

**ЕАГ ♦ ЕАГ**  
**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**

**FIRST MUTUAL EVALUATION/DETAILED ASSESSMENT REPORT**  
**on Anti-Money Laundering and Combating the Financing of Terrorism**

**REPUBLIC OF BELARUS**

**December 19, 2008**

## **EXECUTIVE SUMMARY**

### **1. GENERAL**

1. This report provides a summary of the AML/CFT measures in place in Belarus as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also establishes Belarus's levels of compliance with the FATF 40+9 Recommendations (see Table 1).
2. The AML system in Belarus is at an adequate organizational level. AML efforts have been undertaken in the Republic since 2000, the year the AML/CFT Law was adopted in Belarus.
3. Analysis of criminal cases filed in 2004-2007 indicates that illicit proceeds and other assets were legalized through the sale on Belarusian territory of stolen cars with forged paperwork; depositing funds into operating accounts of businesses in the form of contributions increasing the authorized capital; sale of illicitly acquired assets through the retail network; transfer of assets to balance sheets of pseudo-entrepreneurial structures with subsequent resale of such assets.
4. In 2004-2007, not a single crime involving the financing of terrorism was recorded in Belarus (under Article 290-1 of the Belarusian Criminal Code).
5. The Republic of Belarus is a unitary, democratic, law-governed, welfare state. The Belarusian Constitution is effective since 1994, as amended and supplemented through republican referenda on November 24, 1996, and October 17, 2004. National GDP in 2007 totaled 96,087.2 billion rubles, up 8.2 percentage points year-on-year.

### **2. THE LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES**

6. Belarus criminalized money laundering in Article 235 of the Criminal Code "Legalization ("laundering") of illicitly acquired assets". In whole the wording of this article incorporates the requirements of the relevant international conventions (the Vienna and Palermo Conventions).
7. The crime of money laundering applies to any type of assets regardless of their value. Article 235 applies to assets that constitute direct and indirect proceeds from the crime. During their visit, the evaluation experts also ascertained that the law enforcement and judicial practice under Article 235 does not require for the defendant to be convicted of a predicate offence. In this connection the evaluation team was presented with specific case studies as proof.
8. In Belarus, predicate offences for money laundering are all crimes under the Criminal Code with some exception of crimes of tax evasion crimes. Meanwhile, Belarus has failed to criminalize insider trading and market manipulation, therefore it does not meet the FATF requirements for the minimum list of predicate offences.
9. The Belarus Criminal Code envisages the criminalization of all the relevant forms of complicity in a crime. Criminal prosecution for money laundering crimes is carried out under Article 235 of the Criminal Code only against individuals who knowingly commit the crime of money laundering. Criminal sanctions stipulated in this article are effective and proportionate, since they envisage both fines and imprisonment for between two to ten years.
10. Criminal liability does not apply to legal entities. Belarus has ratified the Palermo Convention with a clause stating that the application of article 10 (liability for legal persons) shall be instituted to the extent that local laws permit. This constitutes sufficient grounds to exclude criminal liability for legal persons from national legislation.
11. Administrative liability is instituted for the legalization of illegal proceeds obtained as the result of offences stipulated by the Administrative Code (Article 12.32). In accordance with Article 51 of the Civil

Code a legal entity may be liquidated if it has violated the legislation of Belarus including AML/CFT legislation.

12. Financing of terrorism is criminalized in Belarus by Article 290-1 of the Criminal Code and on the whole complies with the criminalization requirement in Article 2 of the Convention for the Suppression of the Financing of Terrorism. The article also envisions liability only for “financing terrorist activities” and does not cover the financing of a terrorist organization or an individual terrorist in cases when money is not intended for a specific act of terrorism.

13. Virtually all elements of offences stipulated in the nine Conventions on combating terrorism listed in the annex to the Convention for the Suppression of the Financing of Terrorism are covered by Article 290-1 (second edition). At the same time, the law does not criminalize the financing of theft of nuclear materials for purposes of terrorism or illegal acts against fixed platforms on the continental shelf.

14. As already pointed out in Recommendation 1, the Belarus Criminal Code criminalizes all the relevant forms of complicity, including those stipulated in Article 2(5) of the Convention.

15. In Belarus, punishment in the form of property confiscation is a measure against grave offences and felonies committed for lucrative purposes. Property confiscation is also covered by Criminal Procedure legislation and includes confiscation of criminal instruments and criminal proceeds. In aggregate the requirements of confiscation in the CC and CPC create a system of confiscation that meets to a significant extent FATF Recommendation 3.

16. Belarus has implemented some of the requirements of Special Recommendation III. The basic tool for carrying out the provisions of UN Security Council Resolutions 1267 and 1373 is the mechanism of freezing funds of persons on the list of terrorists. FMD can arrest the transaction for an unlimited period. At the same time some of the aspects of the freezing mechanism are drawn from criminal procedure, which allows to unfreeze the proceeds in case if law enforcement does not reveal components of crime. This doesn't fully meet the requirements of SR.III.

17. Belarus has a financial intelligence unit – the Financial Monitoring Department at the State Control Committee. Under Article 11 of the AML/CFT Law, this agency collects, analyzes and disseminates information received in the form of suspicious transaction reports (STRs) and other forms for purposes of ML/FT prevention. The FMD created special forms of reporting, it also has the right to receive additional information from reporting entities and is a member of the Egmont Group. At the same time the lack of resources in the FMD negatively influence the effectiveness of its work.

18. Under current legislation, Belarus has a combined system in place for declaring cash and doesn't cover bearer negotiable instruments. Yet this system was not developed for AML/CFT purposes in mind. In this connection, Special Recommendation IX is not observed to a considerable extent.

### **3. PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS**

19. Belarus's national AML/CFT system is not based on an approach that takes into account the assessment of risks in different financial sectors. In this connection, legally prescribed AML/CFT measures are applied in equal measure to all financial institutions.

20. Under the Belarus Banking Code and National Bank Resolution No.127, accounts can be opened by banks and non-bank financial lending institutions on the basis of contracts and documents identifying the account holder, which rules out the possibility of opening anonymous accounts. The identification regime exists, but has significant gaps. The operations under the threshold which do not fall under any identification requirements are banking operations performed without opening an account and currency exchange operations.

21. Belarusian AML/CFT legislation does not contain a clear requirement to perform CDD upon establishing business relations with a customer. Belarus also failed to present other legislative acts,

including those regulating the insurance and securities sectors, envisioning mandatory requirements to identify customers upon establishing business relations.

22. The definition of politically exposed persons (PEP) is provided only in the National Bank Instruction No.34 for banks. Recommendation 6 is completely unimplemented for other categories of financial institutions. Banks are required to determine whether a customer is a PEP. Banks are also required to identify possible PEPs among beneficial owners according to p. 24.15 of the Instruction No.34. The approval of the bank's senior management for the establishment (continuation) of relations with PEPs and introduction of additional measures to ascertain the sources of a PEP funding are not required.

23. Belarus has established a complex regime for the identification of correspondent banks however there is a defined number of gaps. Belarus legislation, including Instruction No.34, does not contain requirements for obtaining information on the quality of supervision in the country of the correspondent bank's registration, and also receiving management approval when establishing new correspondent relations. Nonetheless, the correspondent bank questionnaire in Instruction No.34 requires disclosing information on any measures used against correspondent banks for noncompliance with AML/CFT laws.

24. Only for banks, the National Bank Instruction No.34 classifies financial transactions using Internet technologies as high-risk transactions. At the same time, this Instruction does not require banks to take any additional measures with regard to such transactions. In another Regulation of the NBRB No. 231 the requirements for addressing risks arising from the non-face-to-face banking system "client-bank" are addressed. These requirements oblige banks to establish a minimum period of face-to-face business contact with the client before possible use of the "client-bank" system, they also include certain limitations on the types of business of the client and other measures. There are no other measures with regard to ML/FT risk management when using new technologies.

25. Belarusian legislation does not permit delegating functions to third parties.

26. Under the AML/CFT Law, the applicable secrecy or confidentiality laws do not prohibit or prevent the fulfillment of the FATF Recommendations for the FIU, law enforcement and NBBR.

27. At the same time the assessment team noted a lack of norms regulating access by the Ministry of Finance and Ministry of communication to the data held by supervised entities.

28. The legislation of Belarus on record keeping is based on the requirements of maintaining special reporting forms and primary accounting documents and other documents in accordance with the requirements of bookkeeping. At the same time the maintenance period doesn't meet the FATF requirements as well as the record-keeping regime that doesn't allow timely reconstruction of transactions at the request of authorities.

29. Belarus complies with those SR.VII requirements which apply to obtaining information about the customer (see R.5). The requirements to accompany money transfers with the relevant information are implemented only for international and internal transfers above a defined threshold. Some SR.VII requirements are not complied with: transfer of information through the payment chain, risk management procedures for incoming transfers.

30. AML/CFT legislation of Belarus establishes a number of norms requiring compliance with Recommendation 11. The AML/CFT Law identifies suspicious transactions similarly to the text of Recommendation 11, i.e. as financial transaction that do not correspond to the purpose of activity of the person carrying out the financial transaction under the constituent documents (Article 6). In this connection, financial institutions must record all the relevant information on such transactions (Article 8 of the AML/CFT Law). However, because this relates only to transactions subject to special control, this record keeping requirement applies only to those transactions that warranted a decision to report information to the FIU, and not for all unusual transactions. Simultaneously, there are no requirements to study unusual transactions (except for banks) and to keep the results for 5 years.

31. R.21 requirements are mostly implemented by the mechanism created during the existence of the NCCT FATF list. However Belarus doesn't depend on the international organisations' list and can include any country in its list. At the same time this system wasn't used since the end of NCCT process and the effectiveness is unknown.

32. Belarus has established a system for reporting suspicious transactions. If a financial institution suspects that any transaction is carried out for purposes of money laundering or terrorist financing, this financial institution must report this transaction to the FMD (Article 6 of the AML/CFT Law) regardless of the value of this transaction or any other suspicious signs. It is worth noting that Article 9 of the AML/CFT law stipulates the list of financial transactions that are not subject to special control, which automatically means that suspicions raised by such transactions are not subject to reporting to the FMD either. STR requirements cover the attempted transactions.

33. Under Article 5 of the AML/CFT Law, a financial institution's report to the FMD under the AML/CFT Law does not constitute a violation of official, banking or other secrecy provisions and does not entail liability for any losses or moral damages resulting from such a report. The assessment team doubts that such protection from liability applied to managers of financial institutions and their employees.

34. The Financial Monitoring Department has established a feedback mechanism in communication with financial institutions. When upon receiving reports on transactions subject to mandatory reporting the FMD discovers the SFs are completed with errors, the FMD returns the SFs, pointing out the errors. In addition the FMD established a list of suspicious criteria for FIs. Each year the FMD conducts training events for banks and non-bank institutions, which have resulted in a reduced number of SFs with errors sent to the FMD.

35. Financial institutions of Belarus are obligated to develop and follow internal control rules pursuant to Article 5 of the AML/CFT Law. This article of the AML/CFT Law also obligates financial institutions to appoint officers responsible for organizing the development and implementation of such rules. Council of Ministers Resolution No.352 stipulates the general requirements for the rules and requirements for organizing internal control and AML/CFT procedures. This Resolution requires supervisory authorities to develop standard rules of internal control taking into account the specifics of the financial institutions' activities.

36. Belarusian financial institutions do not have foreign branches or offices. At the same time, Belarusian legislation does not contain a regulatory base that would regulate foreign branches or offices to implement the AML/CFT requirements.

37. Shell banks cannot be established in Belarus. Banking legislation in Belarus has high requirements for the licensing of banking operation and makes it impossible to establish shell banks in the country. At the same time Belarusian legislation does not contain an explicit prohibition to establish and/or maintain correspondent relationships with shell banks.

38. Belarus has a system for regulating the supervision of financial institutions in connection with AML/CFT issues. Under Article 16 of the AML/CFT Law, all financial institutions are subject to regulation and supervision for compliance with the AML/CFT Law and, under Council of Ministers Resolution No.352, for organization of internal control. In the absence of the necessary authority that would supervise the financial leasing sector, the FMD would have to carry out such supervision. Yes because the FMD has no supervisory staff, no such supervision is carried out in practice.

39. AML/CFT supervisory authorities, with the exception of the NBRB, do not have an appropriate organizational structure or staff needed for AML/CFT purposes. Within the FMD there is a Directorate for Coordination and International Cooperation, which plays a considerable role in coordinating cooperation with the NBRB and supervisory authorities, including as regards to the development of the required regulations.

40. Under Article 34 of the Banking Code, the NBRB may conduct inspections of the activity of banks and non-bank lending and financial institutions, issue orders to eliminate any violations exposed, and apply sanctions against violators as per the Banking Code and other Belarusian legislation. The framework of sanctions for noncompliance with AML/CFT legislation in Belarus is not formed in all sectors. Supervisory authorities have the right to impose sanctions on supervised entities in accordance with their own regulations. The AML/CFT Law vests supervisory authorities with the power to carry out “control” of financial institutions for compliance with AML/CFT legislation (Article 16 of the AML/CFT Law). However, it does not contain provisions on the application of sanctions. Article 134 of the Banking Code outlines punitive measures applied by the NBRB in response to failure by a bank or non-bank lending or financial institution to eliminate violations.

41. The Finance Ministry has general powers to control supervised financial institutions, conduct onsite inspections, carry out licensing and supervision, as well as impose sanctions in the relevant spheres. However, the powers haven’t been used for AML/CFT purposes. There are no supervisory or sanctions-related AML/CFT clauses in the legislation on the Ministry of Finance.

42. Belarus has legislative requirements for banking institutions, which prevent criminals from participating in the capital or governing bodies of an institution. The NBRB uses strict criteria with regard to potential owners and managers. These criteria apply to ownership shares in exceeds of 10 percent. Requirements for other sectors are missing

43. Insurance and securities sectors do not apply Core Principles (including IOSCO and IAIS principles) for AML/CFT purposes.

44. Money transfers via the officially regulated financial system in Belarus can be carried out only through banks and Belpost. Notably, all banks and the postal service already fall under the requirements of AML/CFT legislation, and all flaws pointed out with regard to AML/CFT measures in the banking system apply to banks within the context of money transfers. There are practically no risks of money or value transfer services (MVT) outside the formal financial system.

#### **4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS**

45. Under the AML/CFT Law, virtually all categories of DNFBPs required by the FATF are covered by the relevant measures, with the exception of trusts and company service providers. Belarus does not have supervision or monitoring of accountants, which makes it impossible to evaluate the effectiveness of measures undertaken by them.

46. In addition to the established list of DNFBPs, AML/CFT requirements also apply to organizations that carry out state registration of immovable property (registrars).

47. The Ministry of Sport and Tourism carries out licensing, supervision and control of casino activity (Council of Ministers Resolution No.1377). Under Article 16 of the AML/CFT Law, the Ministry of Transport and Tourism is authorized to control casinos for compliance with the AML/CFT Law and organization of internal control. At the same time, licensing requirements are only generally linked to AML/CFT issues.

48. Besides financial institutions and DNFBPs, AML/CFT measures also apply to pawnshops, betting shops, lotteries and other gambling businesses with slot machines and other devices for risk-based games. These types of businesses are covered by the same AML/CFT legislation requirements as financial institutions. The assessment team noted the low effectiveness of applying AML/CFT requirements in all sectors of DNFBPs except for estate agents and registrars.

#### **5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS**

49. Registration of legal persons in Belarus is carried out through the Single State Register of Legal Persons and Individual Entrepreneurs (hereafter the SSR) in Belarus. The Register is kept by the

Belarusian Justice Ministry. Under paragraph 7.7 of the Provision on the SSR, adopted by the Council of Ministers Resolution No.359, the register contains information on company founders and other information. The procedure for keeping the SSR is stipulated in the Justice of Ministry Instruction No.9. Under this Instruction, the SSR database stores information on the founders of the legal person, the managers and other persons authorized to act without power of attorney on behalf of the legal entity.

50. In Belarus it is impossible to establish legal arrangement, including trusts, in the sense in which these terms are used in the FATF Recommendations. This is due to the fact that the legal system of Belarus, much like those of other countries of the continental legal tradition (civil law) does not allow for the separation of the right of ownership into a legal title, which is given to the trustee along with the responsibilities of proprietorship, and an equitable title, which is given to the beneficiary.

51. Belarus has not conducted a required revision of existing legislation with regard to non-profit organizations. Competent authorities do not interact with the NPO sector to protect it from terrorist financing risks. Belarus failed to present examples of measures aimed to raise awareness of FT risks in this sector or enhance the transparency of the financial environment of NPOs and their management.

## **6. NATIONAL AND INTERNATIONAL COOPERATION**

52. The interagency taskforce to ensure coordination and interaction of state authorities in ML/FT was established under the FMD. The key objectives of the taskforce are preparing and examining materials of ML/FT typologies and setting up a consultancy system. The taskforce does not have the powers to evaluate the effectiveness of the AML/CFT system and does not issue proposals for political decisions in this sphere.

53. Belarus is a member of all relevant conventions in AML/CFT sphere. Some of the FT criminalization aspects do not meet the requirements of the Convention for the Suppression of the Financing of Terrorism. Apparently, all the relevant articles of the Vienna Convention have been implemented. At the same time, paragraph 1 (a) of Article 7 of the Palermo Convention has not been implemented as regards to establishing a proper record keeping requirement.

54. Belarus is a party to all the key UN treaties on providing international legal assistance in criminal cases (e.g., the Palermo Convention) and the instruments of the Commonwealth of Independent States. Within the CIS, mutual legal assistance is provided under the Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Cases, signed in Minsk in 1993 and Chisinau in 2002. Mutual legal assistance is carried out by the Belarus in all required forms.

55. Dual criminality is a mandatory requirement for extradition. At the same time, technical differences in the criminalization in two countries do not constitute grounds to deny extradition.

56. The mechanism of mutual legal assistance to ensure confiscation has some gaps as far as there are no standards that provide confiscation of a property equivalent as well as the mechanism of coordination with other governments on arrest and confiscation. The mechanisms of extradition in general comply with the international standards. Belarus legislation does not contain special requirements for international cooperation on AML/CFT between the relevant competent authorities (except the FIU). In the majority of cases state agencies cooperate on the basis of common powers in this sphere.

57. Belarus is a party to the Agreement of the Member States of the Commonwealth of Independent States on Combating Money Laundering and Financing of Terrorism. In this connection, one of the measures of international cooperation between law enforcement agencies is the implementation of joint measures as part of this Agreement as well as other regional agreements within the framework of the CIS on combating crime.

**Table 1. Ratings of Compliance with FATF Recommendations**

**1** The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (NA). These ratings are based only on the essential criteria, and defined as follows:

**2**

- Compliant** ➤ The Recommendation is fully observed with respect to all essential criteria.
- Largely compliant** ➤ There are only minor shortcomings, with a large majority of the essential criteria being fully met.
- Partially compliant** ➤ The country has taken some substantive action and complies with some of the essential criteria.
- Non-compliant** ➤ There are major shortcomings, with a large majority of the essential criteria not being met.
- Not applicable** ➤ A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country.

Forty Recommendations	Rating	Summary of factors underlying rating
<b>Legal systems</b>		
1. ML offence	<b>LC</b>	<ul style="list-style-type: none"> <li>• Insider trading and market manipulation are not criminalized.</li> </ul>
2. ML offence – mental element and corporate liability	<b>LC</b>	<p><i>Effectiveness:</i></p> <ul style="list-style-type: none"> <li>• Low effectiveness of application of Article 235 of the Criminal Code;</li> <li>• Flaws in the criminalization of money laundering adversely affect the number of sentences.</li> </ul>
3. Confiscation and provisional measures	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no norm that would envisage confiscation of a property equivalent;</li> <li>• The law does not envisage confiscation of profit generated using illicit proceeds;</li> <li>• Confiscation of proceeds from insider trading and market manipulation is not possible, since these acts are not criminalized.</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are ambiguities in the legislative regulation of the access by the Finance Ministry and the Communications Ministry to the information of supervised organizations.</li> <li>• Ambiguities in legislative regulation of financial secrecy conditions may complicate international data exchange among legislative and supervisory authorities.</li> </ul>
5. Customer due diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no clear requirement to identify customers upon the establishment of business relationships.</li> <li>• The CDD threshold in place (USD 300,000 for transactions by legal persons) is significantly higher than the one specified in</li> </ul>



		<p>the FATF Recommendations.</p> <ul style="list-style-type: none"> <li>• It is possible to maintain unverified and fictitious accounts and carry out e-cash transactions.</li> <li>• There is no requirement in place to identify customers carrying out certain types of operations below a certain threshold (currency exchange and banking operations without the opening of an account, including wire transfers inside Belarus).</li> <li>• The presence of exceptions in the mandatory reporting requirements means that identification of clients suspected of ML/FT is not performed in all cases.</li> <li>• There is no requirement in place for financial institutions, other than credit institutions, to examine the ownership/governance structure of the customer – legal person.</li> <li>• The requirement to request information on the purpose and expected nature of a business relationship from the customer is in place only for the banking sector.</li> <li>• For financial institutions, other than credit institutions, there is no requirement to perform on-going monitoring of customer transactions for compliance with the customer’s profile.</li> <li>• There is no requirement to request information about the source of the customer’s funds, when necessary.</li> <li>• There are no requirements in place to carry out enhanced CDD measures with regard to high-risk customers, business relationships and transactions (except for the banking sector).</li> <li>• There are no procedures to mitigate risks arising from transactions, where immediate identification/verification is not possible.</li> <li>• There is no requirement for financial institutions to refuse to establish or continue a business relationship or perform a transaction when it is impossible to perform CDD.</li> <li>• The requirements to identify existing customers are in place only for the banking sector and securities market operators.</li> </ul> <p><b>Effectiveness:</b></p> <ul style="list-style-type: none"> <li>• The absence of effective supervision over the financial leasing sector makes it impossible to evaluate the degree of implementation of Belarusian AML/CFT legislation.</li> <li>• Low compliance with CDD requirements in non-bank sectors.</li> </ul>
6. Politically exposed persons	<b>PC</b>	<p>The requirements to apply additional CDD measures with regard to PEPs are present only in banking regulations. These requirements apply only to conducting additional identification of PEPs and monitoring their transactions. Not all other requirements are in place as per Recommendation 6 (establishment of sources of funds, establishment of business relationships with the approval of senior management).</p>
7. Correspondent banking	<b>PC</b>	<ul style="list-style-type: none"> <li>• Belarusian laws do not contain a direct requirement that the senior management of banks has to approve the establishment of correspondent relations.</li> <li>• There is no requirement to request Category A correspondent banks to provide information on AML/CFT measures undertaken by them and sanctions for violations of AML/CFT laws.</li> <li>• There is no requirement to request information on the quality of supervision in the country of the correspondent bank.</li> <li>• There is no requirement to examine and evaluate information received from correspondent banks about their AML/CFT</li> </ul>

		<p>measures.</p> <p>In the majority of cases banks are obliged to request only limited information on the nature of the correspondent bank's activities.</p>
8. New technologies & non face-to-face business	<b>PC</b>	<ul style="list-style-type: none"> <li>• There are no requirements for non-bank financial institutions to manage ML/FT risks when using new non-face to face technologies and performing non-face to face transactions.</li> <li>• It is possible to have unverified e-money accounts.</li> </ul>
9. Third parties and introducers	<b>n/a</b>	This Recommendation is not applicable.
10. Record keeping	<b>PC</b>	<ul style="list-style-type: none"> <li>• The existing requirements for record-keeping do not set the appropriate time period of five years after the closing of the account;</li> <li>• No requirements are in place for the components of the transactions subject to reconstruction;</li> <li>• There are no requirements to store documents in a format enabling timely access to such documents by competent authorities.</li> </ul> <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• Differing, often contradictory requirements for document storage cause confusion among financial institutions and reduce effectiveness.</li> </ul>
11. Unusual transactions	<b>PC</b>	<ul style="list-style-type: none"> <li>• Legislation does not contain requirements for financial institutions (other than banking institutions) to scrutinize and store the findings on unusual transactions in writing for 5 years and, if necessary, present them to competent authorities.</li> </ul>
12. DNFBP – R.5, 6, 8-11	<b>NC</b>	<p>Recommendation 5:</p> <ul style="list-style-type: none"> <li>• Belarus does not have supervision or monitoring of accountants, which makes it impossible to evaluate the effectiveness of measures undertaken by them.</li> <li>• AML/CFT legislation does not cover trust and organizations establishing and servicing legal persons.</li> <li>• There is no clear requirement to identify customers upon the establishment of business relationships.</li> <li>• The CDD threshold in place (USD 300,000 for transactions by legal persons) is significantly higher than the one established in the FATF Recommendations.</li> <li>• The presence of exceptions in the mandatory reporting requirements means that identification of clients suspected of ML/FT is not performed in all cases.</li> <li>• There are no requirements to examine the ownership/governance structure of a customer – legal person.</li> <li>• There are no requirements regarding beneficial ownership.</li> <li>• There is no requirement to obtain information from the customer on the purpose and expected nature of a business relationship.</li> <li>• There is no requirement to carry out ongoing control of customer's transactions for compliance with the client's profile.</li> <li>• There is no requirement to obtain information on the source of the customer's funds, when necessary.</li> <li>• There are no requirements in place to carry out enhanced CDD measures with regard to high-risk customers, business relationships and transactions;</li> <li>• There are no requirements that would regulate the time of identification and data verification.</li> <li>• There is no requirement to refuse to establish or continue a</li> </ul>

		<p>business relationship or perform a transaction when it is impossible to perform CDD.</p> <ul style="list-style-type: none"> <li>• There is no requirement to examine the issue of submitting an STR on a customer who provided false / unverifiable identification information.</li> <li>• No requirements are in place to identify existing customers.</li> </ul> <p>Recommendations 6, 8 and 11:</p> <ul style="list-style-type: none"> <li>• There are no legislative or other measures whatsoever.</li> </ul> <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• Low effectiveness of implementation by all sectors. Effectiveness is absent in the sectors of casinos and precious metals and stones dealers.</li> </ul>
13. Suspicious transaction reporting	<b>PC</b>	<ul style="list-style-type: none"> <li>• Flaws in the criminalization of ML and FT restrict STR obligations as regards ML and FT;</li> <li>• Article 9 of the AML/CFT Law excludes a number of financial transactions subject to special control;</li> <li>• Financial institutions do not pay due attention to sending STRs in connection with transactions exceeding the threshold value (does not apply to the banking sector).</li> </ul>
14. Protection & no tipping-off	<b>LC</b>	<ul style="list-style-type: none"> <li>• The legislation is not clear on whether there is protection of managers and employees of financial institutions from criminal and administrative liability for reporting information to the FMD and an exemption from liability for disclosing facts of reposts being submitted to the FMD.</li> </ul>
15. Internal controls, compliance & audit	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no obligation to appoint an officer responsible for AML/CFT issues at the management level;</li> <li>• There is no legal obligation to grant the compliance officer timely access to all the required information of the financial institution;</li> <li>• There is no requirement to conduct an independent audit of AML/CFT measures at financial institutions (does not apply to banks);</li> <li>• Legislation does not contain a detailed requirement to conduct staff training in AML/CFT issues (does not apply to banks);</li> <li>• There is no requirement for financial institutions (except certain positions at banks and professional operators of the securities market) to conduct background checks upon recruitment;</li> </ul> <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• The effectiveness of application of internal control measures in the non-bank sector is low.</li> </ul>
16. DNFBP – R.13-15 & 21	<b>PC</b>	<ul style="list-style-type: none"> <li>• Belarus does not have supervision or monitoring of accountants, which makes it impossible to evaluate the effectiveness of measures undertaken by them.</li> <li>• AML/CFT legislation does not cover trust and organizations establishing and servicing legal persons.</li> </ul> <p><i>Recommendation 13</i></p> <ul style="list-style-type: none"> <li>• Some DNFBPs do not pay appropriate attention to submitting STRs regarding transactions in excess of the threshold value;</li> <li>• Flaws of ML criminalization restrict STR obligations as regards ML;</li> </ul> <p><i>Recommendation 14</i></p> <ul style="list-style-type: none"> <li>• The legislation is not clear on whether there is protection of managers and employees of financial institutions from criminal and administrative liability for reporting information to the FMD and an exemption from liability for disclosing</li> </ul>

		<p>facts of reposts being submitted to the FMD.</p> <p><i>Recommendation 15</i></p> <ul style="list-style-type: none"> <li>• There is no obligation to appoint an officer responsible for AML/CFT issues at the management level;</li> <li>• There is no obligation to grant the compliance officer timely access to all the required information of the financial institution;</li> <li>• There is no requirement to conduct an independent audit of AML/CFT measures;</li> <li>• Legislation does not contain a detailed requirement to conduct staff training in AML/CFT issues;</li> <li>• There is no requirement to conduct background checks of employees upon recruitment;</li> </ul> <p><i>Effectiveness</i></p> <ul style="list-style-type: none"> <li>• There are standard rules of internal control, but the effectiveness of their implementation is low.</li> </ul> <p><i>Recommendation 21</i></p> <ul style="list-style-type: none"> <li>• The existing system has not been used since the termination of the FATF NCCT list, despite the existence of countries, which do not implement the FATF standards.</li> <li>• Belarus currently has no requirements for DNFBPs to pay special attention to transactions with countries that do not comply with the FATF Recommendations.</li> <li>• There are no requirements for DNFBPs to scrutinize transactions with such countries and store the findings of such scrutiny for 5 years.</li> <li>• Belarus is unable to apply countermeasures against such states.</li> </ul>
17. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>• The possibility to apply a broad range of sanctions against all types of financial institutions (currently there is a system of sanctions against the banking sector only) has not been established;</li> <li>• The NBRB and the Communication Ministry are unable to apply financial sanctions against directors and senior managers.</li> <li>• The Finance Ministry is unable to impose specialized AML/CFT sanctions. The practice of applying sanctions for AML/CFT violations on the basis of powers that are not core to AML/CFT is nonexistent.</li> <li>• Article 23.20 is applied only against officers of financial institutions.</li> <li>• Article 23.20 covers a narrow list of AML/CFT violations (only violations of the procedure for registration and reporting to the FIU)</li> <li>• Article 23.20 establishes low fines.</li> </ul>
18. Shell banks	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no ban on establishing and/or maintaining correspondent relationships with shell banks;</li> <li>• There is no requirement for financial institutions to ascertain that correspondent financial institutions in other countries do not have correspondent relations with shell banks.</li> </ul>
19. Other forms of reporting	<b>C</b>	<ul style="list-style-type: none"> <li>• This Recommendation is fully observed.</li> </ul>
20. Other NFBP & secure transaction techniques	<b>C</b>	<ul style="list-style-type: none"> <li>• This Recommendation is fully observed.</li> </ul>
21. Special attention for higher risk countries	<b>PC</b>	<ul style="list-style-type: none"> <li>• The existing system has not been used since the termination of the FATF NCCT list, despite the existence of countries, which do not implement the FATF standards.</li> </ul>

		<ul style="list-style-type: none"> <li>• Belarus currently has no requirements for financial institutions to pay special attention to transactions with countries that do not comply with the FATF Recommendations.</li> <li>• There are no requirements for financial institutions to scrutinize transactions with such countries and store the findings of such scrutiny for 5 years.</li> <li>• Belarus is unable to apply countermeasures against such states.</li> </ul>
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> <li>• Requirements of Recommendation R.22 are not implemented in legislation.</li> </ul>
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> <li>• An effective system for AML/CFT supervision, monitoring and sanctions functions only for the banking sector;</li> <li>• Banking, insurance and securities sectors do not apply the Core Principles (including IOSCO and IAIS principles) for AML/CFT purposes;</li> <li>• There are no measures on securities and insurance market entry.</li> <li>• There is no special registration or AML/CFT monitoring with regard to the financial leasing sector.</li> </ul>
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• AML/CFT issues are not legally required as a condition in the licensing process for casinos.</li> <li>• The system in place for supervising and applying sanctions against casinos for noncompliance with AML/CFT measures, is not effective, which raised ML/FT risks in this sector;</li> <li>• There is no effective monitoring of compliance with AML/CFT measures by DNFBPs (with the exception of the Justice Ministry in some aspects);</li> <li>• There is no authorized agency or self-regulating organization to supervise accountants.</li> </ul>
25. Guidelines & Feedback	PC	<ul style="list-style-type: none"> <li>• There are no recommendations for financial institutions with descriptions of ML/FT techniques and methods (does not apply to banks);</li> <li>• Financial institutions receive insufficient information on the results of financial investigations carried out by the FIU.</li> <li>• Other grounds for the R.25 rating in sections 3.10 and 4.3 of this Report.</li> <li>• There are no recommendations for financial institutions on applying the relevant AML/CFT requirements (does not apply to banks).</li> <li>• There are no guidelines for DNFBPs, except certain information letters published by the Justice Ministry.</li> </ul>
Institutional and other measures		
26. The FIU	LC	<ul style="list-style-type: none"> <li>• The FMD does not publish periodical performance reports. <i>Effectiveness:</i></li> <li>• The resources of the FMD are low, which impacts the effectiveness of the FMD.</li> </ul>
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> <li>• No agency(ies) has (have) been put in charge of developing and implementing a system of law enforcement measures to combat ML/FT. <i>Effectiveness:</i></li> <li>• Law enforcement agencies lack a systemic approach to investigating ML/FT, which results in low detection figures in statistics on such crimes.</li> <li>• Because of the absence of certain statistical data, it is impossible to evaluate the effectiveness of some law enforcement agencies’</li> </ul>

		performance.
28. Powers of competent authorities	<b>C</b>	This Recommendation is fully observed.
29. Supervisors	<b>PC</b>	<ul style="list-style-type: none"> <li>• Only the NBRB has the possibility to apply a broad range of sanctions against all types of financial institutions;</li> <li>• The Finance Ministry and the Communication Ministry are unable to impose specialized AML/CFT sanctions. The practice of applying sanctions for AML/CFT violations on the basis of powers that are not core to AML/CFT is nonexistent.</li> <li>• The NBRB cannot apply administrative sanctions against supervised entities.</li> <li>• The NBRB is unable to apply financial sanctions against directors and senior managers.</li> </ul>
30. Resources, integrity and training	<b>PC</b>	<ul style="list-style-type: none"> <li>• Insufficient funding to provide technical resources for the FMD of the SCC;</li> <li>• Insufficient staff at the FMD of the SCC;</li> <li>• Absence of specialized AML/CFT units in the customs authority;</li> <li>• The staff strength and structure of supervisory authorities has not been fully transformed for purposes of AML/CFT (does not apply to the NBRB);</li> <li>• Supervisory authorities did not receive training in supervision techniques in the sphere of AML/CFT (does not apply to the NBRB).</li> </ul>
31. National co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>• The AML/CFT Working group does not constitute a sufficient institutional platform for the elaboration of AML/CFT policy</li> <li>• The effectiveness of interaction of law enforcement agencies with the FMD (except the FIU) raises questions</li> </ul>
32. Statistics	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is a lack of clear statistics on the amount of frozen, attached and seized property in relation to ML/FT/predicate crime cases;</li> <li>• Statistics on MLA relating to ML/FT have not been provided;</li> <li>• Inadequate extradition statistics have been provided;</li> <li>• Supervisory authorities (other than the NBRB) do not keep ML/FT statistics.</li> </ul>
33. Legal persons – beneficial owners	<b>C</b>	<ul style="list-style-type: none"> <li>• This Recommendation is fully met.</li> </ul>
34. Legal arrangements – beneficial owners	<b>n/a</b>	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
International Co-operation		
35. Conventions	<b>LC</b>	<ul style="list-style-type: none"> <li>• Paragraph 1 (a) of Article 7 of the Palermo Convention has not been fully implemented as regards to establishing the record keeping requirement;</li> <li>• Certain aspects of Article 18 of the CFT Convention (Paragraph 1 (b) as regards identification of beneficial owners and record keeping) are not fully implemented</li> </ul>
36. Mutual legal assistance (MLA)	<b>LC</b>	<ul style="list-style-type: none"> <li>• The Criminal Procedural Code or other regulations do not stipulate mechanisms for determining the best location (jurisdiction) for prosecuting the accused.</li> <li>• Belarus did not present statistics on mutual legal assistance, which makes it impossible to evaluate the system's effectiveness.</li> </ul>
37. Dual criminality	<b>C</b>	
38. MLA on confiscation and freezing	<b>PC</b>	<ul style="list-style-type: none"> <li>• Obviously, confiscation of property of equivalent value is not envisioned.</li> <li>• There are no specific mechanisms for coordinating actions with foreign states in attaching or seizing property;</li> </ul>

		<ul style="list-style-type: none"> <li>• Belarus did not present statistics on mutual legal assistance, which makes it impossible to evaluate the system's effectiveness.</li> <li>• Flaws in the criminalization of ML and FT may restrict possible applications of confiscation.</li> <li>• Belarus did not consider the issue of sharing seized property with competent authorities of foreign states whose actions facilitated the confiscation of property.</li> </ul>
39. Extradition	LC	<ul style="list-style-type: none"> <li>• The Criminal Procedural Code or other regulations do not stipulate mechanisms for determining the best location (jurisdiction) for prosecuting the accused.</li> <li>• Flaws in the criminalization of ML and FT may restrict possibilities for extradition.</li> <li>• Belarus did not present statistics on mutual legal assistance, which makes it impossible to evaluate the system's effectiveness.</li> </ul>
40. Other forms of co-operation	LC	<ul style="list-style-type: none"> <li>• Belarus does not have international cooperation in AML/CFT along the lines of its supervisory authorities (does not apply to the NBRB).</li> </ul>
<b>Nine Special Recommendations</b>		
SR.I Implement UN instruments	LC	<ul style="list-style-type: none"> <li>• Criminalization of TF falls short of the Convention for the Suppression of the Financing of Terrorism;</li> <li>• Paragraph 1 (b) of Article 18 as regards identification of beneficial owners and record keeping has not been fully implemented.</li> <li>• UN Security Council Resolution 1452 is not implemented as regards access to funds needed for basic vital needs.</li> </ul>
SR.II Criminalise TF	PC	<ul style="list-style-type: none"> <li>• The law does not criminalize indirect provision of money for purposes of terrorist financing;</li> <li>• The law does not criminalize provision of funds for a terrorist organization or an individual terrorist, if such funds are not intended for a specific act of terrorism.</li> <li>• The law does not criminalize the financing of theft of nuclear materials for terrorist purposes or the financing of illegal acts against fixed platforms on the continental shelf.</li> </ul>
SR.III Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> <li>• Questions arise about the effectiveness of the freezing system, much of which is based on criminal procedural mechanisms.</li> <li>• There are no specific mechanisms for reviewing and using information received from foreign states with regard to subjects who have their assets frozen.</li> <li>• Detailed freezing instructions are in place only for credit institutions.</li> <li>• Belarus has no procedures in place for reviewing requests to remove persons from the list.</li> <li>• Nor are there mechanisms for unfreezing the funds of persons to whom the freezing mechanism was applied by accident.</li> <li>• Belarus does not have mechanisms granting access to a portion of funds required for basic vital needs under the UN Security Council Resolution 1452.</li> </ul> <p><b>Effectiveness</b> Low awareness of freezing mechanisms in the financial sector and among DNFBPs indicates the low effectiveness of measures.</p>
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>• Flaws of FT criminalization restrict STR obligations as regards FT;</li> <li>• Article 9 of the AML/CFT Law excludes a number of financial transactions subject to special control;</li> </ul>

		<ul style="list-style-type: none"> <li>The definition of terrorist financing does not include provision of funds to terrorists and terrorist organizations for purposes unrelated to committing a terrorist act. Financial institutions are not obligated to submit STRs in connection with such facts.</li> </ul>
SR.V International co-operation	<b>PC</b>	<ul style="list-style-type: none"> <li>The Criminal Procedural Code or other regulations do not stipulate mechanisms for determining the best location (jurisdiction) for prosecuting the accused.</li> <li>Obviously, confiscation of property of equivalent value is not envisioned.</li> <li>There are no specific mechanisms for coordinating actions with foreign states in attaching or seizing property;</li> <li>Belarus did not present statistics on mutual legal assistance, which makes it impossible to evaluate the system's effectiveness.</li> <li>Flaws in the criminalization of FT may restrict possible applications of confiscation.</li> <li>Belarus did not consider the issue of sharing seized property with competent authorities of foreign states whose actions facilitated the confiscation of property.</li> <li>The Criminal Procedural Code or other regulations do not stipulate mechanisms for determining the best location (jurisdiction) for prosecuting the accused.</li> <li>Obviously, confiscation of property of equivalent value is not envisioned.</li> <li>There are no specific mechanisms for coordinating actions with foreign states in attaching or seizing property;</li> <li>Belarus did not present statistics on mutual legal assistance, which makes it impossible to evaluate the system's effectiveness.</li> <li>Flaws in the criminalization of FT may restrict possible applications of confiscation.</li> <li>Belarus did not consider the issue of sharing seized property with competent authorities of foreign states whose actions facilitated the confiscation of property.</li> <li>See other grounds for the rating in sections 6.3 and 6.4</li> </ul>
SR.VI AML requirements for money/value transfer services	<b>LC</b>	<ul style="list-style-type: none"> <li>All flaws pointed out with regard to AML/CFT measures in the banking and postal system apply to banks and Belpost within the context of money transfers.</li> </ul>
SR.VII Wire transfer rules	<b>PC</b>	<ul style="list-style-type: none"> <li>There are no requirements to identify the originators of wire transfers inside Belarus below the threshold of 30 000 USD;</li> <li>There is no requirement for intermediary financial institutions to pass originator information through the entire transfer chain;</li> <li>There are no risk-based procedures on transfers, which are not accompanied by full and accurate originator information; FIs are not required to consider sending an STR on such transfers and to consider terminating the relationship with originator-FIs.</li> <li>There are no monitoring and sanctions mechanisms for the violation of SR.VII requirements.</li> </ul>
SR.VIII Non-profit organisations	<b>PC</b>	<ul style="list-style-type: none"> <li>NGO legislation is not being revised;</li> <li>No periodic analysis of the NGO sector is conducted to identify FT risks;</li> <li>There are no programs for interaction with the NGO sector on FT prevention;</li> <li>General information was presented on supervision, monitoring, and application of sanctions against the NGO sector or its substantial part;</li> <li>No special mechanisms are in place for exchanging information</li> </ul>



		on NGOs at the national and international levels in case FT suspicions arise.
SR.IX Cash Couriers	NC	<ul style="list-style-type: none"> <li>• The current system of customs control is not used for AML/CFT purposes.</li> <li>• It is not clear beyond doubt whether it is possible to stop cross-border movement of funds if ML/FT is suspected.</li> <li>• It is not clear if the declaration requirements apply to all types of bearer negotiable instruments.</li> <li>• Customs authorities do not store information on declarations that raised ML/FT suspicions.</li> <li>• Customs authorities are unable to apply sanctions against persons moving funds associated with ML/FT across the border.</li> <li>• Belarus is unable to apply the relevant provisions of Recommendation 3 and Special Recommendation III with regard to funds associated with ML/FT and moved across the border.</li> </ul>