

## MUTUAL EVALUATION OF BELARUS

- I. Order of the discussion of the Mutual Evaluation Report on the Working Group on Mutual Evaluations and Legal Issues (WGEL)**
- II. Order of the discussion of the Mutual Evaluation Report at the EAG Plenary meeting**
- III. Issues for discussion at the WGEL**

### **I. Order of the discussion at the Working group**

(the order is set by the EAG Mutual Evaluation Procedures, p. 25-29, EAG-II/PLEN/34, new ref. number EAG/PLEN(2007)4/rev.4)

1. The three principal tasks of this WGEL meeting are the following:
  - Identify 5-8 key issues for discussion at the EAG Plenary meeting;
  - Note any “horizontal issues”, as well as consistency with other MERs of the FATF and FSRBs, in order to ensure the quality and consistency of the report.
  - Identify any issues that require the interpretation/clarification of FATF standards, Methodology and EAG Procedures.
2. **The WGEL meeting can not:**
  - Make decisions on the text of the report (before the Plenary the decision on amending the text of the Report can only be made by the assessors). At the Plenary meeting changes to the text of the report can only be introduced by the Plenary meeting).
  - The WGEL cannot change the ratings.
  - The WGEL cannot act as a broker between the assessment team and the evaluated country.
3. **The procedure for the discussion at the WGEL is the following:** the meeting is chaired by one of the WGEL Co-chairs
  - The Secretariat briefly presents the issue for discussion (in the order of the Agenda)
  - The representatives of the assessed countries present their view.
  - The assessment team presents its view.
  - Interventions by the representatives of EAG member-states and observers. These interventions must take into account the 3 principal tasks of the WGEL, mentioned in p.1.
  - The WGEL Co-chair sums up the discussion on the issue based on interventions of member-states and refers/does not refer the issue to the Plenary.
  - After all of the issues have been discussed the delegations of member-states and observers may raise any other issues.

**II. Order of the discussion of the Mutual Evaluation Report at the EAG Plenary meeting:**

(the order is set by the EAG Mutual Evaluation Procedures, p. 30-34, EAG-II/PLEN/34, new ref. number EAG/PLEN(2007)4)

*The Plenary meeting will discuss 5-8 issues, which have been forwarded from the WGEL. The discussion of the MER at the Plenary meeting is chaired by the EAG Chairman and the Executive Secretary. The Plenary meeting has the right to make any changes to the text of the MER. The Plenary meeting must make the relevant decisions on the 5-8 issues referred by the WGEL. The Plenary meeting must decide on the ratings for the Recommendations accordingly.*

**1. Introduction:**

- The EAG Chairman opens the discussion on the Mutual Evaluation Report.
- Introduction by the Head of the assessment team and the assessors.
- Introduction by the Head of delegation of the assessed country.

**2. Procedure for discussion at the Plenary meeting:**

- The EAG Secretariat briefly presents the issue.
- The representatives of the assessed country present their view.
- The assessment team presents its view.
- Interventions by the representatives of EAG member-states and observers, including on the issue of upgrading/downgrading the rating or leaving the current rating.
- If necessary, further interventions by the assessed country and the assessment team for clarifications;
- The Chairman makes the final decision, including on the issue of ratings.
- After all of the issues that were referred by the WGEL have been discussed the delegations of member-states and observers may raise any other issues

**3. Conclusion**

- After the discussion on all issues and ratings has been concluded the EAG Chairman asks the assessed country if it agrees to adopt the Mutual Evaluation Report and its Executive Summary.
- Response of the assessed country.
- The EAG Chairman sets the timeframe for the assessed country to report back to the Plenary on the progress of implementing the recommendations of the assessment.

**III. Issues for discussion at the WGEL**

1. The main issues for discussion at the WGEL are highlighted below.

**2. The de facto objective of the WGEL – is to identify those issues from the list, which will be discussed at the Plenary meeting. The WGEL has the right to change the text of the Comments.**

№	Key issues	Comments
1	<p>Recommendation 1 and 35. Criminalization of the ML.</p> <p>Rating table:</p> <p>1. Are acquisition, possession or use covered</p> <p>2. Are indirect criminal proceeds covered</p> <p>3. Criminalization of insiders trading and market manipulation</p>	<p><b>Recommendation 1: Current rating – PC, Belarus is requesting an upgrade to LC</b>  <b>Recommendation 35: Current rating – PC, Belarus is requesting an upgrade to LC</b></p> <p><b><u>Assessment team opinion:</u></b></p> <p>1. <i>Article 235 (ML offence) covers “Acquisition, possession or use” only partially – in cases when assets are used in economic and business activity.</i></p> <p>This limitation is clearly determined in the a/m Article. UN Conventions don’t provide such a limited interpretation of the ML offence. Additionally, Belarusian law enforcement bodies have noted that this limiting interpretation seemed to be a barrier for successful investigation and presentation of ML before a court.</p> <p>2. <i>Notion of «funds» in the Belarusian legislation doesn’t cover the indirect criminal proceed.</i></p> <p>There are no references to indirect criminal proceeds in the criminal and other legislation. It’s not clear on what grounds the Article 235 can cover indirect proceeds as well.</p> <p>3. <i>Insiders trading and market manipulation are not criminalized.</i></p> <p>There are no elements of the a/m crime in the Criminal Code. Other Articles specified by the Republic of Belarus as arguments have no direct relation to this offence. Due to the fact that FATF recommendations require the direct criminalization of this offence appropriate argumentation wasn’t accepted.</p> <p><u>Comparison with other reports:</u> The opinion of the assessment team is confirmed by the Russian and Kyrgyz reports</p>

		<p>where the a/m disadvantage was noted in spite of existence of the Articles in the Criminal Code, which Belarus has listed as substitutes. These Articles are marginally or indirectly related to the insider trading and market manipulation.</p> <p><b><u>Belarus opinion:</u></b></p> <p><i>1. Coverage of “Acquisition, possession and use”</i> The wording of the Part 1 of Article 235 covers all possible ways of the use of these assets for money laundering. “Use of material assets for business or other economical activity” – is the use of assets in organization and conducting this activity.</p> <p><i>2. Indirect criminal proceeds:</i> international legal acts ratified by the Republic of Belarus provide concretized definitions of “assets” and ‘criminal proceeds’. Absence of such a concrete definition in the legislation of Belarus doesn’t mean that there is no responsibility for legalization of direct criminal proceeds in it. The presence of a broader definition in criminal law allows the inclusion of all the possible forms of assets into the object of a crime which have the indication of being criminal proceeds.</p> <p><i>3. Criminalization of insider trading and market manipulation.</i> In spite of the absence in legislation of the Republic of Belarus of special standards which provide responsibility for the mentioned actions, it doesn’t mean their full impunity as these offences could be defined as indications of other punishable actions. For example, the Criminal Code provides responsibility for establishing or maintenance of monopolistic prices (Article 245 of the CC), compulsion to transaction or refusal (Article 246 of the CC), limitation of competition (Article 247 of the CC), illegal use of competitors’ business reputation (Article 248 of the CC), discredit of competitors’ business reputation (Article 249 of the CC), dissemination of false information on goods and services (Article 250 of the CC), commercial subornation (Article 252 of the CC), commercial espionage (Article 254 of the CC), divulging of commercial secret (Article 255 of the CC);</p>
	<p>Recommendation 2: Responsibility for ML</p> <p>Whether any responsibility of legal entities is established for ML</p>	<p><b><i>Recommendation 2: Current rating – PC, Belarus is requesting an upgrade to LC</i></b></p> <p><b><u>Assessment team opinion:</u></b></p> <p><i>Responsibility of legal entities for legalization of assets obtained from crime is applicable only if this legal entity is connected with an organized criminal group.</i></p> <p>Responsibility of legal entities for ML is indirectly established only in the law “On Combating Organized Crime” and only if this entity is connected with an organized criminal group.</p>

2		<p>Administrative responsibility is established only for laundering of proceeds from <b>violations</b> (not criminal offences), stipulated by the Administrative code (Article 12.32).</p> <p>In accordance with Art. 51 of the Civil Code a legal entity could be liquidated in case of violation of the legislation. Besides as there is no legislation forbidding legalization of criminal assets, the grounds of using Art. 51 of the CC with regard to liquidation of such a legal entity for laundering such assets are not clear.</p> <p><u>Comparing with other reports:</u> The a/m disadvantage is also mentioned in the Kyrgyzstan Evaluation Report as there are no respective methods of making legal entities accountable for ML. Similar provisions of civil mechanisms were not accepted in the Kyrgyz evaluation.</p> <p><b><u>Belarus opinion:</u></b></p> <p>In Art. 57 of the Civil Code of the Belarus Republic a possibility of judicial liquidation of a legal entity for any actions related to the activity prohibited by the law or to other repeated or gross violation of the legislation, or if this legal entity conducts systematic activity contradicting its purpose prescribed in the charter.</p> <p>Moreover Art. 61 of the Criminal Code of the Belarus Republic stipulates obligatory special confiscation consisting of compulsory free confiscation of instruments of a crime belonging to the convicted person; property obtained from crime; as well as objects directly connected with the crime if they are not subject to restitution to the victim or any other person.</p> <p>Moreover in Art. 11.32 of the Administrative Offences Code the responsibility of legal entities for legalization of assets is established.</p>
3	Special Recommendation III: criminal procedural character of freezing measures	<p><b><i>Special Recommendation III: Current rating – PC, Belarus considers the rating to be raised up to LC</i></b></p> <p><b><u>Assessment team opinion:</u></b></p> <p>The procedure stipulated by the legislation of the Belarus Republic allows the Department of Financial Monitoring to suspend transactions, nevertheless it also provides for dissemination of respective materials to law enforcement bodies. If law enforcement bodies can't find any elements of a crime the funds are defrozen which is in contradiction with SR III requirements in accordance with which the funds must be frozen despite of any criminal procedural decisions.</p> <p><u>Comparing with other reports:</u> The a/m disadvantage is also mentioned in the Russian Federation Evaluation Report as a primary factor. It should be taken into consideration the systems of freezing, arrest and confiscation are similar in many</p>

		<p>aspects.</p> <p><b><u>Belarus opinion:</u></b></p> <p>On the contrary the current system of freezing of funds related to FT is set up solely on nonprocedural methods related to identification of a person by authorized state bodies in accordance with the respective list. The Committee for State Security of the Belarus Republic has adopted Decree On dated 5 June № 27 On procedure of keeping a list of persons carrying out financial transactions in relation to whom there is information that they are involved in terrorist activity or controlled by persons conducting terrorist activity, and on disclosure of this list to state authorities controlling activity of the persons carrying out financial transactions and to the financial monitoring body. Procedures on exclusion from the a/m lists are similar to the procedure mentioned in this normative legal act.</p>
4	<p>Recommendation 26 and 30: FIU resources</p> <p>Table of ratings.</p> <p>Providing Resources for DFM Issues</p>	<p><b><i>Recommendation 26: current rating – PC. Belarus is not requesting an upgrade</i></b> <b><i>Recommendation 30: current rating – PC, Belarus is not requesting an upgrade.</i></b></p> <p><b><u>Assessment team opinion:</u></b></p> <p>DFM work's effectiveness is limited by available resources. The quantity of analysts doesn't meet the required level, so the quantity of financial investigations is low. As financial analysis is the main FIU function the quantity of analytics must be significantly enlarged (at least 20 persons) in order to handle current tasks in time. Considering constant intensification of interagency coordination as well as international contacts of DFM over its joining the Egmont Group, the staff quantity of Department for Coordination and International Cooperation impedes the effective implementation of all tasks. Taking into account other functions of this Department the evaluators concluded that this Department is overworked. Resources of IT Department are also limited both in the quantity of experts and equipment and software. The software allows to carry out complex analysis of databases but doesn't have all visualization resources accelerating analysis and increasing analysis capability.</p> <p><b><u>Belarus opinion:</u></b></p> <p>Considering the scale of economic and the quantity of financial transactions in the Republic the resources correspond to the level required for effective fulfillment of tasks.</p> <p>Taking into account that procedure of submission of special log books was aborted as from November, 2008, the work of manual filing on paper will be aborted as well, so it will release available resources.</p>
	Recommendation 27: law	<b><i>Recommendation 27: Current rating – LC, Belarus considers the rating should be raised to C.</i></b>

5	<p>enforcement bodies</p> <p>Definition of an agency responsible for investigation of ML/FT.</p> <p>Effectiveness and statistics.</p>	<p><b><u>Assessment team opinion:</u></b></p> <p>Despite the fact that in accordance with the CPC all law enforcement bodies have right to investigate ML and FT offences, the direct responsibility for the elaboration and implementation of complex measures for systematic revealing and processing of ML/FT offences is assigned to none of these bodies. In accordance with criteria 27.1 the states must assign a competent authority responsible for effectiveness of law enforcement system of ML/FT offences investigations. The footnote to this criterion indicates that this function can also be assigned to the Prosecutor's Office. Nevertheless experts noted that the General Prosecutor's Office mainly considers ML investigation issues when they relate to corruption offences and not the full range of predicate offences (ML offences under the 2<sup>nd</sup> part of the Article 235 are included in corruption offences list and the General Prosecutor's Office is appointed as the principal body for this sphere). This leads to gaps in the effectiveness of ML investigations on other predicates.</p> <p>Experts weren't provided with statistics on ML investigations initiated by the General Prosecutor's Office.</p> <p><b><u>Belarus opinion:</u></b></p> <p>Alternative law enforcement responsibility under Art. 235 (ML offence) is established in the Belarus Republic. The authority that revealed this offence initiates and investigates a criminal case. The General Prosecutor's Office in accordance with its powers supervises over investigations of criminal cases and has the respective right to redistribute the cases between law enforcement bodies. The General Prosecutor's Office also has the right to investigate any case. Taking into account the most heavy criminal cases on ML offences relate to corruption or organized criminal group's activity, the corresponding function on their coordination is laid on the General Prosecutor's Office. So Belarus believes that it is an advantage not a disadvantage. Low effectiveness is also a point at issue because there are many large ML cases showing the effectiveness of law enforcement bodies.</p>
6	<p>Special recommendation IX: Customs rights;</p> <p>Use of the system for the purposes of AML\FT.</p>	<p><b><i>Special recommendation IX: Current rating –NC; Belarus considers the rating should be raised up to PC or LC;</i></b></p> <p><b><u>Assessment team opinion:</u></b></p> <p>The existing system of customs control was not set up for revealing ML/FT cases when transferring of monetary funds abroad. During the meetings with the customs authorities in the course of the mission they noted that they have no appropriate powers for suspension of monetary funds in case of suspicion of ML/FT. At the same time, it is worth noting that Article 235 of the Criminal Code and Article 290-1 do not belong to the jurisdiction of the customs authorities, which renders them unable to investigate ML/FT cases. The assessment team also had doubts as to the possibility to implement the Article 277 on freezing of assets in cases of suspicion of ML/FT.</p>

		<p><b><u>Belarus opinion:</u></b>  Customs control system acts also in order to prevent the events of ML/FT and is being implemented by the cooperation of the customs with other law enforcement bodies. Issues and methods of law enforcement cooperation are specified by joint decrees of MIA, KGB, SCC, State Customs Committee, General Border Committee, General Prosecutors Office which specifies that the information of other law enforcement and supervisory authorities gives the customs authorities the possibility on their instructions to carry out customs control with respect to natural persons as well as to suspend goods. The relevant agency will be notified in this case. At the same time in accordance with the Article 235 of the Customs Code officials have a right to suspend goods, which are not immediate objects of administrative customs offences, for a term established by the Article 308 of the Customs Code. During this term the relevant law enforcement or supervisory authority which has initiated the goods suspension have right to suspend or arrest it.</p>
7	<p>Recommendation 5: table of ratings</p> <p>Established identification threshold exceeds allowed by the FATF Recommendations</p>	<p><b><i>Recommendation 5: Current rating – PC, Belarus is not requesting an upgrade.</i></b></p> <p><b><u>Assessment team opinion:</u></b>  Identification requirements are stated in basic AML/FT law which is along with identification requirements within the special control system (identification over the threshold) also refers to identification requirements in other normative acts. Belarus has showed that in accordance with a other legislation clients are being identified when opening bank accounts and accommodating loans. Furthermore no normative acts were indicated which require the identification on other kinds of activities, including in the sphere of securities and insurance. Additionally some kinds of operations below the threshold (monetary operations without account opening, exchange operations, monetary transfers inside Belarus) can be conducted without identification. All the aforementioned resulted in PC rating.</p> <p><b><u>Belarus opinion:</u></b>  In accordance with requirements of special control the identification procedure is not the only one on the identification requirements. Banking legislation requirements compensate the gaps in AML/FT legislation. In this regard most of banking operations require the client identification when establishing business relationships. Other operations are subject to identification in accordance with special control requirements as well as if there is a suspicion of ML/FT.</p>
8	<p>Recommendation 7: table of ratings</p> <p>Information receiving from correspondent banks</p>	<p><b><i>Recommendation 7: current rating – PC, Belarus supposes that the rating should be raised to LC.</i></b></p> <p><b><u>Assessment team view:</u></b>  1. <i>There is no requirement to request Category A correspondent banks to provide information on AML/CFT measures undertaken by them and measures in response to violations of AML/CFT laws.</i> Belarus has set up a simplified regime of the identification and receiving information from Group “A” correspondent banks that have the highest rating according</p>



		<p>to the ratings assigned by international agencies. The FATF Recommendations allow slightly relaxed requirements of the CDD, but only in cases of detailed analysis of risks. Belarus didn't provide any information on any completed ML/FT risk assessment on the abovementioned regulations.</p> <p><b><u>Belarus view:</u></b></p> <p>Due to the fact that international rating agencies give due attention to analyze the AML/CFT system of the credit organizations Belarus believes that the exclusion of Group "A" banks was well-grounded since a positive assessment of the effectiveness of their AML/CFT systems was made by the international agencies. In this regard it is reasonable to soften the requirements for the credit organizations of Belarus. The bank may use the questionnaire at its own discretion upon establishing correspondent relations with Group A correspondent banks and can use a more comprehensive questionnaire if necessary. In this case, Belarus thinks that in the framework of the existing system all relevant risks are considered.</p>
9	Special Recommendation VII: table of ratings	<p><b><i>Special recommendation VII: current rating – NC, Belarus is requesting an upgrade to PC.</i></b></p> <p><b><u>Assessment team view:</u></b></p> <p>Belarus does not comply with the main requirement of SR.VII of accompanying wire transfers with originator information, as the regulations are missing. There are no requirements to identify the originators of wire transfers inside Belarus below the threshold of 30 000 USD. Other requirements of SR.VII that are not implemented: There are no risk-based procedures on transfers, which are not accompanied by full and accurate originator information. Thus the only requirement that is implemented by Belarus is identifying the originators of international transfers.</p> <p><u>Comparison with other reports:</u> similar deficiencies (no requirements to include originator information in the transfer, risk-based procedures on transfers, which are not accompanied by full and accurate originator information, no procedures for intermediary FIs) noted in the reports of Italy, Ireland, Portugal, Sweden and Turkey were rated as NC.</p> <p><b><u>Belarus view:</u></b></p> <p>Decree of the NB of BR subpara 1.24 of para 132, 133 determine the requirements regarding the implementation of the inter-bank transfers. The view and the form of the payment commission of the bank (bank-senders, correspondent banks) is defined in inter – banks' agreement (contract), local regulations of banks considering the settled international practice and the legislation of Belarus. The payment commissions of banks are forwarded to the correspondent banks in electronic or paper form. The payment commissions of banks that are filled based on the payment direction of clients should include all the information about the details of the payments regarding the information stated in the payment directions of clients.</p>

		The payment direction of clients includes all relevant information of the senders.
10	<p>Recommendation 21: table of ratings</p> <p>Action upon the countries that don't meet the AML/CFT standards.</p>	<p><b><i>Recommendation 21: Current ratings PC, Belarus is requesting an upgrade to LC.</i></b></p> <p><b><u>Assessment team view:</u></b></p> <p>In the past the existing system was used in the context of the NCCT FATF list. Since the exclusion of the last country from the list the given system wasn't used despite the existence of the countries that didn't meet the FATF standards. The NB RB distributed the FATF statement regarding some countries but that was implemented not in the framework of existing mechanisms. Belarus doesn't fulfill other requirement of R.21: on analyzing relevant transactions and cannot implement countermeasures.</p> <p><b><u>Comparison with other reports:</u></b> in case of Russia that has a similar situation the FATF/MONEYVAL/EAG gave a PC rating for this recommendation.</p> <p><b><u>Belarus view:</u></b></p> <p>The Belarus system isn't based on the international organizations lists since only the competent authorities are only able to make suggestions of including a country into the list. In this regard, this can be used independently if the international list exists or not.</p>
11	Recommendation 13: STRs	<p><b><i>Recommendation 13: Current rating – PC, Belarus considers that the rating should be raised to LC.</i></b></p> <p><b><u>Belarus view:</u></b></p> <ol style="list-style-type: none"> <li>1. The number of operations were excluded from mandatory control, however these operations are of a social nature, transparent and do not pose any ML/TF risks.</li> </ol> <p><b><u>Assessors view:</u></b></p> <p>The FATF Recommendations allow for the exclusion of certain transactions only in limited justifiable circumstances. A risk assessment needs to be made prior to such exclusions. In case, however, the assessors were not presented with a comprehensive risk-analysis.</p>
	Recommendation 14:	<b><i>Recommendation 14. Current rating – LC, Belarus considers that the rating should be upgraded to C.</i></b>

12	<p>protection and tipping off</p> <p>Rating table.</p>	<p><b><u>Belarus view:</u></b></p> <p>The protection for financial institutions for sending an STR, which according to the AML/CFT Law spreads to FIs, automatically covers the directors and employees of the financial institutions. In a similar manner, the norm which prohibits tipping off also automatically covers directors and employees.</p> <p><b><u>Assessors view:</u></b></p> <p>Recommendation 14 strictly requires the coverage of FIs, their directors and employees. In Belarus the legislation covers only the FIs. In other countries similar deficiencies led to significant decreases in the rating (e.g. to PC in the case of Russia).</p>
13	Special Recommendation IV	<p><i>Special Recommendation IV: Current rating – PC, Belarus is not requesting an upgrade</i></p> <p><b><u>Belarus view:</u></b></p> <p>There is double count in the formulation of the deficiencies.</p>
14	Recommendation 22: rating foreign branches	<p><i>Recommendation 22: current rating NC, Belarus supposes that the recommendation is N/A.</i></p> <p><b><u>Assessment team view:</u></b></p> <p>Under legislation, resident banks may establish branches and subsidiaries outside Belarus, and yet no legislative measures required by R.22 are in place. No measures of any kind are in place for the remaining financial institutions. Such branches can be established in the future. The assessment team couldn't determine if the Belarus participants of the security market and the insurance companies have foreign branches.</p> <p><u>Comparison with other reports:</u> Kyrgyzstan was also rated as NC in spite of the fact that Kyrgyz FI also don't have foreign branches and foreign establishment.</p> <p><b><u>Belarus view:</u></b></p> <p>Since the Belarus FI don't have foreign branches the R.22 should be N/A.</p>

15	Recommendation 17 & 29: table of ratings	<p><b><i>Recommendations 17 and 29. Current rating – PC, Belarus is requesting an upgrade to LC..</i></b></p> <p><b><u>Assessment team view:</u></b></p> <p>The Belarusian Finance Ministry is authorized to impose general economic sanctions on supervised entities for noncompliance with legislation regulating their professional activity. The Finance Ministry is unable to impose specialized AML/CFT sanctions. There is no practice of imposing sanctions for AML/CFT violations.</p> <p><u>Comparison with other reports:</u> The absence of a regulating regime of sanctions in the securities market and insurance market were also missing in Kyrgystan. That caused the reduction of ratings on R.17 and R.29 to PC.</p> <p><b><u>Belarus view:</u></b></p> <p>The Ministry of Finance has the right to apply sanction for breaching the AML/CFT legislation based on the general power of the Ministry. There is no need to the additional regulations.</p>
16	Recommendation 12: DNFBPs	<p><b><i>Recommendation 12. Current rating – NC, Belarus considers that the rating should be upgraded to PC.</i></b></p> <p><b><u>Belarus view:</u></b></p> <ol style="list-style-type: none"> <li>1. The report states that accountants' functions are carried out by auditors. At the same time according to the Law on auditors, these functions are only limited in nature, and do not fully coincide with the functions of accountants, as they are defined in the accounting Law. At the same time Belarus does not have independent accountants in the FATF understanding of the term, and therefore Belarus considers that R.12 is not applicable to Belarus in the case for accountants.</li> <li>2. In relation to the deficiency on the absence of evident identification requirements when opening an account, Belarus considers that there is such a requirement, despite the fact that this is not directly stipulated in the legislation.</li> <li>3. In relation to the threshold of identification this deficiency does not take into account the fact that identification requirements exist in Belarus without any link to the mandatory reporting threshold.</li> <li>4. In relation to the exclusion for operations for mandatory control (in the opinion of the assessors this leads to gaps in the identification requirement), it should be noted that identification requirements are not linked to the mandatory reporting obligation.</li> </ol> <p><b><u>Assessors view:</u></b></p>

		<ol style="list-style-type: none"> <li>1. The Auditing Law of Belarus states that auditors carry out some types of accountant services. As a comparison, the Russian Auditing Law is identical to the Belarus Law in this regard and Russian auditors were classified as accountants in the FATF/EAG/MONEYVAL evaluation.</li> <li>2. Belarus did not provide information on the requirements for identifying customers when establishing business relations for the non-banking sector.</li> <li>3. The report also notes a specific deficiency that the identification requirements do not cover certain operations below the threshold, including currency exchange, wire transfers within Belarus and banking operations without the opening of an account.</li> </ol>
17	<p>Recommendation 24: DNFBP supervision</p>	<p><b><i>Recommendation 24. Current rating – NC, Belarus considers that the rating should be upgraded to PC.</i></b></p> <p><b><u>Belarus view:</u></b></p> <ol style="list-style-type: none"> <li>1. The report states that accountants’ functions are carried out by auditors. At the same time according to the Law on auditors, these functions are only limited in nature, and do not fully coincide with the functions of accountants, as they are defined in the accounting Law. At the same time Belarus does not have independent accountants in the FATF understanding of the term, and therefore Belarus considers that R.24 is not applicable to Belarus in the case for accountants.</li> <li>2. Within the procedure of casino licensing there is a general requirement to comply with the legislation of Belarus, which includes AML/CFT legislation. In this regard it would be incorrect to say, that casino licencing is carried out without normative AML/CFT requirements.</li> </ol> <p><b><u>Assessors view:</u></b></p> <ol style="list-style-type: none"> <li>1. The report states that accountants’ functions are carried out by auditors. At the same time according to the Law on auditors, these functions are only limited in nature, and do not fully coincide with the functions of accountants, as they are defined in the accounting Law. At the same time Belarus does not have independent accountants in the FATF understanding of the term, and therefore Belarus considers that R.24 is not applicable to Belarus in the case for accountants.</li> <li>2. The casino licencing procedure should include a specific AML/CFT component. The fact that there is neither a mention of AML/CFT in the procedure, nor is this component considered in practice, led the assessors to formulate this deficiency.</li> </ol>

18	Recommendation 31: national cooperation.	<p><b><i>Recommendation 31: Current rating – PC, Belarus supposes that the rating should be increased to LC.</i></b></p> <p><b><u>Assessment view:</u></b></p> <p>The AML/CFT Working group does not constitute a sufficient institutional platform for the elaboration of AML/CFT policy. The group 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.</p> <p><b><u>Belarus view:</u></b></p> <p>The main body that is responsible for the AML/CFT issues is Interagency Commission on Combating Crime, Corruption, and Drug Abuse under the Security Council of Belarus. This taskforce includes all heads of agencies relevant to law enforcement, heads of ministries, head of Present’s Administration and the members of National Assembly. All goals and functions of this taskforce group will be announced additionally during the WGEL meeting.</p> <p>Thus, Belarus has established an effective institutional ground and the coordination and cooperation system of the relevant state authorities in the AML/CFT sphere.</p>
19	Special Recommendation 1.	<p><b><i>Special recommendation 1. Current rating – PC, Belarus considers that the rating should be upgraded to LC</i></b></p> <p><b><u>Belarus view:</u></b></p> <ol style="list-style-type: none"> <li>1. Belarus considers that the formulation of this deficiency is not precise, due to the fact that the assessors recognize that only some aspects of the convention are not covered.</li> <li>2. On the protection of bona fide third parties, Belarus considers that there has been a technical mistake, as this deficiency has been deleted in R.3.</li> </ol>