML/CFT/CPF)	9				
State Property Committee (AML/CFT/CPF)	60				

674. The experts concluded that the supervisors are working closely and effectively with the supervised entities on topical and important issues, with positive feedback from representatives of the private sector. The meetings are held for all categories of regulated entities on a regular basis and address topical ML/TF/PF issues, and mechanisms for sending explanatory letters and materials are

actively used. The Association of Banks actively participates in the discussion of issues and organization of AML/CFT/CPF events.

675. An additional positive aspect of the interaction is the joint development of suspicious transaction criteria by individual categories of FIs and DNFBPs (see HP.4).

DNFBPs

676. Training on AML/CFT/CPF issues for persons carrying out financial transactions is regularly organized and conducted by supervisory authorities, including with the participation of the DFM.

677. With the assistance of the DFM, training events and round tables are held on a regular basis in the form of videoconferencing (VCS) on topical AML/CFT/CPF issues. In 2015-2018, 110 events were organized and held in the format of round tables, training seminars, videoconferencing courses of the EAG Unified Information Space. More than 400 representatives of supervisory and law enforcement agencies and private sector participated in these events in a coordinated manner.

678. The Ministry of Taxes develops and sends recommendations to gambling operators on risk management related to money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction. The recommendations are also available on the official website of the Ministry of Taxes. In addition, The Ministry of Taxes has prepared and provided the organizers of gambling with questions with answers concerning the AML/CFT/CPF sphere, on which it is recommended, including the organizers of gambling, to conduct training and testing of knowledge of employees of gambling institutions, as well as to publish thematic articles on AML/CFT/CPF in specialized publications (the journal "Taxes of Belarus").

679. In the period from 2014 to 2017. The State Property Committee has conducted 60 workshops on AML/CFT/CPF issues.

680. The Ministry of Justice for the period 2014-2018 in order to improve the qualifications of notaries in this area held 74 events (seminars, trainings, meetings, round tables, etc.).

681. In 2019, the Ministry of Justice held 2 additional seminars (January 11 and 31) for notaries, lawyers and legal and real estate service providers on topical issues in the field of AML/CFT/CPF. Also on 25 February 2019, a seminar for lawyers on these issues was held. On February 19, February 26 and March 5, 2019, a representative of the Ministry of Justice met with representatives of notaries and notaries in order to summarize the results of the national assessment of the risks of legalization (laundering) of proceeds of crime and financing of terrorist activities.

682. On 16 May 2019, the Ministry of Justice, together with the Belarusian Chamber of Notaries, held a round table on "Selected Issues of Internal Control by Notaries", and on 20 June 2019, a training course was held on "Risk-Based Approach - a Central Element of FATF Recommendations".

683. The relevant self-regulatory organizations actively assist with thematic AML/CFT activities, which is relevant given the number of supervised entities in the DNFBP category.

684. Based on the meetings held with representatives of supervisory authorities, DFMs and other competent authorities, as well as the private sector, the experts concluded that the quantity and quality of the explanatory work is at a high level and contributes to the improvement of AML/CFT mechanisms of the supervised entities.

685. All supervisory authorities (both FIs and DNFBPs) have demonstrated a strong commitment to inform supervised entities about the country's AML/CFT/CPF requirements and related ML/TF risks. Different formats of interaction are used to achieve the result - newsletters, seminars, trainings, round tables, etc. Representatives of the private sector noted the high quality and regularity of the activities undertaken, which could serve as an indicator of the effectiveness of the supervisory authorities in this regard.

686. Belarus is rated as having a moderate level of effectiveness for Immediate Outcome 3

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

1. All types of legal persons created in Belarus are subject to mandatory registration and inclusion in the Single State Register (SSR). Basic information on legal entities is publicly available, but is provided to natural and legal persons for fee in form of excerpts from the Register. The competent authorities have direct access to the SSR.
2. Belarus has mechanisms for accessing beneficial ownership information. The LEAs rely on the current CDD regime and use the DFM's capabilities for identifying beneficial owners.
3. Overall, the law enforcement and other competent authorities have a general understanding of the concept of «beneficial owner of a legal entity» which leads to a common deficiency where the founders of legal entities are most frequently recognized as the beneficial owners.
4. FIs and DNFBPs understand the beneficial ownership identification obligations and, in general, have no difficulties in identifying beneficial owners of legal entities with simple ownership structure. However, in case of complex ownership structures, identification of beneficial owners may be more challenging.
5. Belarus has not conducted a comprehensive assessment and analysis of vulnerability of legal persons to ML/TF and the extent to which legal persons created in the country can be, or are being misused for ML/TF.
6. There are measures in place in Belarus to prevent misuse of legal entities as shell companies and tax evasion, but almost no measures have been taken to ensure transparency of legal entities. Belarus has a limited range of effective and dissuasive sanctions applicable for breaches of the requirements related to transparency of legal persons and identification of beneficial owners.

Recommended Actions

1. Belarus should conduct a comprehensive assessment of vulnerability legal persons to ML/TF. Following this assessment, Belarus should review, if necessary, the existing measures used for preventing misuse of legal persons for ML/TF.
2. Belarus should develop and implement a range of measures for raising awareness of and understanding by the law enforcement and other competent authorities of the “beneficial ownership” concept.
3. The supervisory authorities should analyze effectiveness of the existing programs aimed at raising awareness of the supervised entities of the need to comply with the CDD requirements pertaining to identification of beneficial owners.
4. Belarus should enhance the existing measures used for verifying the basic and beneficial ownership information and apply additional measures for enhancing effectiveness, including improving the mechanism for obtaining prompt, accurate and timely beneficial ownership information.
5. Belarus should establish mechanism for collecting relevant statistics on sanctions applied on violations on transparency of legal entities.

687. The relevant Immediate Outcome considered and assessed in the Chapter is IO.55. The Recommendations relevant for the assessment of effectiveness under this section are R.24&25.

Immediate Outcome 5 (Legal persons and arrangements)

Public availability of information on the creation and types of legal persons and arrangements

688. In Belarus, information on creation, types and features of all types of legal entities is publicly available. It is posted on the MoJ website https://minjust.gov.by/directions/unified_state_register/state_registration_liquidation/. The said website contains detailed information on the procedures of registration, re-registration and liquidation of legal persons, along with the list of necessary documents, sample applications and information on the amount of the stamp duty payable for registration.

689. Documents for the state registration are submitted to the registration authority either personally or electronically. On the same day when documents are submitted for the state registration, the designated officer of the registration authority affixes a stamp on the charter (articles of incorporation) and (or) on modified charter (articles of incorporation) of a legal entity certifying its state registration, provides one copy of the charter (articles of incorporation) to the applicant and makes entry on state registration of the business entity and (or) on modifications in the charter (articles of incorporation) of the legal entity in the Single State Register of Legal Persons and Entrepreneurs (<http://egr.gov.by>).

690. Within five business days after a record of the state registration of a business entity is made in the SSR, the registration authority issues the document certifying registration of the business entity with the tax authorities, government statistic authority, Social Security Fund of the Ministry of Labor and Social Protection and Belgosstrakh national insurance company.

691. Registration is made upon application. However, authenticity and veracity of documents/information submitted for registration is not verified.

692. At the same time, the legislation imposes a number of restrictive conditions for market entry, which an applicant should meet at the time of state registration, and provides for liability of an applicant (owner, founder, member, director of a legal entity) for misinformation. Besides that, the registration authority is obliged to verify the identity of an applicant, and foreign founders (legal and natural persons) are required to submit additional documents for state registration of legal entities.

693. The MoJ is the designated government authority responsible for maintaining the SSR, which contains information on names (new names, if renamed), forms of incorporation and dates of registration/ re-registration of legal entities, and also information on managers (directors) and owners of property.

694. In the process of state registration, information on beneficial owners is neither requested nor recorded in the SSR.

695. Information contained in the SSR is provided upon request in form of an excerpt at extra fee (around UDS 12.5) and, if requested online, may be provided on the same day. The assessors identified no difficulties in obtaining such excerpts by natural or legal persons.

696. The national competent authorities have direct access to the Register and obtain information free of charge

⁵The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

Table 5.1: Number of Legal Entities Registered in Belarus

		Registered legal entities created by residents				
		2014	2015	2016	2017	2018
Commercial Entities		12083	9555	9877	9673	10422
Types of legal persons						
Joint stock companies (public/ non-public)		65	87	79	43	51
Limited liability companies		7298	6095	7366	7870	8722
Additional-liability companies		40	31	19	17	9
Production cooperatives		4	5	3	0	2
Unitary enterprises		4449	3069	2166	1485	1418
Agricultural (farming) businesses		227	268	244	256	218
State-owned commercial associations		0	0	0	2	1
Partnerships (general/ limited)		0	0	0	0	0
		Registered legal entities created by non-residents				
		2014	2015	2016	2017	2018
Commercial Entities						
Types of legal persons						
Joint stock companies (public/ non-public)		-	-	-	-	2
Limited liability companies		1373	1197	1392	1678	1907
Additional-liability companies		5	5	0	5	0
Production cooperatives		0	0	0	0	0
Unitary enterprises		634	481	209	134	112
Agricultural (farming) businesses		7	5	4	4	2
State-owned commercial associations		0	0	0	0	0
Partnerships (general/ limited)		0	0	0	0	0

697. The Belarusian legislation does not provide for creation and functioning of trusts. No trust service providers were identified in Belarus during the on-site visit.

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal persons

698. Belarus has not conducted a comprehensive assessment and analysis of vulnerability of legal persons to ML/TF and the extent to which legal persons created in the country can be, or are being misused for ML/TF.

699. According to the 2018 NRA limited liability companies (LLCs) are mostly exposed to the risk of being abused for ML. This is due to simplicity and ease of registration, minimum threshold requirements for authorized capital, possibility of creating a LLC by one founder, and general improvement of the economic situation in the country.

700. To minimize the risk of misuse of legal entities as shell companies, the authorities are making efforts to combat so-called “fly-by-night” companies (also known as “fictitious”, “false” or “dummy” companies) through implementation of enforcement measures and improvement of the legislation. Such work is not carried out to minimize other ML/TF risks associated with legal entities and complex structures.

701. The Belarusian Criminal Code (Article 234) imposes criminal liability for establishing “shell company”, that is creation or acquisition of a legal entity (interest in the equity capital of a legal entity) in the name of a straw man (men) or without intention to carry out entrepreneurial or statutory activities, if the activity of such legal entity inflicted large damage, or enabled to derive proceeds from illegal business or other illegal material benefits in large scale, which is criminally punishable and may entail imprisonment for up to seven years.

702. These efforts resulted in significant reduction of the number of such fictitious companies (for example, in 2018, only 53 such companies were identified, compared to 575 in 2015). The measures

taken by the authorities also help to decrease the number of genuine business entities that use the services of these fake companies (from 3.5 thousand in 2015 down to 719 in 2018).

703.No instances of misuse of legal persons for TF have been identified. However, no comprehensive analysis of potential abuse of NPOs for TF purposes was conducted (see IO.10).

704.Bearer shares may not be issued in Belarus (see R.24).

Mitigating measures to prevent the misuse of legal persons and arrangements

705.The Belarusian authorities have taken some steps to prevent the misuse of legal persons. But these measures cannot be assessed as sufficient.

706.All legal entities are subject to mandatory state registration, although the procedure itself is of a declarative nature.

707.With a view to combating fictitious companies, RB President issued Decree No.14 of 19.01.2016 on Additional Measures for Preventing Illegal Minimization of Tax Obligations, which obliged counterparties of shell companies to pay, at the instruction of the financial investigation body, taxes upon identification of criminal offences committed by or through the use of fictitious companies. This provided additional certainty of enforcement of tax obligations in case of dealing with fictitious companies, which, in turn, made their services economically unattractive and, therefore, less demanded.

708.The Belarusian legislation does not provide for creation of legal arrangements, but foreign legal arrangements may be a customer of Belarussian FIs and DNFbps. For the regulatory purposes, foreign legal arrangements are subject to the AML/CFT Law.

709.However, in the assessor's opinion, Belarus lacks efficient measures to prevent misuse of legal persons. This is primarily due to simplicity and ease of registration of legal persons, low level of understanding of the "beneficial ownership" concept by vast majority of competent authorities, and lack of comprehensive risk assessment associated with legal persons.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

Basic information

710.As noted above, all types of legal persons are subject to state registration and inclusion in the Single State Register (SSR). Information held in the Register is publicly accessible and is provided in the form of excerpt which includes the registration number, name (new name) of a legal person, its current status, date of state registration, legal predecessors, location and contact details (and location history, if any), form of incorporation, core business, authorized capital, property owners, liquidation and/or bankruptcy (if any), directors (including previous directors, if any), modifications in the constituent documents and also information on exclusion of a legal person from the SSR (if it was excluded).

711.The competent authorities have direct access to the SSR, which contains information on founders, directors and shareholding structure of legal persons, charters and other information. The database on business entities maintained by the tax authorities is also accessible. This database contains additional information on chief accountants of companies and numbers of corporate bank accounts held by business entities. Besides that, information on persons authorized to operate corporate bank accounts can be requested from banks.

Beneficial ownership information

712.The LEAs rely on the existing CDD regime to obtain information on beneficial owners. Such

information is provided directly to the LEAs at their requests. In general, FIs and DNFBPs understand the beneficial ownership identification obligations and have no difficulties in identifying beneficial owners of legal entities with simple ownership structure. Identification of beneficial owners in case of complex ownership structures is limited.

713. The LEAs also noted that they use the DFM's capabilities to obtain information, especially if they need to identify beneficial owners located outside Belarus.

714. Statistics on LEAs' requests for beneficial ownership information are not maintained (only general information exchange statistics were presented).

715. Overall, FIs and DNFBPs understand and comply with the requirements related to identification of beneficial owners of legal persons, but FIs demonstrate higher level of compliance with these requirements due to their high financial capacity (e.g. access to commercial databases). Neither FIs nor DNFBPs experience difficulties in identifying beneficial owners of legal entities with simple ownership structure. However, in case of complex ownership structures, identification of beneficial owners may be more challenging (see. IO.4).

716. The law enforcement and other competent authorities have a general understanding of the concept of «beneficial owner of a legal entity» and, therefore, the founders of legal entities are most frequently identified as the beneficial owners without in-depth verification. Thus, the assessors consider that, in general, the competent authorities do not pursue the objective of establishing the real beneficial owner.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

717. Given the specificities of the country's legal system, legal arrangements, as they are defined in the FATF Recommendations, cannot be established in Belarus, although, foreign trusts can be customers of FIs and DNFBPs. All obligations according to FATF Recommendations apply.

718. Relevant information on beneficial owners of foreign legal arrangements may be obtained and held by the reporting entities - when establishing business relationships and carrying out transactions involving foreign legal arrangements, reporting entities are required by law to comply with the established requirements for customer due diligence, including, inter alia, the obligation to verify the credentials and authenticity of individuals who have the right to dispose of funds or property.

719. No trust service providers were operating in Belarus at the period of the on-site visit.

Effectiveness, proportionality and dissuasiveness of sanctions

720. State registration of legal persons is granted upon request. Owners of property (founders, members) and directors of business entities and non-profit organizations (other persons authorized by the constituent documents to act on behalf of business entities/ non-profit organizations) are held accountable for veracity and accuracy of information contained in documents submitted for state registration, inter alia, in the state registration applications.

721. State registration of business entities done based on false information deliberately submitted to the registration authorities can be invalidated by court.

722. Business activities of legal persons created, inter alia, as a result of split-up, spin-off or merger, which state registration has been invalidated, are illegal and prohibited, and proceeds from these activities are forfeited to the local budgets by courts. Subject to forfeiture are proceeds obtained for the entire period of such activity, irrespective of time passed since the registration date.

723. According to Art.23.16 of the Code of Administrative Offences failure by an executive or other

designated officer or individual entrepreneur to timely provide documents, reports or other materials required by law, or provision of such documents, reports or other materials containing false information is punishable by a warning or a fine in amount of 20 base units (approximately USD 240). However, Art.23.16 does not provide for more severe punishment for repeated offences.

724.The grounds for invalidation of the state registration of a business entity by the court is the submission of knowingly false information to the registering authority. This may occur, in particular, in case the owner of the property (founders, participants) at the time of state registration of restrictions on entry into the business, established by Decree № 1, violation of the order of creation (reorganization) of the legal entity, not finding the legal entity at the location specified in the SSR. Invalidation of the state registration of a business entity entails the recovery of income received by the budget and its liquidation.

725.The assessors came to conclusion that Belarus has a range of effective and dissuasive sanctions for breaches of the requirements related to transparency of legal persons. However, comprehensive statistics and data have not been demonstrated to fully assess effectiveness and their deterrent effect.

726.Belarus is rated as having a low level of effectiveness for Immediate Outcome 5.

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

1. Belarus has adopted sufficient regulatory framework for the implementation of MLA, including extradition and other forms of international cooperation. The main cooperation is carried out with neighboring countries, which is supplemented by a few requests to other countries.
2. The country's authorities have made significant efforts to identify and investigate predicate offences, including through requests for MLA. However, in the absence of detailed statistics, it is not possible to draw a conclusion about the degree of compliance of international cooperation, including on MLA issues, with the identified ML risks.
3. Legal assistance on criminal cases of terrorist financing was not requested, which is consistent with country risks. Other forms of international cooperation on TF are well established and also relevant to the country context.
4. The DFM has established an effective exchange with foreign financial intelligence units through various channels: bilateral agreements, the Egmont Group, and the CIS FIU's platform, which is actively used by other competent authorities in the detection and investigation of crimes, as well as in obtaining other financial operational information and information on beneficial ownership. Supervisors have sufficient resources and actively exchange information on various international issues in the AML/CFT/CPF context.
5. Supervisory and other competent authorities, in the framework of international cooperation, receive and provide basic and beneficial ownership information on legal persons, but such information exchange is limited.

Recommended Actions

1. Belarus should enhance existing mechanisms of gathering AML/CTF/CPF statistics to demonstrate the effectiveness in the context of international cooperation.
2. Undertake a comprehensive review of current practices within MLA to align (if needed) them with identified country risks.
3. Improve the existing mechanisms for requesting the execution of sent requests, including the expansion of the legal framework.
4. Supervisors (other than the National Bank and the Ministry of Taxes) should intensify international AML/CFT/CPF cooperation in areas under their purview.

Immediate Outcome 2 (International cooperation)

Providing constructive and timely mutual legal assistance and extradition

727. Belarus has put in place a robust legal framework for mutual legal assistance in criminal matters, including extradition and international cooperation. The main responsibility for providing MLA in criminal matters lies with the General Prosecutor's Office and the Supreme Court. Upon receipt of a MLA to the General Prosecutor's Office or Supreme Court, these bodies execute those requests within the framework of their duties or send (in 90% of cases) them to a law enforcement body for execution, taking into account the competence and jurisdiction of criminal cases (Investigation Committee, Ministry of Internal Affairs, DFM, etc.)

728. The General Prosecutor's Office has a wide range of powers (service of documents, application of

preventive measures, criminal prosecution, extradition, etc.); the Supreme Court is responsible for decision-making related to the service of documents and enforcement of court judgments in criminal cases.

729. The computerized document management system used by the General Prosecutor's Office and the Supreme Court, including for incoming MLA requests, automatically sets the deadlines for the execution of incoming requests while enabling the prioritization of urgent requests. As noted to the assessors during the on-site visit, all incoming MLA requests are processed and executed with account for their nature. The safeguards built into the system for processing official documents ensure the confidentiality of requests and security of transmitted data.

730. The Department of International and Legal Affairs within the Supreme Court, which has 3 employees, received and processed 12 MLA requests in five years (from 2014 to 2018): 2 concerning ML and 10 predicate offences. These requests originated from Finland, Latvia, Lithuania, Turkey and France. All submitted requests were reviewed and executed in accordance with the appropriate procedure.

731. The provision of MLA by the General Prosecutor's Office is governed by General Prosecutor's Order No. 47 of November 11, 2010 No. 47 "On International Cooperation in Legal Matters between Prosecution Authorities of the Republic of Belarus", which, while addressing the main issues pertaining to the request execution process, does not set any deadlines. The deadline for request execution is set in other regulations, which limit it to 30 days, with a 1-month extension option subject to approval by the senior personnel of the General Prosecutor's Office responsible, among others, for the prioritization of incoming requests based on their nature and content.

732. Meanwhile, General Prosecutor's Order No. 6 dated February 28, 2019 "On Prosecutorial Oversight of Compliance with the AML/CFT/CPF Requirements" provides for the prioritization and expedited execution of MLA and extradition requests related to ML/TF, a requirement enforced by the Department of International and Legal Affairs (composed of 10 staff members), a standalone unit of the General Prosecutor's Office.

733. The General Prosecutor's Office has reviewed all 38 MLA requests from foreign competent authorities. The GPO's ML/TF request execution statistics are shown in Table 2.1 below. Based on its powers, the Investigative Committee has actually implemented all these requests.

Table 2.1 MLA request execution statistics

Year	MLA	Extradition
	Art. 235 of RB CC (money laundering)	Art. 235 of RB CC (money laundering)
2014	11	1
2015	12	1
2016	9	0
2017	6	0

734. Meanwhile, the volume of MLA provided by various departments of the Investigative Committee in relation to all categories of offences is considerable (see Table 2.2 below for detail). Notably, no MLA statistics broken down into separate types of predicate ML offences are maintained.

Table 2.2 MLA requests executed by the Investigative Committee

Executed incoming requests	2015	2016	2017
Total	592	548	615

735. No MLA requests were refused. All requests received have been reviewed. Investigative Committee staff strength enables the timely and speedy execution of requests within 1 month. Any

additional information received during the execution of incoming requests, which may be useful to the requesting party, is also provided in the prescribed manner. Where it is not possible to execute the request in full, the competent authority notifies the requesting party in writing of the reasons therefor (this requirement is clearly stated in the administrative regulations of the RB Investigative Committee).

736. Feedback from 14 countries was received and analysed by the assessors. Thus, Belarus is actively engaged in international cooperation. The quality of MLA is assessed as good, with an average response time of about 1 month. In general, the nature of MLA and international cooperation is more focused on predicate offences than on ML, and major of it is concentrated in close neighbors, which corresponds to the risks identified at the country level.

737. There were no MLA requests from foreign countries for TF, which in turn corresponds to the country's risk profile (see IO.9).

Providing timely MLA

738. From 2014 to 2018, the RB Supreme Court sent 4 MLA requests, but so far no responses from competent authorities have been received. The overwhelming majority (3 out of 4) were related to the enforcement of sentences for confiscation of assets located in Russia, Ukraine and Spain. Belarus explained that, according to the existing practice, repeated appeals are sent to these countries every six months.

Case study 2.1

A person was sentenced to imprisonment with confiscation of property under articles 424 (Abuse of power) and 430 (abuse of authority) of Criminal Code. In the course of the pre-trial investigation of these acts, instructions for legal assistance were sent to Estonia, Russia, Ukraine and Spain. These procedures revealed that he had acquired a vehicle and real estate in Spain with the proceeds of crime. The property in question has been seized (the court, when the sentence is passed, has ordered the confiscation of the property).

739. The General Procurator's Office of Belarus has submitted requests for legal assistance and extradition only in criminal cases related to predicate offences, including money-laundering. As a result of international cooperation, one person has been extradited to Belarus (see Case 2.2).

Case study 2.2

In 2017, a citizen of Belarus was extradited from Germany. This citizen Ch. had been repeatedly convicted of crimes under part 2 of article 235 (legalization of material assets acquired by criminal means), part 3 of article 236 (acquisition or sale of material assets known to have been obtained by criminal means), part 2 of article 380 (forgery, production, use or sale of forged documents, stamps, seals, forms), part 2 of article 381 (forgery or destruction of the vehicle identification number), part 3 of article 209 (fraud) of the Criminal Code.

This citizen of Belarus Ch. was a member of an organized criminal group, which for a long time in the period of 2004-2009 was engaged in criminal activities related to the purchase of cars obtained by criminal means, forgery of registration documents and their subsequent sale in the territory of Belarus. The organized group also carried out fraudulent activities in the field of insurance (Part 3 of Art. 209 of the Criminal Code), as a result of which they received insurance indemnities for alleged road accidents under fictitious documents. Members of an organized criminal group documented various financial transactions related to the purchase and sale of cars in the territory of Belarus in order to distorting the sources of their purchase and the nature of their origin (Part 2 of Art. 235 of the Criminal Code).

Citizen Ch. has been in hiding outside the country since 2010, was wanted internationally and detained by German law enforcement agencies in 2017, extradited to Belarus.

The exchange of information with regard to this criminal group was carried out through Interpol by sending requests to various countries where the citizen of the Republic of Belarus may be located, including Germany and Lithuania.

740. The Investigation Committee makes extensive use of MLA mechanisms within its mandate (see table 2.3, 2.4). The statistics provided show that MLA is active, but the Investigation Committee does not keep detailed statistics on predicate offenses for ML/TF related to MLA.

Table 2.3 Number of MLA requests made by the Investigation Committee for all categories of crimes

	2015	2016	2017	2018
Quantity	2 752	3 036	3 786	5 479

Table 2.4 The use of the MLA by Investigation Committee on criminal cases related to legalization (art. 235 - legalization)

PERIOD	Number of criminal cases in legalization proceedings	In these criminal cases, requests have been made to MLA
2014	8	4
2015	21	16
2016	12	9
2017	16	8

741. Significant efforts are being made by the authorities to identify and investigate predicate offences, including requests for MLA to identify location, seize and confiscate proceeds and property. This conclusion was reached during meetings with representatives of the General Prosecutor's Office, the Supreme Court and the Investigative Committee.

742. At the same time, the assessors consider that competent authorities need to make more efforts to demand the execution of requests.

743. No legal assistance has been requested in criminal terrorist financing cases, which is consistent with country risks (see IO.9).

Sending and receiving requests, as well as seeking other forms of international cooperation for AML/CFT purposes

DFM

744. The major international cooperation in ML/TF is carried out through the DFM. DFM shares information with its foreign counterparts either in response to submitted requests or spontaneously. Presently, DFM maintains contacts with financial intelligence units of more than 90 countries, and has signed international agreements with 23 countries. The responsibility for engaging in international cooperation is assigned to the DFM's Directorate of Coordination and International Cooperation, which employs 6 staff. According to the assessors who took part in the on-site visit to Belarus, DFM employs qualified personnel and has access to sufficient IT resources, resulting in effective information sharing with its foreign counterparts.

745. The international cooperation capabilities of the DFM are widely used by competent authorities to detect and investigate crimes.

Table 2.5 Number of DFM requests to foreign FIUs

Year	Outgoing	Incoming	Offences identified	Incl. covered by Art. 235
2014	239	165	9	0
2015	233	158	25	2
2016	177	157	24	1
2017	293	265	70	0
2018	260	255	104	0

746. Generally, requests included inquiries for information on the movement of funds through accounts, beneficial owners, identification of assets, etc. In the period of 2014-2018, information sharing is particularly intensive with the FIUs of the following countries: Latvia, Russia, Estonia, Czech Republic, Ukraine and Germany.

Table 2.6 Main counterparties at the request of DFM - FIU of a foreign country for 2018

No	Country	Sent by DFM	Received from an FIU
1	Latvia	62	61
2	Russia	44	44
3	Estonia	18	22
4	Lithuania	17	15
5	Czech Republic	17	16
6	Germany	11	14

747. International requests sent by DFM from 2014 to 2018 helped to identify 232 offences, including 3 related to ML. As explained by the representatives of the DFM, the statistics on the identified crimes is formed on the basis of available data from country's law enforcement agencies.

748. Country has a high level of threat related to corruption, tax evasion, illegal business activities, some of which were identified exclusively through the use of the DFM's resources and expertise, including its information sharing with foreign FIUs. Latvia, Estonia and Russia, for example, were instrumental in identifying economic crimes (see examples 2.3 and 2.4).

749. The information received by the assessors on international cooperation notes the active engagement of the DFM with foreign counterparts, and also notes the predominantly good quality of both the information sent and received, as well as the promptness of the response.

750. Thus, as a result of international cooperation, the applied sanctions have increased significantly - by more than 10 times to USD 70 million.

Case study 2.3

An investigation conducted by the Interior Ministry's Chief Directorate for Combating Organized Crime and Corruption using intelligence shared by the FIUs of Latvia, Spain, and Russia, Lithuania, the Czech Republic, Cyprus, South Africa, Kyrgyzstan, Kazakhstan and the UK, helped identify a Russian national suspected of defrauding a state-run company to whom he sold machinery and spare parts.

The suspect was charged with causing property damage without embezzlement (part 2 of Art. 216 of RB CC). Since the launch of the investigation, the suspect has repaid part of the assessed damages in the amount of more than USD 20 million in regular instalments. Further measures are being taken to ensure the full repayment of damages.

Case study 2.4

A criminal enterprise consisting of the director of company B, its co-owners and other individuals imported in 2012-2016 computer equipment for sale in Belarus, with part of the accumulated sales proceeds being sent abroad through affiliated companies and converted into cash.

A preliminary investigation into suspected tax evasion revealed the use by the suspects of the following tools:

- counterfeit (fake) documents, produced both in and outside Belarus, that were used by company B for accounting purposes ;
- affiliated foreign companies registered to nominees.

Members of this criminal enterprise used the above tools to issue loans to affiliated companies in Belarus and falsify information about the computer equipment (types, cost, quantity, etc.) imported by them to avoid paying taxes and other duties. Under Belarusian law, transactions carried out using forged documents (contracts, invoices, etc.) are deemed illegal.

Part of the criminal income was converted into cash outside Belarus and used to bribe officials of government agencies and organizations in Belarus into making decisions that benefited the criminal enterprise.

To find out more about the enterprise's international transactions, investigators turned to the Belarusian FIU for help.

A review of STRs and other sources of information available to the FIU enabled it to assess the extent of the criminal scheme, resulting in the launch of a joint investigation. A total of 12 suspicious transactions involving foreign entities, company B and other Belarusian companies supplying computer equipment to Belarusian entities, including state-owned ones, were identified.

The FIU of Belarus used the Egmont Group secure communication channels to send information requests to the FIUs of eight countries – Israel, Cyprus, Latvia, United Arab Emirates, Russia, United Kingdom, Switzerland and Estonia – soliciting the registration details of the foreign companies involved; information on possible STRs, beneficial owners and persons holding or managing their accounts; account activity reports; and IP addresses used to access them.

The information provided was shared with the relevant law enforcement authorities of Belarus in strict compliance with the Egmont Principles of Information Exchange between the FIUs.

Following the completion of the investigation, the suspects were charged with 21 offences, including abuse of power or official authority (Art. 424 of RB CC), accepting a bribe (Art. 430) and giving a bribe (Art. 431), and convicted. Investigators were able to recover more than 5 million rubles in damages.

MIA and other law enforcement agencies

751. Law enforcement agencies actively exercise their powers to exchange information with the foreign competent authorities.

752. 62 percent of international requests pertain to cases related to fraud; 24 percent to abuse of authority, bribery and official forgery related to sales of equipment and theft (misappropriation) of funds; 9 percent to money and document counterfeiting; and 5 percent to tax evasion and money

laundering.

753. In 2017 alone, Belarusian law enforcement authorities sent to their foreign counterparts in Russia, Switzerland, Luxembourg, Latvia and Estonia 2 requests related to economic crimes covered by Article 235 of the RB Criminal Code (money laundering), and 5 in 2018, all of which have been executed in full.

754. In addition, operational units of the MIA also contact specific countries if there is reason to believe that suspects may be present in those countries, taking into account the information available (e.g. addresses of residence, place of work, etc.).

755. Thus, the direction and content of requests do not respond to the risks identified. However, there are successful international cooperation in criminal cases involving predicate offences as well as ML-related offences has been achieved.

Case study 2.5

As a result of joint investigative measures carried out by police officers of Interior Ministries of Belarus and Russia, a criminal group of citizens of the Republic of Belarus who stole cars in the territory of the Russia with their subsequent sale or legalization in Belarus was uncovered.

In Moscow, in the course of joint actions by the officers of the General Directorate of Criminal Investigation of Interior Ministry of Russia, a group of persons was detained while stealing cars. Criminal cases have been initiated. In addition, the involvement of these persons in the theft of 11 other vehicles has been established. At present, the defendants were sentenced to three years' imprisonment each in Moscow. They are serving their sentences in the Russia.

Subsequently, according to the materials of General Directorate of Criminal Investigation of the Cabinet of Ministers of the Interior Ministry of Belarus, four criminal cases were initiated under part 2 of article 235 of the Criminal Code of the Republic of Belarus against two other members of the abovementioned group, who were selling stolen cars in Russia on the territory of Belarus, involving them in the legal civil turnover and carrying out various financial transactions related to the purchase and sale of cars in the territory of Belarus in order to distorting the sources of their purchase and the nature of their origin (article 235 part 2 of the Criminal Code). These facts are still under investigation.

756. Belarus is a permanent participant in a number of Interpol-sponsored projects and special international operations.

757. Documents of foreign nationals and stateless persons are checked against the Interpol database of wanted persons, including of lost and stolen passports, whenever they apply for registration in Belarus or attempt to cross its border. Similar checks are performed for motor vehicles.

758. A significant number of requests are processed by the Interpol NCB in Belarus, which has close contacts with law enforcement agencies of Russia, Germany, Lithuania, Poland, Moldova and Ukraine.

759. The law enforcement bodies of Belarus sent the following materials to the NCB of Interpol for further information exchange with the NCB of Interpol: in 2014 - 3635, in 2015 - 3470, in 2016 - 3385, in 2017 - 3732. The majority of requests for assistance in operational records and criminal cases in various areas of work at the Interpol NCB were received from internal affairs authorities (2014 - 1540, 2015 - 1977, 2016 - 2100, 2017 - 2454). Law enforcement agencies of the Russia, Germany, Lithuania, Poland, Moldova and Ukraine cooperated most actively with Interpol NCB in Belarus.

Table 2.7 Cooperation between Interpol NCB in Belarus and foreign countries (total requests)

Country	2014	2015	2016	2017	2018
Russia	1259	1241	888	957	970
Germany	570	546	513	503	498
Lithuania	455	399	390	356	321

Poland	404	366	518	653	540
Ukraine	272	310	458	629	536
Moldova	219	404	577	593	507

760. Experience shows that cooperation with foreign countries in conducting law enforcement intelligence operations is carried out through the DFM; and preliminary investigations, through Interpol (see table above).

Case study 2.6

The citizen of Belarus was a member of an organized criminal group, which for a long time in 2004-2009 was engaged in criminal activities related to the purchase of cars obtained by criminal means, forgery of registration documents and their subsequent sale in the territory of Belarus. The exchange of information with regard to this criminal group was carried out through Interpol by sending requests to various countries where the citizen of Belarus may be located, including Germany and Lithuania. This organized group was engaged in insurance fraud (article 209 part 3 of the Criminal Code), staging and processing fictitious traffic accidents with these vehicles, which allowed to illegally receive insurance benefits in various insurance companies in Belarus. Subsequently, members of an organized criminal group executed various financial transactions related to the purchase and sale of cars in the territory of Belarus with a view to distorting the sources of their purchase and the nature of their origin (Article 235 part 2 of the Criminal Code).

Case study 2.7

The officers of General Directorate of Criminal Investigation of the Cabinet of Ministers of the Interior Ministry of Belarus expose a citizen of the Republic of Belarus, who was engaged in international criminal activity on legalization of stolen cars from Russia, most of which were expensive SUVs.

In 2017, the citizen was sentenced to 6 years' deprivation of liberty for 11 months and served a sentence in a penal colony under a reinforced regime with confiscation of property and deprivation of the right to engage in entrepreneurial activity for a period of three years.

The exchange of information in these cases was carried out both through Interpol and through requests to various countries at the point of theft. The identification of this criminal scheme was facilitated by cooperation between the criminal investigation units of Belarus and Russia.

761. In all criminal cases, 10 persons (accused under article 235 of the Criminal Code) are wanted by Interpol for extradition on the initiative of the law enforcement agencies of Belarus. However, no positive results can be achieved.

762. Belarus notes that it often faces lengthy consideration of its international requests, which has a negative impact on the ability to identify and seize criminal proceeds.

763. The Interior Ministry take some efforts to detect high-tech crimes. Dedicated unit of the Interior Ministry conducted operational exchange of information in accordance with the Agreement on Cooperation between the States Members of the Commonwealth of Independent States in Combating High-Tech Crimes (adopted by Presidential Decree No. 475 dated September 7, 2001), cooperation agreements between the RB Interior Ministry and its foreign counterparts (including the Russian Interior Ministry of September 30, 1997), as well as through the Group of Eight Roman-Lyon Subgroup's 24/7 international network of national contact points (NCPs).

764. In Recent years a sharp increase in the number of requests sent through NCPs, whose network currently spans more than 70 countries, including Russia, Ukraine, Germany, United Kingdom, United States, Spain, Sweden and Brazil has been seen.

765. While the threats identified by information technology crime are not considered as significant by experts, the country pays considerable attention to international work in this area. In addition, the results of such efforts cannot be assessed - the criminal cases of such facts that have resulted from this work are not presented.

Table 2.8 Requests sent and received through NCPs in 2013-2018

Year	2013	2014	2015	2016	2017	2018
Requests sent to foreign law enforcement agencies	175	321	290	483	1028	1177
Requests received from foreign law enforcement agencies	32	25	17	15	15	7

Case study 2.8

In 2018 alone, the Interior Ministry's Chief Directorate for Combating Organized Crime and Corruption received three information requests from German law enforcement agencies related to alleged money laundering and bribery offences involving the supply of equipment and timber. The findings of financial investigations launched in response to all three requests were communicated through the said representative to German law enforcement agencies. In addition, officials of the Interior Ministry's Chief Directorate for Combating Organized Crime and Corruption leverage the DFM's capabilities to verify the intelligence, obtained through unofficial channels regarding the laundering in Belarus of the proceeds from a predicate offence (fraud) committed in Germany. DFM has frozen fund transfers allegedly sent by individuals involved in this criminal scheme totalling more than USD 1 million.

Customs Authorities

766. Cooperation between the country's customs authorities and their foreign counterparts is conducted in accordance with the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (the Nairobi Convention, which has been signed by 52 countries and entered into force for the Republic of Belarus on December 7, 2000) and bilateral agreements on mutual assistance in customs matters (concluded with 22 countries).

767. Acting within their competence, customs official share information with foreign law enforcement agencies. The information in the table shows the results of international cooperation on all law enforcement activities carried out by SCC. Responses to outgoing requests were received in 98% of cases. All requests received by the SCC from foreign partners were responded to.

Table 2.9 Number of requests from customs authorities

Year	Requests to foreign competent authorities sent by the State Customs Committee	Requests received from foreign competent authorities
2014	386	105
2015	387	116

2016	525	137
2017	435	151

768. These statistics reflect the work on international cooperation in both administrative and criminal matters. However, due to the lack of detail in requests, it is not possible to fully assess it as meeting the risks.

769. Over the past few years, only one ML case has been identified based on customs records.

770. There are only single facts of illicit cross-border movements of funds detected. Currently, such materials have been submitted to the Investigative Committee, where criminal proceedings have been initiated against three foreign nationals.

771. Taking into account the potential risks of taking criminal capitals abroad, it is impossible to assess the results of activities related to the detection of cash outflows in the absence of statistics as sufficient.

DFI

772. Cooperation with foreign competent is conducted in accordance with conventions, international and interdepartmental agreements, as well as on the basis of reciprocity, taking into account international principles of cooperation and existing practice.

Table 2.10 MLA requests sent/received by DFI

Year	Requests sent	Requests received
2014	354	78
2015	396	47
2016	290	36
2017	266	13
2018	327	14

773. The majority (over 85 percent) of MLA requests are sent to law enforcement authorities in Russia; Ukraine and the Baltic countries account for 5 percent each, with the rest being spread evenly among Tajikistan, Kazakhstan, Kyrgyzstan, Poland, Georgia, Moldova, Germany, Sweden, Italy, UK and Turkey.

774. More than 95 percent of the DFI's requests were granted. In other cases, the lack of contractual relations with the requested countries was typically cited as the reason for request refusal.

775. Incoming MLA requests originated from Russia, Kyrgyzstan, Ukraine and the Baltic countries. Notably, all MLA requests received by the DFI were granted. All requests received have been executed.

Case study 2.9

The granting by the DFI of an MLA request from the State Service for Combating Economic Crimes under the Government of the Kyrgyz Republic allowed Kyrgyzstan's General Prosecutor's Office to initiate criminal proceedings under part 2 of Article 304 (malfeasance in office) and part 3 of Article 204 (smuggling) of the Criminal Code of the Kyrgyz Republic.

776. The examples and statistical information provided allows to draw a conclusion about the ongoing international cooperation on the part of the law enforcement, in particular, the competent authorities actively request information from their foreign counterparts. Nevertheless, law enforcement authorities need to focus their attention on identifying crimes according to country risks, as well as to take an active role in requesting responses to their requests.

KGB

777. The KGB has been actively engaged in the fight against terrorism and its financing. International exchange aims to prevent terrorism and extremism (see IO.9)

Supervisors

Ministry of Communications

778. In accordance with the Universal Postal Union Acts (Article 7 of the Agreement on Postal Payment Services), the designated postal operator, Belpochta, is required to take measures to combat money laundering and terrorist financing.

779. Given the insignificant volume and value of international postal remittances, there has been no exchange of requests concerning such remittances between Belarus and their recipient/originator countries.

780. In addition, given that the information accompanying postal remittances includes the recipient's/originator's address, no need to send requests to the recipient/originator country arose.

National Bank

781. The National Bank has entered into 22 memoranda of understanding to share supervisory information, including on AML/CFT, while typically relying on the DFM to share beneficial ownership information.

782. Since 2014, fifteen (15) requests were sent and fourteen (14) requests were received. The majority of requests concern the verification of the business reputation of senior managers and beneficial owners. The geography of information sharing extends to Russia, Armenia, Georgia and Kazakhstan and other countries. Direction of the requests showed that the most active interaction was with Kazakhstan and Russia. However, all queries, both those received and those sent, concerned only the business reputation of the beneficial owners or heads of credit institutions. For cash, such requests were not sent in order to establish their nature, as well as the persons carrying out the illicit operations on cash withdrawal. Which does not take into account potential ML cases and the risks associated with money laundering opportunities abroad. There were also examples of law enforcement requests to the Russian Central Bank for additional information on suspicious transactions. However, to protect banking secrecy, the response was sent through the FIU.

Table 2.11 NBRB's requests to other countries

REQUESTS RECEIVED		REQUESTS SENT	
2014			
Number of requests	Subject of request	Number of requests	Subject of request
4 (Russian Federation, Romania)	business reputation (for executive position, member of the Management Board)		
2015			
2 (Kazakhstan, Ukraine)	business reputation (for the position of the head, member of the Board of Directors (Supervisory Board))	1 (Russia)	reputation of beneficial owners

1 (Romania)	business reputation (for executive position, member of the Management Board)		
2016			
2 (Ukraine, Kazakhstan)	business reputation (executive position, chief accountant position)	3 (Russia, Ukraine, Kazakhstan)	business reputation (for the position of deputy head, member of the Management Board, member of the Board of Directors (Supervisory Board))
1 (Lithuania)	reputation of beneficial owners	2 (Russia, Kazakhstan)	business reputation (for the position of manager)
2017			
4 (Kazakhstan, Moldova)	business reputation (for executive position, member of the Management Board)	3 (Russia, Ukraine, Kazakhstan)	business reputation (for the position of deputy head, member of the Management Board)
		6 (Russia)	business reputation (for the position of a member of the Board of Directors (Supervisory Board))

Ministry of Taxes

783.Cooperation between tax authorities is conducted in accordance with bilateral agreements based on the OECD Model Tax Convention on Income and on Capital (concluded with 68 countries).

784.In addition, the Ministry of Taxes cooperates with the Russian Federal Tax Service on the basis of the agreement dated February 12, 1999 "On Cooperation and Mutual Assistance in Combating Illegal Translations, Including Related to Money Laundering" in sharing information on beneficiaries and gambling organizers to promote transparency in the gambling industry and assess the relevant risks.

Ministry of Finance

785.When it comes to international cooperation in developing audit regulations, the Ministry of Finance takes part in the work of the CIS Executive Committee's Coordination Council on Accounting and helps harmonize the legislation of the Eurasian Economic Union member states and liberalize the EEU market of audit services, including draft an agreement on the provision of audit services within the Eurasian Economic Union. International cooperation on AML/CFT requests has not been forthcoming

due to the lack of the need.

Exchange of basic information and information on beneficial owners of legal persons and arrangements

786. According to the information provided by the Ministry of Taxes, 4 requests for information on beneficial owners were sent by Belarus within the framework of international agreements between the Ministry of Taxes and Foreign Partners for the period of 2014-2017, to which a comprehensive and timely response was given. No incoming requests were received.

Table 2.12 Number of requests for beneficial ownership information from tax authorities under international treaties

Year	Requests for beneficial ownership information sent by tax authorities in accordance with international agreements	
	incoming	outgoing
2014	-	-
2015	-	2 (United Kingdom, Germany)
2016	-	1 (Netherlands)
2017	-	1 (Cyprus)

787. Also, the NBRB (see table above) has international cooperation on beneficial ownership issues in the context of business reputation checks, and there have been cases where NBRB staff have travelled to foreign countries to check the reputation and beneficial ownership in personal meetings.

788. The DMF and the DFI provided examples of cooperation (examples 2.11 and 2.12) in the exchange of beneficial ownership information, as there are no separate statistics on beneficial ownership requests.

Case study 2.10

According to the materials of the audit of the officials of TPUE "B" (Republic of Belarus) on the issues of possible tax evasion by minimizing tax payments by the enterprise in financial and economic relations with a foreign company "TC LP" (United Kingdom of Great Britain and Northern Ireland) in accordance with the financial investigation body sent in October 2017 to the UK Central Authority International Criminality Unit in 2018, the requested information was received.

Case study 2.11

In October 2016, the Financial Investigation Authority sent a request to the Financial Police Directorate of the State Revenue Service of the Republic of Latvia in order to identify the beneficial owners of the Latvian company "R". The requested information is provided in December 2016.

789. The republic of Belarus has demonstrated examples and mechanisms of international cooperation related to beneficial ownership on substantial level. There are no legal restrictions on such exchange. However, the shortcomings identified in IO.5 also affect the information exchange in this area.

790. Belarus has achieved a substantial level of effectiveness for Immediate Outcome 2.

TABLE OF ACRONYMS

AML/CFT	Anti-money laundering and countering the financing of terrorism
PF	Proliferation financing
NRA	National ML/TF risk assessment
DNFBPs	Designated non-financial businesses and professions
FIs	Financial institutions
Banks	Banks, non-bank credit and financial institutions, and the Development Bank of the Republic of Belarus JSC
BC	Bank card
Non-credit financial institutions (NFIs)	Leasing and microfinance companies, including pawnshops, in obtaining and providing microloans; forex companies, the National Forex Centre, banks and non-bank credit and financial institutions, in carrying out transactions, initiated by natural and legal persons, with non-deliverable over-the-counter financial instruments
AML/CFT Law	RB Law No. 165-Z of June 30, 2014 "On Measures to Combat Money Laundering and Financing of Terrorism and Proliferation"
RBNB Guidance 66	Guidance on Wire Transfers, adopted by RB National Bank Board Resolution No. 66 dated March 29, 2001
RBNB Guidance 818	Guidance on Internal Controls of Banks, Non-bank Credit and Financial Institutions and the Development Bank of the Republic of Belarus JSC to Combat Money Laundering and Financing of Terrorism and Proliferation, adopted by RB National Bank Board Resolution No. 818 dated December 24, 2014
RBNB Guidance 494	Guidance on Internal Controls of Leasing and Microfinance Companies, Including Pawnshops, in Obtaining and Providing Microloans; Forex Companies, the National Forex Centre, Banks and Non-bank Credit and Financial Institutions, in Carrying Out Transactions, Initiated by Natural and Legal Persons, with Non-deliverable Over-the-Counter Financial Instruments to Combat Money Laundering and Financing of Terrorism and Proliferation, adopted by RB National Bank Board Resolution No. 494 dated September 19, 2016
RBNB Guidance 550	Guidance on Setting Up a Risk Management System for Banks, the Development Bank of the Republic of Belarus JSC, Non-bank Credit and Financial Institutions, Banking Groups and Bank Holding Companies, adopted by RB National Bank Board Resolution No. 550 dated October 29, 2012
RBNB Guidelines 201	Guidelines on Electronic Money Transactions, adopted by RB National Bank Board Resolution No. 201 dated November 26, 2003
OTC	Over-the-counter
RBNB Recommendations 783	Recommendations for banks, non-bank credit and financial institutions, the Development Bank of the Republic of Belarus JSC, leasing and microfinance companies, including pawnshops, for obtaining and providing microloans; forex companies and the National Forex Centre, for managing the ML/TF/PF risks, adopted by RB National Bank Board Resolution No. 783 dated December 17, 2014
Regulations on List	Regulations on Establishing a List of Individuals and Entities,

1256	Including Individual Entrepreneurs, Involved in Terrorist Activities, Appealing the Listing Decisions, reviewing other Requests from such Individuals and Entities, Including Individual Entrepreneurs, and Bringing This List to the Attention of Persons Conducting Financial Transactions and the Financial Intelligence Unit, adopted by RB Council of Ministers Resolution No. 1256 dated December 30, 2014
CC RB	Criminal Code
CPC RB	Criminal Procedure
CAO RB	Code of Administrative Offences
NBRB	National Bank
DFM	Department of Financial Monitoring
DFI	Department of Financial Investigations
SSC	State Security Committee
SCC	State Customs Committee
MoJ	Ministry of Justice
MIA	Ministry of Internal Affairs
MoF	Ministry of Finance
MT	Ministry of Taxes
IC	Investigative Committee

TECHNICAL COMPLIANCE ANNEX

Recommendation 1 – Assessing Risks and applying a Risk-Based Approach

1. Recommendation 1 was added to the FATF Recommendations in 2012, hence it was not assessed during the 1st round of EAG mutual evaluations.
2. **Criterion 1.1** Pursuant to RB Council of Ministers Presidium Resolution dated February 27, 2018, in 2018, Belarus underwent the first national ML/TF Risk Assessment (hereinafter "NRA") in 2018. The Interagency Committee, established to conduct the NRA, was made up of deputy heads of the General Prosecutor's Office, the Supreme Court, the IC, the SSC, the MIA, the State Customs Committee, the State Border Committee, the MoF, the MoJ, the Ministry of Taxes, the Ministry of Antimonopoly Regulation and Trade, the Ministry of Communications and Informatization, the State Property Committee, a member of the Board of the NBRB, and heads of the State Control Committee's DFI and DFM. Private sector organizations and their associations (unions) were also involved in the evaluation.
3. **Criterion 1.2** The Interagency Committee under the RB Council of Ministers, established by RB Prime Minister's Directive No. 82p dated March 27, 2018, oversaw the conduct of the NRA.
4. **Criterion 1.3** The NRA is updated regulatory in Belarus (stated in the NRA itself) That said, the issue regarding the timing of updates needs further clarification as they are not provided.
5. **Criterion 1.4** Belarus has set up a mechanism for communicating the NRA findings to the competent authorities and the private sector.
6. In accordance with the ML/TF Risk Assessment Methodology, adopted by the Interagency Committee, established by RB Prime Minister's Directive No. 81p dated March 27, 2018, the Committee is responsible for making decisions concerning the communication of the NRA findings to state bodies and other stakeholders.
7. Pursuant to par. 2 of the Interagency Committee meeting Minutes No. 2 dated October 23, 2017, NRA findings are communicated to the following state bodies: the Council of the National Assembly of Belarus, the House of Representatives of the National Assembly, Executive Office of the President of the Republic of Belarus, the State Secretariat of the Security Council, the Council of Ministers of the Republic of Belarus, the Supreme Court, the State Control Committee, the General Prosecutor's Office, the NBRB, the IC, the Ministry of Antimonopoly Regulation and Trade, the MIA, Ministry of Taxes, the Ministry of Communications and Informatization, the MoF, the Ministry of Economy, the MoJ, the SSC, the State Property Committee, the State Border Committee, the State Customs Committee, the Department of Humanitarian Affairs of the Executive Office the President of the Republic of Belarus, and the National Centre for Legislation and Legal Studies.
8. Pursuant to par. 3 of the said Minutes, the Committee recommends the NBRB, the MoF, the MoJ, the Ministry of Taxes, the Ministry of Antimonopoly Regulation and Trade, the Ministry of Communications and Informatization and the State Property Committee, within two months after receipt thereof, to communicate the National ML/TF Risk Assessment findings to reporting entities conducting financial transactions and their professional associations (unions). The modes of communication (workshops, newsletters, etc.) are to be determined by the aforementioned authorities.
9. On February 4, 2019, Belarus adopted the National ML/TF Risk Mitigation Action Plan 2019-2020. In pursuance of the National Plan, all supervisors have adopted action plans to mitigate the ML/TF risks in the supervised sectors, which, among others, call for the communication of the NRA findings to private sector organizations.
10. **Criterion 1.5** Belarus applies a risk-based approach to the allocation of resources and implementation of ML/TF risk mitigation measures (National Action Plan).
11. **Criterion 1.6** Under Belarusian law, financial institutions and DNFBPs are required to apply all FATF Recommendations without exception.
12. **Criterion 1.7** Article 5 (paras. 1.3), article 6 (paras. 1.1-1.4) of the AML/CFT Law requires FIs

and DNFBPs to carry out internal controls taking into account ML/TF risks (identification, assessment, control, mitigation). These articles require the application of enhanced internal controls when identifying high ML/TF risks.

13. The requirements to the internal control rules for all FIs and DNFBPs also oblige the assessment of ML/TF risks by customer profile, geography and type of transactions and the application of appropriate enhanced measures to control the identified risks (Resolution of the Council of Ministers of the Republic of Belarus of 24.12.2014 No. 1249; Resolution of the Board of the NBRB of the Republic of Belarus of 24.12.2014 No. 818; Resolution of the Board of the NBRB of the Republic of Belarus of 19.09.2016 No. 494; by Resolution of the MoF of 04.11.2016 No. 96; Resolution of the MoJ of 04.10.2016 No. 183; Resolution of the MoJ of 04.10.2016 No. 184; Resolution of the Ministry of Taxes of 16.09.2016 No. 27; Resolution of the Ministry of Communications and Informatization of 06.01.2015 No. 1; Resolution of the Ministry of Antimonopoly Regulation and Trade of 20.10.2016 No. 36; Resolution of the State Property Committee of 31.12.2014 No. 36).

14. In addition to the above measures, the regulator has prepared explanatory letters (21-16/4, 21-17/5, 21-16/6) for FIs supervised by the NBRB, requiring that the results of the country's risk assessment be incorporated into internal policies and controls by 20 February 2019, and that their ML/TF risk assessments be further documented. The remaining entities were informed of the outcome of the country risk assessment, but no regulatory requirements had been developed at the time of the field visit.

15. In addition, p. 16 of the Presidential Decree No. 6 of December 28, 2014 and part 1 of Article 8 of the AML/CFT Law set forth the requirement for mandatory identification of natural persons to whom electronic wallets are opened or to whom electronic wallets are opened, regardless of the size of the amounts of electronic money registered in such electronic wallets, which coincides with the understanding of country ML/TF risks.

16. **Criterion 1.8** Under Belarusian law, financial institutions and DNFBPs are not allowed to apply simplified measures for some FATF Recommendations.

17. **Criterion 1.9** Supervisors monitor compliance of persons conducting financial transactions with the AML/CFT/CPF requirements, including risk management procedures, and coordinate the risk management efforts undertaken by such persons (part 2 of Art.16 of AML/CFT Law).

18. **Criterion 1.10** Under Belarusian law, FIs and DNFBPs are required to identify, assess and understand their ML/TF risks (for customers, countries or geographic areas; and products, services, transactions or delivery channels).

19. In accordance with the risk management guidelines, persons conducting financial transactions are required to consider all risk factors before determining the level of overall risk. The findings of these risk assessments are recorded in the customer questionnaire form and made available to competent authorities upon request.

20. FIs at the legislative level are required to update the internal risk assessment annually (Regulation № 103 and № 109 of the NBRB). For DNFBPs, such requirements are not enshrined in law, although they are implemented in practice. However, the NRA provides that the findings shall be updated regularly.

21. **Criterion 1.11** The requirement for FIs and DNFBPs in Belarus to have policies, controls and procedures to enable them to manage and mitigate the ML/TF risks is set out in Art. 6, paragraphs 3 and 5 of part 1, of the AML/CFT Law. However, these documents are not approved by senior management.

- (a) Pursuant to part 1 of Art. 5 of the AML/CFT Law, a risk-based approach provides for the application of enhanced internal controls in high ML/TF/PF risk situations and simplified internal controls in low-risk situations, using the procedure set out in internal controls. In accordance with internal control requirements adopted by supervisors, internal controls of an entity carrying out transactions should provide for the application of enhanced and simplified measures. Internal controls are adopted by senior management and revised as

necessary.

- (b) FIs and DNFBPs are required to establish internal audit procedures to monitor risks and implement risk mitigation measures.
- (c) Pursuant to part 1 of Art. 5 of the AML/CFT Law, a risk-based approach provides for the application of enhanced internal controls in high ML/TF/PF risk situations.

22. **Criterion 1.12** As noted in Criterion 1.8, the use of simplified CDD measures is not allowed in Belarus.

Weighting and Conclusion

23. Belarus has put in place a robust legal framework for managing and mitigating the ML/TF risks both by state authorities and the private sector. Belarus has not conducted a comprehensive assessment of vulnerabilities related to the abuse of legal entities and NPOs, meaning that it lacks the adequate and effective measures to mitigate the risks faced by them. In addition, there is no legal requirement regulating the timing and frequency of risk assessment updates in the country. **Recommendation 1 is rated LC.**

Recommendation 2 - National Cooperation and Coordination

24. In its MER of 2008, Belarus was rated partially compliant with Recommendation 31, with the lack of cooperation between the competent authorities within the Working Group on AML/CFT in developing AML/CFT policies, as well as the low effectiveness of cooperation between some law enforcement agencies and the DFM (except for the DFM), cited among the key shortcomings.

25. **Criterion 2.1** Belarus's national AML/CFT policy includes the National Security Concept of the Republic of Belarus (adopted by Presidential Decree No. 575 dated November 9, 2010 as amended by Presidential Decrees No. 621 dated December 30, 2011 and No. 49 dated January 24, 2014) and AML/CFT Law. Belarus has developed a long-term anti-crime and corruption programme (adopted by the National Coordination Council Decision No. 16 dated May 26, 2017), as well as the Action Plan to Identify and Combat Corruption for the country's prosecution, law enforcement, national security, state control, and other state bodies and organizations. These documents provide for AML/CFT measures and mechanisms for their implementation.

26. On February 4, 2019, Belarus adopted the National ML/TF Risk Mitigation Plan 2019-2020. In pursuance of the National Plan, all supervisors have adopted action plans to mitigate the ML/TF risks in the supervised sectors, which, among others, provide for the communication of the NRA findings to private sector organizations.

27. **Criterion 2.2** The Interagency Committee under the RB Council of Ministers, established by RB Prime Minister's Directive No. 82p dated March 27, 2018, oversaw the conduct of the NRA. In addition, according to the extract from Minutes No. 6 of the RB Council of Ministers Presidium meeting, held on February 27, 2018 (par. 2.3), the Interagency Committee was requested to submit to the Prime Minister proposals for mitigating the ML/TF/PF risks. However, there are no other powers vested in the Committee which would enable its designation as an authority for the national AML/CFT policy. The submission by the Committee of the proposals referred to in the extract from Minutes No. 6 dated February 27, 2018 of the RB Council of Ministers Presidium meeting essentially marks the commencement of the final phase of its participation in formulating the AML/CFT policy.

28. At the same time, AML/CFT efforts of the country's government agencies are coordinated by the Interagency Working Group, made up of representatives of the State Control Committee, the General Prosecutor's Office, the Board of the NBRB, the MIA, the Ministry of Taxes, and the SSC. It acts as an interagency consultative and advisory body tasked with improving and coordinating state agencies' AML/CFT efforts (it was created back in 2005 by a joint State Control Committee/General Prosecutor's Office/NBRB/Interior Ministry/Ministry of Taxes/SSC resolution).

29. The country also has other AML/CFT coordination mechanisms in place.
30. When dealing with complex issues requiring the coordination of efforts of multiple state bodies and organizations, the State Control Committee may submit them for consideration by the Presidium of the RB Council of Ministers or the National Coordination Meeting on Combating Crime and Corruption.
31. **Criterion 2.3** Among the interagency cooperation mechanisms in place in Belarus are several interagency working groups (e.g. the NBRB's working group tasked with bringing regulations into line with amendments made on June 13, 2016 to AML/CFT Law). In addition, existing problems in the area under review are submitted for consideration at alignment workshops, attended by representatives of various agencies, which develop measures to neutralize the existing threats, including legislative initiatives, as well as proposals to reverse the negative trends. In particular, organizers of such alignment workshops invite law enforcement experts to prepare analytics and coordinated proposals for improving legal, criminological and forensic support of anti-crime and corruption efforts as well as crime prevention (par. 9.5 of the Regulations on the Alignment Workshop on Combating Crime and Corruption).
32. Submitted data provide no evidence of the country's use of cooperation mechanisms to address operational tasks. In addition, the solutions presented for review did not address the issue of AML/CFT policies and activities implementation (they suggest that the issues of recidivism and forensic examinations were considered).
33. Certain state bodies, such as the DFM, are empowered to participate in accordance with the established procedure in the drafting of AML/CFT/CPF regulations (Art. 11 of AML/CFT Law).
34. In accordance with the Regulations on the DFM, adopted by Presidential Decree No. 408 dated September 14, 2003, DFM may set up scientific advisory and expert councils, whose regulations and membership are to be endorsed by the Committee Chair.
35. **Criterion 2.4** The RB State Control Committee's DFM is a financial intelligence unit authorized under Belarusian law to combat money laundering and financing of terrorism and proliferation. Therefore, the FIU's powers cover CPF (Regulations on the DFM of the State Control Committee of the Republic of Belarus, adopted by Presidential Decree No. 408 dated September 14, 2003).
36. Pursuant to par. 10 of the Regulations, to assess the effectiveness of AML/CFT/CPF efforts and develop proposals for their improvement, DFM may set up scientific advisory and expert councils, whose regulations and membership are to be endorsed by the Committee Chair. In addition, PF is discussed at DFM working group meetings.
37. In addition, RB Law of May 11, 2016 "On Export Controls" and Presidential Decree No. 49 dated February 28, 2017 "On State Regulation of Export Controls" designate authorities responsible for exercising export controls (RB Security Council's Interagency Commission for Military and Technical Cooperation and Export Controls; State Secretariat of the RB Security Council; Goskomvoenprom; State Customs Committee; SSC; Ministry of Foreign Affairs; Ministry of Defence; Ministry of Economy; National Academy of Science; and the Operational Analysis Centre under the President of the Republic of Belarus). However, the IC's purview does not cover operational cooperation or formulation of PF policies.
38. **Criterion 2.5** Government agencies and relevant departments in Belarus cooperate with each other in the creation of relevant databases.
39. In particular, they have entered into several information sharing agreements. More than twenty government agencies (organizations), including law enforcement agencies and supervisors (State Control Committee, SSC, MIA, IC, MoF, etc.) have access to the Unified State Register of Legal Entities and Individual Entrepreneurs, which enables them to promptly access the necessary information on legal persons and individual entrepreneurs of interest.
40. Pursuant to Article 43 of RB Law of January 5, 2015 "On the Securities Market", information on shareholders/depositors such as the name and principal place of business (for legal persons), or last

name, first name and patronymic (if any), place of residence or place of stay (for individuals), as well as information on the custodial account balance and past activity, is confidential.

41. To the extent permitted by law, confidential custodial information may be made available to certain categories of persons and authorities, such as courts (judges) in relation to ongoing proceedings or writs of execution filed; agencies tasked with the enforcement of legal rulings and writs of execution; the prosecutor or his deputy. In a number of cases, this information may be provided, subject to the prosecutor/his deputy's consent, to the bodies of inquiry or preliminary investigation, e.g. in relation to ongoing investigations, including criminal.

42. The national automated information system (NAIS) is used to provide remote access to the Unified State Register of Real Estate Property, Titles Thereto and Transactions Therewith, as well as to the State Land Cadastre (224 such contracts), etc.

43. Cooperation between notaries and state registrars is governed by the Guidance on Cooperation between Notaries and State Registrars of Real Estate Property, Titles Thereto and Transactions Therewith, adopted by MoJ and State Property Committee Resolution No. 290/53 dated December 10, 2012.

Weighting and Conclusion

44. Belarus has adopted multiple policies, including on national security, and on combating crime and corruption, which cover AML/CFT matters. In addition, Belarus has created AML/CFT cooperation and collaboration mechanisms for use by the competent authorities. At the same time, Belarus lacks PF coordination mechanisms. **Recommendation 2 is rated LC.**

Recommendation 3 - Money laundering offence

45. In its MER of 2008, Belarus was rated largely compliant with the former Recommendation 1. Among the cited shortcomings was the failure to criminalize insider trading and (or) market manipulation.

46. **Criterion 3.1** Article 235 of the CC RB criminalizes money laundering on the basis of Article 3 (1) (b) and (c) of the Vienna Convention and Article 6 (1) of the Palermo Convention.

47. **Criterion 3.2** The CC RB covers all categories of predicate offences established by the FATF 40 Recommendations.

48. **Criterion 3.3** Predicate offences for ML include all types of offences.

49. **Criterion 3.4** Pursuant to part 2 of the Note to Article 235 of the CC RB, for the purposes of Articles 235 (ML) of the CC RB, "funds" means cash, securities and other assets, including property and exclusive intellectual property rights.

50. "Other Assets" means anything of property (including from legitimate and illegitimate sources), including cash and certified securities, funds in accounts and deposits with banks and (or) non-bank credit and financial institutions; book-entry securities; electronic funds; as well as economic resources, legal instruments, electronic or digital instruments conveying an ownership interest in property or other assets, as well as traveller's and bank checks)

51. **Criterion 3.5** Pursuant to Article 235 of the CC RB, when proving that property is the proceeds of crime, it is not necessary that a person be convicted of a predicate offence.

52. **Criterion 3.6** Belarus criminalized the predicate offences committed aboard, as stipulated by Article 6 of the CC of RB.

53. **Criterion 3.7** Pursuant to Art. 235 of the CC RB, the ML offence may apply to persons who commit a predicate offence, where, in addition to the predicate offence, they are also involved in misrepresenting the origin and actual ownership of derived income.

54. **Criterion 3.8** The intent and knowledge required to prove the ML offence may be inferred from objective factual circumstances. (item 5, part 1 of Art. 89 of the CPC of RB, Art. 235 of CC of RB).

55. **Criterion 3.9** Article 235 of the CC RB provides for proportionate and dissuasive sanctions. Under article 235, paragraph 1, of the CC RB, a natural person is punishable by a fine or deprivation of the right to hold certain posts or engage in certain activities with a fine or deprivation of liberty for a term of between two and four years with or without a fine and deprivation of the right to hold certain posts or engage in certain activities. In the event of a repeat offence, a particularly large-scale punishment is prescribed only in the form of deprivation of liberty for a period of between four and seven years, with confiscation of property. In the case of ML offences committed by an organized group, the penalty ranges from five to ten years' deprivation of liberty.

56. **Criterion 3.10** Civil and administrative liability can be applied to legal persons in Belarus. Criminal liability does not apply to legal persons, since, in accordance with the fundamental principles of Belarusian law, only individuals can be held criminally liable. (Arts. 25 and 26 of the Constitution of the Republic of Belarus).

57. CAO RB establishes: Art. 11.72 – administrative liability in the form of a fine of 20 to 100 base values (approx. USD 245 to 1225) for persons conducting financial transactions, 50 to 500 base values (approx. USD 610 to 6,120) for individual entrepreneurs, and 50 to 1,000 base values (approx. USD 610 to 12,250) for entities; Art. 11.80 – administrative liability in the form of a fine of 500 to 1,000 base values (approx. USD 6,120 to 12,250) for entities

58. Pursuant to Articles 1.1 and 3.5 of the CAO RB, legal persons can be held administratively liable. Pursuant to Article 57 of the RB Civil Code, courts may liquidate a legal person for engaging in activities without a special permit (license), engaging in illegal activities, or for repeat or gross violations of the law. The severity and type of sanctions applied to legal persons do not depend on the type and amount of penalty faced by individuals, which makes them graded, dissuasive and proportionate.

59. **Criterion 3.11** The CC RB provides for the criminalization of all required ancillary offences. Participation in an offence is covered by Art. 16; attempt to commit by Art. 14; aiding and abetting, facilitating and counselling the commission by pars. 5 and 6 of Art. 16 of the CC RB. Conspiracy to commit is covered by Art. 17 of the CC RB.

Weighting and Conclusion

60. **Recommendation 3 is rated C.**

Recommendation 4 - Confiscation and provisional measures

61. In its MER of 2008, Belarus was rated LC with the former Recommendation 3. Among the main factors affecting the rating for this recommendation was the absence of the requirement for the confiscation of property of equivalent value; income derived from the proceeds crime; and income received from insider trading and market manipulation, with the latter being due to their non-criminalization.

62. **Criterion 4.1** Confiscation measures are provided for by Articles 96, 98 and 132 of the CPC RB and Article 61 of the CC RB.

- (a) Article 61 of the CC RB provides for the use of "special confiscation", which is defined as a compulsory, non-repayable seizure by the state of the property acquired by criminal means. Pursuant to Article 96 of the CPC RB, material evidence includes money and other valuables acquired by criminal means, including laundered property. Special confiscation applies to all proceeds of crime held by criminal defendants or third parties.
- (b) Irrespective of a category of a crime and a kind of the appointed punishment the special confiscation which consists in compulsory non-repayable seizure in the property of the state of the tools and means of fulfilment of a crime belonging to condemned; the things

withdrawn from a turn; the property got by a criminal way, the income received from use of this property, and also subjects which are directly connected with a crime is applied (item 6, article 61 CC).

- (c) Confiscation is applied to the proceeds from all types of crime (Art. 61 of the CC RB). Pursuant to Article 96 of the CPC RB, physical evidence includes instrumentalities of crime. Pursuant to Art. 98 of the CPC RB, instrumentalities of crime belonging to the defendant are subject to confiscation or destruction. Funds and other valuables acquired by criminal means are, subject to the decision of a court or criminal prosecution authority, used to compensate the victim of the crime or other person. Other types of physical evidence are returned to their rightful owners or, in the absence thereof, confiscated (paragraph 4 of Article 98 of the CPC RB).

Under the CC RB of Belarus, "preparation for crime" means seeking or adjusting means or tools or otherwise intentionally creating the conditions for the commission of a particular crime. Such conduct is covered by part 1 of Art. 13 of the CC RB and the corresponding article of the Special Part of the CC RB. Therefore, funds intended or allocated for use in the financing of terrorism is subject to confiscation pursuant to part 6 of Art. 61 of the CC RB as instrumentalities of crime.

Part 2 of Art. 132 of the CPC RB provides for the seizure of third-party property in order to verify its actual ownership, origin and legality of its alienation, where there are reasonable grounds to believe that this property was alienated by a suspect/defendant for the purpose of concealing its ownership or origin; or to finance terrorists, extremists, an organized group, an illegal armed group or a criminal organization; or for proliferation or its financing.

- (d) Pursuant to Art. 61 of the CC RB, where special confiscation of the proceeds of crime or income derived therefrom is not possible for a number of reasons, it is possible to confiscate the convicted person's property (funds) whose value corresponds to the value of criminal proceeds and (or) income derived therefrom.

63. **Criterion 4.2**

- (a) Criminal prosecution (inquiry and preliminary investigation) measures are undertaken in Belarus by bodies of inquiry, investigators or prosecutors (Article 6 of the Code of CPC RB). In the course of an inquiry, preliminary investigation and judicial proceedings, authorities must prove that the property represents the proceeds of crime or income derived therefrom (Art. 89 of the CPC RB). These authorities may arrest property in order to verify its actual ownership, origin and legality of its alienation (Art. 132 of the CPC RB). To facilitate the preliminary investigation, judicial proceedings or enforcement of a sentence, the criminal investigation authority or court may freeze the property.
- (b) To facilitate the preliminary investigation, judicial proceedings or enforcement of a sentence, the criminal investigation authority or court may seize the property (Arts. 128 and 132 of the CPC RB). Provisions pertaining to the use of provisional measures are contained in internal controls of government agencies conducting financial transactions.
- (c) The legal mechanisms in place in Belarus, including for prompt freezing, seizing and recovery of property subject to confiscation, enable effective recovery of property.
- (d) The procedure for ensuring the safety of property constituting physical evidence in criminal cases, as well as of the seized property in the course of criminal prosecution, is established by Art. 97 of the CPC RB.

64. **Criterion 4.3** Pursuant to Art. 132 of the CPC RB, the property owned by third parties may only be frozen on a temporary basis. To prevent the abuse of freezing measures, authorities failing to comply with applicable requirements face sanctions. The seizure of third-party property is only permitted in

cases where it is necessary to verify its actual ownership, origin and legality of its alienation, where there are sufficient grounds to believe that the property was alienated by the suspect/defendant for specific purposes.

65. Presidential Decree No. 4 dated December 31, 2010 "On Promoting Entrepreneurial Initiatives and Business Growth" provides, among others, for a ban on confiscations and seizures of legitimately acquired property from businesses. Where the bona fide status of a purchaser is questioned, such disputes are settled in courts using an expedited procedure.

66. **Criterion 4.4** Presidential Decree No. 63 dated February 19, 2016 "On Improving the Management of Property Frozen, Seized or Forfeited" assigns the responsibility for the centralized accounting, management and disposal of property confiscated as part of criminal and administrative proceedings to designated authorities, in particular authorities carrying out the freezing, seizure and accounting of property pursuant to the regulations adopted by Decree No. 63. In addition, the Office of Presidential Affairs of the Republic of Belarus is involved in the development and commissioning of an automated data system "Confiscated Property", which will contain information on all properties frozen or seized in relation to criminal proceedings.

67. In pursuance of Decree No. 63, designated authorities have defined a procedure for managing such property in departmental regulations, such as IC Order No. 142 dated July 28, 2016. The Department of Humanitarian Affairs of the Executive Office of the President of the Republic of Belarus has been designated as the principal recipient of such information from the relevant authorities. Its functions in this area are established by the Decree No. 63 dated February 19, 2016 "On Improving the Management of Property Frozen, Seized or Forfeited".

68. The Guidance adopted by SCC Chairman Order No. 100-OD dated March 14, 2012 (as amended by SCC Chairman Order No. 398-od dated August 26, 2016) establishes the procedures for accounting, storage, preliminary assessment, transfer for sale or other use, and return of goods frozen and seized by customs authorities of the Republic of Belarus, or placed under a customs procedure for surrender to the state.

Weighting and Conclusion

69. **Recommendation 4 is rated C.**

Recommendation 5 - Terrorist financing offence

70. In its MER of 2008, Belarus was rated partially compliant with SR.II Among the main factors affected the rating for this recommendation was the failure to criminalize the following: the indirect provision of funds in support of terrorists; provision of funds to a terrorist organization or an individual terrorist, where there is no link to a specific terrorist act; financing of theft of nuclear materials for terrorist purposes; and illegal actions against fixed platforms located on the continental shelf.

71. **Criterion 5.1** Criminal liability for terrorist financing, that is, the provision or collection of funds by any means for terrorist purposes, as well as the wilful provision of material and other support for guilty terrorists, terrorist groups and terrorist organizations, is established by Article 290/1 "Terrorist financing" of the CC RB.

72. TF is serious offence punishable by imprisonment for a term of eight to twelve years with confiscation of property and consistent with the TF Convention.

73. **Criterion 5.2** Article 290/1 TF largely meets the requirements of this criterion, including the provision or collection of funds by any means for terrorist purposes or other types of support to terrorists, terrorist groups and terrorist organizations. It does not require a link to a specific act, while criminalizing the financing of an individual terrorist or a terrorist organization for any purposes.

74. **Criterion 5.2 bis** Pursuant to Arts. 290-1 and 290-2 of the CC RB, TF offences apply to a wide range of activities, including situations stipulated in UNSC Resolution 2178. In addition, TF offences

specifically apply to several ancillary activities, including facilitating terrorist activities; provision of terrorist training; creation or membership of a terrorist organization; and directing or participating in terrorist activities. The financing and commission of these offences falls therefore under the scope of a TF offence.

75. Art. 290-1 has been amended to include provisions criminalizing the provision or collection of funds by any means for the purpose of financing the travel of individuals to the place of training to participate in terrorist activities. The term "terrorist activity" as defined in the RB Law No. 77-3 "On Combating Terrorism" includes a wide range of definitions that meet this criterion.

76. **Criterion 5.3** Pursuant to part 2 of the Note to Article 235 of the CC RB, the term "funds" as used in Article 235 (ML) and 290-1 (TF) means cash, securities, electronic funds and other assets, including property and exclusive intellectual property rights.

77. "Other Assets" means anything of property (including from legitimate and illegitimate sources), including cash and certified securities, funds in accounts and deposits with banks and (or) non-bank credit and financial institutions; book-entry securities; electronic funds; as well as economic resources, legal instruments, electronic or digital instruments conveying an ownership interest in property or other assets, as well as traveller's and bank checks)

78. **Criterion 5.4** Article 290/1 of the CC RB does not require the funds to have been actually used to carry out or attempt a terrorist act; be linked to a specific terrorist act.

79. **Criterion 5.5** The intent and knowledge required to prove the offence can be inferred from objective factual circumstances (Art. 290/1 of the CC RB).

80. **Criterion 5.6** Pursuant to Article 290/1 of the CC RB, a terrorist financing offence is punishable by imprisonment for a term of 8 to 12 years with confiscation of property.

81. In addition, TF by a person using his official position, by an organized group, or by a person who has previously committed crimes falling under Articles 124–127, 131, 287, 289, 290, 2902–292, part 4 of Article 294, part 4 of Article 295, part 4 of Article 309, part 3 of Article 311, Articles 359 and 360 of this Code, is punishable by imprisonment for a term of 8 to 15 years with confiscation of property.

82. **Criterion 5.7** CAO RB establishes: Art. 11.72 – administrative liability in the form of a fine of 20 to 100 base values (approx. USD 245 to 1225) for persons conducting financial transactions, 50 to 500 base values (approx. USD 610 to 6,120) for individual entrepreneurs, and 50 to 1,000 base values (approx. USD 610 to 12,250) for entities; Art. 11.80 – administrative liability in the form of a fine of 500 to 1,000 base values (approx. USD 6,120 to 12,250) for entities.

83. Despite the availability of different types of liability, criminal liability does not apply to legal persons, since, in accordance with the fundamental principles of Belarusian law, only individuals can be held criminally liable (Arts. 25 and 26 of the Constitution of the Republic of Belarus, Arts. 2 and 21 of the CC RB).

84. **Criterion 5.8 (a-d)** Pursuant to Arts. 14-18 of the CC RB, Belarus has criminalized: an attempt to commit an offence, participation, participation as an accomplice in an offence, organizing and directing others to commit an offence, as well as in accordance with art. 290/1 other contributions to the terrorists, terrorist groups and terrorist organizations. Articles 41-43 of the Criminal Code provide for a multitude of crimes.

85. **Criterion 5.9** Any criminal activity, including TF, can be designated as a ML predicate offence (Art. 235 of the CC RB).

86. **Criterion 5.10** Articles 5 and 6 of the CC RB establish liability for offences committed both within and outside Belarus. The provisions of the general part of the CC RB of the Republic of Belarus apply to all articles of the Special Part in relation to all types of offences.

Weighting and Conclusion

87. **Recommendation 5 is rated C.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

88. In its MER of 2008, Belarus was rated partially compliant with SR.III Among the shortcomings affecting the rating for this recommendation were: questions about the effectiveness of the freezing system in place, much of which depends on the use of criminal procedure mechanisms; the lack of the necessary procedures for reviewing and utilizing information on the targets of freezing action provided by foreign counterparts; only credit institutions have been provided with detailed instructions on the use of freezing measures; the lack of procedures for reviewing de-listing requests or unfreezing the erroneously frozen assets; there are no mechanisms for providing access to frozen funds necessary for basic expenses, in accordance with the procedures set out in UNSCR 1452.

89. **Criterion 6.1**

- (a) The RB State Security Committee (part 2 of Arts. 4-1 of RB Law No. 77-Z of January 3, 2002, and RB Council of Ministers Resolution No. 393 as amended March 21, 2019 No. 186) is a competent authority of Belarus responsible for proposing persons or entities to UNSC No. 1267 (1999), No. 1718 (2006), No. 1988 (2011), No. 1989 (2011) and No. 2253 (2015) for designation. In addition, the State Security Committee compiles and maintains a list of persons and entities known to be involved in terrorism, proliferation or under the control of such persons.
- (b) The mechanisms for identifying and designating persons, entities and individual entrepreneurs are set out in the Regulations on List 1256, which, among others, includes the listing and de-listing criteria. Also subject to designation are persons and entities known to be involved in terrorism, proliferation or under the control of such persons.
- (c) The country's law calls for the application of an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" when deciding whether or not to make a proposal for inclusion in the designation list (Regulations on List 1256).
- (d) The competent authorities of Belarus, acting in compliance with legal requirements in force in Belarus, use standard forms for listing, as adopted by the relevant UNSC committees pursuant to UNSCR No. 1267 (1999), No. 1718 (2006), No. 1988 (2011), No. 1989 (2011) and No. 2253 (2015) (RB Council of Ministers Resolution No. 393 as amended March 21, 2019 No. 186).
- (e) Pursuant to RB Council of Ministers Resolution No. 393 as amended March 21, 2019 No. 186, listing proposals are submitted using the forms prescribed by the relevant UN committee. However, in the case of proposing names to the 1267 and 1989 Committee, it is not clear whether Belarus will specify its status as a designating state.

90. **Criterion 6.2**

- (a) The RB State Security Committee is a competent authority of Belarus responsible for proposing persons or entities for designation pursuant to UNSC 1373 (2001). Paragraph 5 of the Regulations on List 1256 enables the designation of persons and entities as terrorists in response to the request of another country.
- (b) Paragraph 5 of the Regulations on List 1256 establishes the criteria for designation of persons, entities and individual entrepreneurs, which include judgments or decisions of courts and other competent authorities of foreign states.
- (c) References to the relevant regulations (Arts. 14 and 15 of RB Law No. 307-Z of July 15, 2015, Arts. 4-1 of RB Law No. 77-Z of January 3, 2002 and the Regulations on List 1256) provided by Belarus largely address the requirements of UNSC Resolution 1373 (2001).

Paragraphs 7, 8 and 10 of the Regulations on List 1256 establish the criteria for designation of persons and entities involved in terrorist activities at the national level. The State Security Committee, within one day of submission of the relevant evidence, prepares and makes a decision regarding a designation.

- (d) Belarus applies an evidentiary standard of proof of "reasonable grounds" or "reasonable basis" when deciding whether or not to make a designation (par. 5 of the Regulations on List 1256). A designation under UNSCR is not conditional upon the existence of a criminal proceeding.
- (e) Belarus has a mechanism in place for the submission of requests to foreign countries (Art. 16 of RB Law 307-3 of July 15, 2015; Art. 8 of the Agreement on Exchange of Information Relating to the Fight against Terrorism and Other Violent Manifestations of Extremism).

91. **Criterion 6.3**

- (a) The State Security Committee is a competent authority responsible for compiling and maintaining the list (par. 2 of the Regulations on List 1256); in identifying persons and entities for designation, it gathers additional information (par. 9 of the Regulations on List 1256) besides the already existing grounds for designation (par. 5 of the Regulations on List 1256).

In addition, under Belarusian law, investigative authorities may, either remotely and/or using storage media, gratuitously retrieve information from databases and information systems on the basis of agreements entered into with the owners of such databases (Art. 15 of RB Law No. 307-3 of July 15, 2015). In addition, some competent authorities may directly access information contained in the Unified State Register of Legal Entities and Individual Entrepreneurs (par. 40 of the Guidance on the Maintenance of the Unified State Register of Legal Entities and Individual Entrepreneurs) on the basis of information sharing agreements concluded by them.

- (b) The country's law allows authorities to operate *ex parte* against a person or entity who has been identified and whose (proposal for) designation is being considered (RB Law No. 307-Z of July 15, 2015 "On Law Enforcement Intelligence Operations").

92. **Criterion 6.4** Belarus has a fairly wide range of measures in place to freeze the assets of persons involved in terrorist activities and their financing, including a procedure for freezing the assets of persons designated pursuant to UNSCR No. 1267, 1989, 2253, 1988 and 1373.

93. Following the adoption of a listing or de-listing decision or any changes in the list, the State Security Committee promptly brings the updated list to the attention of persons conducting financial transactions by posting it on its website. In addition, the updated list is sent to supervisors and DFM for communication to reporting entities.

94. Pursuant to part 1 of Arts. 9-1 of RB Law No. 165-Z of June 30, 2014, persons conducting financial transactions are obliged without delay, which occurs within 24 hours identify and freeze the assets of the newly designated persons.

95. **Criterion 6.5**

- (a) Persons conducting financial transactions may, without prior notice to the owner of the funds, freeze the assets of the designated persons and entities (Arts. 9-1 of RB Law No. 165-Z of June 30, 2014, paragraphs 4, 5, 8 and 11 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 9, 2016).

The obligation to freeze assets extends to persons (Regulation approved by Resolution of the Council of Ministers of the Republic of Belarus No. 735 of 16.09.2016) engaged in financial transactions. As well as individuals and other legal entities.

- (b) The terms "funds", "freezing funds", "financial transaction" and "blocking a financial transaction" (Arts. 9-1 of RB Law No. 165-Z of June 30, 2014) cover the measures provided for by the requirements of this sub-criteria.
- (c) Belarus implements measures to prohibit its citizens or any persons to provide any funds or other assets to designated persons and organizations on the basis of preventive measures listed in the norms corresponding to the regulations of the Republic of Belarus (Art. 290-1 of the Criminal Code of the Republic of Belarus № 275-3 of 09.07.1999, Art. 11.80 of the Code of Administrative Offences № 194-3 of 21.04.2003).
- (d) Belarus has established mechanisms for communicating designations to the financial sector and DNFBPs immediately upon taking such action (pars. 4 and 10 of the Regulations adopted by RB Council of Ministers Resolution No. 1256 dated December 30, 2014). It has also adopted the following guidance papers: Guidance on the Freezing of Funds and Blocking of Financial Transactions, adopted by RB Council of Ministers Resolution No. 735 dated September 16, 2016; Guidance on Internal Controls of Banks, Non-bank Credit and Financial Institutions and the Development Bank of the Republic of Belarus JSC to Combat Money Laundering and Financing of Terrorism and Proliferation, adopted by RB National Bank Board Resolution No. 818 dated December 24, 2014, etc.).
- (e) Belarus has adopted regulations that require persons conducting financial transactions to report to competent authorities any assets frozen (Arts. 9-1 of RB Law No. 165-Z of June 30, 2014 and paragraph 10 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 16, 2016), including attempted transactions (Art. 7 of RB Law No. 165-Z dated June 30, 2014).
- (f) The following regulations in place in Belarus protect the rights of *bona fide* third parties: Art. 9-1 of RB Law No. 165-Z of June 30, 2014, Regulations adopted by RB Council of Ministers Resolution No. 1256 dated December 30, 2014, Art. 290-1 (290-2) of the Criminal Code and RB Law No. 275-Z of July 9, 1999). Further – par. 4 of Art. 132 of the Code of Criminal Procedure.

96. **Criterion 6.6**

- (a) Resolution 393 establishes the procedure for cooperating with the UN on listings and de-listings made pursuant to UNSCR 1267, 1989, 2253 and 1988.
- (b) The Regulations adopted by RB Council of Ministers Resolution No. 1256 dated December 30, 2014 establish the de-listing criteria, which, in turn, pursuant to Art. 9-1 of RB Law No. 165-Z of June 30, 2014, can be used for unfreezing.

There are a number of criteria for de-listing an organization, a natural person or an individual entrepreneur from the list such as:

- i. revocation of the decision of the Supreme Court that recognized an organization as terrorist (extremist);
 - ii. termination of the criminal prosecution of a natural person accused of committing crimes provided for in a corresponding articles of the CC of the Republic of Belarus;
 - iii. exclusion of an organization, a natural person or an individual entrepreneur from the lists of persons participating in terrorist activities, involved in the proliferation of weapons of mass destruction or under the control of such persons drawn up by international organizations or their authorized bodies, among others.
- (c) The country's legal framework allows designated persons to appeal the designation decision (par. 11 of the Regulations adopted by RB Council of Ministers Resolution No.

1256 dated December 30, 2014).

- (d) Although Resolution 393 sets out the procedure for cooperating with the UN on listings and de-listings made pursuant to UNSCR 1988, it establishes no procedure to facilitate review by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 Committee, including those of the Focal Point mechanism established under UNSCR 1730.
- (e) Belarus lacks procedures for informing persons and entities of the availability of the United Nations Office of the Ombudsperson, pursuant to UNSCRs 1904 (2009), 1989 (2011), and 2083 (2012). However, paragraph 12 of Regulation 1256 provides for a link to the relevant sections of the UN website containing information on the de-listing procedure.
- (f) Where the financial intelligence unit, or other competent authority with input from the financial intelligence unit, determines that a person is not involved in terrorist activities, persons conducting financial transactions are required to promptly unfreeze the assets of such persons (par 13 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 9, 2016).

In the case of an erroneous freezing, the unfreezing of assets is subject to notification by the financial intelligence unit (part 8 of Art. 9¹ RB Law No. 165-Z of June 30, 2014).

- (g) There are mechanisms for communicating de-listings and unfreezings to persons conducting financial transactions (part 14 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 16, 2016, par.10 of the Regulations on List (1256).

It is also possible to provide AML/CFT/PF guidance to persons conducting financial transactions (Art. 16 of RB Law No. 165-Z of June 30, 2014).

97. **Criterion 6.7** There are procedures in place in Belarus that allow access to the assets of persons designated pursuant to UNSCR 1267, 1373 and 1988 (Art. 9-1 of RB Law No. 165-Z of June 30, 2014, paragraph 15 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 9, 2016). DFM will issue an authorization to conduct certain financial transactions after receiving an opinion of the UN Committee 1267. Where a designation is made for other reasons (other UNSCRs, spontaneously or at the request of a third country), DFM may, at its own discretion, authorize or refuse certain financial transactions.

98. Pursuant to paragraph 18 of Art. 9-1 of RB Law No. 165-Z of June 30, 2014, issues related to the freezing and/or blocking of transactions and allocation of funds for individuals' basic expenses as part of criminal proceedings, are addressed in accordance with the requirements of the criminal and criminal procedure law (par. 17 of Art. 132 of the Code of Criminal Procedure).

Weighting and Conclusion

99. The Republic of Belarus has taken significant steps to establish procedures for applying targeted financial sanctions for participation in financing of the terrorism. **Recommendation 6 is rated LC.**

Recommendation 7 – Targeted financial sanctions related to proliferation

100. Given that the requirements for the implementation of targeted financial sanctions related to proliferation were added to the FATF Recommendations in 2012, their implementation was not evaluated in the previous round of mutual evaluations of Belarus.

101. **Criterion 7.1** The country's legal framework allows the use of targeted financial sanctions for proliferation financing. (par. 2 of Art. 9-1 of RB Law No. 165-Z of June 30, 2014). In order to

implement the requirements with regard to freezing "without delay", the persons carrying out financial operations shall take the following measures: "immediately, but not later than one business day from the date of bringing the list to the attention of persons conducting financial transactions, to identify funds belonging to organizations, natural persons, including individual entrepreneurs included in the list, organizations beneficial owners of which are natural persons included in the list, and freeze these funds."

102. **Criterion 7.2**

- (a) Persons conducting financial transactions may, without prior notice to the owner of the funds, freeze the assets of designated persons and entities (Arts. 9-1 of RB Law No. 165-Z of June 30, 2014, paragraphs 4, 5, 8 and 11 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 9, 2016).

The obligation to freeze assets extends to persons (Regulation approved by Resolution of the Council of Ministers of the Republic of Belarus No. 735 of 16.09.2016) engaged in financial transactions. As well as individuals and other legal entities.

- (b) The terms "funds", "freezing funds", "financial transaction" and "blocking a financial transaction" (Art. 9-1 of RB Law No. 165-Z of June 30, 2014) cover the measures provided for by the requirements of this sub-criteria.
- (c) Belarus takes preventive measures provided for in the relevant regulations (Art. 290-1 of the Criminal Code No. 275-3 of July 9, 1999 and Art. 11.80 of the Code of Administrative Offences No. 194-Z of April 21, 2003) to prohibit its nationals or any persons from making any funds or other assets available for the benefit of designated persons.
- (d) Belarus has established mechanisms for communicating designations to the financial sector and DNFBPs immediately upon taking such action (pars. 4 and 10 of the Regulations adopted by RB Council of Ministers Resolution No. 1256 dated December 30, 2014). It has also adopted the following guidance papers: Guidance on the Freezing of Funds and Blocking of Financial Transactions, adopted by RB Council of Ministers Resolution No. 735 dated September 16, 2016; Guidance on Internal Controls of Banks, Non-bank Credit and Financial Institutions and the Development Bank of the Republic of Belarus JSC to Combat Money Laundering and Financing of Terrorism and Proliferation, adopted by RB National Bank Board Resolution No. 818 dated December 24, 2014, etc.).
- (e) Belarus has adopted regulations that require entities conducting financial transactions to report to competent authorities any assets frozen (Arts. 9-1 of RB Law No. 165-Z of June 30, 2014 and paragraph 10 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 16, 2016), including attempted transactions (Art. 7 of RB Law No. 165-Z dated June 30, 2014).
- (f) The country's legal framework provides for the protection of the rights of *bona fide* third parties (Art. 9-1 of RB Law No. 165-Z of June 30, 2014, Regulations adopted by RB Council of Ministers Resolution No. 1256 dated December 30, 2014, Art. 290-1 (290-2) of the Criminal Code and RB Law No. 275-Z of July 9, 1999). Further – par. 4 of Art. 132 of the Code of Criminal Procedure.

103. **Criterion 7.3** The legal framework in place in Belarus allows the adoption of measures to monitor and ensure compliance of persons conducting financial transactions with the AML/CFT/CPF requirements (Art. 16 of RB Law No. 165-Z of June 30, 2014) in the form of fines and prescriptions. There are appropriate sanctions for violation of these measures (see R. 35).

104. **Criterion 7.4**

- (a) Persons and entities designated pursuant to the relevant UNSCRs related to PF are not

allowed to petition a request for de-listing at the Focal Point. Furthermore, there is no legal procedure in place in Belarus to inform designated persons or entities to petition the Focal Point directly. However, paragraph 12 of Regulation 1256 provides for a link to the relevant sections of the UN website containing information on the de-listing procedure.

- (b) Where the financial intelligence unit, or other competent authority with input from the financial intelligence unit, determines that a person is not involved in terrorist activities, persons conducting financial transactions are required to promptly unfreeze the assets of such persons (par. 13 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 9, 2016).

In the case of an erroneous freezing, the unfreezing of assets is subject to the notification by the financial intelligence unit (part 8 of Art. 9¹ of RB Law No. 165-Z of June 30, 2014).

- (c) There are no procedures in place in Belarus to allow access to funds or other assets pursuant to UNSCRs 1718 and 1737.
- (d) There are mechanisms for communicating de-listings and unfreezings to persons conducting financial transactions (part 14 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 16, 2016, par.10 of the Regulations on List (1256).

It is also possible to provide AML/CFT/CPF guidance to persons conducting financial transactions (Art. 16 of RB Law No. 165-Z of June 30, 2014).

105. **Criterion 7.5**

- (a) In accordance with the AML/CFT Law, "blocking a financial transaction" means a prohibition to conduct the financial transaction (except for incoming wire transfers/postal orders and transfers of securities to custodial accounts whose participant or beneficiary is a designated person, entity or individual entrepreneur. Therefore, the funds will reach the person conducting the financial transaction and, pursuant to Article 9-1 of the AML/CFT Law, will be frozen.
- (b) Although Regulations 393 establish the procedure for cooperation between Belarus and the relevant UNSC committees, it does not extend to cooperation with Committee 2231, which has the authority to permit certain incoming and outgoing transactions.

Weighting and Conclusion

106. The Republic of Belarus has taken significant steps to establish procedures for applying targeted financial sanctions for participation in financing the proliferation of weapons of mass destruction. **Recommendation 7 is rated LC.**

Recommendation 8 - Non-profit organizations

107. In its MER of 2008, Belarus was rated partially compliant with Special Recommendation VIII. Among the shortcomings affecting the rating for this recommendation were: failure to conduct reviews of regulations related to the NPO sector; failure to regularly assess the NPO for TF risks; lack of NPO-centric outreach programmes to prevent TF; non-provision of general information on supervision, monitoring and sanctions applied in the NPO sector, or a significant part thereof; lack of special mechanisms for sharing information at the national and international level on NPOs suspected of TF.

108. Pursuant to Art. 46 of the RB Civil Code, all NPOs in Belarus are subject to mandatory registration (see R.24 for more detail on registration requirements).

109. **Criterion 8.1**

- (a) Republic of Belarus has identified which subset of organisations fall within the FATF definition of NPO, which included international and national public associations/unions, national and international foundations, and religious organizations. NRA 2018 contains some analysis of potential risks faced by NPOs, however there is no comprehensive analysis of risks faced by each type of NPO, nor are NPOs categorized by their risk profile. At the same time, no incidences of NPO abuse for TF purposes occurred.
- (b) Belarus has identified the nature of threats posed by terrorist entities to NPOs based on international trends (accumulation and (or) allocation of cash). The risk of NPO abuse is rated as low in Belarus, given the low TF risk in the country as a whole.
- (c) Belarus has conducted a review of the adequacy of adopted measures to mitigate and eliminate the risk of NPO abuse. NRA 2018 concludes that Belarus lacks a clear policy to ensure accountability of the NPO sector for CFT purposes.
- (d) The NRA 2018 provides for periodic updates of identified risk. However, in the latest NRA in 2018, Republic of Belarus assessed TF risks in the NPO sector to a certain extent. This raises questions whether used methodology would ensure effective implementation of measures in the NPO sector.

110. **Criterion 8.2**

- (a) Belarus has appropriate procedures in place to monitor overall compliance with the AML/CFT/CPF requirements. It has also drafted and adopted a number of laws and regulations designed to improve the financial literacy of the public, including the requirement for foundations and public associations to report on the property managed by them. However, measures to promote transparency of NPOs, as well as policies to improve the public's awareness of, specifically, NPOs' activities, are absent.
- (b) Supervisors have not drafted regulations for the NPO sector to prevent their abuse for terrorist financing. No dedicated outreach programmes have been developed to raise the awareness among NPOs about their vulnerabilities to terrorist financing abuse and ways to mitigate them; nor does the country undertake systemic preventive efforts. Mechanisms to facilitate coordination and interaction between different agencies exercising oversight over the NPO sector are also absent. In addition, the ML/TF Risk Mitigation Action Plan 2018-2020 contains no measures targeting NPOs.
- (c) Belarus did not work with NPOs to develop and refine measures to identify and mitigate the TF risk and related vulnerabilities.
- (d) Belarus has not implemented any programmes designed to encourage NPOs to conduct transactions via regulated financial channels. However, this work is carried out in the framework of the programmes designed to promote non-cash payments. In addition, the country boasts considerable capacity for monitoring NPOs' charitable and humanitarian programmes. Pursuant to par. 4 of the Regulations on the Allocation, Accounting, Registration and Use of Foreign Grant Aid, Control over Its Allocation and Proper Use, and Registration of Humanitarian Programmes, adopted by Presidential Decree No. 5 dated August 31, 2015 "On Foreign Grant Aid", and par. 4 of Presidential Decree No. 300 dated July 1, 2005 "On the Provision and Use of Grant Aid (Sponsor Support)", aid and property paid for using donated funds, as well as other funds generated from the use of aid, may not be used to support extremist activities or other activities prohibited by law.

111. **Criterion 8.3** The country's law provides for the use of risk-based supervision. (par. 9 of Presidential Decree No. 510, the so-called ad-hoc inspections). Belarus has identified the types of NPOs that are potentially at risk of TF abuse (see 8.1). Overall, however, control over NPOs is exercised in terms of their compliance with the Constitution of the Republic of Belarus, without the application of a

risk-based approach to particular types of NPOs. At the same time, the SSC regularly monitors NPOs for potential use for TF purposes.

112. **Criterion 8.4**

- (a) see Criterion 8.3.
- (b) There are universal rules, including criminal liability for terrorist financing (see R.5). In addition, microfinance non-profit organizations are subject to administrative liability pursuant to Arts. 23.20 and 11.72 of the CAO RB.

For example, a repeat (two or more) violation of the established procedure for registering financial transactions subject to special control is punishable by a warning or a fine of up to 50 base values. Meanwhile, failure to comply with general AML/CFT/CPF requirements is punishable by a fine of 20 to 100 base values for individuals; 50 to 500 for individual entrepreneurs; and 50 to 5000 for entities.

Officials of the Justice Ministry, its regional offices and the Minsk city office may, within their competence, participate in activities organized by foundations for statutory purposes, request and obtain information on their statutory activities, and familiarize themselves with their documents and resolutions.

The Justice Ministry may give a written warning, specifying the reasons therefor, to public associations and foundations for failure to comply with applicable requirements, engaging in activities that run contrary to their charter, or reducing the value of the foundation's assets below the minimum threshold permitted by law.

Pursuant to the Regulations on the Allocation, Accounting, Registration and Use of Foreign Grant Aid, Control over Its Allocation and Proper Use, and Registration of Humanitarian Programmes, adopted by Presidential Decree No. 5 dated August 31, 2015 "Foreign Grant Aid", the use by trade unions and other professional associations, foundations and other non-profit organizations, of aid or property paid for using donated funds, or other funds generated from the use of aid, to support extremist activities or other activities prohibited by law, as well as the receipt of aid by political parties or their structural units, constitutes the grounds for their liquidation (winding up), to be effected using the established procedure, including for non-recurrent violations.

At the same time, the main purpose of the above measures is to monitor overall compliance with the regulations governing the conduct of economic and business activities and general CFT requirements. No separate sanctions for NPOs for violation of CFT requirements are provided for.

113. **Criterion 8.5**

- (a) CFT cooperation, coordination and information sharing among the competent authorities and organizations is conducted on the basis of the general rules of inter-agency cooperation, including on matters of supervision.

To facilitate access to the information on registered entities, including NPOs, the MoJ maintains the following registries:

- the Unified State Register of Legal Entities and Individual Entrepreneurs, posted on a publicly accessible website.
- the State Register of Public Associations and Unions, which includes data on international and national public associations and unions.

The Ministry of Taxes maintains a state register of taxpayers accessible via its website.

- (b) Overall cooperation in the framework of law enforcement intelligence operations is conducted in Belarus in accordance with the Law "On Law Enforcement Intelligence

Operations". Art. 15 of the said law grants the competent authorities all the necessary powers and sufficient tools to perform their functions in this area.

In addition, state security agencies are required to develop and implement preventive, mode-setting, organizational and other measures to prevent, detect and suppress terrorist and other extremist activities, as well as to create, improve and maintain a departmental system for responding to acts of terrorism and other extremist actions (Art. 15 of Law of July 10, 2012 "On State Security Agencies").

- (c) See sub-criterion (a).
- (d) Belarus has put in place mechanisms to ensure, when there is a suspicion, pursuant to sub-criterion d), the prompt sharing of information with the relevant competent authorities (Arts. 6, 7, 9.1 and 12 of the AML/CFT Law and RB Council of Ministers Resolution No. 735 dated September 16, 2016).

114. **Criterion 8.6** DFM is authorized to receive and execute requests from foreign FIUs, including those related to the sharing of information on entities. Therefore, there are no obstacles to information sharing on specific NPOs.

Weighting and Conclusion

115. Belarus has put in place a system that allows it to exercise overall oversight of NPOs by monitoring the activities of reporting entities. However, there are no clear mechanisms for ensuring the accountability of the sector as a whole, including risk-based supervision; nor are there reasonable measures to identify and mitigate the risk of NPO abuse. In addition, there is no system of ongoing engagement with NPOs in improving the transparency of their activities and awareness of potential risks.

Recommendation 8 is rated PC.

Recommendation 9 – Financial institution secrecy laws

116. In its MER of 2008, Belarus was rated largely compliant with Recommendation 4. The deficiencies identified predominantly concerned regulatory gaps, the MoF and the Ministry of Communications' access to information held by reporting entities, and the lack of clear mechanisms for accessing information protection by secrecy laws during international information sharing.

117. Criterion 9.1

Access to information by competent authorities

118. The relevant secrecy laws do not inhibit the implementation of the FATF Recommendations applicable to the FIU. DFM, within its competence, may request and receive information, including constituting banking secrecy (subpars. 1 and 2 of paragraph 7 of the Regulations on the DFM of the State Control Committee, adopted by Presidential Decree No. 408 dated September 14, 2003).

119. Law enforcement agencies, including bodies of inquiry and preliminary investigation (in relation to ongoing investigative proceedings), law enforcement intelligence agencies, the RB State Control Committee (incl. DFM), tax and customs authorities, and antitrust authorities have access to information constituting trade secrets (Chapter 4, Article 11, of RB Law on Trade Secrets No. 16-Z of January 5, 2013).

120. Pursuant to Article 121 of the RB Banking Code No. 441-Z of October 25, 2000, the relevant law enforcement and supervisory authorities (including NB) and DFM have access to information constituting bank secrets of legal and natural persons and IEs.

121. DFM may obtain the necessary information (including bank secrets) from persons conducting financial transactions, natural persons and NBRB to perform its functions (Article 6, part 1 of paragraph 12, of AML/CFT Law; subpar. 1 of par. 7 of the Regulations on the DFM of the State Control Committee, adopted by Presidential Decree No. 408 dated September 14, 2003). Reporting by FIs to the FIU of

transactions subject to special control does not constitute the violation of trade, banking or any other secret protected by law (part 8 of Article 6 of AML/CFT Law).

122. The MoF, in exercising its oversight functions in the insurance sector, may request reports on insurance activities and financial and economic performance, as well as request information from other government agencies, financial institutions, entities and persons (Art. 7.17 of RB Council of Ministers Resolution No. 1585 dated October 31, 2001 "Issues Concerning the MoF of the Republic of Belarus", Art. 69.1.8 of Presidential Decree No. 530 dated August 25, 2006 "On Insurance Business"). Pursuant to Arts. 85, 87 and 94 of Presidential Decree "On Insurance Business", competent authorities may access information constituting insurance secrets.

123. With respect to professional securities market participants, the MoF may, pursuant to par. 111 of Art. 8 of RB Law No. 231-Z of January 5, 2015 "On the Securities Market" and par. 37 of the Guidance on the Requirements for the Conditions and Procedures for Engaging in Professional Activities with Securities, adopted by RB MoF Resolution No. 76 dated August 31, 2016, access information constituting a trade secret for supervisory purposes.

124. Pursuant to Arts. 1 and 13 of RB Law of December 15, 2003 "On Postal Communications", state bodies may access postal communication secrets in cases provided by law. Further, a similar access is provided to law enforcement intelligence agencies (Art. 24 of the same law).

125. Postal operators are required, upon demand, without charge and using the equipment provided by such agencies, provide authorized agencies with unrestricted, remote access to databases containing information on postal services rendered to users, as well as to assist in conducting law enforcement intelligence operations (par. 15 of Presidential Decree No. 4 dated January 5, 2015 "On approval of the Regulations on Cooperation between Postal Operators and Law Enforcement Intelligence Agencies").

Sharing of information between competent authorities both at the national and international level

126. DFM, within its competence, may request and receive information, including bank secrets (subpars. 5 and 7 of paragraph 7 of the Regulations on the DFM of the State Control Committee, adopted by Presidential Decree No. 408 dated September 14, 2003), as well as provide it to foreign competent authorities (Art. 13 of AML/CFT Law).

127. Government agencies and other organizations make information and documents available to the financial intelligence unit (except personal details), which does not constitute a violation of official, banking or other secrets protected by law (Art. 12 of AML/CFT Law). DFM enjoys similar privileges with regard to the sharing of intelligence with prosecution authorities (part 1, paragraph 7, and part 5 of Art. 11 of AML/CFT Law). In addition, DFM may access databases of government agencies and other organizations containing personal data without the written consent of the owner (subpar. 4 of par. 7 of the Regulations on the DFM of the State Control Committee, adopted by Presidential Decree No. 408 dated September 14, 2003).

Sharing of information between FIs where this is required by R.13, 16 and 17

128. There are no legal requirements prohibiting financial institutions from sharing information when they are required to do so pursuant to Recommendations 13, 16 and 17. Pursuant to Article 17 of RB Law "On Information, Informatization and Protection of Information", the information that financial institutions are required to share in accordance with Recommendation 13 does not fall into the category of restricted information and is, pursuant to Article 16 of the said law, accessible by the public. Therefore, FIs may, where necessary, share such information without any restrictions.

129. Pursuant to part 14 of Article 8 of the AML/CFT Law, persons carrying out financial transactions shall ensure the availability of the required originator and beneficiary information on wire transfers (bank, postal) throughout the payment chain (R.16). Pursuant to part 17 of the same article, persons entrusted with identification functions are required to share the full identification information with the person carrying out financial transactions that submitted the request for identification, in accordance with the procedure and within the timeframe set out in the agreement (R.17).

Weighting and Conclusion

130. **Recommendation 9 is rated C.**

Recommendation 10 – Customer due diligence

131. In its MER of 2008, Belarus was rated partially compliant with Recommendation 5. Among the main shortcomings cited by the assessors were the lack of identification requirements (except for the banking sector and securities), the lack of CDD in establishing business relations, a high threshold value, and the lack of the requirements to match the nature of the transaction with the client's risk profile, trace the source of funds and undertake enhanced CDD measures in accordance with the risk.

132. **Criterion 10.1** The country's law prohibits the opening and keeping of anonymous accounts or accounts in obviously fictitious names (part 11 of Article 6 of AML/CFT Law, Chapters 5 and 6 of the Guidance on Custody Business).

133. **Criterion 10.2** Pursuant to Article 8 of AML/CFT Law, pars.36 and 39 of the Instruction adopted by NBRB Board Resolution No. 818 dated December 24, 2014, par.13 of the Instruction adopted by NBRB Board Resolution No. 494 dated September 19, 2016, par. 10 of the RB Finance Ministry Resolution No. 96 dated November 4, 2016, part 1 of par. 5 of the Instruction adopted by Ministry of Communications and Informatization Resolution No. 1 dated January 6, 2015, and par. 87-1 of Council of Ministers Resolution No. 1111 dated September 7, 2004 "On approval of the Guidelines for the Provision of Postal Services to the Public", CDD on FI customers is conducted in the following cases:

- (a) when entering into a business relationship (concluding transaction agreements);
- (b) when executing financial transactions without entering into a contractual relationship whose amount is equal to or greater than 1000 base values; Pursuant to Article 1, paragraph 17, of AML/CFT Law, "financial transaction" means a transaction performed with funds regardless of the method or manner of its execution. The base value for 2019 is set at 25.5 Belarusian rubles (as per Council of Ministers Resolution No. 956 dated December 27, 2018), which is equivalent to EUR 10,625 at the NBRB exchange rate for April 2, 2019⁶
- (c) AML/CFT Law requires FIs and DNFBPs making money transfers (wire transfers, postal remittances) in excess of 100 base values (approx. USD 1000), to ensure, at any stage of the transaction process, the receipt, transfer and retention of the following recipient/originator identification data: individual's full name, company name, bank account/financial transaction number, ID details, tax identification number (for individual entrepreneurs and entities) and address. For transactions not exceeding 100 base values, no originator ID details are required.
- (d) when conducting transactions subject to special control. Pursuant to Articles 7 and 8 of AML/CFT Law, transactions, regardless of whether they have been carried out or not, are subject to special control where the FI suspects that the transaction is linked to the generation of criminal proceeds, their laundering or TF.
- (e) where there is a suspicion as to the reliability or accuracy of the previously obtained customer (individual, individual entrepreneur, its representative or entity) identification data (Art. 8 of AML/CFT Law).

134. Notably, pursuant to Article 8 of AML/CFT Law, CDD requirements apply to individuals, individual entrepreneurs and entities in general, including international legal entities (unincorporated entities), as pointed out in the RB Civil Code, Chapter 1, Article 1, paragraph 1.

⁶Notably, the BYN/USD and BYN/EUR exchange rate is relatively volatile; in 2018, the threshold value in euros fluctuated up and down within a 10% range.

135. When⁷ performing CDD in relation to clients who are individuals (natural person) and individual entrepreneurs, FIs other than banks, NCFIs and the Development Bank of the Republic of Belarus, are required to obtain information on the beneficiary (entity or individual, including individual entrepreneur, on whose behalf (for the benefit of whom) the financial transaction participant acts on the basis of an insurance, co-insurance or custodial agreement). In addition, when conducting CDD in relation to individuals are not required to determine the nature of the business relationship, except for paragraph (a).

136. **Criterion 10.3** Pursuant to Article 1 of AML/CFT Law, "client" means a financial transaction participant who is being served by an entity carrying out financial transactions⁸, a definition that permits a broad interpretation. Pursuant to Article 6, par. 8 of part 1, and Article 8 of AML/CFT Law, FIs identify and verify the identity of clients on the basis of identity documents (for natural persons) and constituent, registration or other documents (for individual entrepreneurs and entities). Where necessary, persons conducting financial transactions may also gather additional customer information. NBRB Board Resolutions No. 818 dated December 24, 2014 (paragraph 52) and No. 783 dated December 17, 2014 (paragraphs 26 and 27) provide additional clarifications regarding the use of information from open sources, other entities and government agencies for verification purposes.

137. **Criterion 10.4** AML/CFT Law (Art. 1, subpar. 15, Art. 8, pars. 3-6) requires persons conducting financial transactions to identify representatives of their customers from among individuals and individual entrepreneurs using information contained in their identify documents, i.e. surname name, first name, and patronymic (if any), nationality, date and place of birth, place of residence and (or) stay and ID details; and from among legal entities, using incorporation documents allowing directors or accountants to act on the entity's behalf, or other officials authorized by law or senior management to act on behalf of the entity.

138. Pursuant to part 3 of Art. 199 of the Banking Code, the powers of the current (settlement) account holders and persons authorized by them shall be verified through the submission to the bank or non-bank credit and financial institution of the documents provided by law.

139. According to the RB Civil Code, a power of attorney can be used to evidence the right of a third party to represent the interests of the principal. According to the RB Civil Code, powers of attorney can be certified notarial, by a bank or non-bank credit and financial institution maintaining the bank or deposit account, or through the issuance of a document on behalf of a legal entity signed and sealed by its director or another duly authorized person. The director of a legal entity may, within its competence, act on its behalf without a power of attorney.

140. **Criterion 10.5** The definition of "beneficial owner"⁹ given in Article 1, paragraph 1, of the AML/CFT Law is consistent with the FATF terminology. In addition, the definitions of "customer" and "transaction participant" given in the RB Civil Code (Chapter 1, Article 1, paragraph 1) also apply to international legal entities (unincorporated entities).

141. The framework AML/CFT law (Article 6, subpar. 9 of part 1) requires all persons conducting financial transactions to take reasonable and available in the given circumstances measures to identify the beneficial owners of corporate clients, such that the person conducting the financial transactions is satisfied that it knows who the beneficial owner is. If, as a result of implementation of customer identification procedures, the beneficial owner has not been reliably identified, FIs may take note of the information on the person acting as the sole executive body of the corporate customer or the head of its collegial executive body.

142. In accordance with CDD regulations (see 10.2), FIs are required to obtain information on the

⁷

⁸ All categories of FIs and DNFBPs acting in the Republic of Belarus.

⁹ "Beneficial owner" means an individual who owns the client's property, holds at least 10 percent of the equity shares of the corporate customer or, directly or indirectly (through third parties), ultimately has the right or opportunity to issue binding instructions to the client, influence its decisions or otherwise control its actions.

beneficial owners of entities, subject to the reservations set forth in above paragraph. FIs other than banks, NCFIs and the Development Bank of the Republic of Belarus are not required to identify the beneficial owners of customers of natural persons and individual entrepreneurs. In relation to individuals and individual entrepreneurs, banks/FIs are required to identify the beneficiary who, according to the framework law, is an individual or entity, including an individual entrepreneur, on whose behalf (for the benefit of whom) the financial transaction participant acts on the basis of an insurance, co-insurance or custodial agreement.

143. To ensure compliance with these requirements, banks, NCFIs and the Development Bank of the Republic of Belarus rely on the customer's risk profile (for all types of customers) and, as required by the Guidance adopted by NBRB Board Resolution No. 818 dated December 24, 2014, are required to review the following information:

- information about the persons capable of, directly and/or indirectly, shaping (influencing) the client's decisions; persons whose decisions are influenced by the client; as well as about the business reputation of such persons (for individuals and individual entrepreneurs);
- information about the founders (shareholders), beneficial owners, persons authorized to issue mandatory instructions to or otherwise influence the client's actions, as well as about their business reputation (for entities and correspondent banks);
- information about the director, chief accountant and (or) other officials duly authorized to act on behalf of the client, as well as about their business reputation (for entities and correspondent banks);
- the completeness of the identification data provided by the client, as well as its consistency with the information obtained by the bank through verification procedures;
- information about the business reputation of the client.

144. Moreover, according to Appendix 2 to NBRB Instruction 818 and Appendix 2 to NBRB Instruction 494 require entities reporting to the NBRB, in addition to the identification data on all types of customers, to collect information about the representatives or other persons capable of, directly and/or indirectly, shaping (influencing) the client's decisions.

145. Notably, FIs are required to screen their clients and their beneficial owners against the terrorist and PEP listings.

146. The NBRB has developed the ML/TF Risk Management Guidelines for its reporting entities (par. 27-1 of NBRB Board Resolution No. 783 dated December 17, 2014) that allow FI to use different approaches, depending on the type of business entity, to the identification of the beneficial owners of corporate customers.

147. **Criterion 10.6** The requirement for the customers of individual entrepreneurs and entities to determine the nature of the business relationship is set out in Article 8, subpar. 4 of part 4 and subpar. 11 of part 6, of AML/CFT Law.

148. Pursuant to par. 42 of the NBRB Instruction No. 818, the standard application form for individuals should contain information about the type of the business relationship with the bank (account type). Other types of FIs are not required to determine the nature of business relationships with natural persons.

149. **Criterion 10.7**

- (a) FIs in Belarus are required to identify the source of their customer's (including foreign public officials, officials of public international organizations, persons holding public positions, their family members and close associates) funds (Article 6, par. 19 of part 1, and Article 6, par. 17 of part 1, of AML/CFT Law).

Entities reporting to the NBRB (paragraphs 6, 14, 19, 21, 30, Chapter 5 of the Instruction adopted by NBRB Board Resolution No. 818 dated December 24, 2014; paragraphs 3, 4,

9, Chapter 6 of the Instruction adopted by NBRB Board Resolution No. 494 dated September 19, 2016) are required to monitor their clients' business activities and financial transactions to ensure they are consistent with their knowledge of such clients and their business profile. Meanwhile, FIs (paragraphs 4 and 9 of the Instruction adopted by Finance Ministry Resolution No. 96 dated November 4, 2016) such as professional securities market participants, insurance companies and insurance brokers are required to specify in their internal control regulations the frequency and procedure for monitoring the financial transactions of their clients, including their representatives and beneficial owners (if any), as well as their business activities, in order to determine their risk profile, assess the existing risks and track any changes therein, to ensure the timely response to the risks identified.

- (b) AML/CFT Law (Art. 6, paragraph 14 of part 1, and Art. 8, parts 12 and 13) establishes clear requirements for FIs to retain information and documents (their copies) obtained in the course of identification of their clients (their representatives), as well as those obtained and compiled in the course of application of enhanced internal control procedures, for at least five years after the termination of the written transaction agreement, or, in the absence of such an agreement, for at least five years from the date of the transaction; information about customer transactions, documents on the basis of which they were executed, information about other financial transaction participants, documents (their copies) obtained and compiled in the course of application of internal control procedures, and electronic copies of special forms, for at least five years from the date of the transaction. The said information and documents or their copies should be stored on paper and (or) electronic media in a format that ensures their timely retrieval and submission to authorized state bodies and the financial intelligence unit. In addition, to ensure that information collected is kept up-to-date, persons conducting financial transactions are required to update data on their clients, their representatives and beneficiaries (if any) in the manner and within the time frame specified in their internal control regulations, taking into account the customer's risk profile and the ML/TF/PF risk stemming from its transactions; and, where there is as suspicion as to the reliability and accuracy of the previously obtained data, within twenty business days of such suspicion. Information updating requirements may vary depending on the customer's risk profile and the level of risk stemming from its transactions. When updating this information, persons conducting financial transactions may require their client or its representative to provide the necessary documents and information, as well as to request and obtain such information in the prescribed manner from state bodies and other organizations. These state bodies and organizations are required, within ten business days from the date of receipt of the request and without charge, unless otherwise provided by law, to provide such information to the person conducting financial transactions.

150. **Criterion 10.8** According to AML/CFT Law (part 6 of Art. 8), when performing the identification of customers that are legal persons on the basis of incorporation, registration and other documents (their copies), persons conducting financing transactions are required to obtain and record information about the founders (shareholders) holding at least 10 percent of the company shares (in the authorized capital or equity stock) and the size of their shareholding (in the authorized capital or equity stock), management structure, types of activities.

151. The requirement to determine the nature of the business relationship of the customers of individual entrepreneurs and entities is set out in Art. 8, par. 4 of part 4 and par. 11 of part 6, of AML/CFT Law. In addition, banks and NCFIs (paragraphs 19 and 36 of the Instruction adopted by NBRB Board Resolution No. 818 dated December 24, 2014), when assessing risks using the customer risk profile, are required to analyse information about the following: the main type(s) of the customer's activity (the place of work and position held for individuals), the director, chief accountant and (or) other officials authorized in the prescribed manner to act on behalf of the client, as well as their business reputation

(for entities and correspondent banks).

152. In addition, when entering into an insurance contract, the insurer is required to request from the client all the necessary information and documents regarding the policy-holder (beneficiary, insured person) on whose property an insurance policy is taken out, as well as other risks information about which, pursuant to par. 2 of the Instruction on the Mandatory Details of the Insurance Policy (certificate), the Procedure for Its Completion and Use, and par. 4 of the Instruction on Determining the Composition of the Basic Insurance Rate by Type of Voluntary Insurance, as well as the Procedure for the Conclusion of Contracts of Insurance, Coinsurance and Reinsurance, and Application of Insurance Rates, adopted by MoF Resolution No. 37 dated June 20, 2014 "On Some Issues of Insurance Activity", should be entered into the contract.

153. In addition, the definitions of "customer" and "transaction participant" given in Article 1 of AML/CFT Law and the RB Civil Code (Chapter 1, Article 1, paragraph 1) also apply to international legal entities (unincorporated entities). Hence, it can be applied to trusts and other unincorporated entities.

154. **Criterion 10.9** When performing the identification of customers that are legal persons on the basis of incorporation, registration and other documents (their copies), persons conducting financing transactions are required to obtain and record the following information: (a) company name, its registration number, date of state registration and the name of the registering authority (if any) (Article 8, pars. 1, 2 and 3 of part 6, of AML/CFT Law; (b) surname, first name and patronymic (if any) of the director (other person authorized in accordance with the incorporation documents to act on the entity's behalf), chief accountant, and (or) other officials authorized by law or the director to act on such entity's behalf; (Article 8, pars. 1 and 6 of part 6, of AML/CFT Law); (c) address (Article 8, par. 4 of part 6, of AML/CFT Law). Similar requirements apply to legal arrangements.

155. Criterion 10.10

- (a) Pursuant to Part 1, Article 6, parts 7 and 8 of Article 8 of AML/CFT Law, persons conducting financial transactions are required to identify the beneficiary of customers that are legal persons, take reasonable measures to verify the identity of beneficial owners. Following criterion 10.5 the definition of the "beneficial owner" also includes controlling ownership interest.
- (b) The definition of beneficial owner also covers the person who ultimately controls the legal person;
- (c) Where no natural person is reliably identified as beneficial owner, the person acting as the sole executive body or the director of its board is considered as beneficial owner (Art. 8, par. 7 of part 6, of AML/CFT Law).

156. **Criterion 10.11** The framework AML/CFT law (Article 6, par. 9 of part 1) requires all persons conducting financial transactions to take reasonable and available in the given circumstances measures to identify the beneficial owners of corporate clients, such that the person conducting the financial transactions is satisfied that it knows who the beneficial owner is. In addition, the definitions of "customer" and "transaction participant" given in Article 1 of AML/CFT Law and the RB Civil Code (Chapter 1, Article 1, paragraph 1) also apply to international legal entities (unincorporated entities). Hence, it can be applied to trusts and other unincorporated entities. Pursuant to paragraph 19 of the Instruction adopted by NBRB Board Resolution No. 818 dated December 24, 2014, to ensure compliance with these requirements, banks, NCFIs and the Development Bank of the Republic of Belarus are required to review additional beneficial ownership information. However, there are no separate requirements to identify the settler, trustee(s) or beneficiary.

157. Criterion 10.12

- (a) Pursuant to Art. 8 of AML/CFT Law, "beneficiary" means an individual or entity, including an individual entrepreneur, on whose behalf (for the benefit of whom) the

financial transaction participant acts on the basis of an insurance, co-insurance or custodial agreement;

Pursuant par. 1 of Art. 819, Art. 820 and Art. 832 of RB Civil Code, life insurance falls into the category of personal insurance. A personal insurance contract shall be deemed to have been concluded in favour of the insured person, unless another person is named as the beneficiary in the contract. In the event of death of the person insured under a contract in which no other beneficiary is named, the heirs of the insured shall be named as the beneficiaries.

A personal insurance contract for the benefit of a person who is not an insured, including for the benefit of a policyholder who is not an insured person, may be concluded only with the written consent of the insured person. Based on the foregoing, it can be stated that insurers identify the beneficiary. There is a list of mandatory information to be included in any insurance policy (for all types of insurance), which includes the following:

- surname, first name and patronymic (if any), place of registration, details of the identity document (series and number, date of issue and name of the issuing authority) of the policyholder who is a natural person, including an individual entrepreneur, and tax identification number;
- insured person (beneficiary);

At the same time, property insurance contracts can be concluded without providing the beneficiary's name.

- (b) *and (c)* Given that the identification data required to be collected when identifying the beneficiary (par. 2 of the Guidance on the Mandatory Information to Be Included in the Insurance Policy (certificate), Its Completion and Use, adopted by RB MoF Resolution No. 37 dated June 20, 2014) includes its name, it is possible to accept the country's argument that the payout upon the occurrence of an insured event is only made upon presentation of the beneficiary's identity document. Banks identify the beneficiary of a policy or his representative at the time of the payout.

158. **Criterion 10.13** There are no specific requirements in place in Belarus for FIs to conduct enhanced CDD on the beneficiary of a life insurance policy deemed high risk at the time of the payout. Life insurance services in Belarus are provided by only two companies. Although in practice only natural persons can be named as beneficiaries, there is no law prohibiting legal persons from acting as beneficiaries.

159. **Criterion 10.14.** Pursuant to part 2 of Article 6, part 1 of Article 8 of AML/CFT Law, persons conducting financial transactions are required to refuse the client to establish business relationships, to carry out a financial transaction if client does not submit the information and documents necessary for his identification, including information about identity of the client and beneficial owner, pursuant Article 8 of AML/CFT Law. That is, identification is carried out before establishing a business relationship and executing the transaction.

160. At the same time, where additional information is required to complete the identification process, this information can be provided within one month and subsequently used by the FI to assess risks.

161. **Criterion 10.15** Pursuant to part 2 of Article 6 of AML/CFT Law, persons conducting financial transactions are required to refuse the client to carry out a financial transaction if he does not submit the information and documents necessary for his identification pursuant Article 8 of AML/CFT Law. That is, identification is carried out before establishing a business relationship and conducting a transaction.

162. **Criterion 10.16** Persons conducting financial transactions are required to apply CDD requirements to existing customers (renewal) including taking into account the ML/TF risks of the

customer and the risks of his operations, as well as in case of suspicion of the accuracy and reliability of the available information. (Art. 8, parts 12 and 13, of AML/CFT Law).

163. **Criterion 10.17** AML/CFT Law (part 1 of Article 5) requires persons conducting financial transactions to exercise internal control rules based on the use of a risk-based approach, which provides for the development and implementation by persons conducting financial transactions of procedures for managing (detecting, evaluating, monitoring, controlling and mitigating) the ML/TF/PF risks. A risk-based approach provides for the application of enhanced internal control rules in high ML/TF/PF risk situations, and simplified internal controls in low-risk situations, in accordance with the procedure established by the internal control rules. Customer identification is one of the internal control rules.

164. Pursuant to parts 8 and 11 of Article 8 of AML/CFT Law, persons conducting financial transactions may request and record other data necessary for the application of enhanced internal control rules to identify customers. At the same time, persons conducting financial transactions are required to undertake enhanced internal control measures to identify the financial transaction participant who is registered, residing or located in a country (territory) which is not involved in international cooperation in combating money laundering and financing of terrorism and proliferation, or does not comply with the FATF Recommendations, as well as where the financial transaction is carried out using a bank account registered in such a country (territory).

165. Pursuant to part 2 of Article 5 of AML/CFT Law, persons carrying out financial transactions shall establish internal control procedures in accordance with the requirements established by supervisors. In accordance with the Instruction adopted by NBRB Board Resolution No. 818 dated December 24, 2014; Instruction adopted by NBRB Board Resolution No. 494 dated September 19, 2016; Ministry of Finance Resolution No. 96 dated November 4, 2016; Instruction adopted by Ministry of Communications and Informatization Resolution No. 1 dated January 6, 2015; and Council of Ministers Resolution No. 1111 dated September 7, 2004 "On approval of the Guidelines for the Provision of Postal Services to the Public", as part of internal controls FIs are required to split their customers into three (sometimes two) ML/TF risk categories (large, medium or small) using a 3-vector model based on the type of transactions carried out by them, geographic location and their place of business.

166. High-risk customers are subject to enhanced CDD measures.

167. **Criterion 10.18** See analysis for 10.17. Notably, the provisions of AML/CFT Law allow the application of simplified, standard and enhanced CDD measures; however, supervisors' internal control requirements allow FIs to apply only standard or enhanced CDD. In practice, internal controls of FIs permit the application of only standard and enhanced CDD measures.

168. **Criterion 10.19**

- (a) Pursuant to part 2 of Article 6 of AML/CFT Law, persons conducting financial transactions are required to refuse the client to carry out a financial transaction if he does not submit the information and documents necessary for his identification. Pursuant to Article 1 of the same law, "financial transaction" means a transaction performed with funds regardless of the method or manner of its execution. With respect to banking transactions, "financial transaction" means the opening of an account, a one-time payment, transfer, receipt, issuance, exchange and depositing of funds. With respect to depository transactions, "financial transaction" means the opening of deposit accounts and depository transfer of securities.

Banks and NFIs are also required to refuse to enter with a client into a transaction agreement in writing if the person opening the account fails to provide documents necessary for his identification. They are also prohibited from opening and maintaining such accounts for persons who use fictitious names (pseudonyms), or opening bank accounts for natural persons without the personal attendance of the person opening the account or his representatives, unless the identification of the customer, his representative or beneficiary is entrusted to another person conducting financial transactions or another

entity. Postal operators are required to establish a procedure for suspending and (or) refusing to execute the transaction, to comply with the originator's order or to enter into a transaction agreement in writing, in cases and in the manner prescribed by law.

Upon detection of a financial transaction that meets the criteria of a suspicious financial transaction, banks and NFIs may suspend and (or) refuse to carry out such transaction (except for credit transactions), refuse to provide access to online banking services or block access thereto.

For professional securities market participants, the requirements are limited only by the appointment of an official authorized to refuse a request to carry out the financial transaction (perform the contract). However, there is no requirement not to open the account or commence business relations, or to terminate business relations when CDD measures are not possible.

- (b) The law allows persons conducting financial transactions to file an STR where CDD measures are not possible.

169. **Criterion 10.20** The law requires FIs to file an STRs in line with the procedure and criteria established by Art. 7 of AML/CFT Law. There is no requirement to file an STR instead of pursuing the CDD process where FI believes that performing the CDD process will tip-off the customer.

Weighting and Conclusion

170. Besides some shortcomings, The Republic of Belarus's legal framework is largely consistent with the requirements of Recommendation 10. FIs other than banks, NCFIs and the Development Bank of the Republic of Belarus are not required to identify the beneficial owners of customers of natural persons and individual entrepreneurs. At the same time, FIs, when making the insurance payout, are not required to perform enhanced CDD on the insurance payout recipient rated as high risk. In addition, the law does not specify the circumstances where persons conducting financial transactions should consider filing an STR instead of pursuing the CDD. Not all types of FIs are also required to terminate the relationship in the absence of CDD **Recommendation 10 is rated LC.**

Recommendation 11 – Record keeping

171. The record-keeping requirements in place in Belarus were rated PC with FATF Recommendation 10 in the 1st round of ME of Belarus. The retention period for transaction data used by Belarus at the time did not meet the FATF requirements. There were no requirements as to the type of records to be kept to permit reconstruction of individual transactions. The requirement for FIs to store documents in a format that enables the competent authorities to gain timely access thereto was absent from the country's AML/CFT Law.

172. **Criterion 11.1** Pursuant to Art. 6, paragraph 14 of part 1, of the AML/CFT Law, persons conducting financial transactions, including FIs, are required to maintain information on financial transactions and documents (their copies) obtained during the identification of customers or their representatives, as well as those obtained and compiled in the course of application of enhanced internal control measures (rules). The retention period (at least 5 years following the completion of the transaction), as well as the types of records to be stored, specified in Art. 6 of the AML/CFT Law meets the requirements of Criterion 11.1. Pursuant to Article 1 of the AML/CFT Law, the term “financial transaction” means both domestic and international transactions.

173. Article 4 of RB Law No. 323-Z of November 25, 2011 "On Archival Affairs and Office Work in the Republic of Belarus" and Chapter 20-1 of the National Archive's List of Model Documents Created by State Bodies and Other Organizations and IEs, adopted by MoJ Resolution No. 140 dated May 24, 2012, requires non-profit organizations and individual entrepreneurs to keep an exhaustive list of documents and transactions data for at least 5 years.

174. In addition, pursuant to par. 99 of RB Council of Ministers Resolution No. 367, FIs are required to keep copies of all STRs filed with the DFM, regardless of whether they have been accepted for processing or not. Pursuant to Art. 5, paragraph 10 of part 3, of the AML/CFT Law, FIs are required to include in their internal control regulations the procedure for maintaining records and ensuring their confidentiality, a requirement that was later made part of the guidance on internal controls of persons conducting financial transactions.

175. **Criterion 11.2** Pursuant to Article 6, paragraph 14 of part 1, of the AML/CFT Law, persons conducting financial transactions shall retain information and documents (copies thereof) obtained in the course of the identification of customers and their representatives; transaction data and documents and information on transaction participants obtained and drawn up in the course of application of enhanced internal control measures; documents (copies thereof) obtained and drawn up in the course of implementation of internal controls; and copies of special forms. The list of information required for customer identification is set out in Art. 8 of the AML/CFT Law. However, the list does not contain a direct requirement for the retention of business correspondence and account files.

176. In addition, pursuant to par. 99 of RB Council of Ministers Resolution No. 367, persons conducting financial transactions are required to retain copies of all special forms filed with the DFM, regardless of whether they have been accepted for processing or not.

177. **Criterion 11.3** Transaction records and information on their participants required to be retained by persons conducting financial transactions pursuant to Arts. 6 and 8 of the AML/CFT Law and internal control requirements, should be sufficient to permit reconstruction of individual transactions. Article 6, par. 14 of part 1, of the AML/CFT Law requires persons conducting financial transactions to keep the necessary information and documents in a format that ensures their timely retrieval and submission to authorized state bodies and the financial intelligence unit.

178. Article 6, paragraph 14 of part 1, of the AML/CFT Law requires persons conducting financial transactions to keep the necessary information and documents in a format that ensures their timely retrieval and submission to authorized state bodies and the financial intelligence unit.

179. **Criterion 11.4** Pursuant to Art. 6 of the AML/CFT Law, persons conducting financial transactions are required to keep transaction records, information on their participants and related documents (their copies) as specified in Criterion 11.1, on paper and (or) electronic media in a format that ensures their timely retrieval and submission to authorized state bodies and the financial intelligence unit.

Weighting and Conclusion

180. The country's legal framework is large consistent with the requirements of this recommendation, except for minor shortcomings related to the retention of business correspondence and account files. **Recommendation 11 is rated LC.**

Recommendation 12 - Politically exposed persons

181. Belarus was rated partially compliant with Recommendation 6 in the 1st round MER. The requirement to apply additional CDD measures to PEPs could only be found in banking regulations. There was no requirement to identify the sources of the PEP's funds or obtain senior management approval before establishing business relationships. Also absent were the specific procedures for monitoring their transactions.

182. **Criterion 12.1** Following the RB Council of Ministers Resolution No. 379 dated May 7, 2015 the list of national and international PEPs is adopted by the State Control Committee and is publicly available on the Internet (http://www.kgk.gov.by/ru/spisok_pdl/).

- (a) When exercising internal controls, persons conducting financial transactions in Belarus are required to identify, among customers and their beneficial owners, foreign PEPs, as well as entities beneficially owned by them (Art. 6, paragraph 16 of part 1, of the

AML/CFT Law). Internal controls are exercised using a risk-based approach. A risk-based approach provides for the application of enhanced internal controls in high ML/TF risk situations. Therefore, customers or their beneficial owners who have been identified as foreign PEPs are assigned to the high ML/TF risk category and are subject to enhanced CDD measures.

- (b) FIs may enter into transaction agreements with foreign PEPs, entities beneficially owned by them, only after obtaining senior management (authorized senior official) approval. If the client becomes a foreign PEP after establishing a business relationship with a FI and (or) becoming the beneficial owner of an entity (after entering into the contract), FIs are in this case required to obtain a written senior manager (authorized senior official) approval to continue the performance of (renew) the contract (par. 18 of Art. 6 of the AML/CFT Law).
- (c) Pursuant to part 1 of Art. 6 of the AML/CFT Law, FIs are required to take reasonable and available in the given circumstances measures to identify the source of their customer's funds/wealth (including foreign public officials).
- (d) The obligation of FIs to monitor transactions of foreign PEPs, as well as entities beneficially owned by them, in accordance with the procedure set out in internal control regulations, is established by Art. 6, paragraph 17, of the AML/CFT Law.

183. **Criterion 12.2**

- (a) Persons conducting financial transactions, in accordance with the requirements set out in Art. 6, paragraph 16 of part 1, of the AML/CFT Law, are required to identify domestic PEPs among customers and (or) their beneficial owners, by referencing the country's list of public positions (RB Council of Ministers Resolution No. 379 dated May 7, 2015)¹⁰. To identify PEPs, banks, NCFIs are required to conduct a comprehensive review of their customer and beneficial ownership data¹¹. A list of domestic PEPs does not contain President, and heads of political parties in the Republic of Belarus.
- (b) Measures specified in Criterion 12.1 (b)-(d) are applied by FIs regardless of the risk profile of the business relationship, since, pursuant to pars. 17-19 of Art. 6 of the AML/CFT Law, such measures must be applied on an ongoing basis and are the same for all categories of PEPs designated by the FATF.

184. **Criterion 12.3** The requirements of Criteria 12.1 and 12.2 are applied by FIs to foreign and national PEPs' family members and close associates.

185. **Criterion 12.4** The requirements set out in Criterion 12.1 are applied by the country's insurance sector, including because these are the general requirements for identifying, among customers and their beneficial owners, domestic and foreign PEPs. Still, there are no special requirements for insurance companies and brokers to identify PEPs among beneficiaries and/or beneficial owners of the beneficiary of an insurance policy. In addition, there are no special requirements for insurers to inform senior management before the payout of the policy proceeds, to conduct enhanced scrutiny on the whole business relationship with the policyholder, and to consider making a suspicious transaction report.

Weighting and Conclusion

186. Belarus has compiled a list of positions held by domestic and foreign PEPs, and established the requirement for all FIs to identify such persons among their clients and beneficial owners. The country's regulatory framework lacks special provisions requiring FIs to make sure that the beneficiary of a life insurance policy is not a PEP. Taking into account significant limitation of the services provided by the

¹⁰On the procedure for compiling a list of designated foreign public officials, officials of public international organizations and persons holding positions designated as public by the President of the Republic of Belarus"

¹¹ par. 45 of RBNB Resolution No. 818 dated December 24, 2014

insurance market. **Recommendation 12 is rated LC.**

Recommendation 13 – Correspondent banking

187. In its MER of 2008, Belarus was rated partially compliant with Recommendation 7. Among the main shortcomings were the lack of the requirement to obtain senior management approval before establishing new correspondent relationships; evaluate the information about the quality of supervision in the correspondent bank's country of residence; and examine and evaluate the information received from correspondent banks on AML/CFT measures applied by them; and the limited information on the nature of the correspondent bank's activities.

188. **Criterion 13.1** Pursuant to paragraph 41 of NBRB Instruction 818, banks are required to design customer questionnaires for each group of clients (persons, individual entrepreneurs, entities and correspondent banks). Article 1 of the AML/CFT Law defines client as a participant in a financial transaction serviced by a person conducting financial transactions, including on the basis of a transaction agreement concluded in writing; and transaction participant as a person or entity, including an individual entrepreneur, who is connected to the financial transaction, as well as their representatives. In accordance with the definitions provided, the law makes no distinction between respondent and correspondent banks.

- (a) When identifying non-resident banks, the bank may use data contained in the questionnaire filled out by the non-resident bank using the form designed by the Wolfsberg Group. Correspondent banks are required fill out extended questionnaire forms, which contain the following details (pars. 36, 38, 42 and 44, par. 4 of Annex 2 to the Guidance adopted by NBRB Board Resolution No. 818):
- form of business ownership;
 - bank and state identification codes (similar unique identifier);
 - number and issue date of a special permit (license) to carry out banking activities, and the name of the issuing authority;
 - contact phone and fax numbers, e-mail address;
 - website address (if any);
 - information on whether the bank has, in the last 3 years, been the subject of sanctions for violation of the law on combating money laundering and financing of terrorism and proliferation (types of violations);
 - name and address of the supervisory authority of the country where the correspondent bank is based, frequency of the conducted by it inspections;
 - history, business reputation, information on transactions the bank specializes in, the rating assigned to the bank by international rating agencies, the size of the market share held by it and competition, restructuring and changes in the type of the bank's business activities;
 - information on whether the bank founders or the beneficial owners are the founders (shareholders) of other banks (organizations) (information about these banks (organizations));
 - information on the existence and the number of separate divisions;
 - information on its subsidiaries;
 - name of the audit firm (individual auditor) responsible for auditing the bank's accounting records, including details of the last audit, as well as information on the possibility of providing the audit report.

- (b) Non-resident banks use questionnaires to gather and provide information on organizational measures being taken by the correspondent bank to combat money laundering and the financing of terrorism and proliferation (par. 4 of Annex 2 and par. 28 of the Guidance adopted by NBRB Board Resolution No. 818).
- (c) The conclusion of an agreement for a correspondent account is subject to the written consent of the bank management, or the head or deputy head of the non-bank credit and financial institution (Article 209 of the Banking Code)
- (d) Pursuant to part 3 of Article 9 of the AML/CFT Law, originating banks are required to report transactions conducted in Belarus to the financial intelligence unit. Other responsibilities is not clearly defined.

189. **Criterion 13.2** Pursuant to Article 209 of the RB Banking Code, the use of "payable-through accounts" is not allowed in Belarus.

190. **Criterion 13.3** Pursuant to Art. 6, paragraph 15 of part 1, of AML/CFT Law, entities conducting transactions are required to refrain from entering into relationships with non-resident banks which accounts are used by other banks (shell banks) that have no permanent management bodies in jurisdictions where they are registered, and which are not part of a banking group (bank holding company). Also, persons conducting financial transactions are prohibited from entering into, or continuing, relationships, with non-resident banks (shell banks) that have no permanent management bodies in jurisdictions where they are registered, and which are not members of a bank group (bank holding company).

Weighting and Conclusion

191. In general, the legal framework is consistent with the requirements of Recommendation 13, except for minor shortcomings related to the delimitation of AML/CFT powers. **Recommendation 13 is rated LC.**

Recommendation 14 - Money or value transfer services

192. In its MER of 2008, Belarus was rated largely compliant with Special Recommendation VI. Official money transfers can only be sent through banks and Belpochta. Among the main shortcomings were gaps in banking regulations.

193. **Criterion 14.1** Money or value transfer services (MVTs according to FATF definition) Under Belarusian Law, are provided only by:

- banks that make bank transfers and offer, while acting as agents (subagents) of international payment systems (such as Western Union, MoneyGram, etc.), money transfer services;
- postal operators conducting remittance business.

194. Banks and postal operators in Belarus are licensed by the NBRB and the Ministry of Communications and Informatization, respectively (Presidential Decree No. 450 dated September 1, 2010 "On Licensing of Certain Types of Activities" and Art. 15, subpar. 7.2.1 of par. 7, of the Regulations on Licensing of Certain Types of Activities).

195. **Criterion 14.2** The provision of money transfer services without a license falls under the category of illegal business activities (Chapter 1 of par. 3 of the Regulations on Licensing of Certain Types of Activities), punishable under criminal (Art. 233 of RB CC RB) and administrative (Art. 4.8 General Terms of Liability of Individual Entrepreneurs and Entities and Art. 12.7 of the CAO RB) law.

196. **Criterion 14.3** Pursuant to Article 1 of the AML/CFT Law, banks and postal operators are listed among persons conducting financial transactions, and as such are fully covered by AML/CFT requirements.

197. **Criterion 14.4** Under Belarusian law, MVTs providers from among banks and postal operators are

not allowed to use agents.

198. **Criterion 14.5** Under Belarusian law, MVTS providers from among banks and postal operators are not allowed to use agents.

Weighting and Conclusion

199. **Recommendation 14 is rated C.**

Recommendation 15 - New technologies

200. In its MER of 2008, Belarus was rated partially compliant with Recommendation 8. Among the main shortcomings were the lack of legislative requirements applicable to non-bank financial institutions for managing the ML/TF risks when using new technologies and undertaking non face-to-face transactions, as well as the possibility of maintaining unverified electronic accounts.

201. **Criterion 15.1** Pursuant to Art. 6, paragraph 4 of part 1, of AML/CFT Law, persons conducting financial transactions are required to identify and assess the ML/TF/PF risks in implementing and using modern technologies to conduct financial transactions.

202. While the law requires persons conducting financial transactions to assess the risks in implementing and using modern technologies, the criterion calls for the identification and assessment of the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

203. **Criterion 15.2**

- (a) Structural units of banks and NCFIs responsible for AML/CFT are involved in the launch of new banking products. According to the NBRB guidelines, the assessment of the risk presented by a banking service (product) can be carried as follows (Article 6, par. 4 of part 1, of AML/CFT Law; subpar. 7 of par. 8 of the Instruction adopted by NBRB Board Resolution No. 818 dated December 24, 2014; par. 14 of the Guidelines adopted by NBRB Board Resolution No. 783 dated December 17, 2014):
 - in relation to pre-existing services (products) – within the deadlines set in the bank's internal controls to combat money laundering and financing of terrorism and proliferation, following the enactment thereof.
 - in relation to new services (products) – upon approval of the main terms and conditions, including the terms of reference, for providing the service (product) in the manner prescribed by the bank. It is recommended that the assessment of the risk presented by a banking service (product) should be completed before the service (product) testing and/or its provision to customers.
- (b) According to AML/CFT Law (Art. 6, par. 5 of part 1) persons conducting financial transactions are required to take steps to combat money laundering and financing of terrorism and proliferation based on the risks identified.

Weighting and Conclusion

204. Persons conducting financial transactions are required by law to identify and assess the ML/TF/PF risks associated with the introduction and use of new information technologies to conduct transactions.

205. However, the requirement is limited to the conduct of a risk assessment at the time of introduction and use of new information technologies, while the criterion requires FIs to identify and assess the money laundering or terrorist financing risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. At the same time, the adoption of

appropriate measures to manage and mitigate the risks is regulated within the framework of the overall compliance procedures and outside the context of the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. **Recommendation 15 is rated PC.**

Recommendation 16. Wire transfers

206. In its MER of 2008, Belarus was rated partially compliant with SR. VII. Among the main shortcomings were the lack of the requirement to identify originators of wire transfers in Belarus below the USD 30,000 threshold; the NBRB's requirement for the accompanying information does not apply to postal institutions; the lack of the requirement for intermediary financial institutions to pass originator information along the payment chain; the lack of the procedure for managing the risks stemming from wire transfers not accompanied by originator information; the lack of the mechanisms for monitoring compliance with the relevant requirements as well as sanctions for non-compliance therewith.

207. **Criterion 16.1** The framework law (Art. 8, part 14, of AML/CFT Law; par. 87-1 of "Regulations on Public Postal Service", adopted by Council of Ministers Resolution No. 1111 dated September 7, 2004) requires persons conducting financial transactions, at all stages of transactions related to money (bank, postal) remittances initiated by the originator in the amount equal to or greater than 100 base values (approx. 1000 euros), to receive, transfer and retain the following:

- (a) originator information (for natural persons): full name; company name (for entities);
- (b) originator account number (in its absence, a transaction reference number);
- (c) place of residence and (or) place of stay or ID details (for natural persons); as well as the tax identification number (for individual entrepreneurs and entities); in its absence, other identification number and (or) address (for foreign entities).
- (d) beneficiary information (for natural persons): surname, first name and patronymic (if any); company name (for entities);
- (e) beneficiary account number (for both persons and entities); in its absence, a transaction reference number.

208. **Criterion 16.2** According to the Guidance on Bank Transfers, which establishes the procedure for making wire transfers in Belarusian rubles and foreign currency, where a payment is sent to several beneficiaries on the list, the instructions should contain complete and accurate originator information and full beneficiary information.

209. **Criterion 16.3** The framework law (Art. 8, parts 14 and 16, of AML/CFT Law) and certain wire transfer guidelines (part 2 of par. 87-1 of "Regulations on Public Postal Service", adopted by Council of Ministers Resolution No. 1111 dated September 7, 2004) require all wire transfers below any de minimis threshold to be accompanied by information set out in Criterion 16.1.

210. **Criterion 16.4** Pursuant to Article 6, part 1; Article 7, paragraph 2 of part 1; and, Article 8, parts 14 and 16, of AML/CFT Law of June 06, 2014, when conducting financial transactions, persons conducting transacts are required to collect all necessary information about the transaction participants and store it in a documentary or electronic format, to enable its swift retrieval. Thus, it can be said that the country ensures the accuracy of information accompanying the transaction, including cross-border wire transfers. These requirements apply to all threshold transactions and transactions subject to special control, which include suspected ML/TF transactions. The existing exemptions, such as the lack of the requirement to verify the originator's identify documents, fall into the category of transactions below the designated threshold initiated by originators that are natural persons.

211. **Criterion 16.5** Parts 14 and 16 of Article 8 of AML/CFT Law, require persons conducting financial transactions, at all stages of transactions related to money (bank, postal) remittances initiated by the originator in the amount equal to or greater than 100 base values (approx. 1000 euros), to receive, transfer

and retain originator and beneficiary information: At the same time, the law establishes no distinction between cross-border and domestic wire transfers. Therefore, it can be said that these requirements apply equally to domestic and cross-border wire transfers.

212. These requirements do not apply to online banking transactions made by individuals and cash-in transactions.

213. **Criterion 16.6** Pursuant to Art. 2 of SCC/NBRB Board Resolution No. 1/134 dated August 26, 2004, banks are required to make the necessary information available to DFM within two days. Belarusian law does not set any deadlines for the provision by the ordering financing institution of the wire transfer details requested by the beneficiary financial institution

214. **Criterion 16.7** Persons conducting financial transactions are required to retain information and documents (their copies) obtained in the course of the identification of customers (their representatives), as well as those obtained and compiled in the course of application of enhanced internal control procedures, for at least five years after the termination of the transaction agreement concluded in writing, or, in the absence of such an agreement, for at least five years from the date of the transaction; information about customer transactions, documents on the basis of which they were executed, information about other financial transaction participants, documents (their copies) obtained and compiled in the course of application of internal control procedures, and electronic copies of special forms, for at least five years from the date of the transaction. The said information and documents or their copies should be stored on paper and (or) electronic media in a format that ensures their timely retrieval and submission to authorized state bodies and the financial intelligence unit (Article 6, paragraph 14 of part 1, and Article 8, part 14, of AML/CFT Law).

215. **Criterion 16.8** Pursuant to part 3 of Article 6 of AML/CFT Law, persons conducting financial transactions may refuse a request to comply with the originator's order which is not accompanied by originator information, or where this information has not been made available to them by other means.

216. However, the above requirement is formulated as a right, not an obligation, which is not fully consistent with Recommendation 16.

217. **Criterion 16.9** Pursuant to Art. 8, part 14, of the AML/CFT Law, persons conducting financial transactions shall, when making money (bank, postal) remittances in the amount equal to or exceeding 100 base values (approx. USD 1000) initiated by the originator, ensure the receipt, transfer and retention of the required information throughout any stage of the payment chain, which also applies to intermediary FIs.

218. **Criterion 16.10** Given that FIs are required by law to ensure the availability of the information about the originator and beneficiary of the transaction, its amount and details throughout the payment chain, the requirement for FIs to retain information and documents (their copies) obtained in the course of the identification of customers (their representatives), as well as those obtained and compiled in the course of application of enhanced internal control procedures, for at least five years after the termination of the transaction agreement concluded in writing, or, in the absence of such an agreement, for at least five years from the date of the transaction; information about customer transactions, documents on the basis of which they were executed, information about other financial transaction participants, documents (their copies) obtained and compiled in the course of application of internal control procedures, and electronic copies of special forms, for at least five years from the date of the transaction, also applies to intermediary FIs.

219. **Criterion 16.11** Given that the requirement of Art. 8, part 14, of the AML/CFT Law applies throughout the payment chain, it can be assumed that the intermediary financial institution has the obligation to take reasonable measures to identify cross-border wire transfers that lack required originator information or required beneficiary information.

220. **Criterion 16.12** Pursuant to Article 232 of the Banking Code, banks are required to refuse a request to perform an electronic settlement transaction where the format and content of the payment instructions

do not meet the requirements set out in the regulations of the NBRB, or where the bank has a valid reason to doubt the authenticity of such payment instructions. Upon submission of payment instructions, banks verify their authenticity and completeness in accordance the requirements set out in NBRB Guidance 66 (paragraph 26), in case of violation of above-mentioned requirements such transaction is considered risky and will be rejected.

221. In addition, par. 21 of NBRB Guidance 66 requires ordering banks to refuse payment instructions that have been completed in violation of the requirements set out Annexes 2 and 3 to NBRB Guidance 66 or other regulations governing the use of electronic payments. Pursuant to pars. 7 and 9 of Annex 3 to the said instruction, information provided should meet the requirements of the AML/CFT Law (see 16.1).

222. **Criterion 16.13** Pursuant to Article 232 of the Banking Code, banks should refuse a request to perform an electronic settlement transaction where the format and content of the payment instructions do not meet the requirements set out in the regulations of the NBRB, or where the bank has a valid reason to doubt the authenticity of such payment instructions. Upon submission of payment instructions, banks verify their authenticity and completeness in accordance the requirements set out in RNNB Instruction NBRB 66 (paragraph 26). Clauses 7 and 9 of Annex 3 to the said Instruction specify the need to provide for information in compliance with the requirements of AML/FT laws (see 16.1).

223. **Criterion 16.14** Given that the framework law requires FIs to ensure the availability of the necessary information about the originator and beneficiary of the transaction, its amount and details throughout the payment chain, the requirement to maintain originator and beneficiary information for wire transfers whose amount equals to or exceeds the threshold value may apply to the beneficiary FI.

224. **Criterion 16.15** Pursuant to Article 232 of the Banking Code, banks should refuse a request to perform an electronic settlement transaction where the format and content of the payment instructions do not meet the requirements set out in the regulations of the NBRB, or where the bank has a valid reason to doubt the authenticity of such payment instructions. Upon submission of payment instructions, banks verify their authenticity and completeness in accordance the requirements set out in RNNB Instruction NBRB 66 (paragraph 26). Pursuant to pars. 7 and 9 of Annex 3 to the said instruction, information provided should meet the requirements of the AML/CFT Law (see 16.1).

225. **Criterion 16.16** The definition of MVTs most closely approximates in Belarusian law such banking operation (as listed in the banking code) as "settlement and (or) cash services provided to individuals and (or) legal entities, including correspondent banks". MVTs may also include money transfers services provided by postal operators. Therefore, it can be concluded that MVTs are provided by persons conducting financial transactions who report to the NBRB or the Ministry of Communications and Informatization (banks and postal operators). However, they are subject to the requirements of the recommendation set out in Criteria 16.1-16.15.

226. **Criterion 16.17**

- (a) The provisions of the AML/CFT Law, which contains general requirements for the identification of potentially suspicious transactions and submission of STRs, apply to MVTs providers (banks and postal operators) as persons conducting financial transactions. MVTs controlling both the ordering and beneficiary side of a wire transfer are not subject to any specific requirements.
- (b) As persons conducting financial transactions, MVTs providers are required to monitor compliance of their standalone units/branches/subsidiaries with the AML/CFT requirements (including to file STRs), to the extent required by the law of their host country. If the law of the host county makes the implementation of measures specified in the law of the Republic of Belarus impossible, persons conducting financial transactions shall notify the financial intelligence unit and the authority responsible for monitoring the activities of persons conducting financial transactions thereof.

227. **Criterion 16.18** Pursuant to paragraph 11 of part 1 of Art. 8 and Art. 9-1 of AML/CFT Law, persons conducting financial transactions shall:

- freeze the funds owned by designated persons, including individual entrepreneurs, or entities beneficially owned by designated persons.
- block transactions whose participant or beneficiary is a designated person, including an individual entrepreneur, or an entity beneficially owned by a designated person.

Weighting and Conclusion

228. The Republic of Belarus has largely complied with the requirements of Recommendation 16. Payments are accompanied by the necessary basic payments, information storage requirements are met, the requirements for transfer intermediaries are met (however, only for amounts above the threshold), MVTS are subject to the requirements of R.16 taking into account the identified deficiencies, the requirements for the application of the relevant MVTS are met, and the requirements for the identification of beneficiaries of transactions and relevant information are met. There are no precise deadlines for the transfer of information at the request of the receiving institution, only the possibility of refusing to carry out the transaction is specified, unless it is accompanied solely by a complete set of information, and there is no clear delineation of powers in the event that the MVTS controls the sender and the beneficiary. **Recommendation 16 is rated LC.**

Recommendation 17- Reliance on third parties

229. In its MER of 2008, Belarus was rated not applicable in relation to Recommendation 8, since no reliance on third parties for CDD was allowed in Belarus.

230. **Criterion 17.1** Pursuant to parts 17-19 of Article 8 of AML/CFT Law, persons conducting financial transactions may rely on each other as well as on other entities to perform CDD measures. In accordance with the framework law, persons conducting financial transactions who rely on third parties for CDD measures are responsible for compliance with the relevant requirements.

- (a) Persons conducting financial transactions may rely on a third party (a) to identify the customer (b) and his representative and beneficiary (if any). The AML/CFT Law calls for the identification of the beneficiary, beneficial owner (not in all cases, see analysis for 10.5), which limits the scope of the requirements of the Recommendation. Similar to the analysis given in Criterion 10.6, (c) there are inconsiderable shortcomings related to the identification of the nature of the business relationship with individuals.
- (b) According to the AML/CFT Law, the provision of identification information is subject to the procedure and deadlines set out in the agreements between the principal and the agent. However, no clear timeframe for the provision of this information is fixed. Pursuant to paragraph 40 of the Guidance for Banks, the NBRB and the Development Bank of the Republic of Belarus JSC, adopted by NBRB Board Resolution No. 818 dated December 24, 2014, agents may maintain an electronic customer base, to which they must provide timely (instant) access.
- (c) The categories of persons that can be relied upon for CDD fall within the definition used in the AML/CFT Law, and as such they are subject to the requirements of Recommendations 10 and 11 (see analysis for the relevant recommendations). However, one should note that the law permits reliance for CDD on "a third party" which may not be subject to the AML/CFT Law.

231. **Criterion 17.2** Notably, persons on whom FIs are allowed to rely for CDD meet the definition of persons conducting financial transactions as set out in the AML/CFT law and are Belarusian nationals (Articles 1 and 2 of AML/CFT Law). However, the law allows reliance for CDD on third parties that may not be subject to the AML/CFT law. However, pursuant to paragraphs 28 and 29 of the Guidelines

for banks, non-bank credit and financial institutions, the Development Bank of the Republic of Belarus JSC, leasing and microfinance companies, including pawnshops, for obtaining and providing microloans; forex companies and the National Forex Centre, for managing the ML/TF/PF risks, adopted by NBRB Board Resolution No. 783 dated December 17, 2014, and Article 5 of the AML/CFT Law, when entering into a contract with an agent/third party, the aforementioned FIs may establish internal control procedures for the agent that are based on the use of a risk-based approach, including country risks.

232. **Criterion 17.3** The AML/CFT Law does not distinguish between independent third parties and those that are part of the same financial group, meaning the analysis performed will apply to both cases.

Weighting and Conclusion

233. The legislation of the Republic of Belarus generally complies with the requirements of the recommendation, except for some minor deficiencies. Despite the possibility of maintaining an electronic database of clients and providing access to it, there is no clear requirement for the time of access to such information, there are minor shortcomings in determining the nature of business relations arising from R.10, the concept of "other organizations" should be clarified. **Recommendation 17 is rated LC.**

Recommendation 18 - Internal controls and foreign branches and subsidiaries

234. In its MER of 2008, Belarus was rated not compliant with both R.15 and R.22. The requirements of Recommendation 22 were not implemented into law. With respect to R.15, among the main shortcomings were the lack of the following: the requirement for FIs other than banks to have an independent AML/CFT audit system in place; the requirement to designate an AML/CFT official; the requirement to provide AML/CFT training; and access for the compliance officer to the necessary information.

235. **Criterion 18.1**

- (a) Pursuant to paragraph six, Part One, Article 6 of AML/CFT Law, pars. 3, 4, 5, 7 and 10 of the General Internal Control Requirements, adopted by RB Council of Ministers Resolution No. 1249 dated December 24, 2014, as well as instructions to the internal control rules developed by supervisory authorities¹² all persons conducting financial transactions are required to have regard to the nature of their activities in developing risk management, internal control and asset/transaction freezing measures; the indicators of and criteria for identifying suspicious transactions; and employee qualifications and training requirements, including appoint from among the heads of the organization officials responsible for compliance with internal control rules (compliance officers).

Under paragraph 7 of NBRB Guidance 818, the NBRB additionally requires banks to develop internal control regulations, taking into account the type of the bank's organizational structure, the nature and volume of its banking operations, and the level of the ML/TF risk.

- (b) Persons conducting financial transaction that report to the NBRB are required to have regard to the qualification requirements when hiring independent directors and (or) other members of the board of directors (supervisory board), except for representatives of the government holding positions in the bank's management bodies, members of the executive body of a bank or non-bank credit and financial institution, directors and chief accountants of a bank or non-bank credit and financial institution, or their deputies. In

¹²; Instruction adopted by RBNB Board Resolution No. 818 dated December 24, 2014; Instruction adopted by RBNB Board Resolution No. 494 dated September 19, 2016; Instruction adopted by Ministry of Finance Resolution No. 96 dated November 4, 2016; Instruction adopted by Ministry of Communications and Informatization Resolution No. 1 dated January 6, 2015; Instruction adopted by RB Ministry of Antimonopoly Regulation and Trade No. 36 dated October 20, 2016.

addition, the NBRB specifies the conditions and procedure for conducting an assessment of compliance with the qualification requirements and/or requirements for the business reputation of these persons, as well as conducts such an assessment. (Art. 34, subpars. 4 and 5 of part 4, of the Banking Code; NBRB Board Resolution No. 669 dated December 19, 2012).

For officials and employees of AML/CFT units, the NBRB requires banks to apply separate qualification requirements, in particular, to have AML/CFT experience in addition to regular high standards for regular employees. The same applies to leasing and microfinance companies, including pawnshops, with respect to obtaining and providing microloans; forex companies, the National Forex Centre, banks and non-bank credit and financial institutions, with respect to carrying out transactions, initiated by natural and legal persons, with non-deliverable over-the-counter financial instruments.

When developing internal control regulations, professional securities market participants, insurance companies, postal operators, commodity exchange are required to have additional qualification in regard to AML/CFT/CPF qualification and training requirements for officials and other employees of persons conducting financial transactions. (provided for in the relevant laws and guidelines – see footnote 8)

- (c) In its guidance papers, the NBRB requires reporting entities to conduct primary, scheduled and ad hoc briefings for their employees. To improve employees' awareness of the AML/CFT/CPF requirements, they are required to familiarize themselves with applicable regulations, including bylaws. This awareness should be maintained when changes are made to the law; when amending internal control regulations; appointing compliance officers or other full-time officials in bank branches that conduct financial transactions, legal departments, or internal audit and security services; when employees return to work after prolonged absence; when inspections reveal violations or shortcomings. Information about the briefings and tests attended by bank employees are recorded in a special log, whose form and content are to be determined by banks at their own discretion. Bank employees undergo testing at least once a year, conducted by the designated bank official, with a preliminary test conducted within one month from the date of the introductory (preliminary) briefing.
- (d) In accordance with the NBRB's guidance papers, internal audit services of banks, the Development Bank of the Republic of Belarus JSC, non-bank credit and financial institutions (hereinafter "banks"), banking groups and bank holding companies are required to take steps to combat money laundering and financing of terrorism and proliferation (par. 20 of the Guidance adopted by NBRB Board Resolution No. 625 dated November 30, 2012).

The AML/CFT AML/CFT Law establishes no requirement for persons conducting financial transactions to perform an independent audit function to test the AML/CFT system. Apart from banks, the AML/CFT system is not required to be audited anywhere.

236. **Criterion 18.2** Pursuant to Art. 6, subpar. 7 of part 1, parts 12 and 13, of AML/CFT Law and the requirement for FIs to implement AML/CFT internal controls on a consolidated basis within a banking or financial group (holding company) set out in par. 31 of NBRB Guidelines 783 as amended by NBRB Board Resolution No. 87 dated February 28, 2019 and enacted on the same date, internal control procedures should be applicable to and appropriate for all members of a financial group (holding company) to ensure the sharing of data for internal control and risk management purposes; compliance with applicable requirements, performance of audit functions, and access, where necessary, for members of the banking group or financial holding company to customer identification information and its transactions; and adequate security and confidentiality of information. The same applies to FIs reporting to NBRB. No such requirements apply to non-bank securities market participants or insurance companies.

237. **Criterion 18.3** Pursuant to Art. 6 of AML/CFT Law, persons conducting financial transactions, their branches, standalone units and subsidiaries shall, to the extent required by the law of their host country, be directly responsible for implementing legally mandated AML/CFT/CPF measures. If the law of the host country makes the implementation of measures specified in the law of the Republic of Belarus impossible, persons conducting financial transactions shall notify the financial intelligence unit and the authority responsible for monitoring the activities of persons conducting financial transactions thereof. Persons conducting financial transactions are required to monitor compliance of their foreign-based branches, standalone units and subsidiaries with the AML/CFT/CPF requirements.

238. At the same time, one should be mindful of the following. Neither professional securities market participants nor any persons conducting financial transactions and reporting to the NBRB (other than banks) are allowed to have foreign branches or subsidiaries. For banks, such a possibility is provided for in Article 92 of the Banking Code.

239. Pawnshops are not allowed to have foreign branches or subsidiaries.

240. There are no branches or representative offices of foreign insurance companies in Belarus.

Weighting and Conclusion

241. There is no requirement to have an independent AML/CFT audit function (other than banks and microfinance companies). There are no provisions in Belarusian law that require insurance companies and non-bank securities market participants to apply AML/CFT policies and procedures at the group level, including to foreign branches and subsidiaries (there are not such structures in the country though).

Recommendation 18 is rated LC.

Recommendation 19 – High risk countries

242. Belarus was rated partially compliant with Recommendation 21 in the 1st round MER. Among the main shortcomings were: the lack of the requirement for FIs to apply enhanced due diligence to transactions with countries that do not comply with the FATF Recommendations, including the mechanisms for notifying the financial sector about such countries; no countermeasures could be applied to such countries; the system in place was not used after the expiration of the FATF list of non-cooperating countries and territories, despite the presence of countries that do not comply with the FATF requirements.

243. **Criterion 19.1** The State Control Committee, for use by persons conducting financial transactions, publishes a list of countries and territories that do not comply with the FATF Recommendations or participate in international AML/CFT/CPF cooperation. Part 11 of Art. 8 of AML/CFT Law requires FIs to apply enhanced due diligence to financial transaction participants registered, residing or staying in a country (territory) not participating in international AML/CFT/CPF cooperation or complying with the FATF Recommendations, as well as in situations where the financial transaction is conducted using a bank account registered in such a country (territory). AML/CFT Law defines a financial transaction participant as a person or entity, including an individual entrepreneur, who is related to the transaction, as well as their representatives, a definition that covers entities whose obligations are established by Criterion 19.1. The list of countries (territories) that do not comply with the FATF Recommendations or participate in international AML/CFT/CPF cooperation is established by the State Control Committee in coordination with the Ministry of Foreign Affairs, the SSC, the MIA and the NBRB of the Republic of Belarus. Pursuant to par. 2 of RB Council of Ministers Resolution No. 1193 dated December 18, 2014, the listing (de-listing) of persons is made with account for FATF documents.

244. As an additional measure, Belarus applies Presidential Decree No. 353 dated May 25, 2006 "On approval of the List of Offshore Jurisdictions".

245. **Criterion 19.2** Belarus, by posting on the official website of the State Control Committee the list of countries and territories that do not comply with the FATF Recommendations and which, according to this order, fall within the category of countries not participating in international AML/CFT/CPF

cooperation, requires FIs and DNFBPs to apply enhanced due diligence to financial transaction participants registered, residing or staying in such countries or territories.

246. Meanwhile, AML/CFT Law does not empower state bodies, including the State Control Committee, to apply countermeasures proportionate to the risks, when called upon to do so by the FATF; and independently of any call by the FATF to do so. The choice of enhanced internal control measures, pursuant to the instructions on internal control regulations for persons conducting financial transactions, varies from person to person. Although these measures are applied equally to all customers exposed to geographic risk, there is not obligation for persons conducting financial transactions to apply additional, "special" elements of enhanced internal control measures to customers from countries or territories for which this is called for by the FATF. In this regard, no countermeasures, or opportunities to apply them, are provided for in the AML/CFT Law, as required under Criterion 19.2.

247. **Criterion 19.3** To facilitate the ongoing tracking of banks' progress in identifying incidents related to persons and/or entities from countries subject to UNSC sanctions, the NBRB, upon being notified via diplomatic channels (by the Ministry of Foreign Affairs) of the resolutions adopted by the UNSC, promptly relays this information to Belarusian banks, along with a request to promptly submit the relevant information to the NBRB, within three business days of identifying such incidents.

248. The NBRB, upon being advised of concerns about weaknesses in the AML/CFT systems of other countries, notifies reporting entities through information (reference) letters. In 2018, the NBRB sent the following letters: No. 21-16/ 82 dated August 24, 2018 "On the Country List Update", No. 21-10/3 DCP dated November 11, 2018 "On FinCEN's Warning to Iran"; No. 16-15/167 dated March 1, 2018 on North Korea; No. 16-15/250 dated March 30, 2018 on North Korea; No. 16-15/658 dated October 16, 2018 on South Sudan; No. 16-15/724 dated November 20, 2018 on Libya; and No. 16-15/762 dated November 28, 2018 on the lifting of sanctions against Eritrea.

249. The up-to-date information on countries that have strategic deficiencies in national AML/CFT systems (including the FATF list of high-risk jurisdictions) is accessible via the State Control Committee website (the DFM section) at www.kgk.gov.by/ru/news_dfm-ru. Visitors to the website can read Russian-language summaries of FATF statements and access the FATF black and grey lists as well as references to the source.

Weighting and Conclusion

250. The Republic of Belarus FIs are obliged required to apply enhanced CDD measures to states (territories) where international AML/CFT requirements are not properly applied. In addition, the country has an effective mechanism for informing FIs about such states (territories). At the same time, the Republic of Belarus does not have the possibility of applying countermeasures against such states. **Recommendation 19 is rated LC.**

Recommendation. 20 – Reporting of suspicious transactions

251. In its MER of 2008, Belarus was rated partially compliant with both R.13 and SR.IV. The main shortcomings concerned incomplete information on transactions subject to special control and criminalization of ML/TF.

252. **Criterion 20.1** Pursuant to Art. 6, paragraph 10 of part 1, and Art. 7 of AML/CFT Law, if the person conducting the financial transaction suspects that the transaction is related to the acquisition and (or) laundering of proceeds from crime or the financing of terrorism or proliferation, such transaction must be subject to special controls. At the same time, persons conducting financial transactions are required to register transactions subject to special control in a special form and submit it as an electronic document to the financial intelligence unit no later than the business day following the day of the financial transaction.

253. **Criterion 20.2** The law requires FIs to report suspicious transactions, which is one of the criteria, irrespective of any thresholds (Art. 6, subpar. 10 of part 1, and Art. 7 of AML/CFT Law. An STR is filed

regardless of whether the financial transaction has been completed or not

Weighting and Conclusion

254. **Recommendation 20 is rated C.**

Recommendation 21 - Tipping-off and confidentiality

255. In the 1st round of Mutual Evaluations, Belarus was rated largely compliant with Recommendation 14. The provision of Art. 5 of the AML/CFT Law to the effect that the disclosure to the DFM of information in accordance with the AML/CFT Law did not constitute a violation of official, banking or other secret protected by law, or entailed any liability for damages, including non-pecuniary, resulting from such an action, did not fully protect FI directors and staff from liability for disclosing information to the FIU, nor did it extend to them the prohibition to disclose to customers the fact that an STR is being filed.

256. **Criterion 21.1** Pursuant to part 8 of Art. 6 of the AML/CFT Law, disclosure by persons conducting financial transactions (including directors and employees) to the FIU of information on transactions subject to special control in accordance with the procedure established by this Law, shall not constitute a violation of official, banking or other secret protected by law, or entail any liability for damages, including non-pecuniary, resulting from such an action.

257. **Criterion 21.2** Persons conducting financial transactions, as well as their employees and directors are prohibited from disclosing the fact that information is being filed with the DFM (part 7 of Art. 6 of the AML/CFT Law). Pursuant to Art. 16 of the AML/CFT Law, state authorities exercising control over the activities of persons conducting financial transactions may require reporting entities from among persons conducting financial transactions to report transactions subject to special controls.

Weighting and Conclusion

258. **Recommendation 21 is rated C.**

Recommendation 22 – Customer due diligence

259. In its MER of 2008, Belarus was rated non-compliant with R.12. Among the main shortcomings was the lack of AML/CFT requirements relating to identification and CDD.

260. **Criterion 22.1** The requirement to apply CDD is set out in Articles 5-8 of the AML/CFT Law and applies to persons conducting financial transactions. Pursuant to part 2 of Art. 1 of the AML/CFT Law, persons conducting financial transactions include the following categories of institutions falling within the FATF definition of DNFBPs:

- persons engaged in trade in precious metals and precious stones;
- pawnshops (when dealing with precious metals and precious stones);
- organizers of lotteries and electronic interactive games;
- gambling organizers;
- notaries;
- organizations providing real estate services and participating in transactions related to buying and selling of real estate property for their clients;
- audit firms, individual auditors providing professional accounting and bookkeeping services and (or) filing financial statements, related to the execution on behalf and (or) at the direction of the client of financial transactions;
- organizations, individual entrepreneurs, lawyers and law firms providing legal services related to

the creation of companies or management thereof, buying and selling of an enterprise as a property complex, conducting financial transactions and (or) managing money or other property on behalf of and (or) at the direction of the client;

- (a) Pursuant to part 1 of Article 8 of AML/CFT Law, transactions in excess of 1000 base values (approx. 10,100 euros) are subject to CDD. Pursuant to par. 15 of the Guidance adopted by RB Ministry of Taxes Resolution No. 27 dated September 16, 2016, identification is also carried out when the transaction is deemed suspicious. However, the text of the guidance includes the term "a large cash prize", whose amount is determined by gambling organizers at their discretion. Another criterion applies to a single-day winning streak earning more than 2,000 basic units (approx. 20,200 euros). With respect to the gambling industry, customer identification procedures are performed every time a customer visits a gambling establishment and at the time of the payout, irrespective of its amount. This requirement is set out in the relevant presidential decree and government resolution.

Pursuant to parts 2 and 3 of paragraph 30 of the Regulations on Casino Business, parts 2 and 3 of paragraph 16 of the Regulations on Gambling Hall Business, parts 2 and 3 of paragraph 20 of the Regulations on Betting House Business, and parts 2 and 3 of paragraph 19 of the Regulations on Bookmaker Office Business, adopted by RB Council of Ministers Resolution No. 211 dated February 18, 2011, winnings, regardless of the amount, are paid upon application of the gambler, which shall contain information necessary to identify him, regardless of the payment method used: cash, non-cash or e-wallet transfer (only transfers to identified e-wallet accounts are permitted, and only to those registered to the person taking part in the game). Also, information about all winnings paid out (remitted) or upplayed bets returned is entered in an electronic payout log maintained in the special computerized cash register system. Entries in this log are made in a chronological order, with continuous page numbering.

- (b) Pursuant to part 2 of Art. 1 of the AML/CFT Law, real estate agents fall within the definition of reporting entities and are required to undertake CDD measures.
- (c) Pursuant to part 2 of Art. 1 of the AML/CFT Law, dealers in precious metals and dealers in precious stones fall within the definition of reporting entities and are required to undertake CDD measures.
- (d) Lawyers, notaries, other independent legal professionals and accountants fall within the definition of reporting entities and are required to undertake CDD measures.
- (e) Belarus is not a party to the Hague Convention of 1985 on the Law Applicable to Trusts. A trust as a type of incorporation or type of business is absent from the RB Civil Code or other regulations. Trusts, therefore, cannot be registered in Belarus. Meanwhile, engaging in business activities without a license falls within the definition of an illegal business activity in Belarus, punishable under administrative and/or criminal law.

261. The shortcomings noted in R.10 in relation to FIs are also applicable to DNFBPs.

262. **Criterion 22.2** The shortcomings noted in R.11 are also applicable to DNFBPs.

263. **Criterion 22.3** The shortcomings noted in R.12 are also applicable to DNFBPs.

264. The lack of the requirement to identify among customers and their beneficial owners, foreign PEPs, officials of public international organizations and persons holding positions designated as public in Belarus, for the following:

- (a) audit firms, individual auditors providing professional accounting and bookkeeping services and (or) filing financial statements;
- (b) organizers of lotteries and electronic interactive games;

(c) pawnshops dealing with precious metals and precious stones.

265. Pursuant to subpar. 4 of par. 14 of the Guidance on Internal Control Requirements for commodity exchanges No. 36 dated June 20, 2016, the identification of foreign PEPs, officials of public international organizations and persons holding positions designated as public in Belarus is carried out where possible, which is contrary to Article 6 of the AML/CFT Law.

266. **Criterion 22.4** The shortcomings noted in R.15 are also applicable to DNFBPs.

267. **Criterion 22.5** The shortcomings noted in R.17 are also applicable to DNFBPs, having regard to the nature of their activity.

Weighting and Conclusion

268. The requirements established by the Republic of Belarus for DNFBPs are largely in line with the FATF Recommendation and are set out mostly in the AML/CFT law 165-3. Shortcomings in the application of CDD measures, data retention, PEPs, new technologies and the ability to rely on third parties are also applicable to DNFBPs. **Recommendation 22 is rated LC.**

Recommendation 23 - DNFBP: Other measures

269. In its MER of 2008, Belarus was rated partially compliant with R.16. Among the main shortcomings were legislative gaps related to the filing of STRs, protection of the competent authority when notifying the FIU and the responsibilities of compliance officers.

270. **Criterion 23.1** The requirement to file an STR is set out in Articles 6 and 7 of the AML/CFT Law and applies to persons conducting financial transactions. Pursuant to part 2 of Art. 1 of the AML/CFT Law, persons conducting financial transactions include all types of institutions that meet the FATF definition of DNFBPs (see analysis for 22.1).

- (a) Lawyers, notaries, other independent legal professionals and accountants fall within the definition of reporting entities and are required to file STRs (Art. 6, par. 10 of part 1, and Art. 7 of AML/CFT Law).
- (b) Dealers in precious metals and dealers in precious stones fall within the definition of reporting entities and are required to file STRs (part 2 of Art. 1 and Art. 6, par. 10 of part 1, of AML/CFT Law). However, pursuant to Article 7 of the AML/CFT Law, the threshold for transactions with counterparties registered (holding an account) in high-risk jurisdictions is 5,500/10,100 euros for persons/entities and 20,200/202,000 euros for persons/entities for cash transactions. Thus, it is possible to imagine a situation where a client will not arouse suspicion of this category of DNFBP and make a cash transaction in excess of the FATF threshold.
- (c) Belarus is not a party to the Hague Convention of 1985 on the Law Applicable to Trusts. A trust as a type of incorporation or type of business is absent from the RB Civil Code or other regulations. Trusts, therefore, cannot be registered in Belarus. Meanwhile, engaging in business activities without a license falls within the definition of an illegal business activity in Belarus, punishable under administrative and/or criminal law. There no such special entity type in the country as company service provider.

271. **Criterion 23.2** The main shortcomings under R.18 are related to the activities of financial groups. The shortcomings in internal controls for DNFBPs are related to the absence of the requirement to have an independent audit function to test the AML/CFT system.

272. Further, according to FATF Recommendation 18, financial institutions' programmes against ML/TF should include an ongoing employee training programme. However, the Guidance on Internal Controls Exercised by Entities Providing Real Estate Services, Entities and Individual Entrepreneurs Providing Legal Services, Lawyers and Bar Associations, adopted by MoJ Resolution No. 183 dated

October 4, 2016, lacks the requirement for qualification assessments and ongoing training of persons conducting financial transactions.

273. **Criterion 23.3** The shortcomings noted in R.19 are also applicable to DNFBPs.

274. **Criterion 23.4** The analysis of R.21 and relevant requirements of the AML/CFT Law are fully applicable to DNFBPs.

Weighting and Conclusion

275. The Republic of Belarus has largely complied with the requirements of the Recommendation; the requirements for STRs apply to all categories of DNFBPs. There are shortcomings related to the implementation of requirements R.19 and R.21, taking into account the context of the DNFBP sector R.18, as well as the possibility of exceeding the threshold set by the FATF for representatives of precious metals. **Recommendation 23 is rated LC.**

Recommendation 24-Transparency and beneficial ownership of legal persons

276. In its MER of 2008, Belarus was rated compliant with Recommendation 33.

277. **Criterion 24.1** Chapter 4 of the RB Civil Code sets out the key requirements applicable to legal persons in Belarus. Thus, Art. 44 defines legal persons, and Art. 46 describes their forms of incorporation and types.

278. All legal persons are subject to state registration (Article 47 of the RB Civil Code and Presidential Decree No. 1).

279. Information on the procedures for creating legal persons, making changes and liquidation is accessible via www.egr.gov.by.

280. **Criterion 24.2** The NRA 2018 contains a section on legal persons. Still, there is no comprehensive analysis of their vulnerabilities and risks.

281. **Criterion 24.3** A legal person is considered to be created from the moment of its state registration. Registering authorities pass this information on to the MoJ for inclusion in the Unified State Register, which occurs on the day the application is submitted. Among other things, information on the name of the organization, legal form of ownership, address of registration and location (if different), regulating powers and the list of directors must be included in the Unified State Register.

282. Any natural or legal person may access information contained in the Unified State Register, including via www.egr.gov.by, they are required to pay a fee.

283. At the same time, pursuant to par. 1.5 of Presidential Decree No. 422 dated October 15, 2015 "On the Provision of Information to Foreign Tax Authorities", this information is provided free of charge for banks and other financial institutions.

284. The statutory deadline for the provision of requested information in the form of a statement is up to 7 calendar days for legal persons, and up to 5 calendar days for individuals, from the date of submission of an application and payment of stamp duty. As an alternative, the required extract in an electronic format can be obtained instantly via the Unified State Register website.

285. Government agencies, including law enforcement and judicial authorities, enjoy direct access to the Unified State Register, provided in accordance with the information sharing agreements concluded with them.

286. **Criterion 24.4** Pursuant to Art. 63 of the RB Law on Business Entities, business entities are required to maintain the following information: the charter (amendments and supplements thereto), the certificate of state registration and the list of affiliated persons. Business entities, subject to the procedure established by the Law on Archival Business, are required to keep their documents at the place of location of their executive body, or in another place stipulated by law.

287. Joint-stock companies, in addition to the documents listed in Art. 63 of the Law on Business Entities, are also required to keep, among other things, the agreement on the creation of a joint stock company (written decisions of the sole founder of the joint stock company), the list of persons entitled to participate in the general meeting of shareholders, the list of persons entitled to receive dividends, and the register of shareholders on the basis of which the lists of persons specified in this article were compiled.

288. **Criterion 24.5** Legal persons are required, within two months, to make changes in their charter documents and submit them for state registration, in the event of a name change, change of ownership of the property or changes in the list of the company participants or shareholders. Information is entered in the Unified State Register on the day of submission to the registering authority of the relevant application. In accordance with Article 48 of the Civil Code of the Republic of Belarus, changes in the constituent documents of the legal entity acquire legal force from the moment of their state registration (re-registration) and entering the relevant information into the Unified State Register. Thus, allowing to keep basic information accurate and up-to-date.

289. **Criterion 24.6** Beneficial ownership information is gathered in the course of CDD procedures and can be obtained in a timely manner by the competent authority upon request to the FI or DNFBP, or by direct access to the MoJ database, or as part of investigative proceedings.

290. **Criterion 24.7** See Criterions 10.7 (b) and 22.1

291. **Criterion 24.8**

- (a) There are not explicit requirements to this effect in the law. At the same time, the founders may designate a person from among full-fledged participants in the company's activities, tasked, among others, with maintaining information and cooperation with the competent authorities (Article 13 of the Law on Business Entities).
- (b) DNFBPs are required to obtain beneficial ownership information in the course of CDD procedures and make it available to the DFM or other authorized bodies on demand.
- (c) Pursuant to par. 8 of the Guidance on the disclosure of information on the activities of banks, the Development Bank of the Republic of Belarus JSC, non-bank credit and financial institutions, banking group and bank holding companies, adopted by NBRB Board Resolution No. 19 dated January 11, 2013, banks are required to post on their website, among others, the information about their ownership structure (shareholders and other beneficial owners of the bank holding five or more percent of the bank's shares: name and the country where the company has its registered office (for entities); surname, name and patronymic (if any), and country of residence (for individuals)).

Information about the shareholders and other beneficial owners of the bank is posted in the form attached to the Guidance on State Registration of Banks and Non-bank Credit and Financial Institutions and Licensing of Banking Activities, adopted by NBRB Resolution No. 640 dated December 7, 2012, as Annex 5.

Pursuant to Article 118-1 of the Banking Code of the Republic of Belarus, banks are required to notify the NBRB within five business days, among others, of any changes in their list of beneficial owners holding at least five percent of the bank's shares.

The Guidance on the Scope and Procedure for Disclosing Information on Leasing Activities and the Financial Status of Leasing Companies included in the Register of Leasing Companies, adopted by NBRB Board Resolution No. 495 dated August 1, 2014, requires FIs to disclose information related to leasing companies. To this end, leasing companies are required to post on their website the following information: its name, address, state registration details, information about its inclusion in the register of leasing companies, as well as about its removal therefrom by the NBRB of the Republic of Belarus, specifying the date and grounds for such removal, business hours and contact

phone numbers; information about its charter, including any changes thereto; name, address, business hours and contact phone numbers of its representative offices, branches and subsidiaries; annual financial statements, except for information constituting trade, professional, banking or other secrets protected by law, and the annual audit report; information about the size of the authorized and other funds (if any).

Foreign companies wishing to acquire ownership interest, including in real estate, are subject to a number of specific requirements.

Thus, pursuant to Art. 70, subpar. 1.2 of par. 1, of the Tax Code of the Republic of Belarus, foreign companies are registered with the tax authority upon application, to be filed by the foreign entity upon the acquisition of ownership or other interest in real estate property located in the Republic of Belarus, except for property which, at the time of state registration of ownership or other rights therein or transactions therewith, is placed by a foreign entity under operational control of a Belarusian entity, or as a contribution to its statutory fund, with the tax authority at the location of such property prior to the state registration of ownership or other interest therein or transactions therewith. In this case, a TIN is assigned to such foreign companies.

Pursuant to Article 32 of RB Law 133-Z dated July 22, 2002 "On State Registration of Real Estate Property, Titles Thereto and Transactions Therewith", a list of documents required to conduct a financial transaction shall include documents containing identification data, documents evidencing the powers of representatives and officials, and (or) documents evidencing the powers of persons who signed the document setting out the subject matter of the transaction to sign it, unless otherwise provided by laws of the Republic of Belarus and regulations of the President of the Republic of Belarus and the Council Ministers of the Republic of Belarus.

292. **Criterion 24.9** Documents evidencing the incorporation, state registration, renaming, reorganization and dissolution (termination of activities) of companies and their subsidiaries, namely resolutions, decisions, orders, protocols, articles of incorporation, agreements on the creation of a joint stock company, certificates of state registration, acts, etc. are maintained permanently at the place of the company's registration. For 10 years after the dissolution of the legal person (MoJ Resolution No. 140 dated May 24, 2012).

293. Clause of 14 Part 1 of Article 6 of the AML/CFT Law requires that the persons carrying out financial operations shall keep data on financial operations, documents (copies thereof) obtained as a result of identification of clients and their representatives, as well as documents received and compiled in the course of application of extended internal control measures.

294. 290. Article 4 of the Law of the Republic of Belarus "On Archives and Records Management in the Republic of Belarus" and Chapter 20-1 of the List of Standard Documents of the National Archive Fund formed in the course of the activities of the civil defence, other organizations and individual entrepreneurs establish the obligation of non-governmental organizations and individual entrepreneurs to keep a comprehensive list of documents and information on financial transactions for at least 5 years.

295. **Criterion 24.10** In accordance with the RB CPC RB, the bodies of inquiry, preliminary investigation and the prosecutor have all the necessary powers to access all documents and information necessary for use in such investigations, prosecutions and related activities, see R.31).

296. **Criterion 24.11** No bearer shares or bearer warrants are issued in Belarus. "Share" means registered equity security (Art. 1 of RB Law No. 231-Z of January 5, 2015).

297. **Criterion 24.12** The term "nominee director" is not used in Belarus. The director of the company shall be financially liable to the fullest extent for any damage caused by him to the company property (Art. 256 of the RB Labour Code). These provisions apply to the directors of all types of entities, except where the director of the company is the sole owner of the company property or is an individual

entrepreneur. (Art. 252 of the RB Labour Code). Pursuant to Article 52 of the RB Civil Code, the director of a company that has been declared insolvent (bankrupt) may be held jointly liable if the property owned by the company is not sufficient to meet all its liabilities; provided, however, that the insolvency (bankruptcy) of such company has been caused by the director's wrongful (intentional) actions.

298. In addition, the director of the company is defined as an individual who, by virtue of the law or incorporation documents of the company, manages the company, including performs the functions of its sole executive body (RB Ministry of Labour and Social Protection Resolution No. 33 dated July 24, 2017 No. 33 "On approval of the National Classifier of the Republic of Belarus", Group 112).

299. **Criterion 24.13** Persons engaging in illegal business activities face administrative (a fine or confiscation of income from illegal business) and/or criminal liability (a fine, deprivation of the right to occupy certain positions or engage in certain activities, detention, restriction or deprivation of liberty). In addition, criminal liability is incurred by those engaging in false entrepreneurial activities.

300. Pursuant to Article 23.64 of the CAO RB, violation of the procedure for registering/re-registering or making changes to the statutory documents of legal persons or individual entrepreneurs is punishable by a fine of up to USD 600. Article 11.10 of the RB Code on Administrative Offences imposes liability for violation of the established procedure for handling securities and carrying out professional activities in the securities market, as well as the rules for maintaining a register of securities holders (USD 120 to 600 for persons; and up to USD 2,400 for entities); and Article 11.11 of this Code, for violation of the established procedure for conducting custody business (up to USD 600).

301. Article 23.16 of the CAO RB also establishes administrative liability (in the form of a warning or a fine in the amount of up to USD 240) for officials or other authorized persons or an individual entrepreneur for failure to submit documents, reports, information or other materials in a timely manner in cases where their obligation to do so is provided by law, or for the submission of such documents, reports, information or other materials containing deliberately false information (for example, in the event of failure to notify of changes in address or of the appointment (replacement) of the company director).

302. In addition, in accordance with Presidential Decree No. 488 "On Certain Measures to Prevent Illegal Reduction in Tax Liabilities", companies and individual entrepreneurs (unless otherwise stated, hereinafter referred to as "business entities") shall be included on the register of companies and individual entrepreneurs at a higher risk of committing economic offences when one of more conditions are met, including: the business entity is not located at the address indicated in the company's incorporation documents (place of residence indicated in the certificate of state registration of an individual entrepreneur), and it has failed to notify the registering authority of the change in its address (has not requested the registering authority to make changes to the certificate of state registration in case of change of residence) in the manner and within the deadlines provided by law.

303. Persons conducting financial transactions are held liable for non-compliance with the AML/CFT Law, including CDD and record-keeping requirements.

304. Therefore, sanctions are proportionate and dissuasive.

305. **Criterion 24.14**

- (a) The Unified State Register contains basic information accessible by any natural or legal person, or foreign competent authority for a fee through a web-site. This information can be also provided to a foreign competent authority as part of international information sharing upon their request.
- (b) The Unified State Register does not contain information on shareholders of joint-stock companies. At the same time, this information, pursuant to Article 43 of RB Law No. 231-Z of January 5, 2015 "On the Securities Market", is available to joint stock companies themselves, as well as to the depositary, and can be made available on demand to law enforcement and supervisory bodies. Unless otherwise provided by the President

of the Republic of Belarus and international treaties of the Republic of Belarus, this information may be made available to foreign competent authorities without any additional restrictions. Information on bank shareholders and beneficial owners is accessible via banks' official websites. Foreign competent authorities' access to additional information from the register of bank shareholders is provided in accordance with the terms of international cooperation agreements. Pursuant to Article 34 of the Banking Code, the NBRB, when exercising banking supervision, may request and receive information from government bodies and other organizations necessary for banking supervision, as well as require the submission by banks, NCFIs and legal entities other than banks or NCFIs classified in accordance with the Code as members of a banking holding company, of statements and other information in accordance with the Code and the regulations of the NBRB. Pursuant to Article 43 of RB Law of January 5, 2015 "On the Securities Market", information on shareholders/depositors such as the name and principal place of business (for legal persons), or last name, first name and patronymic (if any), place of residence or place of stay (for individuals), as well as information on the custodial account balance and past activity, is confidential.

- (c) Law enforcement authorities may request any information, including beneficial ownership information, on behalf of foreign counterparts (see Criterion 40.8). In addition, as part of international cooperation, DFM may request beneficial ownership information from FIs and DNFBPs (See Criterion 29.3).

306. Pursuant to Decree No. 422 "On the Provision of Information to Foreign Tax Authorities", beneficial ownership information can also be shared between tax and law enforcement authorities.

307. **Criterion 24.15** DFM undertakes monitoring as part of its ongoing operations. The analytical functionality of the software utilized by DFM allows it to monitor the quality of assistance received from foreign counterparts.

Weighting and Conclusion

308. Belarus has put in place a legal framework for creating different types of legal persons, and established a register of up-to-date basic information. The competent authorities have the necessary powers to access both basic and beneficial ownership information, as well as to engage in international cooperation. At the same time, the measure used to obtain and retain up-to-date beneficial ownership information are not sufficiently comprehensive. **Recommendation 24 is rated LC.**

Recommendation 25-Transparency and beneficial ownership of legal arrangements

309. In its MER of 2008, Belarus was rated not applicable in relation to R.34. Standards in this area have been considerably strengthened since the previous assessment.

310. **Criterion 25.1** Belarus is not a party to the Hague Convention of 1985 on the Law Applicable to Trusts. A trust as a type of incorporation or type of business is absent from the RB Civil Code or other regulations. Trusts, therefore, cannot be registered in Belarus. Meanwhile, engaging in business activities without a license falls within the definition of an illegal business activity in Belarus, punishable under administrative and/or criminal law (see R.24) (sub-criteria a) and b) are not applicable)

311. When having the status of a foreign legal person, foreign trusts, as well as their founders, beneficiaries and trustees, can be clients of FIs and/or DNFBPs in Belarus. In this case, FIs and DNFBPs are required to maintain the requisite information on foreign trusts which are their customers (Article 6 of the AML/CFT Law). However, the information on foreign trusts obtained in the course of CDD procedures is incomplete, namely, the requirement to identify beneficiaries applies only to customers that are natural persons and individual entrepreneurs, while the requirement to identify the trustees of a foreign trust in the course of CDD procedures is lacking (sub-criterion c).

312. **Criterion 25.2** Pursuant to Art. 8 of the AML/CFT Law, financial institutions and DNFBPs are

required to identify customers in the cases specified in the article, while ensuring that this information is accurate and up-to-date. However, given the shortcomings identified in Criterion 25.1, the information collected cannot be complete.

313. **Criterion 25.3** The law does not require founders of a foreign trust, its beneficiaries and trustees to disclose their status.

314. There is no separate requirement for FIs and DNFBPs to identify foreign trusts that are their customers, or their founders/beneficiaries/trustees. In the cases provided for in Art. 8 of the AML/CFT Law, FIs and DNFBPs are required, among others, to identify the beneficial owner (for corporate customers) and the beneficiary (for individual customers/individual entrepreneurs and their representatives). Pursuant to part 6 of Art. 6 of the Law, customers (or their representatives) are required to provide documents (information) needed to identify financial transaction participants. In the event of failure of the customer to provide information and documents pursuant to part 2 of Art. 6 of the Law, the person (a bank or other person) conducting the financial transaction will turn down the customer's request to carry out the transaction, including to open an account.

315. In addition, persons conducting financial transactions may request and record other data needed to undertake enhanced CDD measures.

316. **Criterion 25.4** The law does not restrict or prevent the disclosure of information by the founders of a trust to the relevant competent authorities, or to financial institutions and DNFBPs. However, the deficiencies identified above in identification of trustees have an impact on this criterion.

317. **Criterion 25.5** As noted in c. 25.1, trusts cannot be legally created in the country (see 25.1). Where a foreign trust (or its founder/beneficiary/trustee) is a customer of a FI or DNFBP in Belarus, they are subject to the requirements of the domestic AML/CFT Law. Accordingly, the competent authorities (law enforcement and investigative (see R.31), as well as supervisors, including the DFM (see R.27 and R.29)) have all the powers necessary to access information.

318. **Criterion 25.6** There are no separate regulations in place in Belarus governing the exchange of information with trusts. At the same time, there are no restrictions on such an exchange (a) is met).

319. There are no obstacles to the exchange of the information available on foreign trusts, as well as their founders, beneficiaries and trustees. All competent authorities, including law enforcement, may engage in information sharing.

320. DFM, supervisors, law enforcement and other competent authorities may exchange information on trusts that are customers of Belarusian financial institutions and DNFBPs, as well as on the founders/beneficiaries/trustees of foreign trusts who are customers of Belarusian financial institutions and DNFBPs, in the framework of international cooperation (see R.40).

321. At the same time, the shortcomings in Criteria 25.1 and 25.2 may adversely affect the quality of international cooperation on trusts.

322. **Criterion 25.7** Trusts as a legal entity may not be created in Belarus, hence they cannot engage in legal financial transactions. Persons engaging in illegal business activities face administrative (a fine or confiscation of income from illegal business) and/or criminal liability (a fine, deprivation of the right to occupy certain positions or engage in certain activities, detention, restriction or deprivation of liberty).

323. At the same time, where foreign trusts or their founders/beneficiaries/trustees are customers of financial institutions and/or DNFBPs in Belarus, the responsibility to comply with the requirement of the AML/CFT Law to identify beneficial owners lies with persons conducting financial transactions. However, the law does not require all requirements of R.25 to be complied with, hence FIs and DNFBPs incur no liability for such non-compliance (see Criteria 25.1, 25.2 and 25.3).

324. In the event of failure to provide information and documents needed for identification as specified in Art. 6 of the AML/CFT Law, the request to carry out the transaction or enter into a relationship will be turned down.

325. **Criterion 25.8** Trusts cannot be established in Republic of Belarus. The CDD measures are applied in full in terms of identification of clients, who are participants of foreign trusts, except for shortcoming identified in criteria 25.1, 25.2 and 25.3. The Code of Administrative Offences provides for administrative liability in the form of a warning or fine in respect of persons who do not comply with AML/CFT requirements (Art. 11.72 and Art. 23.20). This article provides for the imposition of a fine of up to US\$1200 in equivalent for individuals and from US\$600 to US\$12,000 in equivalent for legal entities. Violation of the established procedure of CDD questioning and registration of transactions subject to special control also leads to the imposition of a fine.

Weighting and Conclusion

326. **Recommendation 25 is rated LC.** Trusts or similar legal arrangements are not recognized by Belarus. Still, there are some shortcomings related to the identification of trustees, acquisition and retention of information on trust founders and disclosure by trust service providers of their status.

Recommendation 26 - Regulation and supervision of financial institutions

327. In its MER of 2008, Belarus was rated partially compliant with Recommendation 23 due to the following shortcomings: the AML/CFT supervision, monitoring and sanctions system was only effective in the banking sector; the banking, insurance and securities sectors did not apply the Core AML/CFT Principals; and criminals and their associates were not prevented from entering the securities and insurance markets.

328. **Criterion 26.1** State bodies are responsible for regulating and supervising (establishing CDD requirements, providing guidance, coordinating the activities of reporting entities, developing guidelines for them, reviewing AML/CFT/CPF compliance practice, etc.) persons conducting financial transactions as well as financial institutions' compliance with the AML/CFT/CPF requirements (parts 1 and 2 of Article 16 of AML/CFT Law) (see chapter 1, Table 1.4).

329. **Criterion 26.2** The list of activities requiring a special permit (license), along with the list of government agencies and organizations authorized to issue them, is set out in Decree No. 450 of September 1, 2010 and Annex 1):

Types of activities and works and/or services comprising them	Government agencies and organizations authorized to issue a special permit (license)
Banking	NBRB
Professional and exchange activities with securities	MoF
Insurance	MoF
Communications: • mail forwarding	Ministry of Communications and Informatization
Commodities exchanges	Ministry of Antimonopoly Regulation and Trade

330. Foreign insurance brokers that are not registered with the RB MoF are not allowed to offer their services in Belarus.

331. In line with the core banking principle, banks and non-bank credit and financial institutions are required to have a special permit (license) to provide banking services.

332. The term "mail" covers written correspondence, parcels, expedited mail, special mail and postal money orders accepted by postal operators for delivery to the addressee at the address indicated on the mailed item.

333. Only leasing companies that have been included by the NBRB in the register of leasing companies are allowed to provide leasing services in Belarus.

334. Microfinance companies may begin offering micro loans starting from the date of their inclusion by the NBRB in the register.

335. The following persons are allowed to carry out transactions with non-deliverable over-the-counter financial instruments (in the OTC Forex market) initiated by natural and legal persons:

- legal persons registered in Belarus with at least 200,000 Belarusian rubles in authorized capital, created in accordance with the requirements of this Decree, and forex companies that have been included by the NBRB in the register of forex companies;
- the National Forex Centre;
- banks;
- non-bank credit and financial institutions.

336. Although there is no explicit ban on the opening of shell banks in Belarus, the country's regulations governing the opening of banks or representative offices/branches of foreign banks effectively make it impossible to open a bank which does not have a physical presence in the country or is subject to consolidated supervision.

337. At the same time, legal persons and individual entrepreneurs in Belarus may provide leasing services without being included in the register subject to the following limitations: they can conclude no more than three finance lease contracts in a single calendar year, and (or) the total value of leased assets transferred under one or more finance lease contracts concluded by them in a single calendar year should not exceed 10,000 base values (approx. USD 120,000). According to NRA, the level of ML vulnerability of leasing companies is rated as low, and so is the risk of their ML/TF abuse. Given the NRA findings and the nature of the leasing business (the cost of equipment and restrictions on the number of transactions), this requirement consistent with the country risks

338. **Criterion 26.3** Pursuant to Article 34 of the Banking Code No. 441-Z of October 25, 2000, the NBRB, in relation to entities supervised by it, establishes requirements for the founders, shareholders and other beneficial owners of banks and non-bank credit and financial institutions, that hold, or will hold, shares in a bank or non-bank credit and financial institution in the amount equal to or exceeding 5 percent (except for state bodies, legal persons and individuals acting on behalf of the Republic of Belarus or its administrative territorial units). Among the business reputation requirements applicable to candidates for senior positions in banks and NCFIs are:

- absence of non-cleared or non-expunged record of conviction for crimes against property or the procedure for carrying out economic activity;
- the absence, in the last two years, of the facts of termination of an employment contract by the employer for the commission by persons referred to in part 10 of this Article of guilty acts constituting the grounds for the loss of the employer's trust in such persons;
- the absence of facts, established by a valid court decision, of wrongful actions resulting in the bankruptcy of a legal person.

339. According to the requirements applicable to bank shareholders, founders, bank shareholders, founders may not include persons who have a criminal record or outstanding conviction for economic crimes, or persons involved in the provision of financial or other types of support to terrorists or extremists. Consequently, the restrictions do not apply to persons who may be involved in the commission of other types of crimes. Pursuant to par. 17 of NBRB Guidance 669, candidates for the position of bank director, deputy director, member of its executive body, chief accountant or deputy chief accountant shall not be the target of an ongoing criminal investigation, including as a suspect or defendant i.e. in relation to any criminal investigation, not only into economic crimes.

340. No requirements apply to founders, shareholders or beneficial owners of the professional securities market participants (other than banks). Requirements applicable to their officials are the same as for banks.

341. Directors, their deputies and chief accountants of insurance companies may not include persons who have a criminal/administrative record or outstanding conviction (MoF Instruction No. 17 dated February 7, 2002).

342. The existing requirements do not apply to associates.

343. **Criterion 26.4**

- (a) The NBRB monitors compliance, including on a consolidated basis, of its reporting entities with AML/CFT requirements in line with the Core Principles (Article 26, subpar. 27, and Article 35 of the Banking Code, and Article 16 of AML/CFT Law), NBRB Board Resolutions No. 103 dated March 11, 2019 and No. 109 dated March 13, 2019).

Although Belarus has designated supervisors responsible for monitoring compliance of securities market participants (other than banks) and the insurance sector (Article 16 of AML/CFT Law) with AML/CFT requirements, copies of the regulations provided point to the lack of powers to exercise consolidated supervision.

- (b) Belarus has designated authorities responsible for monitoring compliance of financial institutions providing money or value transfer services (banks or postal operators), or money or currency changing services, with the AML/CFT requirements. The framework law covers all types of FIs operating in Belarus. NBRB is responsible for supervision of leasing, microfinance, forex companies and National Forex Centre having regard to the ML/TF risks in sectors (Article 16 of AML/CFT Law).

344. **Criterion 26.5**

- (a) Article 16 of AML/CFT Law as well as 2nd part of the paragraph 2 of the Decree of 16.10.2009 No. 510, part 2 of paragraph 9 of the Decree of 16.10.2009 No. 510, paragraph 84 of the Regulation on the order of inspections, approved by the Decree of 16.10.2009 No. 510 sets out the list of government agencies responsible for monitoring compliance with the AML/CFT/CPF requirements, as well as their requirements for frequency and intensity of inspections (on-site and off-site). As part of these requirements, targets for inspections are selected on the basis of the risk assessment criteria, including ML/TF risks, as well as the findings of analysis of the information available to the controlling (supervisory) body - results of the analysis of the internal control rules and other procedures, legislation violations and other relevant information).
- (b) For NBRB such requirements to take into account the ML/TF risks present in the country during supervision activities are set out in NBRB Resolutions No. 103 dated March 11, 2019 and No. 109 dated March 13, 2019. For other types of FIs, Belarus lacks the requirements and procedure for determining the frequency and intensity of on-site and off-site AML/CFT supervision of financial institutions and groups based on the ML/TF risks present in the country.
- (c) Pursuant to par. 9, parts 2 and 3, of Decree No. 510 dated October 16, 2009, selection of

financial institutions for inspection is made on the basis of the criteria developed by regulatory (supervisory) authorities. Pursuant to NBRB Board Resolution No. 82 dated February 27, 2018, NBRB Board Resolution No. 103 dated March 11, 2019 for NBRB reporting entities and NBRB Board Resolution No. 109 dated March 13, 2019, the frequency and intensity of random, unscheduled and off-site AML/CFT/CPF inspections is determined on the basis of the following factors:

- the ML/TF/PF risks associated with the bank, banking group or bank holding company;
- the assessment of the bank, banking group or bank holding company's AML/CFT/CPF internal controls;
- the ML/TF/PF risks identified in Belarus;
- the nature of the bank, banking group or bank holding company's activities.

345. **Criterion 26.6** Pursuant to NBRB Board Resolutions No. 103 dated March 11, 2019 and No. 109 dated March 13, 2019 applicable to its reporting entities, the assessment of the ML/TF/PF risk profile of a bank, banking group or bank holding company (including the risks of non-compliance) is reviewed periodically, and when there are major events or developments in the management and operations of the financial institution or group. For other types of FIs, supervisors are not required to review the assessment of the ML/TF risk profile of a financial institution or group (including the risks of non-compliance) periodically, and when there are major events or developments in the management and operations of the financial institution or group.

Weighting and Conclusion

346. Legal persons and individual entrepreneurs in Belarus may provide leasing services without being included in the register subject under specific conditions.

347. There are legal requirements in place in Belarus designed to prohibit criminals from entering the market, which, however, do not apply to their affiliates.

348. Since the core requirements of the recommendation are met for entities supervised by NBRB (bank, non-bank financial credit and financial institutions, Development Bank of the Republic of Belarus JSC, leasing and microfinance companies, forex companies and the National Forex Centre), as well as given the weighted score assigned to these entities. **Recommendation 26 is rated LC.**

Recommendation 27 - Powers of supervisors

349. In its MER of 2008, Belarus was rated partially compliant with Recommendation 29 due to the following: only the NBRB could apply a wide range of sanctions against all types financial institutions; the MoF and the Ministry of Communications lacked the powers to apply AML/CFT sanctions; the NBRB could not apply administrative sanctions, nor financial sanctions against directors and senior managers.

350. **Criterion 27.1** All financial institutions in Belarus have designated AML/CFT/CPF supervisors (see analysis under 26.1). Pursuant to subparas. 1 and 2 of Article 16 of the AML/CFT Law, these supervisors are tasked with monitoring compliance of financial institutions with AML/CFT/CPF requirements, including through the use of various AML/CFT/CPF tools. In addition, the framework AML/CFT law empowers supervisors to take steps to combat money laundering and financing of terrorism and proliferations. This wording reflects the objectives towards which the supervisory action should be directed.

351. In addition to the framework law, measures listed in Decree No. 510 dated October 16, 2009 are aimed at describing the practical side of supervision, i.e. the procedure governing the fulfilment by state supervisory authorities of their functions. To this end, Belarus has adopted two instruments governing the monitoring and inspection of reporting entities. (Decree No. 510 dated October 16, 2009 adopted the Regulations on Monitoring and the Regulations on Organizing and Conducting Inspections). Regulations

made available to the assessors authorize FIs to conduct monitoring or supervision, including to ensure compliance with AML/CFT requirements.

352. **Criterion 27.2** Pursuant to Decree No. 510 dated October 6, 2009, state control (supervision) is exercised by controlling (supervisory) bodies, including in the following formats: random inspections, unscheduled inspections, preventive action, etc. Only controlling (supervisory) bodies that are included on the list of controlling (supervisory) bodies authorized to conduct inspections and areas under their purview, have the authority to conduct inspections. Paragraph 28 of same decree sets out the list of controlling (supervisory) bodies authorized to conduct inspections and areas under their purview, including, in particular, monitoring compliance with the AML/CFT/CPF requirements.

353. 353. In addition, the relevant provisions are enshrined in the regulations of the following supervisors: NBRB (Chapter 3, par. 12 of the Charter of the NBRB of the Republic of Belarus; Article 34 of the Banking Code of the Republic of Belarus No. 441-Z of October 25, 2000); MoF (subpar. 4.68-10 of the Regulations on the MoF of the Republic of Belarus; subpar. 4.7-1 of the Regulations on the Securities Department of the MoF of the Republic of Belarus); Ministry of Communications and Informatization (subpar. 5.22-2 of the Regulations on the Ministry of Communications and Informatization of the Republic of Belarus, adopted by RB Council of Ministers Resolution No. 302 dated March 17, 2004), Ministry of Antimonopoly Regulation and Trade (RB Council of Ministers Resolution No. 702 dated September 6, 2016 No. 702 - Regulations on the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus, pars. 5.7 and 6.55).

354. **Criterion 27.3** Pursuant to Chapter 2, paragraph 4 of Decree No. 510 dated October 16, 2009, supervisory authorities may gain access to administrative, manufacturing and other premises (facilities) and territories of the inspected entities to conduct an inspection. Supervisors may also compel production by the inspected entities, counterparties, government agencies and other organizations and individuals.

355. In addition, in compliance with the provisions of Part five, Article 34 of the Banking Code of the RB, the NBRB is authorized to require from banks, NCFIs, legal entities that are not banks or NCFIs and that form a part of bank holdings to submit reports and other information, including that related to AML/CFT issues. Pursuant to Article 121 of the Banking Code, banks are required to provide to the NBRB information constituting bank secrecy.

356. Pursuant to Article 16, paragraph 9 of part 2, of the AML/CFT Law, state authorities exercising control over the activities of persons conducting financial transactions may require reporting entities from among persons conducting financial transactions to report transactions subject to special controls

357. **Criterion 27.4** Pursuant to Article 16, paragraph 8 of part 2, AML/CFT Law state bodies responsible for supervising persons conducting financial transactions shall impose sanctions in accordance with applicable law for failure to comply with the AML/CFT/CPF requirements.

358. Pursuant to Articles 4.1, 4.3 and 4.8; Chapter 6; and Articles 11.72, 11.79, 11.80, 22.13 and 23.20 of CAO RB No. 194-Z of April 21, 2003, a range of available sanctions includes fines and warnings. The powers to impose administrative sanctions against financial institutions are vested in the NBRB (NBRB Board Resolution No. 358 dated August 31, 2017), MoF (MoF Resolution No. 24 dated February 14, 2007) and Ministry of Communications and Informatization (Ministry of Communications and Informatization Resolution No. 15 dated May 20, 2015).

359. Except for the banking laws, no explicit requirement to withdraw, restrict or suspend the financial institution's license for non-compliance with the AML/CFT requirements is provided for by law. Employees, including persons conducting financial transactions, may face disciplinary and financial sanctions.

360. There are a wide range of measures and sanctions that can be used by supervisors in Belarus against reporting entities for non-compliance with applicable requirements. Given that the framework law empowers state authorities in Belarus to monitor compliance with the AML/CFT requirements, the application of appropriate measures and sanctions also falls within their purview.

Weighting and Conclusion

361. Belarus's framework largely meets the requirements of the FATF recommendation on supervision. The country's supervisors of banks, NCFIs, professional securities market participants and insurance companies are authorized to conduct monitoring and supervision.

362. There is no explicit requirements in the law to revoke, restrict or suspend the license for non-compliance with the AML/CFT requirements except for the banking law. **Recommendation 27 is rated LC.**

Recommendation 28 - Regulation and supervision of DNFBPs

363. In its MER of 2008, Belarus was rated non-compliant with Recommendation 24. The main shortcomings concerned the implementation of the AML/CFT regime for casinos and the lack of AML/CFT oversight over dealers in precious metals and precious stones and other types of DNFBPs.

364. **Criterion 28.1** Gambling organizers fall within the category of persons conducting financial transactions, whose compliance with the AML/CFT requirements is monitored by the Ministry of Taxes.

- (a) Persons wishing to perform work and (or) provide services related to gambling (operate a casino, gambling hall, betting house or bookmaker office) are required to apply for a license, issued by the Ministry of Taxes. Only legal persons are allowed to provide gambling services in Belarus (par. 1 of Decree No. 599 dated November 19, 2010 "On certain measures to improve the regulation of activities in the gambling industry"). Online casinos were legalized in Belarus on April 1, 2019. No licenses to online casinos have been issued by the MT so far.
- (b) The Ministry of Taxes takes measures designed to prevent violations of the AML/CFT Law and to apply appropriate sanctions (Chapter 16 of Decree No. 450 dated September 1, 2010 calls for the licensing of gambling operations). State registration of corporate property owners with a non-cleared or non-expunged record of conviction for financial crimes; designated as potential offenders (applicable to the directors of legal persons created in the form of an institution or association; subject to a valid court order requiring them to clear outstanding arrears in taxes, compulsory insurance and social protection contributions; or listed as the owners of the property, or directors, of businesses subject to administrative or bankruptcy proceedings, the applicant must provide evidence of non-involvement in bankruptcy proceeding; the director or deputy director of a legal entity for whom this is a full-time job must have at least three years of work experience in the gambling industry in the position of director or deputy director of a legal entity. Chapter 10 of MT Resolution No. 27 dated September 16, 2016 sets out the qualification requirements for company officials responsible for internal controls. The licensee may be suspended or revoked if the information provided by the licensee is found to be inaccurate. Belarus has established requirements for the location of gambling establishments and their size. MT licensing regulations for gambling organizers do not include the requirement to identify persons holding a significant or controlling interest in the license holder. However, the property owner (founder, shareholder) is screened at the incorporation stage for the absence of a criminal record for economic crimes.
- (c) The Ministry of Taxes monitors compliance of gambling organizers with the AML/CFT/CPF requirements by conducting spot and unscheduled checks, technical inspections, and preventive action. These activities fall within the category of supervisory measures and are conducted in collaboration with gambling organizers.

365. **Criterion 28.2** The list of authorities responsible for monitoring compliance of persons conducting financial transactions that fall within the FATF definition of DNFBP with the AML/CFT/CPF requirements is set out in Article 16 of the AML/CFT Law. Compliance of DNFBPs with the AML/CFT/CPF requirements is monitored by the following authorities:

• *MoF:*

- (1) dealers in precious metals and precious stones;
- (2) pawnshops dealing with precious metals and precious stones;
- (3) audit firms and individual auditors.

• *MoJ*

- (1) notaries;
- (2) organizations providing real estate services and participating in transactions related to buying and selling of real estate property for their clients;
- (3) entities and individual entrepreneurs, lawyers and law firms providing legal services.

• *RB State Property Committee: state registrars of real estate property, titles thereto and transactions therewith.*

• *RB MoF: organizers of lotteries and electronic interactive games;*

• *RB Ministry of Taxes: gambling organizers (except for casinos, these are gambling halls, betting houses and bookmaker offices);*

• *RB Ministry of Antimonopoly Regulation and Trade: commodity exchanges;*

• *RB State Property Committee: state registrars of real estate property, titles thereto and transactions therewith.*

366. Trust and company service providers – trusts as a type of incorporation or type of business are absent from the RB Civil Code or other regulations. There are no specific forms of legal persons in such legal form in the country and such services are not provided

367. **Criterion 28.3** The responsibility for monitoring compliance of persons conducting financial transactions with the AML/CFT/CPF requirements is assigned to state authorities referred to in part 1 of Article 16 of AML/CFT Law. In particular:

368. All types of DNFBPs have dedicated supervisory bodies in place and are subject to AML/CFT compliance monitoring. The list of designated supervisors responsible for monitoring compliance of persons conducting financial transactions with the AML/CFT/CPF requirements is set out in Article 16 of the AML/CFT Law. In addition, pursuant to paragraph 3 of Presidential Decree No. 510 dated October 16, 2019, controlling (supervisory) activities include monitoring and issuance of remedial orders. In view of the foregoing, it can be concluded that the term "control" as used in Art. 16 of the AML/CFT Law includes, or implies, monitoring.

369. **Criterion 28.4**

- (a) Inspections are conducted by supervisors included on the List of Supervisory Authorities Responsible for Conducting Inspections and Areas of Their Responsibility, adopted by Decree No. 510 dated October 16, 2009. Pursuant to this Decree, authorities supervising persons conducting financial transactions (including DNFBPs) are have powers to perform supervision and monitoring functions for compliance with the AML/CFT/CPF requirements.
- (b) Designated supervisors take the following measures to prevent criminals from being professionally accredited in a DNFBP: when applying for a professional accreditation/license, accountants, audit firms, notaries, real estate agents, gambling organizers, lawyers and persons providing legal services undergo screening designed to identify among them (their employees/directors) persons with a non-cleared or non-expunged record of conviction; persons whose employment with law enforcement, judicial or other state bodies was terminated for cause within 3 years prior to applying for a license; and persons convicted of a premeditated crime, tax evasion or other offences resulting in the revocation of the entity's license. When performing state registration of

real estate property, titles thereto and transactions therewith, the national registering authority carries out the certification of registrars and maintains a register of registrars¹³. Persons with a criminal record are not allowed to undergo certification. The existing requirements do not apply to criminals' associates. There are no legal requirements for prevention of beneficial owners or persons with significant controlling interests.

- (c) State bodies responsible for supervising DNFBPs in Belarus, including the MoF, the MoJ, the Ministry of Taxes and the State Property Committee, have powers to impose sanctions for failure to comply with the AML/CFT/CPF requirements (Articles 3.15, 3.21 and 3.30 of CAO RB). Among the sanctions for non-compliance with the AML/CFT requirements¹⁴ provided by the CAO RB are warnings and/or fines. Existing penalties may help deter non-compliance with the AML/CFT/CPF requirements. RB Law No. 131-Z of July 17, 2018 amended Article 11.72 to extend sanctions to company officials.

370. **Criterion 28.5 (a and b)** Compliance with the AML/CFT/CPF requirements is monitored in Belarus through the use of selective and unscheduled inspections, preventive and proactive actions, etc. Pursuant to par. 9 of Presidential Decree No. 510, random inspections of DNFBPs are carried out two years from the date of the events specified in paragraph 7 of the Decree. Targets for inspections are selected on the basis of the risk assessment criteria, including ML/TF risks; the findings of analysis of the information available to the supervisor (information on compliance with the law, results of previous inspections, other remote methods of information collection) indicating a high risk of non-compliance and challenges in its detection and (or) elimination by other supervisory mechanisms; and information from, among others, foreign state authorities and individuals obtained in the course of preventive measures. That said, the same entity cannot not be subjected to more than one random check within three calendar years.

371. Unscheduled inspections, whose timing does not depend on the schedule of selective checks, are conducted: at the request of the President of the Republic of Belarus, in response to reports of illicit threshold transactions; by the State Control Committee of the Republic of Belarus (or, on its behalf, by its regional branches or regional financial investigation authorities); the SCC(or, on its behalf, by customs officials); the Ministry of Taxes (or, on its behalf, by its regional branches), in respect of businesses and individual entrepreneurs listed as high-risk, as well as in respect of other entities transacting with listed persons.

372. Therefore, supervision of DNFBPs is performed on the basis of their understanding of the ML/TF risks and their structure; however, the modes of supervision used are not fully consistent with the risk-based approach recommended in Criterion 28.5, which requires supervisors, among others, to take into account the diversity and number of DNFBPs, and the degree of discretion allowed to them under the risk-based approach.

Weighting and Conclusion

373. All categories of DNFBPs are subject to the relevant oversight bodies and monitoring regime. Casinos and the gambling sector in the country are licensed and subject to appropriate requirements for managers and owners. However, there are no requirements for beneficial owners and controlling shareholders, and the licensing requirements do not apply to affiliated parties. The risk of targeted supervision of the DNFBP sector is present but not fully compliant with the FATF requirements.

Recommendation 28 is rated PC.

¹³ Art. 13, subpar. 1 of par.1, of RB Law No. 133-Z of July 22, 2002 "On State Registration of Real Estate Property, Titles Thereto and Transactions Therewith";

¹⁴ Art. 11.72 of RB CAO RB "Failure of a person conducting financial transactions to implement AML/CFT/CPF measures provided by law"; Art. 23.20 of RB CAO No. 194-Z of December 20, 2006 "Violation of the established procedure for registering financial transactions subject to special control".

Recommendation 29 - Financial intelligence units

374. In its MER of 2008, Belarus was rated largely compliant with Recommendation 26. Among the main shortcomings was the DFM's failure to regularly report on its activities.

375. **Criterion 29.1** Articles 10 and 11 of AML/CFT Law (hereinafter "the AML/CFT Law") designate the DFM of the State Control Committee of the Republic of Belarus, hereinafter "DFM" (Regulations on the DFM, adopted by Presidential Decree No. 408 dated September 14, 2003, Articles 1 and 7), as Belarus's FIU with responsibility to monitor compliance with the AML/CFT/CPF requirements, including for receipt and analysis of STRs and other financial intelligence and for its dissemination.

376. **Criterion 29.2** DFM collects and analyses suspicious transaction reports (Article 11 of the AML/CFT Law) and other information (upon written request) required for the performance of its functions as an FIU, including:

- receipt of STR filed pursuant to R.20 and R.23;
- reports on other transactions subject to special control (Article 7 of the AML/CFT Law), including financial transaction with cash; money transfer; financial transaction with movable and immovable property; financial transaction with securities; financial transaction with loans; financial transaction with debt transfer and assignment of claim ((if the amount of the financial transaction is equal to or exceeds the legal threshold)

377. **Criterion 29.3**

- (a) DFM has all the necessary powers to send both initial requests and requests for clarification and/or additional information. State bodies, as well as all persons conducting financial transactions (legal and natural, including the NBRB and the Development Bank), are required to submit to the DFM any information and documents (except personal information) requested by it (Article 12 of the AML/CFT Law, Article 5 of Presidential Decree No. 408, and paragraph 7 of the Regulations on the DFM).
- (b) DFM has direct electronic access to the databases of state bodies and other organizations, including the databases of persons conducting financial transactions containing details of transactions subject to special control, the Belarusian Interbank Clearing Centre (information on fund transfers, a directory of accounts and electronic wallets), as well to some international databases (SPARK, World-Check) (par. 7 of the Regulations on DFM).

378. **Criterion 29.4** Pursuant to Art. 11 of the AML/CFT Law, DFM is responsible for receipt and analyses of data on suspicious financial transaction reports.

- (a) DFM performs operational analysis pursuant to par. 7 of the Regulations on DFM.
- (b) DFM has designated persons from among its staff members responsible for performing strategic analysis as part of their job functions.

379. **Criterion 29.5** DFM has powers to disseminate, spontaneously and upon request, information, including related to the freezing of funds/transactions, to law enforcement, as well as where there are sufficient grounds to believe that the transaction is carried out for ML/TF/PF purposes. Information in this case is disseminated through secure and protected channels.

380. **Criterion 29.6**

- (a) DFM is required to ensure the appropriate level of information security and confidentiality (par. 6.5 of the Regulations on DFM). This is achieved through the use of non-disclosure agreements, signed by persons having access to this information. The information stored in the FIU database can only be accessed by the authorized members of the FIU using special personalized codes and can be disclosed only for the purposes of preventing, detecting and investigating ML and TF, predicate offences, as well as

referring cases for criminal investigation.

- (b) Paragraph 11 of the AML/CFT Law requires DFM staff members to protect the confidentiality of information accessible to them containing official, banking and other protected secrets.

In accordance with internal regulations, all staff members are required to sign a non-disclosure agreement to protect the confidentiality of information they have become aware of as part of their official duties.

In addition, staff members face administrative (Art. 22.13 of the CAO RB) or criminal (Article 255 of the CC RB) liability for a deliberate disclosure of trade or other secrets protected by law (including banking). Administrative (Article 22.15 of the CAO RB) and criminal (Article 375 of the CC RB) liability is also provided for the disclosure of official secrets.

CC RB also establishes criminal liability for disclosing information constituting state secret (both deliberate and undeliberate), for commercial espionage, as well as the information related to securities and the issuer's business activities.

- (c) Access to the DFM premises is subject to the mandatory identification of persons seeking such access. Access to classified information is subject to the DFM director's written consent as well as the use of a unique login and password (DFM Director's Directive No. 16/2/2 dated June 25, 2015).

381. **Criterion 29.7**

- (a) DFM is a subdivision of the State Control Committee incorporated as a legal entity. Although when it comes to personnel arrangements, the DFM's organization structure does not provide for complete independence from the State Control Committee, the DFM director has all the necessary powers to ensure the agency's independence when acting as the head of the country's FIU.

The Director of FIU has the full authority to make autonomous decisions to analyse, request and disseminate information.

The powers to appoint and dismiss the DFM director lies with the President of the Republic of Belarus. The DFM director, twice a year, reports to the chairman of the State Control Committee on progress in implementing the goals and objectives set for the DFM in the national strategies and priorities.

- (b) DFM has all the necessary powers to engage with other domestic competent authorities and organizations in combating ML/TF/PF, including to request any information and documents from all domestic stakeholders.

DFM has entered into appropriate agreements with law enforcement and other authorities, including with a view to facilitating cooperation.

DFM has the status of a designated authority tasked with promoting international AML/CFT/CPF cooperation, and its director may enter into international agreements with foreign competent authorities. DFM, acting within its competence, may share information on the principle of reciprocity.

- (c) Despite the DFM's status as a subdivision of the State Control Committee, it performs the functions of the country's FIU (par. 6 of the Regulations on DFM).
- (d) DFM is a subdivision of the State Control Committee incorporated as a legal entity and has its own seal. The DFM director, within its competence, may take disciplinary action against DFM staff, including adopt regulations; hire, appoint or dismiss personnel; and allocate available human resources.

In addition, pursuant to paragraph 6 of Decree 408, DFM receives separate funding for its operations, including for the creation and operation of an automated integrated accounting system and for the processing and analysis of data on transactions subject to special control.

382. **Criterion 29.8** DFM has been a full member of the Egmont Group since May 30, 2007 (15th Plenary resolution).

Weighting and Conclusion

383. **Recommendation 29 is rated C.**

Recommendation 30 - Responsibilities of law enforcement and investigative authorities

384. In its MER of 2008, Belarus was rated largely compliant with the former Recommendation 27. Among the main factors affecting the rating for this recommendation was the lack of a designated law enforcement authority (s) responsible for AML/CFT. In addition, law enforcement authorities lacked a systematic approach to investigating ML/TF, resulting in the low ML/TF crime detection rate and the absence of crime statistics, which made it impossible to evaluate the performance of some law enforcement agencies.

385. **Criterion 30.1** Pursuant of Chapter 4 of RB Law No. 414-Z of July 16, 2008 "On the Financial Investigation Authorities of the State Control Committee of the Republic of Belarus", financial investigation authorities of the State Control Committee are responsible for identifying and combating money laundering irrespective of the type of the predicate offence associated with it.

386. The list of law enforcement agencies and types of predicate offences falling within their purview in the area of inquiry is set out in Article 37 of the RB CPC RB.

387. Pursuant to Article 36 of the CPC RB, preliminary investigations (including into predicate offences, ML and TF) are conducted by investigators of the IC and state security agencies.

388. Article 34 of the same code defines prosecutor as an official who, within his competence, carries out criminal prosecution on behalf of the state.

389. Thus, preliminary investigations into ML/TF, as well as into predicate offences, fall within the purview of investigators of the IC, the investigators of the SSC and the prosecutor are also empowered to conduct investigations.

390. **Criterion 30.2** Pursuant to Article 174 of the CPC RB, upon submission of a crime report or detection of a crime, the body of inquiry may refer such report to another agency of the appropriate jurisdiction or purview.

391. The investigative jurisdiction for ML and predicate offences is determined in accordance with Article 184 of the CPC RB.

392. Law enforcement agencies in Belarus have legal grounds to cooperate and conduct parallel financial investigations (RB General Prosecutor's Office, State Committee of Forensic Examinations, IC, SSC, MIA, Ministry of Emergency Situations, Ministry of Defense, State Control Committee, State Border Committee and SCC Resolutions Nos. 36/278/338/77/42/7/32/17/28/24 dated December 26, 2016 "On approval of the Guidance on Cooperation between RB Prosecution and Preliminary Investigation Authorities, Bodies of Inquiry and the State Committee of Forensic Examination during Pre-trial Proceedings").

393. **Criterion 30.3** Article 132 of the CPC RB provides for the recovery of damages caused by a crime, forfeiture of the proceeds of crime, civil action, other pecuniary sanctions or possible confiscation of property, authorizing the body of inquiry, investigator, prosecutor or court to seize the property of the suspect, defendant or persons financial liable for their actions.

394. **Criterion 30.4** Although the State Control Committee (in its role as a state body in general) is not a law enforcement agency, per se, it has the responsibility for pursuing financial investigations of

predicate offences to the extent provided by Recommendation 30. At the same time, one of the SCC's departments – the Financial Investigations Department – is a law enforcement agency

395. **Criterion 30.5** When exercising their functions, anti-corruption enforcement authorities may, in full or in part, freeze transactions of persons and entities for up to ten days, as well as restrict their rights to dispose of the property for the same period; provided there are reasonable grounds to believe that the funds and (or) other property were obtained from persons involved in corruption offences or money laundering.

Weighting and Conclusion

396. **Recommendation 30 is rated C.**

Recommendation 31 - Powers of law enforcement and investigative authorities

397. In its MER of 2008, Belarus was rated compliant with the former Recommendation 28.

398. **Criterion 31.1** Pursuant to Article 103 of the CPC RB, the criminal prosecution authority, as well as the court upon petition of the parties or on its own initiative, may, within its competence, conduct inspections, searches, taking witness statements, obtaining evidence and other investigative proceedings provided for by this Code; compel production by entities, officials and persons, as well as by investigative authorities, of objects and documents relevant to the criminal case; require the relevant authorities and officials to undertake audits and inspections.

399. **Criterion 31.2** According to RB Law No. 307-Z of July 15, 2015 "On Law Enforcement Intelligence Operations", law enforcement intelligence operations can be conducted using overt and covert methods. The conduct of overt law enforcement intelligence operations is subject to the notification by an official of the relevant investigative authority of the person who is the target of such law enforcement intelligence operations and his consent. Meanwhile, covert law enforcement intelligence operations are undertaken by an official of the relevant investigative authority without notification of the person who is the target of such law enforcement intelligence operations or his consent, that includes, but not limited to: intercepting communications, accessing computer systems, and controlled delivery.

400. **Criterion 31.3** Belarus has a mechanism in place to identify, in a timely manner, whether natural or legal persons hold or control accounts, as well as have a process to identify assists without prior notification to the owner. (Articles 15, 22 and 24 of the Law of 15.07.2015 No. 307-3 "On Operational and Investigative Activities")

401. **Criterion 31.4** The DFM has entered into bilateral agreements with investigating authorities on cooperation in combating money laundering and financing of terrorism and proliferation (for official use only).

Weighting and Conclusion

402. **Recommendation 31 is rated C.**

Recommendation 32 – Cash couriers

403. In its MER of 2008, Belarus was rated non-compliant with SR.IX. As a justification of this rating, assessors cited the following shortcomings: failure to apply the existing customs controls to combat ML/TF; inability to suspend the cross-border transportation of currency where ML/TF is suspected; not all types of bearer negotiable instruments are subject to declaration; customs authorities do not retain the declaration information related to suspected ML/TF and are unable to apply sanctions to persons who are carrying out a physical cross-border transportation of currency related to ML/TF; it is not possible to apply the relevant provisions of R.3 and SR.III in relation to currency related to ML/TF that is being transported across the border.

404. Belarus is a member of the Eurasian Economic Union and the common customs regime, which, among others, regulates the movement of goods across the customs border of the Union, their storage and use in the customs territory of the Union, as well as the discharge of customs formalities related to the arrival of goods in the Union customs territory and their departure therefrom.

405. **Criterion 32.1** Belarus implements a declaration system for cross-border transportation of currency and bearer negotiable instruments. Thus, pursuant to Article 260, subpars. 7 and 8 of par. 1, of the Customs Code of the Eurasian Economic Union, currency and BNIs are subject to customs declaration.

406. In addition, the requirement to declare cash and BNIs also applies to their transportation across the customs border by couriers or through international mail or cargo (Article 256, subpars. 1, 2 and 3 of par. 3, of EAEU CC).

407. The term "monetary instruments" means traveller's cheques, promissory notes, cheques (bank cheques) and certified securities evidencing the obligation of the issuer (debtor) to pay and which do not indicate the name of the payee (Article 2, subpar. 8 of par. 1, of EAEU CC).

408. As noted earlier, Belarus is a member of the EAEU and as such is not required to have a declaration system for currency and BNIs being transported within the borders of the customs union (Article 25, subpar. 5 of par. 1, of the Treaty on the Eurasian Economic Union).

409. This deficiency is partly mitigated by border control measures by the SCC, which is in place at all Belarussian borders, including border with Russia (EAEU member state). This includes surveillance, electronic scanning, and the use of service dogs. They also have the power to stop and search motor vehicles along the border.

410. **Criterion 32.2** Pursuant to Article 260, subpar. 7 of par. 1, of EAEU CC, all persons making a physical cross-border transportation of cash and (or) traveller's cheques in the amount exceeding USD 10,000 are required to declare them. With respect to other BNIs, Article 260, subpar. 8 of par. 1, of EAEU CC requires them to be declared at all times.

411. **Criterion 32.3** Since the country uses a threshold declaration system, this criterion is not applicable.

412. **Criterion 32.4** Upon discovery of a non-declaration or false declaration, customs authorities may, pursuant to paragraph 2 of Article 310 of EAEU CC, perform customs controls, whose modes are set out in Chapter 45 of EAEU CC and include the authority to request any information.

413. **Criterion 32.5** Persons failing to comply with customs regulations may incur both administrative and criminal liability.

414. Pursuant to part 2 of Article 14.5 of the CAO RB, a non-declaration of cash and (or) traveller's cheques is punishable by a fine of 5 (approx. USD 60) to 50 (USD 600) base values with/without confiscation of the undeclared cash and (or) traveller's cheques in excess of the declaration threshold.

415. However, the scope of this article does not extend to BNIs other than traveller's cheques.

416. Pursuant to part 2 of Article 228 of the CC RB, a non-declaration of large amounts of cash or monetary instruments is punishable by a fine or deprivation of liberty/imprisonment for a term of 2 to 5 years, or higher in case of aggravating circumstances (part 3 of Article 228 of the CC RB).

417. According to the note to Article 228 of the CC RB, the term "particularly large amount" means the amount of transported currency and (or) the value of monetary instruments that is twice the amount of cash and (or) the value of traveller's cheques that is allowed to be transported across the border of the Customs Union without written declaration.

418. The administrative and criminal sanctions provided are proportionate and dissuasive.

419. **Criterion 32.6** Pursuant to Article 11 of AML/CFT Law, DFM has access to SCC data base on information on currency and (or) monetary instruments stopped at the border. Moreover, upon DFM's request, SCC provides additional information on suspicious cross-border transportation incidents.

420. **Criterion 32.7** Customs, immigration and other authorities in Belarus coordinate with each other on based on the current interagency agreements and unofficial cooperation channels including on issues related to the implementation of R.32.

421. **Criterion 32.8**

- (a) Customs authorities have powers to stop or restrain currency or BNIs for a reasonable time in order to ascertain whether evidence of ML/TF may be found in cases where there is a suspicion of ML/TF or predicate offences.
- (b) Customs authorities have powers to stop or restrain currency or BNIs for a reasonable time in order to ascertain whether evidence of ML/TF may be found in cases where there is a false declaration.

422. **Criterion 32.9** Pursuant to par. 2 of Article 320 of EAEU CC, documents required for customs controls shall be retained for 5 years. However, there are no requirements to retain information related to false declaration or suspected ML/TF.

423. **Criterion 32.10** Pursuant to Article 356 of EAEU CC, the information obtained by customs authorities is confidential.

424. In addition, pursuant to paragraphs 1-2 of Article 6 of RB Law No. 129-Z of January 10, 2014 "On Customs Regulation in the Republic of Belarus", state bodies, including customs authorities, and their officials are prohibited from disclosing, using for personal ends or making available to third parties, including state bodies, any sensitive/classified information, except to the extent provided by the Customs Union regulations, laws of the Republic of Belarus or decrees of the President of the Republic of Belarus.

425. Information obtained by customs authorities under international treaties of the Republic of Belarus may be made available to state authorities pursuant to the general rule and in the manner prescribed by the RB Government, if such information is necessary for the performance of their duties, subject to the restrictions provided for in the domestic law on the disclosure of sensitive/classified information and the terms of international treaties entered into by the Customs Union member countries.

426. **Criterion 32.11** See Criterion 32.5.

Weighting and Conclusion

427. Belarus implements a declaration system for cross-border transportation of currency and bearer negotiable instruments. In addition, persons carrying out the cross-border transportation of currency and (or) traveller's cheques whose amount/value exceeds USD 10,000 are required to submit a declaration. Sanctions provided for non-compliance with customs requirements are proportionate and dissuasive.

428. At the same time, there are a number of minor shortcomings in the implementation of R.32, in particular, there is no requirement to declare currency or BNIs being transported across the internal borders of the Customs Union. The ML threats related to the cross-border transportation of currency and BNI were rated as medium in the NRA. **Recommendation 32 is rated LC.**

Recommendation 33 - Statistics

429. In its MER of 2008, Belarus was rated partially compliant with Recommendation 33. Among the main factors affecting the rating for this recommendation were the shortcomings related to the maintenance of ML and extradition statistics, the lack of MLA statistics related to ML/TF, and the lack of ML/TF statistics available to supervisors.

430. **Criterion 33.1**

- (a) DFM Resolution No. 6 dated October 22, 2008 calls for the maintenance of statistics on STRs, received and disseminated to law enforcement.
- (b) (d) Law enforcement agencies in Belarus maintain statistics on ML/TF investigations,

seized and confiscated property, as well as on ML and other forms of international cooperation. However, the available statistics are neither comprehensive enough nor up-to-date, nor are fully consistent with the FATF standards.

Weighting and Conclusion

431. Although there are mechanisms in place in Belarus for collecting statistics, collected statistics are not comprehensive. **Recommendation 33 is rated LC.**

Recommendation 34 - Guidance and feedback

432. In its MER of 2008, Belarus was rated partially compliant with the former Recommendation 25. The volume of available to financial institutions data on the findings of financial investigations conducted by the FIU is insufficient. The guidelines for the DNFBP sector were not developed by supervisors, with information coming from the MoJ in the form of information letters for subsequent dissemination to reporting entities. The Core Principles were published for FIs and DNFBPs only by the NBRB and the DFM.

433. **Criterion 34.1** Pursuant to Article 16 of AML/CFT Law, supervisors of persons conducting financial transactions are responsible, among other duties, for developing and implementing methodological guidelines, analysis of the policies implementation for the purposes of providing feedback - for reporting entities conducting financial transactions on the use of the identification criteria and indicators of suspicious financial transactions related to money laundering and financing of terrorism and proliferation, having regard to the nature of such persons' activities.

434. . DFM following Regulation on DFM (President of the Republic of Belarus decree No. 408 of September 14, 2003 on "On the establishment of the Department of Financial Monitoring of the State Control Committee of the Republic of Belarus") ensures, among other duties, training, systematic and advanced training activities, analysis of the international experience and practices, develops guidelines for reporting entities conducting financial transactions on the use of the identification criteria and indicators of suspicious transactions related to ML/TF/PF, having regard to the nature of such persons' activities.

435. The following information is accessible via the DFM public website:

- the Guidance for the Identification of TF Transactions (adopted by DFM Order No. 16/3/2 dated June 8, 2018);
- the List of Public Officials (adopted by State Control Committee Order No. 27 dated December 29, 2016);
- the List of Countries and Territories that do not comply with the FATF Recommendations (as amended by State Control Committee Order No. 16/03/36 dated December 11, 2017).
- DFM annual reports.

436. In addition, the DFM has created the Working Group to Study ML/TF Typologies (hereinafter "WGTYP", Order of the DFM No. 2 dated 01.03.2007) that includes the representatives of the private sector. Major tasks of the WGTYP among others, guidelines development for identifying the ML/TF/PF operations as well as providing training in detecting and combating ML/TF/PF and providing recommendations on legislation improvement.

Financial institutions

437. The Board of the NBRB, by its Resolutions No. 783 dated December 17, 2014 and No. 494 dated September 19, 2016, adopted the Guidelines for banks, non-bank credit and financial institutions, the Development Bank of the Republic of Belarus JSC, leasing and microfinance companies, including pawnshops, for obtaining and providing microloans; for forex companies and the National Forex Centre, for managing the ML/TF/PF risks. The guidelines clarify the application (identifying, assessing, monitoring, controlling and mitigating) of the ML/TF/PF risk management procedures (hereinafter "ML

risks") established by the law on the NBRB's requirements for internal controls rules to combat money laundering and financing of terrorism and proliferation. In addition, the NBRB, acting through the Lessors' Association, the National Association of Microfinance Companies and the National Financial Market Development Association, participates in AML/CFT workshops, working meetings and consultations.

438. The MoF and the Ministry of Communications have developed and communicated to interested parties, the risk management guidelines for professional securities market participants (Letter No. 5/152 dated January 28, 2015), insurance companies (Letter No. 13-2-15/40 dated February 2, 2015) and postal operators (Letter No. 05-33/3593 dated December 18, 2014).

439. MART has developed the guidance on internal control rules requirements for commodity exchanges.

DNFBPs

440. In 2016, the MoF developed guidance on internal control rules requirements for compliance with the AML/CFT Law for all types of reporting entities. The MoF conducts outreach to auditors, dealers in precious metals and precious stones and pawnshops.

441. The MoF has developed and communicated to interested representatives of the precious metals sector, the risk management guidelines for dealers in precious metals and precious stones (Letters No. 17-2-24/1465 dated January 30, 2015; No. 17-21/331 dated July 13, 2018; No. 17-1-2/351 dated July 27, 2018; and No. 17-1-2/351-1 dated July 27, 2018); for audit firms and individual auditors (Letter No. 15-2-11/10 dated January 28, 2015).

442. The MoF website features information letters for audit firms and individual auditors, for persons that perform operations with precious metals and precious stones, as well as links to the documents accessible via the DFM website.

443. The MoJ has developed the ML/TF/PF internal control and risk management guidelines for notaries, persons and entities providing legal services, real estate agents, lawyers and law firms. In the reporting period, three of these events organized by the Belarusian Chamber of Notaries were simultaneously attended by representatives of the MoJ and the DFM.

444. The Ministry of Taxes has developed the guidance on internal control rules requirements for gambling organizers along with the ML/TF/PF risk management guidelines. Starting in 2014, the Ministry of Taxes has been using its print publication to inform readers about the latest developments in the application of the RBA in the gambling industry and provide feedback on AML/CFT issues raised through the use of its question-and-answer section. The Ministry of Taxes has involved gambling organizers in the assessment of the ML/TF/PF risks faced by the gambling industry.

445. For entities responsible for state registration of real estate property, titles thereto and transactions therewith, the RB State Property Committee has developed the guidance on Internal Control rules requirements and the ML/TF/PF risk management guidelines (RB State Property Committee Letter No. 11-7/8016/vh dated December 19, 2014). The RB State Property Committee is responsible for developing guidelines, reviewing best practices and raising awareness of the AML/CFT/CPF issues (par. 26 of the Guidance on Internal Control rules of Entities Responsible for State Registration of Real Estate Property, Titles Thereto and Transactions Therewith, adopted by RB State Property Committee Resolution No. 36 dated December 31, 2014).

Weighting and Conclusion

446. **Recommendation 34 is rated C.**

Recommendation 35 - Sanctions

447. In its MER of 2008, Belarus was rated partially compliant with R.17. Among the shortcomings were the inability to apply a wide range of sanctions against all types of financial institutions; the NBRB and the Ministry of Communications lacked powers to apply financial sanctions to directors and senior

management; the MoF lacked powers to apply targeted sanctions for ML/TF. CAO RB covered a narrow range of ML/TF offences and imposed low penalties.

448. **Criterion 35.1** Administrative liability, including for non-compliance with the AML/CFT/CPF requirements, may be incurred in Belarus by all types of persons: natural, legal and individual entrepreneurs (Articles 4.1, 4.3 and 4.8, Chapter 6 of the CAO RB, Articles 11.72, 11.79, 11.80, 22.13 and 23.20 of the same).

449. Failure to implement the AML/CFT measures provided for by the framework law (Article 11.72 of the CAO RB) is punishable for individuals by a fine of 20 (approx. USD 245) to 100 (approx. USD 1,225) base values; for individual entrepreneurs, 50 (approx. USD 613) to 500 (approx. USD 6,125) base values; and for entities, 50 (approx. USD 613) to 1,000 (approx. USD 12,250) base values. Meanwhile, repeat offenders are punishable by a warning or a fine of up to 20 base values (approx. USD 245);

450. Entities carrying out ML transactions (Article 11.79 of the CAO RB) are punishable by a fine of up to 100 percent of the amount of such transactions;

451. Entities involved in TF (Article 11.80 of the CAO RB) are punishable by a fine of 50 (approx. USD 613) to 1,000 (approx. USD 12,250) base values;

452. Failure to comply with the established procedure for registering transactions subject to special control (Article 23.20 of the CAO RB) is punishable by a warning or a fine of up to 50 base values (approx. USD 613).

453. Meanwhile, criminal liability is provided for ML and TF offences, disclosure of trade or other secrets protected by law and malfeasance (e.g. Article 425 "Failure to act by an official", Article 428 "Negligence", Article 456 "Habitual negligence in office" and corruption offences), which are punishable by various terms of deprivation/restriction of liberty with or without a fine, detention or a prohibition to engage in certain types of activities/occupy positions.

454. Sanctions such as license suspension or revocation are applied to license holders who fail to comply with licensing requirements and implement remedial orders.

455. Direct requirements to suspend or terminate the license for the violation of AML/FT laws are not envisaged. Thus, pursuant to paragraph 82 of the Regulations on Licensing of Certain Types of Activities, adopted by Presidential Decree No. 450 dated September 1, 2010, upon detection by a licensing or other controlling (supervisory) body of violations constituting grounds for the revocation of a license in accordance with the regulations governing the relevant licensable activity, the licensing authority that issued the license may revoke it in the manner provided by these Regulations. MT provided examples of license termination for both failure to comply with AML/CFT requirements and "other" reasons, as required by Decree 450.

456. According to banking regulations, internal control procedures should include measures to combat ML/TF. Therefore, the NBRB may revoke a license for failure to maintain internal control procedures.

457. **Criterion 35.2** Pursuant to Article 14 of AML/CFT Law of June 14, 2014, persons who fail to comply with the AML/CFT/CPF requirements shall be held liable in accordance with applicable law. According to the CAO RB, administrative liability can be incurred by individuals and officials of a legal person. Since the definition of the term "official" used in Belarus – an individual who, permanently, temporarily or by special authority, performs organizational or administrative functions, or a person authorized in accordance with the established procedure to perform legally significant actions – applies to the directors and senior management of persons conducting financial transactions, it can be assumed that the above sanctions can be used against them.

Weighting and Conclusion

458. Sanctions such as license suspension or revocation are applied to license holders who fail to comply with licensing requirements and implement remedial orders. There is no explicit requirement to suspend or revoke a license for non-compliance with the AML/CFT requirements, except for the banking

laws under which the licence may be revoked for the violations of the requirements to the internal control system that includes AML/CFT. **Recommendation 35 is rated LC.**

Recommendation 36 - International instruments

459. In its MER of 2008, Belarus was rated largely compliant with SR.I and the former Recommendation 35. Among the shortcomings cited in relation to SR.I were gaps in TF criminalization which hampered its conformity with the TF Convention; paragraph 1 (b) of Art. 18 of the TF Convention on the identification of beneficial owners and retention of documents was not complied with; and failure to implement UNSCR 1452 regarding the provision of access to funds for basic needs. With respect to R. 35, assessors identified the shortcomings related to non-compliance with paragraph 1 (a) of Art. 7 of the Palermo Convention, regarding the establishment of a comprehensive record-keeping regime, and non-fulfilment of certain aspects of par. 1 (b) of Art. 18, regarding the identification of beneficial owners and record-keeping.

460. **Criterion 36.1** Belarus became a party to the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988 (ratified by the Supreme Council of the Belorussian SSR Resolution of July 28, 1990 "On Ratification of the UN Convention against Illegal Traffic in Narcotic Drugs and Psychotropic Substances"); the Palermo Convention against Transnational Organized Crime of November 15, 2000 (ratified by RB Law of May 3, 2003 "On Ratification of the United Nations Convention against Transnational Organized Crime"); the Merida Convention against Corruption of October 31, 2003 (ratified by RB Law of November 25, 2004 "On Ratification of the United Nations Convention against Corruption"); and the International Convention for the Suppression of the Financing of Terrorism of December 9, 1999 (ratified by RB Law of July 5, 2004 "On Ratification of the International Convention for the Suppression of the Financing of Terrorism").

461. **Criterion 36.2** Belarus implements the said Conventions and complies with their requirements. The principles of these conventions have been enshrined in law, including those governing the provision of legal assistance in criminal matters based on the principle of reciprocity, extradition of persons for criminal prosecution and enforcement of court sentences.

462. Belarus has criminalized terrorist financing in accordance with the requirements of the Convention for the Suppression of the Financing of Terrorism (see analysis of R.5). Par. 15 of the Regulations adopted by RB Council of Ministers Resolution No. 735 dated September 9, 2016, and pars. 12-15 of Article 9-1 of AML/CFT Law establish the mechanisms for the provision of funds for basic needs. In line with the said conventions, Belarus has adopted the requisite customer identification, reporting and record-keeping measures (Articles 6-8 of the AML/CFT Law).

Weighting and Conclusion

463. **Recommendation 36 is rated C.**

Recommendation 37 - Mutual legal assistance

464. In its MER of 2008, Belarus was rated largely compliant with Recommendation 36 and partially compliant with SR. 5.

465. **Criterion 37.1** Pursuant to Article 2 of RB Law of May 18, 2004 "On International Legal Assistance in Criminal Matters", international legal assistance in criminal matters is provided on the basis of international treaties entered into by the Republic of Belarus. In the absence of a relevant international treaty, international legal assistance is provided based on the principle of reciprocity. Belarus has also entered into regional multilateral agreements on the provision of legal assistance in criminal matters.

466. The country applies conventions governing cooperation in the fight against crime. Among bilateral agreement is the Agreement between the Republic of Belarus and Turkmenistan on Mutual Transfer of Persons Sentenced to Imprisonment to Continue to Serve Prison Term, signed in Ashgabat on May 17, 2002 (entered into force on January 28, 2005) and the Agreement between the Government of the Republic of Belarus and the Government of the Republic of Azerbaijan on Combating Money Laundering and the Financing of Terrorism, signed in Minsk on August 28, 2012.

467. Among the state bodies that have entered into international interagency cooperation agreements with their foreign counterparts in this area are the MIA, financial investigation authorities and the State Border Committee of the Republic of Belarus.

468. **Criterion 37.2** Pursuant to Article 5 of RB Law No. 284-Z dated May 18, 2004 "On International Legal Assistance in Criminal Matters", the responsibility for providing international legal assistance in criminal matters on the basis of the principle of reciprocity lies with the General Prosecutor's Office of the Republic of Belarus and the Supreme Court of the Republic of Belarus, depending on the nature of requests.

469. The scope of international legal assistance in criminal matters rendered on the basis of the principle of reciprocity is determined in accordance with the RB CPC RB, Article 495 of which sets out the decision-making procedure relevant to this process.

470. The Prosecutor General's Office and the Supreme Court cooperate with foreign authorities on the basis of the principle of reciprocity, through diplomatic channels. Pursuant part 3 of paragraph 3 of RB Supreme Court Plenum Resolution No. 10 dated September 24, 2015 "On the Enforcement by Courts of the Laws Governing the Provision of International Legal Assistance in Criminal Matters", courts shall ensure the strict and timely execution of foreign competent authorities' requests for the delivery of procedural and other documents related to criminal matters. Similar demands for a strict and timeless performance addressed to the General Prosecutor's Office are set out in General Prosecutor's Order No. 64 dated November 11, 2010 (paragraph 5.1).

471. Arrangements have also been made for urgent cases, which are dealt with through the use of electronic communications accompanied by the mailing of the document originals through diplomatic channels. Among the tools employed by these agencies are document management systems.

472. Each of these agencies has its own document management system. The deadline for request execution is determined in accordance with a specific agreement on mutual legal assistance; however, there is no unified prioritization process for MLA request execution and each agency deals with the requests on case-by-case principle.

473. **Criterion 37.3** The country's law provides for some exceptions with regard to the provision of international legal assistance in criminal matters based on the principle of reciprocity. For example, MLA shall not be provided if its provision will undermine the sovereignty of the state, its national security, or the rights and freedoms of its citizens, or if it runs contrary to the laws of the Republic of Belarus or the international treaties entered into by Belarus (part 3 of Article 3 of RB Law No. 284-Z of May 18, 2004 "On International Legal Assistance in Criminal Matters").

474. The relevant provisions setting out the grounds for refusal to provide legal assistance are included in international treaties of the Republic of Belarus and, where such assistance is rendered on the principal of reciprocity, the CPC RB (Article 481). Authorities are not allowed to attach unduly restrictive conditions to the provision of mutual legal assistance.

475. **Criterion 37.4**

(a) The country's law does not allow authorities to refuse to provide mutual legal assistance in criminal matters on the ground that the offence is also considered to involve fiscal matters.

(b) The country's law creates no obstacles to refusals to provide mutual legal assistance requests on the grounds of secrecy or confidentiality requirements imposed on FIs or DNFBPs.

476. **Criterion 37.5** International legal assistance in criminal matters is provided in the manner prescribed by international treaties of the Republic of Belarus (Article 3 of the CIS Treaty on Combating Money Laundering and Terrorist Financing). In particular, confidentiality matters are addressed by Article 7, subpar. (e) of par. 1) of the Chisinau Convention. Thus, Belarus is required to maintain the confidentiality of ML requests received and the information contained within them.

477. **Criterion 37.6** Mutual legal assistance, which does not require the use of coercive measures, is

provided independently of dual criminality on the basis of multilateral and bilateral international treaties of the Republic of Belarus (e.g., article 6 of the Treaty between the Republic of Belarus and the Republic of India on Mutual Legal Assistance in Criminal Matters, arts. 103 and 104 of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Chisinau Convention).

478. **Criterion 37.7** For a mutual legal assistance request to be satisfied, it is important that the conduct underlying the offence should be criminalized, rather than for the offence to be placed in the same category.

479. For example, article 66 of the Chisinau Convention states that, in determining whether the conduct for which extradition is requested is a criminal offence under the domestic law of the requested and requesting Contracting Parties, the differences in the description of the individual elements of the offence and the terminology used are not relevant. Such interpretation of qualifications is also supported by practice, for example, examples of MLA with the Russian Federation in case of different qualification of crimes.

480. **Criterion 37.8**

(a) The grounds for undertaking law enforcement intelligence operations include the submission of a written request by an international organization, law enforcement agency or a designated unit of a foreign state in accordance with international treaties entered into by the Republic of Belarus, or on the basis of the principle of reciprocity (Article 16 of RB Law No. 307-Z of July 15, 2015 "On Law Enforcement Intelligence Operations").

The competent authorities are allowed to undertake law enforcement intelligence operations in response to requests for mutual legal assistance (Article 16 of RB Law "On Law Enforcement Intelligence Operations"). There are mechanisms in place for identifying the accounts of both natural and legal persons (Articles 15, 22 and 24 of RB Law No. 307-Z of July 15, 2015 "On Law Enforcement Intelligence Operations"; Articles 103, 209 and 210 of the CPC RB; and Article 13 of RB Law No. 414-Z of July 16, 2008 "On Financial Investigation Authorities of the State Control Committee of the Republic of Belarus").

The Code of CPC RB and international treaties impose no restrictions on the conduct of investigative actions or use of investigative techniques to search for and seize information, documents or evidence (including financial records) from financial institutions, or other natural or legal persons, or the taking of witness statements.

(b) The scope of powers available to investigation authorities responding to requests for assistance is not limited in any way by the law.

Weighting and Conclusion

481. The country has largely implemented the requirements of the recommendation and established mechanisms for timely implementation of MLA. Despite the fact that it is possible to answer all MLA leading questions and that there are basic mechanisms for prioritizing requests and document flow, there is no detailed mechanism in place. **Recommendation 37 is rated LC.**

Recommendation 38 - Mutual legal assistance: freezing and confiscation

482. In its MER of 2008, Belarus was rated partially compliant with Recommendation 38. Among the main factors affecting the rating was the lack of the appropriate mechanisms for coordinating, seizing, confiscating and sharing confiscated property with foreign authorities.

483. **Criterion 38.1** Article 2 of RB Law of June 14, 2003 "On ratification of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters" sets out the list of authorities responsible for direct coordination with central, regional and other authorities of the countries that are parties to the Chisinau Convention. Article 494 of the CPC RB designates the General Prosecutor's Office and the Supreme Court as the competent authorities in the Republic of Belarus responsible for the provision of legal assistance, with the decision-making regarding the request execution depending on the nature the information sought and the agencies' scope of authority. Pursuant to Art. 497 of the CPC RB,

the decision of the General Prosecutor, Chairman of the Supreme Court of the Republic of Belarus or their deputies constitutes the grounds for a partial or complete execution of a request from a foreign authority.

484. Chapter 504 of the CPC RB describes general legislation framework for enforcement in the Republic of Belarus of a foreign State court's sentence on a criminal case. This provision does not contain any restrictions narrowing the scope of measures for the enforcement of a sentence, which can potentially hinder confiscation measures. Execution of judicial acts or requests is the responsibility of the Supreme Court. Authorities are required to identify and freeze all types of property listed in Criteria 38.1.

485. With regard to taking expeditious action in response to requests by foreign countries concerning proceeds from, and instrumentalities used in, money laundering, both investigative and law enforcement intelligence operations can be undertaken. The grounds for undertaking law enforcement intelligence operations include the submission of a written request by an international organization, law enforcement agency or a designated unit of a foreign state in accordance with international treaties entered into by the Republic of Belarus, or on the basis of the principle of reciprocity (Article 16 of RB Law No. 307-Z of July 15, 2015 "On Law Enforcement Intelligence Operations").

486. Council of Ministers Resolution No. 954 dated November 23, 2016 "On approval of the Regulations on the Suspension and Resumption of Financial Transactions by the FIU, and the FIU's Cooperation with Persons Conducting Financial Transactions (Chapter 2) authorizes the FIU to suspend transactions if it suspects ML/TF, including in response to requests from foreign authorities.

487. Thus, the Republic of Belarus has a general legal framework for the enforcement of a foreign State court's sentence, including confiscation, but the mechanism would benefit from detailed description.

488. **Criterion 38.2** Pursuant to Article 26 of the Constitution of the Republic of Belarus, no one can be found guilty of a crime unless his guilt is proven and established by a court sentence that has entered into legal force. The defendant is not required to prove his innocence. In this regard, the confiscation of property without a court sentence is contrary to the fundamental principles of domestic law.

489. **Criterion 38.3** The Chisinau Convention describes the areas of cooperation in providing mutual legal assistance in tracing, freezing and seizing the property, funds and valuables obtained by criminal means, as well as criminal proceeds belonging to the accused person (defendants, convicted offender), ensuring redress for the victims of crime (civil claimants) and enforcement of court recovery and confiscation orders. The law provides for a range of measures, including investigative and law enforcement intelligence operations to identify the property obtained by criminal means, as well as criminal proceeds owned by the accused person (defendants, convicted defendants).

490. In addition, pursuant to Article 3 of the CIS Treaty on Combating Money Laundering and Terrorist Financing dated October 5, 2007, ratified by RB Law No. 398-Z dated July 16, 2008), countries should provide cooperation on matters of confiscation in response to requests for assistance, including MLA.

491. As noted in Criterion 38.1, there is general legislative framework in the Republic of Belarus for responding to requests by foreign State court's to confiscate assets. There is no detailed breakdown by type of decision and content of the request for the confiscation of property. Nevertheless, the country has taken steps to make arrangements and coordinate with foreign jurisdictions the mechanisms for tracing and confiscation of property. Thus, the Treaty of 05.10.2005, concluded between Belarus and India, includes provisions on the content of the request for legal assistance on confiscation and the means of executing foreign State decisions, including procedures for the storage and subsequent transfer of confiscated property to the requesting party

492. The management and disposal of confiscated property is carried out by designated authorities in accordance with the Regulations on the Accounting, Storage, Valuation and Disposal of Frozen, Seized and Forfeited Property, adopted by Presidential Decree No. 63 dated February 19, 2016 "On Improving the Management of the Frozen, Seized and Forfeited Property".

493. **Criterion 38.4** In accordance with the Chisinau Convention, the procedure for carrying out

confiscation shall be established by the law of the Requested Party. Confiscated property or the assets of equivalent value may be transferred, in whole or in part, to the Contracting Party where the confiscation decision is made. It is possible to formulate a position on each specific case of property sharing. The country has legal basis for separation of assets discovered as a result of coordinated common actions (see para. 490 of the Treaty on Legal Assistance in Criminal Matters with the Republic of India).

Weighting and Conclusion

494. **Recommendation 38 is rated LC.** The Republic of Belarus has established legal basis for the implementation of mutual legal assistance in matters of freezing and confiscation, but the mechanism for the implementation of confiscation is not specified in detail.

Recommendation 39 - Extradition

495. In its MER of 2008, Belarus was rated largely compliant with Recommendation 39.

496. Criterion 39.1

- (a) The General Prosecutor's Office is able to execute extradition requests in relation to ML/TF without undue delay (Article 7 of the CC RB No. 275-Z of July 9, 1999). According to the domestic law and treaties entered into by Belarus, ML/TF and predicate offences fall within the scope of extraditable offences.
- (b) The mechanism for the timely execution of extradition requests is set out in General Prosecutor's Orders No. 64 dated November 11, 2010 as amended by Orders No. 22 dated April 6, 2018 and No. 21 dated April 6, 2018, but there is no prioritization mechanism for these requests (see Criterion 37.2).
- (c) The requirements applicable to incoming requests, set out in Chapter 50 of the CPC RB, are neither unreasonable nor unduly restrictive. It is possible to request from the RB General Prosecutor's Office additional information necessary for the execution of the request. The grounds for refusal or delay in the provision of legal assistance are set out in international treaties of the Republic of Belarus and, where such assistance is rendered on the principal of reciprocity, Chapter 51 of the CPC RB. Authorities are not allowed to attach unduly restrictive conditions to the provision of mutual legal assistance.

497. Criterion 39.2

- (a) Belarus does not extradite its own nationals (Art. 484, paragraph 1 of part 1, of the RB CPC RB).
- (b) There is a mechanism for criminal prosecution of Belarusian nationals who have committed crimes abroad (Article 6 of the CC RB). Belarus has also ratified the Chisinau and Palermo UN Conventions, which contain separate extradition requirements.

498. **Criterion 39.3** When reviewing an extradition request, the country's competent authorities make sure that the conduct underlying the offence is criminalized, rather than for the offence to be placed in the same category. The fact that the offence, or any of its elements, is not placed by both countries within the same category of offence for which extradition is sought, is not considered the grounds for refusing the request for extradition. Instead, authorities make sure that the conduct underlying the offence is criminalized by both countries (part 2 of paragraph 7 of RB Supreme Court Plenum Resolution No. 10 dated September 24, 2015 "On the Enforcement by Courts of the Law Governing the Provision of International Legal Assistance in Criminal Matters")

499. **Criterion 39.4** Pursuant to Art. 494 of the CPC RB, extradition matters fall within the exclusive jurisdiction of the General Prosecutor's Office.

Pursuant to part 4 of Article 1 of the CPC RB, international treaties governing the rights and freedoms of a person and citizen entered into by Belarus are applied in criminal proceedings contemporaneously

with the CPC RB. The Minsk and Chisinau Conventions, both of which have been ratified and implemented into its law by Belarus do not provide for the use of simplified extradition mechanisms. No provisions for the use of simplified extradition procedures are made in either the country's domestic law or international treaties entered into by Belarus.

Weighting and Conclusion

500. **Recommendation 39 is rated LC.**

Recommendation 40 – Other forms of international co-operation

501. In its MER of 2008, Belarus was rated largely compliance with Recommendation 40 due to its supervisors' (except for the NBRB) failure to engage in international AML/CFT cooperation.

502. **Criterion 40.1** General Prosecutor's Office and the Supreme Court, LEA and other supervisory bodies have the capacity within their powers to carry out international cooperation in ML and TF matters, as well as predicate offences. This work is carried out both as part of the execution of a foreign country's request and spontaneously.

503. International cooperation is provided by the competent authorities within the scope of the authority vested in them by domestic law (Supreme court - paragraph 11 of the of the Code on the Judiciary and the Status of Judges; Prosecutorial authorities – art. 5 of the Law from 08.05.2009 No. 220-Z; The Investigative Committee system – art. 10 of the Law from 13.07.2012 No. 403-Z; Internal affairs authorities - art. 7 of the Law from 17.07.2007 No. 263-Z; SSC – art. 6, 17 of the Law from 10.07.2012 No. 390-Z; Customs authorities – sub-para 1.12 art. 12 of the Law from 10/01/2014 No. 129-Z; Border guard authorities – art. 6 of the Law from 11.11.2008 No. 454-Z; Financial investigation bodies of the State Control Committee – art. 6 of the Law from 11.07.2008 No. 414-Z; National bank – art. 26 of the Bank code; Ministry of finance – sub-para 7.23 of the Regulation on the Ministry of Finance approved by the Resolution of the Council of Ministers of the Republic of Belarus of 31.10.2001 No. 1585; Ministry of justice - Regulation on the Ministry of Justice, approved by Decision of the Council of Ministers of 31.10.2001 No. 1605; Ministry of Taxes and Levies - sub-para 5.15 of the Regulation on the Ministry of Taxes and Levies approved by the Resolution of the Council of Ministers of the Republic of Belarus of 31.10.2001 No. 1592; Ministry of Communications and Informatization – art. 7 of the Law from 15.12.2003 No. 258-Z; Ministry of Antimonopoly Regulation and Trade - sub-para 6.53 Regulation of the Ministry of Antimonopoly Regulation and Trade approved by the Resolution of the Council of Ministers dated 06.09.2016 No. 702) and the CIS Treaty on Combating Money Laundering and Financing of Terrorism of October 5, 2007 (Article 13).

504. **Criterion 40.2**

(a) The exclusive powers to engage in AML/CFT/CPF cooperation with foreign authorities during law enforcement intelligence operations, preliminary investigations, court proceedings and enforcement of court judgments is vested in the country's FIU (Article 13 of AML/CFT Law). The general powers of other AML/CFT/CPF system stakeholders to engage in international cooperation are outlined in special regulations adopted by Belarus.

(b) Cooperation with foreign competent authorities is conducted in accordance with conventions, international and interdepartmental agreements as well as on the basis of reciprocity, taking into account international principles of cooperation and existing practice.

The submission of a request constitutes the grounds for the initiation of law enforcement intelligence operations (Article 16 of RB Law No. 307-Z of July 15, 2015 "On Law Enforcement Intelligence Operations"). Pursuant to the country's regulations (e.g. subpar. 4 of par. 7 of the Regulations on the DFM of the State Control Committee of the Republic of Belarus, adopted by Presidential Decree No. 408 dated September 14, 2003; Art. 10 of RB Law No. 403-Z of July 13, 2012; see R.2, 29 and 31 for detail), all law enforcement and investigation authorities and the DFM have access to information systems and databases of

other government agencies.

- (c) Domestic competent authorities use both open (postal mail, fax, e-mail, etc. accessible via their official websites) and secure (courier and diplomatic channels) communication channels to share information with foreign competent authorities.
- (d) Competent authorities use document management guidelines set out in local regulations and international treaties of the Republic of Belarus, including those governing the provision of interagency cooperation. Still, there are no processes for the prioritization of requests.

Officials of government agencies and other organizations, as well as other persons, are required, upon written request of the authorized officials of the DFM of the State Control Committee and within the deadlines established by the DFM, to provide the information and documents required by the DFM to discharge its duties, as well as to provide access to information systems and data banks (subpar. 2 of par. 7 of the Regulations on the DFM of the State Control Committee of the Republic of Belarus, adopted by the Presidential Decree No. 408 dated September 14, 2003).

To speed up and simplify the process for the execution of legal assistance requests by regional authorities, such requests are forwarded directly to their foreign counterparts, as provided for in Article 5 of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, concluded on January 22, 1993 in Minsk (when cooperating with competent authorities of the Russian Federation) and Article 5 of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, concluded on October 7, 2002 in Chisinau (for all Member States).

- (e) Legal regulation of the main confidentiality issues is carried out in accordance with special legislation, including local regulations.

Article 198 of the CPC RB sets out a specific mechanism for the disclosure of information obtained in the course of preliminary investigation or inquiry. Pursuant to Art. 5 of RB Law No. 390-Z of July 10, 2012, as a general rule, state security agencies may not disclose information discrediting the honour, dignity or business reputation of a person, or reveal his personal details, except in a limited number of cases. The disclosure of incoming information by customs authorities is also subject to restrictions (Article 6 of RB Law No. 129-Z of January 10, 2014)

505. **Criterion 40.3** The procedure for entering into international agreements is set out in RB Law No. 421-Z of July 23, 2008 "On International Agreements of the Republic of Belarus". Article 5 of this Law empowers authorities to negotiate and enter into interstate and intergovernmental agreements.

506. Pursuant to the Regulations adopted by Presidential Decree No. 408 dated September 14, 2003 "On the Establishment of the DFM of the State Control Committee of the Republic of Belarus", DFM, in coordination with the chairman of the State Control Committee and in accordance with the established procedure, enters into and implements international interagency agreements; implements, within its competence, interstate and intergovernmental agreements on combating money laundering and financing of terrorism and proliferation, and on conducting the national ML/TF risk assessment. Acting within its competence, the DFM of the State Control Committee of the Republic of Belarus enters on its behalf into international interagency agreements and implements these agreements, as well as interstate and intergovernmental agreements.

507. Pursuant to Article 4 of RB Law No. 421-Z of July 23, 2008 "On International Treaties of the Republic of Belarus", the government agency of the Republic of Belarus or a department of the government agency responsible for international cooperation may, subject to approval by the RB Foreign Ministry, hold consultation with foreign competent authorities or international organizations. This law sets out the procedure for holding negotiations concerning draft agreements and their conclusion. State

bodies of the Republic of Belarus, through their designated units or persons responsible for international cooperation, are authorized to enter into international agreements.

508. DFM and the country's law enforcement authorities has entered into a wide range of cooperation agreements with their foreign counterparts.

509. **Criterion 40.4** The conventions to which Belarus is a party have a feedback mechanism for use by the competent authorities of their signatories.

510. The notification procedure requires the requested Contracting Party to notify the requesting Contracting Party of the final decision. The requesting Contracting Part may request a copy of the final decision (Article 74 of the Chisinau Convention).

511. In addition, as a member of the Egmont Group, the DFM of the State Control Committee is required to provide feedback (par. 19 of the Egmont Group Principles for Information Exchange between Financial Intelligence Units).

512. **Criterion 40.5**

- (a) Requests for assistance may not be refused on the ground that it involves fiscal matters, provided the principle of dual criminality is observed.
- (b) The requirement for financial institutions or DNFBPs to maintain secrecy or confidentiality does not act as an impediment to the sharing of information with foreign countries (CPC RB, Banking Code, AML/CFT Law).
- (c) Pursuant to part 1 of Article 198 of the CPC RB, preliminary investigation findings (whose disclosure is otherwise prohibited) may be disclosed subject to the following conditions: consent of the investigator or person conducting the inquiry, and only to the extent agreed with them, unless such disclosure would impede the preliminary investigation or violate the rights and legitimate interests of participants in criminal proceedings.
- (d) The law does not make the provision of assistance by competent authorities conditional on the nature and status of requesting counterpart authority. For example, DFM cooperates with Egmont Group FIUs – whose types range from administrative to law enforcement to mixed – and is guided by this Group's regulations. DFM, as an administrative-type FIU, cooperates with all Egmont Group FIUs on the basis of Article 13 of AML/CFT Law and paragraph 7 of the Regulations on the DFM of the State Control Committee of the Republic of Belarus, adopted by Presidential Decree No. 408 dated September 14, 2003.

513. **Criterion 40.6** Pursuant to Art.198 of the CPC RB, as a general rule, the findings of preliminary investigation or inquiry may not be disclosed. Their disclosure may only be made with consent of the investigator or the person conducting the inquiry and to the extent agreed with them. The investigator or the person conducting the inquiry may warn the defence attorney, victim, civil claimant, civil defendant, their representatives, a representative of the deceased suspect, defendant or the person to be evolved in the proceedings as a suspect, defendant, witness, expert or translator, as well as other persons attending the investigation and other legal proceedings, against any unauthorized disclosure of the information relevant to the case.

514. **Criterion 40.7** Confidentiality matters related to requests for assistance are governed by designated regulations. Issues related to the confidentiality of information shared with other Egmont Group members are governed by the Principles for Information Exchange among FIUs. Requirements for the storage of information constituting secrets protected by law are established for the DFM as a whole by sub-par 6.5 of par. 6 of the Regulations on the DFM of the State Control Committee of the Republic of Belarus, adopted by Presidential Decree No. 408 dated September 14, 2003, and in respect of its staff members, by part 4 of Article 11 of AML/CFT Law.

515. **Criterion 40.8** The procedure for executing requests from foreign authorities is set out in Chapter 54 of the CPC RB. The Investigation Committee, acting within its competence, may engage in

international cooperation on matters related to pre-trial criminal proceedings (Article 4 of RB Law No. 403-3 of July 13, 2012). The DFM of the State Control Committee of the Republic of Belarus is vested with a range of powers to engage in international cooperation.

Exchange of information between FIUs

516. **Criterion 40.9** Belarus has an adequate legal basis for facilitating international cooperation, while the DFM is vested with all the necessary powers to provide international cooperation on ML/TF/PF (Article 13 of the AML/CFT Law and paragraph 7 of the Regulations on the DFM of the State Control Committee of the Republic of Belarus, adopted by Presidential Decree No. 408 dated September 14, 2003).

517. DFM, as a member of the Egmont Group, may share information on the basis of the principle of reciprocity with any FIU both within the Egmont Group, in accordance with the Egmont Group Charter and Principles of Information Exchange, and outside it, e.g. through diplomatic channels.

518. DFM has entered into international agreements with 23 countries.

519. **Criterion 40.10** As a member of the Egmont Group, DFM is required to provide and provides feedback in accordance with paragraph 19 of the Egmont Group Principles of Information Exchange as well as interagency agreements entered into by it.

520. **Criterion 40.11**

(a) DFM has the power to exchange financial intelligence with foreign FIUs (see R.29), provided such an exchange does not undermine the national security of the Republic of Belarus and its further dissemination to other competent authorities has been approved by the DFM.

(b) DFM has the power to exchange other information (see R.29) with its counterparts in accordance with the terms of the agreements entered into by it and on the basis of the principle of reciprocity.

Exchange of information between financial supervisors

521. **Criterion 40.12** In accordance with sector-specific regulations, supervisors have the power to enter into agreements with central (national) banks and credit institutions of foreign countries; and establish, within their competence, direct communication with foreign financial authorities and other international organizations, and represent the Republic of Belarus in international organizations.

522. Belarus has ratified the Agreement¹⁵ on the Exchange of Financial Information (including AML/CFT intelligence), Including Confidential, to Create Conditions in the Financial Markets Conducive to the Free Movement of Capital (Articles 5, 8 and 9 of the Agreement, ratified by RB Law No. 318-Z of November 10, 2015), with the MoF and the NBRB acting as the designated authorities. Given that the scope of these supervisors' authority as provided by law covers AML/CFT issues, one can state that supervisors in Belarus have a legal basis for providing cooperation with their foreign counterparts. At the same time, there is no explicit requirement to provide cooperation with foreign counterparts specifically with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes.

523. **Criterion 40.13** Belarus has ratified the Agreement on the Exchange of Financial Information (including AML/CFT intelligence), Including Confidential, to Create Conditions in the Financial Markets Conducive to the Free Movement of Capital (Articles 5, 8 and 9 of the Agreement, ratified by RB Law No. 318-Z of November 10, 2015), with the MoF and the NBRB acting as the designated authorities. The law does not limit the scope of the supervisors' authority to share with foreign

¹⁵ The Agreement was signed within the framework of the EEC and ratified by the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation.

counterparts, information domestically available to them, including information held by financial institutions, in a manner proportionate to their respective needs.

524. **Criteria 40.14** Belarus has ratified the Agreement on the Exchange of Financial Information (including AML/CFT intelligence), Including Confidential, to Create Conditions in the Financial Markets Conducive to the Free Movement of Capital (Articles 5, 8 and 9 of the Agreement, ratified by RB Law No. 318-Z of November 10, 2015), with the MoF and the NBRB acting as the designated authorities. Given that the country's supervisors are authorized to enter into international agreements whose terms are fixed by the contracting parties, they are free to exchange the information listed in sub-criteria a-c.

525. **Criterion 40.15** Supervisors may conduct unscheduled inspections in response to information received from foreign countries. In addition, Belarus insists that the agreements concluded by the NBRB with foreign central (national) banks and financial institutions set out the procedure for cooperation in conducting inspections of cross-border institutions (par. 12 of Presidential Decree No. 510 dated October 16, 2009). The procedure for maintaining cooperation while conducting inspections is set out in the memoranda of understanding on bank supervision. For example, Article 8 of the Memorandum of Understanding on bank supervision between the NBRB and the NBRB of Ukraine, entered into on December 21, 2007.

526. **Criterion 40.16** Given that the country's supervisors are authorized to enter into international agreements whose terms are fixed by the contracting parties, they are in no way restricted in obtaining the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the requesting financial supervisor is under a legal obligation to disclose or report the information.

Exchange of information between law enforcement authorities

527. **Criterion 40.17** The responsibility of the authorities involved in intelligence-gathering activities to execute written requests and exchange domestically available information from and to international organizations, law enforcement agencies and special services of foreign countries on the basis of the principle of reciprocity or international treaties is provided for in Article 14 of RB Law No. 307-Z of July 15, 2015. The IC, acting within its competence, may engage in international cooperation on matters related to pre-trial criminal proceedings (Article 4 of RB Law No. 403-3 of July 13, 2012).

528. As a member of Interpol (since 1993), Belarus collaborates and cooperates with its foreign counterparts on the basis of multilateral agreements concluded among Interpol members. Information is shared through the Interpol National Central Bureau, as well as in accordance with international agreements entered into by Belarus.

529. **Criterion 40.18** Pursuant to Art. 173 of the Code of Administrative Procedure, investigative measures such as document verification and examinations may be carried out prior to the initiation of criminal case. In addition, prior to the initiation of criminal case, authorities may also conduct inquiries and obtain information in response to, among others, a written request by an international organization, a law enforcement agency or a special service of a foreign country (Art. 16 of RB Law No. 307-Z of July 15, 2015), in accordance with international agreements of the Republic of Belarus and on the basis of the principle of reciprocity. These activities are carried out through the use of the mechanisms available through the Interpol National Central Bureau or in accordance with international agreements.

530. **Criterion 40.19** The country's authorities are allowed to take part in joint investigations. The Agreement on the Creation and Activities of Joint Investigative Teams in the Territories of the CIS Member States of October 16, 2015 provides for the formation of joint investigative teams.

531. The formation of joint investigative teams is also governed by the conventions acceded to by Belarus (the Chisinau Convention and the United Nations Convention against Transnational Organized Crime).

532. In response to requests by foreign authorities, the General Prosecutor's Office may consent to the attendance of investigative proceedings by representatives of the investigation authorities of the requesting states, as permitted under international treaties and conventions to which Belarus is a party.

533. Recommendations to Belarus to create opportunities for its authorities to enter into bilateral agreements that allow the formation of joint investigative teams have been largely implemented into domestic law.

534. **Criterion 40.20** The powers to engage in AML/CFT/CPF cooperation are vested in the DFM (Article 13 of AML/CFT Law), through which information can be exchanged indirectly.

535. In the absence of an appropriate agreement between the competent law enforcement agencies (states), the position of a central authority for MLA on the basis of the principle of reciprocity is held, pursuant to Art. 494 of the CPC RB, by the Prosecutor General's Office and the RB Supreme Court. The requirements applicable to requests sent to Belarus are set out in the CPC RB.

Weighting and conclusions

536. Belarus has a legal basis for the participation of the competent authorities in international cooperation, including in the areas of financial supervision, AML/CFT and predicate offences. At the same time, there are no direct provisions in the legislation that require the establishment of international relations specifically for the exchange of supervisory information related to or for AML/CFT purposes.

Recommendation 40 is rated LC.

Summary of Technical Compliance – Key Deficiencies

Compliance with the FATF Recommendations		
Recommendation	Recommendation	Recommendation
1 Assessing Risks and applying a Risk-Based Approach	LC	<ul style="list-style-type: none"> • a comprehensive assessment of vulnerabilities of abuse of legal entities and NPOs has not been conducted; • the terms and frequency of updating the risk assessment are not fixed by law.
2 National Cooperation and Coordination	LC	<ul style="list-style-type: none"> • there are no coordination mechanisms related to PF.
3 Money laundering offence	C	
4 Confiscation and provisional measures	C	
5 Terrorist financing offence	C	
6 Targeted financial sanctions related to terrorism and terrorist financing	LC	<ul style="list-style-type: none"> • the obligation to freeze assets applies only to persons conducting financial transactions; • Belarus lacks procedures for informing persons and entities of the availability of the United Nations Office of the Ombudsperson
7 Targeted financial sanctions related to proliferation	LC	<ul style="list-style-type: none"> • the obligation to freeze assets applies only to persons conducting financial transactions; • there are no procedures for de-listing individuals and entities from the List, appealing against decisions, and allowing access to frozen funds.
8 Non-profit organizations	PC	<ul style="list-style-type: none"> • there are no clear mechanisms in place to monitor the NPO sector in terms of combating abuse for TF purposes; • no measures are taken to identify and mitigate the risks associated with the use of NPOs for illegal purposes; • there is no system of continuous interaction with NPOs to increase transparency of their activities and awareness of potential risks.
9 Financial institution secrecy laws	C	
10 Customer due diligence	LC	<ul style="list-style-type: none"> • Except for Banks, NKFI, the Bank of the Republic of Belarus OJSC, there are no requirements to establish beneficial owners in respect of individual clients and individual

		<p>entrepreneurs.</p> <ul style="list-style-type: none"> • The country's legislation does not provide for any specific provisions obliging FIs to apply enhanced CDD measures to a legal entity's insurance premium recipient when paying an insurance premium in order to recognize him/her as a high-risk person; • life insurance is provided by only two organizations and the recipient of an insurance premium can only be an individual, but there is no prohibition for a legal entity to be such a recipient; • Not all categories of FIs are subject to requirements not to open an account, not to enter into business relations, and not to terminate business relations in cases of impossibility to conduct CDD; • The law does not require STRs to be sent without CDD measures if the CDD measures may lead to the disclosure of information on suspicions of ML/TF.
11 Record keeping	LC	<ul style="list-style-type: none"> • the list of data required for customer identification does not contain any direct requirements for the storage of business correspondence and account files.
12 Politically exposed persons	LC	<ul style="list-style-type: none"> • The head of state, chairmen of political parties of the Republic of Belarus are not included in the national PEPs list; • There are no specific requirements for insurance organizations and brokers to determine the affiliation of recipients and/or beneficial owners of the insurance benefit to the PEP categories; • There are no special requirements for insurers to inform senior management prior to the payment of benefits to PEPs, to conduct an in-depth review of all business relationships with the policyholder and to consider the need to report suspicious activity.
13 Correspondent banking	LC	<ul style="list-style-type: none"> • The AML/CFT responsibilities of all participants of correspondent relations are not fully defined (except for providing information to the financial monitoring body)
14 Money or value transfer services	C	
15 New technologies	PC	<ul style="list-style-type: none"> • There is no obligation to identify and assess the money laundering or terrorist financing risks that may arise in connection with the development of new products and new business practices, including new transfer mechanisms, and the use of new or developing technologies, for both new and existing products.

16 Wire transfers	LC	<ul style="list-style-type: none"> • the requirements do not apply to transactions performed by individuals via e-banking systems and to transactions related to the use of cash in cash-in devices; • The legislation of the Republic of Belarus does not contain requirements for the period within which the ordering financial institution must provide information on the transfer of funds upon request of the beneficiary financial institution; • it is established the right and not the obligation that the persons carrying out financial operations have the right to refuse to fulfill the sender's (payer's) order in the absence of information about the sender (payer's) and the recipient in the settlement or other document containing the sender's (payer's) order or otherwise not receiving information about the sender (payer's) and the recipient; • the legislation does not clearly describe the requirements to the MVTs provider, which controls both the originating and beneficiary organizations. • The conditions for the support of information by the transfer intermediaries are met only above the threshold of 1000 Euros.
17 Reliance on third parties	LC	<ul style="list-style-type: none"> • The AML/CFT law regulates that the information received during identification is transferred in the manner and within the terms stipulated by the agreement between the guarantor and the contractor. At the same time, there is no clear definition of the terms within which such information shall be provided; • The law allows the trust of CDD measures of "other organization", which may not fall within the scope of the AML/CFT law.
18 Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> • The basic law does not provide the requirements to provide the persons carrying out financial operations with the function of an independent audit to check the AML/CFT system (except for banks); • The legislation does not require insurance companies and non-bank securities market participants to apply AML/CFT policies and procedures at the group level, including foreign branches and subsidiaries.
19 High risk countries	LC	<ul style="list-style-type: none"> • no powers is set for authorities to take countermeasures commensurate with the risks where called for by the FATF; and regardless of any FATF call;
20 Reporting of suspicious transactions	C	

21 Tipping-off and confidentiality	C	
22 DNFBPs: Customer due diligence	LC	<ul style="list-style-type: none"> • The deficiencies noted in R.11 also apply to DNFBPs; • The deficiencies noted in R.12 also apply to DNFBPs; • There is no requirement to identify from among the clients and their beneficial owners of the Foreign PEPs, for: <ul style="list-style-type: none"> (d) Auditors and auditors operating as individual entrepreneurs, providing professional services in accounting and financial reporting; (e) organizers of lotteries and electronic interactive games; (f) pawnshops, points of purchase with regard to carrying out activities with precious metals and precious stones. • The weaknesses noted in R.15 also apply to DNFBPs; • The weaknesses noted in R.17 are also applicable to DNFBPs, taking into account the specificities of this category of actors.
23 DNFBP: Other measures	LC	<ul style="list-style-type: none"> • the client could not arouse suspicion and perform a cash transaction exceeding the FATF threshold (specify thresholds); • the main shortcomings of R.18, taking into account the peculiarities of the sector; • There is no requirement for qualification and continuous training of persons responsible for financial transactions; • The deficiencies noted in R.19 also apply to DNFBPs; • The deficiencies noted in R.21 also apply to DNFBPs.
24 Transparency and beneficial ownership of legal persons	LC	<ul style="list-style-type: none"> • measures to establish and maintain up-to-date beneficial ownership information are not comprehensive.
25 Transparency and beneficial ownership of legal persons	LC	<ul style="list-style-type: none"> • there is no legal requirement to disclose the status of participants in foreign trusts; • measures to establish and maintain up-to-date beneficial ownership information are not comprehensive.
26 Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> • Licensing restrictions do not apply to persons who may be involved in committing crimes other than economic crimes, involving financing or other complicity in terrorism and extremism; • legal entities and individual entrepreneurs have the ability to carry out leasing activities without being included in the register under certain conditions • no checks are made for the professional participants of the securities market (who are not

		<p>banking institutions) against the founders and shareholders or ben. owners.</p> <ul style="list-style-type: none"> Existing requirements do not apply to affiliated persons. Except for Banks there are no requirements and procedures for determining the frequency and depth of AML/CFT supervision of financial institutions and groups based on the ML/TF risks existing in the country for other categories of FIs; Other than the NBRB, there is no obligation for supervisors to review the assessment of the ML/TF risk profile of a financial institution or group (including the risks of non-compliance) periodically, or when there are significant events or changes in the management and operations of the financial institution or group for the remaining categories of FIs.
27 Powers of supervisors	LC	<ul style="list-style-type: none"> There are no direct obligations to revoke, limit or suspend the license for violation of AML/CFT measures (except for banking legislation)
28 Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> the requirements of the law do not apply to affiliated persons; no licensing requirements for the beneficial owners and persons with controlling interest, the established forms of supervision do not fully comply with the EPR model recommended by criterion 28.5.
29 Financial intelligence units	C	
30 Responsibilities of law enforcement and investigative authorities	C	
31 Powers of law enforcement and investigative authorities	C	
32 Cash couriers	LC	<ul style="list-style-type: none"> no declaration of cash and BNIs for cross-border movement within the EEU.
33 Statistics	LC	<ul style="list-style-type: none"> statistics are not comprehensive and cannot be considered comprehensive.
34 Guidance and feedback	C	
35 Sanctions	LC	<ul style="list-style-type: none"> no direct obligations for suspension or termination of the license for AML/CFT violations, except for banking legislation,
36 International instruments	C	
37 Mutual legal assistance	LC	<ul style="list-style-type: none"> no detailed mechanism for prioritizing requests

38 Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> • The mechanisms for responding to requests from foreign states for the confiscation of property and funds intended for use in money laundering have not been specified in details.
39 Extradition	LC	<ul style="list-style-type: none"> • no detailed mechanism for prioritizing requests
40 Other forms of international co-operation	LC	<ul style="list-style-type: none"> • no direct provisions in the legislation that require the establishment of international relations specifically for the exchange of supervisory information related or relevant to AML/CFT purposes.