



Finanšu izlūkošanas dienests

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**Money Laundering and Terrorism Financing risks
of Legal Persons and Non-governmental
Organisations**

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TABLE OF CONTENTS

1. Executive summary	3
2. Risks of legal persons	6
2.1. Risk description of legal persons.....	6
2.2. Description of legal persons	7
2.3. Financial flow analysis.....	9
2.4. Requirements for disclosure of ultimate beneficial owners	9
3. Risks of non-governmental organisations	11
3.1. Risk description of non-governmental organisations.....	11
3.2. Description of non-governmental organisations	12
3.3. Supervision and control of non-governmental organisations.....	13
3.4. Financial flow analysis.....	14
3.5. Requirements for disclosure of ultimate beneficial owners	15
ANNEX 1. Glossary of acronyms and terminology.....	17
ANNEX 2. Tables and images	18
ANNEX 3. Lists of countries used in the report.....	26
ANNEX 4. List of used information sources	29

1. Executive summary

- 1.1. On 23rd of August, 2018, Moneyval published a report assessing efficiency of a system for prevention of ML/TF in Latvia. It analyses Latvian regulatory framework and practice in prevention of ML/TF according to 40 FATF recommendations. The Moneyval report identified shortcomings in the understanding and prevention of ML/TF risks of LPs and NGOs; thus the purpose of this report "Risks of Money Laundering and Terrorism Financing to Legal Persons and Non-governmental Organisations" is to identify and analyse the ML/TF risks in these sectors, as well as to assess what measures have already been implemented or must be implemented for mitigating the established risks, including but by implementing the recommendations included in the Moneyval report.
- 1.2. According to the NRA, it is recognised that many Latvian LPs, as well as foreign LPs are used in ML/TF schemes. Moneyval recommendations regarding obtaining the information about UBOs of LPs and maintaining accurate information during the entire duration of activity of the LPs and availability with registers of the ER indicates, that according to the NRA, attention should be paid to LLCs and especially to the LLCs with a foreign LP as a shareholder. The Moneyval report also indicates that risks of ML/TF posed by service providers that are involved in establishment, management and operation of LPs should be specifically assessed.
- 1.3. According to FATF Recommendations 24 and 25, countries need to implement measures for prevention of abuse of the LPs in ML or TF, incl., the countries must ensure:
 - 1.3.1. sufficient, accurate and timely information on true owners and controllers of the LPs and possibility for competent authorities to access such information in a timely manner. In countries where LPs may issue bearer shares or warranties thereof or who allow appointing nominal shareholders or directors, it is especially important to ensure compliance and availability of the above information in order to provide that such LP is not used for the purposes of ML or TF.
 - 1.3.2. measures to facilitate access to beneficial ownership and control information of financial institutions and DNFBPs.
 - 1.3.3. sufficient, accurate and timely information on trusts, including the information on payment performers, proxies and recipients and possibility for competent authorities to access such information in a timely manner.
 - 1.3.4. measures to simplify the access of financial institutions and DNFBPs to beneficial ownership and control information.
- 1.4. According to the recommendations provided in the Moneyval report, Latvia should also identify high-risk NGOs according to the NGO definition provided by FATF and should perform a risk assessment of the NGOs on a regular basis, as well as educate the NGO sector about the risks of ML/TF. Regulatory enactments and procedures that determine establishment and monitoring of the NGO sector shall be assessed.
- 1.5. FATF Recommendation 8 imposes a duty on the countries to revise the compliance of their regulatory framework regarding organisations that might be abused for TF purposes. Non-profit organisations are particularly vulnerable, and the countries should implement measures proportionate to the risks to protect the NGOs from being abused for TF purposes, namely, they should ensure that NGOs are not used:
 - 1.5.1. by terrorist organisations pretending to be legal organisations;
 - 1.5.2. NGOs are not used for TF, including for the purpose of avoiding the asset freezing measures;
 - 1.5.3. to conceal or mask secret redirection of funds meant for legal purposes towards terrorist organisations.
- 1.6. To assess vulnerability of LPs, including NGOs, in the ML/TF system based of FATF recommendations and methodology, as well as considering statistics of 2017 and 2018 about activity of LPs and NGOs, and considering the recommendations included in the Moneyval report for improvement of the Latvian AML/CTF system, this report has been prepared.
- 1.7. The report identifies and evaluates ML/TF threats, vulnerability, level of ML/TF risks of LPs and NGOs (including both Latvian residents and non-residents operating in Latvia), as well as it characterises the consequences of the existing risks. LPs and NGOs were evaluated based on assessment of the following aspects: sector description and legal framework (including the number of subjects, type, field of activity), supervision, financial flow, shareholders (legal owners) and UBOs.
- 1.8. Report's section on LPs analyses information about the LPs (both Latvian residents and non-residents) – capital companies (LLCs and JSCs), as their number in Latvia covers the widest range of LPs (see Table 1), their asset turnover in the economy is the highest (see Table 2), as well as the highest number of reports have been received about their suspicious (see Table 3) and unusual (see Table 4) transactions. Also the LPs non-residents operating in Latvia have been assessed in more detail.

- 1.9. The report analyses information and statistical data provided by SRS, ER, FIU, FCMC, Finance Latvia Association and law enforcement authorities. Also the information included in the NRA, as well as the data available in similar studies of other countries and FATF reports and other documents in relation to the subject under review have been taken into account.
- 1.10. Imitation of economic transactions is one of the ML types. Imitation of economic transactions gives an impression that the economic activity brings profit (revenue) that is later reported as "legal" income. To implement such laundering scheme, LPs are used. Selection of a type (legal form) of a LP depends on possibilities of hiding the true origin of assets, as well of hiding (masking) the UBO and not attracting attention of the institutions that are responsible for AML/CTF. By defining these risk-driving factors, it is possible to identify the LPs that are most exposed to the ML/TF risk.
- 1.11. LPs in Latvia, according to the FATF methodology¹, includes capital companies (LLCs, JSCs, European commercial companies), limited partnerships, foundations and other LPs (general partnership, cooperative companies, associations, foundations, religious organisations, their institutions, political parties). Assessment of ML/TF risks, vulnerabilities and threats to the associations, foundations, religious organisations, their institutions and political parties is included in the section of NGOs. Individual companies, farmers' and fishery farms, although they obtain the rights of an LP upon their registration with the ER, are by definition legal entities created for the organization of the property of a single natural person. I.e., their property is not separated from the property of the natural person. Thus, according to the definition provided in FATF guidelines², they are not considered to be LPs. Therefore, they do not need to be analysed in the context of the ML/TF risks.
- 1.12. One of the defined risk indicators – irregular use of the LP's account. Under the procedure of simplified liquidation, the ER excludes the capital companies that are economically inactive from its register. This improves the overall ecosystem of the ER, as well as business environment in Latvia reducing the risks caused by unscrupulous merchants. Besides, the ER, in cooperation with the SRS, implements a range of measures to prevent the activity of tax fraud schemes and establishment of fictitious capital companies, thus reducing risks both in the field of taxes and of ML/TF regarding the LPs. It also should be indicated that the ER unilaterally does not reduce any ML/TF risks. By amendments to the AML/CTF Law, effective as of 01.07.2019, a risk-based approach is to be applied when registering with the ER, namely, in addition to general registration requirements, also the ML/TF risks will be assessed and, if necessary, reported to the FIU.
- 1.13. Ensuring the required management of change in the Latvian financial sector, amendments to the AML/CTF Law, effective as of 09.05.2018, impose an obligation on participants of the financial and capital market in Latvia to terminate cooperation with the companies that at the same time correspond to two features of shell arrangements within 60 days.³ The number of the shell arrangements (that are non-resident LPs) in credit institutions has significantly reduced; however, information provided by the FCMC indicates that activity of non-residents in credit institutions in 2018 is still noticeable. There is a risk that shell companies have re-registered in other jurisdictions, while they continue using the Latvian financial system.
- 1.14. On 1st of December, 2017, the amendments to the AML/CTF Law came into force imposing an obligation on LPs to disclose their UBOs to the ER.⁴ The purpose of this requirement is to restrict ML/TF and ensure availability of correct, accurate and up-to-date information about the UBOs of LPs, thus increasing reliability of their transactions. On 31.12.2017, only 0.95% of the LPs registered with the ER had indicated their UBO, while on 31.12.2018, the UBO was already announced by 80% of LPs.⁵ The respective number of disclosed UBOs in the segments of LLCs and JSCs is 1% (on 31.12.2017) and 95% (on 31.12.2018). It should be indicated that for the LLCs and JSCs that haven't disclosed their UBO, a liquidation procedure is to be launched in July 2019 (see Table 9).
- 1.15. In the sector of LPs, high ML/TF risks are related to use of nominee directors (fictitious directors) and fictitious owners to hide the UBO upon a secret agreement. The ER currently is not able to verify compliance of the information submitted about the UBO in cases where such information about the UBO, shareholders of LLC and other persons, their ownership, and justification of the implemented control expands beyond the territory of Latvia. I.e., identification of the UBO and control can accurately be verified at national level only. The amendments to the AML/CTF Law, effective as of 01.07.2019, foresee that the ER has a right to request all necessary documents to verify compliance of the information outside the territory of Latvia, thus reducing the risk. However, considering the number of non-residents, the overall risk is high.
- 1.16. ER encounters LP on average 3 to 4 times during the entire activity period of a LP. Initially registering the LP, during the activity period when registering changes to the LP's board, address or other registration data, and also when the LP is excluded from registers of the ER. Therefore, supervision of compliance with the requirements of updating the UBO's information within activities of the ER is restricted, although there is a mandatory requirement to update information about the UBO in cases of a change to LLC, to its shareholders

¹ FATF Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT systems, p 66 (<http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf>).

² FATF Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CFT systems, p 12 (<http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>).

³ AML/CFT Law, Latvijas Vēstnesis, 116 (3900), 30.07.2008.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 16, 28.08.2008. – according to the characteristics set in Section 1, Clause 15.1, Sub-clauses (a) and (b).

⁴ AML/CFT Law, Latvijas Vēstnesis, 116 (3900), 30.07.2008.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 16, 28.08.2008. – Section 18.²

⁵ Including the UBOs by default, without submitting other information by 01.03.2018. (Section 18.2, Paragraphs four and five of the AML/CFT Law) disclosed by 114,692 LPs and under a separate procedure, by 30,602 LPs.

or management board of the LLC, JSC. However, in any case there is a high risk of ER not being kept up to date with accurate data. The obliged entities indicated in Section 3 of the AML/CTF Law encounter the LPs during their activity period more frequently, such as, when making transactions. Thus, mutual cooperation of the ER and obliged entities under the AML/CTF Law is crucial for provision of up-to-date information on the UBO. The above mentioned risk will already be diminished by imposing an obligation to obliged entities under the AML/CTF Law to report to the ER as soon as the amendments to the AML/CTF Law are approved by the *Saeima*.⁶

- 1.17. Based on the information available on the account register, on 31.12.2017, 73% of non-resident LPs resided in a low-tax or tax-free country or territory, while on 31.12.2018, only 1% of them resided in a low-tax or tax-free country or territory. Such decrease is partly related to changes to CoM regulations on low-tax or tax-free countries and territories.
- 1.18. According to FATF standards, TF risks are mainly attributed to NGOs and origin of their assets, unlike in a case of the ML risks, can be legal (such as donations) and thus, there is no need to legalise them by imitating an economic activity. The FATF has formulated a definition of NGOs that is based on activities and features of organizations exposed to high TF risk. However, it should be noted that also other NGOs might be under a high risk in each of the countries (e.g., the NGOs with high money turnover, the NGOs whose activity is related to foreign countries, etc.).
- 1.19. When assessing the NGOs, high-risk NGOs were defined, that correspond to the NGO definition provided by the FATF, i.e., religious organisations, charity organisations and organisations that deal with social aid, accommodation issues, health care, education, representation or other "good works".⁷ Within the assessment, the NGOs that have obtained a status of a PBO were examined in more detailed manner, just as the NGOs that have indicated their field of activity corresponding to the NGO definition provided by the FATF. In addition, also the NGOs that have not indicated a particular type of activity⁸ or that have indicated "Association or foundation not classified elsewhere"⁹ were included in the set of the high-risk NGOs (see Table 6).
- 1.20. The assessment concludes that the competent institutions do not maintain and cannot provide statistics (or collection of the statistics requires significant manual work) about the NGO sector in a breakdown that corresponds to the definition provided by the FATF. The process of statistics processing is difficult since information about the NGOs might be in a format that is not so easy to be processed (such as historically submitted annual reports of the NGOs), and thus often such information needs to be manually entered in a system.
- 1.21. The process of defining high-risk NGOs is significantly hampered by the fact that mandatory scope of registration is restricted only to employers' organizations and trade unions, in accordance with the Employers' Organisations and their Associations Law and the Law on Trade Unions. More than 80% of the NGOs have not indicated their type of activity. In addition to the NGOs that are classified as high-risk NGOs according to the FATF definition, also the NGOs that have not indicated their type of activity are to be considered as high-risk NGOs; this significantly widens the range of the high-risk NGOs (see Table 6).
- 1.22. Although NGOs are also required to disclose their UBOs, the assessment concluded that less than 10% of NGOs have disclosed their UBOs. This is partly due to the NGOs' poor understanding of the AML/CTF requirements, and the nature of UBO disclosure of the NGO sector is generally different and unusual compared to commercial companies, since NGOs do not have the usual owner status to be able to identify individuals controlling NGOs.
- 1.23. Although NGOs due to the specific features of their activity might be involved in TF activities more often, involvement of the NGOs in ML activities and tax avoidance schemes cannot be excluded. Followed by the reports received by the FIU on suspicious and unusual transactions, proceedings have been initiated based on Section 218(2) of the Criminal Law, "Evasion of Tax Payments and Payments Equivalent Thereto", as well as on Section 195(3), "Laundering of the Proceeds from Crime".
- 1.24. Regulatory framework of Latvia does not impose an obligation to the NGOs to submit reports to the SRS on how they receive donations — in cash or as a transfer. In 2017 and 2018, transactions on the NGOs' accounts have mainly been made within Latvia, and transactions that involve persons from the countries with military conflicts or their neighbouring countries have not been detected. However, it should be noted that TF schemes are implemented at a global scale and thus the financial system of any country might be used for TF.

⁶ Amendments to the AML/CFT Law in the third final reading were approved by the *Saeima* on 13.06.2019. The respective amendments to the AML/CFT Law enter into force on 01.07.2019.

⁷ FATF Best Practices on Combating the Abuse of Non-Profit Organisations, Recommendation, p 8, 7 (<https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf>).

⁸ According to Section 15, Paragraph one, Clause 3 of the Associations and Foundations Law, also a goal of an association or foundation is to be entered with the Register of Associations and Foundations, as well as the field of operation according to the classification set by the Cabinet of Ministers if the association or foundation registers its field of operation or such obligation is imposed by law. With regard to the above, associations and foundation must indicate their field of operation if such obligation is specially provided for in law. Mandatory indication of the field of operation is determined only for employers' organisations and trade unions according to the Employers' Organisations and their Associations Law and Law on Trade Unions

⁹ Cabinet Regulation No. 779 "Regulation Regarding Classification of Associations and Foundations". *Latvijas Vēstnesis*, 252 (5570), 28.12.2015.

2. Risks of legal persons

2.1. Risk description of legal persons

- 2.1.1. LPs are highly vulnerable to ML/TF, and potential of using LPs to hide the asset origin, mask UBOs, as well as avoid attention of the institutions that are responsible for supervision and control of ML/TF is very high. Use of LPs for performance of ML/TF activities is facilitated by the following factors:
- 2.1.2. **Unavailability of information required for examination of LP registration process.** To verify reliability of information on the UBO submitted for registration, it is essential that the ER has the right to obtain the information required for examinations. Currently, examinations for provision of appropriate, correct and timely updated information are performed to the extent that the information is available at the national level, however, in certain cases the required information is not available and thus such cases are assessed as higher-risk cases. Insufficient requirements regarding information and exchange thereof are established in the following sectors:
- 2.1.2.1. Information on shareholders of joint-stock companies. Information on legal owners - shareholders of LLCs is submitted to the ER and is publicly available. Information about the shareholders are used in tax risk control systems in cooperation between the SRS and ER, and it will be used also by the ER when introducing the risk-based approach as of 01.07.2019. Information about shareholders of JSCs, except for the joint-stock companies on the regulated market, is not publicly available. In cases when the shareholders are also the UBOs, the relevant information is registered in the ER. However, it is not possible to analyse the shareholder information in the framework of the risk control systems or to verify it in the context of the UBO registration process in the ER.¹⁰ Also, the current processes of providing accessibility to shareholder information should be continued.
- 2.1.2.2. Identifying information of non-resident UBOs and documentary justification of controls performed outside the territory of Latvia. The ER can currently verify credibility of the submitted information to the extent of the registers that are available at the national level. In the cases when information is related to foreign elements, the ER has no relevant information.¹¹
- 2.1.2.3. The ER encounters LP on average 3 to 4 times during the entire activity period of a LP. Initially registering the LP, during the activity period when registering changes to the LP's board, address or other registration data, and also when the LP is excluded from registers of the ER. Therefore, supervision of compliance with the requirements of updating the UBO's information within activities of the ER is restricted. It should be noted that a new LP cannot be registered if the UBO isn't indicated, and also there is an obligation to update the information about the UBO in cases of a change to LLC, to its shareholders or management board of LLC, JSC. However, in any case there is a high risk of ER not being kept up to date with accurate data. The obliged entities indicated in Section 3 of the AML/CTF Law encounter the LPs during their activity period more frequently, such as, when making transactions. Thus, mutual cooperation of the ER and obliged entities under the AML/CTF Law is crucial for provision of up-to-date information on the UBO.¹²
- 2.1.3. **LPs with a simplified registration requirements.** A simplified registration procedure (incl. in cases where financial contributions are not needed for establishment of an LP and where specific activity restrictions are not determined) is assessed as a factor of increased ML/TF risk. In Latvia, the most typical form of LP with the highest risk of ML/TF is a LLC with no minimum capital requirement, and the factors increasing such risks are the characteristic of this type of the company.¹³ Described type of LP is one of the most common types in Latvia, and its popularity is increasing year by year, i.e., 21% of all LLCs registered until 31.12.2017. had no minimum capital requirement, and 23% until 31.12.2018. Although requirements for initial contributions are reduced, also limitations have been determined — shareholders are natural persons only, one natural person has only one LLC with no minimum capital requirement and only the shareholders of the LLC form the board. Thus, the reduced fixed capital requirement as such cannot be assessed as the factor that significantly increases the ML/TF risks. At the same time, the LLCs with no minimum capital requirement, opposed to full capital LLCs, do not submit a document to the ER approving the payment of the fixed capital (even a reduced amount thereof).
- 2.1.4. **LP establishment, management and operation service providers' involvement in hiding of a UBO.** In the sector, high ML/TF risks are related to use of nominal directors (fictitious directors) and fictitious owners to hide a UBO based on a secret agreement. Duties are not enlisted comprehensively, and it also includes a secretary as a person who might have an important role in hiding of the true

¹⁰ The above risk will be reduced by stipulating a right for the ER to request the relevant information as soon as the amendments to the AML/CTF Law are approved by the *Saeima* (amendments to the AML/CTF Law in the third final reading were approved by the *Saeima* on 13.06.2019. The relevant amendments to the AML/CTF Law enter into force on 01.07.2019.)

¹¹ The above risk will be reduced by stipulating a right for the ER to request the relevant information as soon as the amendments to the AML/CTF Law are approved by the *Saeima* (amendments to the AML/CTF Law in the third final reading were approved by the *Saeima* on 13.06.2019. The relevant amendments to the AML/CTF Law enter into force on 01.07.2019.)

¹² The above risk will be reduced by stipulating a right for the ER to request the relevant information as soon as the amendments to the AML/CTF Law are approved by the *Saeima* (amendments to the AML/CTF Law to the third final reading were approved by the *Saeima* on 13.06.2019. The relevant amendments to the AML/CTF Law enter into force on 01.07.2019.)

¹³ The Commercial Law. *Latvijas Vēstnesis*, 158/160 (2069/2071), 04.05.2000.; *Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 11, 01.06.2000. — Sections 185 and 185.¹.

management structures. The main ML/TF risk is hiding of true control, as well as ownership. To mitigate the mentioned risk, it is essential that it is taken into account when assessing the adequacy of the information on the UBO.

- 2.1.5. **LPs that are legally owned at several levels by other LPs and non-resident LPs.** The mentioned situation is to be assessed as having a higher risk as this makes it more difficult for the ER and the obliged entities under the AML/CTF Law to identify and to obtain assurance about the actual owners of the LPs. On 31.12.2017. there were 10,962 LPs whose shareholders are only LPs, while in 2018, the amount of such LPs reduced, namely, on 31.12.2018. there were 10,712 LPs whose shareholders are only LPs (see Image 2). On 31.12.2017. 4806 of LPs had non-residents as the only shareholders, while on 31.12.2018. this number slightly reduced — 4386 (see Image 3). On 31.12.2017. none of 4806 LLCs with the non-resident LPs as the shareholders disclosed their UBO, while the number reduced by almost a half on 31.12.2018. when there were 2873 such LLCs. It is important to mention that for the LLCs that still have not disclosed their UBOs, a liquidation process is to be launched in July 2019, and thus, the above mentioned risk is already being mitigated at the national level. Although options of hiding the UBOs for the LPs that are registered in other jurisdictions are similar to those available for the LPs that are registered in Latvia, most often it is more difficult to examine the information in foreign registers. The obliged entities indicated in Section 3 of the AML/CTF Law are limited by analysis of the registration documents submitted by a company, and such documents are easy to be falsified, and also data verification options are limited. Therefore, the LPs that have been registered in other jurisdictions (low-tax or tax-free countries and territories, high-risk countries) are the most exposed to the risk (see Annex 3).
- 2.1.5.1. Considering the above mentioned, information on UBO detection requirements in certain countries should be evaluated in order to assess the risks in each particular case and the measures to be taken to mitigate them, thus identifying UBOs correctly. The relevant risk will partially be reduced by providing, at the EU level, availability of information on UBOs to all Member States of the European Union by implementing Business Registers Interconnection System (BRIS) until 10th of March, 2021.
- 2.1.5.2. The second risk facilitating factor is that such LPs are beyond the sight of the registration country. Respectively, duration of operation of an LP is not limited by a risk that their operation might be terminated according to national requirements. Furthermore, the exact jurisdiction where the LP is registered is not of critical importance. On the one hand, the LPs that are registered in low-tax or tax-free countries and territories are more attractive to ML/TF activities, corruptive transactions and other unlawful purposes as there is in fact no control over such arrangements in their registration country and fictitious transactions can be reasoned by a necessity of tax optimisation. Therefore, this type of LP — when the LP is out of the sight of the registration country — should be subject to enhanced due diligence and transaction monitoring. During the assessment period, this fact has reduced attraction of this type of the LP, especially in the context of the restrictions to cooperation with shell arrangements provided for in the AML/CTF Law. In fact, any jurisdiction that ensures comparatively simple registration of the LPs might become the most attractive alternative for low-tax or tax-free jurisdictions. Although it is more difficult to reason fictitious transactions, access to payment services is comparatively simpler and in a short-term it provides an option to implement unlawful actions and hide the UBOs.
- 2.1.6. **Supervision and control.** The aim of supervision and control is to reduce the risk that a LP might be used for implementation of ML/TF and/or not to allow that the operation of such LP is controlled by persons interested in performance of an ML/TF activities or other crimes. To reduce such possibility, it would be proportionate to introduce compliance and eligibility examinations for LP councils and management boards in the high-risk business sectors.

2.2. Descriptions of legal persons

- 2.2.1. According to the executive summary of the report, when evaluating the threats, vulnerabilities and risks of the LP sector, considering certain number of possible LP forms, their activity, as well as the number of suspicious and unusual reports about LPs registered in Latvia, it is important to evaluate the capital companies (LLCs and JSCs) since the ML/TF risk level of other LP forms is very low. An additional risk-mitigating factor in the overall sector of the LPs is that all LPs gain their status only after their registration with the relevant registers and information about all LPs, including their UBOs, are publicly available.
- 2.2.2. Regarding the regulation of the commercial legal environment specified in the Commercial Law, Civil Law and other special laws,¹⁴ it must be noted that the Commercial Law stipulates five merchant types — an individual merchant, which is to be considered as a natural person also after the registration, two types of capital companies and two types of partnership. The partnerships can be registered as general partnerships and limited partnerships, they have no LP status, however, they do have the rights of a LP. The property of a member of a partnership, except for separate member groups of limited partnerships (limited members), is not separated from the property of the LP. Capital companies can be registered either as LLCs or JSCs. The LLC is a private company, while the JSC is a public company whose shares may be a publicly tradable object.¹⁵ The minimum fixed capital of a JSC is EUR 35,000. Whereas LLC can

¹⁴ In the law On the Application of Taxes in Free Ports and Special Economic Zones and in the law On Taxes and Duties, as well as in other binding laws

¹⁵ The Commercial Law. Latvijas Vēstnesis, 158/160 (2069/2071), 04.05.2000.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 11, 01.06.2000. — Section 134.

be established as a LLC with no minimum capital requirements or as a LLC with fixed capital of at least EUR 2,800.¹⁶ The LLCs with no minimum capital requirement were created on 1st of May, 2010, with an aim to simplify their establishment and facilitate the economic growth by promoting engagement of population, especially of the unemployed, in the sector of small and medium-size commercial activity.¹⁷ Requirements for LLCs with no minimum capital requirement regarding their share capital reduced, however, also restrictions have been imposed, namely, shareholders are natural persons only, the number of shareholders cannot exceed five persons and only shareholders may be included in the board of the relevant LLCs. It is also stipulated that one natural person may be a shareholder of only one LLC with no minimum capital requirement.

- 2.2.3. All LLCs are obliged to disclose their shareholders (legal owners) to the ER, just as any other LP is obliged to disclose its UBO.¹⁸ Whereas JSCs are obliged to disclose their UBOs, while shareholders, except for the joint-stock companies on the regulated market, are not disclosed to the ER. Law enforcement authorities have the right to request and accordingly a JSC is obliged to provide information about the shareholders. Bearer shares are allowed only by registering them on financial instrument accounts and thus they are not considered to be a risk in the context of ML/TF.
- 2.2.4. Information provided by the ER shows that LLCs in Latvia are registered more often than JSCs. Although 4% more LPs were registered in 2018 than in 2017, overall, the total number of LPs in 2018 decreased by 5% (see Table 7). Such tendency can be explained by an active operation of the ER to introduce the Moneyval recommendations and improve the situation in the AML/CTF field in Latvia. By assessing the risk factors, the ER carried out automatized exclusion of non-active capital companies from the commercial register. The commercial companies that fail to disclose their UBO will also be excluded, and also exclusion of economically non-active capital companies from the ER will be continued under a simplified liquidation procedure. Such bulky exclusion of non-active capital companies improves the overall ecosystem of the ER and business environment in Latvia. The process will be continued to reduce the risks caused by an activity of unfair merchants.
- 2.2.5. In 2018, the number of LLCs, especially the LLCs with no minimum capital requirement, increased, i.e., the number of LLCs with a full capital amount has increased by 5%, while the number of those with no minimum capital requirement has increased by 15%. 21% of all registered LLCs until 31.12.2017. were LLCs with no minimum capital requirement, while on 31.12.2018. they constituted 23% of all LLCs registered. The provided data shows that popularity of the LLCs with no minimum capital requirement has remained almost unchanged. Overall, LLC is the most often registered LP type in Latvia (75% of all LPs are LLCs, incl. those with no minimum capital requirement).
- 2.2.6. When registering a LP, the ER verifies whether all documents set in laws and regulations have been submitted, whether the documents are legally binding, whether the form of the documents correspond to requirements set in laws and regulations or articles of association, as well as whether information and scope of provisions included therein correspond to laws and regulations and other registration related documents and whether any other legal obstacle has been registered in the ER. Within the mentioned examinations, the ER verifies both legal capacity of the persons and, when applicable, capacity to act; however, it does not verify the actual circumstances in which the documents were drafted.
- 2.2.7. As the LP is registered with the ER, also a tax-payer status is granted by the SRS that provides registration of state taxes, fees and other mandatory payments. Depending on the tax-payer status granted to the LP, the subject submits tax reports every month, every quarter, every six months or once in a year. Based on the reports, the SRS performs a tax control of the LPs and assesses the financial flow within its competence, incl. assessment of potential risks of tax fraud and ML/TF¹⁹. A newly-established company (depending on its tax-payer status) can submit the annual report after a year. The company submits the annual report not later than a month after approval of the report and not later than four months after the end of the reporting year.
- 2.2.8. In addition to the control implemented by the SRS, in the context of taxes, especially for VAT fraud schemes and establishment of fictitious capital companies, a range of cooperation measures between the SRS and ER has been determined. The ER does not register the risk persons, enlisted by the SRS (for violations of tax laws), as the persons who are entitled to represent the capital companies.²⁰ Laws and regulations stipulate the cases when approval from the SRS on non-existence of the risks of tax fraud is needed in order to register a capital company.²¹ In addition to restrictions of the SRS, the ER, within the framework of an administrative procedure or criminal procedure, enforces prohibition to persons to take certain positions, namely, it does not register shareholders or persons with a right of representation if they are subject to the prohibition to obtain capital shares or take certain positions. The above mentioned measures, although determined for reduction of the tax risks, at the same time reduce the risks of ML/TF of the LPs sector, especially regarding establishment of fictitious capital companies. It should be noted that mentioned risk mitigation measures are more limited regarding the JSCs whose UBOs are disclosed to the ER – their shareholder information is available to the JSCs and

¹⁶ The Commercial Law. Latvijas Vēstnesis, 158/160 (2069/2071), 04.05.2000.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 11, 01.06.2000. Sections 185 and 185.¹

¹⁷ Proposal annotation to draft law "Amendments to the Commercial Law" submitted to the Saeima for the second reading (No. 1636/Lp9).

¹⁸ An obligation for capital companies to disclose the UBO is explained on the website of the ER, www.ur.gov.lv

¹⁹ There is a system introduced in the SRS for identification of ML/T situations.

²⁰ Law On the Enterprise Register of the Republic of Latvia. Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs, 49, 06.12.1990.; Diena, 3, 01.12.1990. — Section 4.¹², Paragraph one.

²¹ Law On the Enterprise Register of the Republic of Latvia. Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs, 49, 06.12.1990.; Diena, 3, 01.12.1990. — Section 14.¹.

law enforcement authorities only. It should also be indicated that there is no unilateral risk mitigation of ML/TF by the ER itself. With amendments to the AML/CTF Law, effective as of 1st of July, 2019, ER, when registering a company, will apply a risk-based approach, namely, in addition to general registration requirements, also the risks of ML/TF will be assessed and, if necessary, reported to the FIU.

- 2.2.9. In 2017, 72 decisions were made to refuse to register a LP with the ER, and 66 such decisions were made in 2018. Overall, this does not exceed 0.5% (both in 2017 and 2018) of the number of registered LPs. Furthermore, none of the refusal reasons is related to violation of requirements of AML/CTF.
- 2.2.10. The information submitted by the ER indicates that none of the refusals (a notary public of the ER can decide on postponement or refusal of the registration — in case of the refusal, deficiencies cannot be eliminated) was related to breaching the norms of the AML/CTF Law. The ER indicated the following reasons for refusal: relevant opinions from the SRS are received about the tax risks of the legal entities; founders of an LP permanently fail to prevent deficiencies established in postponement decisions that have been taken by the notary public of the ER; deficiencies in the documents cannot be fixed or the information cannot be registered with the Commercial Register or in the log of the ER.²²
- 2.2.11. Additional information about the LPs (both residents and non-residents) is available with the account register. Based on the available information of non-resident LPs in the account register, on 31.12.2017. 73% of the registered LPs had a low-tax or tax-free country or territory as their country of residence.²³ While on 31.12.2018. the number of the registered LPs reduced by approximately three times and only 1% of the LPs had a low-tax or tax-free country or territory as their country of residence.²⁴ Thus, in a year, the number of non-resident LPs in Latvia that are a subject to a higher risks of ML/TF has considerably reduced.
- 2.2.12. At the same time, high risks of ML/TF in the sector of establishing, managing and provision of operation of the LPs are related to use of nominal directors (fictitious directors) and fictitious owners aimed at hiding the UBO based on a secret agreement. Duties are not enlisted comprehensively, and it also includes a secretary as a person who might have an important role in hiding of the true management structures. The main risk of ML/TF is hiding of true control, as well as of ownership.²⁵

2.3. Financial flow analysis

- 2.3.1. By ensuring the necessary change management in the financial sector of Latvia, amendments to the AML/CTF Law entered into force on 9th of May, 2018 imposing an obligation for participants of the financial and capital market in Latvia to terminate (in 60 days) their cooperation with the companies that simultaneously correspond to two characteristics of shell arrangements²⁶— they have no economic activity and economic value and they are not required to prepare financial reports.²⁷
- 2.3.2. According to the FCMC, change achievements in the sector of Latvian credit institutions are characterised by the following indicators:
- 2.3.2.1. credit institutions are dominated by domestic (80%) and EU member state (10%) customer funds, amounting to 90% in total - thus strengthening the euro as the dominant payment currency;
- 2.3.2.2. credit institutions have significantly reduced the presence of risky money of non-residents, incl., they have terminated cooperation with the shell companies prohibited in Latvia;
- 2.3.2.3. the business of quick transactions has elapsed - compared to 2014 payments made by non-residents in US dollars in Latvian credit institutions has reduced more than 24 times.²⁸
- 2.3.3. Although the proportion of shell arrangements and non-resident LPs has significantly reduced, information submitted by the FCMC indicates that the activity of non-residents in credit institutions in 2018 is still considerable. In 2018, non-residents has transferred money to Russian credit institutions in 23.10% of the cases, while 16.8% were transferred to Latvian neighbouring countries (Estonia and Lithuania), 6.4% were transferred to credit institutions in Germany and 5.5% — in Switzerland, and overall, 14.2% of the payments made by non-residents has reached British, Ukrainian, Czech and Polish credit institutions, while 29.9% have reached the credit institutions of other states (see Table 8).

2.4. Requirements for disclosure of ultimate beneficial owners

- 2.4.1. Amendments to the AML/CTF Law entered into force on 1st of December, 2017, imposing an obligation on LPs to disclose their UBO to the ER.²⁹ The purpose of these amendments is to restrict ML/TF and

²² Information provided by the ER

²³ Cabinet Regulation No. 276 "Regulation Regarding Low-tax or Tax-free Countries and Territories", Latvijas Vēstnesis, 101 (2488), 29.06.2001.

²⁴ Cabinet Regulation No. 655 "Regulation Regarding Low-tax or Tax-free Countries and Territories". Latvijas Vēstnesis, 223 (6050), 09.11.2017.

²⁵ Sectoral ML/TF Risk Assessment by the SRS (2017–2018), p 28.

²⁶ AML/CFT Law, Latvijas Vēstnesis, 116 (3900), 30.07.2008.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 16, 28.08.2008. — according to the characteristics set in Section 1, Clause 15.1, Sub-clauses (a) and (b).

²⁷ Information published by the FCMC <http://www.fktk.lv/lv/mediju-telpa/pazinojumi-masu-informacijas-l/2018/7114-fktk-latvijas-bankas-strauji-atbrivojas-no-riskantajiem-caulas-veidojumiem-atlicis-vien-0-5-ipatsvars-banku-noguldijumos.html>

²⁸ Information published by the FCMC <http://www.fktk.lv/lv/mediju-telpa/pazinojumi-masu-informacijas-l/2019/7490-peters-putnins-latvijas-banku-jaunie-biznesa-modeli-tagad-tiek-verteti-darbiba.html>

²⁹ AML/CFT Law, Latvijas Vēstnesis, 116 (3900), 30.07.2008.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 16, 28.08.2008. — Section 18.²

ensure availability of correct, accurate and up-to-date information about the UBOs of LPs, thus increasing reliability of their transactions.

- 2.4.2. As of 1st of December, 2017, a LP cannot be registered without disclosing the UBO. It is also not possible to register changes of shareholders of LLCs, and boards of LLCs and JSCs without updating the information of UBOs. All LPs that were registered before 1st of December, 2017, were obliged to disclose information about their UBO by 1st of April, 2018. The AML/CTF Law provided for an exception in cases when information about the UBOs (always natural persons) was already publicly available in the context of enforcing an obligation stipulated in other laws and regulations, namely, in the cases provided for in Section 18.²(4) of the AML/CTF Law, the UBO was announced by default.³⁰
- 2.4.3. On 31.12.2017. only 0.95% of the LPs registered with the ER had disclosed their UBOs, while on 31.12.2018. already 80% of them had disclosed their UBOs³¹. In the segment of LLCs and JSCs, the number of the disclosed UBOs was respectively 1% on 31.12.2017. and 95% on 31.12.2018. (see Table 9). It must be noted that the LLCs and JSCs that fail to disclose their UBO by August 2019 are to be excluded from the Commercial Register.
- 2.4.4. Both in 2017 and in 2018, 79% of UBOs (natural persons) of the LPs were residents and only 21% were non-residents (see Image 1). Residents of Russia, the USA, Ukraine, Lithuania and Estonia were identified as UBOs most often.
- 2.4.5. On 31.12.2017. in 81% of the cases and on 31.12.2018. in 96% of the cases, the UBOs exercised direct control over the LLC and JSC, namely, as shareholders (see Table 9). While indirectly, mediated by other persons, 19% on 31.12.2017. and 4% on 31.12.2018. Control was exercised by intermediation of foreign persons in 123 cases of 337 cases of UBOs implementing the control indirectly (on 31.12.2017.), while the relevant numbers on 31.12.2018. were 2083 of 5594 cases.
- 2.4.6. On 31.12.2017. in 57 (of 1745) cases and on 31.12.2018. in 1298 (of 143,738) cases, it was registered that the UBO of an LLC or JSC cannot be identified or the UBO is a shareholder in a joint-stock company with its shares on the regulated market and his/her status of the UBO results only from the shareholder's status.
- 2.4.7. Both on 31.12.2017. and 31.12.2018. the LLCs with LPs as the only shareholders constitute 7% of the total number of LLCs register with the ER (see Image 2). At the same time, on 31.12.2017. almost 43% of the relevant LLCs had only non-residents as their LPs, while the number slightly reduced to 40% as of 31.12.2018. (see Image 3). Estonia, Cyprus, Lithuania, the United Kingdom, Sweden, Denmark, the Netherlands and the USA are the countries of residence most often registered by non-resident LPs of the LLCs. The LLCs with only non-resident LPs as their shareholders disclosed the UBO gradually; on 31.12.2017. the relevant information about their UBO was submitted by 3%, while on 31.12.2018.— 35% (see Image 4). It must be noted that the LLCs that fail to disclose their UBO, are to be excluded from the Commercial Register in August 2019. On 31.12.2017. only 11 relevant LPs declared that it is not possible to identify their UBO, while the same was declared by 453 LPs on 31.12.2018.
- 2.4.8. LLCs with one or two shareholders (natural persons) are registered the most with the ER and in this case it is rather simple to find out their UBO. A legal owner-shareholder is also the actual owner. If a LLCs shareholder is also the UBO for the LLCs that were registered before the 1st of December, 2017, the UBO was considered to be announced by default. In all cases when the shareholders are LPs, information about their UBO needed to be submitted.³²
- 2.4.9. It should be noted that the ER currently cannot verify compliance of the information submitted about the UBO in the cases where such information about the UBO, shareholders of LLC and other persons, their ownership and justification of the exercised control goes beyond the territory of Latvia. I.e., identification of the UBO and control can accurately be verified at national level only. Amendments to the AML/CTF Law, that were adopted by the *Saeima* in the third final reading on 13th of June, 2019, and entered into force on 1st July, 2019, provided for a right to the ER to request all necessary documents to make sure about information compliance also abroad, thus reducing the risk. However, provided the number of non-residents, the overall risk is high. Also, as of 1st of July, 2019, a risk-based approach to the process of registering information about the UBO is introduced in the ER. As a result, unusual and suspicious transactions is to be effectively reported to the FIU also by the ER.
- 2.4.10. Based on the information available on the account register on 31st of December, 2017, 10 of 20 most often registered countries of residence for the non-resident LPs were included in the list of low-tax or tax-free countries and territories. On 31st of December, 2018, the number of such non-residents dropped by 72% (see Table 10).³³
- 2.4.11. With an exclusion of Latvia, Russia, followed by Ukraine, Latvian neighbouring countries and Uzbekistan, Germany, Italy, Kazakhstan and Azerbaijan are the most often registered as the countries of residence of UBOs both as of 31st of December, 2017, and 31st of December, 2018 (see Table 11).

³⁰ Information provided by the ER, <https://lvportals.lv/skaidrojumi/292873-ka-noskaidrot-patieso-labuma-guveju-2018>

³¹ Including the UBOs by default, without submitting other information by 01.03.2018. (Section 18.2, Paragraphs four and five of the AML/CFT Law) disclosed by 114,692 LPs and under a separate procedure, by 30,602 LPs.

³² Information provided by the ER

³³ Information provided by the SRS

- 2.4.12. In addition to the provision that the LP's activity, under the procedure set in laws and regulations, is to be terminated if the UBOs are not disclosed according to the requirements, also non-existence of information about the UBOs in registers of the ER or information that differs from the one that the obliged entities under the AML/CTF Law obtain during customer due diligence must serve as basis for stricter examinations by the obliged entities stipulated in Section 3 of the AML/CTF Law and for a refusal to cooperate with the relevant LP.
- 2.4.13. This must also be noted: although regulatory framework in the Republic of Latvia does not define a concept of *nominal director* and *nominal owner*, according to the definition of UBO incorporated in the AML/CTF Law, a legal person is obliged to disclose *nominators* according to the regulation of the AML/CTF Law by submitting the relevant information to the ER.
- 2.4.14. During the assessment period, Section 272 of the Criminal Law stipulated — for a person who knowingly commits provision of false information to a State institution, the applicable punishment is a temporary deprivation of liberty or community service, or a fine. However, in 2019 the punishment for a person who knowingly commits provision of false information about the UBO to the ER is strengthened in Section 195.¹ of the Criminal Law also by increasing the level of sanction.³⁴

3. Risks of non-governmental organisations

3.1. Risk description of non-governmental organisations

- 3.1.1. NGOs mainly do not provide direct and immediate TF and support - they mainly have a role of an intermediary to attract funding and later transfer the funds by hiding beneficial owners and purpose of use. NGOs can be involved in several or any of the stages in an ML/TF scheme:
- 3.1.1.1. **Collection of funds** — an NGO may be involved in collection of funds from natural persons, LPs and other NGOs, incl. from the persons and organisations that are related to ML/TF.
- 3.1.1.2. **Legalisation of funds** — an NGO may be involved in ML, by merging such assets with legally acquired assets, by depositing funds in credit institution accounts, making transfers or other financial transactions.
- 3.1.1.3. **Distribution of funds** — the legalised funds are redirected to the persons or organisations that are related to ML/TF, incl. on basis of fictitious contracts, invoices and other documents, as well as they are redirected in interest of the persons and organisations related to ML/TF.
- 3.1.2. ML/TF scheme may involve one or several NGOs, including their branches and representative offices both locally and internationally. The risk group mainly involves NGOs with their representatives (UBO, representatives of executive bodies) being residents of high-risk countries or countries with a weak regulatory mechanism of ML/TF, as well as NGOs whose activities are somehow related to such countries. Although funds are neither directly transferred from Latvia to such countries nor received to Latvia from such countries, it should be noted that the schemes for TF are being implemented at global scale and thus, the financial system of any country may be used for laundering and directing the assets for TF.
- 3.1.3. NGOs are not sufficiently monitored in the field of ML/TF. The SRS monitors NGO sector and controls NGOs in the context of compliance with the tax regime, while control in relation to ML/TF risks are performed only indirectly. Payment control at a daily scale is ensured by service providers that are involved in making of transactions³⁵. The relatively small number of reports on suspicious transactions (199 reports in 2 years)³⁶ might indicate a necessity to improve understanding of payment service providers about the risks of NGOs.
- 3.1.4. Vulnerability in the NGO sector is increased by cash turnover and therefore to reduce this vulnerability factor and improve opportunities for monitoring, restricting and controlling the cash turnover in the NGOs, there should be a requirement to separate the amount received in cash and non-cash donations. Thus, the financial flows of the NGOs would become more transparent and an option to integrate illegally acquired cash in the Latvian financial system would be prevented or mitigated.
- 3.1.5. Overall, on 31.12.2017. and on 31.12.2018. 94% of the NGOs, registered with the ER, had not indicated a particular type of operation. Such approach creates favourable conditions for using the NGOs in

³⁴ Amendments to the Criminal Law, No. 6/Lp13. [https://titania.saeima.lv/LIVS13/saeimalivs13.nsf/webAll?SearchView&Query=\(%5bNumberTxt%5d=6/Lp13\)&SearchMax=0&SearchOrder=4](https://titania.saeima.lv/LIVS13/saeimalivs13.nsf/webAll?SearchView&Query=(%5bNumberTxt%5d=6/Lp13)&SearchMax=0&SearchOrder=4)

³⁵ Credit institutions, providers of legal services and of cash-in-transit services, etc., that provide implementation of a transaction.

³⁶ Information provided by the FIU.

implementation of unlawful actions, incl. for involving them in ML/TF actions. NGOs must be obliged to register a certain type of activity according to the 1st of January, 2016, Cabinet of Ministers Regulation No. 779, as well as they must be obliged to inform the ER about the change to their type of activity. Allowing to register the type of activity "Association or foundation not classified elsewhere" should be avoided. Registration of a certain and clear type of activity would simplify both the work of financial institutions (e.g., obliged entities under the AML/CTF Law would not need to use resources to find out the actual type of activity of an NGO) and implementation of control and monitoring of the NGOs as it could be more effective by developing ML/TF typologies and indicators in particular fields of operations in the NGO risk groups.

3.2. Description of NGOs

- 3.2.1. NGOs are a set of civil society organisations and informal groups that exist along with the public and business sectors to satisfy certain needs of the society.³⁷
- 3.2.2. In Latvia, NGO sector is regulated by Associations and Foundations Law, Cabinet of Ministers Regulation No. 779 "Regulation Regarding Classification of Associations and Foundations". Activities of religious organisations, political parties and trade unions are regulated by other laws.³⁸
- 3.2.3. Both in 2017 and 2018, associations was the most often (~90%) registered form of an NGO, followed by foundations, religious organisations and other types of NGOs. On 31st of December, 2017, there were a total of 25,989 NGOs registered, while the respective number on 31st of December, 2018, was 26,889 NGOs (see Table 12).³⁹
- 3.2.4. Regarding the risks of TF: a set of high-risk NGOs, that correspond to the NGO definition provided by the FATF, are NGOs that have a PBO status (according to the PBO definition),⁴⁰ as well the NGOs that has indicated their type of activity that correspond to the NGO definition by the FATF, i.e., religious organisations, charity organisations and organisations that deal with social aid, accommodation issues, health care, education, representation or other "good works".⁴¹ In addition, the high-risk set included also the NGOs that have not indicated a certain type of activity or have indicated "Association or foundation not classified elsewhere".⁴²
- 3.2.5. In 2017, 6 of 10 most often registered NGO types correspond to the fields of operation set in the NGO definition by the FATF, while the respective number in 2018 is 8 of 10 (see Image 5).⁴³
- 3.2.6. The high-risk set includes also the NGOs that have not indicated their type of activity or have indicated "Association or foundation not classified elsewhere".⁴⁴
- 3.2.7. Both in 2017 and 2018, 65% of the NGOs (that were registered in these years) have not indicated their type of activity, while 33% have indicated "Association or foundation not classified elsewhere".
- 3.2.8. Overall, on 31.12.2017 and 31.12.2018, 94% of the NGOs, registered with the ER, had not indicated a particular type of operation.⁴⁵
- 3.2.9. Both associations and foundations can receive a status of a PBO. Decision on granting of the status of the PBO is made by the SRS. Activity of the PBOs is stipulated in the Public Benefit Organisation Law. A public benefit activity is an activity, which provides a significant benefit to society or a part thereof, especially if it is directed towards charitable activities, protection of civil rights and human rights, development of civil society, education, science, culture and promotion of health and disease prophylaxis, support for sports, environmental protection, provision of assistance in cases of catastrophes and extraordinary situations, and raising the social welfare of society, especially for low-income and socially disadvantaged person groups.⁴⁶
- 3.2.10. In 2017, a PBO status was granted to 221 NGOs, while the respective number in 2018 was 138. As of 31.12.2017. there were 2759 NGOs (12% of all registered NGOs) in the country with the PBO status, while in 2018, there were 2785 such NGOs (11% of all registered NGOs). Both in 2017 and 2018, the PBO status was cancelled for 101 NGOs; furthermore, on 31.12.2017. there was a total of 700 NGOs with the cancelled PBO status, while on 31.12.2018. there was 801 NGO. The reasons for cancelling the PBO status are not related to violations of requirements of the AML/CTF Law⁴⁷ (see Table 13).

³⁷ Best Practice Examples of NGOs in the EU. <http://www.sif.gov.lv/nodevumi/nodevumi/3390/Labas-prakses-piemeri-arzemes.pdf>, p 1

³⁸ Associations and Foundations Law, Section 12. Activities of religious organisations are determined in Law On Religious Organisations. Activities of political parties are determined in Law On Political Parties. Activities of trade unions are determined in Law on Trade Unions.

³⁹ Information provided by the ER

⁴⁰ Public Benefit Organisation Law. Latvijas Vēstnesis, 106 (3054), 07.07.2004.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 14, 29.07.2004. — Section 2.

⁴¹ FATF Best Practices on Combating the Abuse of Non-Profit Organisations, Recommendation, p 7. <https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf>

⁴² According to Cabinet Regulation No. 779 "Regulation Regarding Classification of Associations and Foundations". Latvijas Vēstnesis, 252 (5570), 28.12.2015.

⁴³ In Image 5, the fields of operation that correspond to high-risk fields of operation for the NGO determined by the FATF are underlines.

⁴⁴ As of 01.01.2016, associations and foundations may enter their field of operation in the ER, however, this is optionally. Information provided by the ER <https://www.ur.gov.lv/lv/registre/organizaciju/biedriba/dibinasana/darbibas-jomas/>

⁴⁵ Information provided by the ER

⁴⁶ Public Benefit Organisation Law. Latvijas Vēstnesis, 106 (3054), 07.07.2004.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 14, 29.07.2004. — Section 2.

⁴⁷ Information provided by the SRS

3.3. Supervision and control of NGOs

- 3.3.1. Supervision and control is a significant condition for reduction of the sector's vulnerability. The SRS performs supervision and control over the obliged entities referred to in Section 45(2) of the AML/CTF Law regarding fulfilment of the requirements of the AML/CTF Law. NGOs are not obliged entities under the AML/CTF Law, however, the SRS supervises and controls them as for the tax policy and thus the SRS, within its competence, assesses the financial flow, as well as the potential ML/TF risks in relation to this sector. The SSS, within its competence, assesses the TF risk regarding the NGOs registered in Latvia, and it also pays attention to potential activities in Latvia performed by the NGOs which are registered abroad.
- 3.3.2. The FATF indicates⁴⁸ that, within implementation of supervision and control over the NGOs, the following aspects should be addressed:
- 3.3.2.1. Registration process of NGOs;
 - 3.3.2.2. Availability of information about the NGOs and activities performed by the persons who control them;
 - 3.3.2.3. Quality of the submitted annual reports;
 - 3.3.2.4. The manner of control of whether the assets are used according to the NGO's aims of operation;
 - 3.3.2.5. Whether the UBO is known and what interest is the NGO acting in;
 - 3.3.2.6. Quality of accounting documents and compliance with document retention rules.
- 3.3.3. However, the FATF emphasises — implementation of supervision and control measures shows that not all NGOs has an equally high risk level, thus an equally strict supervision and control mechanism is not to be applied to all NGOs. Overburdening the NGOs with supervision and control measures and requirements should be avoided, therefore, it is important to define the high-risk NGOs.
- 3.3.4. An association and foundation receives a status of an LP when they are recorded with the Register of Associations and Foundations. An NGO, as any other LP, must submit their information to the ER and the SRS. When the NGOs are recorded in the Register of Associations and Foundations, a tax payer status is granted thereto. Associations and foundations submit an annual report to the SRS once in a year indicating the amount of revenue and expenses, as well as their use.⁴⁹
- 3.3.5. In the sector of NGOs, the PBOs are subject to enhanced regular supervision. Taking into consideration that PBO donors receive tax reliefs, the PBO's financial use is strictly monitored; if the PBO does not use the donations according to its objective, the status is lost.⁵⁰ Organisations with the PBO status must submit an annual report and report on activities of the previous year, as well as a plan of further activities to the SRS by 31st of March.⁵¹
- 3.3.6. The SRS performs preventive, as well as control measures in regard to other NGOs (that have no PBO status) by assessing the information indicated in the annual reports in conjunction with other information in possession of the SRS. Action of SRS's officials in examination of religious organisations is almost the same as for the examination of other NGOs.
- 3.3.7. Due to specific features of activities of the NGOs, they may be involved not only in TF actions but also in tax evasion schemes. The above is proved by reports that the FIU has received. Based on the received reports, cases have been initiated pursuant to Section 218(2) "Evasion of Tax Payments and Payments Equivalent Thereto", as well as pursuant to Section 195(3) "Laundering of the Proceeds from Crime" of the Criminal Law (see Table 14).
- 3.3.8. Information available to the FIU shows — from the point of view of typologies, the NGOs in transaction schemes mainly have a role of an intermediary/"transaction partner", namely, an account or LP's status of the NGO is used in execution of transactions or preparation of documents. Furthermore, the NGOs that are not VAT payers do not submit monthly reports to the SRS as other LPs, while the annual report on revenues and their use can only be seen in April of the next year, and thus, the real situation cannot be assessed and necessary action cannot be taken fast enough. On a day-to-day basis, control over money flow of the NGO is ensured by providers of payment services. Understanding of the payment service providers on NGO risks will reduce likeliness of the NGO being used in money laundering or financing of terrorism. Observations of the FIU show that the NGOs, that are involved in schemes, make

⁴⁸ FATF Best Practices on Combating the Abuse of Non-Profit Organisations, Recommendation 8, p 18. <https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf>

⁴⁹ Cabinet Regulation No. 808 "Regulation Regarding Annual Reports of Associations, Foundations and trade Unions", Latvijas Vēstnesis, 160 (3528), 06.10.2006.

⁵⁰ Public Benefit Organisation Law, Latvijas Vēstnesis, 106 (3054), 07.07.2004.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 14, 29.07.2004. — Section 13

⁵¹ Cabinet Regulation No. 407 "Regulation Regarding Sample Form of Report on Activities of the Previous Year and Plan of Further Activities for Associations, Foundations, Religious Organisations of their Institutions", Latvijas Vēstnesis, 72 (4264), 07.05.2010.

transactions in a manner that allows reducing the risk of being noticed by the payment service providers, FIU and SRS.⁵²

3.4. Financial flow analysis

- 3.4.1. Activity of associations and foundations cannot be related to profit gaining, therefore, income of the NGO sector is mainly donations and gifts. Laws of the Republic of Latvia do not foresee an obligation to report to the SRS on how a donation has been received (in cash or by transfer).
- 3.4.2. Information provided by the SRS (obtained from section "Donors and Contributors" of the annual reports submitted by NGOs and PBOs) indicates that on 2017 NGOs have received donations and gifts amounting to over 100 million and 59% of them were donations and gifts received by the PBOs (12% of all NGOs were PBOs on 31st of December 2017), while in 2018, the total amount of the donations and gifts to the NGOs slightly exceed 71 million EUR and 48% of them are donations to the PBOs (11% of all NGOs were PBOs on 31st of December 2018) (see Table 15).⁵³
- 3.4.3. One of advantages for the PBOs is an opportunity to use tax reliefs; thus, there is a risk that they can be used for tax evasion and other tax manipulations.
- 3.4.4. Information provided by the SRS shows that both in 2017 and 2018, the largest total amount of donations and gifts were received from Latvia. In 2017, also the United Kingdom and British Virgin Islands were among the 10 countries that donated the largest total amount to the PBOs, and they, based on Cabinet of Ministers regulations, are considered to be the low-tax or tax-free countries and territories.⁵⁴ In 2017, there were also donations received from Andorra, the Bahamas, Belize, Dominica and Hong Kong, although the total amount of donations received by the PBOs from these countries is only 1% of all total amount of total amount donated (see Table 16).
- 3.4.5. In 2018, the largest total amount of donations to the PBOs from the low-tax or tax-free countries and territories came from the companies that are registered in British Virgin Islands⁵⁵ (see Table 16).
- 3.4.6. Information provided by credit institutions regarding the financial flows indicate that incoming transactions exceed the outgoing transaction by two times; however, total amounts of the transactions are not significantly different since the average sum of one outgoing transaction is twice as large as the average sum of one incoming transaction. 98% are domestic transactions that use 89% of all financial assets used in the domestic transactions. There is a similar tendency also in the financial flow of outgoing payments: 98% of the transaction are domestic and they use 95% of all financial assets used in all outgoing transactions. In total, 98% of the transaction were domestic payments that used 92% of all financial assets used for the transactions (see Table 17).⁵⁶ The financial flow in general corresponds to specific features of activities of the NGOs — there is no profit-gaining nature, the main income comes as donations, gifts, member fees, etc. Therefore, it can be assumed that the assets are raised (a high number of incoming payments in small amounts) for a certain period of time that are later used for implementation of a particular aim (one outgoing payment that is made from many incoming payments). Such fund-raising model is a characteristic of TF as well, when financial assets are raised (incl. from the persons that are related to TF and then combined with the assets that are received from the persons not-related to TF) and later, by integrating them into the financial system, they are further directed to TF objectives for the persons and organisations that are related to activities of TF.
- 3.4.7. Transactions most often and for the largest total amount have been made within the territory of Latvia. Also Switzerland, Germany, the USA and the United Kingdom, as well as Latvian neighbouring countries are among those 10 countries from which the largest total amount of transfers has been received. The outgoing payments for the largest total amounts have been made to neighbouring countries of Latvia, as well as to Germany, the United Kingdom, the USA, Poland (see Table 18). According to FATF information, the set of high risk includes the NGOs whose transactions involve the countries with military conflicts or their neighbouring countries. Although assets are neither directly transferred from Latvia to such countries nor received to Latvia from such countries, it should be noted that the schemes for TF are being implemented at global scale and thus, the financial system of any country may be used for directing the assets for TF.
- 3.4.8. Information provided by credit institutions shows that the number of customers that are NGOs increases year to year. According to the study, majority of credit institutions' customers, who are included in the high-risk set of the NGOs defined by the FATF, is related to culture and recreation, religion, research and education, social aid measures and health. The credit institutions indicate that the field declared by the NGOs to the ER not always correctly demonstrates the actual activity of the organisation; therefore, in order to obtain quality information, each situation must be assessed separately. In addition, the credit institutions argue that the number of closed NGOs is relatively small since current accounts on systems of credit institutions become inactive when the NGOs do not continue their activities while the operation is not terminated officially.

⁵² Information provided by the FIU

⁵³ Information obtained from section "Donors and Contributors" of the annual reports submitted by NGOs and PBOs. Up-to-date information on 08.04.2019.

⁵⁴ Cabinet Regulation No. 276 "Regulation Regarding Low-tax or Tax-free Countries and Territories", Latvijas Vēstnesis, 101 (2488), 29.06.2001.

⁵⁵ Cabinet Regulation No. 655 "Regulation Regarding Low-tax or Tax-free Countries and Territories", Latvijas Vēstnesis, 223 (6050), 09.11.2017.

⁵⁶ Information provided by credit institutions

- 3.4.9. Based on information provided by credit institutions, there is also a small number and rather small amount payments carried out between Latvian NGOs and the countries that are included in the European Commissions' list of the countries with a weak system for AML and CTF.⁵⁷ Incoming payments most often and for the largest total amount (of the countries included in the above mentioned list) have been made from Panama and Saudi Arabia, while the outgoing payments in equally small amounts have been made to all countries that are included in Table 8 (see Table 19).
- 3.4.10. Information on particular transaction objectives were not provided as the credit institutions indicate — in majority of cases, the financial flow corresponds to the field of operation stated by the customer (NGO), although 21% of them have registered the field of operations as "Other".⁵⁸
- 3.4.11. In 2017 and 2018, the largest total amount of incoming payments (in the context of the NGO types included in the study) were received by sports associations and foundations, as well as the NGOs that are related to culture and recreation, social aid measures, religion and protection of rights and interests. The total amount of incoming payments of these NGOs constitute 16% of all payments incoming to the NGO accounts (see Table 20).
- 3.4.12. Consequently, in 2017 and 2018, the largest total amount of outgoing payments (in the context of the NGO types included in the assessment) have been made by the NGOs that have received the largest total amounts of the incoming payments, i.e., sports associations and foundations, as well as the NGOs that are related to culture and recreation, social aid measures, religion and protection of rights and interests. The total amount of outgoing payments made by these NGOs constitute 17% of all payments made by the NGOs (see Table 20).
- 3.4.13. In 2017 and 2018, the largest total amount of contributions in cash is made by the contributions of religious organisations. The NGOs that are related to culture, recreation and sports, compared to the religious organisations, have made a half of the number of the contributions in cash. The total amount of contributions in cash by these NGOs constitute 36% of all contributions in cash made by customers (NGOs) of the credit institutions (see Table 20). There is a high level of risk that the religious organisations may be involved in ML/TF activities that require cash legalisation. Furthermore, donations mainly are anonymous; therefore, it would be simpler to disclose relation of these NGOs to ML/TF by examining compliance of use of the received donations with operational objectives of the NGOs.
- 3.4.14. The largest total amount of cash pay-outs in 2017 and 2018 was made by the NGOs that are related to culture, recreation and sports. Their cash pay-outs exceed their contributions by two times. This may indicate that such types of the NGOs are involved in the activities that promote shadow economy, i.e., they pay for goods and services in cash, by possibly avoiding tax payments. At the same time, religious organisations, that have the largest total amount of contributions in cash, make the cash pay-outs constituting just about 20% of the total amount of the contributions in cash. The total amount of cash pay-outs by these NGOs constitute 55% of all contributions in cash made by customers (NGOs) of the credit institutions (see Table 20).

3.5. Requirements for disclosure of ultimate beneficial owners

- 3.5.1. NGOs, just like any other LP must submit information to the ER and the SRS. Disclosure of the UBO for the NGO sector is different and unusual compared to commercial companies, since the NGOs have no usual status and nature of owners that would enable them to identify the person or persons who exercise control. The NGOs whose representatives or members deal with business are more informed. Quite often, clients from the NGO sector, when submitting documents to ER, state that they are not clear about the UBO and ask the ER employees to simply explain which reference to the UBO would be correct.
- 3.5.2. Majority of the NGOs do not associate an obligation of disclosing the UBO to AML/CTF measures, therefore, the requirement of disclosing the UBO is perceived by the NGOs as an administrative requirement placing a burden both in terms of time and finances, and overall the NGO sector does not understand such requirement. The ER, in cooperation with the MoJ and MoF, has developed an explanatory material on disclosure of the UBO for each type of the NGOs. The explanations are available on the ER's website, as well as personal consultations are provided. In addition, the ER together with Finance Latvia Association have developed explanatory materials for the NGOs regarding the obligation of disclosing the UBOs both to the ER and to the obliged entities under the AML/CTF Law within the framework of customer due diligence. The ER has explained the relevant requirements at a meeting of a board for implementation of cooperation memorandum between the NGOs and Cabinet of Ministers.
- 3.5.3. As for foundations, it is assessed whether the UBO is a founder, member of the board or whether he/she performs direct or indirect control. There may be the situations when it is not possible to find out the UBO. If the registered foundation's UBO is a member of the board, a separate application for the UBO's registration is not to be submitted to the ER.
- 3.5.4. In religious organizations and their institutions, members of the management institutions who are entitled to represent religious organizations are considered UBOs. ER points out that this condition is not specified in the regulatory framework and must be assessed on a case-by-case basis.

⁵⁷ European Commission's list of the third countries with strategic deficiencies in their anti-money laundering and counter-terrorist financing frameworks (published on 13.03.2019.)

⁵⁸ Information provided by credit institutions

- 3.5.5. Activity of the NGO sector in disclosing their UBOs is low — as of 31.12.2017. 1456 NGOs disclosed their UBOs (5% of the NGOs that have been registered on 31.12.2017.), while in 2018, 1987 NGOs disclosed their UBOs (7% of the NGOs that have been registered on 31.12.2018.).⁵⁹ On 31st of December, 2017, 16 NGOs registered 90% of the cases (of the NGOs that have indicated their UBO/controller person) when the UBOs/controller of the NGO are Latvian residents, 4% of the cases with Russian residents and 6% of the cases with Lithuanian, Ukrainian, Kazakh, Israeli residents and residents of other countries.
- 3.5.6. NGOs just like any other LP may be involved in ML/TF and thus they should be subject to the same requirements of the AML/CTF Law that are applied to other LPs. Establishment and registration of the UBO is one of the conditions for provision of transparency of the NGO operation. Awareness of the NGO sector of applicability of requirements of the AML/CTF Law to this sector must be facilitated.

⁵⁹ Information provided by the ER. Among others, according to Section 18.2., Paragraph four of the AML/CFT Law (the effective version), on 31.12.2017., 1435 NGOs disclosed their UBOs, while on 31.12.2018., 1471 NGOs has their UBO disclosed by default.

ANNEX No 1

Glossary of acronyms and terminology

AML/CTF Law	Law on the Prevention of Money Laundering and Terrorism Financing
CIS	Commonwealth of Independent States
CoM	Cabinet of Ministers
DNFBP	Designated non-financial businesses and professions
EC	European Commission
ER	Enterprise Register
FATF	Financial Action Task Force
FCMC	Financial and Capital Market Commission
FIU	Financial Intelligence Unit Latvia (Office for Prevention of Laundering of Proceeds Derived from Criminal Activity)
IO	Immediate Outcome (efficiency indicator according to the FATF standards)
JSC	Joint-stock company
KNAB	Corruption Prevention and Combating Bureau
LLC	Limited liability company
LP	Legal person ⁶⁰
ML	Money laundering
ML/TF	Money laundering and financing of terrorism
MoF	Ministry of Finance
MoJ	Ministry of Justice
Moneyval	Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism
Moneyval report	Fifth round mutual evaluation report by Moneyval on Latvia (published on 23 August 2018)
NGO	Non-governmental organisation ⁶¹
Nominal director	A natural person who executes functions of a director (member of the board, council) formally, namely, the person is registered as an official of a company with the enterprise register of the relevant state, while the company in fact is managed according to instructions of another person. The purpose of using the nominal directors mainly is provision of absolute anonymity, hiding of the UBOs. Usually, nominal directors do not own shares or stocks of the company. Certain jurisdictions allow and regulate the institute of nominal directors.
NRA	National ML/TF risk assessment report about Latvia, 2013 –2016
PBO	Public benefit organisation
TF	Terrorism financing
UBO	Ultimate beneficial owner
UN SC	Security Council of United Nations
VAT	Value added tax
SRS	State Revenue Service
SSS	State Security Service

⁶⁰ An LP, within this report, is examined by the following division: Partnerships; LLC, JSC (incl. European commercial companies); others (individual companies, farms and fisheries, cooperative companies).

⁶¹ NGOs, within this report, are examined by the following division: Associations; foundations; religious organisations, their institutions, their societies; other (trade unions, their associations, their independent units, political parties; associations of political parties, European Economic Interest Groupings).

ANNEX No 2

Tables and images

Table 1 — number of LPs registered with the ER and Account Register

Total number of LPs on⁶²:	31.12.2017.	31.12.2018.
LLC	159,265	150,191
JSC (incl. European commercial companies)	1023	1053
Limited partnerships	132	145
Other LPs (general partnerships, cooperative companies)	2471	2470
Other LPs (associations, religious organisations, their institutions, political parties, foundations)	25,989	26,889
TOTAL	188,880	180,748
Number of non-resident LPs ⁶³	36,359	10,478

Source: Enterprise Register, Account Register

Table 2 — current assets of LPs, *euro* ⁶⁴

	2017	2018
JSC	5,312,565,380.00	2,073,145,107.00
LLC	20,026,506,988.00	15,141,808,899.00
Other LPs	1,020,214,042.00	1,027,495,609.00

Source: State Revenue Service

Table 3 — the number of reports on suspicious transactions received by the FIU

The number on:	31.12.2017.	31.12.2018.
Number of reports on suspicious transactions (from Latvian institutions) related to JSCs	318	149
% of all reports on suspicious transactions	5%	3%
Number of JSCs included in reports on suspicious transactions	128	145
Number of reports on suspicious transactions (from Latvian authorities) related to LLCs	3152	1841
% of all reports on suspicious transactions	52%	39%
Number of LLCs included in reports on suspicious transactions	4594	3895
Total number of reports on suspicious transactions involving LPs	6058	4719
Total number of reports on suspicious transactions	7722	6617

Source: FIU Latvia

Table 4 — the number of reports on unusual transactions received by the FIU

The number on:	31.12.2017.	31.12.2018.⁶⁵
Number of reports on unusual transactions (from Latvian institutions) related to JSCs	1094	738
% of all reports on unusual transactions	24%	5%
Number of JSCs included in reports on unusual transactions	20	57
Number of reports on unusual transactions (from Latvian authorities) related to LLCs	3299	10,580
% of all reports on unusual transactions	72%	73%
Number of LLCs included in reports on unusual transactions	241	1580
Unusual transactions involving LPs	4551	14,388
Total number of unusual transactions	9024	26,377

Source: FIU Latvia

Table 5 — the number of non-resident LPs registered with the Account Register

The number on:	31.12.2017.	31.12.2018.
The number of unique non-resident LPs registered with the account register ⁶⁶	36,359	10,478
The number of accounts registered with the account register (disregarding the uniqueness)	68,099	19,065

⁶² Data provided by the ER.

⁶³ Data provided by the Account register. Uniqueness established by comparing the data of providers of information from the account register. Residence established within the meaning set in the Account register.

⁶⁴ Information source — annual reports 2017 and 2018

⁶⁵ On 01.05.2018., thresholds for reporting on unusual transactions were reduced, and thus, the number of the reports significantly increased when compared to 2017.

⁶⁶ The number of legal persons that are not residents of the Republic of Latvia (residence is determined within the framework of Account Register Law) if the uniqueness is determined by data of information providers to the account register.

Non-resident LPs registered in low-tax or tax-free countries and territories (of the number of unique non-resident LPs registered with the account register)	26,644 ⁶⁷	145 ⁶⁸
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Source: Account Register

Table 6 — High-risk NGOs ⁶⁹

The number of high-risk NGOs ⁷⁰ on	31.12.2017.	31.12.2018.
NGOs having the status of PBO	2759	2785
NGOs that have indicated their type of operation which corresponds to the NGO definition provided by the FATF ⁷¹	1442	1710
NGOs have not indicated a particular type of activity ⁷²	22,189	22,703
NGOs that have indicated their type of activity "Association or foundation not classified elsewhere". ⁷³	70	89
TOTAL	26,460	27,287
All NGOs registered with the ER (incl. PBOs)		
Associations	20,545	21,364
Foundations	1447	1485
Religious organisations (a parish, church, diocese)	955	955
Other NGOs (a trade union, political party, European Economic Interest Grouping, etc.)	3042	3085
TOTAL	25,989	26,889

Source: Enterprise Register

Table 7 — number of LLCs and JSCs registered with the ER⁷⁴

	The number of LLCs/JSCs registered in 2017	Total number on 31.12.2017.	The number of LLCs/JSCs registered in 2018	Total number on 31.12.2018.
LLC	9343	159,265	9866	150,191
JSC	59	1023	56	1053
TOTAL	9402	160,288	9922	151,244

Source: Enterprise Register

Table 8 — Payments of non-residents by registration country code of a credit institution of an initiator or recipient

Payments of non-residents by registration country code of a credit institution of an initiator or recipient (in 2018)			
	Incoming		Outgoing
Estonia	15,687,953,166.82	Russia	11,179,495,341.52
Russia	10,676,963,542.60	Germany	7,117,471,420.52
Lithuania	5,651,976,260.72	Lithuania	6,402,229,021.73
Germany	4,359,739,073.08	Estonia	5,532,808,514.68
The UK	3,593,627,658.38	The UK	3,394,439,420.94
Czech Republic	3,544,649,250.63	Czech Republic	2,958,933,171.89
Sweden	1,945,166,286.49	Poland	2,212,914,184.09
Ukraine	1,738,682,341.21	Ukraine	1,961,253,605.87
Finland	1,702,848,257.49	Finland	1,842,976,232.30

Source: Financial and Capital Market Commission

Table 9 — the number of LPs registered with the ER and LPs that have disclosed their UBOs

	31.12.2017.	31.12.2018.
Total number of the registered LPs	188,880	180,748
Have disclosed their UBOs	1745 (0.95%)	145,294 (80%)

⁶⁷ Cabinet Regulation No. 276 "Regulation Regarding Low-tax or Tax-free Countries and Territories", Latvijas Vēstnesis, 101 (2488), 29.06.2001. (see the list of countries in Annex 3)

⁶⁸ Cabinet Regulation No. 655 "Regulation Regarding Low-tax or Tax-free Countries and Territories", Latvijas Vēstnesis, 101 (2488), 29.06.2001. (see the list of countries in Annex 3)

⁶⁹ The total number differs since the number of the NGOs registered with the ER includes also the NGOs with the PBO status. The NGOs can indicate several types of operation. Statistics is not indicated considering the NGO uniqueness.

⁷⁰ According to the NGO definition given by the FATF, considering the NGO types registered in Latvia. Data of the ER and SRS.

⁷¹ Data provided by the ER on 10 NGO types registered most often.

⁷² According to Section 15, Paragraph one, Clause 3 of the Associations and Foundations Law, also a goal of an association or foundation is to be entered with the Register of Associations and Foundations, as well as the field of operation according to the classification set by the Cabinet of Ministers if the association or foundation registers its field of operation or such obligation is imposed by law. With regard to the above, associations and foundation must indicated their field of operation if such obligation is specially provided for in law. Mandatory indication of the filed of operation is determined only for employers' organisations and trade unions according to the Employers' Organisations and their Associations Law and Law on Trade Unions

⁷³ According to the Cabinet Regulation No. 779 (01.01.2016) "Regulation Regarding Classification of Associations and Foundations"

⁷⁴ Information provided by the ER

Have disclosed their UBOs by default, without submitting other information by 01.03.2018. (Section 18.2(4) and Section 18.2(5) of the AML/CTF Law)	N/A	114,692
LPs that have disclosed their UBOs under a specific procedure	N/A	30,602
Total number of the registered LLCs and JSCs	160,288	151,244
Have disclosed their UBOs	1745 (1%)	143,738 (95%)
Have disclosed their UBOs by default, without submitting other information by 01.03.2018. (Section 18.2(4) and Section 18.2(5) of the AML/CTF Law)	N/A	113,156
LPs that have disclosed their UBOs under a specific procedure	N/A	30,602
Implement the control directly	1408 (81%)	138,144 (96%)

Source: Enterprise Register

Table 10 — registration countries of non-residents LPs registered with the Account Register

Registration countries of non-resident LPs registered with the Account Register				
Country	Number of LPs on 31.12.2017.	The number of non-resident LPs (if uniqueness is established by comparing the data of providers of information from the Account Register) on 31.12.2017.	Number of LPs on 31.12.2018.	The number of non-resident LPs (if uniqueness is established by comparing the data of providers of information from the Account Register) on 31.12.2018.
The UK	22,104	10,922	6046	2996
British Virgin Islands	9847	5201	1248	796
Cyprus	6193	4431	3564	2132
Seychelles	4327	2168	368	234
Belize	4228	2079	537	300
Panama	3511	1813	401	246
Hong Kong	3380	1871	883	388
Canada	1623	817	281	157
Marshall Islands	1449	699	116	85
Estonia	1038	633	1151	650

Source: Account Register

Table 11 — residential countries of unique UBOs (the number thereof) registered with the Account Register

Residential countries of unique UBOs (the number thereof) registered with the account register				
Country	Number of UBOs on 31.12.2017.	Number of unique UBOs on 31.12.2017.	Number of UBOs on 31.12.2018.	Number of unique UBOs on 31.12.2018.
Russia	15,451	6510	7420	3897
Ukraine	11,385	4711	5138	2556
Lithuania	2225	1162	2280	1280
Belarus	2163	1006	1045	627
Estonia	1904	984	2018	1106
Uzbekistan	1651	737	653	322
Germany	979	490	1510	956
Italy	810	422	1057	704
Kazakhstan	633	329	274	159
Azerbaijan	443	247	229	117

Source: Account Register

Table 12 — number of the NGOs registered with the ER

All NGOs registered with the ER (incl. PBOs)		
Associations	20,545	21,364
Foundations	1447	1485
Religious organisations (a parish, church, diocese)	955	955
Other NGOs (a trade union, political party, European Economic Interest Grouping, etc.)	3085	646
TOTAL	25,989	26,889

Source: Enterprise Register

Table 13 — the number of granted and cancelled PBO status

	01.01.2017.- 31.12.2017.	01.01.2018.- 31.12.2018.	On 01.01.2018.	On 01.01.2019.
PBO status granted	221	138	2759	2785
PBO status cancelled	101	101	700	801

Source: State Revenue Service

Table 14 — the number of reports that include NGOs received by the FIU

	2017	2018
The number of reports that include NGOs received from subjects	64	135
The number of NGOs included in the reports	66	85
The number of NGOs that have been subject to enhanced due diligence based on the received reports	30	35
Summarised reports sent to law enforcement authorities	3	2
Criminal proceedings initiated	3	1

Source: FIU Latvia

Table 15 — total amount of donated money and property received by the NGOs (EUR)⁷⁵

	01.01.2017. -31.12.2017.	01.01.2018. – 31.12.2018.
Total amount of donated money and property received by the NGOs (EUR) ⁷⁶	43,649,904.70	37,249,422.32
Total amount of donated money and property received by the PBOs (EUR)	63,566,337.02	33,907,422.01

Source: State Revenue Service

Table 16 — the countries that have provided donations and gifts to the PBOs most often⁷⁷

The countries that have provided donations and gifts to the PBOs most often in 2017 and 2018			
Country	Amount (EUR) 01.01.2017.-31.12.2017.	Country	Amount (EUR) 01.01.2018.-31.12.2018.
The USA	4,249,042.93	Germany	1,329,122.47
Austria	1,097,842.00	Austria	931,227.00
Cyprus	960,000.00	The USA	673,723.53
Germany	933,391.41	British Virgin Islands	430,339.00
Russia	597,448.47	Malta	372,734.95
The UK	549,146.97	The UK	355,930.00
British Virgin Islands	339,050.00	Sweden	295,232.24
Sweden	329,102.91	Lithuania	270,944.63
Norway	209,758.99	Norway	204,500.60
Israel	193,555.17	Russia	131,378.00

Source: State Revenue Service

Table 17 — NGOs' incoming and outgoing transactions

	Number of transactions (2017-2018)	Total amount of transactions (EUR)	Average amount of one transaction
Incoming transactions			
Domestic	3,315,402	1,132,863,899.26	341.70
Foreign	59,967	138,575,655.70	2,310.87
Total	3,375,369	1,271,439,554.96	376.68
Outgoing transactions			
Domestic	1,588,416	1,188,982,637.66	748.53
Foreign	39,249	63,408,702.16	1,615.55
Total	1,627,665	1,252,391,339.82	769.44
The number of transactions and total amount thereof performed in 2017 and 2018			
Domestic	4,903,818	2,321,846,536.92	473.48
Foreign	99,216	201,984,357.86	2,035.80
Total	5,003,034	2,523,830,894.78	504.46

Source: Financial and Capital Market Commission

⁷⁵ Statistics have been summarised about all NGOs (excluding the donations received by the PBOs). It is not possible to separate the high-risk NGOs. Information obtained from section "Donors and Contributors" of the annual reports submitted by NGOs and PBOs. Up-to-date information on 08.04.2019.

⁷⁶ Statistics have been summarised about all NGOs (excluding the donations received by the PBOs). It is not possible to separate the high-risk NGOs.

⁷⁷ Information obtained from section "Donors and Contributors" of the annual reports submitted by NGOs and PBOs. Up-to-date information on 08.04.2019.

Table 18 — countries most often involved in NGO transactions in 2017 and 2018

By amount		By the number of transactions	
Incoming	Outgoing	Incoming	Outgoing
Latvia	Latvia	Latvia	Latvia
Switzerland	Estonia	Lithuania	Estonia
Germany	Germany	Finland	Lithuania
The USA	The UK	Germany	Germany
The UK	Lithuania	Estonia	The UK
Russia	The USA	The UK	Ireland
Sweden	Russia	Sweden	Poland
Belarus	Poland	Russia	The USA
Lithuania	Denmark	Ireland	Russia
Estonia	Switzerland	Norway	France

Source: Financial and Capital Market Commission

Table 19 — incoming and outgoing transactions of the NGOs, registered in Latvia, with high-risk countries and their neighbouring countries in 2017 and 2018

High-risk countries*	Incoming transactions		Outgoing transactions	
	Number of transactions	Total amount (EUR)	Number of transactions	Total amount (EUR)
Bahrain	0	0.00	4	52.39
Egypt	2	655.00	15	11,426.91
Continuation of Table 19				
Indonesia	0	0.00	6	23,242.09
Jordan	8	31,593.54	0	0.00
Qatar	4	5,321.96	0	0.00
Kuwait	1	1,500.00	0	0.00
Lebanon	6	11,234.99	1	516.54
Morocco	1	200.00	4	1,183.86
Nigeria	1	885.00	1	2,950.00
Pakistan	0	0.00	4	3,580.00
Palestine	0	0.00	8	36,579.00
Panama	7	211,674.55	1	1,184.15
Saudi Arabia	3	171,195.00	1	3,725.00
Sri Lanka	0	0.00	4	6,905.81
Tunisia	1	3,840.00	0	0.00
Neighbouring states of the high-risk countries*				
Armenia	18	30,679.02	62	30,063.26
Azerbaijan	30	80,396	46	150,567.68
South Korea	23	166,376.71	51	245,784.91
Israel	111	1,505,382.04	153	415,962.09
Russia	1844	9,215,289.21	1295	4,031,152.42
China	38	115,218.61	53	189,339.74
Turkey	84	246,349.39	88	150,538.93
Turkmenistan	0	0.00	1	1,058.17
*High-risk countries in accordance with the Cabinet of Ministers' Regulation No. 554 "Regulation Regarding States for the Citizens of which in Issuing a Visa or a Residence Permit an Additional Assessment shall be Performed" and the high-risk third countries defined by the European Commission (list published on 13 November 2018)				
**Neighbouring countries of Iraq, Iran, Syria and North Korea that are not included in the above-mentioned list.				

Source: Financial and Capital Market Commission

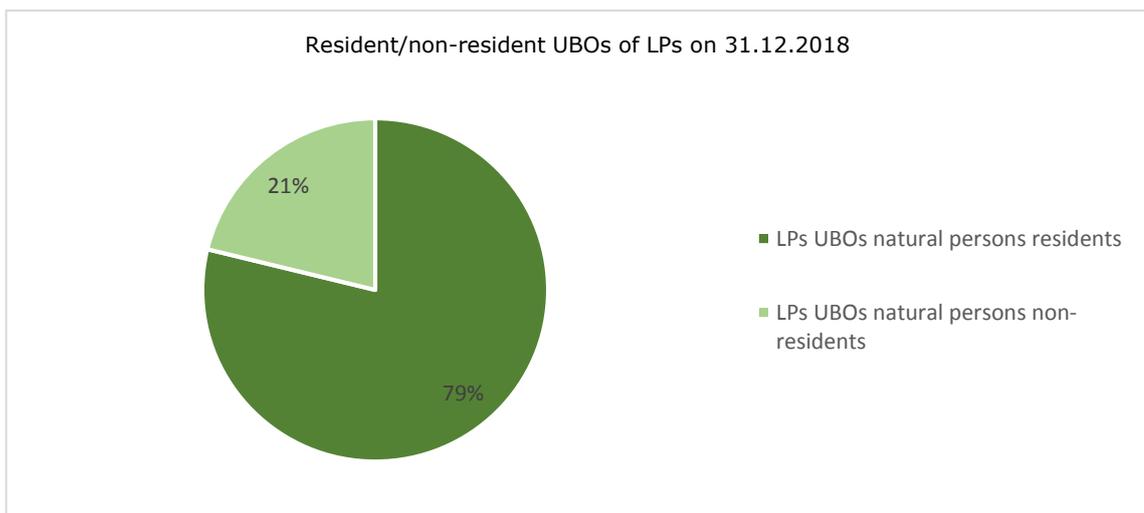
Table 20 — detailed overview of financial flow of the NGOs

Financial flow of the NGOs in 2017–2018	
Total amount of payment incoming to the NGOs, by countries	
Latvia	1,132,863,899.26
Switzerland	17,716,995.15
Germany	16,935,285.44
The USA	15,234,652.39
The UK	10,136,302.64
Russia	9,215,289.21
Sweden	6,610,234.29
Belarus	5,675,854.88
Lithuania	4,951,219.58
Estonia	4,554,429.12
Total amount of payments outgoing from the NGOs, by countries	
Latvia	1,188,982,637.66
Estonia	8,421,085.14

Germany	6,869,613.93
The UK	5,593,308.47
Lithuania	4,751,470.29
The USA	4,207,970.54
Russia	4,031,152.42
Poland	2,904,440.86
Denmark	2,639,539.76
Switzerland	2,560,373.59
Total amount of payments incoming to the NGOs that correspond to the FATF definition (TOP 5)	
Sports associations and foundations	85,225,261.18
Culture and recreation	69,683,312.03
Social support measures for people	37,043,648.77
Religion	38,573,393.24
Justice and protection of interests	16,585,232.48
Total amount of payments outgoing from the NGOs that correspond to the FATF definition (TOP 5)	
Sports associations and foundations	88,839,968.74
Culture and recreation	73,398,872.55
Social support measures for people	41,604,034.42
Religion	25,814,546.42
Justice and protection of interests	16,775,188.48
Total amount of transactions in cash incoming to the NGOs that correspond to the FATF definition (TOP 5)	
Religion	5,519,651.24
Culture and recreation	2,557,777.19
Continuation of Table 20	
Sports associations and foundations	2,402,959.55
Social support measures for people	680,289.43
Law and protection of interests	130,037.43
Total amount of transactions in cash outgoing from the NGOs that correspond to the FATF definition (TOP 5)	
Culture and recreation	8,839,800.11
Sports associations and foundations	6,626,984.19
Religion	1,416,921.50
Social support measures for people	393,026.82
Law and protection of interests	181,037.03

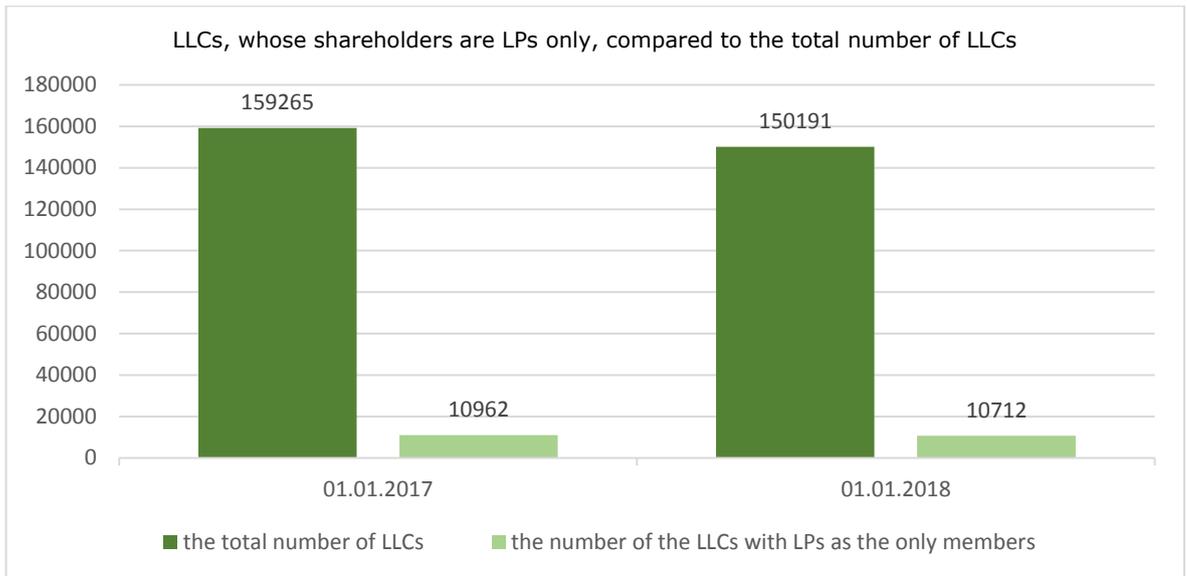
Source: FCMC

Image 1 — UBOs of LPs, natural persons residents/non-residents



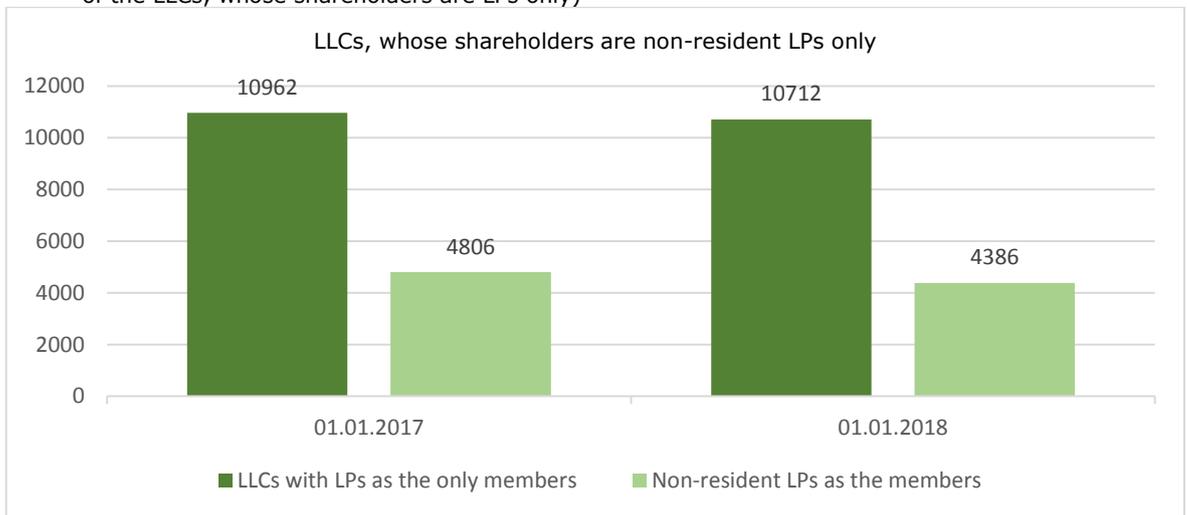
Source: Enterprise Register

Image 2 — LLCs with shareholders that are LPs only



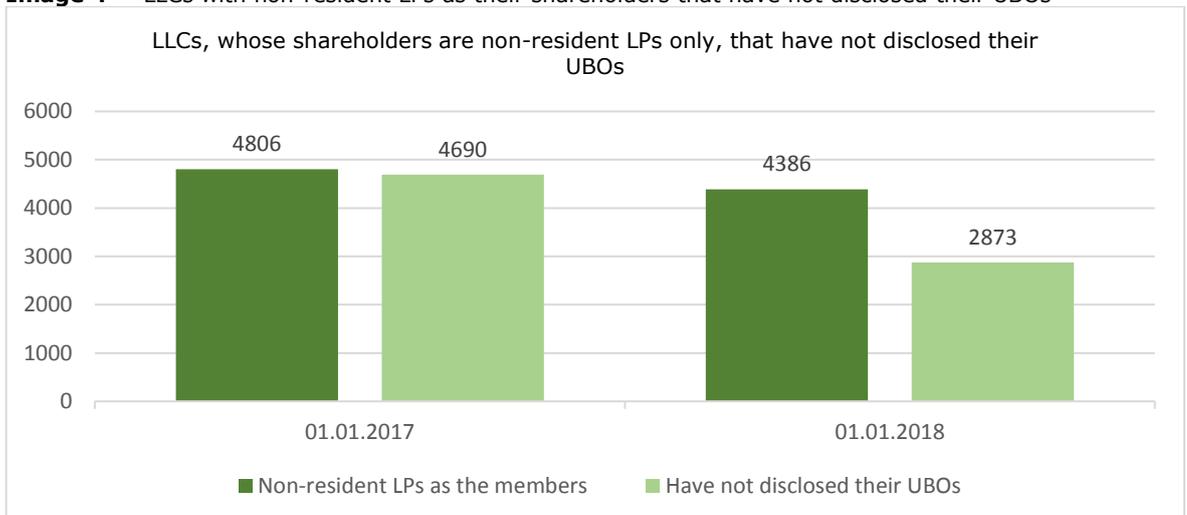
Source: Enterprise Register

Image 3 — the number of LLCs, whose shareholders are non-resident LPs only (compared to the number of the LLCs, whose shareholders are LPs only)



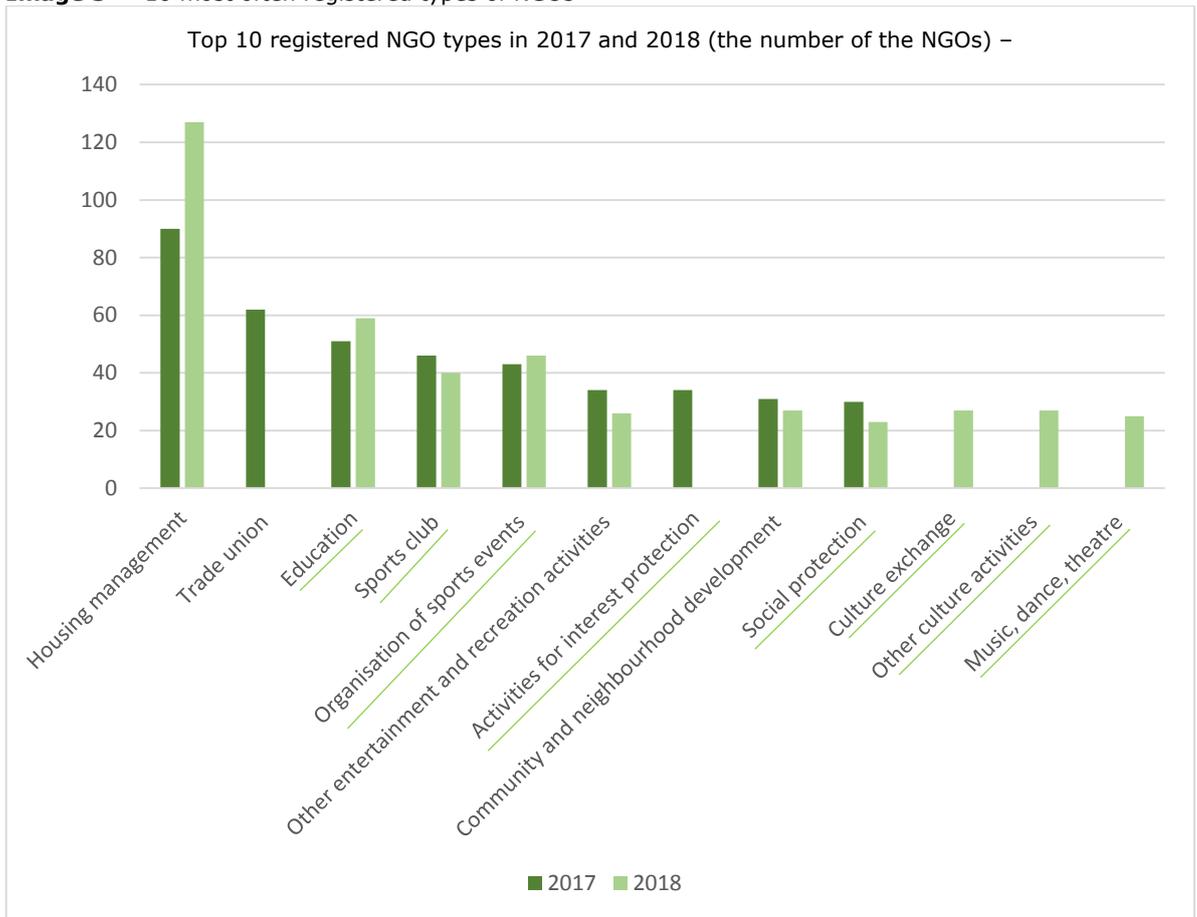
Source: Enterprise Register

Image 4 — LLCs with non-resident LPs as their shareholders that have not disclosed their UBOs



Source: Enterprise Register

Image 5 — 10 most often registered types of NGOs⁷⁸



Source: Enterprise Register

⁷⁸ The types of operation that, according to the FATF definition, are high-risk NGOs, are underlined

ANNEX No 3

Lists of countries used in the report

List of countries in accordance with the Cabinet of Ministers Regulation No. 554 of 21 June 2010 "Regulation Regarding States for the Citizens of which in Issuing a Visa or a Residence Permit an Additional Assessment shall be Performed"

1. Islamic Republic of Afghanistan
2. Democratic People's Republic of Algeria
3. Kingdom of Bahrain
4. People's Republic of Bangladesh
- 4.¹ Republic of South Sudan
- 4.² Georgia (Abkhazia and South Ossetia)
5. Arab Republic of Egypt
6. Republic of Indonesia
7. Republic of Iraq
8. Islamic Republic of Iran
9. Republic of Yemen
10. Hashemite Kingdom of Jordan
11. State of Qatar
12. Republic of Kenya
13. Democratic People's Republic of Korea
14. Russian Federation (Chechnya, Dagestan, Ingushia and North Ossetia)
15. State of Kuwait
16. Republic of Lebanon
17. Socialist Arab People's Jamahiriya of Lybia
- 17.¹ Republic of Mali
18. Kingdom of Morocco
19. Federative Republic of Nigeria
20. Sultanate of Oman
21. Islamic Republic of Pakistan
22. Palestinian Authority*
23. Kingdom of Saudi Arabia
24. Arab Republic of Syria
25. Somalia
26. Republic of Sudan
27. Republic of Tunisia
38. Ukraine (Autonomous Republic of Crimea, Luhansk Region and Donetsk Region)

List of 23 third countries with strategic non-conformities in the systems of combating ML and FT adopted by the European Commission on 13 February 2019. According to Directive (EU) 2015/849 of the European Parliament and of the Council (Directive 4) and Directive (EU) 2018/843 (Directive 5), the European Commission is authorised to make an autonomous assessment to establish high-risk third countries. The list includes 12 states which are included in the list by the Financial Action Task Force (*FATF*), and 11 other jurisdictions.

1. Afghanistan
2. American Samoa
3. The Bahamas
4. Botswana
5. Democratic People's Republic of Korea
6. Ethiopia
7. Ghana
8. Guam
9. Iran
10. Iraq
11. Lybia
12. Nigeria
13. Pakistan
14. Panama
15. Puerto Rico
16. Samoa
17. Saudi Arabia
18. Sri Lanka
19. Syria
20. Trinidad and Tobago
21. Tunisia
22. US Virgin Islands
23. Yemen

High-risk jurisdictions defined by the FATF⁷⁹

1. The Bahamas
2. Botswana
3. Cambodia
4. Democratic People's Republic of Korea
5. Ethiopia
6. Ghana
7. Iran
8. Pakistan
9. Serbia
10. Sri Lanka
11. Syria
12. Trinidad and Tobago
13. Tunisia
14. Yemen

The country list according to the Cabinet Regulation No. 655 (07.11.2017.) "Regulation Regarding Low-tax or Tax-free Countries and Territories" (effective as of 01.01.2018.)

Low-tax or tax-free countries and territories:

1. Antigua and Barbuda;
2. US Virgin Islands;
3. Commonwealth of the Bahamas;
4. State of Bahrain;
5. Brunei Darussalam;
6. Commonwealth of Dominica;
7. Republic of Djibouti;
8. Republic of Ecuador;
9. Grenada;
10. Guam (USA);
11. Jamaica;
12. New Caledonia (French Republic);
13. Hashemite Kingdom of Jordan;
14. Republic of Kenya;
15. Republic of Liberia;
16. Macau (People's Republic of China);
17. Republic of Maldives;
18. Democratic Republic of São Tomé and Príncipe;
19. Saint Pierre and Miquelon (French Republic);
20. Saint Helena Island (the United Kingdom of Great Britain and Northern Ireland);
21. Tahiti (French Polynesia);
22. Kingdom of Tonga;
23. Republic of Vanuatu;
24. Republic of Venezuela;
25. Zanzibar Island (United Republic of Tanzania).

The country list according to the Cabinet Regulation No. 276 (26.06.2001.) "Regulation Regarding Low-tax or Tax-free Countries and Territories" (effective by 31.12.2017.)

Low-tax or tax-free countries and territories:

1. Valleys of Andorra;
2. Anguilla (the United Kingdom of Great Britain and Northern Ireland);
3. Antigua and Barbuda;
4. (deleted by the Cabinet Regulation No. 116 of 05.03.2013);
5. United Arab Emirates;
6. Aruba (the Kingdom of the Netherlands);
7. US Virgin Islands;
8. Commonwealth of the Bahamas;
9. State of Bahrain;
10. Barbados;
11. Belize;
12. Bermuda (the United Kingdom of Great Britain and Northern Ireland);
13. British Virgin Islands;
14. Brunei Darussalam;
15. Commonwealth of Dominica;
16. Jersey (the United Kingdom of Great Britain and Northern Ireland);
17. Republic of Djibouti;
18. Republic of Ecuador;

⁷⁹ Source: <http://www.fatf-gafi.org/countries/#high-risk>

19. Guernsey (the United Kingdom of Great Britain and Northern Ireland);
20. Gibraltar (the United Kingdom of Great Britain and Northern Ireland);
21. Grenada;
22. Guam (USA);
23. Republic of Guatemala;
24. Hong Kong (Xiānggǎng, People's Republic of China);
25. Jamaica;
26. New Caledonia (French Republic);
27. Hashemite Kingdom of Jordan;
28. Cayman Islands (United Kingdom of Great Britain and Northern Ireland);
29. (deleted by the Cabinet Regulation No. 22 of 12.01.2010);
30. State of Qatar;
31. Republic of Kenya;
- 31.1 Curaçao (the Kingdom of the Netherlands);
32. (deleted by Cabinet Regulation No. 422 of 22.04.2004)
33. Republic of Costa Rica;
34. Cook Islands (New Zealand);
35. State of Kuwait;
36. Labuan (Malaysia);
37. Republic of Lebanon;
38. Republic of Liberia;
39. Principality of Liechtenstein;
40. (deleted by the Cabinet Regulation No. 22 of 12.01.2010);
41. Macau (People's Republic of China);
42. Republic of Maldives;
43. Republic of Mauritius;
44. Republic of the Marshall Islands;
45. The Isle of Man (the United Kingdom of Great Britain and Northern Ireland);
46. Principality of Monaco;
47. Montserrat (the United Kingdom of Great Britain and Northern Ireland);
48. Republic of Nauru;
49. Niue (New Zealand);
50. Alderney (the United Kingdom of Great Britain and Northern Ireland);
51. Republic of Panama;
52. Independent State of Samoa;
53. Republic of San Marino;
54. (deleted by the Cabinet Regulation No. 22 of 12.01.2010);
55. Democratic Republic of São Tomé and Príncipe;
56. Republic of Seychelles;
57. Saint Pierre and Miquelon (French Republic);
58. Federation of Saint Kitts and Nevis;
59. Saint Lucia;
60. Saint Vincent and the Grenadines;
- 60.1 Sint Maarten (the Kingdom of the Netherlands);
61. Saint Helena Island (the United Kingdom of Great Britain and Northern Ireland);
62. Tahiti (French Polynesia);
63. Turks and Caicos Islands (the United Kingdom of Great Britain and Northern Ireland);
64. Kingdom of Tonga;
65. Oriental Republic of Uruguay;
66. Republic of Vanuatu;
67. Republic of Venezuela;
68. Zanzibar Island (United Republic of Tanzania).

ANNEX No 4

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7. Cabinet Regulation No. 655 "Regulation Regarding Low-tax or Tax-free Countries and Territories". Latvijas Vēstnesis, 223 (6050), 09.11.2017.
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11. Law on the Prevention of Money Laundering and Terrorism Financing. Latvijas Vēstnesis, 116 (3900), 30.07.2008.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 16, 28.08.2008.
12. Public Benefit Organisation Law. Latvijas Vēstnesis, 106 (3054), 07.07.2004.; Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 14, 29.07.2004.

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1. Best practices of non-governmental organisations of the European Union. Address: <http://www.sif.gov.lv/nodevumi/nodevumi/3390/Labas-prakses-piemeri-arzemes.pdf>
2. FATF Best Practices on Combating the Abuse of Non-Profit Organisations, Recommendation 8. Address: <https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf>
3. FATF Guidance Transparency and beneficial ownership. Address: <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>
4. FATF High-risk and other monitored jurisdictions. Address: <http://www.fatf-gafi.org/countries/#high-risk>
5. FATF Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of AML/CTF systems. Address: <http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%202022%20Feb%202013.pdf>
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