

REPUBLIC OF BELARUS

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

DECEMBER 2004

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I. PREFACE

1. An assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Belarus was conducted based on the Forty Recommendations 2003 and the Eight Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and prepared using the AML/CFT Methodology 2004.¹ The assessment considered the laws, regulations, and other materials provided by the authorities, and information obtained by the assessment team during its mission from December 2–16, 2004. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector.
2. The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF) and an expert under the supervision of IMF staff. The evaluation team consisted of: Mr. Terence Donovan and Mr. John Abbott, MFD, who addressed financial sector and designated nonfinancial businesses and professions (DNFBP), respectively, Mr. Antonio Hyman Bouchereau, LEG, who addressed legal and legislative aspects, and Mr. Andrea Nicolai from the Italian financial intelligence unit (FIU) who addressed financial intelligence and law enforcement aspects. The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and DNFBPs, as well as examining the capacity, the implementation, and the effectiveness of all these systems.
3. This report provides a summary of the AML/CFT measures in place in Belarus as at the date of the mission or immediately thereafter. It describes and analyzes those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 3). It also sets out Belarus's levels of compliance with the FATF 40+9 Recommendations (see Table 2).

¹ The assessment also included Special Recommendation IX of October 2004 concerning cash couriers, which was in force but had not yet been incorporated into the Methodology at the time of the assessment.

ACRONYMS

AML/CFT	-	Anti-Money Laundering and Combating the Financing of Terrorism
AML Law	-	Law No. 426-Z of July 19, 2000 “On measures to prevent the legalization of illegally acquired proceeds”
BC	-	Banking Code
BCP	-	Basel Core Principles
BSD	-	Banking Supervision Department of the NBRB
CC	-	Criminal Code
CDD	-	Customer Due Diligence
CIS	-	Commonwealth of Independent States
CoS	-	Committee on Securities under the Council of Ministers
CPC	-	Criminal Procedure Code
CT Law	-	Law No. 77-3 of January 3, 2002 “On combating terrorism”
DHA	-	Department of Humanitarian Activities of the President’s Administration
DFM	-	Department of Financial Monitoring of the State Control Committee
DNFBP	-	Designated nonfinancial businesses and professions
EAG	-	Eurasia Group (regional FSRB)
FATF	-	Financial Action Task Force
FEZ	-	Free Economic Zones
FID	-	Financial Investigation Department of the State Control Committee
FIU	-	Financial Intelligence Unit
FSAP	-	Financial Sector Assessment Program
FSRB	-	FATF-style Regional Body
FSU	-	Former Soviet Union
FT	-	Financing of terrorism
IAIS	-	International Association of Insurance Supervisors
ILA Law	-	Law No. 284-3 of May 18, 2004 “On international legal assistance on criminal proceedings”
KYC	-	Know your customer/client
LEA	-	Law Enforcement Agency
LEG	-	Legal Department of the IMF
MFA	-	Ministry of Foreign Affairs
MFD	-	Monetary and Financial Systems Department of the IMF
MIA	-	Ministry of Internal Affairs
ML	-	Money laundering
MLA	-	Mutual legal assistance
MoE	-	Ministry of the Economy
MoF	-	Ministry of Finance
MoJ	-	Ministry of Justice
MST	-	Ministry of Sports and Tourism
MTD	-	Ministry of Taxes and Duties
NBRB	-	National Bank of the Republic of Belarus
NPO	-	Nonprofit organization

OCC Law	-	Law No. 47-Z of June 26, 1997 “On measures to Fight Organized Crime and Corruption”
PEP	-	Politically-exposed person
PGO	-	Prosecutor General’s Office
RBL	-	Rubel
ROSC	-	Report on Observance of Standards and Codes
SCC	-	State Control Committee
SDDS	-	Special Data Dissemination Standard
SDF	-	Special Data Form
SRO	-	Self-regulatory organization
SSA Law	-	Law N 102-3 of December 3, 1997 “On state security agencies”
SSC	-	State Security Committee (KGB)
STR	-	Suspicious Transaction Report
UN	-	United Nations Organization
UNSCR	-	United Nations Security Council Resolution

II. EXECUTIVE SUMMARY²

4. Belarus has many of the elements of a modern AML regime. Money laundering is criminalized. Financial institutions must monitor and report financial transactions subject to special control and take other measures to deter ML. Compliance supervision is detailed with a strong culture of on-site examination. Two agencies exercise financial intelligence responsibilities. ML offenses are investigated and successfully prosecuted. Some capacity exists to cooperate internationally.

5. Nevertheless, gaps and misalignments in the current legal and institutional arrangements, as well as incomplete implementation, undermine the full effectiveness of the AML/CFT regime. On several key points arrangements fall well short of the standards called for in the FATF Recommendations. As explained in the detailed assessment, AML/CFT legislation needs to be updated; functions of relevant agencies need to be streamlined and better coordinated; supervisors need to place more emphasis on detection, deterrence, and reporting of truly suspicious transactions; financial intelligence analysis needs to be centralized in a single agency; and provisions for international cooperation need to be strengthened. The authorities are aware of the need to update and reshape the present AML/CFT regime and they are well advanced on a reform agenda. Belarus as a society is already heavily regulated, so the challenge for the authorities is the achievement of compliance with the international AML/CFT standard, while minimizing, and, wherever possible, eliminating any unnecessary or unwarranted regulatory or administrative burden.

6. Shortcomings identified in the AML/CFT assessment include the following:

- The legal framework is incomplete and, in some places, misdirected. Legislation criminalizing terrorist financing as a separate offense has not been adopted.
- Multiple agencies with a variety of primary missions (supervision, intelligence, investigations and law enforcement) are involved in implementing the AML regime but no institution has yet taken effective primary responsibility for policy coordination or operational administration of the AML regime as a whole.
- AML objectives are frequently incidental or subordinate to other policy objectives such as tax compliance, foreign currency administration, or general intelligence gathering.
- ML concepts, including the nature of a suspicious transaction, are not clearly articulated and are not consistently understood by either government officials or financial institutions.

² These main findings and recommendations will form the basis for the Report on Observance of Standards and Codes (ROSC). These findings and recommendations were provided to the authorities at the end of the on-site visit, together with a preliminary detailed analysis, in the form of an *aide mémoire*. The authorities subsequently provided comments on the *aide mémoire* that have been taken into account in the preparation of this Detailed Assessment Report.

- Additional AML training is needed for government agencies and the financial sector.
- The Department of Financial Monitoring (DFM), the designated financial intelligence unit (FIU), divides essential functions with the Ministry of Taxes and Duties (MTD) and does not have a full range of powers in the area of international cooperation.
- A number of DNFBPs are not subject to AML requirements; AML regulations for DNFBPs have not been developed; and awareness levels in these sectors are low.

7. Actions in the following areas will be particularly important:

- Adopt a revised AML Law. The draft law now under consideration addresses many of the issues highlighted in this assessment. Further improvements could be made by:
 - introducing a clearer definition of suspicious transaction and reducing the emphasis of reporting based on threshold limits;
 - specifying more fully the key components of required preventive measures. This should include a more explicit statement of the necessary scope of customer due diligence and a requirement for enhanced due diligence, more detail on the nature of internal controls, inclusion of a requirement to appoint a compliance officer or money laundering reporting officer at a senior level, and to provide for an audit function;
 - providing for transparency of policy coordination and designating a lead agency responsible for administering the AML law;
 - providing for the operational independence of the FIU; and
 - reviewing the basis for exclusions from reporting under the law and ensure that the application of exclusions is strictly controlled.
- Ensure that supervisors of reporting entities issue appropriate implementing regulations covering AML preventive measures, and that they have effective powers of enforcement;
- Undertake extensive training in identifying, detecting, and reporting suspicious transactions;
- Adopt a terrorist financing law in line with the FATF Recommendations;
- Put in place measures to allow freezing of suspected terrorist assets without delay or prior notice;
- Take steps necessary to achieve early membership in the Egmont group;
- Amend the criminal code to eliminate the current excessive evidentiary burden to obtain an ML conviction;
- Consolidate the authority of the DFM as the single, centralized FIU for Belarus. Provide for electronic submission of suspicious transaction reports and provide the necessary resources for an enhanced electronic database for analysis;
- Streamline and rationalize the operating responsibilities of the numerous agencies involved in the AML regime, reducing the administrative burden without loss of essential information;

- Reorient institutional objectives to sharpen the focus on AML aspects as distinct from tax compliance, foreign exchange administration, and general intelligence; and
- Reassess the potential reputational risk, including in the ML and FT area, arising from banks operating in the Free Economic Zones (FEZ).

A. General

General information on Belarus

8. The Republic of Belarus is governed by a President and a bicameral parliament. The President is the head of state and of the executive branch of government and is the dominant power in Belarus. Judicial power is vested in a court system headed by the Constitutional Court, which consists of 12 judges, six who are appointed by the President and six who are elected by the Council of the Republic of the National Assembly. The Prosecutor General's Office is headed by the Prosecutor General, who is appointed by the President, with the consent of the Council of the Republic of the National Assembly. The legal system is based on civil law. Economic activity in Belarus, including financial activity, is highly controlled within the top levels of government. Government agencies have broad powers to intervene in the management of public and private enterprises. Belarus is vulnerable to smuggling, including of arms. Awareness of AML/CFT prevention procedures is minimal outside of the banking sector.

9. As one indicator of improved transparency, on December 22, 2004, Belarus subscribed to the IMF's Special Data Dissemination Standard (SDDS), dealing with the provision of the country's economic and financial data to the public. This represents a significant development of the country's statistical system. On the other hand, there are continued media reports of lack of transparency and of corruption. Belarus is mid-table in the Transparency International Index for 2004, but this represents a deterioration over the previous finding.

General Situation of Money Laundering and Financing of Terrorism

10. Drawing on the results of cases that have been brought to trial, plus experience with investigations and general intelligence, officials in various agencies believe that the proceeds of a variety of predicate offenses are linked to ML, either in or through Belarus. Tax evasion is considered by the authorities to be, by far, the most important predicate for ML, with customs violations next in importance. Fraud and contraband were also highlighted as frequent predicate offences. White collar crime is considered to be an important origin of illegal proceeds. General levels of crime are considered to be significantly lower than in neighboring Commonwealth of Independent States (CIS) countries. Officials observed that crimes related to drugs, trafficking in people, and illegal arms dealing likely have links in or through Belarus, and could be significant. Customs authorities have intercepted a number of attempts to illegally transport weapons, ammunition, and other military equipment across the borders of Belarus. Efforts by criminals to use Belarus for the illegal transit of excisable goods continue unabated. The

authorities confirmed that Belarus is the main crossing point for tobacco products originating in Russia and Ukraine and destined for Western Europe.

11. A variety of typologies for ML have been identified. A prevalent scheme involves funneling transactions through fly-by-night firms (false entrepreneurs or ‘overnight companies’) that are abandoned or allowed to collapse before suspicions are raised. By the time such schemes are detected, investigators find it virtually impossible to trace transactions or establish intent to launder. The false entrepreneurs may be of Belarusian or foreign origin. Lost or stolen passports and credit cards as well as false documents are commonly involved in establishing these vehicles. Legal entities established in Russia, the Balkans, and European offshore centers are frequently counterparties for these schemes. Other schemes include interest free loans from abroad which are typically a method for gaining the use in Belarus of illegal proceeds that had, at an earlier stage, been successfully remitted abroad. Rapid funds transfers through banks established in a FEZ, and for which there was no apparent economic rationale, have recently attracted the authorities’ attention, with concern that illegal Russian proceeds are being diverted through these banks as Baltic banks become more vigilant about deterring similar suspicious transactions. False invoicing is used to convert noncash proceeds into cash, with a variety of subsequent cash transactions used to disguise the true origin of funds.

12. Cross-border cash movements were cited as a concern, particularly across the Russian border where there are no controls. Cash withdrawals in rubels (RBL) on international credit cards, which are not subject to controls, may fulfill the function of virtual inward cash couriers. Also, inward remittances in foreign exchange via Western Union or similar companies have become a concern, even though the value of such transactions is typically small. Severe controls on access to such remittances have recently been imposed, requiring specific permission from the authorities to allow access to all personal remittances from abroad in excess of US\$10, and imposing on banks the obligation to retain such remittances in designated individual ‘charity’ accounts pending the obtaining by the customer of the said permission. This is causing disruption, and potentially hardship, including for large numbers of genuine beneficiaries of foreign remittances, particularly where coming from family members working abroad. The mission noted that no indicators of involvement in terrorist financing have come to the attention of the authorities. Controls at this level are not warranted as part of the AML/CFT regime and they risk driving transactions underground, thereby decreasing transparency.

13. The information provided by various agencies is illustrative of Belarus’s ML vulnerabilities but it may not be fully comprehensive since, as yet, there is no centralized agency systematically collating the experience of all the various law enforcement and administrative units involved in AML efforts.

Overview of the Financial Sector and DNFBP

14. Banks dominate financial activity in Belarus. The National Bank of the Republic of Belarus (NBRB), the central bank, is the regulator of banks. The banking sector is comprised of 31 active banks with licenses to conduct a wide range of commercial

banking operations. The six largest banks make up about 85 percent of the total assets of the banking system. Of the six largest banks, five are exclusively or mainly state owned. The largest, the main domestic savings bank, accounts for about 41 percent of bank assets and holds 63 percent of retail deposits. Foreign participation is largely confined to smaller banks, primarily through joint ventures in Belarus banks. No foreign branches are authorized. Within the total of 31, six banks operate in the FEZ, and are therefore subject to lower capital requirements and some concessionary tax treatment. They are small and restricted mainly to business with other residents of the FEZ and with nonresidents of Belarus. The NBRB and banks interviewed indicated to the mission that the approach to the ongoing supervision of FEZ banks, including for AML/CFT, is no different from that of banks authorized to do business with residents of Belarus. Other than FEZ banks, all banks licensed in Belarus are described by the authorities as universal banks, though not all are licensed by the NBRB to carry out all activities. While in principle the NBRB may license nonbank financial institutions, no such institutions have approached the NBRB regarding state registration and licensing. Money exchange is a separately licensed activity which, to date, has only been authorized for banks. Only banks may be authorized to be agents for money remitters and Western Union is the largest money remitter. The Post Office conducts a large domestic payments system as well as handling a significant volume of cross-border remittances. The security authorities expressed confidence that no significant informal transfer activity takes place.

15. The insurance sector consists of 34 registered insurance companies of which 31 are currently licensed and operational. Three of such companies are government owned. The largest, the government owned Belgosstrakh company, accounts for approximately 60 percent of the activity of the sector. Life insurance is not well developed, with six companies providing a narrow range of products. Pension products are very limited and there are no investment products. General insurance is likewise underdeveloped with mandatory coverage (auto, property) accounting for a large share of the business. There is limited reinsurance capacity in the local market, with no firms specializing in reinsurance. Firms reinsure excess risk with a variety of Russian and European counterparties. The Ministry of Finance (MoF) is the regulator of insurance companies.

16. The securities sector is likewise small with 131 firms licensed to operate in the sector, a number of which are dormant. Activity in the market is dominated by transactions in government securities and NBRB securities; banks dominate trading in these securities. Transactions in corporate shares are quite limited, in part because approximately 85 percent of all shares issued are held by the State. In addition, shares sold for privatization vouchers are frequently subject to trading restrictions. The securities sector is regulated by the Committee on Securities at the Council of Ministers (CoS).

17. The most important DNFBPs are lawyers, notaries, auditors, real estate agents, and casinos, all of which are governed by specific legislation and regulation. Company formation is not a distinct profession; the constituent specialized services are provided by lawyers, notaries, and accountants. Trust activity is not well developed and asset management appears to be largely confined to banks. Dealings in precious metals and stones are conducted on a limited scale, primarily by banks under a special license from

the NBRB, with nonbank dealers licensed by the MoF. Approximately 25 casinos operate around the country, none on a large scale and with most activity concentrated in Minsk.

18. Of the DNFBPs, only notaries and casinos are currently subject to the AML Law. The activities of all DNFBPs are governed by legislation specific to the sector. Typically, such legislation includes arrangements for regulation and oversight by a competent authority. Regulations issued under these laws typically address financial controls and reporting, administrative matters, and professional standards. While such regulations are not specifically oriented toward AML objectives, their various requirements typically touch on aspects of customer identification, internal control arrangements, and record keeping.

Overview of commercial laws and mechanisms governing legal persons and arrangements

19. Legal entities can be organized in Belarus as commercial or noncommercial organizations. Commercial organizations are established for profit and may be set up as economic partnerships and societies, production cooperatives or unitary enterprises. Noncommercial organizations are not for profit and may be set up as consumer cooperatives, public, and religious organizations. Noncommercial organizations may perform business activity subject to their statutes and purposes of their activities. The legislation may establish, for some types of noncommercial organizations, rules envisaging their right to perform entrepreneurial activity only through participation in the setting up of commercial organizations.

20. Under the legislation, legal entities of the Republic of Belarus may create amalgamations, including participation of foreign legal entities, in the form of financial, industrial or other economic groups on terms determined by the legislation applicable to such groups.

21. Direct foreign investors can form legal entities of any legal form in Belarus without restrictions on the amount of the investment. The company receives the status of a commercial organization with foreign investments, and the associated fiscal advantages, if the contribution of a foreign participant is equivalent to at least US\$20,000 and its stake in the charter capital is no less than 30 percent. Commercial organizations with foreign investments may have subsidiaries and affiliates and establish branches and representative offices in Belarus and abroad.

Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

22. The authorities made clear a desire and intention to comply with international standards, and, based in part on technical assistance previously provided by the IMF, have drafted a revised AML Law in line with the 2003 FATF Recommendations. The authorities have stated their intention to combine in one authority the functions of the FIU. The current AML/CFT arrangements are only partially effective. The authorities have signaled an intention to address the deficiencies.

23. The current AML Law briefly sketches the preventive measures that are required to be taken by banks and nonbank financial institutions as well as by certain DNFBPs. These include: recording and reporting of financial operations subject to special control; customer identification, retention of records related to foreign exchange transactions for 10 years, retention of other records related to domestic currency transactions for periods specified in legislation on archives and business correspondence; and development of internal policies and internal controls as necessary to comply with the AML Law. The scope and content of these preventive measures is not addressed in the AML Law. Financial transactions that are subject to special control include cash and deposit transfers, wire transfers, asset transfers, loans, transfers of movable and immovable property, property donations and grants, provided the amount of a single transaction exceeds approximately US\$23,000 for a natural person or approximately US\$230,000 for legal entities and others, or when the aggregate amount of several transactions performed within a month by the same person exceed these thresholds. Financial institutions are required to register such transactions in a special data form (SDF) and transmit the information to the relevant monitoring agency. Reporting of financial transactions subject to special control is exempted from secrecy obligations and persons making such reports are exempt from liability for losses and personal damage arising from such reporting. Tipping off is prohibited.

24. Oversight of these preventive measures falls to several agencies according to their respective competencies: the SCC, the MTD, and primary functional regulators, who are responsible for issuing implementing regulations. Under Council of Ministers Resolution No. 1411 of September 30, 2000, legally binding regulations have been issued with respect to the recording, completion, registration, transmission, storage, and use of data on financial transactions subject to special control. The MTD has structured internal policies and procedures for insuring compliance with these regulations. The NBRB has issued implementing recommendations to the institutions it supervises which, while legally nonbinding, are treated as mandatory in practice. The other functional regulators have not as yet issued guidance on implementation of preventive measures.

25. In addition to banks, the preventive measures obligations imposed by the AML Law also apply to persons engaged in financial operations in the following sectors: securities, insurance, investment funds, a range of money service businesses, notaries, communications (post offices), and gambling. While this list also includes a catch-all category of “other organizations performing financial operations,” it does not specifically identify attorneys, real estate agents, or dealers in precious metals and stones as persons subject to preventive measures. Under the draft AML law, these persons would be added to the list in the manner contemplated by the FATF Recommendations.

26. The Banking Code (BC) sets out the main provisions governing the operation and supervision of banking activities. It is supplemented by a number of other relevant laws, together with Decrets and Decrees of the President of the Republic of Belarus, which were considered as part of the recent Basel Core Principles (BCP) assessment conducted as part of the Financial Sector Assessment Program (FSAP). The AML Law contains a range of relevant provisions, including in relation to reporting of transactions. In addition, the NBRB has issued “Know Your Customer” (KYC) recommendations that provide

useful guidance on operational AML matters. These recommendations do not have force of law, but the NBRB explained to the mission that, to ensure implementation, they seek to have these measures formally adopted by the Board of each bank, to become part of the internal 'normative acts' of that bank. Article 6 of the AML Law sets out detailed requirements for the submission of AML information to specified authorities and provides that such submission shall not be a violation of an official secret or other secret protected by legislation.

27. The suspicious transactions reporting requirements fall well short of the standard in FATF Recommendation 13. That recommendation calls for reporting of all transactions that a financial institution suspects, or has reasonable grounds to suspect, are the proceeds of criminal activity or terrorist financing. In addition to the ambiguity surrounding the definition of suspicion and which transactions must be reported, the AML Law does not cover terrorist financing nor attempted transactions, and it establishes thresholds rather than covering all transactions.

28. In June 1999, Belarus criminalized ML as the legalization of illegally acquired proceeds through Article 235 of the Criminal Code (CC). The scope of predicate offenses for ML goes beyond criminal offences, covering all types of offences, including civil and administrative. The evidentiary standard for prosecuting ML is exceptionally high, the prosecutor being required to prove that the perpetrator of the ML offense had both the intent to legalize illegal proceeds and specific knowledge of the predicate offence. Besides, a prior conviction for the predicate offense is also required in order to prove that the funds are proceeds of crime. Moreover, the person who commits the predicate offense cannot be prosecuted for laundering his/her own proceeds of crime.

29. Law No. 77-3 of January 3, 2002 "On combating terrorism" (CT Law) outlines the legal and institutional framework for combating terrorism, but does not criminalize FT as a separate offense as required by international standards. Under the current legal framework, FT can only be prosecuted as a form of complicity in the commission of terrorism-related crimes specified in the Code, which is insufficient under international standards. A draft law amending the CC criminalizing FT as a separate offense has been completed and submitted for consideration to the National Assembly of the Republic of Belarus.

b. The institutional framework for combating money laundering and terrorist financing

30. The NBRB is the licensing and supervisory authority for banks, and banking services cannot be offered without a license. Only banks can offer currency exchange services. Remittance services may only be provided by banks or the post office. Various ministries have responsibility for the licensing and supervision of DNFBPs.

31. The DFM is the designated FIU for Belarus; however, the typical FIU functions are carried out, in practice, by both the DFM and the MTD. The DFM represents Belarus

in the Eurasian Group Against Money Laundering (EAG).³ Under the AML Law, the DFM only receives SDFs regarding financial transactions carried out in foreign currency. The DFM has applied for membership in the Egmont Group. According to the authorities, Russia and Poland sponsored the DFM at the Egmont Group meeting in October 2003. The authorities expect Belarus to be admitted to the Egmont Group once the draft AML Law is enacted. The draft AML Law provides for the reorganization of the DFM, with exclusive responsibility for gathering SDFs, analyzing the information contained therein and disseminating financial intelligence to the appropriate law enforcement agency (LEA).

32. Belarusian law enforcement authorities have the responsibility and authority to ensure that ML offenses and associated predicate offenses are investigated. The investigation of economic crimes in Belarus is carried out under the supervision of the Prosecutor General's Office (PGO) by the investigatory divisions of the PGO, the investigatory divisions at the Ministry of Internal Affairs (MIA), the Financial Investigations Department (FID) of the SCC, and the Economic Security Directorate of the State Security Committee (SSC), each within the area of responsibility assigned in the Criminal Procedure Code (CPC). The Prosecutor General has absolute authority to assign or reassign the investigation of a particular crime to any of the investigatory agencies and to establish joint investigations by several agencies. The preliminary investigation of a ML offense will be initiated by the investigatory agency to which the DFM has communicated the case, depending on the probable predicate offense revealed by the DFM's analysis.

33. The MIA carries out investigations of economic crimes where there are foreign elements. In this role, the MIA handles international cooperation with foreign counterparts and shares the information obtained with the PGO and subordinated prosecutors, as well as the local investigative agencies.

34. The FID operates at the national and regional level. It has a general competence for investigating offenses against property and economic order. It cooperates closely with the DFM, with which it can interact directly, both being part of the SCC.

35. The SSC has an Economic Crime Division that primarily conducts studies on methods and trends of economic crimes and develops plans to address them. Their activities do not particularly focus on the identification of ML methods, but rather in identifying criminal behavior that may affect the economy. The SSC communicates information on criminal schemes detected to other investigative agencies and to the PGO, as appropriate.

36. The Anti-Terrorism Centre of the SSC is responsible for the coordination of the preliminary investigations of terrorism-related offences. The specific areas of responsibility of each investigatory agency are not clearly established by the legislation,

³ EAG is a newly-established FSRB whose membership comprises Belarus, China, Kazakhstan, the Kyrgyz Republic, Russia, and Tajikistan.

nor is a precise mechanism through which the AML/CFT actions should be coordinated. The authorities should establish a mechanism to improve the coordination between agencies responsible for investigating ML offences.

c. Approach concerning risk

37. Belarus is at a relatively early stage of development of its AML/CFT regime. The authorities have identified particular areas of vulnerability and plan to address them while seeking to implement fully the FATF Recommendations. This approach is already evident in the redraft of the AML Law. The authorities did not indicate an intention to apply lighter AML/CFT requirements to any areas considered to be of lower risk. Belarus as a society is already heavily regulated, and the mission found that the authorities continue to seek to identify areas of perceived high risk, which are then made subject to more onerous requirements (e.g., small inward funds transfers). It was not clear that these requirements are warranted by any measurable underlying ML or FT risk.

d. Progress since the last IMF/WB assessment or mutual evaluation

38. Belarus has not been subject to a previous evaluation.

B. Detailed Assessment

Table 1: Detailed Assessment

Legal System and Related Institutional Measures

Criminalization of Money Laundering (R.1 & 2)
Description and analysis
<p>Belarus has criminalized ML as “Legalization of illegally acquired proceeds” through Article 235 of the Criminal Code (CC). The scope of predicate offenses for ML in the CC is a very extensive “all crimes” approach that covers also proceeds from other illegal activity, including civil, administrative, and tax violations.</p> <p>Investigations carried out by the FID of the SCC show that during 2004 the following predicate offenses contemplated in the CC originated laundered proceeds: Fraud (Article 209); Nonreturn of foreign exchange from abroad (Article 225); Evasion of payment of customs duties (Article 231); Illegal entrepreneurial activities⁴ (Article 233); Tax evasion (Article 243) and Forgery, production, usage, or sale of forged documents, seals, stamps, and blank forms (Article 380).</p> <p>Article 235 contains a general criminalization of ML and defines it as (i) the intentional performance of financial operations with illegally acquired proceeds, or (ii) the intentional use of illegally acquired proceeds in commercial or business activity with the purpose of concealing or misrepresenting the nature, source, location, placement, movement, or actual ownership of said proceeds.</p> <p>Article 235 does not explicitly establish all the required offenses relating to the ML offense, in accordance with the Vienna and Palermo Conventions. Article 235 appears to limit its scope to the ML offenses of (i) intentional concealment or disguising of illicit proceeds, and (ii) intentional acquisition, possession or use of illicit proceeds, but does not clearly criminalize the intentional conversion or transfer of illegal proceeds. In order to fulfill the requirements of the conventions, it would be suitable to incorporate the elements contained in the definition of ML in Article 2.2 of the AML discussed below.</p> <p>Article 2.1 of the AML Law defines “illegally acquired proceeds” as money (Belarusian or foreign currency), securities or other assets, including property rights and exclusive rights to intellectual property obtained in violation of the law. The legalization of illegally acquired proceeds is defined in Article 2.2 of the AML Law as any effort to make the possession, use or disposition of illegal proceeds appear legitimate, including the concealment, investment, or movement of these proceeds, or the concealment, misrepresentation, and submission of false or misleading information about the location or true ownership of these proceeds.</p> <p>According to the authorities, the offense of legalization of illegal proceeds extends to any type of property that directly or indirectly represents proceeds from illegal activity. However, the mission was informed that, based on the principle of presumption of innocence, property cannot be considered proceeds of an illegal activity unless this fact is established by a court ruling. Consequently, Article 235 of the CC requires a conviction for the predicate offense in order to prosecute a ML offense. The guilt of the person who committed the predicate offense has to be established by means of a conviction.</p> <p>According to Remark 1 to Article 235, a person who commits the predicate offense cannot be prosecuted for ML and would only be liable for the perpetration of the predicate offense. The authorities explained that such remarks are considered part of the legal provisions to which they are attached and, as such, are as applicable as</p>

⁴ Carrying out an economic activity without a proper license.

legal provisions. The authorities informed the mission that the remark is not considered to be based on a fundamental principle of the Belarus legislation.

The mission considers Remark 1 to Article 235 to represent an additional hindrance in the task of proving the *mens rea* of the person who commits ML. A money launderer would not necessarily know what crime produced the funds. Since the person who provided the money to be laundered is only liable for the commission of the predicate offense, it is problematical to establish a direct link with the ML offender. If both offenders would be liable for ML, intent could be easier to verify because of the direct link. Furthermore, the mission was informed that this issue has hindered the progress of a number of ML cases. This rigorous standard of proof is a severe impediment to the prosecution of ML offenses.

The legalization of proceeds derived from crimes committed abroad may be prosecuted in Belarus in application of Article 6 of the CC, which provides for the prosecution of persons who have committed offenses outside Belarus.

Article 6 covers (i) Belarusian citizens and stateless persons who are permanent residents of Belarus who have committed offenses outside Belarus if the acts committed are offenses in the State where there are committed and if they have not been prosecuted in that State and (ii) foreign nationals or stateless persons who are not permanent residents of Belarus who have committed offenses outside Belarus that are directed against the interests of Belarus. Sentences for these offenses are fixed within the limits of the sanction stipulated in the relevant Article of the CC, without exceeding the threshold of the sanction provided by the law of the State in whose territory the offense was committed.

Under Article 6, even if the underlying act committed abroad is not a crime under the law of the foreign country, there may be a prosecution for ML if the underlying act is against the interests of Belarus.

Pursuant to Article 5.2 of the CC, a crime is considered to be committed in Belarus if it is initiated or completed in the territory of the Republic of Belarus or in concert with an accomplice who has committed a crime in the territory of a foreign State.

Ancillary offenses are available under provisions in the General Part of the CC. In application of Article 14 of the CC, a person who attempts to commit an offence, including the offense under Article 235, can be prosecuted. Moreover, Under Article 16.6 of the CC, a person who has facilitated the commission of a crime or supplied the means for its commission or provided any other assistance (including advice, instructions, information, instruments and means of commission, elimination of obstacles, among others) can be charged as an accomplice. Both the attempt and the participation in an offense are sanctioned with the same penalties established in the CC for the uncompleted offence. The accomplice's level of responsibility would be determined by the courts, depending on the level of involvement.

Article 235 of the CC requires that the prosecutor demonstrate the knowledge, intent and purpose of the accused of a ML offense by proving actual and specific knowledge of the predicate offence. The mission was informed that, in practice, a preceding conviction for the predicate offense is required in order to prosecute a ML offence. The guilt of the person who committed the predicate offense can only be determined by means of a conviction sentence from a court. According to the authorities, this is based on the principle of presumption of innocence, under which proceeds may not be considered proceeds of crime unless a court decision establishes this fact.

Legal entities are not criminally liable. Under Belarus legislation, only physical persons are criminally liable under the CC.

Article 235 of the CC establishes that ML offenses may be sanctioned alternatively by a fine, or the prohibition of holding certain posts or engaging in certain activities, or a prison term of up to four years. Pursuant to Article 1.7 of Decree No. 40 of January 16, 2002 "On additional measures for the regulation of economic relations", the fine imposed is double the amount of the illegal financial transaction. Article 235 provides for heavier sanctions in the case of aggravating circumstances that would allow an increased prison term in the case of repeat offenders, public officials abusing their powers, or when the offense has been committed on a large scale (two to seven years), and when the offense of ML has been committed by an organized group (three to ten years, with or without confiscation of property).

Offences in the CC cover a comprehensive range of the designated categories of offences, with the exception of insider trading and market manipulation.

The number of prosecutions for ML since Article 235 came into effect is approximately 10 cases per year as informed by the authorities (all convictions). Given the difficulty in building a case under the current legal framework, it does not appear that individuals are charged under Article 235 often. This is probably due to the problems in establishing the specific offense that originated the laundered funds. In the event the predicate offense cannot be established, prosecutors may elect to prosecute the perpetrator of the suspected laundering under other articles of the CC. Persons are often charged under Article 236, which provides for criminal liability for storing or selling property obtained illegally, but without the intention of laundering. However, the sanction for this crime is just one to three years of imprisonment.

In conformity with Remark 2 to Article 235, a person who incurs a ML offense may be exempted from criminal liability for those actions, provided he voluntarily admits them to the authorities and cooperates with them. In such cases, the proceeds of the offense committed by the exempted person can only be seized with a view to confiscation if the prosecutor applies for seizure before court proceedings have been initiated for the prosecution of the ML offence. The authorities informed the mission that Remark 2 derives from the principle of presumption of innocence under Belarusian law. By reference to this principle, property cannot be considered the proceeds of illegal activities unless it has been so declared in a court decision. If court proceedings have been otherwise initiated before the person admits his guilt and cooperates with the authorities, the prosecutor can apply for the forfeiture of the connected proceeds of crime. The court will establish what is to be confiscated. The authorities are not aware that anyone has benefited from the incentive in Remark 2 to Article 235.

The mission was informed that the CPC, as interpreted by the courts in Belarus, allows that knowledge, intent or purpose in criminal cases may be inferred from objective factual circumstances. According to Article 4.14 of the CC, “knowledge” means the indication stating that a person who is committing a crime is aware of legally meaningful circumstances envisaged by the Code. However, it is unclear how the rules established under Article 22 of the CC regarding *mens rea* would apply in the context of a ML trial. The legislation should explicitly permit the intentional element of ML offenses to be inferred from objective factual circumstances.

Under Remark 1 to Article 235, the executor of the crime is not subject to prosecution for ML. Since the authorities informed the mission that this is not based on a fundamental principle of law in the Republic of Belarus, this note should be removed, and the text of Article 235 amended to specify that the offense of ML shall apply to persons who have committed the predicate offence.

The provision in Remark 2 is inconsistent with international standards and is a potential obstacle to the successful prosecution of ML offences. Remark 2 should be removed.

Sanctions for ML are generally adequate. However, there are no applicable sanctions for ML offenses committed by legal entities, because these are not subject to criminal liability.

Despite the high evidentiary standard for prosecuting ML, it does not appear that any prosecutions have failed because of lack of evidence. If the prosecutors are not able to prove the crime under Article 235, they would typically prosecute under another offense in the CC.

Recommendations and comments		
<ul style="list-style-type: none"> • Amend Article 235 of CC to reduce exceedingly high burden of proof as to the <i>mens rea</i> on prosecutors for prosecuting ML. • Amended Article 235 should clearly criminalize all the types of ML offenses as required by the Vienna and Palermo Conventions. • Remove Remark 1 from Article 235 to allow prosecution for “self-laundering”. • Remove Remark 2 from Article 235 to eliminate potential hindrance to combat ML. • Criminalize insider trading and market manipulation in the CC, in order for the ML offense to cover all categories of predicate offences. • Establish in legislation that the intentional element of ML offenses may be inferred from objective factual circumstances. • Establish criminal liability of legal entities for ML or, if this is not possible due to fundamental principles of Belarus law, establish civil or administrative liability. 		
Compliance with FATF Recommendations		
R.1	Partially compliant	Incrimination of ML not fully consistent with Vienna and Palermo conventions. Current framework hinders the prosecution of ML offenses.
R.2	Largely compliant	Not clear if intentional element of ML offenses can be inferred from objective factual circumstances. Legal entities not criminally liable for ML.
Criminalization of terrorist financing (SR.II)		
Description and analysis		
<p>Under Article 3.11 of Law No. 77-3 of January 3, 2002 on Combating Terrorism (the CT Law), knowingly financing or otherwise assisting a terrorist organization is regarded as the commission of terrorist activity. Although not clearly stated in the CT Law, Article 3.11 is intended to cover both the provision of funds for a terrorist act and the collection of funds by a natural person with the aim that such funds be used for committing terrorist acts. The CC does not include a separate provision establishing the criminalization of FT and Belarus does not have a separate law criminalizing FT.</p> <p>The current approach of the Belarus legislation regarding the combat against FT is not consistent with the requirements of the FT Convention, given that FT should be defined and criminalized as a distinct and separate offense from terrorism.</p> <p>In principle, criminal liability for financing acts of terrorism under the CC or for providing any other assistance to terrorist organizations, including fundraising, may be incurred in the form of complicity in the commission of offenses associated to terrorism. Pursuant to Article 16 of the CC, a person who facilitates the commission of a crime, supplies the means for committing the offence, or provides any other assistance is considered an accomplice.</p> <p>In individual cases, criminal responsibility for financing terrorist acts may be incurred under Article 16 of the CC for complicity in the commission of offenses that are categorized as terrorism-related in the Code. These offenses are: Terrorist acts against representatives of foreign States (Article 124); Attacks on institutions enjoying international protection (Article 125); International terrorism (Article 126); Recruitment, training, financing and use of mercenaries (Article 132); Establishment of or participation in a criminal organization (Article 285); Terrorism (Article 289); Threat to commit an act of terrorism (Article 290); Hostage taking (Article 291); Seizure of buildings and installations (Article 292); and Hijacking of a train, aircraft or vessel or their seizure for purposes of hijacking (Article 311). In addition, the authorities advised that a person could be charged in cases where the financed terrorist acts have not yet been committed or even attempted. Thus, it would be sufficient if funds are collected only with a view to commit terrorist acts later on.</p> <p>Additionally, a person who provides financial or other means of support for the recruitment of other persons for the commission of a terrorist act under the CC can be charged under Article 285 for complicity in the</p>		

establishment of a criminal organization or participation in a criminal organization, if such recruitment is carried out by a member of a terrorist organization or in the context of the establishment of a terrorist organization. However, in order for this charge to proceed, the prosecutor must prove that the terrorist organization constitutes a criminal organization in the sense of Article 19 of the CC⁵.

Article 66.2 of the CC indicates that the term of punishment for the organizer of an organized group cannot be less than three-fourths of the sanction envisaged in the special part of the CC for the relevant offence.

Nevertheless, Article 285 would not cover cases in which a person who is not a member of or connected to a terrorist organization recruits (pays) another person for the purpose of involving the latter in the commission of a specific terrorist act, rather than for the organization of a criminal terrorist organization as such.

Consequently, the legislation of Belarus does not allow the prosecution of a person who provides funds for the purpose of supporting a terrorist group's activities, without intending the commission of a specific terrorist offence, even if the activities are terrorist in nature, unless such group is declared a criminal organization. There is a need to amend Article 285 of the CC to establish liability for recruitment (payment) of a person to be a member of a terrorist organization, or for participation in the commission of a terrorist act.

Since Belarus legislation does not have a separate, independent FT offence, the applicable sanctions for knowingly financing or assisting terrorist organizations are the same as those established in the CC for the terrorism offenses to which the financing is related.

Prosecution in Belarus for the financing of terrorist acts in a foreign country is possible under the rule in Article 6 of the CC. As indicated above, Article 6 of the CC provides for the prosecution of persons who have committed offenses outside Belarus. Penalties for these offenses are fixed within the limits of the sanction stipulated in the relevant article of the CC, without exceeding the threshold of the sanction provided by the law of the State in whose territory the offense was committed.

Article 126 of the CC defines the concept of "international terrorism" as the organization or execution in the territory of a foreign State of explosions, arson or other acts with a view to causing loss of life or physical injury, destroying or damaging buildings, installations, means of transport, means of communication or other property for the purpose of provoking international tension or hostilities or destabilizing the internal situation in a foreign State, or assassinating or causing physical injury to a political or public figure of a foreign State, or damaging their property for the same purpose, and establishes criminal liability for such acts.

The CT Law defines the legal and institutional framework for combating terrorism, establishes measures for preventing, detecting and suppressing terrorism-related offenses and outlines the scope of the competence of the different agencies engaged in counter-terrorism.

Under the CT Law, the President of the Republic of Belarus and the Council of Ministers have foremost responsibility for leading the counter-terrorism efforts in the country. The governmental agencies directly responsible for conducting counter-terrorism efforts are: the SSC, the MIA, the Presidential Security Service, the Ministry of Defense and the State Committee on Border Troops. An Inter-Departmental Counter-Terrorism Commission is being established to coordinate their activities. Pursuant to Article 6 of the CT Law, the functions of the Committee include formulating counter-terrorism, collecting and analyzing information on terrorist activity in Belarus and coordinating the activities of government agencies involved in the counter-terrorism effort.

In the period covering 2002-2004 no criminal cases relating to terrorist activities, their financing, recruitment to

⁵ Under Article 19, a criminal organization is an association of organized groups or their organizers, other participants for carrying out criminal activities or creating the conditions for carrying out a crime.

<p>terrorist organizations or the provision of support to them were referred to the courts in Belarus.</p> <p>The mission was informed that, following the ratification of the FT Convention by Belarus, the authorities will undertake the process to introduce a new article in the CC criminalizing FT. The introduction of a new Article 289-1 in the CC has been proposed to provide for the criminalization of FT as a separate offence. While the text of the proposed new article appears in conformity with the international standards, it is recommended to add a paragraph that will ensure that perpetrators of the FT offense can be charged even if the funds collected for terrorist purposes have not been actually used, or have not been linked to a specific terrorist act or if no terrorist act has been carried out or been attempted.</p> <p>Additionally, a draft law has been prepared to bring amendments to the CT Law. The term “financing of terrorist activity” will be inserted in the CT Law to mean “the intentional allocation or collection of money or other property by any means with the aim of using it for terrorist activity”. This draft law also includes a new Article 23-1, which provides for criminal liability for legal entities for FT. The amendment proposes mandatory liquidation of the legal entities registered in Belarus and liquidation of the activities of foreign legal entities and international organizations that have been used for FT, with the subsequent confiscation of their property in the country.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Criminalize FT as a separate and autonomous offense from terrorist acts. • Introduce new provisions in legislation to make available preventive measures against FT. • Amend Article 285 of the CC to establish liability for recruitment (payment) of a person to be a member of a terrorist organization or for participation in the commission of a terrorist act. 		
Compliance with FATF Recommendations		
SR.II	Noncompliant	FT is not criminalized as a distinct and separate offense from terrorism.
Confiscation, freezing and seizing of proceeds of crime (R.3)		
Description and analysis		
<p>Belarus legislation enables the seizure of any asset in the course of an investigation by any of the investigative agencies on instruction of the PGO. It also provides for a legal basis and powers for LEAs to identify and trace such property. Pursuant to Article 61 of the CC, confiscation requires a conviction and may be applied for grave and especially grave offenses committed for the sake of profit, and only in the cases specified in CC. Under Article 61.2 of the CC, confiscation may not be decided by the court as a supplementary punishment to a fine or correctional work.</p> <p>Article 98 of the CPC provides for confiscation of the tools of the crime belonging to the accused. Under Article 98.4, upon conviction for a criminal offense, the rights of victims or of other persons for damages derived from the offense affected by the offense take precedence over the State. Thus, money and other valuables illegally acquired are first used to compensate victims and third parties and only the balance is subject to confiscation.</p> <p>Under Article 61.6, confiscation applies to instrumentalities belonging to the convicted person, articles that have been seized, property acquired illegally, as well as items directly involved in a crime, if they are not supposed to be returned to the victim or another person. Besides, in urgent cases (if there is a threat that objects or documents that could be used in the detection and investigation of criminal activity will be destroyed, concealed, or lost), the same measures may be applied without a prosecutor’s approval, but the prosecutor must be notified within 24 hours.</p> <p>Article 235 of the CC provides for the confiscation of proceeds of illegally acquired activity as an optional sanction upon conviction for a ML offence. Article 1.9 of the Decree No. 40 of 2002 provides for the confiscation of “the earnings received from the sale of the goods, the performance of the work, the provision of the services carried out in violation of the law, or of a prohibition set by SCC’s bodies.” Article 11 of Law No. 47-Z of June 26, 1997 “On measures to Fight Organized Crime and Corruption” (the OCC Law) also provides for confiscation of income obtained from criminal activity.</p>		

Under Article 132 of the CPC, an investigator, prosecutor, and court of law are authorized to seize property of a suspect, defendant, or persons who bear material liability under the law for their actions, for the purpose of ensuring the execution of a sentence arising from a civil suit or other penalties, or the possible confiscation of property. In addition, Article 4.2 of Decree No. 40 authorizes the SCC to seize income received from the sale of goods, the performance of work, or the provision of services in violation of the legislation.

Article 171 of the CC provides for the invalidation of contracts carried out with false or fictitious purposes aimed at evading the legal consequences of an act. Article 171 is invoked in criminal proceedings to invalidate transactions designed to prevent the authorities from seizing property subject to confiscation. In addition, Article 11 of the OCC Law provides for the invalidation of deals carried out for ML purposes.

Article 10 of the OCC Law provides that the special investigative divisions—of the MIA, SSC, PGO and SCC—are authorized, prior to initiation of the criminal proceedings upon sanction of the prosecutor, to seal down and place under guard for a period of up to ten days rooms with documents, monetary and material assets. In urgent cases the same measures may be taken also without the prosecutor's approval, by informing him/her about the fact within 24 hours.

According to Article 8.4 of AML Law, government bodies tasked with monitoring the procedure for the performance of financial operations⁶ are required to suspend detected unlawful transactions following the established procedure and, within the scope of their authority, to take measures to hold the guilty parties responsible or to send the necessary materials to prosecutor's offices, preliminary investigative authorities, as well as to government bodies that are authorized to refer cases to the courts. There are no established procedures for suspending unlawful financial transactions issued by any of these government bodies.

Belarus legislation provides broad possibilities to seize any assets in the course of investigations, either by officers of the PGO or on instruction of the judiciary. In theory, all assets of a convicted person can be confiscated, therefore providing for the possibility of value-based confiscation. However, in practice, confiscation measures generally apply to the assets seized in the course of the judicial procedure. As an alternative, fines can be increased to half the level of the laundered funds.

The confiscation system in Belarus is conviction-based and is available for all serious criminal offences, including ML. Proceeds of crime, instrumentalities of or objects resulting, used or destined to be used for an unlawful act may be subject to confiscation. Civil forfeiture is not available.

As far as ML is concerned, Article 235 does not establish the mandatory confiscation of laundered proceeds. Moreover, confiscation may be decided on the court's discretion (i) when the launderer is a repeat offender; (ii) when ML is committed by an official using his public powers; (iii) ML is committed on an especially large scale; or (iv) when ML is committed by an organized group. The authorities informed the mission, however, that confiscation is generally applied upon conviction.

Confiscation from third parties appears to be possible under Belarus law. The rights of *bona fide* third parties, as set forth in the Vienna and Palermo Conventions, are not expressly provided for in the legislation.

The provisional measures under Article 10 of the OCC Law provide the officials of special investigative units with adequate powers to prevent the dealing, transfer or disposal of property subject to confiscation. Another positive element of the OCC Law is the provision in its Article 11 which provides for the invalidation by the courts of deals/settlement directed at legalization of criminal incomes. However, these explicit powers are provided only with relation to organized crime and corruption.

The OCC Law provides for the seizure of funds and other property used or intended to be used in any of the terrorism-related offenses established under the CC, including the provision of funds or attempt to commit the

⁶ SCC and its agencies, MFA, MoE, MoF, NBRB, the MTD and its inspectorates, the CoS and its inspectorates, the State Customs Committee and customs offices, and other government authorities (Article 7 of AML Law).

<p>offence. The authorities informed the mission that in the event of seizure of cash held on banking accounts, transactions on such accounts are suspended up to the amount of funds that have been seized. Seized funds remain under the control of the authorities until the courts issue a sentence.</p> <p>Article 8.4 of the AML Law establishes that when it is determined that a financial operation of an unlawful nature has been performed, the authorities may suspend the operation following the established procedure, and also, within the scope of their authority, to take measures to hold the guilty parties responsible or send the necessary materials to prosecutor's offices, preliminary investigative authorities, and also to government bodies that are authorized to refer cases to the courts.</p> <p>The draft law to amend the CT Law includes a new Article 23-1, whereby the property of legal entities managed or controlled by a person convicted for FT, and the property located in Belarus belonging to foreign legal entities or international organizations involved in FT would be subject to confiscation, upon the liquidation of the entity.</p> <p>There is also a proposal to introduce a new Article 289-1 to the CC concerning CFT, which provides for mandatory confiscation as a complementary sanction for the intentional FT activity. This amendment proposal should also include provisions regarding the freezing, seizure and confiscation of funds or other assets related to FT.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Amend Article 235 of CC to make confiscation an obligatory sanction upon conviction for ML or FT. • Make property of legal entities subject to confiscation upon conviction for ML or FT. • Extend powers to execute provisional measures in the OCC Law to investigations related to all crimes, including ML and FT. • Based on the provision in Article 11 of the OCC Law, amend CC to make all acts, contractual or otherwise, carried out for ML purposes invalid. • Establish provisions regarding the freezing, seizure and confiscation of funds or other assets related to FT. 		
Compliance with FATF Recommendations		
R.3	Partially compliant	Confiscation of funds or other assets related to FT not provided in the legislation. The rights of <i>bona fide</i> third parties are not expressly provided for in the legislation.
Freezing of funds used for terrorist financing (SR.III)		
Description and analysis		
<p>There are no laws or regulations in place regarding freezing funds or other assets belonging to terrorist or terrorist organizations. In practice, the freezing of terrorist assets is required by means of Resolution No.10 of January 28, 2000 "On the suspension of Debt and Credit Transactions on Accounts of Terrorists, Terrorist Organizations, and Persons associated to them" issued by the Board of the NBRB in accordance with Article 3 of the BC. Resolution No. 10 instructs banks to suspend debit and credit transactions on accounts of terrorists, terrorist organizations, and persons associated to them. The designation as terrorist is based on the lists issued by the UNSC pursuant to UNSCR 1267 and lists issued by individual countries. Such lists are sent to the NBRB by the Ministry of Foreign Affairs (MFA) for its circulation to the banks.</p> <p>Besides Resolution No. 10, there are no detailed procedures outlining the freezing mechanism. It is not clear what actions a bank should perform following the detection of accounts related to individuals or legal entities appearing in any of the lists. In addition, no further guidance has been provided to banks or other financial institutions concerning their obligations. Explicit procedures for challenging freezing actions on funds or other assets and for lifting said actions are also absent. Moreover, there are no provisions outlining the respective duties and powers of the SCC, the DFM, MIA and PGO, as regards the freezing of suspected terrorist assets.</p>		

<p>A damaging consequence of the limited scope of Resolution No. 10 is that the DFM would be unable to order the freezing of funds in a bank where there are grounds to suspect they are intended to be used for committing an act of terrorism.</p> <p>The authorities informed the mission that it would be possible to freeze funds held in Belarus which belong to individuals or legal entities associated with a terrorist act, under the general rules for executing requests for legal assistance.</p> <p>No assets belonging to terrorists or terrorist organizations have been detected in Belarus by the authorities at the date of the assessment.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Establish specific legal requirement to freeze terrorist assets without delay and without prior notice to persons designated in UNSC and national lists. There must also be procedures to allow the unfreezing of the assets of persons inadvertently affected by a freezing order. • Establish respective duties and powers of the SCC, the DFM, MIA and PGO, as regards the freezing of suspected terrorist assets. • Provide the DFM with the authority to order the freezing of funds and other property where there are grounds to suspect they are intended to be used for committing an act of terrorism. 		
Compliance with FATF Recommendations		
SR.III	Noncompliant	No legislation regarding prompt freezing of terrorist property.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)		
Description and analysis		
<p>Pursuant to the AML Law, the typical FIU functions are carried out by both the SCC and the MTD. In accordance with Article 3.2 of the AML Law, reporting entities shall submit SDFs regarding financial operations in local and foreign currency to the tax authorities and on financial operations in foreign currency to the SCC. The SCC is the agency responsible for exercising state control over the implementation of the budget, use of the state property, execution of economic and financial legislation. Each authority is then responsible for processing and disseminating the resulting intelligence to the appropriate LEAs. The DFM has been established within the SCC by means of Presidential Decree 408 of September 14, 2003 for the specific purpose of receiving, requesting, analyzing and disseminating disclosures of financial information concerning suspected ML activity. The DFM is the designated FIU for Belarus.</p> <p>The DFM comprises a Information and Technological Division consisting of seven persons, an Analytical Division consisting of eight persons, and a Coordination and International Cooperation Division consisting of seven persons.</p> <p>Except for a list circulated to the banks giving examples of financial transactions that would require reporting , the DFM has not issued comprehensive guidance to the reporting entities regarding compliance with their duties under the AML Law. A draft joint Resolution of the Council of Ministers and the NBRB, under preparation by the DFM, includes guidance on the format of the SDFs, mode of completion and submission to the FIU. The formats for standardized SDFs when registering transactions are attached to the draft Resolution, which include fields to indicate the grounds for suspicions of ML or FT. The draft also includes guidance on a range of internal control issues, but not at the level of detail needed for the purposes of implementing the relevant FATF Recommendations. The provisions would need to be developed further.</p> <p>Pursuant to Article 5 of Presidential Decree No. 408 all government authorities, legal entities and natural persons are required to provide information necessary for the fulfillment of the DFM's functions and provide it access to their information systems and databases. The mission was informed that, through its attachment to the SCC, the DFM is able to obtain any additional information it requires from the reporting entities and other government agencies, along with having access to a number of public databases to add value to its analysis of SDFs. Among</p>		

databases accessible to the DFM are those kept by the SCC, the MTD, and the MIA.

The Regulation “On the Department of Financial Monitoring of the State Control Committee of the Republic of Belarus” establishes that the DFM should refer the information on financial transactions to the corresponding investigative agencies, provided there are sufficient grounds indicating such operations to be related to ML, as well as the necessary information to the law-enforcement agencies and controlling units on their demands. The DFM has specific procedures to regulate this process.

Based on Article 4.4 of Law 369-3 of February 9, 2000 “On the State Control Committee” (SCC Law), the intelligence developed by the DFM is disseminated to the MTD and to the appropriate investigative agencies, one of which, the Financial Investigations Department (FID), is another division of the SCC. Other investigative agencies that may receive information on suspected ML from the DFM include the MIA, the PGO, and the SSC.

Although the DFM does not enjoy budgetary independence from the SCC, the mission was informed that it is free to select its staff and decide when to disseminate information to the investigative agencies independent of the Chairman of the SCC or any other official.

The DFM has limited access to the information that may be connected to ML, since the AML Law requires reporting entities to submit to the SCC only SDFs on operations in foreign currency. This clearly hampers the ability of the DFM to effectively act as a national center for receiving, analyzing and disseminating financial information related to alleged ML. The inability of the DFM to receive SDFs on transactions carried out in local currency seriously restricts the functions of the DFM as a national FIU and its ability to disseminate intelligence to the LEAs for the investigation of suspected ML or FT. The DFM receives information on some suspicious financial transactions in local currency in cases where the MTD forwards them.

Notwithstanding this limitation, the DFM appears to conduct its duties in a professional and efficient manner. The DFM has the capacity to coordinate its findings with other authorities, including foreign FIUs with membership in the Egmont Group. The DFM is able to exchange information with the MTD regarding SDFs and consultation takes place on joint cases. The DFM is coordinating the signing of bilateral agreements with the FIUs in Russia and Ukraine, as well as memoranda of understanding with authorized authorities in China and FIUs in Lithuania, Luxembourg and Poland. An agreement with the Turkish FIU is currently under discussion. The mission is of the opinion that the DFM is moving forward in the right direction and that there is a need for additional staff, upgraded IT equipment and more training, experience and expertise to fight organized crime and serious economic crime. There are no specific provisions or guidelines regarding information sharing with foreign FIUs. Such information is shared on the basis of reciprocity and can be provided spontaneously.

Furthermore, as noted above, the DFM passes on to the LEAs a part of the information received. In the light of this, it would probably be beneficial for the DFM to receive from the LEAs some kind of feedback in relation to further investigation and possible indictments. This could help the DFM improve its own criteria for passing on cases. Regarding the safeguarding of the information held by the DFM, written procedures exist, yet the authorities accepted that this area is in need of further improvement.

Statistics

During the first ten months of 2004, the DFM had received and processed 18,283 SDFs from the reporting entities pertaining to financial transactions subject to special controls, denominated in foreign currency. Of this number, 14,500 SDFs were received from banks. Out of the total number of SDFs received, 2,290 warranted additional information from the banks. The DFM has also received 131 submissions on suspected illegal activity from other agencies, such as the FID, other divisions within the SCC, local LEAs, and foreign FIUs. During 2004, the DFM has received 13 submissions on suspected ML from foreign FIUs and has itself forwarded 32 SDFs to foreign FIUs.

The mission was informed that 2,563 (or approximately 11 percent of the total) SDFs submitted to the DFM concern financial transactions for an amount below the thresholds established in the AML Law. The authorities explained that, in most cases of reports below the threshold, the submission is related to linked transactions exceeding the threshold that have been previously reported to the DFM.

Between 2000 and 2004, the MTD received the following number of SDFs:		
2000		9,739
2001		52,927
2002		49,954
2003		79,616
2004		93, 561
<p>Of the total number of reports, 24 criminal cases were filed relating to fraud (4 cases), property damage (2), nonreporting of operations in foreign currency (1), smuggling (5), illegal entrepreneurship (4), proceeds of crime (4), tax evasion (2), and forgery (2).</p> <p>Of the 93,561 SDFs received by the MTD in 2004, 13,765 (14.7 percent) related to financial transactions of individuals equal to or greater than 2,000 base units; 51,903 (55.5 percent) were financial transactions of other entities equal to or greater than 20,000 base units; and 27,893 (29.8 percent) concerned financial transactions below these thresholds.</p> <p>In general, the DFM leaves a good impression as an agency which is proactive and is gradually becoming the center and the leading force of the Belarusian AML system. The DFM has applied for membership of the Egmont Group. According to the authorities, Russia and Poland sponsored the DFM at the Egmont Group meeting in October 2003. The authorities expect Belarus to be admitted to the Egmont Group once the draft AML Law is enacted. The draft AML Law provides for the reorganization of the DFM, with exclusive responsibility for gathering SDFs, analyzing the information contained therein and disseminating financial intelligence to the appropriate LEA.</p> <p>The mission was informed that a computerized database is planned to process the information in the SDFs more effectively, but the DFM lacks sufficient financing to carry it out.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Enact draft AML Law to provide DFM with the framework needed to perform FIU functions effectively. • Expedite implementation of steps needed to gain admission to the Egmont Group. • Consolidate the authority of the DFM as the single, centralized FIU for Belarus. • Provide for electronic submission of STRs. • Improve safeguard of sensitive information received by the DFM. • Provide adequate funding, staffing and the necessary resources for an enhanced electronic database for analysis to DFM. • DFM should maintain statistics on all STRs, not only those relating to transactions in foreign currency. 		
Compliance with FATF Recommendations		
R.26	Noncompliant	DFM is not a single, centralized FIU and is only able to receive disclosures on transactions in foreign currency. DFM has not issued comprehensive guidance regarding compliance with their duties in the AML Law. Improve safeguard of information received by the DFM.
R.30	Noncompliant	Operational independence and autonomy of DFM with regard to the SCC not officially established.
R.32	Noncompliant	DFM should keep statistics on all STRs including reports on both domestic and foreign currency transactions.
Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 & 32)		
Description and analysis		
<p>Belarusian LEAs have the responsibility and authority to ensure that ML offenses and associated predicate offenses are investigated. The investigation of economic crimes in Belarus is carried out, under the supervision</p>		

of the PGO, by the investigatory divisions of the PGO, the investigatory divisions at the MIA, the FID and the SSC, each within the area of responsibility assigned in the CPC.

The main responsibility for the investigation of domestic economic crimes is assigned to the SCC. The FID is in charge of investigations of offenses against property and economic order established in the CC. Consequently, it is the investigatory agency with the broadest area of competence. The FID has offices in all regions in the country. The headquarters and each regional office have investigatory and analytical divisions.

The investigatory divisions at the MIA investigate offenses against the economic order that require interfacing with foreign authorities. The MIA has signed over 140 interdepartmental agreements with foreign Interior Ministries. In this role, the MIA coordinates with the other investigative agencies, each within its own sphere.

The Economic Crime Division of the SSC conducts studies on methods and trends of economic crimes and develops plans to address them. Their activities do not particularly focus on the identification of ML methods, but rather in identifying criminal behavior that may affect the economy. The SSC communicates information on criminal schemes detected to other investigative agencies and to the PGO, as appropriate.

In keeping with Article 22 of Law No. 289-3 of July 9, 1999 “On investigations” (Investigations Law), the PGO coordinates all investigations and has full authority to assign or reassign the investigation of a particular crime to any of the investigatory agencies and to establish joint investigations by several agencies. The preliminary investigation of a ML offense will be initiated by the investigatory agency to which the DFM has communicated the case, depending on the probable predicate offense revealed by the DFM’s analysis. It is possible to establish ad-hoc working groups comprising two or more investigative agencies to conduct investigations, including ML investigations.

Pursuant to the CPC, preliminary investigations should be concluded within two months, but can be extended on the order of the Prosecutor General. Investigations under the supervision of a District Prosecutor can be extended for six additional months, while investigations supervised by a Regional Prosecutor can be extended for nine additional months. Investigations supervised by the Prosecutor General himself may be extended indefinitely. The mission was informed that LEAs are authorized to delay the arrest of suspected persons and the seizure of property for investigative purposes.

Pursuant to Articles 36, 126, and 132 of the CPC, investigators have the authority to postpone or waive the arrest of persons suspected of a crime and/or the seizure of their property for the purpose of identifying all the persons involved in the commission of any offense or for purposes of gathering additional evidence.

According to Article 17 of Law No.369-3, officials of the SCC and of its territorial bodies are allowed, upon presenting the order to carry out an inspection (revision) and the document identifying the SCC’s employee, to:

- freely enter the territory and the premises (excluding dwelling houses) of the state authorities, of other legal entities as well as of independent entrepreneurs; and

- have free access to store-houses, production areas and auxiliary buildings (excluding dwelling houses) and to other objects to check the availability of cash resources, securities, stocks of materials and capital equipment, of other valuables, and the order of their storage.

The access to enterprises, institutions, organizations with a law-restricted admission, as well as the access to the state secret information, is provided in accordance with the legislation of the Republic of Belarus.

In accordance with Article 14 of Law No. 102-3 of December 3, 1997 “On state security agencies” (SSA Law), investigatory agencies have adequate powers to compel production of, and search persons and premises for, records, business correspondence, account files maintained by legal entities and natural persons. All documents seized as a result and statements from witnesses may be used in investigations and prosecutions or ML and any other offense.

Under Article 4 of the Investigations Law, investigative activities are carried out by competent authorities using

<p>overt and covert techniques and means. Under Article 14 of the SSA Law, all investigative agencies can use a wide range of investigative techniques such as controlled delivery, surveillance, infiltration, and wire-tapping, among others.</p> <p>Pursuant to Article 11 of the Investigations Law, investigatory agencies are appropriately structured and staffed. However, the mission is of the opinion that the AML responsibilities of each agency are not clearly outlined, which could make difficult the coordination between the agencies responsible for the investigation of ML. The investigatory staff interviewed appeared to be well-informed and trained on ML and economic crimes. Additional exposure to specialized training is encouraged.</p> <p>In accordance with Article 17 of the Investigations Law, investigators are required to maintain the confidentiality of the information obtained in the course of their functions. Pursuant to Article 22 of the Law on investigations, the officials at the PGO and MIA are responsible for the protection of the information submitted for examination to the prosecutor.</p> <p>In addition, pursuant to Article 6 of the AML Law, employees of courts, prosecutor's offices, preliminary investigative bodies, and foreign exchange control organizations are liable for the unauthorized disclosure of legally protected information obtained in the performance of their official duties. Part 4 of the Regulation on the Use of a Special Data Form for the Recording of Financial Transactions Subject to Special Controls, approved by Council of Ministers Resolution No. 1411 of September 13, 2000, states that the confidentiality of information contained in a special data form that is received is guaranteed by the recipient of the information, except in those cases established by the legislation.</p> <p>All agencies have developed internal training programs, even though there is no AML/CFT specialized training available for staff. The mission was informed that at present there are no specific plans to provide training for judges on ML/FT related issues. The judiciary, as well as the prosecutors could benefit from training on ML, FT and seizure, freezing and confiscation of proceeds of crime or property to be used to finance terrorism. Specific plans to provide training and professional development in this area are prepared annually by the relevant courts and prosecutorial authorities. The mission was informed that a plan is being drawn up for the professional development of judges at the Belarusian State University, which includes topics related to AML/CFT.</p> <p>There were no statistics available on the amounts resulting from the seizure and confiscation, neither in general terms, nor as regards ML specifically. In the absence of such information, the mission had difficulty in assessing the effectiveness of the provisional measures and confiscation framework.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Establish mechanism to improve the coordination between agencies responsible for investigating ML offences. • Provide training for judges and prosecutors on ML, FT and seizure, freezing and confiscation of proceeds of crime or property to be used to finance terrorism. • Compile and maintain relevant statistics 		
Compliance with FATF Recommendations		
R.27	Compliant	–
R.28	Compliant	–
R.30	Noncompliant	Operational independence and autonomy of DFM with regard to the SCC not officially established.
R.32	Noncompliant	Lack of consistent statistics on ML investigations, prosecutions and convictions, as well as property seized and confiscated.
Cash couriers (SR.IX)		
Description and analysis		
<p>Joint Resolution No. 73/38 of April 30, 2004, issued by the NBRB and Customs provides for measures to detect and monitor the physical transportation of currency across Belarus borders. These requirements are applicable only to individuals, both Belarusian nationals and foreign citizens, but do not include, for example,</p>		

transportation as freight or by container as required by SR.IX. The enforcement of the measures established in the Resolution is the responsibility of Customs. Under the Resolution:

- (a) the import of cash into the country exceeding the equivalent of US\$3,000 in foreign currency requires a compulsory written declaration;
- (b) when the amount of cash being introduced is US\$3,000 or lower in foreign currency, or the equivalent of 500 base units or lower in RBL, the written declaration is voluntary but a verbal disclosure to the Customs officer may be requested;
- (c) the export of cash out of the country exceeding the equivalent of US\$3,000 in foreign currency requires a compulsory written declaration;
- (d) when the amount of cash being exported is US\$3,000 or lower in foreign currency, or the equivalent of 500 base units or lower in RBL, the written declaration is voluntary but a verbal disclosure to the Customs officer may be requested;
- (e) the import of cash into the country exceeding the equivalent of US\$10,000 in foreign currency requires the presentation of either a customs declaration or a foreign exchange certificate confirming that the cash is being imported from a Customs Union member (Kazakhstan, Kyrgyzstan or Russia), or an authorization issued by a bank established in a Customs Union country. If the amount of the foreign currency being imported is the equivalent of US\$10,000 or lower, the aforementioned documents are not required, but the written declaration will be necessary if the amount exceeds US\$3,000.

Citizens of Customs Union countries are subjected to the same rules in the case of cross-border transportation of foreign currency, but they are not restricted as to the import or export of RBL to and from Customs Union countries and no written declaration is required.

Pursuant to Article 193.9 of the Administrative Code, sanctions for false declarations or failure to make a declaration include fines, with or without confiscation of the cash. Separate criminal proceedings may also be initiated if other infractions are detected.

The mission was informed that the Customs Code authorizes Customs officers at border points to request and obtain further information from cash carriers regarding the origin of the currency and their intended use. Customs officers may seize and detain cash in the case of nondeclaration or falsely declared amounts, although there is no specific authority to do so solely to ascertain whether evidence of ML or FT may be found. Customs do not conduct the follow-up investigation, which is a matter for the relevant investigative unit in the SCC or the MIA. Customs may detain a cash carrier based on information previously received from a LEA. The coordination between Customs and the various LEAs in such cases is conducted under a series of interdepartmental agreements. All declarations are completed by hand and there is no centralized database to assist in analyzing the information obtained.

The measures under Joint Resolution No. 73/38 do not specifically refer to bearer negotiable instruments and seem to apply only to currency.

Customs participates actively in the World Customs Organization, particularly in its Technical and Law Enforcement Committees. In June 2004, Belarus became a party to the Convention on Mutual Administrative Assistance in Customs Matters (Johannesburg Convention). In addition, Belarus has signed bilateral customs treaties within the CIS and with Lithuania, Latvia, Poland, the Czech Republic, Italy and the United States of America.

Under the Law on Investigations and international agreements signed by Belarus, if the competent State agencies have police information about possible attempts to export a prohibited consignment from Belarus by smuggling and other criminal means, they must promptly notify the relevant agencies of other States. The exchange of

information on the movement of cash suspected of links to terrorism would be conducted in a similar manner.		
<p>Customs officers could benefit from training to familiarize them with AML/CFT issues.</p> <p>The mission was informed about concerns regarding cross-border cash movements, particularly across the Russian border, where there are no controls. There are also concerns regarding the protection of borders with Poland and Lithuania. Apparently, there is a considerable need for technical resources and equipment to allow Customs to control the cross-border movement of cash effectively. The mission was informed that although there is no centralized database regarding cross-border cash movement, Customs does have the necessary software to set up a database, but lacks the complementary equipment to put it in operation.</p> <p>Most of the AML-related tasks carried out by Customs concern the investigation of nonpayment of duties and the illegal export of historical artifacts.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Provide AML/CFT training to customs officers. • Acquire necessary equipment to run centralized database to facilitate the analysis of the cash movement customs declarations. • Extend requirements and powers to include bearer negotiable instruments. • Provide Customs with the authority to seize and detain cash to ascertain whether evidence of ML or FT may be found. • Reassess effectiveness and enhance border controls over movements of cash and negotiable instruments, particularly in the case of the Russian border. • Information collected by Customs should be made consistently available to the DFM. 		
Compliance with FATF Recommendations		
SR.IX	Noncompliant	Measures in place not applicable to bearer negotiable instruments.

Preventive Measures–Financial Institutions

Risk of money laundering or terrorist financing	
Description and analysis	
<p>The general situation regarding criminal activity and predicate offenses for ML and FT has been outlined earlier in this report. At this relatively early stage of development of the AML/CFT systems in Belarus, the authorities have not decided to apply simplified or reduced measures to any areas considered low risk. Appropriately, efforts are focused on putting in place measures and structures to correspond with the FATF Recommendations, with particular emphasis on areas of particular vulnerability. Considerable work is still needed to achieve this objective.</p>	
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	
Description and analysis	
<p>R.5</p> <p>Article 3.4 of the AML Law requires persons engaged in financial operations, which includes all financial institutions, to “maintain registers containing information about clients”. No further detail is given; the law does not set out detailed customer due diligence (CDD) requirements, including those needed to achieve compliance with a number of aspects of FATF Recommendation 5. Detailed customer identification fields are included in SDFs to be sent to the DFM and MTD, as appropriate, for transactions subject to special controls under the AML Law.</p>	

Banks

For banks, CDD requirements are found mainly in the NBRB's know-your-client (KYC) recommendations, as updated in August 2003.⁷ Although, these recommendations do not have direct force of law⁸, as required under certain of the FATF Recommendations, they are accepted by supervised institutions as mandatory in practice. The recommendations are well written and are reasonably comprehensive. There is no explicit prohibition on anonymous accounts, but it is implied by the provisions for identification by banks of all clients in paragraph 8. Articles 194—196 of the BC provide for a form of bearer account, and the AML Law includes specific controls for them. It was confirmed in discussions with the authorities and interviews with banks that anonymous, bearer, and numbered accounts do not exist in practice. The need for banks to carry out CDD measures for potential clients is set out in some detail in the NBRB recommendations. To adhere to the recommendation, banks must implement clear criteria and procedures (paragraph 9), within the context of an overall internal control policy (paragraph 4), at both operational and management levels (paragraph 7). For each of the three categories of client ((i) individuals, (ii) legal entities and individual entrepreneurs, and (iii) correspondent banking accounts), the recommendations set out detailed documentation and verification measures to be applied, including having the banks develop account-opening questionnaires for each category.

For individuals, the basic identification is by passport, which all citizens of Belarus must carry from the age of 16. The passport includes a number of other independent verifications, including the current official residence of the applicant. Banks are recommended to carry out a risk assessment, and where the risk level is considered high, to seek references, identify the source of funds to be placed, and the source of income.

For legal entities, the recommendations list the details to be recorded from foundation documents and tax identification and calls for enhanced due diligence. Banks are to demand a wider range of documents for analysis describing both a potential client and the nature and turnover of the business, particularly as regards expected dealings in cash. There does not appear to be a separate requirement to verify that persons operating accounts on behalf of legal entities are authorized to do so. However, this is normal banking practice in Belarus and the mission was informed that it is strictly adhered to, including by requiring specimen signatures to be supplied by the legal entity.

No requirements are specified for identifying beneficial owners. Although banks are instructed to understand and keep records of the ownership and control structure of legal entities, this is not stated to include identifying the ultimate beneficial owner in a complex corporate structure, or the identity of the natural persons behind such structures. In interviews with the mission, emphasis was placed on the extent of monitoring, verification, and supporting documentation of ongoing transactions for corporate entities, particularly cross-border.

While there is no explicit reference to reidentification in case of doubt, suspicion, or for old accounts, identification documents are required for withdrawals. The mission learned that there are large numbers of personal accounts dating from the time of the Soviet Union. However, the balances are typically very small, and a thorough identification procedure applied also in Soviet times. Also, withdrawals require reidentification. The mission was informed that, for legal entities, if corporate accounts are inactive for more than three months a mandatory closure procedure is commenced on the approval of the tax authorities.

Under paragraph 15 of the recommendations, when effecting a one-time transaction with an individual client, if the amount of the transaction does not exceed 2,000 base units (approximately US\$23,000), passport data of a client may be sufficient for the identification of a client. Wire transfers are not specified separately in this context, but would be subsumed within the term 'transaction'.

Other than the risk analysis at account-opening stage referred to above, Article 4 of the AML Act sets out a long

⁷ Recommendation of the NBRB for arranging the internal controls systems in banks to implement the principle "know your client."

⁸ A draft law has been prepared to revise the AML Law that, when enacted, would provide explicit legal backing for recommendations issued by the NBRB.

list of operations subject to special controls (in practice this typically involves reporting to the FIU if above the specified thresholds) that would include a number of typically high-risk categories. The NRRB recommendations call for special attention for legal entities clients from countries associated with drugs or terrorism, from offshore zones, or those involved in trust management, charities or casinos. Simplified CDD measures do not apply.

Insurance and Securities

No equivalent CDD guidance has been published for the insurance or securities sectors. In the case of securities, client identification based on passport information takes place at the point where the agreement is drawn up for the purchase or sale of shares. A further identification is completed when an account is opened on the actual purchase of shares, and the opening of such an account is mandatory. Banks conduct most of the securities deals in Belarus, especially for government securities, in respect of which nonbanks' deals have to be made through banks.

R.6

There are no specific requirements or recommendations for enhanced due diligence for politically-exposed persons (PEPs), foreign or domestic.

R.7

Paragraph 17 of the NRRB recommendations calls for special attention to correspondent banking relationships, based on a three-tier quality classification, with the lowest ranking category to be subject to a thorough examination. A number of the essential criteria are not addressed, as there is no requirement that senior management approval is needed (though the control environment in Belarus probably addresses this), and no reference to considering the AML/CFT regime to which the correspondent bank is subject. The NRRB is planning to issue soon new recommendations for correspondent accounts, with limits on the amounts that can be held in them by the bank itself or on behalf of customers. The current recommendations make no reference to the existence of "payable-through accounts."

R.8

There are no specific requirements, in the AML Law or NRRB recommendations addressing risks arising from new technologies. While some banks in Belarus offer internet banking, none allows for non-face-to-face account opening. The mission was informed that potential clients must attend in person to open an account.

Recommendations and comments

- For avoidance of any doubt, explicitly prohibit anonymous accounts and those in fictitious names; remove from BC and AML Law the provisions for bearer accounts.
- Specify in the AML Law a clear basic requirement for customer identification, and outline the type of documentation required.
- Develop in the AML Law the requirement for CDD, specifying when it must be carried out, in line with FATF Recommendation 5.
- Provide in the AML Law that beneficial owners (including the ultimate beneficial owner) must be properly identified, and ensure that financial institutions establish when a customer is acting on behalf of another person.
- Include in the AML Law a specific requirement for ongoing due diligence, and not just on financial operations currently subject to special controls.
- Consider introducing a requirement that a financial institution declining or terminating a business relationship where it is unable to comply with CDD measures should file a suspicious transaction report (STR).
- Update and extend the current NRRB "recommendations," reconstitute them as "regulations" or equivalent status, and provide unequivocally that they are binding, enforceable, and sanctionable, at least where indicated by FATF Recommendation 5.
- Require CDD measures to be applied to the existing customer base, on the basis of materiality and risk.
- Introduce a requirement for enhanced due diligence for foreign PEPs as set out in FATF Recommendation 6. Consider introducing equivalent measures for domestic PEPs.
- Provide more detailed requirements for correspondent relationships, to include management approval, documented responsibilities, and identification controls on customer account access.

<ul style="list-style-type: none"> Introduce requirements for risk management of non-face-to-face business, including business done by internet or other electronic means. <p>Although beyond the scope of this assessment, the mission noted that the draft AML Law does not contain much more detail on CDD measures than the current AML Law. The mission recommended that at least the key elements of CDD should be added to the draft law, with technical details addressed in legally-binding regulations for each sector.</p>		
Compliance with FATF Recommendations		
R.5	Partially compliant	<i>Banks</i> Most of the criteria are addressed in recommendations which are accepted as mandatory and implemented in practice, but do not have express force of law as required in certain cases by the FATF Recommendations. Some elements have yet to be introduced (e.g., for beneficial owners). Implementation was observed in practice with most of the key CDD measures.
	Noncompliant	<i>Insurance and Securities</i> No specific CDD requirements are yet set out for these sectors.
R.6	Noncompliant	There are no requirements in place for PEPs
R.7	Partially compliant	Requirements for assessing correspondents are in place but do not fully meet the FATF standard on management approval, documentation, and customer access.
R.8	Noncompliant	AML/CFT requirements have not been issued for risks from internet or other electronic banking.
Third parties and introduced business (R.9)		
Description and analysis		
<p>No provisions were identified to the mission that would address third-party or introduced business, and the mission was informed that the concept does not apply in Belarus. Under the AML Law, customer identification requirements are the legal responsibility of the financial institution opening and operating the account, and there is no scope for delegation of this responsibility. The mission was informed both by the authorities and by the professions that lawyers, accountants, or other professionals do not as a rule open or operate accounts on behalf of clients. The only rare case in which a person may operate an account on behalf of another is with a limited written proxy, and this must be notarized before a financial institution will act on it. It could be used, for example, in case of illness or incapacity of the client.</p>		
Recommendations and comments		
Keep under regulatory review the scope for persons to conduct transactions or behalf of another, and introduce specific CDD requirements if warranted.		
Compliance with FATF Recommendations		
R.9	Not applicable	There is no provision for financial institutions to rely on intermediaries.
Financial institution secrecy or confidentiality (R.4)		
Description and analysis		
<p>Article 122 of the BC requires banking secrecy, covering all details of accounts and customer transactions. It applies to banks and to the NBRB. The article then provides for a comprehensive list of exemptions which include representatives with proper authorization, auditors and in cases provided by legislation of the Republic of Belarus:</p> <ul style="list-style-type: none"> to courts (judges) – with respect to cases under their consideration; to public prosecutors; with the authorization of a public prosecutor - to inquiry and preliminary investigation agencies with respect to criminal cases under their consideration; 		

- to organs of the SCC (which would include the FIU);
- taxation and customs bodies; and
- to the NBRB.

Article 6 of the AML Law provides similar gateways for nonbank institutions subject to the AML Law and sets out very detailed provisions to allow access by the authorities involved in AML to information regarding each category of customer.

Banking secrecy is not a barrier to effective AML/CFT measures

Recommendations and comments

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Compliance with FATF Recommendations

R.4 Compliant

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

Description and analysis

Article 4 of the AML Act requires all persons covered by the act to maintain registers containing information about clients, archives of clients accounts and original documents pertaining to financial operations in foreign currency from the moment an account is opened for a client and for 10 years following the closing of the account. The reference to foreign currency makes it difficult to be certain as to the meaning of this section. Working from the Russian language original, it appears that the registers and archives apply to all clients, but that the specific requirement for the retention of supporting documentation applies relates only to foreign currency transactions. The section goes on to state that documents such as agreements and contracts relating to transactions in foreign currency are to be held for 20 years. However, for other documents relating to financial operations, the article refers to complying with the obligation of the legislation on archives and on business correspondence. The mission did not receive a clear explanation on the interpretation of these provisions, to allow a conclusion on full compliance with FATF Recommendation 10.

In practice, banks interviewed indicated that they keep all records for a minimum period of 10 years (and longer where required by law).

Neither the AML Law nor the NBRB recommendations provide specific requirements in relation to information to be provided when sending wire transfers, or guidance on steps to be taken regarding incomplete customer information on funds received by wire transfer. However, the NBRB confirmed that in practice it is mandatory for every field to be completed by the banks in all outgoing SWIFT messages. In accordance with the requirements of the “Instruction on bank transfers, approved by resolution of the Board of the NBRB No. 66 dated March 29, 2001” (points 49 and 52), in the event that the beneficiary’s bank receives a payment order in which the name of the beneficiary and account number do not match either the customer name or account number, or in the absence of information needed by the bank to identify a beneficiary who is not an account holder, the bank shall take measures to ascertain independently the mission information. If unsuccessful, the funds must be returned. Also, in the case of legal entities, for tax, foreign currency monitoring, and other purposes, banks are obliged to ensure that all outgoing transactions are supported by appropriate documentation, including meaningful originator information, and are valid transactions for the entities concerned. A de minimus threshold is not applied for wire transfers.

Recommendations and comments		
<ul style="list-style-type: none"> Revise the AML Law to provide unequivocally that all records of customer identification and transactions on accounts, in both domestic and foreign currency, should be retained for a period of time no less than five years (to accord with the minimum requirements of FATF Recommendation 10), in such manner that they can be produced for the appropriate authorities without delay. Introduce specific requirements for all wire transfers to obtain and retain originator information in line with SR.VII <p>The mission notes that adequate record retention requirements do not appear in the draft AML Law, which refers only to keeping forms and supporting documentation for 10 years for transactions subject to special control reported to the FIU.</p>		
Compliance with FATF Recommendations		
R.10	Noncompliant	The mission could not establish that the Belarus record retention requirements met the provisions of Recommendation 10.
SR.VII	Noncompliant	No specific AML/CFT legal requirements were identified for outbound wire transfers, and those for incoming transfers fall short of the provisions of SR.VII.
Monitoring of transactions and relationships (R.11 & 21)		
Description and analysis		
<p>Article 4 of the AML Law sets out an extensive range of activities subject to special control. Although there is no measure to correspond directly with the wording of FATF Recommendation 11 on complex or unusual transactions, these would generally be encompassed within the extensive range of activities listed in the law. Controlled transactions are to be reported to the authorities within 24 hours, but only if they exceed certain thresholds, the amounts of which are high in the context of Belarus. Otherwise, for legal entities, banks indicated that they are required, mainly for purposes of tax and customs requirements, to ensure that all transactions are supported by appropriate and detailed documentation of the purpose of the transaction. They are also required to ensure that the legal entities involved in each transaction are authorized by their formation and other documents to engage in such business, a matter which is taken very seriously by the authorities. Currently, a legal entity may hold a current (settlement) account at only one bank in Belarus at any given time (though there is a proposal to liberalize this requirement), which facilitates banks in knowing the normal business of their corporate clients, and identifying unusual transactions.</p> <p>Neither is there an explicit reference in the AML Law to jurisdictions having weak AML/CFT regimes, as such. According to Article 4.3.3 of the AML Law, international transfers of money to natural persons and legal entities registered in offshore zones, or to accounts in such zones are subject to the special controls (registration and reporting) under this law. Article 4.3.4 provides the same regarding international transfers of money from regions where there are indications of links with the illegal production and distribution of drugs and arms or international criminal activity. Under the NBRB recommendations for banks, enhanced due diligence is required for legal entities registered in countries associated with illegal drug production and cooperation with terrorist organizations, or registered in offshore zones.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> Introduce a specific requirement for special attention for all complex or unusual transactions, with no apparent economic or lawful purpose. Provide for special attention for dealings with countries that do not fully apply the FATF Recommendations. <p>The mission noted that these matters have been addressed in Belarus (as described above), though not as comprehensively as needed to comply with the FATF Recommendations.</p>		
Compliance with FATF Recommendations		
R.11	Partially compliant	There are strong measures in place which address many of the matters under assessment, but the provisions of which do not correspond directly with the wording of Recommendation 11.

R.21	Partially compliant	Recommendation 21 is not explicitly implemented, but substantial relevant measures have been taken.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)		
Description and analysis		
<p>R.13</p> <p>Article 4 of the AML Law provides for the submission to the MTD (for domestic and foreign-currency transactions) and to the DFM (foreign-currency transactions) of reports in a standard format, within 24 hours, of all transactions subject to special controls, as defined in the AML Law. This is reinforced by Resolution of the Board of the NBRB No. 195 dated November 13, 2003, which states <i>inter alia</i> that banks⁹ shall provide the DFM on request with all information it needs to carry out the functions assigned to it. However, none of these provisions relates to the reporting of suspicious transactions, <i>per se</i>, as envisaged under the FATF Recommendations.</p> <p>As regards practical implementation, the area of suspicious transaction reporting gave rise to confusion throughout the assessment, with many different interpretations being given for the meaning of Article 4 of the AML Law. The article includes an extensive list of transactions and activities required to be reported to the authorities on a special form. Many refer to them as doubtful or suspicious transactions. Examples include such broad items as “posting of money to and the withdrawal of money from an account.” However, Article 4 goes on to say that these transactions are subject to special control “if even one of the following conditions is present:”</p> <ul style="list-style-type: none"> • the amount of a single operation exceeds 2,000 base units for a natural person (approximately US\$23,000) or 20,000 base units for legal entities and others; • several transactions are performed within a month, which in aggregate exceed these thresholds. <p>An official interpretation was given to the mission that transactions needed to be reported only when one of these conditions was met. In practice, however, a number of financial institutions informed the mission that they report all transactions above the stated thresholds, as this is safer than attempting to interpret the provisions of the act.</p> <p>The SDFs include detailed customer identification information. All of the SDFs completed to comply with the requirements of Article 4 are to be forwarded to the MTD, while those related to foreign currency transactions are be forwarded at the same time to the DFM of the SCC, acting as FIU. Reporting entities have to submit the completed forms within 24 hours of the transaction. In practice, some 10 percent. of the SDFs received by the DFM are for transactions below the threshold, though there is no place on the form for the sender (typically a bank) to indicate why the form is being submitted, and whether it is intended as a STR. The MTD informed the mission that they send some cases on to the DFM based on SDFs for domestic currency transactions, where no tax issues arise but there is an indication of other illegal activity. Otherwise, the FIU does not currently have access to RBL-denominated transactions. There are no requirements for attempted transactions, refused by the bank or otherwise not actually carried out.</p> <p>For insurance companies, the insurance legislation does not contain any requirement for the reporting of suspicious transaction, supplemental to the provisions of the AML Law for reporting of transactions subject to special control. However, the MoF informed the mission that, under the CC, insurance companies can make a report of their suspicions to LEAs as awareness of a crime being contemplated. No information was provided to indicate that insurance companies had done this in practice.</p> <p>Some SDFs are filed by securities firms in accordance with the AML Law. According to the LEAs, a significant proportion of cases they investigate relate to securities transactions, though these are mainly investigations of suspected tax evasion.</p> <p>Belarus does not yet have a terrorist financing law, although one has been drafted, so they is no basis for filing of reports of suspected FT, unless linked to ML and covered by the SDF reporting requirements of the AML Law.</p>		

⁹ The provision would also apply to nonbank credit and financial institutions, if there were any.

R.14

Article 6 of the AML Law provides an exemption from liability for losses and personal damages from the lawful fulfillment of the reporting obligation under the law “provided that in this process there has been no violation of the procedure for the performance of these actions established by the legislation.” This wording does not correspond directly with that of FATF Recommendation 14, but could be interpreted as providing equivalent protection.

Article 3.5 of the AML Law prohibits persons engaged in financial operations from disclosing data regarding their transfer of information to specified authorities, but it is not clear that the FIU is one of these authorities, unless it was intended to be covered as a “preliminary investigative authority.” The article goes on to say that third parties may be informed of the submission of such information “only in cases provided for by the legislation.” It is not clear what these cases might be.

R.19

Depending on the interpretation of Article 4 of the AML Law, Belarus could be said to have in place a threshold reporting system as envisaged by FATF Recommendation 19 (thresholds specified in previous section). However, only the SDFs for foreign currency transactions are currently forwarded to the DFM. As the draft AML Law would address this point, there is documentary evidence that Belarus has considered the issue. It is not clear, however, when and if the draft AML Law will be enacted.

R.25

The DFM has drafted regulations to assist reporting institutions to achieve compliance with the AML requirements. However, these are very brief, and would need to be developed substantially to provide the guidance needed by reporting entities. There is often follow-up with the individual official who submitted the SDF to the DFM, but the mission saw no evidence of a formal process of feedback to reporting institutions, in the form of analytical statistics or case-by-case feedback. However, the DFM is still at development stage, having just completed one year of operation. Sectoral guidance has been published by the NBRB for banks. The mission was not made aware of AML/CFT guidance produced for any other sector.

SR.IV

There is no requirement to report all transactions suspected to be related to FT, and the draft FT Law has yet to be enacted.

Recommendations and comments

- Amend the current reporting requirement to include the reporting without delay to the DFM of all suspicious transactions, regardless of size or currency.
- Provide that STR filing is necessary in case of suspicion of ML or FT.
- Amend the law to provide a clearer prohibition on tipping off.
- Extend the current legal protections for those reporting to the DFM to cover all such reporting, even if below a threshold.
- Issue comprehensive AML/CFT guidance to all reporting entities, and update that already in issue for banks.
- Enact a FT Law

Compliance with FATF Recommendations

R.13	Noncompliant	The current provisions could not be considered a requirement to report all transactions, without a minimum threshold, to an FIU where an entity suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity.
R.14	Partially compliant	There is a “no tipping off” provision, but it lacks precision.
R.25	Partially compliant	The FIU has yet to issue guidelines and establish a formal system of feedback. However, guidance for banks was issued by the NBRB.
SR.IV	Noncompliant	There is no requirement to report all transactions suspected to be related to terrorism, and the draft FT Law has yet to be enacted.

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

Description and analysis		
<p>R.15 Article 3.6 of the AML Law requires reporting institutions to define the principles and develop regulations and measures for the internal monitoring of financial operations, but only those subject to special controls. The law does not refer to the matters to be addressed under the other essential criteria of FATF Recommendation 15.</p> <p>From its discussions, the mission formed the view that training for AML/CFT needs to be developed further. The mission found a keen awareness of the requirements for identification and submission of threshold reports, though the focus seemed to be on compliance with centralized control and taxation needs, rather than an overall awareness of the risks and implications of AML/CFT.</p> <p><i>Banks</i> The NBRB's KYC recommendations provide useful guidance on the internal control systems which each bank should have in place for AML. Although not having direct force of law, these recommendations are treated as mandatory in practice and are the subject of on-site and off-site checking by the NBRB. The recommendations state that an internal document shall be elaborated and approved by the authorizing body of each bank, covering rules for client identification, identifying and reporting suspicious transactions, and record keeping. There is a requirement to appoint a person responsible for ensuring compliance, though it is not stated that this should be at a senior level. The duties of the responsible person are specified. Banks are required to have an internal audit function and are subject to annual independent external audit. There is no mention of the use of these controls for CFT purposes.</p> <p>Banks have detailed screening policies in place for hiring new employees. The current requirements are applied to bank branches throughout Belarus, with reporting to the local tax and SCC offices. The NBRB recommendations do not refer to the need for training of bank staff. Banks interviewed confirmed that they have put in place measures for staff training, though the mission formed the view that more extensive and formalized training programs were needed. The mission was not provided with copies of the internal procedures documents of any banks, and therefore cannot form a view as to their completeness.</p> <p><i>Insurance and securities</i> No specific AML/CFT guidance has been issued to supplement the limited provisions of the AML Law. In the case of insurance, the mission found that, similar to banks, insurance companies interviewed had developed their own 'normative acts' to contain their internal control requirements, which included elements useful for AML/CFT purposes. This is checked as part of the ongoing supervision function of the MoF. Similarly, the CoS carries out checks for securities firms of the implementation of internal controls necessary to comply with securities legislation, but there is no specific emphasis on AML/CFT.</p> <p>R.22 There are no requirements specified for foreign subsidiaries or branches. None currently exist.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Update the NBRB Recommendations on AML/CFT, consider giving them a clear legal basis, and extend them to cover all aspects of FATF Recommendation 15 (e.g., that compliance officer should be at management level). • Issue AML/CFT guidance for the insurance and securities sectors. • Require additional and formalized employee training programs in reporting institutions. 		
Compliance with FATF Recommendations		
R.15	Partially compliant	The mission could not verify directly whether all of the essential criteria are implemented effectively. Not all are expressly included in the NBRB recommendations. There are no equivalent requirements for insurance or securities.
R.22	Not applicable	Belarus financial institutions do not have subsidiaries or branches abroad.
Shell banks (R.18)		
Description and analysis		
The does not appear to be any specific legal requirement, in the BC or elsewhere, to prohibit banks from being		

<p>established in Belarus without a physical and management presence within the country. In practice, however, the registration and licensing procedures include information requirements which would make it very difficult if not impossible to operate a shell bank without the knowledge and approval of the NBRB.</p> <p>The authorities informed the mission that they require all banks licensed in Belarus to have a physical presence and management there; there are no shell banks. Correspondent banking relationships of Belarus banks are already subject to controls, and the NBRB plans to introduce additional controls on the maximum balances which banks or their customers may hold in correspondent accounts.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> For avoidance of doubt, consider adding a provision to the BC specifically requiring a physical presence and control and management of each bank to be located within Belarus. 		
Compliance with FATF Recommendations		
R.18	Largely compliant	No explicit requirement for physical presence.
The supervisory and oversight system—competent authorities and SROs:		
Role, functions, duties and powers (including sanctions) (R.17, 23, 29 & 30)		
Description and analysis		
<p>R.17</p> <p>In case of violation by a bank of any regulatory legal act, including those of the NBRB, or of the economic standards (prudential requirements) of the NBRB, the BC provides for a range of sanctions. The basic sanction is to apply a financial penalty and/or suspend the license to engage in certain banking operations for up to one year. In certain circumstances, the sanctions would include removal of the chief executive, suspension or withdrawal of the banking license, or temporary management of the bank by the NBRB. It is entitled to apply the sanctions against the officers of the bank as well as the bank itself. As required by the BC, the NBRB has published procedures for sanctioning.</p> <p>Under Article 135 of the BC, the NBRB may apply the following sanctions in the event that a bank fails to remedy violations within a specified time period:</p> <ul style="list-style-type: none"> - require implementation of measures for financial recovery of the bank or nonbank financial and credit institution, including asset structure revision; - make a proposal on replacement of their managers or reassess professional aptitude of managers of executive bodies and accountant general; - require removal of the bank governor; - require reorganization of the bank or nonbank financial and credit institution; - change economic standards for the bank or nonbank financial and credit institution for up to one year or until violations are remedied; - impose a ban on opening subsidiaries (branches) and organizational units located off the premises of the bank or nonbank financial and credit institution for up to one year or until violations are remedied; - suspend the license for specific banking transactions for up to one year or until violations are remedied; - revoke the license for specific banking transactions; and - commit the bank or nonbank financial and credit institution to temporary management of the NBRB or appoint temporary management in the manner prescribed by legislation of the Republic of Belarus. <p>The NBRB shall be entitled to apply administrative sanctions to executive officers of the bank or nonbank financial and credit institution in compliance with legislation of the Republic of Belarus.</p> <p>The NBRB shall be entitled to indisputably exact penalties from the bank or nonbank financial and credit institution. The NBRB has applied fines for breaches of the law, though not as yet in the area of AML/CFT. However, sanctions cannot be applied for a breach of a NBRB recommendation, and the NBRB's rules for AML/CFT are in the form of a recommendation. Sanctioning could therefore present a problem, except where there is a breach of a legal requirement. While the NBRB confirmed to the mission that it has fined supervised banks on occasion, there was no indication that any bank had yet been sanctioned for a breach of AML/CFT requirements.</p>		

Insurance and Securities

No information on sanctioning relevant to AML/CFT was provided to the mission in relation to insurance and securities businesses.

In addition to the sanctioning powers set out above, the DFM has powers of sanction under the AML law. The mission did not see evidence that the DFM had yet used those powers. The MTD also has powers to sanction and impose additional taxes in cases under its jurisdiction, and has used these powers extensively, including as a result of information collected from SDFs submitted by reporting institutions under the AML law.

R.23

Under the sectoral laws, competent authorities have been appointed in the areas of banking, insurance and securities.

Banks

Banks in Belarus are licensed and supervised by the NBRB. Through its active on-site and off-site supervision, the NBRB checks compliance in the implementation of the AML Law and the NBRB KYC recommendations. However, the requirements of the current law and recommendations against which they are checking fall well short of the FATF Recommendations.

As noted in the recent BCP assessment, fit and proper criteria are applied by the NBRB to applicants for ownership and management in a bank. However, these measures apply only for holdings of more than 10 percent, which does not therefore exclude the risk of criminal ownership in the banking system.

Insurance

As noted, the insurance sector is small but developing. Only six companies offer life policies and there are no investment-type products. Some single-premium business is written, and it is possible to break the contract. The insurance sector is regulated under the Law on Insurance, 1993, Presidential Decret No. 28 dated September 28, 2000, and Chapter 48 of the Civil Code. In accordance with Presidential Decret No. 17, last amended in 2003, insurance businesses are registered, licensed, and supervised by the MoF, which has an active program of on-site inspections. These inspections include coverage of CDD, reporting of transactions subject to special controls, and other AML issues. The MoF did not identify to the mission any specific guidance it had issued for AML/CFT purposes.

Securities

Securities activities in Belarus are governed by the Law on Securities and Stock Exchanges No. 1512-XII of March 12, 1992, as amended. Article 15 of that Act provides for licensing of professional activities for securities by the central body controlling and supervising the securities market, a role which is assigned to the CoS. Other than in dealings in Government securities, securities operations are small. The CoS did not identify to the mission any steps it had taken to ensure that AML/CFT measures are applied by securities firms as required by the AML Law. However, the CoS carries out active supervision of the market and its participants, within the limits of its resources.

In discussions with the mission, the CoS representatives indicated that they were unsure whether it was appropriate for them to have a role in AML/CFT, or what a suspicious transaction would be in the context of types of transaction conducted at the current stage of development of the securities sector in Belarus. Some firms have reported suspicious transactions of their clients. On occasion, the CoS has been asked by investigators to give an opinion on technical aspects or normal market practices in relation to these transactions. Beyond this, the CoS does not have a mandate as an investigative agency for offences, and would not wish for an increased role in AML/CFT.

R.29

The NBRB appears to have adequate powers to ensure compliance with requirements and to conduct on-site inspections, and they use these powers actively. On-site inspections include a review of relevant policies and procedures, and sample transaction testing. The supervisors have power of access without the need of a court order to all information needed for supervisory purposes, and the power to apply sanctions, including against

individual officers of the institution.

The NBRB prepares an annual plan of on-site inspections that is approved by the Deputy Board Chairman. Risk factors can influence the proposed inspection timing, but for the most part it is determined on a lapse-of-time basis. A typical inspection lasts approximately one month and would involve 15–25 inspectors, depending on the size and complexity of the bank. BSD inspection staff can be supplemented with expertise from other divisions or departments, as needed. The inspections check compliance with all relevant aspects of law, including the AML Law. Transaction-based testing is conducted, mainly on a sampling basis. Two documents are produced from each inspection: (i) an “Act on Violations” that lists all cases found of breaches of legal or regulatory requirements, including for AML/CFT. (Both serious and minor issues are listed); and (ii) “Conclusions on financial and economic status of the bank,” which is generally a large report. For AML/CFT, the inspections address internal controls, compliance with all aspects of the AML Law and with the NBRB’s KYC recommendations. The inspection reports have a separate chapter of AML/CFT findings. Typically some violations of AML/CFT requirements are found, related mostly to non- or late submission of SDFs to the MTF and DFM. Information on violations is sent by the NBRB to the SCC, but the supervisors could not discuss action that may have resulted as they do not receive case-by-case feedback from the SCC.

Insurance

In accordance with the insurance legislation, the MoF carries out onsite inspections of insurance entities. An annual plan is prepared, with inspections no more often than once every two years. In practice the interval between inspections can exceed three years. It was not clear to the mission the extent to which AML/CFT issues feature in these MoF inspections, as the onsite work is limited to compliance with the insurance legislation. The MoF explained that they regard matters of criminality as beyond the scope of their work, but they can be required to report to LEAs on request regarding particular cases. Inspections are sometimes conducted jointly with the SCC and the MTD.

Securities

While inspections are conducted in accordance with their powers by the CoS, there was no indication that matters relevant to AML/CFT were addressed.

R.30 (as it relates to supervisors of financial institutions)

The BCP assessment concluded that the NBRB was well resourced, funded, and staffed, with sufficient technical and other resources to carry out its functions effectively. The Banking Supervision Department (BSD) consists of 129 specialists, inspectors, and analysts, of whom 62 are located in the headquarters in Minsk, while 67 are spread across the 6 regional offices that carry out on-site inspections of individual branches.

An issue was raised about the independence of the NBRB’s decision making, as in a number of key respects it must report to the SCC. It was noted that the NBRB’s decisions can be influenced by government and industry pressure. The BCP assessment concluded that there were arrangements in place to assure the integrity of the employees, and training is provided on a regular basis. The BCP assessment also concluded that legal protection for supervisors was deficient. There is no formal NBRB indemnification policy protecting employees against the costs of legally defending their actions while discharging their duties in good faith.

From discussions with the mission, the section of the MoF dealing with supervision of insurance entities appears to be adequately resourced, given the current levels of insurance activity. This may need to be reviewed to provide capacity for full implementation of the FATF Recommendations.

The CoS has 34 staff in total, and expressed the view to the mission that it does not have the resources to address basic AML/CFT measures, despite the current low volumes of activity in nongovernment securities in Belarus. Additional resources would be needed.

Additional training in AML/CFT is needed urgently for all supervisory authorities, particularly for implementation of the FATF Recommendations, as distinct from the requirements of the current AML Law.

Recommendations and comments

<ul style="list-style-type: none"> Update on-site and off-site supervisory practices to include all relevant aspects of the FATF Recommendations. Clarify the role of the CoS in implementing and supervising proportionate AML/CFT measures for the securities sector. 		
Compliance with FATF Recommendations		
R.17	Partially compliant	Sanctions cannot be applied by the NBRB for a breach of its current AML/CFT recommendations.
R.23	Partially compliant	While supervision appears effective, it does not cover all aspects of the FATF 40+9. Securities supervision does not yet address AML/CFT.
R.29	Partially compliant	AML/CFT not addressed as part of onsite inspection work for insurance or securities.
R.30	Partially compliant	Assure the independence of decision making of the NBRB, and provide additional resources in particular to permit the CoS to implement at least basic AML/CFT measures.
Financial institutions—market entry and ownership/control (R.23)		
Description and analysis		
<p>As noted in the recent BCP assessment, fit and proper criteria are applied by the NBRB to applicants for ownership and management in a bank. However, these measures apply only for holdings of more than 10 percent., which does not therefore exclude the risk of criminal ownership in the banking system. See also description and analysis above. There remains a potential risk that holders of shareholdings below 10 percent could act in concert to control a bank while contriving to avoid the current fit and proper test. It is interesting to note that the BC defines insiders as natural and legal persons among the promoters (shareholders) of a bank that hold more than five percent of shares. Applying the fit and proper test for all holdings above a five percent threshold would seem appropriate, and would not be inconsistent with the definition in the BC.</p> <p>The NBRB has prepared a proposal to amend the BC to give it the power to determine the ultimate beneficial owners of shareholdings in banks.</p> <p>The mission was informed by the MoF that separate fit and proper tests are not carried out in respect of the owners of insurance companies. Instead reliance is placed on the procedures followed in the company registration purpose. In the mission's view, this would not be adequate to meet the FATF Recommendation. However, the MoF informed the mission that potential owners of insurance companies must prove the source of their investment prior to obtaining MoJ approval for their acquisition.</p> <p>For the securities sector, Presidential Decret No. 17 of July 14, 2003 is the basis for licensing, combined with Council of Ministers Resolution No. 1380 of October 20, 2003. Before being licensed and certified to offer securities services, applicants must first be tested and certified. The test includes both written and oral components. The initial certification is for one year, followed by a two year extension, with renewal required based on review and recommendation every two years thereafter.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> Apply fit-and-proper tests to owners (including ultimate beneficial owners) and controllers of financial institutions. <p>Reassess the current 10 percent threshold provision and ensure that its application does not facilitate criminals or their associates in acquiring a significant or controlling interest in a financial institution.</p>		
Compliance with FATF Recommendations		
R.23	Partially compliant	At the time of the assessment, the NBRB did not have explicit powers to gain access to information on beneficial owners of banks, but were taking steps to address this. Insurance supervision does not include separate fit and proper testing.
AML/CFT Guidelines (R.25)		
Description and analysis		
<i>Banks</i>		

Under Article 38 of the BC, the NBRB is empowered, within its area of competence, to issue regulatory legal acts binding not just banks (and nonbanks if there were any), but also all state organizations, legal entities, and natural persons. In the area of AML/CFT, the NBRB does not appear to have used this power to date. However, the DFM has drafted a resolution of the Council of Ministers and the Board of the NBRB that, if suitably expanded to reflect in some detail the current FATF Recommendations and then adopted, could strengthen the basis for the current NBRB AML/CFT measures. The NBRB issued KYC recommendations in May 2002 (last updated August 2003), in the form of recommendations for arranging the internal control system in banks to implement the principle “know your client.” The recommendations are based largely on the Basel CDD paper. The recommendations do not specify the power under which they were issued, and they are not in themselves legally binding. The recommendations give very helpful guidance to banks, based on the BCP and FATF Recommendations, for the establishment and maintenance of systems of internal control covering AML/CFT. They call for an internal document to be elaborated and approved by the authorized body of each bank, to determine:

- the procedure for client identification;
- identifying in clients’ transactions those that may be of an illegal nature and financial transactions subject to special control;
- the reporting of such transactions in accordance with the legislation; and
- the procedure for record keeping.

The recommendations call for the appointment of an authorized person(s) to be responsible for the execution of internal AML/CFT controls, although there is no mention that this needs to be a person at management level. Other aspects of these recommendations were set out under the appropriate heading of this assessment.

While there are some relevant references, the recommendations do not provide any detailed descriptions or guidance to help banks to learn and identify ML techniques and methods. The AML Law already includes a lengthy list of potential ML typologies, as transactions subject to special control, but as this is designed for a different purpose, it may confuse rather than clarify the process of identifying suspicious transactions.

Insurance and Securities

The mission was not shown any AML/CFT guidance issued by the supervisory authorities of these sectors.

Recommendations and comments		
<ul style="list-style-type: none"> • Update the NBRB Recommendations on AML/CFT, consider giving them a clear legal basis. • Issue AML/CFT guidance for the insurance and securities sectors. • Ensure that detailed guidance is included on identifying and reporting suspicious transactions. 		
Compliance with FATF Recommendations		
R.25	Partially compliant	NBRB Recommendations need some expansion and updating. No guidance on AML/CFT issued for insurance or securities sectors.
Ongoing supervision and monitoring (R.23, 29 & 32)		
Description and analysis		
R.23	Under the sectoral laws, competent authorities have been appointed in the areas of banking, ¹⁰ insurance, ¹¹ and securities. ¹²	

¹⁰ Article 26 of the BC and the Statute of the National Bank of the Republic of Belarus, approved by Edict No. 320 of June 13, 2001 of the President of the Republic of Belarus.

¹¹ Insurance is regulated by the Civil Code of the republic of Belarus and acts of the President including Decree of the President No. 20 of September 28, 2000 (as last amended on February 16, 2004).

Banks

Banks in Belarus are licensed and supervised by the NBRB under powers granted mainly in the BC. Through its active on-site and off-site supervision, the NBRB checks compliance in the implementation of the AML Law and the NBRB KYC recommendations. However, the requirements of the current law and recommendations against which they are checking fall well short of the FATF Recommendations. This situation would improve somewhat with the enactment and coming into force of the proposed amendments to the AML Law.

While the BC mandates a three-year cycle for inspections, the NBRB opts to conduct a comprehensive inspection of each bank on a 2–3 year cycle, depending in part on perceived risk. AML/CFT compliance is a mandatory component of all such general inspections. However, AML/CFT procedures do not feature in the NBRB inspection manual. Banks interviewed by the mission confirmed the implementation in practice of the NBRB inspection timetable and the detailed nature of their inspection work.

Insurance

As noted, the insurance sector is small but developing. Only six companies offer life policies and there are no investment-type products. Insurance businesses are licensed and supervised by the MoF, which has an active program of on-site inspections. These inspections include coverage of CDD, reporting of transactions subject to special controls, and other AML issues. The MoF did not identify to the mission any specific guidance it had issued for AML/CFT purposes.

Securities

Securities business in Belarus are licensed and supervised by the CoS. Other than in dealings in Government securities, securities operations are small. The CoS did not identify to the mission any steps it had taken to ensure that AML/CFT measures are applied by securities firms as required by the AML Law. However, the CoS carries out active supervision of the market and its participants, within the limits of its resources.

R.29

The NBRB, the MoF, and the CoS appear to have adequate powers under the sectoral laws to ensure compliance with requirements and to conduct on-site inspections, and they use these powers actively, though the indications are that only the NBRB specifically includes AML/CFT coverage in its inspections. Each bank has an assigned NBRB custodian to monitor risk on an ongoing basis. On-site inspections include a review of relevant policies and procedures, and sample transaction testing. The supervisors have power of access without the need of a court order to all information needed for supervisory purposes, and the power to apply sanctions, including against individual officers of the institution. As noted, all general inspections include AML/CFT. There were 17 such general inspections in 2004. The NBRB does not conduct specialized AML/CFT inspections, although there has been from time to time on-site work to follow up on particular cases of concern in certain banks.

There is also legal provision for joint inspections involving a number of state bodies. Under Edict 673 of November 15, 1999 “On certain measures for improving coordination of activities of control agencies of the Republic of Belarus and the procedure of their invocation of economic sanctions,” the Council for coordination of Control Activities was created to coordinate inspection work. The NBRB attends council meetings. Generally, joint inspections of banks are led by the SCC, with participation by the NBRB, appropriate sections of the SCC, the MTD and possibly the PGO and some LEAs.

R.32

The authorities have been actively engaged in reviewing and seeking to improve the effectiveness of the AML/CFT system, as evidenced by the redrafting of the AML Law and the development of a draft FT Law. A draft resolution has also been drafted by the DFM to address internal controls and the procedure for filing SDFs. The authorities have worked successfully with two IMF technical assistance missions that provided assistance in the redrafting of the AML Law. However there remains much work to be completed to achieve full compliance with the FATF Recommendations.

¹² Law of the Republic of Belarus on Securities and Stock Exchanges No. 1512-XII of March 12, 1992 (as last amended on November 11, 2002)

Comprehensive statistics as set out in Recommendation 32 should be collected and analyzed on an ongoing basis by the authorities to assist them in reviewing the effectiveness of their systems. The mission did not see evidence that this process has yet been developed.		
Recommendations and comments		
<ul style="list-style-type: none"> • Update on-site and off-site supervisory practices to include all relevant aspects of the FATF Recommendations. • Clarify the role of the CoS in implementing and supervising proportionate AML/CFT measures for the securities sector. • Introduce measures to capture and analyze comprehensive statistics as an aid to ongoing monitoring of the effectiveness of the AML/CFT system. 		
Compliance with FATF Recommendations		
R.23	Partially compliant	While supervision appears effective, it does not cover all aspects of the FATF 40+9. Securities supervision does not yet address AML/CFT.
R.29	Compliant	
R.32	Partially compliant	Measures needed for ongoing monitoring of effectiveness.

Money or value transfer services (SR.VI)		
Description and analysis		
<p>Most money and value transfer services are provided only by or through banks and are subject to the rules and supervision of the NBRB. The only significant exception to this is the Post Office which independently operates a domestic and international payments service. Foreign exchange transactions of the Post Office are authorized under license by the NBRB. Aside from the Post Office, only banks are authorized to provide foreign exchange services and there are numerous exchange kiosks in major population centers. Domestic checks are not used and travelers checks are issued and processed by banks. Under the regulatory legal framework in Belarus, banks are allowed to issue credit/debit cards, electronic funds, and other electronic instruments and to effect transactions using these instruments. Such bank activities are subject to NBRB supervision. The 16 banks which issue bank cards use a variety of systems (domestic, international and private). Clearing is performed by processing centers of the respective systems, including those outside Belarus. [Domestic card system operators are bank affiliates and subject to NBRB supervision.] Settlement is organized on a clearing basis, with the NBRB has been designated as the settlement bank for the plastic card market in Belarus. The authorities are not aware of any organized informal remittance systems operating in Belarus. Lending, financial leasing, financial guarantees, and safekeeping are not ordinarily conducted outside of prudentially regulated financial institutions, although pawn shops do operate.</p> <p>There are no specific sanctions for operating non-authorized alternative remittance systems.</p>		
Recommendations and comments		
—		
Compliance with FATF Recommendations		
SR.VI	Compliant	

Preventive Measures—Designated Nonfinancial Businesses and Professions..

Customer due diligence and record-keeping (R.12)		
Description and analysis		
<p><i>General.</i> This section covers CDD and record keeping requirements for lawyers, notaries, auditors, real estate agents, casinos, and dealers in precious metals and stones. Only casinos and notaries have mandatory AML/CFT obligations. The activities of other DNFBPs are all subject to formal licensing and regulation and, as such, have various requirements imposed on them for customer identification and for record keeping. However, the focus of these requirements is not specifically related to AML or CFT and the scope of due diligence required is not</p>		

typically spelled out in law, regulation or guidance. As in the financial sector, when identification is carried out, passport information is used to verify the identity of individuals. For legal entities, CDD practices of DNFBPs typically include examination of registration documents and face to face identification of officials with signature authority. Although the identity of the founders of legal entities is frequently established, CDD practices of DNFBPs do not extend typically to identification of beneficial owners, if these are not also the founders. All DNFBPs have competent authorities statutorily designated to monitor and enforce compliance with applicable regulatory requirements. With the exception of lawyers, oversight extends to customer identification and record keeping practices.

Casinos. Regulations require passport or drivers license identification on entry, with names registered in a log. Winnings of 1,000 base units or more (approximately US\$11,500) are transactions subject to special control and must be reported to the MTD. All winnings require identification, to include: name, passport number, address, value of payout and check number of payout. There is no mandatory record retention period. Casinos are subject to regular on-site examinations and unscheduled spot checks by MTD and SCC and compliance with identity verification regulations appears to be good.

Notaries. For individuals, all notarized transactions require identification based on passport information. For legal entities all notarized transactions require identification based on examination of registration documents including identification of founders and face-to-face identification of the manager or his proxy based on a passport. Notaries will verify the authenticity of ownership documents. Notaries may verify the availability of funds to complete a transaction. Above threshold limits, they also require certification of the source of funds. Article 7 of the Law of the Republic of Belarus “On the declaration by individuals of income property, and source of funds,” (January 4, 2003) stipulates that the execution, registration or notarization of transactions in the amount of over 2,000 base units [US\$23,000] (and for specific transactions involving property—in the amount of more than 15,000 base units) must be performed based on a certificate from a tax authority that the individual submitted a declaration of the source of the funds. For individuals, but not for legal entities, real estate transactions must be notarized .

In addition to certifying the accuracy and authenticity of documents, primary functions of notaries include: verifying that the documents correspond to the will of the parties and that the documents accord with legal requirements, and to advise contracting parties on legal implications of terms of the agreement. Notarization of contracts requires identification of contracting parties and face-to-face meetings with the principals to verify their intentions. Verification of income for the tax authorities is part of the notarization process for real estate transactions of individuals. (Real estate transactions by legal persons are not required to be notarized, but the scope of such activity is limited because so much commercial property remains in the hands of the state). In addition to notarization of real estate and other contracts, a wide variety of documents require notarization to satisfy legal or regulatory requirements related to financial transactions. It is common for purchases of private residences to be settled in cash. While notaries may witness payment, this is not required and settlement frequently takes place either before or after notarization of the transaction. Many notary documents are retained as permanent records but it was unclear whether minimum record retention requirements are established by regulation. Given that the core functions of notaries involve identification of individuals and of legal entities, and authentication of documents, implementation of applicable CDD, and record-keeping procedures appeared to be good.

Lawyers. Public lawyers (those paid by the government) are regulated by the MoJ. Private lawyers (those paid privately) are regulated by the Republican Bar, with the regime implemented by regional bar associations. Private lawyers typically handle commercial business of any complexity. (See section below on Regulation, Supervision and Monitoring for a discussion of which activities lawyers in Belarus may conduct.) Neither public nor private lawyers are subject to CDD requirements for AML/CFT purposes. In some cases regulations require client identification for administrative reasons, such as at the time of payment for legal services. However, according to the Minsk Bar (the largest regional Bar), mandatory client identification procedures have not been required, in part because they would be viewed as an intrusion by the government on lawyer/client confidentiality. Also CDD requirements that are too probing could be seen as a deterrent to citizens seeking confidential legal advice. In addition, under lawyer/client confidentiality provisions, lawyers cannot be obliged by investigators to provide customer identification information. As a matter of professional practice, however, representatives of the Minsk Bar state that they typically follow essentially the same identification practices as

those established for banks. Based on statements by law enforcement that “false entrepreneurs” are frequently involved in ML, the lack of formal AML/CFT CDD requirements for lawyers involved in company formation or property transactions appears to be a significant gap in the Belarus ML prevention regime.

Auditors. Auditors are not subject to mandatory CDD requirements for AML purposes. However, professional practice rules issued by the MoF, which regulates auditors, do address CDD. The 36 Rules for Auditing Activity, which are based on international practice, include KYC responsibilities that extend to identification of founders, knowledge of the sphere of business of the client, and information on the client’s structural subsidiaries and affiliated parties. Accountants are not subject to similar regulation. Auditing firms report they have strict account opening procedures, which in addition to covering KYC procedures also include review of financial statements and risk assessments. Auditors may assist clients to prepare for or carry out company formation or property transactions. The ML risk from false entrepreneurs points toward the need for stricter CDD obligations for auditors when they engage in such activities, as called for in R-12.

Real Estate Agents. Real Estate agents are not subject to CDD or record-keeping requirements for AML purposes. Customary professional practice (but not mandatory requirements) will routinely include identification of the seller as the true owner and may include verification of the buyer’s capacity to pay, but not the source of funds. (For real estate transactions by individuals, notaries will also undertake customer identification, which, above stipulated thresholds will involve certification of the source of funds.) Real estate agents verify that property registration records match the customer identification provided and check the registration history of the property. Real estate transactions will normally require a bank to certify the availability of funds to settle, but not their source.

Dealers in precious metals and stones. Banks licensed by the NBRB to deal in precious metals and stones are subject to the same CDD requirements for this activity as for other authorized banking activities. Banks deal primarily in gold bullion, although the volume of such activities is small. Other parties transacting in precious metals and stones must be licensed by the MoF, although such activities are not subject to AML/CFT preventive measures obligations. Transactions in diamonds are subject to the Kimberly process, with full documentation on the origin/destination of import, export and resale of diamonds. Transactions in gold and other precious metals are almost exclusively for industrial purposes, with the MoF operating as a monopoly supplier to the local market. Very tight controls are maintained on imports, reexports, and resales to domestic users. Domestic dealers or users of precious metals and stones (e.g., jewelry wholesalers and retailers, pawn shops, dentists, and electronics manufacturers) are licensed by the MoF.

Summary analysis. Although all DNFBPs have some record keeping and reporting requirements or internal policies and procedures that oblige them to verify customer identity, these practices are not set out as mandatory CDD requirements nor do they involve identification to the standard expected by the FATF Recommendations. The identification and record-keeping rules, as they are prescribed in various codes and regulations, are (with the exception of lawyers), subject to a variety of official checks and appear to be reasonably well implemented. The involvement of “false entrepreneurs” in ML activities points toward the need for more strict CDD requirement for lawyers, notaries and auditors when they are involved in helping clients prepare for company formation or property transactions. In the case of some transactions, particularly real estate transactions, more than one party may perform customer due diligence responsibilities. For real estate transactions for individuals, a notary will always be involved. Use of a notary is not required for real estate transactions between legal entities. For real estate transactions between legal entities, settlement must be completed via bank transfer, thus involving a bank.

Recommendations and comments

<ul style="list-style-type: none"> • The CDD and record-keeping requirements under the AML Law need to be broadened and lawyers, auditors, real estate agents, and dealers in precious metals and stones should be subject to the preventive measures requirements of the AML Law, including for purposes of customer identification, when they engage in those transactions enumerated in Recommendation 12. • Either the DFM or the relevant functional regulator should issue CDD guidance for each of the DNFBPs, reflecting both enhanced due diligence requirements where necessary and simplified procedures where ML/FT risk is low and adequate checks and controls exist elsewhere in the system. • CDD requirements should extend to identification of beneficial owners, to arrangements for reliance on third parties, and to ongoing due diligence on business relationships. • Record-keeping requirements as prescribed in Recommendation 10 should be made mandatory, including a five-year retention period. 		
Compliance with FATF Recommendations		
R.12	Noncompliant	Mandatory due diligence requirements, where applied, are not as extensive as required by the FATF recommendations. Lawyers, auditors, dealers in precious metals and stones are not subject to formal CDD requirements for AML/CFT purposes.
Monitoring of transactions and relationships (R.12 & 16)		
Description and analysis		
<p>This section addresses the requirements under R.11 and R.21.</p> <p><i>Casinos.</i> Regulations issued by the Ministry of Sports and Tourism (MST) govern purchase and redemption of chips and operation of gambling machines. All winnings require passport identification and recording. Winnings of 1,000 base units (approximately US\$11,500) or more must be reported to the tax authorities. Transactions are very closely monitored as a result of tight financial controls imposed to prevent theft and fraud and to comply with tax requirements. These controls may reveal suspicious activities of clients but their primary purpose appears to be financial control and systems to report to MTD all winnings above 1,000 base units..</p> <p><i>Notaries.</i> Individual transactions in real estate require notarization. Council of Ministers Regulations require notaries to complete and file special forms on real estate transactions valued at 2,000 base units or more (approximately US\$23,000). Real estate transactions by legal entities do not require notarization. Notarization includes a face-to-face meeting with the transacting parties to confirm that the contract reflects their intentions. Passport identification is required. If a legal entity is involved, copies of founding documents and passport identification of the manager or his proxy are required. A daily register of all notary transactions is maintained as a permanent record.</p> <p><i>Lawyers.</i> The practices of lawyers with respect to monitoring of transactions and relationships are not set down in regulations. For private lawyers, however, monitoring of transactions and relationships is an implicit requirement of the Rules of Professional Ethics which are issued by the Republican Bar, approved by the MoJ, and enforced by regional bars. Key provisions require that services be provided on a legal basis, prohibit a lawyer from using illegal means to defend a client, and require lawyers to know the law, which extends to knowing the AML Law. Although confidentiality requirements preclude reporting of suspicious transactions, according to the MoJ, if a lawyer knows that a financial transaction of a client is illegal, he could be prosecuted as an accomplice if he were to remain involved in the transaction. However, no cases of such prosecutions were noted. According to the authorities, to satisfy various obligations under the law and under the Rules of Professional Ethics, law firms typically establish customer acceptance policies to screen clients who may be involved in suspicious activities. However, strict attorney/client confidentiality precludes independent verification of the completeness of due diligence conducted by lawyers.</p> <p><i>Auditors.</i> Auditors are not subject to AML/CFT preventive measures obligations and other regulations do not address the issue of ongoing monitoring of transactions and relationships. The MoF has established Rules for Auditing Activity covering 36 items, including customer identification. These require that the auditor be familiar</p>		

<p>with the structure and sphere of business, as well as the affiliated parties of its clients. Industry contacts state that auditing firms typically have established written customer acceptance policies to avoid becoming involved with clients engaged in dubious activities. These procedures involve review of founding documents, face-to-face contact and review of financial statements. Where doubts arise, more detailed reviews are conducted. Risk assessments are conducted and trigger follow-up monitoring of relationships that are accepted. Client engagements are based on written agreements.</p> <p><i>Real Estate Agents.</i> Real estate agents are not subject to AML/CFT preventive measures obligations and other regulations do not address the issue of ongoing monitoring of transactions and relationships. Most transactions are conducted on a one-off basis and do not involve an ongoing relationship.</p> <p><i>Dealers in Precious Metals and Stones.</i> Banks licensed by the NBRB to deal in precious metals and stones are subject to the same AML/CFT preventive measures for this activity as for other banking services. Other transactions in precious metals and stones licensed by the MoF are not subject to AML/CFT obligations. However, import, export, industrialization and reprocessing of precious metals and stones are either monopolized by the MoF or, when transacted by private entities, very tightly monitored on an ongoing basis by the MoF.</p> <p><i>Summary Assessment.</i> Only casinos and notaries are currently subject to AML/CFT preventive measures requirements and their regime for reporting financial operations subject to special controls does not emphasize the need for DNFBPs to carry out ongoing due diligence or have a capacity to identify large or unusual transactions that may indicate ML. The other DNFBPs are not required to undertake CDD for AML/CFT purposes nor to monitor large or unusual transactions for ML risk.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> Regulations should be adopted requiring all DNFBPs to monitor all transactions for suspicious characteristics, including large and unusual transactions and transactions having no apparent economic or visible lawful purpose. <p>For each DNFBP either the functional regulator or the DFM should issue guidance as to how such monitoring procedures should be implemented in each sub-sector. For lawyers, both the MoJ (for “public” lawyers) and the Republican Collegium (for “private” lawyers) should issue guidance.</p>		
Compliance with FATF Recommendations		
R.12	Noncompliant	For casinos and notaries, requirements to monitor transactions and relationships focus on reporting of transactions subject to special control but do not emphasize on-going due diligence or monitoring complex, large and unusual transactions. The other DNFBPs do not have requirements to monitor complex large and unusual transactions.
R.16	Noncompliant	For casinos and notaries, requirements for internal procedures, policies and controls are based primarily on threshold reporting and do not emphasize the capacity to detect unusual and suspicious transactions. The other DNFBPs are not subject to specific requirements to have internal procedures, policies and controls to detect unusual and suspicious transactions.
Suspicious transaction reporting (R.16)		
Description and analysis		
<p><i>General.</i> Among DNFBPs, only notaries and casinos are required to report transactions subject to special controls. Notaries account for 11 percent of all such reports of specially controlled transactions that are filed. Notarization is frequently a requirement for high value transactions, e.g., real estate transactions. As a result, many notarized transactions meet or exceed the 2,000 base unit (\$46,000) threshold for transactions that are subject to special reporting. This characteristic appears to account for the relatively large share of all reports that are filed by notaries. Casinos also file a significant number of reports based on winnings at or above the threshold level, however no statistics were provided on the volume of reporting by casinos. The authorities report that one or two ML cases have been prosecuted in which casino employees conspired with clients to launder illicit proceeds.</p>		

Lawyers. Under Law No. 2406-XII of June 15, 1993 “On the Legal Profession” the confidentiality of communication between lawyers and clients is strongly protected. As explained by the Minsk Bar, confidentiality is not limited to legal advice but extends to any communication between a lawyer and client, even the fact that a potential client has contacted a lawyer. Furthermore, under Belarus legal traditions it would be improper for the authorities to ask lawyers for information related to a client, let alone to require lawyers to report on suspicious transactions of clients. In addition, the authorities and the Bar state that under the Code of Ethics lawyers are not permitted to engage in other commercial activities (e.g., asset management) and that lawyers do not engage in financial transactions for or on behalf of clients. Lawyers do, however, provide legal advice and document preparation for real estate transactions, for the creation, operation or management of companies, or legal persons, or arrangements, and buying and selling of business entities. According to the MoJ, under Belarus law provision of such advice or legal services does not constitute engaging in a financial operation.

The legal status of cases in which an attorney knows that a financial transaction being prepared is illegal but still continues with the transaction is unclear. According to the MoJ, under the CC, if the attorney continued with the preparation of such a transaction he would be an accomplice. Further, according to the MoJ, an attorney would be required to report such knowledge to the law enforcement authorities. According to the Minsk Bar, however, Article 186 of the CC specifically incriminates the failure to report a number of crimes, but ML is not included. Thus, they argue, the lawyer would be required to report some predicate offenses but not ML.

Auditors are not required to file reports on transactions subject to special controls. Under current legislation, auditors’ reports, including any violations of law, are to be provided only to management and owners of the company audited. Auditors’ reports are otherwise confidential and there is no requirement to report to the authorities any evidence or suspicion of law violations. While there is no affirmative obligation to report, the work of auditors is regulated by the MoF which conducts regular on-site examinations of auditors’ offices and examiners have full access to all work papers and reports prepared by auditors. Like lawyers, the rules of professional conduct preclude auditors from engaging in other commercial activities and auditors report that they do not engage in financial activities for or on behalf of clients. Auditors may engage in accounting related consulting activity, although not for audit clients.

The primary function of independent auditors is to confirm the authenticity of financial reports and conformity with legal requirements. (Accountants are not subject to professional regulation. In Belarus, independent accountants engage primarily in bookkeeping services and do not provide opinions on financial statements.) The later requirement includes evaluating whether firms (primarily financial firms) are properly monitoring and reporting financial operations subject to special controls. Tax compliance is considered the most difficult issue encountered, in part because of the complexity of tax laws. Although auditors are permitted to offer consulting services as part of their audit practice and these include company formation advice, they are prohibited from engaging in other commercial activities. Consequently, auditors do not manage client funds or execute transactions on behalf of clients. In the private sector, audited financial statements are required for larger institutions, especially financial institutions, and are the norm even for medium-sized firms. Although a large share of productive activity remains under state ownership, thereby limiting the demand for independent auditors, some state-owned entities require audits, particularly those engaged in international financial operations.

Other DNFBPs. While real estate agents and dealers in precious metals and stones are not obligated to file reports on transactions subject to special control, there do not appear to be any legal or institutional restrictions that would complicate imposing such an obligation.

Summary analysis. At present only notaries and casinos are required to file reports on financial operations subject to special controls. Such reports focus on transactions that satisfy threshold conditions rather than on reporting when the financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity.

In Belarus, the permitted activities of lawyers appear to bring them within the scope of FATF Recommendation 12 that deal with CDD, record keeping (aspects of R.5, 6, 8-11) and the compliance program requirements of R.16 (i.e., those of R.15) but do not appear to bring them within the scope of FATF Recommendations 16 with respect to suspicious transaction reporting (R.13). As noted above, the authorities and the Minsk Bar state that

under the lawyers' Code of Ethics lawyers are not permitted to engage in commercial activities outside the provision of legal services and that lawyers do not engage in financial transactions for or on behalf of clients, although the laws do not preclude it. (The mission did not have an opportunity to discuss this interpretation of the Code of Ethics with the Republican Bar which issued the Code.) Private lawyers, but not public lawyers, do provide legal advice and document preparation for real estate transactions, for the creation, operation or management of companies, or legal persons, or arrangements, and buying and selling of business entities. According to the MoJ, under Belarus law provision of such advice or legal services does not constitute engaging in a financial operation. For R.15 to be applicable, lawyers must "engage in financial transactions for or on behalf of clients. R.12, however, is applicable if lawyers "prepare for or carry out transactions for a client..."

The circumstances of auditors are similar to those of lawyers in that auditors are not permitted to engage in nonaudit commercial activities and do not engage in financial transactions for or on behalf of clients. Auditors may, however, assist clients in the preparation of such transactions. Accountants are not subject to professional regulation and the business of independent accountants appears to be limited to providing bookkeeping services.

Recommendations and comments

- The AML law should be amended to extend suspicious transactions reporting to all DNFBPs.
- Training on identification of suspicious transactions should be provided to all DNFBPs.

Compliance with FATF Recommendations

R.16	Noncompliant	Reporting by casinos and notaries is based primarily on threshold limits rather than suspicion of ML. Real estate agents and dealers in precious metals and stones are not required to report suspicious transactions.
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Internal controls, compliance & audit (R.16)

Description and analysis

General. As yet, no specific rules have been issued requiring DNFBPs or other entities not supervised by the NBRB to adopt safeguard programs that include internal policies, procedures, and controls to assure compliance with AML/CFT requirements, ongoing staff training, or to provide for an internal audit function. A joint resolution of the Council of Ministers and the NBRB is under development, but has not yet been issued, that would require such safeguards. The proposed resolution would be issued under the authority of the AML Law and would apply to parties subject to that law. The draft resolution, while still fairly brief and general, addresses the circumstances requiring customer identification and the details required, the appointment of a responsible person to report specially controlled financial transactions, requirements to document suspicious activity, establishment of internal controls, and training. As reviewed by the mission the draft resolution did not include a specific requirement that the compliance program include an audit function to test the effectiveness of AML/CFT controls. Overall, the draft resolution needs further development, and it is not clear when it might be adopted.

While DNFBPs are not specifically required to adopt AML/CFT safeguard programs, some elements of such programs are required under other regulations or have been adopted for reasons of financial control or prudent management.

Casinos. Various regulations impose cash management rules on casinos, and transactions are very closely monitored within a system of tight financial controls to prevent theft and fraud and to comply with tax requirements. Subject to de minimus exceptions, mandatory controls require all casino proceeds to be transferred to bank accounts and operating expenses may only be made by means of bank transfers. Procedures are set out for client identification to be obtained on entry, based on passport or drivers license. Chip purchases and redemptions must be made in rubels, including by individually-authorized credit card transactions. Foreign currency may be exchanged via a physically separate foreign exchange window. Payouts are subject to approvals, based on size of winnings. Dual signatures are required. Gambling halls are video monitored. Cash room transfers of cash and chips are double counted and verified by a supervisor. Machines are verified daily. Audited financial statements are required.

Notaries. Notaries are required to appoint a compliance officer responsible for ensuring that required reports on transactions subject to special control are filed in a timely fashion. Internal registers are maintained of all

notarized transactions and retained as permanent records.		
<p><i>Lawyers.</i> As a matter of professional practice lawyers appear to have systematized policies and procedures with respect to client engagement as well as strong documentation of all transactions. However these policies and procedures do not have an AML/CFT orientation.</p> <p><i>Auditors.</i> As a matter of professional practice auditors appear to have systematized policies and procedures with respect to client engagement as well as strong documentation of all transactions. However, these policies and procedures do not have an AML/CFT orientation. The MoF has issued regulations with respect to auditor internal controls and compliance with such rules is reviewed during on-site examinations. A resolution of the Council of Ministers requires training/retraining on a regular basis. Annual training organized by the association of auditors includes reference to the requirements of AML legislation.</p> <p><i>Real Estate Agents.</i> Real estate agents are not subject to AML/CFT preventive measures requirements and their internal policies and procedures do not focus on AML/CFT safeguards.</p> <p><i>Dealers in Precious Metals and Stones.</i> Banks that are licensed by the NBRB to deal in precious metals and stones follow the AML/CFT internal controls, compliance and audit recommendations of the NBRB. Dealers licensed by the MoF are not subject to AML/CFT preventive measures requirements. As the monopoly supplier of precious metals, the MoF exercises strict controls on the purchase, sale and reprocessing of precious metals, with the effect that licensees are obliged to implement effective internal controls to satisfy MoF requirements. Similarly, Kimberly Process requirements oblige dealers in diamonds to adopt strict internal controls on the acquisition and disposition of diamonds. These internal control arrangements, however, are not directly oriented toward AML/CFT safeguards.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> As contemplated, implementing regulations should be issued requiring all parties covered by the AML Law, other than those supervised by the NBRB, to adopt AML/CFT compliance programs. These regulation should include: (a) internal policies, procedures and controls, including appropriate compliance management arrangements, and employee screening procedures; (b) an ongoing employee training program; and (c) an audit function to test the system. Either the DFM or functional regulators should issue AML/CFT guidance for each of the DNFBPs. 		
Compliance with FATF Recommendations		
R.16	Noncompliant	Where requirements for compliance programs have been instituted (notaries, casinos) they do not cover the full scope of arrangements called for in FATF 15. Compliance programs are not yet required of auditors, lawyers, dealers in precious metals and stones, and real estate agents.
Regulation, supervision and monitoring (R.17, 24-25)		
Description and analysis		
<p><i>General.</i> While only casinos and notaries are regulated specifically for AML/CFT purposes, in Belarus each of the DNFBPs is a regulated business or profession. Specific statutes govern the activities of casinos, lawyers, notaries, auditors, real estate agents, and dealers in precious metal and stones. A competent minister is designated to administer and enforce applicable regulation for each sector. Decree of the President of the Republic of Belarus, No. 17, July 14, 2003, “on Licensing of Some Kinds of Activity,” lists Ministries responsible for licensing of various activities.</p> <p>The primary objective of such functional licensing and regulation of business and professional activities varies from sector to sector but typically focuses on setting and maintaining professional qualifications and ensuring professional conduct (lawyers, notaries, accountants), or financial integrity (casinos), or management of key resources (precious metals and stones). In all cases a licensing regime applies to all DNFBP practitioners and almost all are subject to fit and proper evaluations. With the exception of the regime for lawyers, all supervisors have established programs for on-site examination of regulated parties, with powers to sanction for noncompliance with law or regulation. In addition to oversight by primary functional regulators, DNFBPs (with the exception of lawyers) are subject to regular examination by the tax authorities, as well as targeted reviews by the SCC. Inter-departmental arrangements allow for joint on-site examinations, depending on issues and</p>		

priorities. Self-regulatory arrangements are in place for the law profession. Professional codes of conduct have been issued for lawyers and auditors but no guidance has been issued for any of the DNFBPs that specifically addresses AML/CFT obligations.

Casinos. At the time of the mission the casino sector in Belarus was organized under provisions of Decree of the President of the Republic of Belarus No. 548 of September 20, 1999, “On the approval of the procedure of effecting activities in the sphere of gambling business on the territory of the Republic of Belarus,” as well as various other decrees and resolutions. Very shortly after the mission Decree No. 548 was replaced by Decree No. 9 of the President of the Republic of Belarus of January 10, 2005 “On Approval of the Regulation on Operating in the Gambling Business.” Approximately 25 casinos operate around the country, none on a large scale and with most activity concentrated in Minsk. Card clubs do not exist. While the MST is the primary functional regulator, the Decree provides that Agencies of the SCC, MIA, and tax agencies also effect control over gambling businesses within the limits of their competence. A satisfactory background check with no negative information is an essential requirement for issuance of a license. Arrangements for internal controls and sound administration must also be satisfied as a condition for licensing. Financial controls, including necessary accounts and records, are set out in regulation and establish the basis for monitoring by the MST, the SCC and the tax authorities. Although casino companies may operate multiple casinos, each casino location is separately licensed and the license specifies the types of gambling activities permitted and the number of tables to be operated.

Regulations require purchases of chips to be paid in cash and winnings to be redeemed in cash. All payouts require presentation of proper documents confirming identity. Although winnings are not taxable, there is a requirement that casinos report winnings of over 1,000 base units (approximately US\$11,500) to the MTD, along with passport identification of the client. Authorities believe the cash in-cash out requirement, coupled with reporting of winnings mitigates the risk of ML without the complicity of casino employees. If requested, casinos are obliged to provide receipts for winnings. The authorities note that such receipts are not accepted by the tax authorities as a record of the source of funds since they do not include a record of amounts paid to buy chips. It was unclear whether financial institutions would or would not accept such receipts as documentation of a client’s source of funds. According to law enforcement agencies, cases of suspected ML have typically involved conspiracy between casino employees and gamblers to falsely report winnings.

Each supervisory agency carries out on-site inspections, at times jointly, with the SCC exercising primary oversight of gambling activities. Casino operators report on-site inspections are thorough and that spot checks are frequent. As the licensing authority the MST has authority to impose sanctions for violations of regulations ranging from warnings, suspension of activities, or withdrawal of licenses. Inspections appear to focus on financial controls, tax compliance by the casino, reporting of winnings at or above the threshold of 1,000 base units and at preventing criminal elements from involvement in casinos.

Lawyers. The law profession is organized on the basis of Law No. 2406-XII of June 15, 1993 “On the Legal Profession” last amended April 30, 2003, and various decrees and resolutions of the Council of Ministers. The MoJ is the competent body that authorizes the practice of the legal profession but the law delegates governance of the profession to the Bars, with implementation carried out by regional bar associations as self-regulatory organizations (SROs). The Minsk Bar reports that the regional Bars operate with a very high degree of autonomy from MoJ oversight. Professional licenses are issued by the MoJ but examination for professional qualifications is effectively under the control of a Bar Qualification Committee comprised by the members of the Bars. Licensing is subject to background checks for fit and proper verification. Membership in a bar is a requirement to provide legal advice. The Bar exercises responsibility for the code of ethics of lawyers, and qualification and oversight of members, including disciplining for violations of professional obligations. Disciplinary measures include: reprimand, pronouncement (sic), severe reprimand, and disbarment. The Bar does not conduct proactive examinations of members but rather responds to issues of violations of professional obligations as it becomes aware of issues.

Notaries. The notary profession is organized under Law No. 305-3 of July 18, 2004, “On the Notarial Office and the Notarial Activity” as well as various decrees and resolutions of the Council of Ministers. Article 48 of the Civil Code specifies the procedures to be followed in carrying out the notary function. The MoJ is the competent ministry for regulation and oversight of the notary profession. Notaries are subject to the AML Law. The notary function is considered a public function and most notaries are public servants, although such services are also

provided by private notary practices. Licenses are granted by the MoJ based on professional qualifications (university training in law plus work experience, and examination) and a background check for fit and proper. Notaries are required to file reports on financial transactions subject to special controls, which includes financial operations with moveable and real property.

The MoJ has authority to inspect notaries which it exercises on an as-necessary basis. Tax authorities carry out regular inspections, including reviewing reports of financial operations requiring special control. A Council of Notaries made up of public notaries advises the MoJ but does not exercise any oversight or disciplinary function.

Auditors. The auditing profession is organized under the provisions of Law No. 3373-XII of November 8, 1994, "On Auditing Activities" and various decrees and resolutions of the Council of Ministers, including a Code of Auditors adopted in 1998. Auditors are not subject to AML/CFT preventive measures requirements. The MoJ is the competent ministry for regulation and oversight of independent auditors, who are required to be licensed. (Accountants are not licensed.) Special licenses are required to audit banks (issued by the NBRB) and insurance companies (issued by the MoF). Licensing is oriented toward quality control and is based on education, experience and tests of professional qualifications, as well as background checks for fit and proper. Criminals are statutorily barred from being auditors. As of November 2004, there were 1,121 licensed auditors, with 81 auditing firms authorized and 484 individuals self employed.

The MoF carries out documentary inspections of auditors offices on a two-year cycle, with an emphasis on verifying that audits have been conducted according to prescribed norms. On site examinations include a review of files, a review of opinions, a review of internal controls (including access to auditor work papers), and checks for compliance with applicable laws and regulations. The MoF may issue warnings, require time-limited corrective actions, and withdraw licenses. It has no authority to issue fines but may refer cases of serious violations to a prosecutor. In addition to inspection by the MoF, auditors are subject to inspection by the MTD.

Real Estate Agents. The structure for regulation and oversight of real estate agents is being revised on the basis of Resolution of the Council of Ministries of the Republic of Belarus, No. 1409, November 6, 2004; "On introduction of amendments to the regulation on licensing of legal advice services" [Real Estate Agents]. This resolution makes the MoJ the competent authority for real estate agents (in place of the Ministry of the Economy). Licensing of agents, which was suspended in 2003, will be reintroduced as of February 2005 based on the premise that real estate agents effectively provide legal advice. The licensing requirement will apply to legal entities; individual agents will only be subject to registration. Licensing will require applicants to meet satisfactory professional qualifications, including university education in law, economy, or construction, as well as background checks for fit and proper.

Dealers in precious metals and stones. The market for precious metals and stones is governed primarily by Law No. 110-Z of June 21, 2002, "on Precious Metals and Gemstones" which is administered by the MoF. The Law on precious metals and stones covers the industrial trades and the licensing of retail transactions. In addition, the NBRB engages in limited trading in gold bullion (apparently mainly to meet industrial requirements of the MoF) and, under the BC, banks may be licensed by the NBRB to deal in precious metals and stones. Beginning in 2003, one bank has been so licensed but so far it has done little business. Bank gold bullion dealing is subject to NBRB AML regulations and supervision. Belarus has a small and declining diamond cutting business consisting of one state-owned company and one joint stock company. Uncut diamonds are imported primarily from Russia and cut stones are exported primarily to the wholesale market in Antwerp. Imports and exports of diamonds are subject to the full documentation procedures required under the Kimberly Process, which Belarus joined in 2003. A Kimberly certification review is to be undertaken within a few months and preliminary reviews have not cited any shortcomings.

MoF is the monopoly supplier of precious metals used for industrial purposes. (The chemical, metallurgical and electronics industries are significant consumers of gold and other precious metals.) In its capacity as monopoly supplier MoF maintains stocks of precious metals and exercises strict controls over purchases, sales, usage, import, exports and reprocessing as well as exercising a monopoly on testing and assaying. About 100 entities have been licensed by the MoF to engage in transactions with precious metals and stones. These include 17 industrial users, plus licenses for jewelry production, jewelry wholesalers and retailers, pawn brokers, and dentists. Regulatory provisions aim to control fraud, theft, and ML. Strict provisions apply to diamond cutting

and industrial metals; other usages appear to be limited with supervisory oversight less intensive. Dealers in precious metals and stones are not subject to the current AML law.		
<p><i>Summary analysis.</i> Belarus has a well-structured statutory regime of regulation for all DNFBPs but, for the most part, this regime does not focus directly on AML/CFT preventive measures since only casinos and notaries are subject to the AML Law. Functional regulators have been appointed; licensing subject to fit and proper requirements is mandatory; off-site monitoring and on-site examination are the norm; functional regulators share inspection authority with other regulators with specialized competencies (MTD, SCC, and the MIA). Functional regulators have powers to sanction licensed entities which include warnings, reprimands, requirements to take corrective actions and withdrawal of licenses. They do not have authority to issue fines but serious issues may be referred to prosecutors. No information was provided with respect to how frequently these enforcement powers have been invoked. Ministries are adequately staffed and trained to exercise effective oversight and DNFBPs generally comment that detailed inspections are the norm. In the case of notaries, who are largely public officials, inspections are discretionary rather than routine. While the Bar has authority to examine the activities of lawyers, this authority is exercised in response to issues that arise rather than on a routine basis.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Lawyers, auditors, real estate agents, and dealers in precious metals and stones should be subject to the preventive measures requirements of the AML Law. • Regulations should establish clear responsibility for monitoring and enforcing compliance with AML obligations, either by the functional regulator, or by the FMD, or jointly. • Stronger enforcement sanctions should be adopted, including the authority to assess administrative fines. • Training should be provided to both regulators and regulated parties to raise knowledge and awareness of AML obligations. • The AML obligations of lawyers, and the role of the Bar in supervising these arrangements, should be clarified. To avoid doubt about reporting obligations, the lawyers' Code of Ethics and the Rules for Auditors could be amended to explicitly prohibit lawyers and auditors from engaging in financial transactions for or on behalf of clients, thereby codifying current interpretation and practice. • Article 186 of the CC should be amended to criminalize failure to report ML. 		
Compliance with FATF Recommendations		
R.17	Compliant	Competent authorities with adequate enforcement powers exist for all DNFBPs even though AML/CFT preventive measures obligations have not been extended to all relevant sectors.
R.24	Noncompliant	Supervisory arrangements for lawyers, auditors, real estate agents and dealers in precious metals and stones do not extend to monitoring and ensuring compliance with AML/CFT requirements.
R.25	Noncompliant	Guidelines have not been established to assist DNFBPs to implement and comply with AML/CFT requirements.
Other nonfinancial businesses and professions—Modern secure transaction techniques (R.20)		
Description and analysis		
<p>Other than DNFBPs, other nonfinancial businesses and professions do not appear to carry on significant activities in Belarus. However, the mission did not see evidence that the authorities had systematically considered whether any other activities, e.g., high value dealers, may present a significant risk of being misused for ML or terrorist financing.</p> <p>For legal entities all significant payments are required to be executed by means of bank transfers. For individuals cash is the preferred means of payment. While real estate transactions between legal entities are required to be settled by means of bank transfers, no similar requirement exists for real estate transactions between individuals. According to market participants, real estate transactions between individuals are typically settled in cash,</p>		

including in foreign exchange, with weak arrangements for verifying amounts exchanged. The authorities note that settlements in foreign exchange cash between individuals, including real estate settlements, are prohibited by the Belarus Law “On Foreign Exchange Regulation and Foreign Exchange Controls.”		
Recommendations and comments		
<ul style="list-style-type: none"> Real estate transactions between individuals should be required to be settled by means of bank transfers or check. 		
Compliance with FATF Recommendations		
R.20	Noncompliant	<p>No evidence that authorities have systematically considered AML/CFT risks of nonfinancial businesses.</p> <p>Cash settlement of individual real estate transactions stands out as an exception in a regime which imposes tight controls and monitoring of most financial transactions.</p>

Legal Persons and Arrangements & Nonprofit Organizations

Legal Persons–Access to beneficial ownership and control information (R.33)		
Description and analysis		
<p>Belarus operates a centralized company registration system that includes details of ownership and control of each company. It was not clear to the mission that the information maintained, particularly for foreign-owned companies, could be relied upon to identify the current ultimate beneficial owner in all cases.</p> <p>Financial operations of companies operating in Belarus are subject to tight controls, including at this time a restriction that each company must maintain only one bank account for clearing and settlement purposes. Nonetheless, the authorities are concerned at the large incidence of ‘overnight’ companies that, which although registered legitimately, engage in unauthorized activities without obtaining a proper license, or falsify records of their activities to evade taxes and duties. These companies typically cease trading just before their first tax return is due, or when otherwise identified by the authorities. It is not clear whether such companies have been generating illegal proceeds in addition to evading tax, but it seems likely. The authorities have taken steps to identify and eliminate such companies at registration stage, and indicate that they have had success in this initiative.</p> <p>Company ownership information is available to financial institutions, and it is mandatory for them to check supporting documentation for both the company ownership and the legal validity of the requested transaction before processing it. It was not clear to the mission that the financial institutions always take this check beyond the domestic level in cases of foreign- owned companies, so as to establish ultimate beneficial ownership.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> Measures should be taken to ensure the completeness and accuracy of company registration information, to include verified beneficial ownership details, including for nonresident shareholders. 		
Compliance with FATF Recommendations		
R.33	Partially compliant	Incomplete information available on beneficial ownership of companies.
Legal Arrangements–Access to beneficial ownership and control information (R.34)		
Description and analysis		
<p>The mission was informed that legal arrangements, other than the legal persons discussed above under Recommendation 33 do not exist in Belarus. Problems have been encountered in practice by the authorities and financial institutions in Belarus in obtaining the necessary access to beneficial ownership and control information on such arrangements originating in other countries in cases where such entities seek to conduct financial transaction in or through Belarus.</p>		
Recommendations and comments		
–		
Compliance with FATF Recommendations		
R.34	Not applicable	Such legal arrangements do not exist in Belarus.

Nonprofit organizations (SR.VIII)		
Description and analysis		
<p>In general, the activities of nonprofit organizations (NPOs) are monitored under the laws that regulate financial control and auditing, within the limits of the competence of law enforcement and special monitoring agencies. The Department of Humanitarian Activities of the President's Administration (DHA) is in charge of the government policy concerning humanitarian work in Belarus. In order to operate in Belarus, NPOs are required to be organized as legal entities. Pursuant to the Law "On accounting", all legal entities established in Belarus are required to keep financial records. Foreign and domestic NPOs active at the national level are required to be registered with the MoJ. All other NPOs shall be registered at the local or regional level.</p> <p>With regard to the reception of funds from foreign countries by NPOs, Presidential Decrees No. 24 of November 28, 2003 "On the receipt and use of foreign nonreimbursable assistance" and No. 537 of November 28, 2003 "On the establishment of procedures for monitoring special-purpose use of foreign nonreimbursable assistance" provide mechanisms to monitor the activities of charitable, religious and cultural organizations to prevent the unlawful use of these entities.</p> <p>Presidential Decree No. 24 requires charitable organizations to apply to the Presidential Administration for the approval of the donors from whom they expect to receive assistance, both in kind and in currency, and for the exemption of taxes and duties on this assistance. The application shall be accompanied by a bank statement and a plan indicating the intended use of the assistance. In order to have access to funds received as foreign nonreimbursable assistance, Presidential Decree No. 24 requires each time a transfer of funds is received at the bank account of the charitable organization, the submission to the DHA and to the bank of a copy of the assistance agreement with the foreign donor and of a schedule indicating the intended use of the funds (including charitable activities and operational expenses). Without the authorization of the DHA, the charitable organization would not have access to the funds that have been transferred to its bank account.</p> <p>Pursuant to Presidential Decree No. 537, the supervision of the use of special-purpose foreign nonreimbursable assistance by its beneficiaries, and of property and assets derived from such assistance, is carried out, within their respective competence, by the SCC, the MIA, the MTD, the SSC, Customs, and the DHA, among other agencies. Charitable organizations and their beneficiaries are examined once a year by the tax authorities and the DHA, and twice a year by the SCC.</p> <p>Foreign NPOs who provide foreign nonreimbursable assistance for purposes prohibited under Decree No. 24 may be required to cease their activities in Belarus in accordance with the established procedure. Beneficiary organizations that do not use, fully or partially, the foreign nonreimbursable assistance for its intended purpose are liable to fines of up to 100 percent of the value of the foreign nonreimbursable assistance received or to confiscation of goods and property received.</p> <p>The oversight over the charitable sector appears to be comprehensive and the authorities have the ability to verify that funds have been spent as planned. The measures in place appear to be adequate to prevent terrorist organizations from pretending to be legitimate NPOs and are likely to cause difficulties for the diversion of funds or other assets collected by or transferred through NPOs to support the activities of terrorists or terrorist organizations.</p> <p>The mission was informed that most foreign nonreimbursable assistance received by charitable organizations in Belarus consists of goods rather than money. There are no plans to amend the existing legislation concerning NPOs, which is considered rigorous enough by the authorities.</p> <p>LEAs have not detected any specific cases of fund-raising by NPOs in the territory of Belarus for the financing of terrorist activities.</p>		
Recommendations and comments		
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Compliance with FATF Recommendations		
SR.VIII	Compliant	

National and International Cooperation

National cooperation and coordination (R.31)		
Description and analysis		
<p>Under Article 9 of the AML Law, the State Secretariat of the Security Council has the role of coordinating the activities of the government agencies working on AML measures. The President is head of the Council, which sets the overall policy direction and, inter alia, appoints the director of the DFM. The mission was informed, however, that neither the Council nor its secretariat takes a role in the day-to-day operations of the FIU.</p> <p>Cooperation between supervisory agencies is not formalized or regular, except in the context of joint on-site inspections, which is coordinated by the SCC. It does not appear that there is a formal coordination committee dealing with operational AML/CFT issues. However, the mission was informed that ad hoc working groups were formed successfully, for example, to assist in redrafting the AML Law and for the purposes of this assessment. The mission recommended that a coordinating mechanism for AML/CFT should operate on an ongoing basis.</p> <p>In keeping with Article 14 of Law No. 102-3 of December 3, 1997 “On state security agencies,” bilateral coordination among local agencies in the different government departments in the law enforcement, investigatory and policy fields is carried out through a mechanism of interdepartmental agreements. There are several bodies with responsibility for coordination of actions against economic crime and ML. There is some overlapping in their functions and the scope of the responsibilities of these bodies is not clearly defined.</p> <p>Cooperation and information-sharing between State security agencies and Government agencies involved in investigating terrorism-related offenses are undertaken by the Council of Security, the Anti-Terrorist Centre and the Interdepartmental Counter-Terrorism Commission, all connected to the SSC.</p> <p>There was very little indication of coordination towards the development of appropriate AML/CFT measures for DNFBPs.</p>		
Recommendations and comments		
<ul style="list-style-type: none"> • Supplement the current interdepartmental agreements with an AML/CFT coordinating committee to advise on development and implementation of new measures, including for DNFBPs. 		
Compliance with FATF Recommendations		
R.31	Partially compliant	Mechanism to improve the coordination between agencies responsible for investigating ML is needed.
The Conventions and UN Special Resolutions (R.35 & SR.I)		
Description and analysis		
<p>Belarus ratified the Vienna Convention on July 28, 1990; the Palermo Convention on June 25, 2003 and the FT Convention was ratified on May 2004. These conventions have been largely implemented.</p> <p>As discussed above in the assessment of compliance with Recommendations 1 and 2, the ML offence under Art. 235 of the CC does not follow, in its language and structure, the international standards set forth by the Vienna and Palermo Conventions. Art. 235 does not explicitly establish all the required offences relating to ML offense, in accordance with the Vienna and Palermo Conventions. Art. 235 appears to limit its scope to the ML offences of (i) intentional concealment or disguise of illicit proceeds, and (ii) intentional acquisition, possession or use of illicit proceeds, but does not clearly criminalize the intentional conversion or transfer of illegal proceeds.</p> <p>Even though under the current legislation the offence of FT is not criminalized as a separate offence, the CC adequately covers the material elements of FT set forth under Article 2, paragraph 1 of the FT Convention. Based on the ancillary nature of the FT offense, it is</p>		

treated as an act of complicity and carries the same penalty as the main terrorism offense. In addition, the offense of FT would be applicable even in cases where the financed terrorist acts have actually not been committed nor even attempted.

Belarus has taken measures to implement the UNSCRs 1267, 1269, 1333 and 1390. UNSCR 1373, is being implemented through the CT Law, Resolution No. 10 of the Board of Directors of the NBRB of 28 January 2002, adopted under Art. 3 of the BC and other measures regarding the coordination of anti-terrorism efforts at the domestic and international level. Pursuant to Resolution No. 10, banks are instructed to suspend transactions in respect of the accounts belonging to natural persons or entities with links to terrorist organizations, as per the lists transmitted by the UNSC. Under the CC, the intentional provision of funds in support of terrorism by Belarusian citizens or other persons in its territory constitutes participation in the terrorist act itself in the form of complicity or aiding and abetting. The CT Law also states that knowingly financing or otherwise assisting a terrorist organization or group constitutes terrorist activity.

The mission was informed that LEAs and special security services participate, with the corresponding services of the countries of the CIS, in an early warning system intended to prevent the commission of terrorist acts on the basis of agreements concluded between them.

Art. 4 of the CT Law states that Belarus will cooperate on counter-terrorism under international treaties with foreign States, their law enforcement agencies and special services and with international organizations engaged in counter-terrorism.

Pursuant to Art. 15 of the Law “On international treaties of the Republic of Belarus”, the provisions contained in international treaties to which Belarus becomes a party can be directly applied, except in cases where the international provisions require enabling domestic legislation to allow its application. Consequently, it is expected that some of the provisions of the FT Convention can be applied directly, without the need for enabling legislation.

The mission was informed that the implementation of freezing orders and evidence gathering under UNSCR 1373 may be difficult under the current legislation. This has not been tested yet, as no practical cases have arisen.

Belarus has not identified assets belonging to individuals or entities included on the UN 1267 Sanctions Committee’s consolidated list. The authorities are encouraged to proceed with the adoption of domestic acts that would enable Belarus to comply fully with UNSCRs 1267 and 1373.

Belarus is a party to the 12 UN counter-terrorism agreements. Belarus is also a party to the Agreement on Cooperation among Ministries of Internal Affairs of CIS Member States in the Fight against Terrorism. Interdepartmental Counter-Terrorism Commission convened by the President of the Republic of Belarus is responsible for coordinating the activities of entities engaged in counter-terrorism.

A Presidential Decree “On the introduction of amendments and additions to the Statute on the procedure for consideration of questions of asylum for aliens and stateless persons” is

currently being drafted. It is intended, <i>inter alia</i> , to clearly establish the grounds for refusing asylum (when the individual concerned has committed an offence against peace, a war crime, a crime against humanity, or any other serious crime abroad prior to arrival in the territory of Belarus) and the grounds for canceling the right to asylum in Belarus.		
Recommendations and comments		
<ul style="list-style-type: none"> Article 235 does not explicitly establish all the required offenses relating to the ML offense, in accordance with the Vienna and Palermo Conventions. Review legislation to determine need for amendments necessary for full implementation of UNSCRs. Review FT Convention to determine which of its provisions will require enabling legislation. Amend legislation as needed. 		
Compliance with FATF Recommendations		
R.35	Largely compliant	Vienna and Palermo Conventions not fully implemented regarding criminalization of ML.
SR.I	Compliant	
Mutual Legal Assistance (R.32, 36-38, SR.V)		
Description and analysis		
<p>Pursuant to Article 2 of Law No. 284-3 of May 18, 2004 “On international legal assistance on criminal proceedings” (ILA Law), legal assistance upon foreign requests may be rendered on the basis of treaties to which Belarus is a party, and on the basis of reciprocity, in the absence of a treaty. According to Article 3 of the ILA Law, legal assistance will not be rendered on the basis of reciprocity where such assistance is against the interests of Belarus or breaches Belarusian law.</p> <p>The PGO and the Supreme Court of Belarus are the bodies authorized to adopt decisions on whether to provide legal assistance to a foreign country in the absence of a treaty, based on the reciprocity principle. Under Article 7 of the ILA Law, the PGO and the Supreme Court have the ability to communicate with agencies of foreign states competent to make a decision on rendering international legal assistance on criminal proceedings, applying the reciprocity principle, via diplomatic channels. However, in urgent cases these communications may be carried out directly via technical means of communications, simultaneously sending the originals of documents via diplomatic channels. Article 7 also allows that the communications with the foreign agencies be done directly, if an agreement between the PGO or the Supreme Court and the foreign agency is reached.</p> <p>In accordance with Article 4 of the ILA Law, legal assistance available under the reciprocity principle in criminal proceedings includes: (a) the service of procedural and other documents; (b) the implementation of pleadings; (c) the transfer of material evidence; (c) the temporary transfer of persons pending a decision on their extradition; (d) the temporary transfer of persons that are kept under arrest or serving a sentence in prison with the aim to implement pleadings with their participation; (e) the search for persons suspected of, charged with or convicted of committing a crime, as well as for persons that have disappeared; (f) the extradition of persons for the initiation of criminal proceedings against them or for serving a prison sentence; (g) the criminal prosecution of persons suspected or accused for committing a crime; (h) the execution of court decisions; and (i) the execution of any other action.</p> <p>According to the authorities, under Article 4 it would be possible to trace, identify, seize and confiscate proceeds of crime and assets used for or intended to be used for FT, as well as the instrumentalities for such offences, at the request of another country.</p> <p>The mission was informed that legal assistance is provided within one or two weeks of receiving the request. The mission was unable to verify this very good response time because the statistical information requested was not provided before the end of the visit.</p> <p>Belarus does not make mutual legal assistance (MLA) conditional on dual criminality. The grounds on which</p>		

legal assistance may be refused are not explicitly listed in the ILA Law, but they are indicated in the bilateral treaties signed by Belarus with other countries. The authorities specified that taxation issues or financial secrecy would not be sufficient grounds for refusal in the absence of a treaty, provided there is a confirmation of reciprocity in the foreign request.

The cooperation of Belarusian LEAs with the law enforcement agencies of foreign States in combating terrorism takes place on the basis of bilateral international agreements, such as the ones signed with Bulgaria, the United Kingdom, Romania, Slovak Republic, Turkey and agreements among CIS countries.

The coordination of seizure and confiscation actions within the CIS is established in the MLA agreements signed with these countries. For other countries, the Interpol channel is used. Belarus legislation does not authorize in general the sharing of confiscated assets with other countries. However, the sharing of confiscated assets can be agreed to in a treaty.

Belarus has MLA Agreements in force within the CIS and the following countries: Lithuania, China, Latvia, Finland, Poland and Vietnam. In addition, there is an agreement between Belarus and Russia on cooperation and mutual assistance in combating illegal financial operations, including ML, signed since 1999. Discussions are under way to conclude treaties with the Czech Republic, Slovakia, Sweden, Iran and India.

The mission was informed that the Belarusian authorities execute timely and effective follow-up to MLA requests. However, the extent of the effectiveness of the international cooperation framework could not be adequately verified, since centralized statistics are not kept on all MLA or other requests made or received, relating to ML, the predicate offences, or FT, or on the outcome of such requests. The absence of readily available data on MLA prevents the review of the effectiveness of this aspect of the AML/CFT framework. The mission recommended that the authorities maintain statistics including details on the nature and results of MLA requests.

It is recommended that the authorities adopt procedures that would ensure that MLA requests are handled without undue delay.

The draft law on international legal assistance in criminal matters was introduced on August 6, 2002 by the President in the House of Representatives of the National Assembly of the Republic of Belarus. This draft law would establish a procedure for the provision of such assistance if it is not provided for by an international agreement. The enactment of this draft law should not be delayed any longer, given the need to regulate the provision of legal assistance in criminal matters in the absence of international agreements.

Recommendations and comments

- Establish centralized annual statistics on MLA requests received or made, relating to ML and FT, the predicate offences, including the nature of the request, its result and the time of response.
- Enact as soon as possible draft law on international legal assistance in criminal matters.
- Adopt administrative procedures to prevent MLA requests from being unduly delayed.
- Enact draft law on international cooperation in legal assistance in criminal matters, to regulate the provision of legal assistance in the absence of a treaty.
- Adopt administrative procedures to provide timely response to MLA requests from nonCIS countries related to provisional measures and confiscation.

Compliance with FATF Recommendations

R.32	Noncompliant	Absence of annual statistics on MLA.
R.36	Largely compliant	Absence of clear processes for the timely execution of MLA.
R.37	Largely compliant	Lack of procedures to ensure prompt MLA in the absence of international agreements.
R.38	Compliant	
SR.V	Largely compliant	Absence of clear processes for the timely execution of MLA.
Extradition (R.32, 37 & 39, & SR.V)		

Description and analysis
<p>Under Article 7 of the CC foreign nationals and stateless persons may be extradited to a foreign country to face criminal charges or serve a sentence, on the basis of treaties to which Belarus is a party. In the absence of a treaty, foreign nationals and stateless persons may be extradited on the basis of reciprocity, unless such assistance is against the interests of Belarus or breaches Belarusian law. All crimes are extraditable offenses under the CC, including ML and the FT-related offences. Belarus does not consider terrorist acts to be political offenses for which extradition can be refused. Belarus does not have a separate extradition law, and the ILA Law is silent on the measures or procedures applicable to extradition requests. There are no specific procedures in place that allow for extradition requests to be handled without undue delay.</p> <p>In accordance with Article 7.1, Belarusian nationals may not be extradited to a foreign country, except as provided by international treaties to which Belarus is a party. This article is consistent with Article 10.2 of the Constitution of the Republic of Belarus, which provides that a citizen of the Republic of Belarus may not be extradited to a foreign state, unless otherwise stipulated in international agreements to which the Republic of Belarus is party. However, the mission was informed that, in practice, Belarusian nationals would not be extradited to another country, since it would not be likely that treaties containing such a provision would be signed by Belarus. Under Article 6 of the CC, Belarusian nationals whose extradition is refused may be prosecuted for offenses committed abroad.</p> <p>There are no provisions in the CC or in the ILA Law that make the acceptance of an extradition request subject to dual criminality. However, the authorities informed the mission that the extradition treaties Belarus has concluded include a provision to the effect that persons are extradited to face criminal charges for acts that are criminalized under the legislation of the parties and penalized with at least one year of imprisonment. It is unclear if, in the absence of a treaty, extradition would be subject to dual criminality. The mission was informed that Belarus generally does not condition extradition to dual criminality when dealing on the basis of reciprocity.</p> <p>There were no statistics available regarding extradition requests for the mission to determine the number of extradition requests received, the proportion granted, or the average processing time for the requests.</p> <p>While Belarus legislation does not contain any specific grounds for the refusal of extradition, these are specified in the bilateral treaties the country has signed. The authorities have been working on a draft law “On the introduction of amendments and supplements to the Criminal-Procedural Code of the Republic of Belarus related to issues of rendering international legal assistance on criminal proceedings”, which proposes amendments to fill the existing gaps in the legal framework for extradition. Under the proposed new Article 491 of the CC, the dual criminality requirement would be explicitly established. This proposed provision refers to the conduct underlying the offence, rather than to the offense itself, thereby averting impediments to the extradition request due to differences in the criminalization of the offense between the two countries.</p> <p>It is recommended that the amendment to the CC concerning extradition be complemented with procedures that would ensure that extradition requests are handled without undue delay and provide for alternative simplified procedures for extradition on a case-by-case basis.</p> <p>Belarus has signed various bilateral treaties and conventions on extradition with the FSU countries, in addition to Poland, China and Vietnam. An extradition treaty with Italy is under discussion.</p>
Recommendations and comments
<ul style="list-style-type: none"> • Establish centralized annual statistics on extradition requests that are received or made, relating to ML and FT, the predicate offences, including the nature of the request, its result and the time of response. • Finalize and enact draft law “On the introduction of amendments and supplements to the Criminal Procedure Code of the Republic of Belarus related to issues of rendering international legal assistance on criminal proceedings”. • Establish administrative procedures to ensure that extradition requests are not unduly delayed and provide for alternative simplified procedures for extradition on a case-by-case basis. • Establish procedures for the timely execution of extradition requests concerning FT.

Compliance with FATF Recommendations		
R.32	Noncompliant	Absence of statistics on extradition.
R.37	Largely compliant	Unclear if, in the absence of a treaty, extradition would be conditional on dual criminality.
R.39	Largely compliant	Absence of clear procedures to ensure timely handling of extradition requests.
SR.V	Largely compliant	Absence of clear procedures to ensure timely handling of extradition requests.
Other Forms of International Co-operation (R.32 & 40, & SR.V)		
Description and analysis		
<p>In accordance with Article 9 of the AML Law and Article 4 of the CT Law, Belarus shall cooperate in the area of AML/CFT with foreign states, their law enforcement agencies and special services, on the basis of international agreements of which Belarus is a party, or the principle of reciprocity or other principles of international law. All law enforcement authorities are authorized to share information spontaneously with their foreign counterparts in relation to ML and predicate offences, subject to reciprocal treatment and within the limits established in the legislation. The performance of inquiries on behalf of foreign counterparts is also authorized.</p> <p>In the wider context of banking supervision, the NBRB has agreements on cooperation with Russia, Kazakhstan, Armenia, Lithuania, Latvia, Moldova, Ukraine, Kyrgyz Republic, and Cyprus.</p> <p>Cooperation of Belarusian LEAs with counterparts in other countries in combating terrorism takes place on the basis of several bilateral agreements. Belarus joined the Agreement for Cooperation in Combating Terrorism among MIAs of Ukraine, Turkmenistan, Moldova, Armenia, Georgia, Kazakhstan, Tajikistan, Kyrgyzstan, Russia, Uzbekistan and Azerbaijan. Under this agreement, the following forms of cooperation is provided for:</p> <ul style="list-style-type: none"> • Exchange of information on planned terrorist acts in CIS States and on terrorist and other extremist organizations and groups; • Response to inquiries regarding operational and investigative measures aimed at preventing, detecting, suppressing and investigating terrorism-related crimes; • Development and implementation of coordinated measures aimed at suppressing the activities of terrorist groups and organizations, among other things, by cutting off their financial and other kinds of support. <p>In addition, the MIA has concluded bilateral interdepartmental agreements on cooperation with the MIAs of the abovementioned countries. Cooperation between the law enforcement agencies of Belarus and its counterparts in other States regarding organized crime and international terrorism has been established on the basis of agreements with the United Kingdom, Turkey, Bulgaria, Romania, Poland, Lithuania, Vietnam and China.</p> <p>The Interpol National Central Bureau at the PGO has access to the Interpol General Secretariat's computer database on terrorism, which contains information on the activities of international terrorist organizations and persons sought for terrorist and extremist acts.</p> <p>The MTD issued a resolution in coordination with the SCC on the basis of Presidential Decree 173 to provide for a feedback arrangement between the MTD and the FID.</p>		
Recommendations and comments		
Relevant recommendations already included under other sections		
Compliance with FATF Recommendations		
R.32	Noncompliant	Centralized, comprehensive statistics needed.
R.40	Compliant	
SR.V	Largely compliant	Absence of clear processes for the timely execution of MLAs in CFT.

Table 2. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations are made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), NonCompliant (NC), and, in exceptional cases, are marked as not applicable (na).

Forty Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	Partially compliant	Incrimination of ML not fully consistent with Vienna and Palermo conventions. Current framework hinders the prosecution of ML offenses.
2. ML offence—mental element and corporate liability	Largely compliant	Not clear if intentional element of ML offenses can be inferred from objective factual circumstances. Legal entities not criminally liable for ML.
3. Confiscation and provisional measures	Partially compliant	Confiscation of funds or other assets related to FT not provided in the legislation. The rights of <i>bona fide</i> third parties are not expressly provided for in the legislation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	Compliant	
5. Customer due diligence	Partially compliant	<p><i>Banks</i> Most of the criteria are addressed in recommendations which are accepted as mandatory and implemented in practice but do not have express force of law as required in certain cases by the FATF Recommendations. Some elements have yet to be introduced (e.g., for beneficial owners). Implementation was observed in practice with most of the key CDD measures.</p> <p><i>Insurance and Securities</i> No specific CDD requirements are yet set out for these sectors</p>
6. Politically exposed persons	Non-compliant	There are no requirements in place for PEPs
7. Correspondent banking	Partially compliant	Requirements for assessing correspondents are in place but do not fully meet the FATF standard on management approval, documentation, and customer access.
8. New technologies & non face-to-face business	Non-compliant	AML/CFT requirements have not been issued for risks from internet or other electronic banking
9. Third parties and introducers	Not applicable	There is no provision for financial institutions to rely on intermediaries.
10. Record keeping	Non-compliant	The mission could not establish that the Belarus record-retention requirements met the provisions of Recommendation 10.
11. Unusual transactions	Partially	There are strong measures in place which address

	compliant	many of the matters under assessment, but the provisions of which do not correspond directly with the wording of Recommendation 11.
12. DNFBP–R.5, 6, 8-11	Non-compliant	<p>Mandatory due diligence requirements, where applied, are not as extensive as required by the FATF recommendations. Lawyers, auditors, dealers in precious metals and stones are not subject to formal CDD requirements for AML/CFT purposes.</p> <p>For casinos and notaries, requirements to monitor transactions and relationships focus on reporting of transactions subject to special control but do not emphasize on-going due diligence or monitoring complex, large and unusual transactions. The other DNFBPs do not have requirements to monitor complex large and unusual transactions.</p>
13. Suspicious transaction reporting	Non-compliant	The current provisions could not be considered a requirement to report all transactions, without a minimum threshold, to an FIU where an entity suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity.
14. Protection & no tipping-off	Partially compliant	There is a “no tipping off” provision, but it lacks precision.
15. Internal controls, compliance & audit	Partially compliant	<p>The mission could not verify directly whether all of the essential criteria are implemented effectively. Not all are expressly included in the NBRB recommendations.</p> <p>There are no equivalent requirements for insurance or securities.</p>
16. DNFBP–R.13-15 & 21	Non-compliant	Where requirements for compliance programs have been instituted (notaries, casinos) they do not cover the full scope of arrangements called for in FATF 15. Compliance programs are not required of lawyers, auditors, dealers in precious metals and stones, and real estate agents.
17. Sanctions	Partially compliant	<p>Sanctions cannot be applied by the NBRB for a breach of its current AML/CFT recommendations.</p> <p>Competent authorities with adequate enforcement powers exist for all DNFBPs even though AML/CFT preventive measures obligations have not been extended to all relevant sectors.</p>
18. Shell banks	Largely compliant	No explicit requirement for physical presence.
19. Other forms of reporting	Largely compliant	Bearer instruments do not appear to be addressed.
20. Other NFBP & secure transaction techniques	Non-compliant	<p>No evidence that authorities have systematically considered AML/CFT risks of nonfinancial businesses.</p> <p>Cash settlement of individual real estate transactions stands out as an exception in a regime which imposes tight controls and monitoring of most financial transactions.</p>

21. Special attention for higher risk countries	Partially compliant	Recommendation 21 is not explicitly implemented, but substantial relevant measures have been taken.
22. Foreign branches & subsidiaries	Not applicable	Belarus financial institutions do not have subsidiaries or branches abroad.
23. Regulation, supervision and monitoring	Partially compliant	While supervision appears effective, it does not cover all aspects of the FATF 40+9. Extend fit and proper test, including to insurance. Securities supervision does not yet address AML/CFT.
24. DNFBP - regulation, supervision and monitoring	Non-compliant	Supervisory arrangements for lawyers, auditors, real estate agents and dealers in precious metals and stones do not extend to monitoring and ensuring compliance with AML/CFT requirements.
25. Guidelines & Feedback	Partially compliant	The FIU has yet to issue guidelines and establish a formal system of feedback. However, guidance for banks was issued by the NBRB which needs expansion and updating. Guidelines have not been established for insurance, securities, or DNFBPs.
Institutional and other measures		
26. The FIU	Non-compliant	DFM is not a single, centralized FIU and is only able to receive disclosures on transactions in foreign currency. DFM has not issued comprehensive guidance regarding compliance with their duties in the AML Law. Improve safeguard of information received by the DFM.
27. Law enforcement authorities	Compliant	
28. Powers of competent authorities	Compliant	
29. Supervisors	Partially compliant	AML/CFT not addressed as part of onsite inspection work for insurance and securities.
30. Resources, integrity and training	Non-compliant	Mechanism to improve the coordination between agencies responsible for investigating ML is needed. Assure the independence of decision making of the NBRB, and provide additional resources in particular to permit the CoS to implement at least basic AML/CFT measures.
31. National cooperation	Partially compliant	No overall structure for operational cooperation
32. Statistics	Non-compliant	Absence of annual statistics on MLA and extradition. Centralized, comprehensive statistics needed.
33. Legal persons–beneficial owners	Partially compliant	Incomplete information available on beneficial ownership of companies.
34. Legal arrangements – beneficial owners	Not applicable	Such legal arrangements do not exist in Belarus.
International Cooperation		
35. Conventions	Largely compliant	Vienna and Palermo Conventions not fully implemented regarding criminalization of ML.
36. Mutual legal assistance (MLA)	Largely compliant	Absence of clear processes for the timely execution of MLA.
37. Dual criminality	Largely compliant	Lack of procedures to ensure prompt MLA in the absence of international agreements. Unclear if,

		in the absence of a treaty, extradition would be conditional on dual criminality.
38. MLA on confiscation and freezing	Compliant	
39. Extradition	Largely compliant	Absence of clear procedures to ensure timely handling of extradition requests.
40. Other forms of co-operation	Compliant	
Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	Compliant	
SR.II Criminalize terrorist financing	Non-compliant	FT is not criminalized as a distinct and separate offense from terrorism.
SR.III Freeze and confiscate terrorist assets	Non-compliant	No legislation regarding prompt freezing of terrorist property.
SR.IV Suspicious transaction reporting	Non-compliant	There is no requirement to report all transactions suspected to be related to terrorism, and the draft FT Law has yet to be enacted.
SR.V International cooperation	Largely compliant	Absence of clear processes for the timely execution of MLA and extradition requests, including in CFT cases.
SR.VI AML requirements for money/value transfer services	Compliant	
SR.VII Wire transfer rules	Non-compliant	No specific AML/CFT legal requirements were identified for outbound wire transfers, and those for incoming transfers fall short of the provisions of SR.VII.
SR.VIII Nonprofit organizations	Compliant	
SR.IX Cash Couriers	Non-compliant	Measures in place not applicable to bearer negotiable instruments.

Table 3: Recommended Action Plan to Improve Compliance with FATF Recommendations

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • Amend Article 235 of CC to reduce exceedingly high burden of proof as to the <i>mens rea</i> on prosecutors for prosecuting ML. • Amended Article 235 should clearly criminalize all the types of ML offenses as required by the Vienna and Palermo Conventions. • Remove Remark 1 from Article 235 to allow prosecution for “self-laundering”. • Remove Remark 2 from Article 235 to eliminate potential hindrance to combat ML. • Criminalize insider trading and market manipulation in the CC, in order for the ML offense to cover all categories of predicate offences. • Establish in legislation that the intentional element of ML offenses may be inferred from objective factual circumstances. • Establish criminal liability of legal entities for ML or, if this is not possible due to fundamental principles of Belarus law, establish civil or administrative liability..
Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • Criminalize FT as a separate and autonomous offense from terrorist acts. • Introduce new provisions in legislation to make available preventive measures against FT. • Amend Article 285 of the CC to establish liability for recruitment (payment) of a person to be a member of a terrorist organization or for participation in the commission of a terrorist act.
Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • Amend Article 235 of CC to make confiscation an obligatory sanction upon conviction for ML or FT. • Make property of legal entities subject to confiscation upon conviction for ML or FT. • Extend powers to execute provisional measures in the OCC Law to investigations related to all crimes, including ML and FT. • Based on the provision in Article 11 of the OCC Law, amend CC to make all acts, contractual or otherwise, carried out for ML purposes invalid. • Establish provisions regarding the freezing, seizure and confiscation of funds or other assets related to FT.
Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Establish specific legal requirement to freeze terrorist assets without delay and without prior notice to persons designated in UNSC and national lists. There must also

	<p>be procedures to allow the unfreezing of the assets of persons inadvertently affected by a freezing order.</p> <ul style="list-style-type: none"> • Establish respective duties and powers of the SCC, the DFM, MIA and PGO, as regards the freezing of suspected terrorist assets. • Provide the DFM with the authority to order the freezing of funds and other property where there are grounds to suspect they are intended to be used for committing an act of terrorism.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<ul style="list-style-type: none"> • Enact draft AML Law to provide DFM with the framework needed to perform FIU functions effectively. • Expedite implementation of steps needed to gain admission to the Egmont Group. • Consolidate the authority of the DFM as the single, centralized FIU for Belarus. • Provide for electronic submission of STRs. • Improve safeguard of sensitive information received by the DFM. • Provide adequate funding, staffing and the necessary resources for an enhanced electronic database for analysis to DFM. • DFM should maintain statistics on all STRs, not only those relating to transactions in foreign currency.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	<ul style="list-style-type: none"> • Establish mechanism to improve the coordination between agencies responsible for investigating ML offences. • Provide training for judges and prosecutors on ML, FT and seizure, freezing and confiscation of proceeds of crime or property to be used to finance terrorism. • Compile and maintain relevant statistics
Cash couriers (SR IX)	<ul style="list-style-type: none"> • Provide AML/CFT training to customs officers. • Acquire necessary equipment to run centralized database to facilitate the analysis of the cash movement customs declarations. • Extend requirements and powers to include bearer negotiable instruments. • Reassess effectiveness and enhance border controls over movements of cash and negotiable instruments, particularly in the case of the Russian border.
3. Preventive Measures–Financial Institutions	
Risk of money laundering or terrorist financing	–
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<ul style="list-style-type: none"> • For avoidance of any doubt, explicitly prohibit anonymous accounts and those in fictitious names; remove from BC and AML Law the provisions for bearer accounts. • Specify in the AML Law a clear basic requirement for customer identification, and outline the type of documentation required. • Develop in the AML Law the requirement for CDD, specifying when it must be carried out, in line with

	<p>FATF Recommendation 5.</p> <ul style="list-style-type: none"> • Provide in the AML Law that beneficial owners (including the ultimate beneficial owner) must be properly identified, and ensure that financial institutions establish when a customer is acting on behalf of another person. • Include in the AML Law a specific requirement for ongoing due diligence, and not just on financial operations currently subject to special controls. • Consider introducing a requirement that a financial institution declining or terminating a business relationship where it is unable to comply with CDD measures should file a STR. • Update and extend the current NBRB “recommendations”, reconstitute them as “regulations” or equivalent status, and provide unequivocally that they are binding, enforceable, and sanctionable, at least where indicated by FATF Recommendation 5. • Require CDD measures to be applied to the existing customer base, on the basis of materiality and risk. • Introduce a requirement for enhanced due diligence for foreign PEPs as set out in FATF Recommendation 6. Consider introducing equivalent measures for domestic PEPs. • Provide more detailed requirements for correspondent relationships, to include management approval, documented responsibilities, and identification controls on customer account access. • Introduce requirements for risk management of non-face-to-face business, including business done by internet or other electronic means.
Third parties and introduced business (R.9)	<ul style="list-style-type: none"> • Keep under regulatory review the scope for persons to conduct transactions or behalf of another, and introduce specific CDD requirements if warranted.
Financial institution secrecy or confidentiality (R.4)	–
Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> • Revise the AML Law to provide unequivocally that all records of customer identification and transactions on accounts, in both domestic and foreign currency, should be retained for a period of time no less than five years (to accord with the minimum requirements of FATF Recommendation 10), in such manner that they can be produced for the appropriate authorities without delay. • Introduce specific requirements for all wire transfers to obtain and retain originator information in line with SR.VII.
Monitoring of transactions and relationships (R.11 & 21)	<ul style="list-style-type: none"> • Introduce a specific requirement for special attention for all complex or unusual transactions, with no apparent economic or lawful purpose. • Provide for special attention for dealings with countries that do not fully apply the FATF Recommendations.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<ul style="list-style-type: none"> • Amend the current reporting requirement to include the reporting without delay to the DFM of all suspicious transactions, regardless of size or currency.

	<ul style="list-style-type: none"> • Provide that STR filing is necessary in case of suspicion of ML or FT. • Amend the law to provide a clearer prohibition on tipping off. • Extend the current legal protections for those reporting to the FIU to cover all such reporting, even if below a threshold. • Issue comprehensive AML/CFT guidance to all reporting entities, and update that already in issue for banks. • Enact an FT Law
Internal controls, compliance, audit and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> • Update the NBRB Recommendations on AML/CFT, consider giving them a clear legal basis, and extend them to cover all aspects of FATF Recommendation 15 (e.g., that compliance officer should be at management level). • Issue AML/CFT guidance for the insurance and securities sectors. • Require additional and formalized employee training programs in reporting institutions.
Shell banks (R.18)	<ul style="list-style-type: none"> • For avoidance of doubt, consider adding a provision to the BC specifically requiring a physical presence and control and management of each bank to be located within Belarus.
The supervisory and oversight system—competent authorities and SROs (R. 17, 23, 29 & 30).	<ul style="list-style-type: none"> • Update on-site and off-site supervisory practices to include all relevant aspects of the FATF Recommendations. • Clarify the role of the CoS in implementing and supervising proportionate AML/CFT measures for the securities sector.
Financial institutions—market entry and ownership/control (R.23)	<ul style="list-style-type: none"> • Apply fit-and-proper tests to owners (including ultimate beneficial owners) and controllers of financial institutions. • Reassess the current 10 percent threshold provision and ensure that its application does not facilitate criminals or their associates in acquiring a significant or controlling interest in a financial institution.
AML/CFT Guidelines (R.25)	<ul style="list-style-type: none"> • Update the NBRB Recommendations on AML/CFT, consider giving them a clear legal basis. • Issue AML/CFT guidance for the insurance and securities sectors. • Ensure that detailed guidance is included on identifying and reporting suspicious transactions.
Ongoing supervision and monitoring (R.23, 29 & 32)	<ul style="list-style-type: none"> • Update on-site and off-site supervisory practices to include all relevant aspects of the FATF Recommendations. • Clarify the role of the CoS in implementing and supervising proportionate AML/CFT measures for the securities sector. • Introduce measures to capture and analyze comprehensive statistics as an aid to ongoing monitoring of the effectiveness of the AML/CFT system.
Money value transfer services (SR.VI)	—
4. Preventive Measures—Nonfinancial Businesses and	

Professions	
Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> The CCD and record keeping requirements under the AML Law need to be broadened and lawyers, auditors, real estate agents, and dealers in precious metals and stones should be subject to the preventive measures requirements of the AML Law, including for purposes of customer identification, when they engage in those transactions listed in Recommendation 12. Either the DFM or the relevant functional regulator should issue CDD guidance for each of the DNFBPs, reflecting both enhanced due diligence requirements where necessary and simplified procedures where ML/FT risk is low and adequate checks and controls exist elsewhere in the system. CDD requirements should extend to identification of beneficial owners, to arrangements for reliance on third parties, and to ongoing due diligence on business relationships. Record-keeping requirements as prescribed in Recommendation 10 should be made mandatory, including a five-year retention period.
Monitoring of transactions and relationships (R.12 & 16)	<ul style="list-style-type: none"> Regulations should be adopted requiring all DNFBPs to monitor all transactions for suspicious characteristics, including large and unusual transactions and transactions having no apparent economic or visible lawful purpose. For each DNFBP either the functional regulator or the DFM should issue guidance as to how such monitoring procedures should be implemented in each sub-sector. For lawyers, both the MoJ (for “public” lawyers) and the Republican Collegium (for “private” lawyers) should issue guidance.
Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> The AML law should be amended to extend suspicious transactions reporting to all DNFBPs. Training on identification of suspicious transactions should be provided to all DNFBPs.
Internal controls, compliance & audit (R.16)	<ul style="list-style-type: none"> As contemplated, implementing regulations should be issued requiring all parties covered by the AML Law, other than those supervised by the NBRB, to adopt AML/CFT compliance programs. These regulation should include: (a) internal policies, procedures and controls, including appropriate compliance management arrangements, and employee screening procedures; (b) an on-going employee training program; and (c) an audit function to test the system. Either the DFM or functional regulators should issue guidance for each of the DNFBPs.
Regulation, supervision and monitoring (R.17, 24-25)	<ul style="list-style-type: none"> Lawyers, auditors, real estate agents, and dealers in precious metals and stones should be subject to the preventive measures requirements of the AML Law. Regulations should establish clear responsibility for monitoring and enforcing compliance with AML obligations, either by the functional regulator, or by the DFM, or jointly. Stronger enforcement sanctions should be adopted,

	<p>including the authority to assess administrative fines.</p> <ul style="list-style-type: none"> • Training should be provided to both regulators and regulated parties to raise knowledge and awareness of AML obligations. • The AML obligations of lawyers and auditors, and the role of the Bar in supervising the arrangements for lawyers, should be clarified. To avoid doubt, the lawyers' Code of Ethics and the Rules for Auditors could be amended to explicitly prohibit lawyers and auditors from engaging in financial transactions for or on behalf of clients, thereby codifying current interpretation and practice. • Article 186 of the Criminal Code should be amended to criminalize failure to report ML.
Other designated nonfinancial businesses and professions (R.20)	<ul style="list-style-type: none"> • Real estate transactions between individuals should be required to be settled by means of bank transfers or check.
5. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Measures should be taken to ensure the completeness and accuracy of company registration information, to include verified beneficial ownership details, including for nonresident shareholders.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	–
Nonprofit organizations (SR.VIII)	–
6. National and International Cooperation	
National cooperation and coordination (R.31)	<ul style="list-style-type: none"> • Supplement the current interdepartmental agreements with an AML/CFT coordinating committee to advise on development and implementation of new measures, including for DNFBPs.
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • Article 235 does not explicitly establish all the required offenses relating to ML offense, in accordance with the Vienna and Palermo Conventions. • Review legislation to determine need for amendments necessary for full implementation of UNSCRs. • Review FT Convention to determine which of its provisions will require enabling legislation. Amend legislation as needed.
Mutual Legal Assistance (R.32, 36-38, SR.V)	<ul style="list-style-type: none"> • Establish centralized annual statistics on MLA requests received or made, relating to ML and FT, the predicate offences, including the nature of the request, its result and the time of response. • Enact as soon as possible draft law on international legal assistance in criminal matters. • Adopt administrative procedures to prevent MLA requests from being unduly delayed. • Enact draft law on international cooperation in legal assistance in criminal matters, to regulate the provision of legal assistance in the absence of a treaty.

	<ul style="list-style-type: none"> • Adopt administrative procedures to provide timely response to MLA requests from nonCIS countries related to provisional measures and confiscation.
Extradition (R.32, 37 & 39, & SR.V)	<ul style="list-style-type: none"> • Establish centralized annual statistics on extradition requests that are received or made, relating to ML and FT, the predicate offences, including the nature of the request, its result and the time of response. • Finalize and enact draft law “On the introduction of amendments and supplements to the Criminal Procedure Code of the Republic of Belarus related to issues of rendering international legal assistance on criminal proceedings”. • Establish administrative procedures to ensure that extradition requests are not unduly delayed and provide for alternative simplified procedures for extradition on a case-by-case basis. • Establish procedures for the timely execution of extradition requests concerning FT.
Other Forms of Cooperation (R.32 & 40, & SR.V)	(recommendations already included elsewhere)
7. Other Issues	
Other relevant AML/CFT measures or issues	—