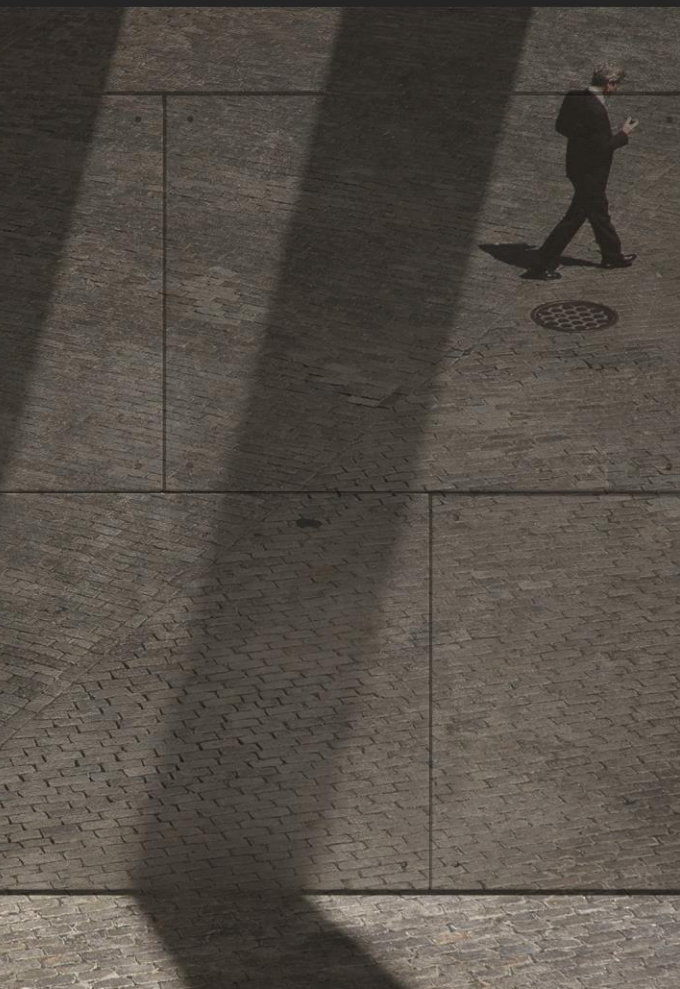




IMPLEMENTING THE OECD ANTI-BRIBERY CONVENTION



PHASE 3 REPORT: **Latvia**

This Phase 3 Report on Latvia by the OECD Working Group on Bribery evaluates and makes recommendations on Latvia's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. It was adopted by the Working Group on 10 October 2019.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

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EXECUTIVE SUMMARY

The Phase 3 report on Latvia by the OECD Working Group on Bribery evaluates and makes recommendations on Latvia's implementation and enforcement of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments. The report considers country-specific (vertical) issues arising from changes in Latvia's legislative and institutional framework, as well as progress made since Latvia's Phase 2 evaluation. The report also focuses on key Group-wide (horizontal) issues, particularly enforcement.

Overall, the Working Group is of the view that Latvia's enforcement results should be more commensurate with the country's exposure to foreign bribery and subsequent money laundering risks. None of the foreign bribery allegations that surfaced to date have reached the prosecutorial stage in Latvia. The allegations involve both Latvian individuals or companies paying bribes to foreign public officials as well as cases where Latvian banks and other corporate entities have been used by non-Latvian companies to channel bribe payments and subsequently to launder them. Three foreign bribery investigations are ongoing. Proceeds of foreign bribery have been laundered through some Latvian banks and other corporate entities in at least two multijurisdictional bribery cases. While the Latvian authorities are handling a larger number of money laundering cases, the conviction rate should follow this increasing trend. No financial institution was ever held criminally liable in Latvia to date for its role in a foreign bribery scheme or for money laundering despite the risk exposure of the Latvian banking system. The Working Group also regrets that the government's repeated and open criticism of the Prosecutor General risks creating political interference into the operation of the Public Prosecutor Office. This coupled with evidence of "state capture" reported in a parliamentary inquiry on a high profile domestic corruption case further raise concerns, especially over investigative and prosecutorial independence in Latvia.

The report identifies other areas for improvement. Legislative deficiencies remain regarding the foreign bribery offence. Resources continue to be lacking, especially within the Public Prosecution Office and the State Police, and further training needs to be provided. Latvia also demonstrates a lack of detection of foreign bribery cases. In particular, none of the foreign bribery cases were detected by KNAB nor through Latvia's AML framework or tax authorities. Latvia has also encountered several enforcement challenges. In some cases, delays have materialised in opening preliminary and formal investigations based on information received through mutual legal assistance and two proceedings against legal persons were only initiated after the conviction of the related natural person(s) abroad. Further efforts are necessary to ensure that Latvian banks comply with Latvia's anti-money laundering legislation.

The report also notes positive developments, including the increase of the statutory maximum fines available for natural persons for foreign bribery, money laundering and false accounting offences, a lower evidentiary threshold to prove money laundering and the adoption of a comprehensive legislation on whistleblower protection. Latvia has also taken steps to strengthen KNAB's functional independence. Reforms have been implemented to enhance the FIU's operational capacity and typologies have been provided to reporting entities on corruption and foreign bribery. Latvia's efforts to upgrade its legislative and regulatory framework to prevent money laundering in the financial sector are welcome together with Latvia's financial sector supervisor's efforts to renew its approach to supervision of financial institutions. Finally, the Working Group notes that Latvia has also provided timely mutual legal assistance to foreign countries in foreign bribery cases and undertook a comprehensive reform of its confiscation regime.

The report and its recommendations reflect the findings of experts from Czech Republic and Mexico, and were adopted by the Working Group on xx October 2019. It is based on legislation and other materials provided by Latvia and research conducted by the evaluation team. The report is also based on information obtained by the evaluation team during its three-and-a-half day on-site visit to Riga on 21-24 May 2019,

during which the team met representatives of Latvia's public and private sectors, media and civil society. The Working Group requested that Latvia submit a written follow-up report on its implementation of all recommendations and on all follow-up issues within two years (i.e. by October 2021).

A. INTRODUCTION

The On-Site Visit

1. On 20-24 May 2019, an evaluation team from the OECD Working Group on Bribery in International Business Transactions (Working Group) visited Riga as part of the Phase 3 evaluation of Latvia's implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Convention); the 2009 Recommendation for Further Combating the Bribery of Foreign Public Officials in International Business Transactions (2009 Anti-Bribery Recommendation); and the 2009 Recommendation of the Council on Tax Measures for Further Combating the Bribery of Foreign Public Officials in International Business Transactions (2009 Tax Recommendation).

2. The evaluation team was composed of lead examiners from the Czech Republic and Mexico, as well as members of the OECD Secretariat.¹ Before the on-site visit, Latvia responded to the Phase 3 Questionnaire and supplementary questions and provided relevant legislation and documents. The responses provided were exhaustive and thorough. During the on-site visit, the evaluation team met representatives of the Latvian public and private sectors, civil society and media. The evaluation team expresses its appreciation to Latvia for its efforts in the evaluation process and to all participants for their openness during the on-site visit discussions (see Annex 3 for a list of participants). During and following the on-site visit, Latvia made commendable efforts to provide additional information and the evaluation team wishes to express its appreciation of the very good co-operation with the authorities throughout the evaluation process. In particular, the team would like to highlight that the civil society and media representatives were able to express their views very openly during a discussion that the authorities elected not to attend. Finally, the evaluation team expresses its thanks to the OECD and Moneyval experts who have reviewed the report.²

Summary of the Monitoring Steps Leading to Phase 3

3. The monitoring of the implementation and enforcement of the Convention and related instruments takes place in successive phases through a rigorous peer-review monitoring system. The monitoring process is subject to specific agreed-upon principles. The process is compulsory for all Parties and provides for on-site visits (as of Phase 2), including meetings with non-government actors, and reports are systematically published. The evaluated

Previous WGB evaluations of Latvia

2018 [Additional written follow-up report](#)

2017 [Phase 2 written follow-up report](#)

2015 [Phase 2](#)

2014 [Phase 1](#)

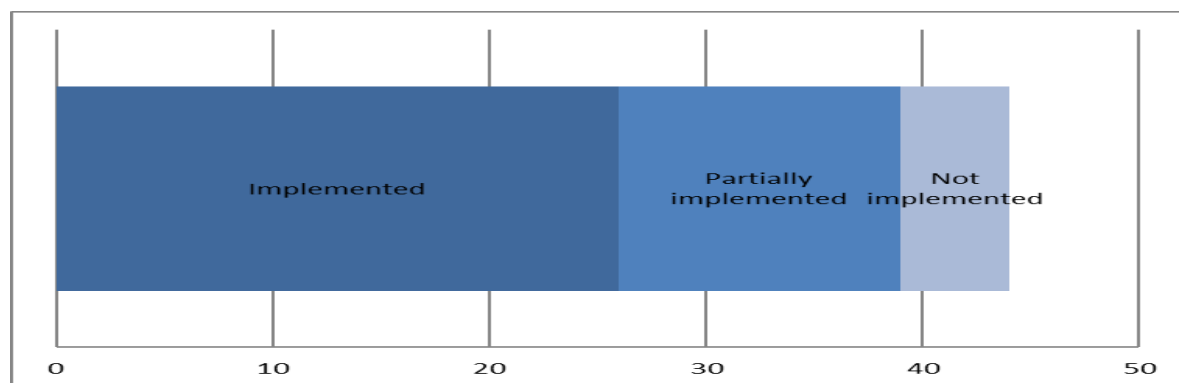
¹ The [Czech Republic](#) was represented by: Ms. Lenka Mlynarik Habrnálová, Conflict of Interest and Anti-Corruption Department, Ministry of Justice and Ms. Jana Ruzarovska, Legal and International Department, Financial Analytical Office. In addition, Mr. Matej Blažek, Ministry of Justice participated in the meetings in Paris to discuss and finalise this report. [Mexico](#) was represented by Mr. Guillermo Fonseca, Coordinator of International Affairs Unit and Interim Deputy General Prosecutor for Juridical and International Affairs, General Prosecutor's Office and Ms. Cindy Mendoza, Director of International Affairs, Ministry of Finance and Public Credit. The [OECD Secretariat](#) was represented by Ms. Catherine Marty, Co-ordinator of the Phase 3 Evaluation of Latvia and Legal Analyst; Ms. Lise Née, Legal Analyst; and Ms. Maria Xernou, Junior Legal Analyst, all from the Anti-Corruption Division, Directorate for Financial and Enterprise Affairs.

² Namely, Moneyval Secretariat, the Global Partnerships and Policies Division of the OECD Development Co-operation Directorate; the Export Credits Division of the OECD Trade and Agriculture Directorate, the International Cooperation and Tax Administration Division of the OECD Centre for Tax Policy and Administration and the OECD Economics Department.

country has no right to veto the final report and recommendations. All of the OECD Working Group on Bribery evaluation reports and recommendations are made public on the OECD website.

4. The Working Group evaluated Latvia's level of implementation of its Phase 2 recommendations in 2017. As of December 2017, Latvia had fully implemented 26 of 44 recommendations (see Figure 1 and Annex 1).

Figure 1: Implementation by Latvia of Phase 2 Recommendations (2017 – Two-year follow-up)



Outline of the Report

5. This report is structured as follows. Part B examines Latvia's efforts to implement and enforce the Convention and the 2009 Recommendations, having regard to both Group-wide and country-specific issues. Particular attention is paid to enforcement efforts and results, and weaknesses identified in previous evaluations. Part C sets out the Working Group's recommendations and issues for follow-up.

Economic Background

6. Latvia is the third smallest economy among Working Group members in terms of real gross domestic product (GDP of USD 34.28 billion), second smallest in terms of exports (at current prices), and last in terms of outward foreign direct investment (FDI stock at current prices) in 2017-2018.³ Latvia's GDP grew more than 4% in 2017 and 2018, notably due to an increase in consumption, high level of investment financed by European Union structural funds as well as an overall favourable external environment.⁴ Latvia has been the fastest growing economy among the Baltic countries over the last five years. In 2018, the World Bank's Doing Business index listed Latvia 19 out of 190 economies.⁵

7. Foreign Direct Investment (FDI) flows to Latvia had increased continuously since its accession to the European Union in 2004 but have been generally on the decline since 2007. A significant part of FDI comes from re-investments and classic merger and acquisition operations.⁶ The main foreign investors in Latvia are Sweden (17.2%), the Russian Federation (10.5%), Estonia (8.7%) and Cyprus (8.4%). The Latvian government strongly encourages FDI and works with foreign investors to improve the image of

³ [2019 OECD Economic Survey of Latvia](#); OECD Stats, UNCTAD Stat, and [World Bank Country profile: Latvia](#).

⁴ [International Monetary Fund Staff Country Report, Republic of Latvia](#): 2018 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for the Republic of Latvia, 5 September 2018.

⁵ [World Bank Doing Business Report 2018](#). The Index ranking overall ease of doing business in a country based on regulatory environment.

⁶ Nordea Trade, [Foreign direct investment \(FDI\) in Latvia](#), March 2019.

Latvia and its business climate.⁷ For this purpose, the Latvian government implemented the POLARIS process, which is a mechanism aiming at creating an alliance between public and private sectors, as well as major Latvian academic and research institutions to stimulate FDI.⁸ The largest outgoing financial flows are to Lithuania, Germany, Poland, Russia and Estonia. Latvia has diversified its exports and maintained strong performance despite economic headwinds from Russia. Services exports have been growing over the past decade, resisting adverse events in transport and the financial sector thanks to a fast increase in business services outsourcing to Latvia. The share of agriculture, food products and raw materials in exports, although still large, have fallen, along with higher-tech exports.

8. According to the OECD Economic Survey of Latvia published in May 2019⁹, there are challenges in relation to the unwinding of the large share of foreign deposits. A number of banks in Latvia have specialised in serving foreign clients, whose funds originate mainly from the Commonwealth of Independent States (CIS). Foreign deposits have fallen quickly following the tightening of anti-money laundering (AML) and counter-terrorism framework in 2016 and 2018. So far, Latvian banks, serving mainly foreign customers, have managed to maintain high levels of capitalisation and liquidity, but the future of these banks depends on their ability to change their business model. Linkages of banks serving foreign clients to the domestic lending market and banks serving domestic clients are limited and so are risks for repercussions on overall financial stability. The Survey notes that strengthening AML supervision would require increasing resources dedicated to supervisory and enforcement agencies. The authorities have initiated a welcome overhaul of Latvia's anti-money laundering system (see also Section B.6 of the report).

9. Finally, the shadow economy accounts for a very significant part of the Latvian economy, as highlighted in the 2019 OECD Economic Survey of Latvia. According to official sources, the size of the shadow economy in the country is around 20-25% of the GDP.¹⁰ The proportion of cash in the supply of money is high, as the shadow economy is mainly based around cash turnover.

Corruption, Bribery and Money Laundering Risks

(a) Latvia's exposure to corruption and foreign bribery

10. Although the perceived level of corruption in Latvia appears to be decreasing, the media, civil society and commentators continue to unveil some high profile corruption scandals. Latvia ranked 41st out of 180 countries on the 2018 Transparency International Corruption Perceptions Index¹¹ (it ranked 43rd out of 175 countries at the time of Phase 2). Opinion polls conducted for the government suggest that the public perceives corruption as being less of a problem now than in the past. However, Latvia still encounters high levels of grand corruption and evidence of "state capture" that some parliamentarians have recently echoed (see Section B.5). The Phase 2 report stated (para. 9) that the level of public trust in Latvian government, parliament and political parties was low. Public trust in these institutions continued to decrease in 2018.¹² The 2019 OECD Economic Survey of Latvia also highlights the low level of trust in the independence of the judiciary and in its capacity to deal with economic and other crimes (See Section B.5). Finally, according to certain sources, including the OECD 2019 Survey, corruption is a problem for

⁷ US Department of State, [2019 Investment Climate Statements](#), 19 July 2018.

⁸ Investment and Development Agency of Latvia, [Polaris Process](#).

⁹ [2019 OECD Economic Survey of Latvia](#).

¹⁰ [Latvia's 2018 National Risk Assessment](#).

¹¹ Source: <https://www.transparency.org/cpi2018>.

¹² According to a survey, public trust in a number of public institutions increased significantly in 2018 while public trust in the government, Parliament and political parties continued to decrease last year. Source: http://www.baltic-course.com/eng/baltic_states/?doc=146293

businesses operating in Latvia: demands for bribes are pervasive while close ties between public officials and businesses and the unethical behaviour of companies are also considered competitive disadvantages for the country.¹³ High profile domestic corruption scandals have raised awareness and fostered public debate about domestic corruption but public awareness of foreign bribery remains low, as stated during the on-site visit by several civil society representatives.

11. The Phase 2 Report (para. 10) stated that number of export-oriented Latvian companies had significant exposure to risks of foreign bribery. Discussions during the on-site visit with Latvian businesses revealed that such risks remain, in particular, from their dealings with government officials and their exposure to regions or countries with high bribery risks. Finally, Latvia's [National Risk Assessment](#) (NRA), published in June 2018 (hereafter "2018 NRA") and supplemented in July 2019 (hereafter "2019 NRA") identifies corruption and bribery occurring abroad as Latvia's primary money laundering (ML) threats.¹⁴

12. Latvia's Constitution protects the freedom of speech and of the press, however, there are a number of legislative restrictions. In particular, libel remains a criminal offense. Journalists may also face pressure from authorities to reveal sources, as stated by one journalist at the on-site visit. Political parties and economic actors have been known to exert influence over the media (see below allegations of influence over Latvian media in the *Oligarchs Case*). This risk remains high, according to journalists interviewed by the evaluation team.¹⁵ However, Latvia scored rather high in the annual World Press Freedom Index by Reporters Without Borders (RSF) in 2019.¹⁶

(b) Latvia's exposure to corruption-related money laundering

13. Despite being a relatively small economy, Latvia has a substantial financial sector that has been specialised in non-resident banking for years. The related ML risks were acknowledged in the Phase 2 Report. At that time, over half of Latvian bank deposits originated from outside Latvia with around 80% of non-resident deposits from beneficial owners in CIS countries. Latvian banks catering to non-resident customers have played a key role in the biggest illicit international financial scandals in recent years, including since Phase 2. For instance, Trasta Komercbanka, the Latvian bank at the heart of the "[Russian laundromat](#)," was closed down in 2016 for failing to comply with AML regulations. On 13 February 2018, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) announced plans to introduce sanctions against another Latvian bank (ABLV Bank) due to concerns related to ML, bribing officials¹⁷ and breaching the North Korea embargo. This raised doubts about the soundness of the bank's business model, causing a sudden drop in confidence and a massive run on deposits. As a result, the bank's liquidity position was depleted and the owners agreed to proceed with the liquidation of the bank. The self-liquidation process was still ongoing at the time of this report. Allegations of corruption and ML

¹³ Source : <https://www.knowyourcountry.com/latvia111>. The OECD 2019 Survey states that "High perceived corruption and low confidence in authorities' capacity to fight it likely undermine investors' trust".

¹⁴ The 2018 NRA covers a review of the money laundering and terrorist financing risks, threats and vulnerabilities from 2013 to 2016; the 2019 NRA cover such risks, threats and vulnerabilities in 2017 and 2018.

¹⁵ At the on-site visit, reference was made to the internal conflicts at Latvia's public radio service. In this case, journalists fear that the recent appointment of a person with close ties to the conservative National Alliance party to the board will lead to political meddling. They also mention the targeting of employees via the creation of ethics commissions. See recent call from Reporters Without Borders (RSF) (25 July 2019) "[Latvia urged to address public broadcaster's problems](#)".

¹⁶ Latvia ranks 24th out of 180 countries. The index measures the country's performance as regards pluralism, media independence and respect for the safety and freedom of journalists. The 2019 ranking is available here: https://rsf.org/en/ranking_table

¹⁷ The report, published by FinCEN, states that ABLV Bank management used bribery to influence Latvian officials.

concerning the governor of Latvia's Central Bank (allegations the governor denied and that were under prosecution at the time of this report)¹⁸ further left the financial sector in a fragile position.

14. Latvia has since recognised its vulnerability and prioritised combating money laundering. On 25 September 2018, the Cabinet of Ministers adopted the “Plan of Anti-Money Laundering and Counter-Terrorism Financing Measures” for completion by 31 December 2019.¹⁹ It aims at implementing the recommendations formulated by the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) in its Fifth Round Mutual Evaluation Report of July 2018 (hereinafter – 2018 Moneyval Report, see Section B.6 of the report).²⁰ Further AML/CFT reforms were introduced in June 2019, largely resulting from pressure of the international community.²¹ Latvia also states that the value of foreign deposits decreased from EUR 8.1 billion in 2017 to EUR 3.5 billion in June 2019.²² According to the supervisory authority, banks have also significantly scaled down transactional business: outgoing transactions of foreign clients decreased in 2018 by 75.4%, as compared to 2015. However, as acknowledged by a high level public official and representatives from the civil society at the on-site visit, the significant financial flows in and out of Latvia continue to represent a real potential for illicit money to enter and flow through Latvia.

15. Shell companies may facilitate the movement of illegal funds through Latvian banks into the international financial system, as illustrated by several foreign bribery cases described in this report. They have also been traditionally the main conduit for servicing non-resident clientele business. Under the Prevention of Money Laundering and Terrorism Financing Law (AMLTFL), a legal person qualifies as shell arrangement when it features one or several of the following elements: (i) companies that cannot justify their economic activity; (ii) legal persons registered in countries that do not require financial statements; (iii) legal persons that have no place (premises) for the performance of economic activity in the country where they are registered. Latvian authorities have taken steps to address this risk, prohibiting financial institutions since April 2018 from establishing or maintaining business relationships or executing occasional transactions with non-Latvian shell companies registered in jurisdictions that do not require submission of annual financial statements and cannot prove any link to real business. There were over 26 000 shell companies among clients of Latvian banks in February 2018 and more than 17 600 have been dissolved since November 2017.²³ According to the authorities, this is the first step towards eliminating

¹⁸ KYC360 (6 June 2019), “[Latvia Accuses Its Central Bank Governor of Laundering Bribe Money](#)”; Bloomberg (4 June 2019), “[Latvia Adds Laundering to Charges Against ECB's Rimsevics](#)”; KYC360 (17 April 2019), “[Corruption scandal casts long shadow over Latvia](#)”; Reuters (18 June 2018), “[Latvia investigators hand central bank governor bribery case to prosecutors](#)”; and FT (23 February 2018) “[Latvia: a banking scandal on the Baltic](#)”. The case was transferred to a Riga court on 8 July 2019 in preparation for trial ([EU-OCS, 10 July 2019](#)).

¹⁹ Ministry of Finance (19 October 2018), “[Plan of Anti-Money Laundering and Counter-Terrorism Financing Measures for the Period of Time till 31 December 2019](#)”.

²⁰ Moneyval (July 2018), “[Anti-money laundering and counter-terrorist financing measures - Fifth Round Mutual Evaluation Report of Latvia](#)”. According to Moneyval (“[Moneyval publishes a report on Latvia](#)”, 23 August 2018) and publicly available information (“[Moneyval: Latvia is subject to follow-up procedures over money laundering](#)”, 23 August 2018 and “[Moneyval decides Latvia is subject to enhanced follow-up procedures in AML/CFT](#)”, 24 August 2018), Latvia was put under enhanced follow-up procedures and is due to report back on progress in 2019. According to Latvia's Cabinet of Ministers (“[Latvian government responds to Moneyval report](#)”, 23 August 2018), Latvia can request a move from the enhanced follow-up process to the regular follow-up process, once it can evidence sufficient progress to Moneyval.

²¹ FT (13 June 2019), “[Latvia passes anti-money laundering reform](#)”; Reuters (16 May 2019), “[U.S. urges Latvia to step up reform after money-laundering scandal](#)” and; BNN News (15 May 2019), “[FinCEN still has not approved Latvian ABLV Bank's liquidation model](#)”.

²² [Statement by the Cabinet of Ministers](#) (30 August 2019).

²³ [LSM.LV](#) (14 March 2018) and [Statement by the Cabinet of Ministers](#) (30 August 2019).

shell companies as a bribery tool. However, certain legal entities registered in Latvia could *de facto* constitute shell companies as defined in the AMLTFL with which financial institutions can continue having business relationships. These entities present similar high ML risks (i.e. reducing the transparency of financial flows and the ability to identify the ultimate beneficial owners).²⁴ According to the authorities, there are mechanisms in place to monitor such companies and prohibit them when not complying with their legal obligations.²⁵ Such prohibition resulted in the termination of 23 000 of such companies in 2017-2018. However, as stated in the 2019 NRA, “the remaining shell arrangements still create a high ML risk both due to the volume of financial resources in the accounts of these customers, as well as the risk that after closure of the shell company a new enterprise may be registered right away to use the same funds”.²⁶

16. Finally, Latvia’s exposure to ML related to foreign bribery is further illustrated by several allegations of foreign bribery reviewed in this report. In the *VimpelCom Case*, a VimpelCom subsidiary made two transfers of USD 10 million and USD 15 million each in November 2007 to the Latvian bank account of Takilant Ltd., a shell company beneficially owned by a close relative of an Uzbek high-ranking government official. In August 2008, VimpelCom transferred an additional USD 2 million to the shell company’s bank account in Latvia for “purported consulting services agreement”. In the *Transport Logistics International Case*, the bribes channelled through a Latvian bank account in five separate transfers between September 2011 and July 2013.

Cases Involving the Bribery of Foreign Public Officials

17. There are nine known allegations of bribery of foreign public officials that could implicate Latvian individuals or companies, or other entities over which Latvia has jurisdiction (including Latvian banks that have allegedly served to transfer bribes as part of foreign bribery schemes involving non-Latvian nationals or companies). Three new cases involving Latvian companies and banks have surfaced since Phase 2. Formal investigation in two of these cases has been launched for ML. The lead examiners were only made aware of the third case at the time of the on-site visit, which prevented a full discussion of the case with panellists. Two cases under preliminary investigation at the time of Phase 2 have now resulted in formal investigations. Two cases were already closed in Phase 2²⁷ and two cases which surfaced after Phase 2 were not opened. The examiners also note that in several instances, like in Phase 2, the authorities provided conflicting responses regarding foreign bribery allegations and their actual status, which did not ease the evaluation process.

18. Several allegations relate to facts that took place before the Convention entered into force in Latvia in 2014 and Latvia has requested to delete them from the report. However, all of these cases but one (*Information Technology Contract Case* that Latvia did not investigate) took place at a time when foreign bribery was already an enforceable criminal offence under Latvian law. In addition, the lead examiners note that Latvia asked to delete one ongoing investigation (*Information from Media Case*) that the law enforcement have investigated for foreign bribery for facts that occurred before the entry into force of the Convention. Finally, the cases described below that had already emerged in Phase 2 were reviewed by the Working Group in its previous evaluation and in all subsequent follow-ups. These cases have served to

²⁴ The FIU published in 2019 a report on Money laundering and terrorism financing risks of legal persons and non-governmental organisations. The report analyses the risk exposure of different type of legal persons to money laundering. The report was not reviewed by the lead examiners.

²⁵ According to the authorities, activities of Latvian shell companies can be terminated by the State Revenue Service in accordance with Section 314.¹, paragraph 2 of the Commercial Law in case of violation of their legal obligations, including the requirement to submit annual reports.

²⁶ [2018 National Risk Assessment](#), p. 25.

²⁷ See cases listed in Phase 2 paras. 16, 17 and 19.

assess Latvia's enforcement efforts and challenges (see Phase 2 report, para. 155 and 156), following the WGB's standard practice. The review of the existing allegations in this report serves the same purpose.

19. The report also discusses in some detail (cf. Section B.5) KNAB's competence over these nine allegations. Accounts of Latvian banks and shell companies have allegedly served to channel bribe payments in at least six cases involving the bribery of foreign public officials (*VimpelCom*, *Transport Logistics International*, *Petrofac*, *Gold Mining*, *Information from Media* and *Information Technology Contract Cases*). Two of the new foreign bribery allegations that have surfaced since Phase 2 involve shell companies and bank accounts established in Latvia by non-Latvian individuals or companies in order to facilitate the payment of bribes to non-Latvian officials. Latvian shell companies and bank accounts have also served in some cases to consequently launder the bribe payments (e.g. the *VimpelCom Case*). All of these cases are relevant to this evaluation.²⁸ Their review shows that Latvia prioritised the investigation of the laundering of the bribe in cases where Latvian banks and shell companies have allegedly served to channel bribe payments and to launder them. While KNAB first initiated a preliminary investigation in the *VimpelCom* and *Transport Logistics International* Cases, decision was made to transfer the matters to the SP for ML investigations. As described later in this report, there are concerns that this results from a lack of command of the foreign bribery offence and a need for a more coordinated and strategic approach to investigate foreign bribery and related money laundering. Discussion of this dual approach to investigation is at the core of this evaluation and has been subject to extensive discussions with the Latvian authorities until the finalisation of this report. The lead examiners also share the FIU's view that cases where bribe payments (as part of foreign bribery schemes occurring abroad) are transferred through the Latvian financial system would fall under KNAB's jurisdiction. These cases are, however, solely investigated for money laundering by the State Police (SP). The report therefore reviews SP's enforcement actions in these cases. The lead examiners note that KNAB acknowledges its competence over foreign bribery cases consisting in "supporting and hiding bribes".

20. None of the nine allegations have led to prosecution yet. Out of the 9 foreign bribery allegations, 3 have been closed without investigation, 1 has been terminated and 5 investigations are ongoing. Latvia also reports that only 2 of these allegations are investigated for foreign bribery. In one of the ongoing investigations, the proceedings against one natural person was transferred to Lithuania after the Latvian authorities completed their investigation and the matter has resulted in sanctions outside Latvia. Three legal persons have been investigated for foreign bribery to date, although the investigation against one of the legal person was discontinued right before the adoption of this report.

(i) On-going investigations [5]

- Investigations for foreign bribery [2]

21. *Case #1 – Belarus Software Case*: the investigation of this case in Latvia started after the Phase 2 evaluation and was brought to the attention of the lead examiners during the Phase 3 on-site visit. Former sales manager of a Latvian subsidiary of a Finnish IT and engineering company allegedly paid more than EUR 2 million of bribes to a then high-ranking official of a Belarusian public enterprise between 2011 and 2016.²⁹ Bribes aimed to ensure purchases of licenses and rights and related services in Belarus. The bribes were transferred through the Latvian bank account of a Scottish shell company that was dissolved in November 2017.³⁰ According to information provided by Latvia after the on-site visit, former sales manager of the Latvian company was convicted in Belarus in 2018 for large scale bribery committed in the interests of the Latvian company. A Belarusian individual was also convicted for active bribery in

²⁸ The Working Group has reviewed in several of its reports foreign bribery cases where banks and shell companies have served to transfer bribes as part of foreign bribery schemes (see for instance Phase 4 Switzerland, Phase 3 Netherlands and Phase 3 New Zealand).

²⁹ Tieto, (June 2018), "[A former Tieto Latvia employee convicted for bribery - corrective action taken](#)".

³⁰ Heraldscotland.com, (April 2018) "[A Baltic bank, a Belarussian bribe and a British embarrassment](#)".

especially large scale. KNAB was informed about the case through an incoming MLA request from Belarus in September 2017. In May 2018, KNAB sent a letter to the competent authorities in Belarus to enquire about the status of the Belarusian enterprise under local law and the existence of criminal proceedings against the Latvian company. Permission was also sought to use the information provided in the 2017 outgoing MLA request. Upon receipt of this information and authorisation, KNAB initiated proceedings in May 2019 against the Latvian subsidiary of the Finish company on the basis that the liability of the Latvian sales manager had been already established in Belarus. An MLA request was sent to Belarus in June 2019.

22. *Case #2 – Law Enforcement Agency Case:* this case was under preliminary investigation at the time of the Phase 2 evaluation. The then CEO of Latvia's largest road and bridge construction company allegedly provided EUR 10 200 in bribe payments and one luxury item to the then Director of Infrastructures of a Lithuanian port to secure a EUR 10 million contract.³¹ KNAB received information on the case from Lithuanian authorities in 2014 and launched preliminary investigation in November 2014. A formal investigation started in June 2016 against six natural persons for foreign bribery, domestic corruption and other offences. In December 2016, the investigation against the company's former CEO was transferred to Lithuania where he was convicted for active bribery of the Lithuanian public official in September 2018. In August 2019, the former CEO and seven other defendants were referred to the PPO for prosecution for domestic corruption offences. Other proceedings are ongoing at the State Revenue Service (SRS) and the SP (upon fraud, tax evasion, labour law, false accounting and document forgery). Proceedings against the Latvian company for foreign bribery were only initiated in May 2019 after the former CEO was convicted in Lithuania. KNAB sent four MLA requests to Lithuanian authorities between June and November 2016.

- *Investigation for foreign bribery, money laundering and misappropriation of funds [1]*

23. *Case #3 – Information from Media Case:* this case was under preliminary investigation for foreign bribery at the time of the Phase 2 evaluation. The chairman of the supervisory board of a Latvian shipbuilding company allegedly paid bribes to public officials of a Ukrainian SOE in 2011-2013 in order to win a public contract in the energy sector. Latvia learned about this case in December 2014 through media reports and information provided unofficially by another Party to the Convention. In January 2015, additional operational information reached KNAB, which launched a preliminary investigation in June 2015. A formal investigation for foreign bribery against the chairman of the supervisory board of the shipbuilding company and the company itself was opened in April 2016. In May 2019, information collected through MLA served to requalify the case as money laundering and misappropriation of funds committed on a large scale. The legal person was no longer being investigated. According to KNAB, the chairman of the supervisory board of the Latvian company did not pay bribes but agreed that the Latvian company would submit and win a tender with a significant overprice (USD 400 million) to be transferred back to the Ukrainian public officials via shell companies. However, in this case, bribe payments actually consisted in overpaying the bid and transferring it back. Such kickbacks are, however, a very common bribery scheme in public procurement. In October 2019, at the time of finalising this report, KNAB indicated that investigation for foreign bribery was being reconsidered against the company's shareholder and the legal person. KNAB has conducted searches, interviews, inspection of documents and bank records and used informal cooperation mechanisms with a foreign counterpart. KNAB has also sent 8 MLA requests to 4 countries. Replies to some of them were still pending at the time of this report.

- *Investigations for money laundering [2]*

24. *Case #4 – VimpelCom Case:* Latvia began investigating this case after the Phase 2 evaluation. Amsterdam-based VimpelCom Limited, an issuer of publicly traded securities in the US, and its wholly

³¹ Baltictimes, (June 2016) "[Latvijas Tilti CEO detained in Lithuania on suspicions of bribery](#)".

owned Uzbek subsidiary, Unitel LLC, allegedly paid USD 114 million (approx. EUR 93 million) in bribes to a government official in Uzbekistan between 2006 and 2012 to enable them to enter and continue operating in the Uzbek telecommunications market. In February 2016, the US Department of Justice (DOJ) and VimpelCom entered into a Deferred Prosecution Agreement (DPA) and Unitel agreed to plead guilty. Simultaneously, VimpelCom concluded an out-of-court resolution with the Dutch Public Prosecutor Office.³² In another action, VimpelCom entered into a consent agreement with the US Security Exchange Commission (SEC).³³ The bribery scheme involved multiple shell companies that transferred bribe payments through several financial institutions. In 2007-2008, Takilant Ltd., a shell company incorporated in Gibraltar and beneficially owned by the foreign public official, served to make corrupt payments of USD 27 million (approx. EUR 18 million) through its Latvian bank account.³⁴ The shell company was subsequently used by the Uzbek official to launder the proceeds of bribery. Latvian authorities heard about the case in 2014 through an incoming MLA request from a Party to the Convention. In October 2016, KNAB received permission to use the information provided as part of the MLA request and launched a formal investigation for ML in March 2017 before the case was transferred to the SP upon PPO's approval. Latvian authorities carried out investigative measures in Latvia and seized the bank account owned by the alleged bribe-taker. KNAB interrogated bank's employees while executing the request for MLA. KNAB also analysed the DPA and consent agreement referred above.

25. *Case #5 –Transport Logistics International Case:* Latvia began investigating this case after the Phase 2 evaluation. A US based transport company admitted to paying USD 1.7 million in bribes to a Russian official from 2004 to 2014 in order to win contract with a government instrumentality. Bribe payments amounting to approximately USD 500 000 in total were transferred through the Latvian bank account of a UK registered shell company beneficially owned by a Russian official. In total, five wire transfers were made between September 2011 and July 2013.³⁵ The shell company was subsequently used by the Russian official to launder the proceeds of bribery. The US company concluded a DPA with the US DOJ in March 2018.³⁶ According to the Phase 3 Questionnaire Responses, Latvian authorities learned about the case through an incoming MLA request executed by KNAB in 2016. The same authorities, however, state that KNAB only heard about the case upon its inclusion in the Matrix in February 2018.³⁷ In early 2018, KNAB conducted a preliminary investigation and subsequently forwarded the case to the SP which in turn opened a formal investigation in September 2018 for aggravated ML. The ongoing investigation involves one foreign shell company and one Latvian bank in relation to financial transactions in 2011-2013. Limited investigative steps have been taken in Latvia. In particular, Latvia did not seek MLA from foreign countries although informal contacts were made with Interpol. Latvia only indicates that a request for information was sent to a bank. According to Latvian authorities, the investigation could be expanded to other offences, although no investigation into foreign bribery is foreseen.

(ii) Terminated foreign bribery investigation since Phase 2 [2]

26. *Case #6 – Petrofac Case:* From 2006 to 2009, the then President of a UK based engineering company, allegedly paid at least USD 2 million (approx. EUR 1.8 million) in bribes to win contracts in several countries including Kazakhstan, Kuwait and Iraq. Bribes were sent to a shell company controlled

³² Openbaar Ministerie (18 February 2016), "[Vimpelcom betaalt bijna 400 miljoen dollar aan Nederland voor omkoping in Oezbekistan](#)".

³³ [DOJ Press release](#), 18 February 2016 and [SEC Press Release](#) 18 February 2016.

³⁴ [DOJ Plea agreement](#), Case 1:16-cr-00137-ER, United States v. Unitel LLC, 18 February 2016.

³⁵ [DOJ Press release](#), 12 January 2018.

³⁶ United States District Court for the District of Maryland (March 2018) United States of America v. Transport Logistics International, Inc.; [DOJ Press release](#), 13 March 2018.

³⁷ The Matrix is a collation of allegations of foreign bribery prepared by the OECD Secretariat based on public sources. It is used by the WGB to track case progress.

by a Latvian national, through a company in the Marshall Islands.³⁸ Latvian authorities became aware of this case through the Matrix in May 2016. Despite ongoing investigations in other jurisdictions, Latvia decided not to launch an investigation. According to its responses to the Phase 3 Questionnaire, the reason was “the lack of reasonable link to Latvia” and lack of evidence of the involvement of any Latvian nationals. Latvia did not take any investigative steps in this case and no MLA was sought.

27. *Case #7 – Gold Mining Case*: this case was under preliminary investigation at the time of the Phase 2 evaluation and was terminated in 2017. Latvian authorities became aware of this case through the Matrix in May 2015. In 2004, a Canadian company allegedly paid USD 11 million (approx. EUR 9 million) of bribes to Kyrgyz officials, including a former President of Kyrgyzstan in order to secure access to Kyrgyzstan’s biggest gold mine. Bribes were partially channelled as disguised payments through several financial institutions and legal entities, including one Latvian bank account of an offshore company beneficially owned by the former Kyrgyz president.³⁹ The same bank was sanctioned in 2013 by the Latvian supervisory body in a separate ML case.⁴⁰ KNAB sought informal cooperation with two jurisdictions and collected publicly and non-publicly available information, including from the FIU. According to KNAB, a formal investigation was not launched due to the lack of sufficient evidence on possible money laundering.

(iii) Investigations not opened at the time of Phase 2 [2]

28. *Case #8 – Information from Diplomat Case*: this case was already closed at the time of Phase 2. In 2014, a Latvian diplomat provided information to KNAB that a Latvian entrepreneur allegedly bribed senior foreign public officials to obtain public procurement contracts. Latvia considered that it was unable to confirm the allegations with the foreign authorities because the foreign country was experiencing conflict. No investigation was launched.

29. *Case #9 - Information Technology Contract Case*: From 2001 to 2003, a US technology company allegedly paid a total of USD 10.9 million (approx. EUR 8 million) in bribes to Russian public officials through a German intermediary to win a USD 35 million (approx. EUR 26 million) information technology contract. The bribe payments were allegedly made through a secret slush fund using a false invoicing scheme. A network of shell companies used accounts in Latvia, among other jurisdictions. At least EUR 2.2 million was wired to Latvian and Lithuanian accounts of shell companies for the benefit of Russian public officials. Latvia learned about the case through incoming MLA requests from Germany and the US in 2009. Latvian authorities responded to these requests but did not launch any investigation in Latvia for foreign bribery, ML or false accounting offences.

Commentary

The lead examiners are encouraged that the foreign bribery cases uncovered since Phase 2 are subject to enforcement actions. However, there remain concerns that none of the nine foreign bribery allegations that have surfaced to date have reached the prosecution stage. Four cases have either not been opened or were terminated.

In the cases where accounts of Latvian financial institutions and other corporate structures have been used to pay and subsequently launder the bribes to foreign public officials, Latvia’s enforcement action has focused on investigating the laundering of the bribe rather than the alleged bribery. The lead examiners believe that such enforcement action should not be at the expense of investigating the alleged foreign bribery. Therefore, they recommend that Latvia adopt a strategic approach towards the

³⁸ The Age – Huffington Post (31 March 2016) “[World biggest bribe scandal](#)”.

³⁹ Atimes, (10 September 2014), “[Kumtor report raises corruption concerns](#)”.

⁴⁰ [LawandoderinRussia](#), (19 June 2013), “[Latvian Regulator Imposes Largest Possible Fine on a Latvian Bank involved in Money Laundering Connected to the Magnitsky Case](#)”.

investigation and prosecution of foreign bribery and related money laundering offences. In particular, the involvement of Latvian financial institutions and other corporate structures in foreign bribery schemes should be actively investigated, where relevant.

B. IMPLEMENTATION AND APPLICATION BY LATVIA OF THE CONVENTION AND THE 2009 RECOMMENDATIONS

1. The Foreign Bribery Offence

30. Latvia's foreign bribery offence in CL Section 323 and separate offence of bribery through an intermediary in CL Section 322 have been amended since Phase 2. As stated by the WGB in Latvia's Phase 2 Written Follow-up Report, these amendments do not, however, satisfactorily address Phase 2 Recommendation 13(b)⁴¹ together with Phase 2 Recommendation 13(a) that the WGB deemed not implemented. The WGB also agreed in Phase 2 to follow up on whether Latvia's foreign bribery offence covers bribes paid in return for any use of the public official's position, whether or not within the official's authorised competence (follow-up issue 16(e)) and the interpretation of the term "in the interest of the giver or person offering the bribe, or in the interest of other persons" in CL Section 323 (follow-up issue 16(f)). In absence of relevant practice and case law,⁴² the Working Group will continue to follow up on these issues. Further issues have surfaced that are also reviewed in this report.

(a) Requirement of Direct Intent

31. In Phase 2, the WGB expressed significant concerns that the requirement of proving direct intent, as defined in Latvian law, would exclude some cases of foreign bribery from the offence, including cases of bribery through an intermediary. Latvia was asked to amend its legislation (recommendation 13(a)). During the on-site visit, practitioners displayed a better understanding of the Convention and concerns about the direct intent requirement in Latvia's bribery offence. This clearly results from extensive training and awareness-raising. However, Latvian law remains unchanged and jurisprudence referred to by the authorities does not alleviate the WGB's concerns. Latvia provided two court decisions in cases of domestic bribery committed through intermediaries in which, although the bribe givers claimed the contrary, the courts found direct proof that the bribe givers knew that undue advantages were given to a public official through an intermediary. Concerns expressed in Phase 2 thus remain.

Commentary

The lead examiners regret that Latvia has not amended its legislation to address the WGB's concerns about the direct intent requirement in its bribery offence. They therefore reiterate Phase 2 recommendation 13(a) and urge Latvia to amend its legislation to ensure that the requirement of direct intent as defined in Latvian law is consistent with Article 1 of the Convention.

(b) Promise to Bribe

32. In Phase 2, the Working Group was concerned that Latvia's foreign bribery offence does not expressly cover the promise to bribe. In April 2016, CL Section 323 was amended to expressly cover the "promising if requested of bribes". At the time of Latvia's Phase 2 written follow-up report, the WGB expressed concerns that the words "if requested" in the amended legislation may narrow the offence.⁴³ The

⁴¹ At the time of the written follow-up report, the WGB acknowledged that the foreign bribery offence now covers bribery of a public official of "any organised foreign area or entity, such as an autonomous territory or a separate customs territory".

⁴² In its responses to the Phase 3 Questionnaire, Latvia informed the Working Group that a draft bill in discussion in the Parliament will amend CL Section 323 to eliminate any reference to "the interest of the giver or person offering the bribe, or in the interest of other persons".

⁴³ Latvia Phase 2 Follow-up Report, p. 7.

condition that a promise to bribe follows a request to do so departs from Article 1 of the Convention, which refers to “any person intentionally to offer, promise or give”. With this extra condition, individuals who promise a bribe without being prompted to do so would not fall under the purview of CL Section 323. Latvia has since not taken any legislative steps to address the WGB’s concerns and to cover the promise of a bribe without any additional requirements. Latvia again argues that an “offer” to bribe in CL Section 323 covers a promise of a bribe not requested by an official. During the on-site visit, Latvia reiterated that the new wording of the provision covers the only situation not covered under the term “offer”, i.e. when a person promises to pay a bribe that has been requested. PGO and KNAB representatives clearly noted that it is their understanding that in practice, all elements of the offence would require proof, including of the request by a public official. The lead examiners are of the view that this additional requirement could thus impede effective enforcement of the foreign bribery offence as an element of proof not found in the text of the Convention is required in practice.⁴⁴

33. Since April 2016, there has been no case law on the application of CL Section 323 on promises of a bribe prompted by the public official (i.e. solicitation).⁴⁵ In its responses to the Phase 3 Questionnaire, Latvia referred to domestic bribery investigations where bribes were “offered” to one judge and police officers that are immaterial in this discussion.

Commentary

The lead examiners are concerned that the amendment introduced to CL Section 323 to cover the promise of a bribe does not fully comply with Article 1 of the Convention and they urge Latvia to amend its legislation to cover the promise of a bribe as stated in Phase 2 recommendation 13(b)(i).

(c) Defences, Exemption from Prosecution and Small Facilitation Payments

34. In Phase 2, the Working Group noted that there are no specific defences to foreign bribery under Latvia’s legislation. In 2013, Latvia had repealed the defences of effective regret and extortion, although these remain grounds for granting prosecutorial immunity (see Section B.5). Regarding small facilitation payments, Latvia has stated since Phase 2 that they are covered under CL Section 323, but this remains to be tested in actual case law. During the on-site visit, representatives of the private sector and business organisations demonstrated strong awareness and understanding of the illicit nature of these payments.

(d) Issues arising from ongoing investigations

35. Information provided by the Latvian authorities in relation to the *Belarus Software Case* raises the question whether Latvian authorities apply an autonomous definition of a foreign public official as required by the Convention (i.e. do not consider the law of the foreign country to determine whether the foreign public official is an official under that country’s law). In this case, KNAB sought information from Belarus about whether the Belarusian enterprise that employed the official was a public enterprise under local law. At the time of finalising this report, KNAB argued that the request to Belarus merely intended to ascertain the status of the official under Latvian law. However, it should be well understood by law enforcement bodies and courts in Latvia that the definition of a foreign public official is, in all cases, autonomous and that characterisation of the expected acts of foreign officials does not require recourse to foreign law in order to establish the offence.

Commentary

The lead examiners recommend that the Working Group follow-up, as case law and practice develop, the application of an autonomous definition of a foreign public official and that characterisation of the

⁴⁴ The Working Group expressed similar concerns in previous evaluations: Australia Phase 3 Report, paras. 16-17; Germany Phase 3 Report, paras. 35-36; Greece Phase 3bis Report, paras. 30-31.

⁴⁵ Latvia Phase 2 Report, para. 200.

expected acts of foreign officials does not require recourse to foreign law in order to establish the offence.

(e) Jurisdiction to Prosecute Natural Persons

36. The Phase 1 and 2 reports question whether Latvia has jurisdiction to prosecute criminal offences committed only partly in its territory. CL Section 2(1) does not refer to offences which take place partly in Latvia or, in the alternative, what part of the offence must be committed on Latvian territory. Convictions of natural persons in the *Latvenergo case* (which concerned a foreign company that allegedly trafficked in influence to obtain contracts from a Latvian SOE and part of the offence was committed outside Latvia) could address the concerns of the Working Group. The Supreme Court sentenced former Latvenergo Vice-President Aigars Melko and consultant Andrejs Livanovics in April 2019.⁴⁶

2. The Money Laundering Offence

37. Pursuant to CL Section 195(1), the offence covers the laundering of criminally acquired financial resources or other property. CL Section 195(1) does not define the acts amounting to laundering. Instead, Section 5 of the Prevention of Money Laundering and Terrorism Financing Law (AMLTFL) is used to interpret the offence by Latvian courts. In August 2017, Latvia amended this section to introduce a lesser mental element on the origin of the proceeds for the ML offence to be constituted (see below part. b.(iii)).

(a) Sanctions available for natural and legal persons

38. Since Phase 2, Latvia increased the maximum statutory fines for criminal offences under CL Section 41 in December 2015, thereby increasing the fine as a basic and additional punishment available for ML under CL Section 195 (Phase 2 follow-up recommendation 16(h)). In July 2019, the CL was further amended to increase the maximum prison sentence for natural persons for non-aggravated money laundering from 3 to 4 years. As a result, non-aggravated money laundering is now a serious offence and carries similar fines to aggravated money laundering. The sanctions against natural persons for ML are now as follows:

	Maximum Sanctions against Natural Persons for Money Laundering under CL Section 195⁴⁷
Non-aggravated money laundering (CL Section 195(1))	Deprivation of liberty not exceeding 4 years or temporary deprivation of liberty (<i>i.e.</i> incarceration up to 3 months) Fine as basic punishment of 10-2 000 times the monthly minimum wage (MMW) (EUR 4 300-860 000). Fine as additional punishment of 1-100 times MMW (EUR 430-43 000) Community service With or without confiscation
Aggravated money laundering ⁴⁸ (CL Section 195(2))	Deprivation of liberty not exceeding 5 years or temporary deprivation of liberty (<i>i.e.</i> incarceration up to three months) Fine as basic punishment of 10-2 000 times MMW (EUR 4 300 - 860°000) Fine as additional punishment of 1-100 times MMW (EUR 430-43 000) Community service With or without confiscation

⁴⁶ [Leta.lv](http://leta.lv), 26 April 2019.

⁴⁷ The available sanctions include the basic punishment prescribed in CL Section 195 and the additional punishment prescribed in Sections 36-41. The fine pursuant to CL Section 41(2²) applies if the provision setting out the offence does not prescribe a fine (such as in CL Section 195(3)).

⁴⁸ The offence is aggravated if it is committed by a group of persons pursuant to a prior agreement.

	Maximum Sanctions against Natural Persons for Money Laundering under CL Section 195⁴⁷
Further aggravated money laundering ⁴⁹ (CL Section 195(3))	Deprivation of liberty of 3-12 years Probationary supervision up to 3 years Fine pursuant to CL Section 41(2 ²) of 300-10 ⁰ 000 times MMW (EUR 129 000 -4.3 million) Fine as additional punishment of 1-100 times MMW (EUR 430-43 000) With or without confiscation
	Additional sanctions available for all three offences: deportation from Latvia and restriction of rights.

39. Sanctions available for legal persons remain unchanged. Legal persons are punishable for ML by liquidation, limitation of rights and confiscation of property. The maximum statutory fine remains unchanged corresponding to 100 000 times MMW (i.e. EUR 43 million). However, in April 2016, Latvia amended CL Section 70⁶ (1¹) CL to introduce maximum statutory fines depending on whether the criminal offence is deemed less serious, serious or especially serious (see Section B.3 of the report).

40. In practice, the level of sanctions imposed since Phase 2 has been fairly low, despite the 2015 increase of the statutory maximum fine. Of the 46 natural persons convicted for ML between 2015 and 2019, 26 received suspended prison sentences (i.e. over 65%), fines were imposed against 9 natural persons for an average of EUR 2 400 in 2015 to EUR 44 075 in 2018. The sanctions imposed against 7 natural persons in 2019 are unknown. Of the 25 legal persons sanctioned from 2016 to 2018, 10 were liquidated, while 14 received a fine for an average of EUR 55 440 in 2015, up to EUR 304 889 in 2016 and to EUR 29 060 in 2017. No legal person was sanctioned in the first half of 2019. The low level of sanctions imposed in practice was also raised by Moneyval in its 2018 Report.

Commentary

In the absence of sanctions imposed against natural and legal persons for money laundering predicated on foreign bribery, the lead examiners recommend that the Working Group follow up on the level of sanctions imposed for money laundering predicated on foreign bribery as practice develop.

(b) Enforcement of money laundering predicated on foreign bribery

(i) A concerning lack of enforcement of foreign bribery-related money laundering

41. In Phase 2, the Working Group was concerned that Latvia did not sufficiently enforce its ML offence, in a context where Latvia is exposed to significant risks that the instruments and proceeds of corruption, including foreign bribery, are laundered in the country. Therefore, the Working Group recommended that Latvia take immediate steps to increase the enforcement of its ML offence (recommendation 8(e)). The recommendation had been partially implemented in Latvia Phase 2 Written Follow-up Report.

42. Since Phase 2, Latvia has taken several legislative and operational steps to increase the enforcement of its ML offence. In September 2018, Latvia approved a comprehensive Action Plan on Anti-Money Laundering and Counter-Terrorism Financing Measures. The level of statutory fines available for ML increased and non-aggravated ML is now a serious crime. Steps were taken to foster inter-agency cooperation between the FIU and law enforcement agencies (see Section B.6 of the report). KNAB adopted recommendations addressed to its investigators to carry out comprehensive corruption investigations, and to give particular attention to corruption related offences including ML.⁵⁰ KNAB investigators also received trainings on investigating foreign bribery and ML offences. At the level of the SP, the capacity

⁴⁹ The offence is further aggravated if it is committed by an organised group or of a large scale (i.e. involving at least 50 times MMW (EUR 21 500)).

⁵⁰ KNAB Recommendation para. 17.

and expertise of the Economic Enforcement Department have been strengthened and a specific unit is mandated to investigate stand-alone ML offences.

43. Despite these measures, Latvia's conviction rate for ML remains low and does not appear to be commensurate with the country's significant exposure to ML risks. In total, only 46 natural persons were convicted for ML between 2015 and 2019. Sanctions known as "coercive measures" have been imposed to 25 legal persons for ML violations between 2015 and 2018. None of these convictions concerned ML predicated on corruption or foreign bribery. At the on-site visit, the FIU itself concurred that the enforcement rate is too low.

44. Overall, the number of preliminary investigations initiated for ML has remained stable since Phase 2 (233 in 2015, 111 in 2016, 104 in 2017, 186 in 2018 and 166 for the first 9 months in 2019).. In 2018, out of the 186 ongoing investigations, 92 were opened as a result of a report from Latvia's FIU. According to available figures, the SP initiated 115 ML investigations between 2017 and 2019. Of these 115 investigations, 7 criminal proceedings relate to the laundering of the proceeds of foreign bribery committed abroad on a large scale and 2 proceedings relate to the laundering of proceeds from domestic corruption (CL section 195(3)). Against this background, the number of prosecutions has increased (10 cases against 33 individuals in 2017, 23 cases against 54 individuals in 2018 and 47 cases against 82 individuals in 2019). The lead examiners acknowledge the recent increase of prosecutions but it remains to be seen whether this increase will be followed by a corresponding increase in ML convictions and sanctions.

(ii) Financial institutions and their employees not held criminally liable for alleged money laundering

45. No financial institution has ever been held criminally liable in Latvia for ML. According to Latvia, this lack of convictions results from the absence of suspicion that financial institutions have been involved in ML schemes. However, this explanation is not consistent with the risk exposure of the Latvian banking system and the severe failures to implement the AMLTFL uncovered by the FCMC. Against this background, recent consideration to hold financial institutions and their employees liable has materialised in the course of several investigations (for stand-alone money-laundering (3 cases) and money laundering predicated on fraud and embezzlement (2 cases)). One of such cases, on-going at the time of this evaluation related to possible negligence or intentional commission of ML by employees of a financial institution. The SP has also initiated 17 proceedings against responsible officials and employees of the *ABLV Bank* since July 2018.⁵¹

(iii) A lower evidentiary threshold to prove money laundering

46. Another impediment to higher rates of enforcement of the ML offence in Latvia has been the evidentiary threshold required to prove that the proceeds derived from the commission of a crime. At the time of Phase 2, the prosecution had to prove that the person knew the illegal origin of the laundered property. In practice, the prosecutors therefore had to reach a prior conviction for the predicate offences to secure ML convictions. Since Phase 2, Latvia amended CPL Section 124 (7) which now expressly provides that a ML conviction is possible without having to prove the predicate offence from which the proceeds originated from. Therefore, the prosecutors should now be able to rely on circumstantial evidence, as opposed to the previous reliance on the prosecution and conviction to establish the existence of a predicate offence. In August 2017, Latvia also amended AML/ CFT Law Section 5, to introduce a lesser mental element on the origin of the proceeds for the ML offence to be constituted. As a consequence, prosecutors

⁵¹ At the time of finalising this report, Latvia stated that criminal proceedings were initiated on alleged money laundering against several current and former employees of the "Baltic International Bank". Proceedings against one legal person (the "Baltic International Bank") were also initiated on 30 August 2019 and the case was submitted for prosecution on 9 September 2019.

do not need to prove knowledge, beyond reasonable doubt, but instead demonstrate that the offender was aware of the illegal origin of the proceeds. Whether this will materially change the levels of evidence required by the courts to establish underlying predicate criminality remains to be seen. In practice, this has yet to result in a substantial increase of ML convictions.

47. Latvia indicated that law enforcement authorities have also operated a shift in their approach to stand-alone ML. In Phase 2, the prosecutors were prosecuting the predicate offence and ML together, but not stand-alone ML cases as a result of the high evidentiary threshold. The special unit within the Economic Crime Enforcement Department of the SP is now mandated to investigate stand-alone ML offences. Guidance on investigation of ML cases, including stand-alone ML was drafted and released in June 2019. The evaluation team was not able to review the Guidance which was finalised after the on-site visit and is only available in Latvian. Despite these efforts, only 2 natural persons were convicted for stand-alone ML in 2017 – 2018 and 4 natural persons in the first half of 2019. Moreover, in one case, the defendant admitted his guilt and did not contest the circumstances of the crime, the amount of the damages or the classification of the offence. Therefore, it has not been necessary in this case to bring evidence of the underlying predicate offence.⁵²

(iv) A focus on investigating predicated offences and referring cases to foreign authorities

48. Another limitation has been until recently the predominant focus on investigating predicate offences. Where the underlying crimes were committed abroad or when the proceeds were moved outside the country, Latvian authorities then referred the investigations to foreign authorities. According to Latvia's 2018 NRA, the low number of ML prosecutions is a consequence of the fact that "many criminal cases [...] are passed abroad since the majority of criminal proceedings initiated by the State Police relate to predicate offences committed abroad". During the on-site visit, the SP explained that the practice of transferring cases to foreign authorities is now less frequent. In 2016, the SP forwarded 18 criminal proceedings to foreign authorities. In contrast 5 and 9 proceedings were forwarded in 2017 and 2018 respectively. Latvia referred only one case in the first half of 2019.

(v) A focus on seizing and confiscating the proceeds of crime

49. A further limitation is the priority given to seizing and confiscating the proceeds of crime as opposed to prosecuting ML offences. In Phase 2, the SP and the FIU concurred that Latvia's priority was to freeze suspected proceeds for confiscation purposes and not to prosecute. Moneyval also raised that confiscation was to some extent understood as an alternative to initiating criminal proceedings, as its use allowed to circumvent the need to prove predicate offences for the purpose of proving the ML offence.⁵³ This remains valid in Phase 3. Of the 9 criminal proceedings initiated by the SP under CL Section 195 (3) for foreign bribery and corruption, criminal proceeds have been seized in 6 cases. The proceedings have not yet led to any convictions. This together with the very low number of natural and legal persons convicted for ML since Phase 2, suggests that Latvia still prioritises the freezing and confiscation of suspected proceeds over the prosecution of the cases.

Commentary

The lead examiners acknowledge that several steps have been taken by the Latvian authorities to address the lack of enforcement of its money laundering offence since Phase 2. This includes legislative amendments of the required level of evidence of the predicate offence and the threshold for a ML conviction. Latvia also initiated a recent shift in the investigation and prosecution of stand-alone money laundering cases and of money laundering predicated on offences committed abroad.

⁵² Daugavpils Court (January 2018), case n. 11240021915.

⁵³ Moneyval (July 2018) [Fifth Round Mutual Evaluation Report: Latvia](#), para. 203.

However, these measures have yet to translate into a substantial increase of Latvia’s enforcement rate of money laundering predicated on foreign bribery. The number of money laundering investigations has remained stable and is still low in light of the heightened level of money laundering risks to which Latvia is exposed. The lead examiners welcome the increase of the number of prosecutions. However, it remains to be seen whether this increase will be followed by a corresponding increase in ML convictions and sanctions.

The lead examiners welcome the recent criminal proceeding initiated against a financial institution for potential violation of CL Section 195(1). It is, however, premature to draw any definitive conclusions as to whether Latvia will routinely consider the criminal liability of its financial institutions for money laundering offences. Latvia continues to focus on seizing and confiscating crime proceeds as opposed to prosecuting money laundering offences.

In light of the above, the lead examiners recommend that Latvia (i) take additional measures to substantially increase the number of money laundering convictions, in particular when predicated on foreign bribery, and (ii) routinely consider whether to hold financial institutions and their personnel liable for their involvement in money laundering schemes, where relevant.

3. Liability of Legal Persons

50. In Latvia, corporate liability for foreign bribery is criminal in nature and is imposed through the application of “coercive measures” against legal persons. Pursuant to CL Section 12 and Section 70¹, a criminal offence committed by a relevant natural person triggers corporate liability when committed in the interests of the legal person, for the benefit of the legal person, or as a result of insufficient supervision or control, while acting individually or as a member of the legal person’s “collegial authority”. The scope of the legal persons covered includes “private law legal persons”, “State or municipal capital companies” and “partnerships”. The same corporate liability regime applies to related offence of ML predicated on foreign bribery and false accounting offences. Enforcement challenges related to corporate liability in Latvia are discussed in Section B.5.

(a) Elements of the corporate liability regime pending clarifications in the absence of foreign bribery cases

51. In Phase 2, while the Working Group deemed that Latvia’s corporate liability regime largely conformed with Annex I of the 2009 Recommendation, it decided to follow up on several aspects, in the absence of jurisprudence (follow-up issue 16(g)). In the context of this evaluation, Latvia provided references to court decisions imposing corporate liability in tax fraud, software copyright infringement, misappropriation of assets and forgery of documents and fraud cases concluded since Phase 2, all of which were carefully examined by the evaluation team.⁵⁴ However, as no foreign bribery cases have been concluded since Phase 2, these follow-up issues remain valid in Phase 3 (see Annex 1).

Commentary

The lead examiners are of the view that the limited court practice together with the lack of any foreign bribery corporate convictions to date do not allow to draw definitive conclusions on the application of the corporate liability regime in practice. Therefore, they recommend that the Working Group continue to follow up the application of the corporate liability provisions in CL Section 70¹ (Phase 2 follow up issue 16(g)).

⁵⁴Case No. 15830015414 from Rezekne court; Case No. 15830013316 from Riga City Latgale District court; Case No. 15830002015; Case No. 11816007716; Case No. 11816000517; Case No. 11130061616; Case No. 1130092815.

(b) Corporate liability for failure to exercise supervision or control

52. In Phase 2, the Working Group queried whether corporate liability for failure to exercise supervision or control would arise even when foreign bribery is not committed “in the interests or for the benefit of the legal person”. Since Phase 2, failure to exercise supervision or control has been used as the sole basis for imposing corporate liability in one case of software copyright infringement.⁵⁵ On the contrary, failure to exercise supervision or control was tied to an offence committed in the interest or for the benefit of the legal person in three other cases of tax fraud and software copyright infringement.⁵⁶

53. In Phase 2, the Working Group was also concerned that the prosecution has the onus of proving a failure to exercise supervision or control and that it may constitute a challenge in foreign bribery cases. Corporate liability for failure to exercise supervision or control was since imposed in four cases. However, the specifics of these cases make them not directly applicable to a foreign bribery case, which arguably requires more extensive knowledge of the corporate structure and practices to determine whether proper supervision and control are in place. For instance, in one tax fraud case, the court found that the company failed to exercise supervision or control by merely referring to its obligation to calculate and pay taxes corresponding to its actual economic and financial situation to the State.⁵⁷ In a second case, the court also found that the company failed to prevent the commission of software copyright infringement, merely because the company did not have a dedicated staff member responsible for the software installation and licence purchases.⁵⁸ The offence of failure to exercise supervision or control has yet to be tested in a domestic corruption case.

Commentary

The lead examiners recommend that the Working Group follow up on corporate liability for failure to exercise supervision or control, including whether the burden on the prosecution to prove the “failure to exercise supervision or control” presents challenges in practice.

(c) Successor Liability

54. Pursuant to Commercial law Section 335(5), all the rights and obligations of an acquired company are transferred to the acquiring company in case of merger and acquisition. Latvia claims that successor liability also covers other forms of corporate restructuring, including partial successions, division and dissolution as a result of a merger or splitting pursuant to Commercial law Section 351. Latvia stated that the obligation deriving from the Criminal Procedure Law and by court decision on sanctioning are also transferred to the legal successor. However, absent jurisprudence, it is unclear whether successor liability can be applied for offences committed prior to the corporate restructuring and in the absence of existing proceedings at the time of the restructuring or before the final conviction of the legal predecessor.

55. Latvia indicates that the CL does not limit the possibility to apply corporate criminal liability in case of succession. However, the requirements under CL Section 70¹ that the criminal offence is committed “in the interest of or for the benefit” of the legal person may prove difficult in cases of legal succession, if the prosecutors have to prove that the offender could be considered to have committed the offence “in the interest or for the benefit” of the new corporate entity. Successor liability provisions have yet to be applied in Latvia.

⁵⁵Ogre District Court, Case n 11816007114 (May 2017).

⁵⁶ Rezekne court (December 2016), case No. 15830015414; Kurzeme District Court, Case No. 11816007716 (February 2018) and case No. 15830016017

⁵⁷ Rezekne Court, (December 2016), case No. 15830015414.

⁵⁸ Kurzeme District Court, (February 2018), case No. 11816007716.

Commentary

The lead examiners recommend that the Working Group follow up whether successor liability can be applied before the legal predecessor has been finally convicted of foreign bribery or in the absence of existing proceedings at the time of corporate restructuring to effectively prevent corporate entities from avoiding liability in foreign bribery cases.

(d) Jurisdiction over legal persons

56. Pursuant to CL Section 4(1¹), as amended in October 2014, Latvia has jurisdiction over a legal person for acts committed abroad by a natural person if the entity is registered in Latvia and regardless of his/her nationality.⁵⁹ At the time of Phase 2, the provision had yet to be applied in practice.

57. Since Phase 2, Latvia indicates that KNAB has relied twice on the provision of CL Section 4(1¹) to establish jurisdiction over a legal person, even though neither case involved a non-Latvian national. In the *Law Enforcement Agency case*, the Latvian Head of the Board of a Latvian private company allegedly committed bribery in Lithuania. KNAB stated that it has also been relying on CL Section 4(1¹) in the *Belarus Software Case* to initiate proceedings for the application of coercive measures against the legal person. During the on-site visit, the MOJ indicated that KNAB's investigators have received training on establishing jurisdiction after the October 2014 amendment was introduced. The challenges in establishing jurisdiction over legal persons are explored in Section B.5.

(e) Initiating proceedings against legal person

58. Pursuant to CPL Section 439(1), proceedings to apply “coercive measures” against a legal person can only be initiated when grounds for applying such measures are “ascertained during the course of criminal proceedings [against a natural person]”. In Phase 2, the Working Group was concerned that proceedings against legal persons could hence not be opened when criminal proceedings against a natural person could not be commenced, including where the person has already died or been convicted abroad (recommendation 14(b)). In March 2016, Latvia amended the CPL to address the Working Group's concerns. CPL Section 439 (3¹) now provides that:

(3¹) A procedurally authorised official may initiate proceedings for the application of a coercive measure to a legal person also in cases when it has been refused to initiate criminal proceedings or they have been terminated on the basis of non-exonerating circumstances

59. CPL Section 439 (3¹) now covers the situation where criminal proceedings cannot be started against a natural person in Latvia for reason of death and a prior conviction abroad. It, however, on its face, does not address the situation where criminal proceedings against a natural person cannot be initiated or have been terminated because the natural person would have acquitted abroad. This provision has since been used in the *Belarus Software Case* to initiate proceedings for the application of coercive measures against the legal person involved. In this case, the related Latvian national was convicted in Belarus in 2018. Similarly, in the *Information from Law Enforcement Agency case*, the proceedings against the legal person are grounded on CPL Section 439(3¹) because the related Latvian national was convicted in Lithuania in September 2018. Enforcement challenges in relation to these two cases are reviewed in Section B.5 of the report.

60. Procedurally, a prior decision to not initiate or terminate criminal proceedings against a natural person is necessary to initiate separate proceedings for the application of coercive measures against a legal person pursuant to CPL Section 439(3¹). A different regime applies to the initiation of proceedings against

⁵⁹ Prior to the October 2014 amendment, Latvia only had jurisdiction to prosecute a legal person if it also had jurisdiction over the natural person who committed the offence and therefore could not prosecute a Latvian company for extraterritorial foreign bribery committed by a foreign employees or agents.

legal persons, depending on whether criminal proceedings have been initiated and/or terminated against related natural persons. Pursuant to CPL Section 439(1), proceedings against a legal person “shall be initiated” “if it has been ascertained during the course of criminal proceedings [against a related natural person] that, most likely, there are grounds for the application of a coercive measure”. However, proceedings “may be initiated” by a procedurally authorised official if “it has been refused to initiate criminal proceedings [against a natural person] or these proceedings have been terminated [against the natural person] on the basis of non-exonerating circumstances” under CPL Section 439(3¹). In turn, criminal proceedings against natural persons may be initiated, “if the actual possibility exists that a criminal offence has taken place” or if “a criminal offence that has possibly taken place, and the examination of such information is possible only with the resources and methods of criminal proceedings”, pursuant to CPL Section 370.

61. Although there are different grounds to initiate criminal proceedings against natural persons and corporate proceedings for the application of coercive measures, the MOJ, KNAB, the prosecutors and one academic stated at the on-site visit that there is no difficulty in practice to initiate proceedings against legal persons and that the mandatory nature of criminal proceedings provided under CPL Section 6 extends to proceedings to impose coercive measures to a legal person. The MOJ stated that CPL Section 6 does not only relate to proceedings over natural persons. However, CPL Section 6 expressly covers the conduct of criminal proceedings and therefore only applies to natural persons. One trial judge in turn stated that the law does not explicitly require the prosecution of legal persons.

62. A further amendment to CPL Section 439 (3¹) was introduced to the Legal Affairs Committee of the Parliament (the *Saeima*) in April 2019 so that “a procedurally authorised official may initiate proceedings for the application of a coercive measure to a legal person”, when “the actual possibility exists that a criminal offence was committed in the interests of a legal person registered in Latvia, for the benefit of the person or as a result of insufficient supervision or control thereof outside the territory of Latvia”. The language of the proposed amendment mirrors the provision of CPL Section 370, which foresees the grounds for the initiation of criminal proceedings against natural persons. Latvia indicated that the amendment would address the situation where proceedings against legal persons cannot be initiated because the natural person who committed a criminal offence in the interests of that legal person, is prosecuted abroad and no final conviction has been reached yet. The proposed amendment was still pending at the time of adoption of this report.

Commentary

The lead examiners welcome the 2016 amendment of the CPL to ensure that proceedings for the application of coercive measures against a legal person can be initiated in case of death or conviction abroad of the related natural persons. They note that a further amendment was under discussion at the time of this report to broaden the range of circumstances when a legal person could be sanctioned for foreign bribery. Therefore, they recommend that Latvia promptly adopt legislation to ensure that proceedings for the application of a coercive measure to a legal person can always be initiated, including when the related natural person is subject to ongoing prosecution or was acquitted abroad.

3. Sanctions

(a) Sanctions available for natural persons

63. In Phase 2, the WGB was concerned that the maximum fine available for foreign bribery was far too low and that intermediaries - unless they are Latvian officials - were subject a lower maximum prison sentence (i.e.4 years) than the principal offender (i.e.5 years) under CL Section 322(1). In December 2015, Latvia amended CL Section 322(1) to align the maximum prison sentence for the criminal offence of intermediation in bribery to the maximum sentence available for the principal offender. In addition, Latvia increased the maximum monetary fines available under CL Section 41 for criminal offences, including

foreign bribery. Phase 2 recommendation 15(a) was therefore deemed implemented. On its face, the maximum fine available for aggravated and further aggravated foreign bribery now appears to be more in line with Article 3 of the Convention. The sanctions for foreign bribery are as follow:

	Sanctions against Natural Persons for Foreign Bribery under CL Section 323⁶⁰
Non-aggravated foreign bribery (CL Section 323(1))	Deprivation of liberty not exceeding 5 years or temporary deprivation of liberty (<i>i.e.</i> incarceration up to 3 months) Fine as basic punishment of 10-2°000 times MMW (EUR 43 000-860°000) Fine as additional punishment of 1-100 times the minimum monthly wage (EUR 430- 43 000) Community service
Aggravated foreign bribery ⁶¹ (CL Section 323(2))	Deprivation of liberty of up to 8 years Ban up to 5 years on engaging in specific employment or holding a specific office Fine pursuant to CL Section 41(2 ²) of 300-10°000 times MMW (EUR 129 000-4.3 million) Fine as additional punishment of 1-100 times MMW (EUR 430- 43 000) With or without the confiscation (CL Section 42)
Further aggravated foreign bribery ⁶² (CL Section 323(3))	Deprivation of liberty of 2 to 10 years Probationary supervision up to 3 years Ban up to 5 years on engaging in specific employment or holding a specific office Fine pursuant to CL Section 41(2 ²) of 300-10°000 times MMW (EUR 129 000- 4.3 million) Fine as additional punishment of 1-100 times MMW (EUR 430- 43 000) With or without the confiscation (CL Section 42)
	Additional sanctions available for all three offences: deportation from Latvia and restriction of rights.

64. A public prosecutor may also impose a fine in the context of a plea agreement, known in Latvia as penal orders (CL Section 41(2¹)). The amount of the fine is capped to half the amount of the maximum fine available for less serious crimes, corresponding to EUR 215 000. One precondition for entering into such agreement is to admit guilt, which can also be taken into account as a mitigating factor and shall be considered in determination of severity of punishment (CL Section 46(3) and CL Section 47 (1)(1) or 3). In Phase 2, the Prosecutor's Handbook did not provide any guidance on the possibility of reducing the level of the sentence for offenders who plead guilty.

(b) Sanctions against natural persons in practice

65. In the absence of concluded foreign bribery cases in Phase 2, the Working Group was concerned that insufficient sanctions imposed in domestic cases suggest that punishment imposed in practice for foreign bribery would also be inadequate. In particular, prison sentences were rarely imposed and the fines imposed were found to not be proportionate to the gravity of the offence. The Working Group therefore asked Latvia to ensure that the sanctions imposed in practice for foreign bribery against natural persons, including in plea agreements, are effective, proportionate and dissuasive (recommendations 15(a)). The recommendation was deemed implemented at the time of the Phase 2 Written Follow-up Report.

66. Since Phase 2, no foreign bribery case has been concluded. Sanctions have been imposed mainly for non-aggravated domestic bribery, in relation to the bribery of police officers for traffic violations,

⁶⁰ The available sanctions include the basic punishment prescribed in CL Section 323 and the additional punishment prescribed in CL Sections 36-41. The fine pursuant to CL Section 41(2²) applies if the provision setting out the offence does not prescribe a fine (such as in CL Section 323(2) and (3)).

⁶¹ The offence is aggravated if the bribe is at least 50 times MMW (EUR 21 500); or is committed by a public official; or is committed by a group of persons pursuant to a prior agreement.

⁶² The offence is further aggravated if it is committed by an organised group.

according to Latvia. In these cases, sanctions imposed have remained within the lower range available. Prison sentences have almost always suspended (in almost 90 % of the cases where a prison term was imposed). The level of fines imposed has also been very low, ranging from EUR 1°110 to EUR 5°160. The maximum statutory fine of EUR 430°000 for non-aggravated bribery was never imposed and the possibility of imposing a fine as an additional punishment was never used. In addition, 45 cases of non-aggravated corruption were discontinued by way of a penal order in 2017 and 2018 (see Section B.5 for a description of settlements). All but eight cases resulted in the imposition of community services. In these 8 cases, fines ranging from EUR 3 800 to EUR 4 730 were imposed.

67. In the very few cases where aggravated and further aggravated forms of bribery were established, the sanctions imposed were very low and comparable to the sanctions imposed for non-aggravated bribery. Prison sentences ranging from six months to three years were suspended, although a one-year prison term (non-suspended) was imposed in the most recent conviction for further aggravated bribery in 2018. The only fine imposed for aggravated bribery was EUR 9 250. The aggravated and further aggravated forms of bribery were more often applied to sanction individuals for tax evasion (CL Section 218), fraud (CL Section 177), and theft (CL Section 180) over the same period.

68. The level of sanctions imposed in the 72 cases transferred to a court following a plea agreement on charges of active bribery and intermediation in bribery (CL Section 322 and 323) is unknown as Latvia's statistics do not distinguish these from the sanctions imposed as a result of a full court proceeding. However, Latvia indicated that in one case, the Chief Prosecutor determined that a conditional sentence was imposed "ignoring the nature of the criminal offence and the harm incurred."

69. Against this background, Latvia has endeavoured to address the level of sanctions both at prosecutorial and judicial levels. First, the Chief Prosecutor issued guidance to all chief prosecutors, providing that prosecutors should coordinate the "type and severity of applicable punishment under the agreement procedure" with the Chief prosecutor, as part of the Chief prosecutor's duty to ensure that prosecution functions are executed effectively (CPL Section 45(1)). In addition, the Prosecution Office issued an Order in March 2017 - further revised in June 2017 and November 2018 - to require all Chief prosecutors to conduct an enhanced review over the type and level of sanctions requested by the prosecutors and imposed by the courts or by virtue of a penal order for white-collar crimes. The Order covers sanctions imposed for foreign bribery, false accounting and ML offences against natural persons.

70. Of the 23 instances analysed, the Chief Prosecutor of the Criminal Law Department of the Prosecutor General's Office determined that the imposition of suspended prison sentence was unjustified in 20 cases and instructed the Regional Chief Prosecutors to file an appeal. In the remaining three cases, the Chief Prosecutor found that the level of sanctions imposed was too low. A similar assessment was conducted, at regional and district levels, in the first half of 2018 over sentences imposed between March and December 2017. The Chief Prosecutors determined that in a few instances, the damage caused by the criminal offences was not established before the sentences were imposed. The Council of the Prosecutor General ordered the same assessment in the first half of 2019. The level of sanctions requested by the prosecutors was analysed in relation to 40 white collar crimes cases. This time, the Head Prosecutor found the level and severity of sanctions requested by the prosecutors was adequate except in three cases where measures were taken to request the increase of the sanctions imposed.

71. Latvia also took some recent measures to raise awareness of the judiciary on the level of sanctions imposed for white collar crimes, including domestic and foreign bribery false accounting and ML. Two trainings were organised for judges in February and March 2019 on sanctioning foreign bribery and criminal offences in general. Sanctions were also discussed during the conference of presiding judges in September 2018. The Ministry of Justice indicated that it has informed judges of the importance of imposing effective sanctions during several meetings at the District and Regional Courts between September and December 2018.

Commentary

The lead examiners welcome the increase of the statutory maximum fines available for foreign bribery. On its face, the maximum fine available for aggravated and further aggravated foreign bribery now appears to be more in line with Article 3 of the Convention. In addition, they note that the Prosecution Office has found that the level of sanctions imposed by the courts, by virtue of a plea agreement or a penal order by the prosecutors, has not always been appropriate in several domestic corruption cases. In the absence of jurisprudence for foreign bribery and given the low level of sanctions imposed in domestic bribery cases to date, the lead examiners recommend that the Working Group follow up on (i) the determination of aggravated and further aggravated foreign bribery and the application of corresponding level of sanctions; and (ii) whether the sanctions imposed in practice in foreign bribery cases, including through plea agreements and penal orders are effective, proportionate and dissuasive. Further training of the prosecutors and judges on the importance of imposing effective sanctions is recommended.

(c) Sanctions available for legal persons

72. In Phase 2, the WGB was concerned that sanctions against legal persons in foreign bribery cases, may not be adequate, including in cases resolved through plea agreements. Pursuant to CL Section 70² (1) and 70⁶ (1), legal persons are punishable for foreign (and domestic) bribery by liquidation; restriction of rights; confiscation of property; or a monetary fine. The sanctions can be applied cumulatively with the exception of liquidation (CL Section 70² (2)). The maximum statutory fine for legal persons remains unchanged. However, in April 2016, Latvia amended CL Section 70⁶ (1¹) to allow the prosecutors to request a fine based on whether the criminal offence is a criminal violation, less serious, serious or especially serious, as follow:

	Maximum fines against Legal Persons for Foreign Bribery under CL Section 70⁶ (1¹)⁶³
Non-aggravated foreign bribery	Fine pursuant of 20- 75°000 times MMW (EUR 8 600 – 32.25 million)
Aggravated foreign bribery ⁶⁴	Fine pursuant of 20- 75°000 times MMW (EUR 8 600 – 32.25 million)
Further aggravated foreign bribery ⁶⁵	Fine of 30-100°000 times MMW (EUR 12 900 – 43 million)

73. Sanctions can also be imposed as part of a penal order with the legal persons under CPL Section 441⁶. As part of such order, the prosecution may apply no more than half of the maximum amount provided for each category of offence (CL Section 70⁶ (1²)). The procedure can be initiated either by the public prosecutor or the legal person. The type and level of sentence imposed as a result of the agreement are negotiated between the public prosecutor and the legal person. Since Phase 2 and as explained in section B.5 of this report, sanctions against legal persons can also now be imposed through a penal order for non-aggravated foreign bribery under CPL Section 441¹.

(d) Sanctions against legal persons in practice

74. No legal entity has ever been held liable for foreign bribery since the entry into force of the Convention in Latvia. The possibility to conclude a plea agreement has never been applied in a corruption case. The possibility to conclude a penal order has also not been applied since Phase 2 in a corruption case.

⁶³ The available sanctions include the basic punishment prescribed in CL Section 70².

⁶⁴ The offence is aggravated if the bribe is at least 50 times MMW (EUR 21 500); or is committed by a public official; or is committed by a group of persons pursuant to a prior agreement.

⁶⁵ The offence is further aggravated if the bribery is committed by an organised group.

In one domestic corruption case adjudicated by the Riga City Court, the judge decided to impose a EUR 13 330 fine and a prohibition to participate in public procurement for one year against the legal person. In this case, the contract value was EUR 22 798. The judgement was appealed and currently is being reviewed by the Riga Regional Court. Liquidation has often been imposed in tax evasion cases. Fines imposed ranged from EUR 3 600 for non-aggravated fraud (CL Section 177(1)) to EUR 276 390 for further aggravated tax evasion (CL Section 218(3)).

Commentary

In the absence of foreign bribery cases concluded to date, the lead examiners recommend that the Working Group follow up the sanctions imposed against legal persons for foreign bribery.

4. Confiscation of the Bribe and the Proceeds of Bribery

(a) A revised confiscation regime since Phase 2

75. Two confiscation regimes apply to criminally acquired property in foreign bribery cases for both natural and legal persons. First, Latvia has a conviction based regime whereby a convicted person's property must be confiscated. Second, Latvia has a non-conviction based confiscation regime for which proceedings can be conducted separately from criminal proceedings determining guilt (CPL Chapter 59).⁶⁶

76. Since Phase 2, Latvia undertook a comprehensive reform of its confiscation regime. In August 2017, Latvia amended the CL and the CPL and enacted a new law on confiscating criminally acquired property. Confiscation measures initially foreseen in the CPL are now in the CL Chapter VIII2 on Special Confiscation of Property. On substance, the provisions of the new Chapter remain largely unchanged from the provisions assessed by the WGB in Phase 1 and 2. However, the onus to prove the legality of the origin of properties is now on the accused person and no longer on the prosecution (CL Section 70¹¹ and CPL Sections 124(6) and 126(3¹)).

77. Since August 2017, the MOJ has circulated four explanatory letters containing guidance to practitioners, including judges, prosecutors, and investigators on the new confiscation regime. Several trainings were organised for law enforcement authorities, including KNAB investigators, to increase awareness of detection and freezing of assets in corruption cases. The FIU organised three trainings on corruption and ML investigations and the tracing and confiscation of the proceeds of crime in 2018-2019 which were attended by law enforcement authorities, including KNAB. In the fall of 2019, the MOJ finalised and circulated a manual for practitioners.⁶⁷ Altogether, the MOJ is of the view that the 2017 amendments have resulted in an increase in the number of confiscations imposed in practice from 32 assets confiscated from legal persons in 2017 to 55 assets in 2018.

(b) Application of confiscation measures in practice

78. In Phase 2, confiscation had never been imposed in a foreign bribery case. In addition, the WGB found that confiscation was not routinely used in domestic corruption cases prompting recommendation 15(c). At the time of Latvia Phase 2 Written Follow-up Report, Latvia had issued a binding Informative Letter in June 2016, instructing prosecutors to assess the grounds for seeking confiscation. In addition, assets were seized by KNAB in the *Law Enforcement Agency Case* with a purpose to ensure possible

⁶⁶See Phase 2 Report paras. 262- 263.

⁶⁷ At the time of finalising this Report, Latvia stated that the manual was placed on the home page of the MOJ on 19 September 2019 (<https://www.tm.gov.lv/lv/nozares-politika/metodiskie-ieteikumi>), as well as on the webpage of the official publisher of the Republic of Latvia. The manual was not reviewed by the evaluation team. According to the authorities, the MOJ took subsequently several initiatives to advertise the manual, including through a letter to Latvian courts, law enforcement bodies and the PPO.

confiscation as a form of punishment. The Working Group therefore deemed recommendation 15(c) fully implemented.

79. Since Phase 2, Latvia indicated that it has seized the instrument (the bribe) in some domestic corruption cases. According to Latvia, KNAB does not experience any difficulties in quantifying the bribe itself. In the *Skinest (Latvia) Case* (involving the corruption of Latvian public officials by an Estonian company), the investigators seized EUR 499 500 corresponding to the alleged bribe payments made to the Latvian official, as part of the pre-trial proceedings and confiscation has not yet be imposed by a court, upon conviction. In a second case KNAB seized EUR 85 000, corresponding to the alleged bribe payment and another EUR 65°000 in cash. The case is pending at the PPO. Conviction-based confiscation of EUR 500 was also imposed upon conviction in another domestic corruption case in which the natural person bribed a public official in the interest of a legal person. Latvia further refers to two other cases under appeal in which confiscation measures were ordered.

80. However, KNAB has experienced difficulty freezing assets in one foreign bribery case, the *Information from Media Case*. In September 2016, an investigative judge declined KNAB's request to freeze in total USD 1.6 million on the grounds that conditions under CPL Section 356 were not met. . KNAB believed that the fund may have been illegally obtained as part of a bribery scheme involving Ukrainian officials. In this case, the assets had already been seized in an earlier proceeding initiated by the SP. The police had established that the assets belonged to close relatives of two Ukrainian officials and were kept in two Latvian banks by third parties. In addition, the investigative judge found that no individuals were officially identified as accused persons in this case and that there were no identified victims who had possessed the assets. Therefore, the assets could not be frozen as illegally obtained property. KNAB's investigators appealed this decision but it was confirmed by a higher judge.

81. In addition, Latvia stated that it lacks experience quantifying and seizing the proceeds deriving from foreign bribery. In its responses to the Phase 3 questionnaire, Latvia indicated that it has no experience in quantifying proceeds from criminal offences, and that it is unclear "if a contract or other benefit was obtained as a result of active bribery whether that would constitute proceeds of bribery and how it should be calculated". This raises concerns over Latvia's ability to seize and confiscate proceeds, in a context where crime proceeds in Latvia largely derive from offences committed abroad and only money flows transit through Latvia before the assets are deposited in another jurisdiction.

Commentary

The lead examiners welcome Latvia's revision of its confiscation regimes and the introduction of a reversed burden of proof over the legality of the origin of property. However, they are concerned by Latvia's stated lack of experience in quantifying proceeds from criminal offences, including foreign bribery. While they note that trainings have been organised on confiscation of the proceeds of crime, they are of the view that more specific and targeted modules are needed on quantifying, seizing and confiscating the proceeds of foreign bribery for KNAB's investigators and other law enforcement authorities investigating such cases. They also note that KNAB's request to freeze assets was denied by an investigative judge in one foreign bribery case. Therefore, the lead examiners recommend that Latvia make full use of its confiscation regimes and regularly provide specific training to investigators, prosecutors and judges on methods for quantifying proceeds of foreign bribery.

5. Investigation and Prosecution of the Foreign Bribery Offence

82. "Criminal proceedings" in Latvia comprise of an investigative stage and a prosecutorial stage. The investigative stage is the responsibility of an investigative agency, under the supervision of a prosecutor. After sufficient evidence is gathered to prosecute, the investigative agency will turn the case over to a prosecutor for the purposes of indictment and prosecution.

83. This section of the report reviews Latvia's efforts and challenges in enforcing the foreign bribery offence and related offences. The 2019 OECD Economic Survey of Latvia calls for strengthening the judiciary and its independence as well as law enforcement agencies to help improve trust in institutions and address corruption and money laundering issues. This report reiterates this call and highlights below Latvia's efforts to improve KNAB's operation and effectiveness, strengthen expertise in law enforcement, as well as a positive reform of the judiciary.

Institutional Framework

84. In Latvia, the Corruption Prevention and Combating Bureau (KNAB) is the primary body for investigating foreign bribery allegations.⁶⁸ The Latvian State Police (SP) has jurisdiction to investigate all offences except those assigned to bodies with specific competences, including ML and false accounting. The Public Prosecution Office (PPO) supervises the conduct of investigations. In practice, KNAB is responsible for conducting investigations into foreign bribery and the SP is in turn responsible for the related money laundering offence. The report reviews the capacities of KNAB, the SP and the PPO in investigating and prosecuting such cases.

(i) Corruption Prevention and Combatting Bureau (KNAB)

85. KNAB was established in October 2002 and is fully operational since February 2003. On 15 October 2018, Cabinet Regulation No. 556 By-law of the Corruption Prevention and Combating Bureau became effective, creating a new internal structure of the Bureau mainly oriented towards prevention, detection, and investigation. Priority is also given to implementing anti-corruption awareness-raising measures.

86. *KNAB's preventive and detection functions.* Institutional changes since Phase 2 include the establishment in 2017 of a new unit (the Strategic Analysis and Policy Planning Division) that operates under the direct supervision of KNAB's Director. It is intended to enhance KNAB's analytical capabilities and mainly assist its preventive functions.⁶⁹ The Division conducts risk and qualitative analysis to better detect corruption, enhance KNAB's awareness raising efforts and further streamline its prevention strategy. Detection is enhanced through the monitoring of mass media and a close review of other relevant information sources (e.g. information shared by the FIU or the police). This information can be turned into criminal intelligence that may generate new investigations or contribute to enriching ongoing enforcement actions. Regional detection divisions of KNAB have also been operating since 2018 in four regions of the country to support KNAB's detection efforts. Ultimately, this analytical work is designed to support KNAB's operational and investigative functions. In practice, however, and despite these efforts, none of the foreign bribery cases reviewed in this report have been detected by KNAB (see discussion *infra* on the sources of detection).

87. *KNAB's enforcement functions.* The enforcement branch is responsible for the investigation of corruption offences, including foreign bribery. When an investigation is opened, the Head of the Division appoints an investigator to lead the case under the supervision of a prosecutor. With the view to increase its investigative capacities, KNAB has set up permanent investigation teams made of investigators, criminal intelligence specialists and forensic experts. Information technology specialists can also provide support to ongoing investigations. In 2018, KNAB also started conducting financial investigations as an integrated part of its enforcement functions.

⁶⁸ Investigations of corruption are conducted by KNAB pursuant to the Law on Corruption Prevention and Combating Bureau (KNAB Law), the Criminal Procedure Law (CPL) and Chapter XXIV of the Criminal Law, which is entitled "Criminal Offences Committed in State Authority Service" and include foreign bribery.

⁶⁹ Operational Strategy of the Corruption Prevention and Combatting Bureau 2018-2019, Order no. 25 issued by the Prime Minister on 29 January 2018, p. 23.

(ii) State Police (SP)

88. The SP consists of several entities made of a national unit (Central Criminal Police Authority) and five regional units. The Central Criminal Police Authority has an Economic Crime Enforcement Department (ENAP), which includes “Unit 1”, which is responsible for investigating criminal offences in credit institutions, including ML. False accounting is investigated by the Finance Unit. The priorities of the SP are set annually; while ML investigations did not figure prominently for many years, since Phase 2, they have become an explicit priority separately from organised crime investigations. At the on-site visit, representatives from the SP referred to recent efforts to implement a targeted approach founded on risk-based priorities, including large-scale ML investigations.

(iii) Public Prosecution Office (PPO)

89. Latvia has a system of mandatory prosecution (CPL Sections 6, 369(1), 370(1) and 371(1)). A public prosecutor decides whether to commence prosecution either after receiving investigator’s proposal, or on his/her own initiative after obtaining the investigator’s records (CPL Sections 7, 36, 39 and 403; Law on Prosecution Office Section 13). Different thresholds apply to start proceedings against legal persons (see Section B.3). As mentioned earlier in the report, no foreign bribery case has reached the prosecution stage in Latvia.

90. The PPO is headed by the Prosecutor General. The Office is comprised of a central Prosecutor General’s Office (PGO) and additional offices for regional, district and specialised prosecutors. Within the PGO is the Division for Investigation of Especially Important Cases that is responsible for all “high-status” KNAB cases which includes foreign bribery cases. Like KNAB, the Division also has jurisdiction over related offending in a corruption case. Several other units within the PPO are specialised in the supervision of investigation of other financial crimes, including ML.

Allocation of Criminal Cases and Inter-Agency Coordination and Cooperation

91. In Phase 2, the WGB recommended that Latvia establish clear rules to ensure that all allegations of foreign bribery are systematically transmitted to KNAB for investigation (Recommendation 9(b) (i)). At the time, KNAB was not aware of at least two foreign bribery allegations which were contained in incoming MLA requests (i.e. in the *Gold Mining Case* and the *Information Technology Contract Case*). The Working Group was concerned that incoming requests in corruption cases were not systematically sent to KNAB for execution which resulted in the lack of co-ordination between KNAB and other investigative agencies. This recommendation was deemed fully implemented at the time of the Phase 2 Two Year Written Follow-up Report, although the Working Group agreed to revisit the recommendation in Phase 3 for further practice. On 28 July 2017, KNAB sent an official letter to all relevant investigative agencies, including the State Police and the PPO, to recall that according to CPL Section 387(6) KNAB is the responsible body to investigate foreign bribery and therefore all information which contains allegations or signs of foreign bribery should be forwarded to the Bureau. KNAB competence over foreign bribery cases is also reminded in training that are addressed to a broad range of groups that have the capacity to detect foreign bribery, i.e., sworn auditors, entrepreneurs, diplomats and other public officials (see *infra*). In December 2015, the Prosecutor’s General Office of the PPO designated KNAB as the authority for executing all incoming MLA requests in corruption cases, irrespective of whether other offences mentioned in the MLA request. Since Phase 2, KNAB has opened one preliminary investigation based on information supporting an incoming MLA request in the *Belarus Software Case*.

92. At the on-site visit, the evaluation team discussed the rules that govern the allocation of foreign bribery cases among investigative agencies in practice. It was said that where a case involves multiple offences including foreign bribery, KNAB would have jurisdiction over the case, regardless of how minor the other related offences may be or whether these offences derive from corruption (e.g. falsifying records

to hide a bribe). Two of the foreign bribery cases (the *Transport Logistics International Case* and *VimpelCom Case*) were initially investigated by KNAB and subsequently transferred to the SP for formal investigation of ML offences. By contrast, in the *Gold Mining Case* where there were clear allegations of ML, KNAB did not transfer the case to the SP and closed the case for lack of evidence. In practice, when there is a need to “deconflict” a case, it is the responsibility of the PPO to decide whether the SP or KNAB would lead an investigation. According to a representative from KNAB that the evaluation team met at the on-site visit, the PPO is involved early enough in the investigation (as soon as KNAB opens criminal proceedings) to ensure an effective allocation of cases and related coordination. The authorities are of the view that there is no risk of duplication of investigations since all criminal investigations are recorded in a centralised database accessible to all investigative bodies.

93. Discussions at the on-site visit revealed that KNAB did not have a clear understanding of its competence over cases where financial institutions and other corporate structures have been used to pay and subsequently launder the bribes to foreign public officials (i.e. in the *VimpelCom Case* and *Transport Logistics International Case*). As stated in the Introduction, these cases fall under KNAB’s jurisdiction. They are, however, only investigated by the SP for money laundering. Right prior to the adoption of this report, KNAB acknowledged its jurisdiction over these cases and justified their transfer to the SP by challenges in securing evidence of foreign bribery. Initiatives have been recently taken to foster inter-agency cooperation under the umbrella of the FIU for evidence sharing. Since January 2019, the FIU meets once a month with the law enforcement authorities and a coordination group has been put in place to facilitate the exchange of information (Section 55 of the AMLTFL, see Section B.6). However, the lead examiners understand from discussion during the on-site visit that cooperation between investigative agencies in foreign bribery cases in particular continue to be predominantly informal and established on a case-by-case basis.

94. Since Phase 2, Latvia has also taken steps to ensure that KNAB investigators systematically have in-depth discussions with the supervising prosecutor as soon as a foreign bribery investigation starts (Phase 2 recommendation 9(a), which was deemed fully implemented by the WGB in 2017). According to the *Instruction of the Head Prosecutor of the Criminal Law Department of the PPO* of 1 June 2016, the supervising prosecutor is required to meet and discuss the investigation with KNAB investigators at least once a month. The Instruction only applies to foreign bribery related investigations. In the *Law Enforcement Agency Case* and the *Information from Media Case*, this cooperation has taken the form of in-person meetings and regular telephone and email communications.

95. Despite some efforts and actual reforms to facilitate better cooperation and coordination among law enforcement agencies, concerns still remain as to how effective such cooperation and coordination function in practice. At the on-site visit, prosecutors admitted coordination challenges in the *Law Enforcement Agency Case*. Some lawyers also echoed the challenges of what they called “the fragmentation of investigative agencies”. Representatives from the media and civil society highlighted the lack of trust between law enforcement agencies as a major impediment to effective cross-agency cooperation though they also expressed the belief that coordination is improving. A journalist highlighted the need for a radical shift in Latvia’s approach to enforcement of financial crimes and for what the reporter called a “generation change” in investigation and prosecution. The lead examiners consider that Latvia lacks a strategic operational approach towards the investigation and prosecution of serious financial crimes, including foreign bribery and ML. The coordination role newly allocated to the FIU is welcome as it could address the lead examiners’ concerns at a policy level. This should be closely followed-up by the Working Group. More efforts seem necessary at an operational level, however, especially when it comes to cooperation between KNAB and the SP in certain large scale and complex financial cases. Any efforts made by KNAB and the SP in particular to harmonise their activities, including through formal joint initiatives at operational level (e.g. task forces) would undoubtedly improve Latvia’s capacities to tackle

serious financial crimes.⁷⁰ Latvia could also explore options and benefits of staff secondment and temporary postings among investigate agencies that provide an opportunity for law enforcement staff to gain experience and develop skills that benefit both individuals and institutions.

Commentary

The lead examiners recommend that Latvia further clarify KNAB's jurisdiction over foreign bribery cases, in particular where bribes are paid abroad and transferred through the Latvian financial system and ensure that all competent law enforcement and prosecution authorities are aware of KNAB's jurisdiction over such cases.

The lead examiners welcome Latvia's efforts to strengthen inter-agency cooperation. They, however, believe that there is some room for improving coordination at operational level between KNAB and the SP in large scale financial cases, including foreign bribery and related money laundering. The lead examiners therefore, recommend that Latvia take any measures to reinforce coordination between KNAB and the SP as necessary, in foreign bribery and related money laundering investigations and implement a strategic approach to enforcement of these offences. They also recommend that the Working Group follow up the implementation of the new coordination role of the FIU and its effectiveness.

Resources, Training and Specialisation

96. In Phase 2, the WGB recommended that Latvia provide regular training to KNAB, the PPO and the judiciary on (i) the foreign bribery offence and related offences; (ii) legal person liability; (iii) confiscation measures; (iv) investigative techniques, including forensic accounting and information technology; and (v) the application of settlements in foreign bribery cases, including on the 2014 Guidance on effective regret. Recommendation 9(c) was deemed partially implemented at the time of Phase 2 Written Follow-up Report. According to the Working Group's assessment, KNAB had not received substantial training on legal person liability, confiscation and settlements. The Working Group also recommended that Latvia provide guidance to practitioners on the interpretation of the corporate liability regime in CL Article 70¹, including through interpretive manuals and training (recommendation 14 (a)). Such guidance was provided by the PPO, including through training at the time of the Phase 2 Written Follow-up Report. Training projects were also planned at the Latvian School of Administration and the Court Administration between the fall of 2017 and until 2020. Since Phase 2, corporate liability has been part of several trainings provided to prosecutors, according to Latvia. Other training sessions covered, among other issues, asset recovery and management, search and seizure of crime proceeds and advanced digital forensics. ML related topics have been prioritised and the lead examiners are of the view that issues such as legal person liability, confiscation and penal orders in foreign bribery cases have not been properly covered in the different training initiatives. Latvia refers to a training session on 25 February 2019 that 48 judges and assistants attended. It was a one-day training on the foreign bribery offence and related offences, legal person liability; confiscation measures; and sanctioning of foreign bribery. Judges' level of attendance in the training session seems low and this is the only relevant training event that Latvia has reported since Phase 2. No specific guidance was adopted by KNAB regarding the interpretation of the corporate liability regime and no training was provided to judges. The lead examiners believe that Latvia should continue its efforts to provide training to law enforcement officials as well as judges.

⁷⁰ While finalising this report, Latvia informed the evaluation team of the creation of a specialised group for ABLV Bank related investigation including for ML committed on large scale by using financial institution's infrastructure by professional facilitators. There are all together 34 criminal proceedings which are investigated within this group, including *VimpelCom* and *Transport Logistics International Cases*.

(i) KNAB

97. In Phase 2, the WGB recommended Latvia to ensure that personnel issues do not interfere with KNAB's ability to investigate foreign bribery (Recommendation 10a). At that time, the WGB was seriously concerned about KNAB's personnel issues. A large number of KNAB's senior investigators and staff left the agency between January 2014 and May 2015. Most of the departed staff had been replaced by October 2015. Nevertheless, some of the senior investigators who remained had been re-assigned to non-investigative positions. Lawsuits between staff and management damaged staff morale and distracted from KNAB's daily work. The WGB agreed that all of these factors overshadowed the agency's investigative efforts and called into question the agency's capacity to successfully detect and investigate corruption including foreign bribery, especially the most complex cases. In October 2017, at the time of the Phase 2 Two Year Written Follow-Up Report, Recommendation 10(a) was deemed partially implemented. The WGB noted that since Phase 2, KNAB had hired senior managers with relevant experience but its Investigation Division had fewer staff; in addition 25 out of 150 positions in KNAB were vacant on 29 September 2017. Figures provided by Latvia show that as of April 2019, 16% of investigators/criminal intelligence experts' positions were still vacant. There were in total 65 KNAB personnel involved in corruption matters in 2015, 64 in April 2019 and 71 as of August 2019. Despite this increase, there are only 18 investigators responsible for the investigation of domestic and foreign bribery cases (26% of enforcement KNAB personnel). KNAB's budget seems to be a problem as stated by the Director of KNAB in March 2019.⁷¹ At the on-site visit, the Director announced a new government plan that foresees an increase of both KNAB's budget and personnel (by 23%) by the end of 2020. Staff turnover of officials and experienced specialists also remains problematic: 26 staff left KNAB in 2016; 14 in 2017 and 19 in 2018. For instance seven officials decided to quit the Bureau as a result of the 2018 restructuring. The authorities clarified that six of them retired. They were all experienced specialists and their contribution to KNAB's achievements was highly valued. These internal restructurings generate the departure of experienced staff, which seriously impacts KNAB's competence and capacity⁷² and threatens its institutional memory. KNAB indicated that no further reorganisation is planned for the near future.

98. In Phase 2, the Working Group noted reports of serious personnel issues within KNAB, including officials being demoted from their investigative positions. According to Latvia, no investigative officials has been demoted from their investigative positions since Phase 2 and there have been no new lawsuits related to staff movements since August 2016. There were 14 ongoing lawsuits (against 6 employees) in 2017; 8 (against 4 employees) in 2018 and 6 (against 3 employees) in 2019.

(ii) State Police

99. According to the principle of legality, the SP shall investigate any criminal offence (and does so in practice with regard to 95% of all criminal offences in Latvia). Nevertheless, priorities are usually set on a case-by-case basis. According to Latvia's responses to the Phase 3 Questionnaire, 868 out of 1029 investigator positions were filled in the SP as of December 2018. This lack of personnel is likely to impact the number and quality of SP's investigations. The "Unit 1" was comprised of 23 staff members in 2018. "Unit 1" investigators are considered to have the highest level of ML expertise and other LEAs frequently refer ML cases to "Unit 1" for further investigation, according to the authorities. Investigations are carried out under the public prosecutor's supervision and instructions, although there is no obligation to interact on a regular basis with the public prosecutor in charge.

100. In 2017, the State Audit Office (SAO) assessed the effectiveness of pre-trial investigations in the SP and identified three main areas of concern: (i) shortcomings in investigators' professional qualification;

⁷¹ The Head of KNAB stated that the institution "needs an additional 1.5 million euros this year to fulfill its functions". LSM LV, "[Latvia's anti-graft squad says it needs more funding](#)".

⁷² LSM LV (October 2018) "[Latvian corruption watchdog shuffles staff](#)".

(ii) deficiencies in SP work organisation and (iii) shortcomings in the very essential monitoring of pre-trial investigations by the PPO.⁷³ Until 2017, there were no appropriate educational or professional qualification requirements for investigators, and the specific knowledge acquired from a six-month course in the State Police College was deemed insufficient. A new education programme was created only in 2017, and the first graduates are expected in 2022. The State Police College is also implementing a higher education programme “Police Work”, which would include a component on “Investigative Work”. According to the SAO, significant improvements are also needed in the SP work organisation that would include more harmonised work practices across the different SP units and divisions.⁷⁴ The more serious concern seems to lie with the very limited monitoring of SP’s investigations by the PPO throughout the investigation process, which has translated into a high number of decisions annulling the SP’s investigations. The number of proceedings returned for further investigation in SP has been growing over the past years, according to the SAO. At the time of finalising this report, Latvia stated that the findings of the SAO assessment are not anymore relevant to the ENAP⁷⁵ because priority has been given to the fight against economic crimes. The “poor quality” of investigations was noted by civil society and media representatives met at the on-site visit as well as what they qualify as “serious lack of professionalism” in law enforcement. An NGO representative, however, highlighted the “progressive changes in investigation” with new and innovative work practice. At the time of reviewing this report, the authorities indicated that it is expected that additional resources will be directed to strengthen pre-trial investigations. In June 2019, guidelines were adopted to ensure a common approach to ML investigations. In October 2019, Latvia stated that additional human and technical resources was granted to the ENAP to address the money laundering risks adequately.

(iii) PPO

101. In Phase 2, the PPO reported no difficulties with its resources. Its annual budget has remained consistent over the past years. According to Latvia, on 1 January 2019, 25 criminal investigations were under supervision of the prosecutors of the Specialised Prosecution Division for Investigation of Very Important Crimes of Prosecutor General’s Office. The Division had also prosecuted 26 cases. The staff of the Division consists of 11 prosecutors and the Head prosecutor (i.e. a bit more than 4 cases per prosecutor). There were 12 prosecutors in the Division at the time of the Phase 2 evaluation. Chief Prosecutors from the Prosecution Office for Investigation of Financial and Economic Crimes (FENIP), and from the Specialised Prosecution Office for Organized Crime and Other Branches (ONCNSP), reported that their prosecutors faced heavy workloads. On average, FENIP prosecutors supervise 450 cases, of which about 50 cases are related to serious financial and economic crimes, and 6 cases, on average, are on ML. The authorities indicated that a great part of FENIP prosecutors have a comparatively small practical experience in investigating financial crimes. Average seniority level of prosecutors in this structural unit is 1-3 years. Ten prosecutor posts out of 14 are filled.

102. The 2018 Moneyval report, as well as Latvia’s 2018 NRA, highlight the lack of resources of the PPO to prosecute ML cases. Assessment in the context of the 2018 NRA has shown the extensive workload of the prosecutors, which includes the supervision of investigations, the investigation, and criminal prosecution of ML related offences. In addition, these prosecutors are also involved in other categories of cases. According to the 2018 NRA, the increase in the numbers of prosecutors specialising in ML

⁷³ State Audit Office (October 2017) “[State Audit Office: Pre-trial investigations are hampered with problems in investigators’ qualification, work organisation, and monitoring](#)”.

⁷⁴ According to the review, reforms undertaken in the last years in the SP have not been well organised, often allowing regional authorities to use resources in their own way. It has resulted in significant differences between the SP divisions, for example, regarding investigators’ workload and regarding results.

⁷⁵ Latvian authorities stated that this also covers the Asset Recovery Office (ARO).

prosecution or decrease of the workload should be considered. According to the representatives from media and civil society met at the on-site visit, the prosecutors' heavy workload and the lack of proper supervision and prioritisation of cases generate inefficiency and seriously impact the PPO's performance. They also noted the need for new "leadership" in the institution.

(iv) *Judiciary*

103. There are no specialised courts which handle bribery cases (both domestic and foreign bribery).⁷⁶ However, a recent reform in courts' organisation completed in March 2018, may impact allocation and trial of corruption cases. Through this reform, Latvia has reduced the number of courts and land register divisions by 74% (from 2015). Instead of having 34 courts located across Latvia, there are now 9 district (city) courts. According to Latvia, the purpose of the reform is to encourage uniform judicial practice, ensure specialisation of judges and improve management of case distribution and workload of courts.⁷⁷ The number of judges in general jurisdiction courts (as of 31 December) was 383 in 2015; 385 in 2016; 393 in 2017 and 390 in 2018. According to Latvia, in its 2018 NRA, even though judges regularly participate in training, including regarding ML, effectiveness of adjudication and imposed penalties has not yet achieved sufficient efficiency. Thus, measures should be taken to ensure that the courts can deal with cases properly. At the on-site visit, representatives from media and civil society heavily criticised long delays in the court proceedings to adjudicate financial crimes. The authorities state that considerable efforts have been made to reduce time spent for adjudication of ML cases in the courts of the first instance: in the second half of 2017 the average adjudication period was 54.4 months, in 2018 it was reduced to 10.1 months and in the first half of 2019 it reached 2.4 months. Average adjudication period of ML cases has also decreased in the appellate courts (in the second half of 2017 it was 15.9 months; 11.5 months in 2018 and 12.6 months in the first half of 2019).

Commentary

The lead examiners are concerned that lack of resources and expertise may undermine Latvia's capacity to fight against foreign bribery and related money laundering.

At the time of the on-site visit, KNAB continued to suffer from an insufficient number of enforcement personnel in charge of investigating domestic and foreign bribery cases. Experienced staff has also left the Bureau in recent years, and KNAB's budget continues to be inadequate. Therefore, the lead examiners recommend that Latvia ensure that KNAB is provided with adequate budget and expertise to efficiently investigate foreign bribery.

A 2017 assessment highlighted the lack of resources, expertise and deficiencies in the internal organisation and management at the State Police which hinder the effectiveness of investigations conducted. Despite recent efforts to address the situation in the ENAP, the lead examiners recommend that Latvia ensure that (i) the SP is provided with sufficient resources and expertise to more effectively investigate financial crimes, including ML predicated on foreign bribery; and (ii) the SP investigators work under proper monitoring by specialised and well-qualified prosecutors.

Similarly, expertise and staff resources in the PPO are lacking, which is likely to affect the PPO's performance in prosecuting foreign bribery and ML cases. The lead examiners therefore strongly encourage Latvia to increase the financial resources available to the specialised prosecutors in charge of fighting foreign bribery and related ML to ensure the effectiveness of the investigation and prosecution of these offences, including, through (i) recruiting additional staff; and (ii) ensuring sufficient specialised expertise for prosecuting foreign bribery and related ML cases.

⁷⁶ Discussion were taking place at the time of this report to set up specialised court for handling economic cases. See the Baltic Times (24 June 2019), "[PM Karins promises to find way to establish economic affairs court](#)".

⁷⁷ MOJ (1 March 2018), "[Court territorial reform was completed on 1 March](#)".

Regarding training, the lead examiners are of the view that Phase 2 Recommendation 9(c) remains partially implemented and they recommend that Latvia continue its efforts to provide training to law enforcement officials and judges on the Convention as well as foreign bribery and related ML offences, including on the practical aspects such investigations and on the interpretation of the corporate liability regime. As explained in this report, forensics and special investigative techniques have been only used in a limited number of cases involving the bribery of foreign public officials. Training on investigative techniques, including forensic accounting and information technology, should therefore be prioritised.

The lead examiners welcome the recent reform of the court organisation and they recommend that the Working Group follow up on its impact on the adjudication of foreign bribery and ML cases.

Operation and Independence

(i) KNAB

104. In Phase 2, the WGB identified serious concerns about the operation of KNAB. First, the WGB was concerned that the process for dismissing the Director of KNAB could give rise to political interference. Second, it expressed disapproval about repeated and open criticism of KNAB by the successive governments and threats to dismiss the KNAB Director. Efforts to address these concerns were acknowledged by the Working Group at the time of the Written Follow-up Report.

105. Amendments to the Law on the KNAB were adopted on 5 April 2016 to strengthen KNAB's functional independence. The amendments clarify the status of KNAB, stating that it is a direct management institution. Institutional supervision of the KNAB lies with the Cabinet of Ministers, with the intermediation of the Prime Minister; supervision entails the right of the latter to verify the lawfulness of the decisions (and failure to act) of the KNAB Director. Supervision does not extend to specific cases, or to any other of the decisions the KNAB makes regarding its anti-corruption functional responsibilities. KNAB's personnel (including its Director) now fall under the State Administration Structure Law and are thus subject to the qualifications, rights and obligations in place for other public officials. Such a move is reportedly aimed at better assuring the political neutrality of KNAB's officials and independence in the performance of their duties. Further provisions have been introduced to hold KNAB Director duly accountable, including regarding his/her appointment and dismissal. After the Phase 2 evaluation, the Cabinet was informed of the Working Group's recommendation to refrain from comments that risk creating the perception of political interference in KNAB. The current Cabinet of Ministers, however, have not been similarly informed at the time of this report. Latvia claimed that the requirements under Article 5 were presented since Phase 2 by the MoJ to the members of the Financial Sector Development Board.⁷⁸ However, it is unclear how this would be a relevant forum for such a discussion given that it is; according to Latvia, used to coordinate and improve the cooperation between the State authorities and the private sector in promoting the development of the financial sector.

106. The Recommendations for KNAB investigators adopted in 2017 explicitly state that foreign bribery investigation cannot be affected by the factors identified in Article 5 of the OECD Convention. Awareness in relation to Article 5 was also raised among KNAB officials during training sessions.

107. The high profile *Oligarch*⁷⁹ domestic corruption case has been terminated without charges. The media subsequently reported incriminating evidence that KNAB has failed to forward to the prosecutor for

⁷⁸ The Financial Sector Development Board is headed by the Prime Minister and consists of the following members of the Cabinet: Minister of Economics, Minister of Interior, Minister of Foreign Affairs, Minister of Finances, as well as Minister of Justice.

⁷⁹ The case commenced in 2011 with investigative measures undertaken in respect of 26 companies and 11 people, including prominent political figures. The alleged offences included bribery, money laundering, and abuse of power.

consideration, prompting a parliamentary inquiry. The parliamentary Committee presented its report to the Parliament in January 2018. Part of the report stated that KNAB investigators “did their jobs professionally and responsibly”. At the same time, a Member of Parliament who took part in the inquiry publically raised concerns about suggested “state capture” in Latvia, “defined by influence over the work of law enforcement institutions, like, for example, keeping salaries low or appointing loyal officials.” The MP further claimed that “state capture” was “also done by attempting to influence the mass media and their independence.” He finally mentioned political influence over the “appointing the prosecutor general”.⁸⁰ The former Head of the Criminal Intelligence Process Division of KNAB also referred to “measures taken against those KNAB officers who were pushing for progress in the investigation [of the *Oligarch case*], and this was one of the reasons why the criminal case was closed without pressing charges against any suspects”.⁸¹ A parallel review of the *Oligarch case* was conducted by the PPO. In November 2018, a superior prosecutor in charge of the review upheld the decisions of both KNAB and the prosecutor in charge of closing the case.

108. The lead examiners are satisfied that repeated and open criticism of KNAB by the Executive seems to have ceased and that the inquiry into the investigation of the *Oligarch case* is now over. However, some of the findings of the parliamentary inquiry that suggest evidence of “state capture” in Latvia raise questions on whether law enforcement are able do their jobs independently and without interference. This is particularly the case of the PPO, as revealed by recent developments. Representatives from civil society and media met at the on-site visit expressed concerns of what they called the “politicisation” of law enforcement in Latvia.

(ii) PPO

109. The independence of prosecutors is protected in the law. Prosecutors in their activities shall be independent from the influence of other state authorities and official institutions or officials and shall only conform to the law (Law on Prosecutor’s Office, Section 6). Guarantee of the prosecutors’ independence is set both in the Law on Judicial Power (Law on Judicial Power, Section 106.1) in the Law on Prosecutor’s Office (Law on Prosecutor’s Office, Section 1, 6) and also in CPL (CPL, Section 459). Letter No. 1/1-11-72-16 of 1 June 2016 from the Chief Prosecutor of Department of Analysis and Management of the Prosecutor General’s Office reminded all chief prosecutors of the language of Article 5 of the OECD Convention and that prosecutorial discretion is to be exercised on the basis of professional motives and is not to be subject to improper influence by concerns of a political nature.

110. The Prosecutor General is appointed by Parliament through an open vote. The candidate is nominated by senior members of the judiciary. The Law on the Prosecution Office (LPO) (Sections 33, 36-37) specifies the eligibility criteria which include, for example, experience as a judge or prosecutor and a “good reputation”. The Prosecutor General is appointed for five years and can be reappointed by Parliament for one additional term. He/she can be dismissed only if a Supreme Court judge (chosen by the Chairman of the Court) finds grounds for dismissal.

Early in the investigation, difficulties were encountered; information was leaked to the media, which may have diminished the usefulness of some searches and Parliament refused to lift the immunity of one defendant. KNAB then terminated the entire case in December 2016. In June 2017, the media published wiretap transcripts that were part of the evidence in the investigation and which showed the suspects in the case discussing various corruption schemes.

⁸⁰The Baltic Times, (30 August 2017), “[Case materials in "oligarch affair" show that state capture truly exists in Latvia](#)”.

⁸¹LSM L.V, (5 January 2018), “[Oligarch probe a "farce" says latest witness](#)”. The Parliamentary Committee has been marred by controversy, as highlighted in this article.

111. Phase 2 on-site panellists from the public and private sector spoke very highly of the independence of the PPO and the Prosecutor General. Latvia also recalls ongoing investigation and prosecution of top level public officials in domestic corruption cases.⁸² The situation seems, however, to have evolved since 2015, especially as a consequence of the outcome of the *Oligarch* case. Management of the case raised strong disapproval by civil society that were echoed in discussion with representatives from NGOs and media at the Phase 3 on-site visit.⁸³ This criticism has been accompanied by the government's repeated and public comments on the Prosecutor's General's performance and the PPO's activities in general. The PPO's management of the investigation of allegations of corruption and ML of the governor of Latvia's Central Bank also drew harsh criticism by the Executive.⁸⁴ The Minister of Justice has publicly stated that he pushes for the Prosecutor General's removal.⁸⁵ In June 2019, Latvia's Supreme Court opened an inquiry into the Prosecutor General's job performance.⁸⁶ The authorities clarify that Minister of Justice's intervention stems from his general responsibility for ensuring the effective functioning of the judicial system. It follows the publication of the 2018 Annual Report of the Office of the Prosecutor of the Republic of Latvia by the State Audit Office and the suspicion that the Prosecutor General might be in breach to his financial duties under the Office of the Prosecutor Law. This contrasts very much with the information published in the press reporting that the Executive challenges the Prosecutor General's performance, professionalism and reputation for facts unrelated to the State Audit Office's report. The lead examiners are of the view that this creates a risk of actual or perceived political interference in the PPO and non-compliance with Article 5 of the Convention. This Article stipulates that foreign bribery investigations and prosecutions must not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved. Commentary 27 of the Convention further recognises that foreign bribery cases should not be subject to improper influence by concerns of a political nature.

(iii) *Judiciary*

112. In order to ensure the independence of judges at the time of court judgment, the state has set up legal framework for the independence of judges, which is included in both the Constitution and in the Law on Judicial Power (Law on Judicial Power, Section 10). Prohibition on interference with the work of a court is established by law (Law on Judicial Power, Section 11). A judge has immunity when fulfilling his/her duties in the adjudication of cases (Law on Judicial Power, Section 13). The Judicial Disciplinary

⁸² In June 2018, KNAB commenced criminal proceedings against a top-level public official of the Central Bank of Latvia (*Latvijas Banka*) for corruption. The case is being prosecuted. In November 2018, a criminal case has been sent for the initiation of criminal proceedings against twenty three persons (including three officials of the National Centre for Education) regarding the illegal acquisition of the results of official language checks with a view to obtaining residence permits in the Republic of Latvia.

⁸³ LSM LV (July 2017), "[Protest demands resignation of prosecutor general](#)".

⁸⁴ Reuters (April 2019) "[Corruption scandal casts long shadow over Latvia](#)".

⁸⁵ LSM LV (May 2019) "[Justice Minister moves to sack long-standing Prosecutor General](#)". The Minister questions "Prosecutor General's reputation, his record in managing subordinate prosecutors and the slow transposition of international best practices into the office's work". He further stated that "the Prosecutor General's current track record might have caused substantial harm to state and public interests and it is not compatible with the stringent requirements for taking the office of Prosecutor General."

⁸⁶ Xinhuanet, (June 2019), "[Latvia's Supreme Court opens inquiry into prosecutor general's job performance](#)". As recently as in May, Supreme Court Chief Judge Bickovics said he did not see any need to probe the prosecutor general. While finalising this report, Latvia indicated that the Supreme Court Plenary Assembly will give an opinion on whether there are grounds for the dismissal of Prosecutor General on 18 October 2019. Latvia also indicated that during the examination of the facts indicated in the request made by 39 Members of the Parliament, the authorised judge did not establish the grounds for dismissal of the Prosecutor General provided for in the Office of the Prosecutor Law.

Liability Law sets out the judicial disciplinary process. Disciplinary procedures can be initiated by the Minister of Justice, or a range of chief and senior judges.

113. Publicly information seems to indicate that businesses are faced with a high risk of corruption when dealing with the judiciary and about two out of five companies perceive the independence of Latvia's courts as fairly bad.⁸⁷ In a survey, judges in Latvia expressed significantly more concern than their European peers about bribery in the judiciary and threats of disciplinary action based on the way they adjudicate cases.⁸⁸ These issues were discussed during the on-site visit where the judges defended their strong independence under the law and in practice.

Commentary

The lead examiners are concerned about the current government's repeated and open criticism of the Prosecutor General that has led to an inquiry and may result in his removal from office. The government's open and unrestrained commentary about the Prosecutor General risks creating the perception of political interference in what should be an independent body. This, coupled with the domestic context where evidence of "state capture" is reported in relation to a parliamentary inquiry on a high profile corruption case, raises questions on whether law enforcement are able to do their jobs independently and without interference.

The lead examiners therefore recommend that Latvia ensure that the government refrain from commenting on the performance of the Prosecutor General unless there are reasonable grounds for dismissal, in which case the government should allow the statutory dismissal proceedings already in place to commence and run their course. They also recommend that Latvia take concrete steps to comply with and raise awareness of Article 5 of the Convention among relevant government officials.

Investigative Tools and Access to Tax and Bank Information

114. There are a number of investigative tools and techniques available in formal investigations under the CPL, the Law on KNAB, and the Investigatory Operations Law (IOL). In Phase 2, the Working Group welcomed the range of sources and investigative techniques available to Latvia and encouraged Latvia to make full use of these measures (Recommendation 9(b)(iii)). At the time of the Written Follow-up Report, the WGB deemed this recommendation fully implemented but agreed to revisit it in Phase 3 when there is more practice.

115. Standard investigative actions are available in all criminal investigations and without a court order. These include questioning and interrogation, the consensual examination of a person, and inspection of a place or object provided it is public or the investigator has permission. With judicial approval, investigators may also inspect private places, examine a person by force, and conduct search and seizure operations (chapter 10 CPL). In exceptional cases, judicial approval may be bypassed provided the supervising prosecutor gives consent and the judge is promptly informed.

116. Special investigative techniques always require judicial approval and are available only in investigations into "less serious, serious or particularly serious crimes" (CPL Section 210) that would encompass foreign bribery. Such techniques include the interception of mail and communications, the search and interception of electronic data, audio and video surveillance, physical surveillance, and undercover operations. Investigatory techniques are also available for "investigatory operations" conducted under the IOL. The IOL also provides a range of surreptitious and intrusive investigative techniques for which judicial authorisation is generally required. KNAB as any other investigative agency

⁸⁷ European Commission, (10 April 2017), [EU Justice Scoreboard 2017](#).

⁸⁸ European Network of Councils for the Judiciary, "[Independence, Accountability and Quality of the Judiciary, Performance Indicators 2017, 2016-2017](#)".

and the PPO may (with judicial consent) freeze “criminally acquired property”, profits, instrumentalities, or other financial resources of similar value (CPL Sections 361(1) and 361(11)). They can also seek for confiscation of property as an additional punishment (legally acquired property).

117. So far, KNAB and the SP have exploited several investigative techniques in cases involving the bribery of foreign public officials, including interviews and cooperation with domestic counterparts. However, special investigative techniques have only been used in a limited number of formal investigations. As showed in the table below, searches and seizures as well as intercepting communications were only used in two formal investigations. In turn, forensic audit was conducted in only one formal investigation. Even more limited investigative techniques are available and have been used in the two discontinued preliminary investigations. International cooperation was used in four out of five formal investigations. Informal international cooperation was used even more intensively. Self-reporting by companies was never used although this is an important source of information for law enforcement (see Section 7 of the Report on the reporting of foreign bribery to company’s management).

Latvia: Main Tools Used in Cases Involving the Bribery of Foreign Public Officials

Investigative Tool \ Foreign Bribery Case	Law Enforcement Agency	Information from Media	VimpelCom	Transport Logistics International	Belarus Software	Petrofac*	Gold mining*	Total
Internet and public sources	x	x	x	x	x	x	x	7
Search and Seizure	x	x						2
Seizing / processing electronic evidence	x	x			x			3
Intercepting communications	x	x						2
Interviews	x	x	x	x				4
Forensic audits	x							1
Self-reporting and co-operation by companies								0
Co-operation with domestic counterparts	x	x			x		x	4
Bank enquiries	x	x	x	x	x			5
Tracing assets internationally		x	x					2
Mutual legal assistance (MLA)	x	x	x		x			4
Other international co-operation (e.g. visits, informal contacts)	x	x	x	x	x		x	6

* Both cases were preliminary investigations.

118. CPL Section 190 entitles investigators to access tax information from the SRS. KNAB can directly access this information in a database, with a follow up request to SRS, if necessary. KNAB also has access to additional measures provided for in the Law on KNAB. These include the ability to “request and receive free of charge information, documents and other material from the State administration and local government institutions, companies (undertakings), organisations, officials and other persons, regardless of the secrecy regime thereof”, to receive bank information, to access information “stored in registered databases”, and to visit government and commercial premises (Section 10 Law on KNAB).

119. Conditions and rules to access bank information have changed since Phase 2. First, in May 2018, Latvia amended Section 56 of the AMLTFL to remove the need for prior authorisation from the PPO to access financial information hold by the FIU. Section 56(1) now provides that such information shall be provided “if there are reasonable suspicions that the relevant person is related to money laundering,

terrorism financing, or an attempt to carry out such activities, or another criminal offence associated with such actions.” Second, in October 2018, Latvia amended section 121(5) of the CPL to allow law enforcement authorities to obtain bank information in pre-trial criminal proceedings upon approval of an investigating judge. Finally, through the Law on Account Register that entered into force on 1 July 2018, Latvia has established a centralised bank and payment account register. The register, managed by the SRS, holds data on accounts of natural and legal persons that are Latvian residents and non-residents. Data are collected by credit institutions, savings and loans associations and providers of payment services (Section 5(1)). Access to the register data may be provided, among others, to KNAB, the PPO, the SP, FCMC and SRS. The PPO and KNAB can request this access upon submitting a “justified request” i.e. only to the extent necessary for the purpose of processing the information specified. KNAB confirmed at the on-site visit that it routinely seeks bank information in corruption cases without difficulties or delays. Representatives from the SP and SRS met by the lead examiners all welcomed this new register as a valuable investigative tool.

120. In accordance with amendments brought to the AMLTFL in October 2017, all legal persons are obliged to collect and submit information about ultimate beneficial owners (UBO) to the Enterprise Register of the Republic of Latvia (hereinafter – ER⁸⁹, see Section B.6 below). According to the authorities, the ER verifies whether the beneficial owner is an existing natural person and whether all personal data are accurate (amendments to AML/CFT Law entered into force in June 2019) based on comprehensive internal control systems in place since July 2019. State institutions and law enforcement authorities in all cases receive information free of charge, while the private sector can access it for a fee. Additionally, Section 18³ of the AMLTFL provides that any person (including foreign law enforcement bodies) shall be entitled to receive online information on the UBO registered in the ER.

Commentary

The lead examiners commend Latvia for its efforts to expedite access of law enforcement authorities to bank information, including via a new national account register. They, however, note that a limited range of investigative measures available has been used in formal investigations of foreign bribery. The lead examiners therefore recommend that Latvia further encourage law enforcement authorities to make full use of the broad range of investigative measures available in foreign bribery investigations, including special investigative techniques, forensics and international cooperation.

Sources of Detection

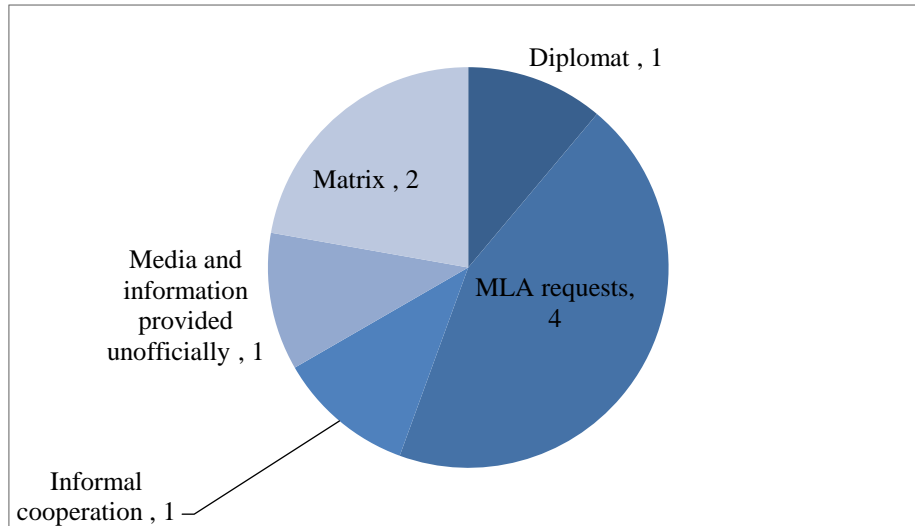
121. An investigation may be opened on the basis of information received or uncovered by an investigative agency, the PPO, a court, a victim or any legal or natural person (CPL Section 369(1)). Anonymous information cannot serve as the basis of an investigation (CPL Section 369(2)). According to Latvia’s responses to the Phase 3 Questionnaire, foreign bribery investigation may be launched based on a complaint by a civil society organisation: civil society would fall under CPL Section 369(2)5), which recognises as a source of information “any natural or legal person, as information regarding possible criminal offences from which such person has not directly suffered”.

122. In practice, the almost exclusive source of detection of foreign bribery cases in Latvia has consisted in information provided by foreign jurisdictions either through MLA (*Transport Logistics International, VimpelCom, Belarus Software and Information Technology Contract Cases*) or informally (*Law Enforcement Agency Case*). The *Information from Media* case was uncovered by the media and information provided unofficially by another Party to the Convention. The other sources of detection have

⁸⁹ The ER consists of 13 registers. The principle registers of legal persons are the Commercial Register (for partnerships, general and limited) and companies (LLCs and stock companies), the ER Journal (for co-operative societies) and the Register of Associations and Foundations (for associations, foundations, and trade unions).

been an unnamed Latvian diplomat (*Information from Diplomat case*) and the Matrix (*Petrofac and Gold Mining Cases*).

Figure 2: Sources of Latvia's Foreign Bribery Allegations



123. Despite KNAB's efforts to strengthen its detection capabilities (see above the discussion on KNAB's resources), these have not been successful so far: none of the foreign bribery cases reviewed in this report has been detected by KNAB. Detection by the SRS is also probably one of the main areas for improvement in terms of detection by government agencies, alongside the AML framework. Indeed, the SRS presumably would encounter foreign bribery allegations in performing its functions and therefore would have the potential to regularly detect and report, as is the case for the FIU. As stated later in the report (see Section B.6), the Working Group recommends a more proactive use of FIU's information as a source of detection of foreign bribery. By contrast, Latvia has experience in commencing domestic investigations based on information provided by foreign law enforcement authorities through MLA channels. As highlighted in the report, delays in starting such investigations, however, raise concerns. No allegations have been detected through whistleblowers or reports from the public yet.

Commentary

Despite KNAB's efforts to strengthen its detection capabilities, they have not been successful so far. The lead examiners recommend that Latvia (i) ensure that adequate resources are allocated to KNAB's detection functions; (ii) ensure that KNAB give sufficient priority to detecting foreign bribery cases; and (iii) further mobilise Latvian agencies with particular potential for detecting foreign bribery committed by Latvian companies operating abroad, including the SRS and the FIU.

Opening and Terminating Foreign Bribery Investigations

124. Upon the receipt of an allegation that a crime has been committed, law enforcement authorities such as KNAB may open a preliminary investigation or a formal investigation.

(i) Preliminary Investigations

125. A preliminary investigation may be opened where there is insufficient information to open a formal investigation, or where the allegation is in an anonymous report or media report. An investigator's decision to pursue a preliminary investigation is discretionary. A preliminary investigation may be in the form of a departmental examination or an investigatory operation. A departmental examination will be used where an allegation can be sufficiently verified without the use of coercive techniques in the CPL Section 373(3)

(e.g. interrogation, search and seizure). Instead, KNAB is entitled to use the investigatory powers set out in Section 10 of the KNAB Law (e.g. obtaining information from government bodies, companies and financial institutions). An investigatory operation, however, allows KNAB to use coercive techniques in the Investigatory Operations Law (IOL), including inspection, questioning, and examination of a person.

(ii) Formal Investigations

126. The evidentiary thresholds for opening investigations against natural and legal persons are different. A decision to open a formal investigation is taken in writing (CPL Sections 372 and 376). An investigation against a natural person (known as “criminal proceedings” in the CPL) may be opened if there is “the actual possibility” that a criminal offence has taken place, or if an offence has “possibly” taken place and an investigation is necessary to obtain the information required to determine whether an offence did, in fact, occur (CPL Section 370). An investigation against a legal person is known in the CPL as “proceedings regarding the application of a coercive measure to a legal person.” As stated in Phase 2 (para. 146), such proceedings would be opened only if proceedings have been opened against a natural person and if “most likely” there are grounds for imposing corporate sanctions (CPL Section 439(1)).

127. Information from foreign authorities in an MLA request may be used to open a formal investigation. However, information provided by foreign authorities in the *VimpelCom, Belarus Software* and *Information from Media Cases* led to formal investigation only after the opening of a preliminary investigation. A decision not to open a formal investigation must be in writing though it need not include full reasoning (CPL Section 373). During a formal investigation, KNAB may use the full panoply of investigative techniques in the CPL.

(iii) Terminating and Suspending a Formal Investigation

128. A lead investigator, with consent of the supervising prosecutor, may suspend an investigation if (a) the offence is not associated with violence, (b) the person who committed the crime cannot be found within four months, and (c) the minimum investigative steps prescribed by the Prosecutor General have been taken.⁹⁰ In Phase 2, Latvia maintained that foreign bribery cases would not be suspended as these investigations are too complex for the minimum investigative steps to be taken in four months. However, there is nothing in law providing for this. No KNAB investigations have been suspended in the past five years.

129. An investigation may be terminated if extortion or effective regret applies (see *infra*), the guilt of the suspect cannot be proved, it is concluded that an offence has not taken place, the limitation period has expired, the suspect has died, double jeopardy applies, a resolution has been reached (see below) or, in the case of legal persons, where there is no proof that the offence was committed in the interest or for the benefit of the legal person or due to a lack of supervision.⁹¹ An investigation may also be closed where the investigator, with the consent of the prosecutor, concludes that the harm does not warrant punishment, the offence was committed by a minor and mitigating circumstances apply, proceedings cannot be completed within a “reasonable term”, or the person was subject to human trafficking and forced to commit the offence (CPL Section 379).

Enforcement Challenges

130. Since Phase 2, KNAB has increased the number of investigations under its leadership (19 new proceedings in 2016; 30 in 2017 and 38 in 2018) as well as the number of proceedings sent for prosecution

⁹⁰ CPL Section 400. According to Sections 2 and 3 of Prosecutor General Order 67, the minimum investigatory steps include interrogation, inspection of documents (including electronic data and documents from credit institutions), expert and auditor interviews, and special investigative measures.

⁹¹ CPL Sections 392, 392¹, 377, and 441³.

(14 in 2016, 17 in 2018 and 24 in 2018). This shows a positive trend. The lead examiners also note that, according to available information, KNAB has been more proactive in investigating new foreign bribery allegations. In practice, the *VimpelCom*, *Transport Logistics International and Belarus Cases* have progressed to the formal investigation stage less than a year after the preliminary investigations started. In the *Law Enforcement Agency Case*, formal investigation commenced more than a year and a half after preliminary investigation. According to the authorities, this is due to the fact that KNAB expanded the investigation to a larger number of defendants and a broader range of offences.

131. No legal person has ever been held liable for foreign bribery in Latvia since the entry into force of the Convention in 2014. Since Phase 2, proceedings were initiated for the application of coercive measures to three legal persons for foreign bribery. One is now closed. Proceedings were initiated for the application of coercive measures to one legal person in the *Belarus Software Case*. In April 2016, KNAB initiated proceedings against the legal person involved in the *Information from Media Case* but the investigation against the company was closed in May 2019. Proceedings for foreign bribery were initiated in May 2019 against a third legal person in the *Law Enforcement Agency case*. In contrast, more proceedings for the application of coercive measures have been initiated and concluded against legal persons for domestic corruption and other economic crimes. Between 2015 and 2018, Latvia indicates that 30 legal persons received coercive measures in 30 cases. This report explores the reasons for the lack of success of Latvian authorities in holding legal persons liable in foreign bribery.

(i) *A timid enforcement of the foreign bribery offence, especially against legal persons*

132. As stated in the Introduction, accounts of Latvian banks and shell companies have allegedly served to channel bribe payments in at least six cases involving the bribery of foreign public officials (*VimpelCom*, *Transport Logistics International*, *Petrofac*, *Gold Mining*, *Information Technology Contract and Information from Media Cases*). Latvian shell companies and bank accounts have also served in some cases to subsequently launder the bribe payments. For example, in the *VimpelCom Case*, the company in total transferred USD 27 million (approx. EUR 18 million) in bribes to the Latvian bank account of Takilant Ltd., a Gibraltar based shell company beneficially owned by a close relative of a Uzbek high-ranking government official. These transfers served to transmit the corrupt payments to the non-Latvia public official. The commission of the foreign bribery offence consisted in the actual transfer of the advantage (money) with intention being presumed. Subsequently, Takilant Ltd. was used by the foreign public official to launder the corrupt payment. In the Netherlands, Takilant was investigated and sanctioned by the Dutch Public Prosecutors Office for its role in both participating in the commission of the foreign bribery offence and ML.⁹² Similarly, in the *Transport Logistics International Case*, the bribery scheme involved five wire transfers totalling almost USD 500 000 (approx. EUR 445 000) of bribe payments to Russian public officials through the Latvian bank accounts of a UK-based shell company beneficially owned by the officials. The shell company was subsequently used by the Russian public officials to launder the bribes they received while serving as government officials.⁹³

133. At the time of the on-site visit, the participation of Latvian banks into these foreign bribery schemes and their related alleged liability for foreign bribery⁹⁴ had not been investigated by KNAB in any of the

⁹² Openbaar Ministerie (July 2016), "[OM eist bijna 5 miljoen boete en 300 miljoen euro ontneming in zaak tegen Takilant Limited](#)".

⁹³ United States District Court for the District of Maryland (March 2018) [United States of America v. Transport Logistics International, Inc.](#)

⁹⁴ Annex I of the 2009 Recommendation elaborates that "a legal person cannot avoid responsibility by using intermediaries, including related legal persons" to engage in foreign bribery "on its behalf". CL Section 20 criminalises complicity in offences, including foreign bribery. Liability as an abettor under this provision arises if a person knowingly promotes the commission of a crime by providing advice, direction or means, or by removing impediments to committing an offence.

foreign bribery investigations.⁹⁵ Since then, KNAB took investigative steps to assess the criminal liability of bank's employees in the *VimpelCom Case*. KNAB explained that its investigation concluded that “bank’s employees followed all binding internal procedures, as well as laws and regulations which were in place in 2007 and 2008. No involvement of bank employees in bribery was identified. The prosecutor's office agreed to such a finding”. KNAB did not investigate the liability of the bank itself under Article 2 of the Convention.⁹⁶ Recent investigations in other jurisdictions have looked into the role of banks in alleged bribery schemes, including potential knowledge and intention to conceal bribe payments as “possible criminal complicity.”⁹⁷ In the *Gold Mining Case*, KNAB only examined whether the bank’s personnel were liable for breaches of AML/CFT regulations. There is also no evidence that the role of Latvian shell companies registered in Latvia to disguise and move corrupt payments and hide the origins of the funds and identity of ultimate beneficial owners have been reviewed in KNAB’s enforcement actions. At the same time, the necessity to criminalise foreign bribery committed by shell companies or an agent retained by a company who performs no service other than to pay a bribe has been unambiguously emphasised in past WGB evaluations.⁹⁸

134. These issues have given rise to substantial discussions with the MOJ, KNAB and the prosecutors during the on-site visit. In practice, since Phase 2 Latvia did not investigate whether the Latvian banks (*VimpelCom and Transport Logistics International Cases*) and the shell company controlled by a Latvian national used in the transactions (*Petrofac Case*) could be held criminally liable. Instead, KNAB assessed whether the bank’s employees had followed all binding internal procedures, as well as laws and regulations in place at the time and concluded there had not been any infringement in the *VimpelCom* and *Gold Mining Cases*. This echoes comments made by KNAB and the prosecutors at the on-site visit which considered that the potential violations committed by a bank would be essentially administrative in nature and would fall under the competence and jurisdiction of the financial supervisor (FCMC).

135. The lack of enforcement of the foreign bribery offence in the cases also negatively reflects on Latvia’s exercise of its jurisdiction over legal persons. Latvia has not ascertained whether jurisdiction could be established, either based on territorial links to Latvia or nationality jurisdiction, in several foreign bribery cases that implicate Latvian companies and financial institutions and that are solely investigated on ML grounds. For instance, in the *Petrofac Case*, the then CEO of the UK based company allegedly paid bribes to foreign public officials using several corporate vehicles, including the shell company of a Latvian national. However, no investigation was opened due to the lack of reasonable link to Latvia. Similarly, no investigation was opened at the time of Phase 2 in the *Information Technology Contract Case*, even though the bribes were in part, transferred to foreign public officials using Latvian shell companies and a Latvia bank. It is the view of the Working Group that the absence of investigation of foreign bribery in more recent cases (i.e. *VimpelCom* and the *Transport Logistics International Cases*) results from a lack of awareness of the foreign bribery offence by Latvian law enforcement.

Commentary

According to foreign judgements, Latvian banks and shell companies have served to commit foreign bribery but have not been held liable in Latvia to date. As a result, Latvian individuals, financial institutions and other corporate entities allegedly involved in these cases escape their liability in Latvia under Articles 1 and 2 of the Convention. This is particularly concerning since at least two of these

⁹⁵ See footnote 74 on recent developments in the ABLV case.

⁹⁶ In the allegations reported in this report, Latvian financial institutions have been used as a conduit for bribe payments, making the practical arrangement for the transactions to occur. This may arguably constitute recklessness or negligence, which is enough to prove the mental element required under Article 1 of the Convention and trigger the responsibility of the banks.

⁹⁷ Financial Times, (November 2017), “[HSBC accused of ‘possible criminal complicity’ in Gupta scandal](#)”; Reuters (May 2015) “[Questions arise about banks’ role in FIFA bribery case](#)”.

⁹⁸ UK Phase 3 Report, para. 43; New Zealand Phase 3 Report, paras. 32-35.

allegations relate to major foreign bribery cases that have already resulted in sanctions against foreign companies in other Parties to the Convention.

In light of the above, the lead examiners recommend that Latvia seriously step up its enforcement of the foreign bribery offence and take concrete and meaningful steps to ensure that KNAB routinely considers, as part of its enforcement efforts, the involvement in foreign bribery schemes of Latvian financial institutions and other corporate structures. The lead examiners also recommend that Latvia ensure that law enforcement officials benefit from further training on the foreign bribery offence, including on the requirements related to complicity in foreign bribery under Article 1(2) of the Convention.

Latvia's exercise of its jurisdiction over legal persons also raises concerns and the lead examiners recommend that Latvia ensure that (i) the application of Latvian legal provision on establishing jurisdiction covers those cases where Latvian legal persons, including financial institutions, have facilitated the commission of foreign bribery; and (ii) KNAB's investigators and the prosecutors thoroughly explore all jurisdictional bases when foreign bribery offences take place, even in part, on the territory of Latvia.

No legal person has ever been prosecuted in Latvia for foreign bribery since the entry into force of the Convention in 2014. Only three proceedings have been initiated against legal persons for foreign bribery. In light of the above, the lead examiners recommend that Latvia provide training to KNAB's investigators, prosecutors and judges, specifically addressing corporate liability and related proceedings to impose coercive measures.

(ii) Several preliminary investigations continue to suffer delays

136. The review of all ongoing investigations indicates a lack of proactivity in opening preliminary and formal investigations against natural and legal persons based on information received from foreign authorities. The Latvian authorities learned about the *Transport Logistics International Case* through incoming MLA requests executed in 2016. However, the preliminary investigation for aggravated ML was only initiated in early 2018 after the case was included in the Matrix in February 2018. The Latvian authorities heard about the *VimpelCom Case* in 2014 through an incoming MLA request. KNAB launched an investigation on ML in March 2017. In this case, the authorities state that there were objective and reasonable grounds to delay the investigation since Latvia was awaiting the permission from foreign authorities to use information for its own proceedings. However, while Latvia received such authorisation in October 2016, the formal investigation was only initiated five months later i.e. in March 2017. In the *Belarus Software Case*, the proceedings against the legal person were only initiated in May 2019, even though the allegations were known by the Latvia authorities since September 2017. This is another case where the Latvian authorities asked foreign authorities for permission to use the information provided in the context of MLA for their own investigation in Latvia.

Commentary

There have been delays in opening preliminary investigations based on information provided in the context of incoming MLA requests. The lead examiners, therefore, recommend that Latvia ensure that KNAB take a more proactive stance in foreign bribery cases, in particular by promptly investigating information about foreign bribery disclosed in the context of international cooperation.

(iii) Two proceedings against legal persons restricted to cases where the natural person who perpetrated the offence is convicted

137. In the *Law Enforcement Agency Case*, KNAB initiated proceedings to apply coercive measures to the legal person for foreign bribery in May 2019, more than four years after launching preliminary investigation against the natural persons involved in the case. The prosecutors indicated that KNAB waited for the final judgement in Lithuania against the former chairman of the company board in April 2018,

before initiating proceedings against the legal person. KNAB's representatives further stated that the delays were also due to the existence of three separate ongoing proceedings against the company for various offences in Latvia. The authorities also stated that the decision not to prosecute the legal person during the pre-trial investigation against the natural persons was taken by the supervising prosecutor and that this approach was not supported by other practitioners within the PPO and KNAB. However, in the *Belarus Software Case*, KNAB initiated formal investigation against the legal person the Latvian sales manager had already been convicted in Belarus. This goes against Annex I.B of the 2009 Recommendation, which provides that the liability of legal persons for foreign bribery should not be restricted to cases where the natural person(s) who perpetrated the offence are prosecuted or convicted.

138. While the prosecutors attending the on-site visit indicated that it is not the regular practice to wait for a final foreign court decisions before opening proceedings against legal persons, the MOJ stated, on the contrary, that the rationale for further amending CPL Section 439 (31) lies with the fact that proceedings against legal persons have not been immediately initiated. The MOJ indicated that "the [Latvian] investigating authorities [have] awaited confirmation from a foreign country that no criminal proceedings have been initiated against the legal person and that the criminal proceedings against the natural person have been completed on the basis of non-exonerating circumstances."

139. Against this background, the PPO is aware of the necessity for KNAB's investigators to initiate proceedings against legal persons more actively, where relevant. In practice, Latvia indicated that the prosecutors are asked to closely oversee proceedings against legal persons as part of their supervisory role. During the on-site visit, the prosecutors confirmed that they would instruct KNAB to initiate proceedings against legal persons if the bribery offence is committed by a natural person in the interest of a legal person. Incidentally, proceedings to apply coercive measures to the legal persons were initiated at the time of the on-site visit in one foreign bribery case.

Commentary

There have been two instances where investigation against legal persons for foreign bribery was initiated only after convictions abroad of the natural persons who perpetrated the offence. The lead examiners recommend that Latvia clarify that the liability of legal persons is not restricted to cases where the natural person(s) who perpetrated the offence are prosecuted or convicted, in Latvia or abroad, and that proceedings against legal persons may be commenced in the absence of criminal charges against a natural person.

(iv) Transferring proceedings to foreign countries

140. Since Phase 2, Latvia has transferred to foreign authorities two proceedings against a natural and a legal person despite having full territorial and/or nationality jurisdiction over the facts of the cases. First, Latvia transferred the prosecution of one national to foreign authorities in the *Law Enforcement Agency Case*. In this case, the criminal proceeding against the Latvian entrepreneur, CEO of the Latvian company, was separated from the main case file in Latvia and transferred to the Prosecutor General's Office of the Republic of Lithuania. Prior to the transfer, Latvian authorities took investigative steps, including search and seizure and bank enquiries, and cooperated with Lithuania. In December 2016, the foreign bribery investigation of the then company's CEO was transferred to Lithuania. In September 2018, in Lithuania, the CEO was convicted for active bribery of a Lithuanian official, and received a suspended prison sentence of two and half years and not for foreign bribery by Latvia. KNAB's representatives met at the on-site visit advanced two reasons for the transfer of the investigation to Lithuania: to ensure faster proceedings and avoid any risks of *ne bis in idem*. However, the lead examiners are not fully convinced by the overall transferring of the proceeding. Part of the evidence was originally in the hands of KNAB and could have been used in proceedings in Latvia for foreign bribery. In addition, the remainder of the case against other individuals allegedly involved in domestic corruption, tax fraud, false accounting and other offences has continued to be investigated in Latvia. Also, the transfer and subsequent awaiting for a final conviction in

Lithuania delayed the investigation against the related legal person for foreign bribery in Latvia, which was only initiated in May 2019.

141. Latvia also attempted to transfer other proceedings, this time against a foreign legal person in a domestic corruption case involving Skinest Rail, an Estonian company, which had allegedly bribed Latvian public officials. In September 2015, Latvia initiated criminal proceedings against the Latvian official and the Chair of the Estonian company Supervisory Board. Six months later, in February 2016, proceedings against the Estonian legal person were initiated. In January 2018, a court granted Skinest's request to have its proceedings transferred to Estonian authorities. Skinest Rail argued that legal entities registered in foreign countries cannot be tried in Latvian courts under the Latvian Criminal Procedure Law and have to stand trial in their countries of registration. The company also claimed that in order to hear the case, it required to summon at least 12 witnesses, all Estonian citizens, and conduct an audit, which had to take place in Estonia. However, the Estonian authorities refused the transfer and the case file was sent back to Latvia where the proceedings will resume in June 2019.⁹⁹ It is unclear why the Latvian court agreed to transfer this case file as the alleged offenders were involved in the same alleged offences, proceedings had already been initiated in Latvia and Latvia had competence over the alleged offences which either had taken place in full or in part Latvia and involved Latvian nationals.

Commentary

The lead examiners recognise that law enforcement authorities should consult with their foreign counterparts in foreign bribery cases as called for under Article 4(3) of the Convention. They welcome the cooperation which took place in the Law Enforcement Agency Case in relation to one individual. However, the lead examiners are of the view that the decision taken by the Latvian authorities to transfer the proceedings and subsequent awaiting for a final conviction negatively impacted the investigation of the related legal person. The lead examiners therefore recommend that Latvia take steps to ensure that foreign bribery cases are promptly and proactively investigated, especially regarding legal persons.

Non-trial resolutions in foreign bribery cases

(i) Extortion and Effective Regret

142. An accused may be released from liability for bribery by an investigator, prosecutor, or court where he/she is a victim of extortion (CL Section 324(2)). According to Latvia, this provision has not been applied between Phase 2 (October 2015) and April 2019. Latvia has also an "effective regret" provision through which an investigator, prosecutor or court may release from liability an accused who voluntarily reports the offence and actively assists in the investigation (CL Section 324). Since Phase 2, effective regret has not been applied in any foreign bribery case, but applied in several domestic bribery cases.

(ii) Releases from Liability

143. If an accused admits guilt and provides "substantial assistance" in the disclosure of a more serious offence, a prosecutor may release the accused from liability subject to the successful completion of a probationary period (of up to 18 months) and the fulfilment of other conditions (e.g. an apology or reparation).¹⁰⁰ Alternatively, the Prosecutor General could terminate the proceedings entirely (i.e. unconditionally) (CPL Section 410). Latvia explained that in deciding to release liability on these grounds, the prosecutor will consider a range of factors including the personality of the accused, the nature and circumstances of the offence, whether the accused pleads guilty and makes compensation, and the

⁹⁹ The Baltic Course, (January 2018) "[Latvian court decides to hand Skinest Rail bribery case to court in Estonia](#)"

¹⁰⁰ CPL Section 58¹. A Chief Prosecutor can also make this decision if the accused has no prior convictions.

level of assistance provided by the accused. However, these criteria are not codified and there is no judicial oversight.

(iii) Plea Agreements

144. Plea agreements are available for natural and legal persons (CPL Chapter 38 and Sections 441¹ and 441⁶-441⁸). There are two kinds of such agreements. First, agreements between the prosecutor and the accused are made on either party's initiative. These agreements are in writing and require that the accused admits guilt, agrees to a statement regarding the offence, and accepts a specified punishment. The agreement is approved by the court. The Prosecutor's Handbook sets out the relevant legislative requirements, but does not provide further guidance on, for example, additional factors to be taken into account in deciding to enter a plea agreement, or whether a sentence discount can be offered.

145. The second category of plea agreements are penal orders. On 10 March 2016, amendments to Section 70² CL have extended the scope of penal orders to serious crime for which deprivation of liberty for a period of up to five years is provided for in the Special Part of the Criminal Law. Therefore, a penal order may be applied to foreign bribery cases if not committed in large amount (as of 1 January 2018, a "large amount" is set at EUR 21 500) or by a public official, or by a group of persons according to a prior agreement or by an organised group. Penal orders may be appealed in accordance with the procedures stipulated in the law both by the victim and the accused person. At the on-site visit, representatives from the PPO referred to newly adopted guidelines on the application of penal orders that were not reviewed by the lead examiners.

146. In Phase 2, the WGB recommended that Latvia make public, where appropriate and in conformity with applicable rules, available information about the settlements in foreign bribery cases, including the facts, the reason for settlement, the terms of the settlement, and any sanctions imposed. At the time of the Phase 2 Written Follow-up Report, recommendation 9(e) was deemed not implemented since legislation had not been amended to require the publication of all types of settlements.

147. On 10 April 2018, the Prosecutor General issued an order No P-101-101-2018-00040 instructing the publication of press releases on the PPO website of any final decisions on foreign bribery and related offences, including (a) penal orders (on natural person); (b) penal orders imposing "coercive measure" on legal persons; (c) court decision approving plea agreement during pre-trial investigations, also known in Latvia as agreement on admission of guilt and punishment concluded during pre-trial investigations; (d) court decision approving plea agreement during trial, also known as agreement on admission of guilt and punishment concluded during trial. The following information shall be published: (1) a short description of the offence; (2) the reasoning behind imposition of Prosecutor's Penal order on natural or legal persons, or the reasons for seeking the court's approval for concluded plea agreement on admission of guilt and on penalty; (3) the type and amount or period of penalty imposed; and (4) if necessary, any other substantial information related to the case. The Working Group welcomes these developments.

148. In 2018, 24 of 99 domestic corruption proceedings were terminated through a plea agreement; 20 of 120 in 2017 and 26 of 145 in 2016. None of these proceedings involved a legal person. In the very large number of cases, sanctions imposed consisted of community service. Fines up to EUR 4 730 were also imposed (see Section B.3 for a review of these sanctions).

Commentary

The lead examiners commend Latvia for introducing rules that make public the most important elements of resolutions concluded in foreign bribery cases. They recommend that the Working Group follow up the practical application of resolutions in foreign bribery cases, in order to ensure the predictable and transparent nature of the procedures and that the sanctions imposed in the context of the settlement procedures are effective, proportionate and dissuasive.

6. Anti-Money Laundering Preventive Measures

149. This section considers Latvia's anti-money laundering measures. Concerns are raised by Latvia's continuous challenges in implementing its legal framework addressing corruption and foreign bribery related ML, as well as other ML risks. Concerns about the enforcement of the criminal offence of ML are discussed in Section B.2 of the report.

(a) *Latvia's Financial Sector*

150. Latvia has a substantial financial sector: in October 2019, there were 19 functioning banks and 6 branches in Latvia. One of the banks was under self-liquidation process, another bank was subject to insolvency procedure. At the time of the Phase 2 evaluation, the large majority of banks were specialised in non-resident banking and Latvia has taken measures since 2015 to address this risk (cf. the Introduction). 11 out of 20 banks in operation in 2015 were mainly focused on servicing non-residents. The share of the banks mainly focused on servicing non-resident deposits has decreased from 39,4% of the total market in 2016 to 16% in 2019. All the banks specialising in non-resident deposits were still in business at the time of the on-site visit (with the exception of the ABLV Bank and on 15 August 2019 adopted the decision on closing the PBN Banka) but it was uncertain how they were changing their business models and how they expected to maintain profitability. After the FinCEN's proposal on special measures against ABLV Bank in February 2018, the FCMC required banks specialised in non-resident business (approx. 20% of the banking sector in terms of assets at the time) to develop new business strategies. FCMC's conducted comprehensive evaluation of these strategies before validation. At the on-site visit, representatives from FCMC expressed confidence in Latvian banks' capacity to bring on board new clients from local and EU markets that are assumed to be less at risk of ML. Among recent major changes in the banking sector, they noted "the awareness among banks' management and employees that working with dirty money is not a sustainable business". FIU's representatives met at the on-site visit were much less confident in the ability of the banking sector to switch business models.¹⁰¹ Investigative journalists also stated that change of risk-appetite in the banking sector remains slow and exposes Latvia to continued high levels of ML while civil society representatives challenged the FCMC's willingness to seriously address ML risks.

(b) *Latvia's Anti-Money Laundering Measures*

151. Latvia's measures to prevent, detect and report ML are set out in the Prevention of Money Laundering and Terrorism Financing Law (AMLTFLL). The Law applies to a range of "subjects" including financial and credit institutions, specified non-financial businesses and professionals such as lawyers, accountants and auditors, as well as casino and gaming operators. These entities are required to put in place systems to detect potential ML and to report suspicious and unusual transactions. As already stated, no foreign bribery offence has been detected by AML authorities. In May 2019, KNAB launched ML criminal proceedings for the first time based on information provided by the FIU.

Preventive measures through customer due diligence

(i) *Beneficial Ownership*

152. The authorities acknowledge that Latvian legal entities have been misused for ML purposes. Having a robust framework for identifying the ultimate beneficial ownership (UBO) of legal persons and arrangements in Latvia through customer due diligence (CDD) requirements ensures that authorities can investigate financial crimes on a timely basis and bring ML charges, where relevant. Under the AMLTFLL,

¹⁰¹ Latvia indicated that since on-site visit, the FCMC and FIU have established a task force and concluded MoU in order to ensure efficient exchange of information. Among others, they have established "feedback sessions" mainly to discuss banks' compliance, implementation of reporting requirement and the impact of transformation of the business models of the banks servicing non-resident customers.

there are two beneficial ownership disclosure requirements: (i) one is imposed at the time of incorporation of legal persons; and (ii) the second requirement applies to reporting entities that are required to obtain UBO information on clients (Section 18). According to Section 18², all legal persons are obliged to collect and submit information about UBO to the Enterprise Register (hereinafter – ER). There is an explicit obligation on legal persons to keep the information filed in the ER up to date. Since June 2019, the reporting entities are required to obtain information from the ER for the purpose of verification of UBO information and take any other identification measures using a risk-based approach. In order to ensure that BO information in the ER is kept up to date, an amendment to the AMLTFL was adopted in June 2019 that imposes obligations on reporting entities to notify the ER where UBO information collected by them is different from that contained in the ER. The ER is required to notify law enforcement authorities of any submission of alleged false UBO information. This recent legislation was not reviewed by the evaluation team.

(ii) Politically Exposed Persons (PEPs)

153. In Phase 2, the WGB recommended that Latvia amend the AMLTFL to ensure that all categories of PEPs are covered. In October 2017, at the time of the Phase 2 Written Follow-up Report, Recommendation 8(a) was evaluated fully implemented. The 2016 amendments to the AMLTFL extended the definition of PEPs to cover domestic PEP, the management bodies of international organisations and more categories of family-related PEPs. To address the special risks posed by PEPs, AMLTFL Section 25 requires regulated entities to determine whether a customer (or the beneficial owner) is a PEP or a family member of a PEP, or a person closely associated to a PEP both before and after establishing a relationship with the customer. If a customer is a PEP, enhanced due diligence (EDD) applies. The FCMC adopted on 2 March 2016 *Recommendations No. 55 for Credit Institutions and Financial Institutions to Establish and Research Politically Exposed Persons, their Family Members, and Closely-related Persons and to Monitor Transactions*. These Recommendations provide a detailed set of requirements for the identification of PEPs, their relatives and associates, as well as necessary procedures to be performed as part of the EDD process of these customers and their transactions.

(iii) Enhanced due diligence on non-residents and other preventive measures

154. Section 22 of the AMLTFL requires reporting entities to implement EDD for certain categories of customers and transactions, including when “an increased ML risk exists”. Under the same Section of the law, the FCMC is mandated to determine the categories of customers and transactions which shall be subject to such enhanced measures. Phase 2 recommendation 8(b) recommended that Latvia require all regulated entities to apply EDD and other additional AML measures when evaluating non-residents who pose ML risks, as these risks were identified as particularly relevant in relation to foreign bribery. At the time of the Phase 2 Written Follow-up Report, recommendation 8(b) was deemed fully implemented but the WGB agreed to revisit the issue in Phase 3 to determine whether EDD is applied to an appropriate number of non-resident bank clients in practice. On 9 January 2018, the FCMC issued *Regulations No. 2 on Enhanced Customer Due Diligence* that are binding on a range of financial institutions. The Regulations introduce CDD and record-keeping requirements for high risk costumers and transactions. Since Phase 2, the FCMC also published *Regulations No 3 on Regulatory provisions for credit institutions and licensed payment and electronic money institutions on enhanced customer due diligence* that are applicable to credit institutions, as well as licensed payment and electronic money institutions.¹⁰² *Regulation No 3* requires EDD on clients from countries raising specific ML risks, including countries where there is a high risk of corruption. Both Regulations 2 and 3 were subject to further amendments at the time of this report.

¹⁰² Are excluded from the scope of Regulations No 3 insurance companies and insurance brokerage companies, participants of financial instruments market, as well as private pension funds.

Regrettably, the Working Group notes that no comparable regulations are in force for Designated non-Financial Businesses and Professions (DNFBPs) beyond the requirements set out in the AMLTFL.¹⁰³ They are also not applicable to the all range of financial institutions (e.g. insurance and insurance brokerage companies are not covered). The Latvian authorities are of the view that the regulations are targeted firstly at those financial institutions, which pose the highest risk.

155. According to the authorities, implementation of stricter AML/CFT regulations has forced banks, since Phase 2, to review their foreign-based clientele and resulted in the termination of business relationships with customers, who could not meet the regulatory requirements. This ultimately led to a decline in deposits from foreign customers. The extent of this trend is, however, difficult to measure. At the same time, information provided by the FCMC on its supervisory work, shows major deficiencies of internal controls in all the banks subject to supervisory sanctions since Phase 2. The implementation of preventive measures by the financial sector has also been identified by Moneyval as an area of concerns. The FCMC stated that it is revising its sanctioning policy, in order to raise the efficiency of enacted sanctions. In relation to shell companies, as stated in the introduction, financial institutions are prohibited since April 2018 from establishing or maintaining business relationships or executing occasional transactions with shell companies (Section 21¹ of the AMLTFL).

Commentary

The lead examiners welcome Latvia's efforts since Phase 2 to upgrade its legislative and regulatory framework to prevent ML in the financial sector, including preventive measures in relation to PEPs and identification of ultimate beneficial owners. Regulations on enhanced due diligence measures are welcome although they were not applicable to all financial institutions at the time of the on-site visit.

Under the AMLTFL, reporting entities are required to implement enhanced due diligence for certain categories of customers and transactions, including when "an increased ML risk exists". The FCMC is the only supervisor that have adopted regulations to define the categories of customers and transactions subject to such enhanced measures. Equivalent regulations are not in force for non-financial entities including lawyers, accountants and auditors. The lead examiners reiterate Phase 2 Recommendation 8(b) and recommend that Latvia require all financial and non-financial entities to apply enhanced due diligence and other additional AML measures on customers and transactions that represent high corruption-related ML risks, including business with shell companies. The lead examiners also recommend that Latvia ensure that the ML risk criteria that dictate the application of enhanced due diligence measures are updated on a regular basis, using Latvia's National Risk Assessment as a source of information to identify customers and transactions that pose ML risks.

Ensuring compliance by regulated entities

156. The AMLTFL designates various government agencies as supervisors to ensure that the regulated entities comply with their obligations, including those related to customer due diligence and transaction reporting. The FCMC is one of the most important regulators, covering *inter alia* credit institutions (*i.e.* banks), insurance companies providing life insurance services, pension funds, and investment managers. In Phase 2, the Working Group was seriously concerned that many Latvian banks did not comply with the AMLTFL and that Latvian authorities had made insufficient efforts to enforce compliance. The WGB recommended that Latvia take steps to ensure compliance with the AMLTFL. Recommendation 8(d) was deemed partially implemented in October 2017 and concerns expressed by the WGB in Phase 2 are reiterated in this report.

¹⁰³ The Working Group notes that the AMLTFL law was amended on 13 June 2019 to expand EDD to all reporting entities (Section 22). This legislation was not reviewed by the lead examiners. Latvia stated that supervisory bodies have issued guidelines on conducting EDD.

(i) FCMC's resources

157. In order to increase the supervisory capacity and efficiency of its AML/CFT operations, the FCMC explained that it has restructured its Financial Integrity Division in 2016 into a Compliance Control Department (CCD). The number of staff employed in the CCD reached 20 in 2018 although only 10 of these experts conduct AML/CFT on-site inspections of 20 Latvian banks (in 2016, there were 4 AML/CFT inspectors for 27 banks). According to the authorities, 4 additional temporary staff have been assigned to AML/CFT inspections since 1 January 2019. In 2012, 4% of the FCMC's total staff was dedicated to AML/CFT compliance. This figures amounted to 11% in 2018. The authorities stated that in February 2019, 3 additional staff positions were opened in the CCD followed by the decision in May 2019 to open another 5 staff positions. In order to increase the presence in high-risk banks, eight positions were opened in the CCD totalling 28 employees in September 2019. This represents a positive development especially given that the FCMC's lack of human resources was acknowledged during the on-site visit by several representatives of the banking sector. The Working Group is of the view that the FCMC should regularly review the adequacy of its resources.

(ii) Ensuring that on-site inspections are conducted at a frequency that is commensurate with ML risks, with priority given to inspections of banks that specialise in non-resident business

158. The FCMC organises on-site AML/CFT supervision using a risk based approach grounded on its knowledge of risks in the financial sector. It has divided financial institutions into four risk groups using client, product, geographic and other risk criteria. As per the FCMC's Regulations, banks are required to submit a quarterly report on the characteristics of their ML/FT risk exposure. Off-site examinations target pre-defined factors of compliance (e.g. UBOs, PEPs, etc.). In addition to the on-site and off-site inspections, the FCMC uses a variety of other supervisory tools, such as regular reports on risk exposure, payment flows, *ad hoc* inquiries, etc. to monitor the activities and risks relating to banks and to detect potential AML/CFT breaches. An example of innovation by the FCMC is the requirement for all banks to define and report "reportable schemes", which are required to be tied to their risk assessments. This information enables the FCMC to identify potential ML in the financial sector and can help prioritising supervisory measures.

159. Figures provided by Latvia show that the volume of AML/CFT inspections has remained constant overall: from 2013 to 2015, 44 banks were subject to AML/CFT inspections (on-site and off-site). This inspection rate reached the same level in the subsequent period (2016-2018). Eleven banks that provide financial services to foreign customers represent a high ML risk. Since October 2017, they are supposed to be subject to full-on-site inspections every 18 months. From 2016 to 2018 (over 3 years), the FCMC conducted 8 full scale on-site inspections in high risk banks in addition to 14 on-site targeted inspections and 18 off-site targeted inspections. The number of AML/CFT on-site and off-site inspections of banks specialised in non-resident deposits increased in 2018 (there were 19 such inspections in 2018 and 11 in 2017). The FCMC had not conducted any AML/CFT supervision of overseas offices until 2018. That year, the FCMC conducted six inspections.¹⁰⁴ Despite some positive developments, the lead examiners are of the view that the number of AML/CFT on-site inspections remains too low and that they are not conducted at a frequency that is commensurate to ML risks. This is also the opinion of Moneyval, which in its 2018 Report, concluded that the FCMC does not have sufficient resources to improve full risk-based supervision of financial institutions it supervises.¹⁰⁵

¹⁰⁴ At the time of finalising this report, the FCMC stated that the resources allocated to AML supervision have been significantly increased as well as the intensity of on-site inspections focusing on a risk based approach. FCMC has conducted 9 on-site inspections in the first semester of 2019. The total number of on-site inspections was 14 in September 2019.

¹⁰⁵ 2018 Moneyval Report, para. 409.

(iii) Examining why the FCMC and/or reporting entities failed to detect the instances of alleged ML that have been reported in the media and taking appropriate remedial action when AML/CFT breaches are detected

160. At the time of the 2 Year Written Follow-up Report, Latvia indicated that the FCMC had conducted such a review but the causes of those failures and the remedial steps taken were unclear. In the response to the Phase 3 Questionnaire, Latvia states that most of the ML cases involving Latvian financial institutions (e.g. which have been exposed by the media) have been identified and subject to inspections and sanctions, where appropriate. However, facts related to the *ABLV Bank case* do not support this view. According to information available and published by the U.S. FinCEN, multiple actors have exploited the bank for years in furtherance of illicit financial activities, including ML and grand corruption.¹⁰⁶ In 2014, the FCMC first completed an examination of ABLV Bank but did not identify any breaches of regulatory requirements. The FCMC carried out a further inspection of the bank in 2015 and, in May 2016, fined ABLV for over EUR 3 million for inadequate internal controls. It also issued a reprimand against the board member responsible for AML activities at the bank. Between May and November 2017, the FCMC conducted a six-month inspection following allegations by the U.S. that the bank was circumventing sanctions imposed against North Korea and engaging in ML. On 24 November 2017, the FCMC and ABLV concluded another administrative agreement, in which the parties agreed to dismiss the matter without imposing any monetary fines or applying any other sanctions, considering that the sanctions, agreed in 2016, had been imposed for similar AML/CFT breaches. The FCMC subsequently instructed ABLV to continue improving its internal control system. This was before the US announced plans in February 2018 to introduce sanctions against ABLV Bank for ML schemes. Instead of penalising the bank, FCMC closed the investigation with an administrative settlement and ABLV escaped a harsh penalty despite the seriousness of the allegations and continuous breaches of the AMLTFL. The authorities state that all information on potentially suspicious deals have been reported to Latvian law enforcement institutions, including the SP.

161. Since Phase 2, the level of fines that can be imposed on banks for AML/CFT breaches has significantly increased.¹⁰⁷ In practice, the number of banks sanctioned for AML/CFT breaches has remained stable over the years (2 in 2014; 4 in 2015; 5 in 2016; 5 in 2017 and 3 in 2018). Non-compliance has been sanctioned with fines and staff warnings: EUR 3.5 million of fines with warnings to AML/CFT officials in 3 banks, including Board members in 2017; EUR 3.9 million of fines in 2018 with a warning

¹⁰⁶ See [FinCEN « Finding and notice of proposed rulemaking \(NPRM\) »](#) and the following statements : « ABLV has institutionalised money laundering as a pillar of the bank’s business practices [...]. ABLV’s failure to implement, and disregard for, effective AML/CFT and sanctions policies and procedures have made the bank attractive to a range of illicit actors engaged in organized crime, weapons proliferation, corruption, and sanctions evasion. [...] In addition, ABLV has facilitated transactions for corrupt politically exposed persons and has funnelled billions of dollars in public corruption and asset stripping proceeds through shell company accounts. ABLV failed to mitigate the risk stemming from these accounts, which involved large-scale illicit activity connected to Azerbaijan, Russia, and Ukraine ». Further information indicates that in 2014, ABLV was involved in the theft of over \$1 billion in assets from three Moldovan banks, using a non-transparent ownership structure (<https://www.federalregister.gov/documents/2018/02/16/2018-03214/proposal-of-special-measure-against-ablv-bank-as-as-a-financial-institution-of-primary-money>).

¹⁰⁷ Section 78 AML/CFT Law stipulates the sanctions for failure of the AML/CFT legislation applicable to credit and other financial institutions: fine on a legal person in the amount of up to 10% of the total annual turnover. If 10% of the total annual turnover is less than EUR 5,000,000, a supervisory and control authority shall be entitled to impose a fine in the amount of up to EUR 5,000,000. Section 78 of the AML/CFT Law also applies to individuals. The FCMC can also express a warning, suspend or terminate the activity, suspend or annul a licence, impose an obligation to perform certain actions. Sanctions imposed by the FCMC are to be published on the FCMC website.

to one Board member of a bank. The level of fines amounted to EUR 1.18 million in 2016.¹⁰⁸ The lead examiners cannot report any obvious change in the FCMC's practice of imposing sanctions for AML/CFT breaches since Phase 2, which is unfortunate since there was an expectation that Latvia would demonstrate more effective enforcement of its AMLTFL.

(iv) Latest reforms to the FCMC Law

162. The management of the FCMC and its supervisory approach have been openly challenged in the press since the ABLV Bank scandal,¹⁰⁹ including within the Executive.¹¹⁰ On 13 June 2019, the Saeima adopted amendments to the FCMC Law that extend the functions of the FCMC and clarify FCMC's role is both as prudential and AML/CFT supervisor. The law also foresees changes in the rules that govern the nomination of the Chairman and members of the FCMC Board with a view to ensure more independence of the institution. The new legislation generated strong objections from the FCMC Chairman (at the time) who issued two public statements on the FCMC's website to deplore a case of "political interference in the FCMC's operations".¹¹¹ The lead examiners regrets these heated exchanges between Latvian authorities in the media and they urge the authorities to create, as a matter of priority, all the conditions necessary for an efficient operation of the FCMC.

Commentary

Latvia's financial supervisor has taken some steps to renew its approach to supervision of the AMLTFL, which is positive. In particular, the first AML/CFT supervision of overseas offices happened in 2018 and the FCMC's supervisory work intensified in 2019. However, AML/CFT onsite inspections are not conducted at a frequency that is commensurate to the ML risks that Latvian banks continue to face. The FCMC's management of the most serious case of AML/CFT violations by a Latvian bank since Phase 2 also raises majors concerns. Finally, the deterrent effects of sanctions imposed since 2016 is also not clear. The lead examiners believe that Phase 2 Recommendation 8(d) remains partially implemented. Positive developments relate to the recent increase of FCMC staff in charge of supervision.

For these reasons, the lead examiners recommend that Latvia ensure that the FCMC continue to ensure compliance of the financial sector with the AMLTFL and related regulations especially regarding banks that represent high ML risks. They recommend that the FCMC continue to conduct and conclude comprehensive and risk based oriented on-site visits. Regarding enforcement, the FCMC should review its criteria for the application of available sanctions to ensure that the full range of corrective measures is applied to address violations of AML/CFT committed by legal and natural persons. The FCMC should also analyse whether the sanctions applied are effective, proportionate and dissuasive. The lead examiners recommend that Latvia take steps to ensure an efficient operation of the FCMC so that the supervisory body can satisfactorily contribute to the prevention and detection of foreign bribery in the banking sector. Finally, they recommend that the FCMC regularly review the adequacy of its resources.

¹⁰⁸ At the time of finalising this report, Latvia stated that there were two new cases published on FCMC homepage in September 2019, where FCMC imposed monetary sanctions together with restrictive corrective measures. Findings have been shared with relevant law enforcement bodies and the FIU.

¹⁰⁹ FT (21 March 2018), "[US ire prompts Latvia to root out systemic banking failures](#)".

¹¹⁰ LSM.LV (28 March 2019), "[Latvia's financial regulator objects to government reform plan](#)". Latvia's Justice Minister stated that the board of the FCMC should be composed of people free of external influences. See BNN (27 March 2019), "[Latvian minister: FCMC board should be compiled of people free of external influences](#)".

¹¹¹ FCMC (April 2019) "[FCMC: Claims that FCMC fails to monitor prevention of financial crimes in the banking sector are misleading](#)" and FCMC (June 2019) "[Change management carried out by the FCMC is a basis for a positive assessment by Moneyval](#)". At the time of drafting this report, the FCMC Chairman and Vice-Chairman resigned.

Reporting of suspicious transactions

163. In Phase 2, the WGB recommended that Latvia enhance the detection of ML by (i) ensuring that the FIU has sufficient resources to analyse all STRs and UTRs and forward information related to foreign bribery to KNAB, and (ii) providing additional guidance, typologies and training to regulated entities that specifically address the reporting of ML related to corruption and foreign bribery, especially ML by non-resident bank clients. At the time of the Phase 2 Written Follow-Up Report, Recommendation 8(c) was assessed partially implemented. These issues are reviewed in this report.

164. AMLTFL Chapter IV Section 30 requires regulated entities to file “unusual transaction” reports (UTRs) and “suspicious transaction” reports (STRs). A transaction is unusual if one or more indicators in Section 5 of Cabinet of Ministers Regulation 281 of 10 July 2019 are present. Most of these indicators are based on predefined thresholds. A suspicious transaction is one in which “suspicions have aroused regarding ML or terrorism financing”. In particular, allegations of ML and bribery published in the media are indicators for reporting to the FIU. The revised Regulation also introduced a new reporting system where STRs and UTRs continue to coexist.¹¹² Further amendments to the AMLTFL were adopted in June 2019 and are due to enter into force as of 17 December 2019. The authorities state that the amended law will eliminate the UTRs but require entities to submit “threshold declarations”, which will be held by the FIU and used for further internal processing and analysis of transactions.

165. The quality of reporting has been a long-standing concern expressed by the WGB. The issue is addressed in the AML/CFT Action Plan, which foresees a regular review of the quality and efficiency of reporting along with providing feedback to reporting entities on the quality of these reports. Under the direction of the FIU, a platform for cooperation and coordination between supervisory and control authorities has been established which meets regularly. Among other subjects, the authorities discussed the procedure and content of reporting suspicious and unusual transactions. In 2019, seven “feedback meetings” were organised by the FIU with the reporting banks (as most of the STRs stem from the banks, the FIU, using a risk-based approach began the “feedback meetings” process with the banks). This is a new type of activity initiated by the FIU that was not previously exploited. Furthermore, the FIU indicates that if it receives a report of poor quality, the FIU calls the reporting entity, explains the problem and provides guidance as to the preparation of the report in accordance with the requirements. In 2013-2015, only 28 out of 87 742 STRs (0.03%) received by the FIU were believed to be corruption-related.¹¹³ In 2015-2018, 209 of the total number of STRs related to suspicion of corruption and foreign bribery out of the 32 749 STRs (0.6%) which show a slight increase. In the first half of 2019, the FIU received 35 STRs related to suspicion of corruption and foreign bribery out of 2546 STRs (1.37%), therefore, showing a further increase in this area. According to the authorities, this increase results from the change in the reporting system in force since 1 May 2018 that eases identifying the underlying predicate offence. Defensive reporting continues to be an important part of the existing reporting practices, especially in the aftermath of the *ABLV Bank Case*. Delayed reporting remains also a challenge, according to FIU’s representatives during the on-site visit. Banks continue to be the reporting entity that has contributed to the majority of STRs (66 %) and UTRs (62 %) from 2012 to 2018. To improve the quality of reports, the FIU organises meetings on an annual basis with banks to provide general feedback and discuss challenges and best practices. The FIU also sends letters to reporting entities on drawbacks in specific reports, where necessary.

166. The FIU published in 2017 a series of guidelines to increase reporting entities’ capacity to detect suspicious transactions and fill in STRs, including in relation to corruption offences. In particular, a

¹¹² As highlighted by the WGB in Phase 2 and 2018 Moneyval reports, the dual reporting system of STRs and UTRs is not delivering reports of sufficient quality. One reason is due to reporting entities seeing little difference between the two types of reports because there is overlap in their definitions. In addition, UTR indicators are mostly threshold based, which gives an incentive to report UTRs rather than STRs because it is an easier “tick box” process for reporting entities and could be as well seen as defensive reporting.

¹¹³ See Phase 2 Report, para. 101.

“*Methodological letter on Research of Corruption Cases Around the World*” was issued in March 2018 that contains information of grand corruption cases from which the FIU has drawn (basic and limited) typologies and indicators of bribery. More detailed indicators were published in April 2018 in a “*Methodological letter on Characteristic Indicators of Corruption Cases*”. These indicators mainly refer to domestic corruption schemes although several pointers describe potential foreign bribery cases, involving in particular foreign natural and legal persons as well as foreign PEPs. Public-private dialogue on AML/CFT issues has also improved since Phase 2. A *Cooperation Coordination Group* was formed in 2018 on the model of the UK Joint Money Laundering Steering Group. The *Group* is composed of leading Latvian trade associations and business as well as representatives from public authorities, including the FIU, PPO, KNAB, and the SRS (Section 55 of the AMLTFL). The FIU is responsible for coordinating the activities of the Group. At the on-site visit, representatives from the banking industry referred to improved communication flows with the FIU, especially under its renewed leadership in June 2018.

167. Discussion held during the on-site visit seems to reveal an improvement of the information exchange between the FIU and law enforcement although the FIU’s representatives at the on-site visit referred to the need for a “change in mind-sets” so that enforcement bodies cooperate better. The SP and the FIU in particular noted that steps have been taken since Phase 2 to improve inter-agency cooperation, including in relation to information sharing by the FIU and feedback from the SP. An online access by law enforcement bodies to certain information held by the FIU is operational since July 2019. In accordance with the 29 June 2019 AMLTFL amendments (Section 55(1¹⁴)), the FIU may provide law enforcement agencies, prosecutors, courts, bodies performing operational activities and the SRS with information relevant for the completion of their mandates. In addition, the FIU is in the final stages of drafting memorandums of understanding (MoU) with 4 different law enforcement agencies (FCMC, KNAB, SP and Finance Police). Frequent meetings between the FIU and law enforcement agencies take place, especially to discuss operational issues. The FIU and KNAB are increasingly engaged in mutual communication to discuss specific cases and future steps, according to Latvia. Representatives from law enforcement bodies met on-site considered that the quality of FIU reports, including the analysis they contain, has improved over the last years.

168. In practice, the FIU forwards very few of its analyses of STRs to Latvian law enforcement for criminal investigations. In 2015-2018, the FIU received 209 STRs on suspicion of corruption and foreign bribery but forwarded only 11 of the reports (5%) to law enforcement. From 2015 to 2018, the FIU disseminated a total of 38 spontaneous reports to foreign FIUs concerning activities related to alleged corruption. In the first half of 2019, the FIU sent 5 disseminations (5.05%) that included 14 reports and 20 risk information (23.52%) to KNAB that included in total 23 reports regarding domestic and foreign bribery. Seven disseminations (7.07%) related to corruption were sent to the SP over the same period. Since 2015, no proceedings related to corruption offences were initiated by law enforcement bodies on the basis of information provided by the FIU. This clearly questions the effectiveness of the reporting system in detecting corruption, bribery and related ML as well as the FIU’s analytical capacity. This capacity closely relates to FIU’s resources. The FIU has been given new responsibilities, including for national coordination, with limited resources to support its original broad mandate and its new functions. The lead examiners positively note the change in status of the FIU since Phase 2.¹¹⁴

169. The AML/CFT Action Plan together with the Phase 2 report require allocating sufficient resources to the FIU for performing better strategic analysis. Latvia’s Action Plan proposed to (i) introduce additional analytical functions in the FIU’s database and (ii) hire additional staff for the purposes of strategic analysis. According to Latvia, as of March 2019, the total number of employees has reached 40, including 28

¹¹⁴ At the time of Phase 2, the FIU operated under the supervision of the GPO and its structure and some powers of the FIU were subject to the prosecutor’s decision, such as the dissemination of information upon request. Since 1 January 2019, the FIU is defined as an independent administrative authority under the supervision of the Cabinet of Ministers. The Cabinet implements the institutional oversight of the FIU through the Ministry of Interior (MoI).

analysts (there were 22 in 2015). The lead examiners believe that additional human resources continue to be needed to allow the FIU to perform its functions and improve its capacity to detect financial crimes. Latvia describes some efforts to train FIU's staff on bribery related matters (in workshops and seminars) although more should be done in this area.

Commentary

Reforms have been implemented to enhance the FIU's operational capacity and guidance and typologies have been provided to reporting entities on detection and reporting of corruption and foreign bribery. Efforts to improve communication and exchange of information with reporting entities and between the FIU and law enforcement agencies are also welcomed. Despite an increase in the number of FIU's reports to law enforcement authorities, none of them has served to detect foreign bribery yet and the lead examiners believe that Phase 2 Recommendation 8(c) has only been partially implemented. They therefore recommend that Latvia (i) provide more resources to the FIU so that it has the capacity to analyse the reports it received and is able to forward information related to foreign bribery to KNAB; and (ii) deliver awareness-raising and training to FIU officials on detecting bribery-related money laundering cases. Finally, they recommend that Latvia continue its efforts to promote and ease the information exchange between the FIU and law enforcement agencies.

7. Accounting Requirements and the False Accounting Offence

Accounting requirements and the false accounting offence

(a) Regulatory and Standard-Setting Bodies – Accounting Standards

170. Two regulatory and standard-setting bodies are involved in the area of accounting and auditing in Latvia. The Ministry of Finance (MOF) is responsible for developing state policy, including standard-setting on accounting and auditing of commercial companies, and for maintaining public oversight of the auditing system. The Latvian Association of Sworn Auditors (LASA) is the independent professional organisation regulating the auditing profession. Among other functions, LASA certifies sworn auditors, licenses commercial companies of sworn auditors, issues and enforces rules applicable to the audit profession and monitors the application of auditing standards. MOF supervises the performance of administrative tasks delegated to LASA by the Law on Audit Services. According to panellists during the on-site visit, LASA actively participates in legislative or related processes that concern the auditing profession. There are no changes regarding accounting standards since Phase 2 (see para. 66-68).

(b) The false accounting offence

171. Latvia's false accounting offence in CL Section 217 remains unchanged since Phase 2.¹¹⁵ However, Latvia amended its legislation to address the Working Group's concerns over the level of sanctions available and imposed in practice against natural persons (recommendation 15(a) and 15(b)). In December 2015, Latvia increased the maximum statutory fine for criminal offences under the CL Section 41, including false accounting offences, which now carry the same penalties as the foreign bribery offence (see Section B.3 of the report). Recommendation 15(a) was therefore deemed fully implemented at the time of Latvia Written Follow-up Report. A further amendment, in force since 3 July 2019 increases the maximum prison sentence available for aggravated false accounting from three to four years.

172. Sanctions against legal persons for false accounting in CL Section 70¹ remain similar to those available in Phase 2, albeit the introduction of the possibility for the prosecutors to request a fine based on

¹¹⁵ The false accounting offence is aggravated if "it causes substantial harms to the State authority, local government order or the interests of persons protected by law. In turn, the offence is further aggravated if it is committed for acquiring property.

whether the criminal offence is a criminal violation, less serious, serious or especially serious (See Section B.3 of the report).

173. In total, six natural persons have been sanctioned for false accounting since Phase 2 although not in a foreign bribery case. As in Phase 2, none of the defendants received a prison sentence and four received a fine. The fines imposed ranged between EUR 1°080 to EUR 4°650 which remains extremely low. Despite the increase of the level of sanctions in the CL, the sanctions that have been imposed since remain within the lower range available. In addition, two legal persons were sanctioned for false accounting. One legal person received a monetary fine amounting to EUR 3°700 for non-aggravated false accounting in 2016. The second legal person was sentenced to liquidation for non-aggravated false accounting in 2017. Latvia indicates that false accounting is also pursued in the *Law Enforcement Agency case* which is pending.

(c) Enforcement of the false accounting offence

174. In Phase 2, the Working Group was concerned that Latvia did not actively enforce the false accounting offence. Therefore, Latvia was asked to ensure that false accounting related to foreign bribery is fully investigated and prosecuted where appropriate (recommendation 9(d)). In June 2016, the Prosecution General Office issued an order reminding the prosecutors supervising the investigations to fully consider whether related false accounting offences may have been committed by legal entities in foreign bribery investigations.¹¹⁶ Recommendation 9(d) was therefore deemed implemented by the Working Group in December 2017.

175. KNAB has since adopted recommendations to raise awareness of KNAB's investigators of their responsibility to examine false accounting related offences. In addition, internal trainings for KNAB employees were held in 2017 on the detection and investigation false accounting offence. Despite these measures, discussions during the on-site visit with prosecutors, however, revealed a lack of awareness of the existence of the Prosecution General Office's order in a context where enforcement of the offence has also not substantially increased since Phase 2. At the time of commenting on the report, the Latvian authorities questioned the on-site visit findings and claimed prosecutors' full command of the order.

Commentary

The lead examiners are seriously concerned that despite Latvia's efforts to draw the attention of KNAB's investigators and supervising prosecutors to the importance of pursuing false accounting charges related to foreign bribery, these have yet to translate into practice. The lead examiners therefore, reiterate Phase 2 recommendation 9(d), which they no longer deem implemented and recommend that Latvia take steps to ensure that false accounting related to foreign bribery is vigorously investigated and prosecuted, where appropriate.

External Auditing

(a) Entities Subject to External Audits and Auditing Standards

176. Annual external audits are mandatory for listed (stock) companies and financial institutions as well as medium and large companies since January 2016.¹¹⁷ External audits must also be conducted for companies, co-operative societies, European economic interest groups, European cooperative societies and European companies registered in Latvia fulfilling specific criteria. The same accounting standards apply to SOEs that meet the conditions in Section 91 or 92 of the LAFSCFS. Some SOEs are also audited by the

¹¹⁶ Prosecution General Office order n°4 from June 2016.

¹¹⁷ Section 91 of the Law on the Annual Financial Statements and Consolidated Financial Statements (LAFSCFS), entered into force in January 2016.

State Audit Office (SAO), Latvia's public sector auditor.¹¹⁸ According to Latvia, 6% of entities that prepare annual accounts and consolidated annual accounts are externally audited.

(b) Detecting Foreign Bribery through External Auditing

177. External auditors in Latvia are required to apply the International Standards on Auditing (ISA), which are recognised in Latvia under the Law on Audit Services (LSA),¹¹⁹ including ISA 240 (consideration of fraud in the audit of financial statements) and ISA 250 (detection of material misstatements in financial statements due to non-compliance with relevant laws and regulations).

178. Since 2017, three reports of suspicion of bribery have been made by external auditors to KNAB. None of them related to foreign bribery allegations. Although auditors at the on-site visit appeared knowledgeable about foreign bribery related risks, the absence of any detection of foreign bribery cases by auditors to date raises concern regarding Latvian auditors' ability to effectively detect foreign bribery through external audits in practice. Latvia has made serious efforts to provide training, guidelines or general awareness-raising measures on the detection of foreign bribery by auditors. However, this has not translated into detection of bribery of foreign public officials.

(c) Independence of external auditors

179. The legal framework safeguarding external auditors' independence has been expanded since Phase 2 under Sections 25 and 26 of the Law on Audit Services. Section 25(3) of the law, which transposes EU Audit Directive 2006/43/EC (with the latest amendments made by EU Directive 2014/56/EU), introduces in Section 25(3) prohibits an audited company's "members, shareholders or participants, manager as well as members of the board from interfering with auditor's independence". Cabinet of Ministers' Regulation No. 75, adopted in February 2017, provides for the auditors' obligation to take organisational and administrative measures to preserve their independence and objectivity.¹²⁰ Auditors participating in the on-site visit also referred to the standards under their codes of conduct. They noted that, in practice, companies' management respects these safeguards.

(d) Reporting Foreign Bribery to Company's Management

(i) Encourage companies' active and effective response to reports of suspected foreign bribery

180. In Phase 2, the Working Group recommended that Latvia take effective steps to encourage companies' active and effective response to reports of suspected foreign bribery. In its Phase 2 Written Follow-up Report, the Working Group found recommendation 7(d) only partially implemented because relevant legislative amendments failed to cover non-listed companies.¹²¹ This situation remains unchanged. The amendments also fell short of encouraging companies to actively and effectively respond to reports. Despite awareness-raising efforts (see below and on the MOF website¹²²), companies are still not incentivised to conduct independent internal investigations or to report to competent authorities in case of reports of suspected foreign bribery. In its responses to the Phase 3 questionnaire, Latvia admits that Latvian law does not provide for a right of the external auditor to follow up on a potential report of

¹¹⁸ Latvia Phase 2 Report, paras. 76-80; SAO Law Sections 1(3) and 2.

¹¹⁹ LSA Sections 1(12) and 28(1).

¹²⁰ Cabinet of Ministers' Regulation No. 75 "[Regulations for Work Organisation of Sworn Auditors and Commercial Companies of Sworn Auditors](#)", point 15.

¹²¹ Regarding external auditors of listed companies such a duty is stated in the EU Audit Regulation 537/2014.

¹²² Latvia Ministry of Finance (February 2019) "[Ziņošana par iespējamiem pārkāpumiem, krāpšanu vai koruptīviem darījumiem un rīcība pēc ziņošanas](#)"

deficiencies in financial statements and receive feedback. During the on-site visit, external auditors stressed that due to the small size of Latvian companies, reporting to the company often means reporting to the wrongdoer.

(ii) Reporting foreign bribery in SOEs

181. External auditing requirements applicable to SOEs are generally consistent with those applicable to private sector's companies. Latvia notes that under new Cabinet Regulation No. 630, SOEs should include internal control systems to respond to corruption signals, such as auditors' reports. This regulation provides for setting up internal systems but does not require the public entity to respond to auditors' reports. However, SOEs can avoid harsher coercive measures in case of improper supervision or control under CL Section 70 by establishing a control system for the prevention of corruption risks.

Commentary

The lead examiners are concerned that no sufficient steps have been taken to encourage companies, in particular SOEs, which receive reports of suspected acts of foreign bribery from an external auditor to actively and effectively respond to such reports. The lead examiners therefore reiterate Phase 2 recommendation 7(d) and recommend that Latvia (i) extend the legislative provision applicable to listed companies to also cover non-listed companies; and (ii) incentivise companies to conduct independent internal investigations and report to competent authorities in case of reports of suspected foreign bribery.

(e) Reporting Foreign Bribery and Providing Information to Competent Authorities

(i) Reporting foreign bribery to the authorities

182. In Phase 2, the Working Group recommended that Latvia enact legislation to require external auditors to report foreign bribery to competent authorities. At the time of Latvia's Phase 2 Written Follow-up Report, this part of recommendation 7(e) was deemed implemented. Under amended Section 33(32) of the Law on Audit Services, sworn auditors and commercial companies of sworn auditors are now required to report to KNAB, any suspicion of bribery discovered during an audit. Section 33(2) provides for another reporting obligation to the FCMC. Sworn auditors and commercial companies of sworn auditors are also under reporting obligations to the FIU under the AMLTFL and to the SRS in tax evasion cases under Section 22 of the Law on Taxes and Fees. It is not necessary to first report to the management of the company before reporting to KNAB, the FCMC or the SRS. Guidance on application of amended Section (3) is provided by LASA. According to Latvia's replies to the Phase 3 Questionnaire, LASA issued an Order in December 2015 (the LASA Order) for sworn auditors and commercial companies of sworn auditors regarding bribery detection and reporting. The LASA Order was amended in September 2017 to reflect the amendments made in the Law on Audit Services.

183. An auditor is protected from legal action when reporting to authorities outside the company. Under Section 33(4) of the Law on Audit Services, reporting or submitting documents to the authorities "shall not be regarded as a violation of any contracts, provisions, laws and regulations or laws, and shall not create a civil legal liability for the sworn auditor or the commercial company of sworn auditors".

184. Despite the clear legal framework, external auditors during the on-site visit demonstrated little awareness of their obligation to report to competent law enforcement authorities. One auditor reported an experience of reporting a suspicion of bribery to the SRS. Another panellist stated that, in practice, auditors report the information to several law enforcement authorities and rely on their coordination.

Commentary

The lead examiners welcome the newly adopted requirement for external auditors to report foreign bribery to competent authorities. There is, however, a clear need to publicise this new obligation and

the lead examiners recommend that Latvia raise awareness among external auditors of their key role in detecting foreign bribery and their duty to report suspected foreign bribery to competent authorities. They also recommend that the Working Group follow up on the application of the reporting obligation to external auditors.

(ii) Providing information to law enforcement upon request

185. In Phase 2, the Working Group recommended that Latvia amend its legislation to clarify that law enforcement authorities and the judiciary may require an auditor to provide information for use in foreign bribery investigations. This part of recommendation 7(e) was not implemented at the time of the Phase 2 Written Follow-up Report. Amended Section 33(3) only addresses spontaneous reporting of foreign bribery detected by sworn auditors, and not providing information to law enforcement upon request. The Working Group noted that there would likely be instances where an auditor does not have reason to suspect that foreign bribery has taken place (and hence is not required to report) but nonetheless possesses information relevant to a foreign bribery investigation. The Working Group's opinion is that external auditors should be able to provide information to investigators, prosecutors and judges upon request.

186. Latvia's legal framework regarding provision of information by auditors upon the authorities' request has not changed since December 2017 although amendments to the Law on Audit Services were submitted to the *Saeima* in June 2019.¹²³

Commentary

The lead examiners reiterate Phase 2 recommendation 7(e) and recommend that Latvia amend its legislation to clarify that courts, prosecutors and investigators may require an auditor to provide information for use in foreign bribery investigations.

Training and Awareness-Raising Efforts

187. In Phase 2 the Working Group recommended that Latvia take measures to raise awareness of foreign bribery among external auditors, including by providing training on detection. At the time of the Phase 2 Written Follow-up Report, recommendation 7(c) was fully implemented. Since Phase 2, Latvia undertook additional training and awareness raising initiatives for external auditors, including through trainings organised by KNAB, the FIU and the SRS. During the on-site visit, panellists noted that LASA also provided training to independent external auditors and auditing companies on the reporting obligations. The training included guidance on the reporting obligation in conjunction with the principle of confidentiality. The MOF also issued online guidance in Latvian on reporting by auditors with specific guidance on reporting obligations under amended LSA Section 33(3).¹²⁴ These raising awareness efforts should be prolonged.

Corporate compliance, internal controls and ethics programmes

188. In Phase 2, the Working Group recommended that Latvia take steps to encourage companies to develop, adopt and effectively implement adequate internal controls, ethics and compliance programmes or measures for the purpose of preventing and detecting foreign bribery; and encourage business and professional associations to develop similar programmes or measures in their efforts to assist companies, particularly SMEs. In its Phase 2 Written Follow-up Report, the Working Group assessed recommendation 7(a) fully implemented, as Latvian authorities had distributed awareness-raising leaflets and published information on-line regarding business integrity and prevention of foreign bribery.

¹²³ And adopted in first reading in September 2019.

¹²⁴ Ministry of Finance (February 2019) "[Iņošana par iespējamiem pārkāpumiem, krāpšanu vai koruptīviem darījumiem un rīcība pēc ziņošanas](#)".

189. A positive development since Phase 2 concerns the stronger interest of Latvian companies in adopting codes of conduct addressing corruption risks. This was clearly stated during the on-site visit. However, it is also clear that such company ethics and compliance programs primarily focus in domestic corruption and ML risks. Discussions during the on-site visit highlighted that more efforts need to be made in this regard by Latvian authorities. A cross-section of private sector panellists stated that anti-corruption compliance measures are common for multinationals and listed entities, but are less common for SMEs. Research undertaken on major Latvian companies further illustrates that while most have publicly available policies on corruption, very few make specific reference to foreign bribery.

190. In Phase 2, the Working Group also recommended that Latvia ensure that guidance on internal controls for SOEs in the anti-corruption area explicitly deals with foreign bribery. In December 2017, the Working Group found recommendation 7(b) non-implemented because guidelines on anti-corruption internal controls for SOEs had yet to be issued.

191. Since Phase 2, KNAB has issued guidelines on anti-corruption internal controls for SOEs, addressing specifically prevention of foreign bribery. The guidelines attached to Cabinet Regulation No. 630 stress the exposure of SOEs to foreign bribery risks, particularly in the providing of services and entering into cooperation agreements abroad.¹²⁵ They also refer to specific elements of Annex II to the 2009 Recommendation on Further Combatting Bribery, including a clearly articulated prohibition of foreign bribery and measures designed to prevent foreign bribery. However, measures designed to prevent foreign bribery only cover SOEs' "employees" and do not expressly include directors, officers or entities over which an SOE has effective control, including subsidiaries. The text of the Latvian guidelines also only refers to "foreign partners" which may not encompass all third parties, including agents, intermediaries, consultants, contractors and suppliers. The authorities are of the view that the guidelines adequately cover all relevant SOEs' partners and subsidiaries. According to Latvia's responses to the Phase 3 questionnaire, SOEs publish online information on their anti-corruption activities, relevant trainings and plan of anti-corruption measures.

Commentary

The lead examiners welcome Latvia's efforts to encourage companies to adopt internal controls, ethics and compliance programmes. The lead examiners also commend KNAB for adopting guidance on internal controls for SOEs in the anti-corruption area that explicitly deal with foreign bribery.

However, the lead examiners are also of the view that these efforts need to be strengthened and they recommend that Latvia continue to encourage companies, including SMEs and SOEs, to adopt effective internal controls, ethics and compliance measures designed to prevent and detect foreign bribery. These efforts should include promoting the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance in Annex II of the 2009 Anti-Bribery Recommendation.

8. Tax Measures for Combating Bribery

192. The State Revenue Service (SRS) is Latvia's tax authority. Since Phase 2, Latvia has amended the "Enterprise Income Tax Law" (LEIT)¹²⁶ which prohibits the tax deduction of bribe payments. However,

¹²⁵ Guidelines on Basic Requirement for Internal Control System for the Prevention of the Risk of Corruption and Conflict of Interest in Institutions of a Public Person, approved by Resolution of the Head of KNAB, January 2018, p. 22.

¹²⁶ The revised legislation is available here : <https://likumi.lv/ta/en/en/id/292700-enterprise-income-tax-law>

none of these amendments affect Latvia's implementation of the Convention, the 2009 Recommendation and the 2009 Tax Recommendation.

Tax Treatment of Bribes

(i) Non-deductibility of Bribes

193. Latvia explicitly disallows tax deductibility of bribes to foreign public officials for all tax purposes under the LEIT. The law prohibits the tax deduction of “expenses unrelated to economic activity” by corporate entities, which according to LEIT Section 8(2).9 include bribe payments. This provision also applies to taxable income of individuals who engage in economic activities, according to the Law on Personal Income Tax (Section 11(4)).

(ii) Enforcement of Non-Deductibility of Bribes

194. If a taxpayer is convicted of (domestic or foreign) bribery, tax authorities should re-examine the tax returns for the relevant years to determine whether the bribes had been deducted. This is an efficient way to enforce the non-deductibility of bribes since the tax authorities do not have to prove that a deducted expense was a bribe; this will have already been proven in court. In the absence of any foreign bribery conviction, there is no practice in Latvia on such re-examinations. Discussions at the on-site visit, however, did not show that SRS routinely initiates re-examination of the tax returns of taxpayers who have been convicted of domestic bribery. In addition, the discussions revealed that the SRS is not routinely informed of corruption convictions so that to facilitate the enforcement of the non-tax deductibility of bribe payments. On 1 June 2016, the Prosecutor General issued a binding Informative Letter requiring prosecutors to ask the SRS to assess the tax return of an alleged offender in foreign bribery investigations, which was acknowledged by the WGB as a positive development (Phase 2 Recommendation 6(b)). However, in practice, the PPO has not asked the SRS to assess the tax return of alleged offenders in the four ongoing foreign bribery investigations, as recognised by the Latvian authorities. On the contrary, information on the *Law Enforcement Agency Case* reached the SRS through a Lithuanian law enforcement agency and not the PPO.

195. In practice, the SRS informed the evaluation team that its inspectors re-examine tax returns for bribes when they learn about allegations of bribery through KNAB. In 2017 and 2018, KNAB sent three of these reports to the SRS. None of them related to suspicion of foreign bribery and SRS did not identify any tax violation.

Commentary

None of the past or ongoing foreign bribery investigations has led to the reopening of tax returns. The lead examiners therefore, recommend that Latvia take steps to ensure a more proactive enforcement of the non-tax deductibility of bribe payments in foreign bribery-related enforcement actions. In particular, they recommend that law enforcement authorities routinely share information with the SRS on foreign bribery investigations as foreseen in the PPO's Informative Letter of 1 June 2016.

Finally, the lead examiners note that there is no framework in place to facilitate the transfer of conviction data from the court to the SRS and they recommend that the Working Group follow up to ensure that the SRS is routinely informed of bribery convictions.

Awareness of Foreign Bribery and Training Efforts

196. Since Phase 2, Latvia has taken measures to raise awareness of foreign bribery among tax officials and taxpayers, and has provided additional training to tax examiners on bribe detection. The [OECD Bribery Awareness Handbook for Tax Examiners and Tax Auditors](#) is available in Latvian on an SRS webpage dedicated to bribery and its implications for taxpayers. Informative material called “What Payers of

Corporate Income Tax Have to Take Into Account With Regard to Giving Bribes” was published on the SRS website and sent to 7 615 taxpayers. KNAB informative booklets for taxpayers on “Honest Business” and “Honest and Corruption-Free International Business” were placed in SRS’s Customer Service Centres and shared electronically with the largest taxpayers.

197. The implementation by the Latvian School of Public Administration of the European Social Fund project on “Professional Improvement of Human Resources of Public Administration in the Field of Corruption Prevention and Elimination of Shadow Economy” has allowed several hundreds of SRS employees to attend training courses on corruption detection since 2016.¹²⁷ Several other training events in 2017 and 2018 also focused on ML risks and investigations. The training module on “Identification of Corruptive Activities during the SRS Audits as a Tool for Reduction of Shadow Economy” was updated to cover the detection of bribery of foreign public officials. According to the authorities, the School of Public Administration plans to train up to 300 SRS employees in 2019 on corruption prevention and detection. Since Phase 2, SRS officials have continued participating in the training programme on criminal investigation at the [OECD International Academy for Tax Crime Investigation](#).

Commentary

The lead examiners welcome Latvia’s efforts to raise awareness and train tax officials and taxpayers on bribery-related issues. They recommend that Latvia continue to provide guidance and training on foreign bribery to tax examiners, including on the importance of detecting foreign bribery and the priority that should be given to this offence. This is particularly important since the SRS has never detected any foreign bribery cases through tax audits.

Detection of Bribe Payments

198. The SRS has never detected foreign bribery through tax audits. SRS Regulation 7, which covers the detection of foreign bribery as defined in CL Section 323, contains material from the OECD Bribery and Corruption Awareness Handbook, including indicators of possible active bribery by taxpayers and methods used by the taxpayer for obtaining and directing funds to public officials. The Regulation has been widely shared among SRS inspectors.

199. In Phase 2, the WGB recommended Latvia to take several steps to enhance detection of foreign bribery by the SRS. In particular, Latvia was expected to ensure that taxpayers who are at risk of committing foreign bribery are identified for tax audits. Recommendation 6(a)(iii) was deemed not implemented at the time of the Phase 2 Written Follow-up Report and the lead examiners believe that this is an area where Latvia could still improve its implementing measures, especially in absence of detection of foreign bribery by the SRS. Since Phase 2, the SRS has worked towards collecting good practices in this area from other tax administrations that are members of the Intra-European Organisation of Tax Administrations (IOTA).¹²⁸ In its response to the Phase 3 Questionnaire, Latvia stated that information was collected among ten countries but that none of them had identified risk criteria or had tools to identify taxpayers that are particularly exposed to foreign bribery. Some of these risk criteria are, however, identified in the OECD Bribery Awareness Handbook for Tax Examiners and Tax Auditors. According to the authorities, the SRS reviews some of them (e.g. taxpayer’s business environment and industry, use of

¹²⁷ In 2017, the SRS employees took part in 418 various training events (courses, seminars) for 5,146 times. The average time spent in training was 13.7 hours per participant. The main training topics: customs matters — 23%; legal and administrative matters — 19%; combatting crime — 16%; computer sciences and information technology — 8%; communication — 8%, etc.: source: [SRS 2017 Annual Report](#).

¹²⁸ The IOTA is a non-profit intergovernmental organisation that provides its members a platform for exchanging experiences and best practices on important issues and current developments concerning practical aspects of tax administration. IOTA currently comprises 44 member tax administrations.

complex legal structures such as offshore companies, taxpayer’s cross-border transactions, etc.) but the lead examiners are of the view that the SRS could still improve its risk-based approach by using a broader range of bribery indicators, as described in details in the OECD Handbook. Latvia also continues to rely on a European Union (EU) public procurement database¹²⁹ to identify such taxpayers for tax audits. The lead examiners note that this database would unlikely identify foreign bribery risks unrelated to public procurement or which involve non-EU officials. During the on-site visit, SRS representatives quoted other information sources for identifying taxpayers that are at higher risk of engaging in foreign bribery, including reports by investigative agencies or by whistleblowers and targeted reviews of sensitive industries such as construction. As in Phase 2, Latvia continues to use two computerised systems (ESKORT and RASA) to identify the corporate and individual taxpayers for audit purposes. However, these computerised systems regrettably do not take into account the risk of a taxpayer paying bribes in deciding whether a tax audit should be conducted.

200. As recommended under Recommendation 6(a)(iv), the SRS has taken further steps since Phase 2 to assess whether bribes to foreign public officials are effectively detected by tax authorities. However, this recommendation remains partially implemented. In December 2016, the SRS’s Internal Audit Division finalised an internal review that called for (i) revising the operational risks of SRS’s Tax Control Department to incorporate foreign bribery risks; and (ii) collecting and reviewing data on reports sent by the SRS to KNAB on alleged foreign bribery cases and taxpayers subject to tax audits and at risk of committing foreign bribery (in application of SRS Internal Regulation No. 7, paras. 19-25, see below). The review also called for KNAB’s feedback on the usefulness of the information provided by the SRS. In practice, the SRS’s Tax Information System (TIS) was supplemented to allow tax inspectors to collect data on SRS’s reports related to suspicion of foreign bribery that were sent to KNAB. SRS Internal Regulation No. 7 of 11 February 2016 on “Procedure of Action to be Taken by Officials of the State Revenue Service When Identifying Risks of Bribery Cases” was also reviewed together with its Annex on “Report on identified risks, which suggest bribery cases.” The Working Group welcomes these developments although there is no evidence that the operational risks of SRS’s Tax Control Department were updated to adequately integrate foreign bribery risks.

Commentary

Despite some efforts to stimulate detection of foreign bribery through tax audits, the SRS has failed to detect such cases. The SRS’s methodology for conducting tax audits does not sufficiently take into account taxpayers’ exposure to foreign bribery risks and the SRS’s Tax Control Department does not satisfactorily incorporate foreign bribery risks in its operations. The lead examiners recommend that Latvia strengthen its system of risk-based tax audits to more adequately take into account the risk of foreign bribery, when deciding which companies to audit. Indicators detailed in the OECD Bribery Awareness Handbook for Tax Examiners and Tax Auditors should be integrated into this risk assessment. The lead examiners reiterate recommendation 6(a)(iv) and recommend that Latvia take further steps to assess whether bribes to foreign public officials are effectively detected by tax authorities.

Reporting Foreign Bribery and Sharing of Tax Information with Investigative Authorities

201. SRS officials are generally prohibited from disclosing information about a taxpayer which they learn while carrying out their statutory duties (Law on Taxes and Fees Law Section 22(1)). However, a tax examiner who uncovers suspicions of bribery during a tax examination must report the suspicion to KNAB within five days (SRS Internal Regulation No. 7, paras. 19-25) together with a “Report on identified risks, which suggest bribery cases” (that provides, among other information, a short description of identified

¹²⁹ TED (Tenders Electronic Daily) is the online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement.

risks, a review of possible method of paying the bribe and value of the bribe, etc.). Under the revised Law on Prevention of Conflict of Interest in Activities of Public Officials, public officials (including SRS officials) are also required to report to the head of the public institution or KNAB any suspicion of corruption, including foreign bribery.

202. Between September 2014 and September 2017, the SRS identified three cases of “risks associated with funds that could be used to bribe public officials or foreign public officials” that were sent to KNAB. Five of these cases were shared with KNAB in 2018. The SRS is aware that in at least one of these cases, KNAB determined that the suspicion did not warrant criminal investigations. The overall lack of feedback by investigative agencies on SRS’s reports was identified as a continuous challenge by tax experts present at the on-site visit.

203. A second exception to the rule of tax secrecy is where law enforcement officials request information from SRS for use in criminal investigations. KNAB stated that it can request information from the SRS under CPL Section 190 or by directly accessing the SRS’s database. KNAB did not express any difficulty in obtaining tax information.

Commentary

With a view to improving the sharing of information and coordination between the SRS and law enforcement authorities to enhance detection and investigation of foreign bribery, the lead examiners recommend that Latvia take steps to ensure that KNAB provides regular feedback on information provided by the SRS on allegations of bribery.

Sharing of Tax Information with Other Countries

204. Latvia’s framework for sharing tax information with other countries for use in criminal investigations has not changed since Phase 2. At the time the WGB found that it was unclear whether Latvia is able to provide tax information to foreign law enforcement authorities for use in criminal investigations and decided to follow up (Follow-up issue 16(a)). According to Latvia’s replies to the Phase 3 Questionnaire, the SRS Central Liaison Office received and executed in total 39 requests from three countries since Phase 2. All requests were based on Article 16(2) of Directive 2011/16/EU.¹³⁰ In all of these cases, Latvia provided tax information to the foreign country for use in administrative tax proceedings, and subsequently agreed that the same requested information could also be used in criminal non-tax proceedings.

9. International Cooperation

205. As identified in this report, Latvia is under heightened risks of foreign bribery and that criminal proceeds of corruption and foreign bribery are laundered through the country. Several cases have surfaced to date, involving the bribery of foreign public officials by non-Latvian companies through Latvia legal entities. In this context, Latvia’s ability to provide and request international cooperation is central to its effort to tackle foreign bribery committed by Latvian and non-Latvian companies and individuals.

¹³⁰ « With the permission of the competent authority of the Member State communicating information pursuant to this Directive, and only in so far as this is allowed under the legislation of the Member State of the competent authority receiving the information, information and documents received pursuant to this Directive may be used for other purposes than those referred to in paragraph 1. Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information. »

Mutual Legal Assistance

(a) Institutional arrangements and legislative framework

206. Latvia's framework for mutual legal assistance (MLA) in criminal matters in the CPL remains unchanged since Phase 2. MLA in criminal matters can be sought and provided on the basis of bilateral and multilateral treaties to which Latvia is a Party, including the OECD Anti-Bribery Convention. In the absence of such a treaty, Latvia can also seek and provide MLA on the basis of reciprocity (CPL Section 675). A different regime governs the requests received from EU member states (CPL Sections 860-875).

207. Latvia's institutional framework remains similarly unchanged. MLA and extradition requests to and from Latvia are transmitted through different authorities depending on the procedural stages of the case: the International Co-operation Division of the Department of Analysis and Management of the Prosecutor's General Office (PGO) within the PPO is the responsible authority if the case is under pre-trial investigation. However, the Judicial Co-operation Division of the Ministry of Justice (MOJ) will be competent if the case is already before the courts or after a judgement. In both cases, the requests are then transmitted to relevant authorities, including KNAB, for execution.

(b) MLA in non-criminal proceedings against legal persons

208. In Phase 2, the WGB was concerned that Latvia could not grant MLA to a foreign state for use in non-criminal proceedings against a legal person and therefore recommended that Latvia address this shortcoming (recommendation 12(a)). Latvia has since passed two legislative amendments to allow for the providing of MLA and the execution of requests for confiscation in non-criminal matters. First, in February 2016, Latvia amended CPL Section 791(1) to allow the confiscation of property in Latvia, regardless of the nature of the proceedings in which such measure was pronounced in the foreign state. In March 2017, Latvia amended CPL Section 847 (4) to allow for the provision of MLA in non-criminal proceedings against a legal person. CPL Section 847 (4) now provides that requests for assistance in proceedings against legal persons "shall be executed regardless of the proceedings in which it is requested in the foreign state." Phase 2 Recommendation 12(a) was deemed fully implemented at the time of Latvia's Written Follow-up Report. In practice, Latvia has not received any requests in these cases and the new provision therefore remains untested.

(c) Incoming requests

(i) Overview of the requests received for foreign bribery since Phase 2

209. Since Phase 2, Latvia has been responsive to incoming MLA requests. Latvia has received a total of 63 requests for assistance in foreign bribery cases from both Parties (49 requests) and Non-Parties to the Convention (15 requests) between 2015 and 2018. All requests were received by the PGO (no request was received by the MOJ on cases pending trial or finally concluded). Of these 63 requests, Latvia received 42 primary requests and 21 additional requests in 42 proceedings. Latvia indicated that all but one request – received in 2018 from a State Party to the Convention - were granted. A range of measures were requested including information from credit institutions, interrogation, search and seizure, attachment measures on properties (i.e. seizure) and requests for information. The requests were executed between 1 and 10 months. In one specific instance, it took Latvia 3 years to fully execute the request because the requesting country had asked to participate in the performance of investigative steps in Latvia. Latvia stated that one of the main obstacles to MLA in foreign bribery cases is the large size of these cases.

(ii) MLA for confiscation purposes

210. In Phase 2, the Working Group questioned whether Latvia can always provide confiscation as MLA in foreign bribery cases, including when requested by non-EU members and when related to non-aggravated foreign bribery cases (Follow-up issue 16 (c)). As stated in Phase 2, different grounds apply to

the providing of MLA for confiscation purposes depending on whether the requesting State is an EU member. Latvia can only grant a request for confiscation sought by non-EU Members when Latvian law also provides for confiscation as a basic or additional punishment for the same offence under the CL. However, confiscation is not a basic or additional punishment for non-aggravated foreign bribery under CPL Section 323. In such cases, confiscation can be executed “only in the amount established in the judgment of the foreign state, [provided] that the object to be confiscated is an instrumentality of the committing of the offence or has been obtained by criminal means” pursuant to CPL Section 791(2). Alternatively, MLA for confiscation purposes can be granted if the measure can be grounded in the provisions of Latvia’s CPL.

211. At the time of its Phase 2 Follow-up report, Latvia had provided MLA for confiscation to EU Members in 13 cases and only in 3 cases to non EU-members. Latvia was, however, unable to confirm whether any of these requests related to foreign bribery investigations in the foreign countries. Since Phase 2, none of the 63 requests received concerned the identification, freezing, seizure, confiscation and recovery of the proceeds of foreign bribery. Latvia, however, received 7 requests for confiscation of proceeds in ML cases from 2 Parties to the Convention.

212. The MOJ stated during the on-site visit, that one of the difficulties Latvia encounters when requesting the execution of non-conviction based court decisions, is the lack of recognition by some countries of Latvia’s court decisions imposing confiscation without a conviction. Latvia referred to at least two cases, albeit not foreign bribery, where the MLA could not be executed, on these grounds.

(iii) MLA requests for bank information

213. In Phase 2, the Working Group found that the grounds for Latvia to provide bank information through MLA were unclear. The same rules and procedure for lifting bank secrecy apply to execution of MLA requests and to domestic investigations. Pursuant to Section 63(4) of the Credit Institution Law (CIL), confidential bank information can only be disclosed to foreign authorities “according to the procedures specified in international agreements”. In the absence of a treaty, Latvia claimed that confidential bank information could still be provided on the basis of reciprocity and that, banks are in any event, required to provide information requested by Latvian authorities in pre-trial proceedings pursuant to CIL Section 63(1)(5) and that this provision would extend to foreign proceedings when measures are taken in Latvia to execute an MLA request. Holders of the bank accounts must not be notified when law enforcement authorities request to access financial information.

214. Since Phase 2, Latvia disclosed that it was asked to provide bank information by foreign authorities in all but 2 of the 63 MLA requests received. In particular, Latvia indicated that four MLA requests from Parties to the Convention were executed in between 1 month and 8 months, in a case where a large amount of bank information was requested in addition to information about a Latvian company. Latvia later stated that the same timeframe applies to the execution of all the remaining requests for bank information it received.

215. Latvia also indicated that its authorities have also been able to lift bank secrecy to respond to MLA requests in ML cases and referred to one request received from a State Party to the Convention in October 2018 in a ML case predicated on corruption. In addition, Latvia indicates that it was able to provide bank information on the basis of reciprocity and refer to one request from a Non-Party to the Convention in another ML case. In both cases, Latvia indicated that the requests were executed within 3 months.

d) Outgoing requests

(i) Overview of the requests sent in foreign bribery cases since Phase 2

216. Since Phase 2, Latvia has sent MLA requests in three foreign bribery investigations (i.e. *Information from Media Case*, *Law Enforcement Agency Case* and *Belarus Software Case*) and in one ML investigation in a foreign bribery case (i.e. *VimpelCom Case*). No MLA request was sent in the remaining five known foreign bribery cases because they did not reach the formal investigation stage. In the *Information from Media Case*, Latvia sent eight MLA requests to both Parties and Non-Parties to the Convention. The requests were sent to obtain information from financial institutions, carry out interrogation, access information from electronic service provider and other general information. Three of the requests were executed in between 2 months to 1 year and 7 months. This last request was sent to a State Party to the Convention. Latvia indicated that it sent reminders and met twice with the authorities in Strasbourg, in the margin of meetings of the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC). Three requests have been pending since April 2017 (over two years) and June 2018 respectively. In addition, one request to a non-Party was partially denied. The request was sent in 2018 to allow Latvian law enforcement authorities to access the investigation files in the foreign country, receive copies of court judgements and plea agreements to identify whether any Latvian nationals had been already sanctioned. The requested State partly rejected the request on the ground that physical access to the investigation files was not necessary and asserted the secrecy of the investigation precluded granting the request. During the on-site visit, Latvia explained that there were competing legal proceedings between the requested State and Latvia. The receipt of fully anonymised documents did not enable KNAB to identify the existence and status of the proceedings against Latvian nationals. The request was reiterated four times, Latvia provided additional supporting information and maintained informal contact at prosecutors' level.

217. In comparison, Latvia has sent substantially more requests related to ML in 2015-2018, with a total of 230 requests to Parties to the Convention and 110 requests to Non-Parties. In particular, four requests were made by the SP in the ML investigation of the *VimpelCom Case* between February and March 2018 to access bank and other information on the foreign public official and the company beneficially owned by the official. Latvia has also used the possibility to form a joint investigative team (JIT) with four Parties to the Convention in a ML case with since December 2016 albeit not predicated on foreign bribery. Latvia indicates that the execution of two requests in ML cases was denied by one non-State Party in 2016 and in 2017, without clear grounds. The first request aimed at securing documents and conducting interrogations in the country. The first request was denied because the requested State claimed that translation of supporting documents in Arabic was missing and the second request on the grounds that information to support the request was missing.

218. Latvia has taken several steps to pursue the MLA requests and speed up their execution. However, more can be done in the absence of a response to its MLA requests. While Latvian law enforcement authorities and prosecutors regularly attend the Working Group's Informal Meeting of Law Enforcement Officials (LEO meeting), the prosecutors have never used the opportunity of these meetings to foster the execution of pending MLA requests with Parties to the Convention in foreign bribery investigations.¹³¹ Latvia, however, stated that it used other informal channels at the preliminary investigative stage in five out of six cases which were under KNAB investigation (i.e. *Information from Media*, *Law Enforcement Agency*, *VimpelCom*, *Gold mining* and *Belarus Software Cases*). Latvia has also liaised with EUROPOL in the *VimpelCom case* outside any MLA process. Diplomatic channels were reportedly used in another case to overcome difficulties in securing MLA.

¹³¹ While finalizing this report, Latvia indicated that it shared information in a passive foreign bribery case with another Party to the Convention.

(ii) MLA impact on the time-limitation in foreign bribery cases

219. MLA requests do not interrupt the limitation period. Since Phase 2, no criminal proceedings were terminated by KNAB because of delays in the execution of MLA requests, according to Latvia. Latvia explains that in order to avoid corruption and bribery cases to be time-barred as a result of delays in MLA, KNAB indicated that it “tries to send out MLA requests as soon as possible, in early stages of investigation”. In practice, Latvia has been more proactive in seeking MLA. In the *Information from Media Case*, the formal investigation was commenced in 2016 and the six requests were sent between March 2017 and July 2018. Against this background, KNAB sent MLA requests between one to five months after initiating a formal investigation in the *Law Enforcement Agency Case* and the *Belarus Software Case*.

(iii) Impact of the EU Law Enforcement Directive (LED) on MLA

220. Chapter V of the European Union Law Enforcement Directive (LED)¹³² lays down the main rules for data transfers to third countries and international organisations. According to these rules, the competent authorities should proceed with the transfer only if it is necessary for the law enforcement purposes within the scope of the Directive, if the controller in the third country or in the international organisation is a competent authority for the purpose of the Directive and, in case of data transmitted or made available by another Member State, if they have prior authorisation from the latter. This necessity test may have an impact on the providing and requesting of information through MLA channels in foreign bribery cases, as countries may require from their counterparts that they further justify how the information requested is necessary in a particular investigation. The Latvian authorities considered that the provisions of the LED have not had an impact on the treatment of both incoming and outgoing MLA requests related to foreign bribery because “the provision of legal assistance relates to law enforcement purposes”. No requested countries have yet questioned whether data sought by Latvia were in fact necessary for law enforcement purposes on the basis of the LED.

Extradition

221. In Phase 2, the Working Group was concerned that Latvia may not prosecute a Latvian national whose extradition has been denied solely on the grounds of nationality. Latvia stated that the principle of mandatory prosecution would apply in such cases but the Working Group nevertheless recommended that Latvia amend its legislation to comply with Article 10(3) of the Convention and the principle of *aut dedere aut judicare* and *aut dedere aut punire*, respectively. In March 2016, Latvia amended Section 705(5) CPL to expressly require the prosecution of Latvian individuals whose extradition is refused solely on grounds of nationality. Phase 2 recommendation 12(b) was deemed fully implemented. No extradition request has since been received and denied on the ground on nationality.

222. In practice, Latvia has received and granted one extradition request in a corruption case since Phase 2. In this case, the Deputy Director General of a company registered in Moscow allegedly paid USD 420 000 as bribes to police officials to avoid searches at the company. The bribe payments were facilitated by an intermediary working at the Russian Custom services. The intermediary fled to Latvia and the Russian Federation requested his extradition in November 2017. The intermediary did not give his consent and first appealed the extradition request before withdrawing his appeal a month later. The request was executed in April 2018.

Article 5 and International Co-operation

223. Pursuant to CPL Section 850, MLA and extradition requests can be declined if they may harm Latvia’s sovereignty, security, social order and “*other substantial interests*” (emphasis added). The

¹³² The Data Protection Directive for Police and Criminal Justice Authorities or Law Enforcement Directive (LED) introduces specific data protection rules in the area of criminal justice. It entered into force on 5 May 2016.

provision had been used in one case to deny the disclosure of a “commercial secret” that was an “element of a product produced by a Latvian company”. In Phase 2, the Working Group was concerned that factors listed in Article 5 of the Convention, namely consideration of national economic interest, the potential effect upon relations with another State and the identity of the natural and legal persons involved could be taken into account to decline the granting of MLA and extradition by Latvia in foreign bribery cases (follow-up issue 16(d)). During the on-site visit, the PPO knew about this provision and the concerns of the Working Group and indicated that no request has since been declined on such grounds.

Commentary

The lead examiners welcome Latvia’s efforts since Phase 2 to close legislative gaps in the providing of MLA. In addition, they commend Latvia for having provided timely assistance to foreign countries in a relatively large number of foreign bribery cases since Phase 2. Latvia should be encouraged to continue providing effective and timely assistance and routinely seeking MLA in foreign bribery cases.

The lead examiners further recommend that the Working Group follow up Latvia’s ability to provide a broad range of MLA including (i) the tracing, seizure, and confiscation of proceeds of crime, (ii) the providing of bank information, (iii) when requested in foreign bribery-related civil or administrative proceedings against a legal person by a foreign state whose legal system does not allow criminal corporate liability and (iv) the use of CPL Section 850 to decline MLA and extradition requests.

10. Public Awareness and the Reporting of Foreign Bribery

224. This section addresses awareness-raising efforts, reporting of foreign bribery, and whistleblowing. The reporting obligations of accounting and auditing professionals, tax officials, and officials involved in the disbursement of public advantages are respectively addressed under Sections B.7, B.8 and B.11 of the report.

(a) Awareness of the Convention and the offence of foreign bribery

225. In Phase 2, the Working Group commended Latvian authorities on their efforts to raise awareness of the Convention among key stakeholders. However, the Working Group also noted a lack of visible impact. In Phase 3, the actual level of awareness of foreign bribery remains low.

226. In Phase 2, the Working Group recommended that Latvia take further measures with respect to prevention and awareness-raising in both public and private sectors (Recommendations 1(a) and Recommendation 1(b) were deemed fully implemented at the time of Latvia’s Written Follow-up Report, following measures taken by law enforcement authorities and especially KNAB to increase awareness and detection). Since Phase 2, KNAB has taken further steps to raise awareness of the foreign bribery offence within the public sector, including through seminars and dissemination of training material to civil servants. Awareness raising activities from other public authorities has been almost non-existent, putting aside the FIU and the SRS. KNAB reported awareness of foreign bribery in the private sector, among business associations, SOEs and SMEs in the form of seminars and dissemination of information online.

227. Despite these initiatives, awareness among companies and business organisations regarding foreign bribery remains low. During the on-site visit, companies and representatives from media and civil society agreed that domestic bribery continues to retain most attention. None of the companies’ representatives that the lead examiners met had attended awareness raising activities on foreign bribery. Most of them were unaware of their exposure to foreign bribery risks, including those operating in high-risk areas in Central and Eastern Asia through subsidiaries. Companies were also unaware of the foreign bribery offence under Latvian law and relevant criminal proceedings, as well as Annex 2 to the 2009 Recommendation and the OECD Good Practice Guidance on Internal Controls, Ethics and Compliance.

228. The Working Group is of the view that the low levels of detection and enforcement of foreign bribery in Latvia raise concerns that awareness-raising and training measures are not translating into practice or yielding results. A cross-section of panellists from the non-governmental sectors were also of the view that the government could do more to raise awareness within the private sector.

Commentary

The lead examiners acknowledge the efforts made by Latvia, and KNAB in particular, to increase awareness of the foreign bribery offence. However, they are disappointed by the low level of awareness displayed by some panellists during the on-site visit from both the public and private sectors. The lead examiners note that strong enforcement of the foreign bribery offence is one of the most effective ways to raise awareness. The lead examiners hope that Latvia will promptly develop a track record of successful foreign bribery enforcement actions which would, in turn, further contribute to awareness-raising.

The lead examiners therefore recommend that Latvia continue its efforts to raise awareness within the public sector, treating more specifically the question of the risk of bribery of foreign public officials by Latvian nationals and companies, and in particular among officials likely to play a part in the detection and reporting of acts of transnational bribery, especially among foreign embassies and those coming into contact with Latvian businesses operating abroad.

The lead examiners also recommend that Latvia step up its efforts to raise awareness of the foreign bribery offence within the private sector and among SMEs in particular, including on the importance of developing and implementing anti-bribery corporate compliance programmes.

(b) Reporting suspected acts of foreign bribery

229. In Phase 2, the Working Group recommended that Latvia put in place measures to require reporting by public officials of foreign bribery suspicions in the course of their work. Recommendation 2(b) was deemed not implemented at the time of Latvia's Written Follow-up Report because there was no general duty on public officials in Latvia to report suspicions of crime.

230. In Phase 3, legislative amendments requiring all Latvian public officials to report suspected foreign bribery are still pending. Draft amendments to article 21(5) of the Law on Prevention of Conflict of Interest in Activities of Public Officials, adopted by the *Saeima* at first reading in December 2018, would oblige public officials to report suspected acts of bribery, including foreign bribery, detected when performing their official duties. The draft law was still under discussion at the time of finalising this report. According to the draft law, public officials are obliged to report "potential cases of corruption" to the head of their own administration or to KNAB. Some employees (staff of the State security authority in particular) may report to KNAB or the PPO. According to panellists met at the on-site visit, the draft law covers all public officials, including officials posted abroad, as well as those employed in SOEs and local government. Another draft law introducing sanctions for violations of the reporting obligation was under discussion at the time of drafting this report.

231. Since Phase 2, Latvia took additional steps to encourage public officials to make use of reporting channels in case they choose (in absence of general duty) to report corruption related suspicions. Regulation No. 630 of the Cabinet of Ministers, issued in October 2017, introduces an obligation upon heads of public institutions, including heads of national and local governmental bodies and SOEs, to establish internal reporting mechanisms as part of their internal control systems by December 2018.¹³³

¹³³ Cabinet Regulation No. 630, "Regulations regarding the basic requirements for an internal control system for the prevention of corruption and conflict of interest in an institution of a public person", paras. 5, 15.

However, these measures and relevant guidelines address corruption allegations against Latvian public officials. They are therefore of limited use for reporting bribery allegations against Latvian companies operating abroad. Several reporting channels to law enforcement authorities are in place. KNAB functions as an external reporting channel through free hotline, email, online application and in person. During the on-site visit, representatives of the private sector and civil society were aware of these reporting mechanisms but noted that they are used in practice for suspicions of domestic corruption.

232. In Phase 2, the Working Group recommended that the Ministry of Foreign Affairs (MOFA) provide written guidance and training to its staff on detection, reporting obligations and channels. Recommendation 2(a) had been fully implemented at the time of Latvia's Written Follow-up Report following increased awareness efforts by MOFA. Additional training activities since Phase 2 consisted in introducing two compulsory training courses for Latvian public officials posted abroad with specific reference to the foreign bribery offence. MOFA representatives at the on-site visit noted that training and awareness call for monitoring the local press abroad to enhance detection. Latvian embassies' Annual Action Plan for 2017 touches upon foreign bribery detection and reporting. Despite these efforts, no foreign bribery case has been reported by embassies since Phase 2 (a diplomat reported a foreign bribery allegation in 2014).

Commentary

The lead examiners are concerned that Latvian public officials are not obliged to report suspicions of foreign bribery. The lead examiners thus reiterate Phase 2 recommendation 2(b) and recommend that Latvia pursue its intention to put in place measures to require reporting by public officials, directly or indirectly through an internal mechanism, to law enforcement authorities of suspected acts of bribery of foreign public officials in international business transactions detected in the course of their work.

The lead examiners welcome MOFA's efforts to raise awareness and instruct its personnel to detect and report allegations of foreign bribery. They recommend that the Working Group follow up on reporting of foreign bribery allegations by diplomatic missions.

(c) Whistleblower Protection

233. In Phase 2, the WGB noted that Latvia lacked a comprehensive legal framework to protect whistleblowers. The WGB therefore agreed upon Recommendation 3(a) and recommended that Latvia ensure that appropriate measures are in place to protect from discriminatory or disciplinary action public and private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of foreign bribery. At the time of the Phase 2 Written Follow-Up Report, Recommendation 3(a) was deemed not implemented. The WGB noted that the legislative amendments protecting whistleblowers in the public and private sectors had yet to be enacted.

(i) Adoption of a new comprehensive legal framework

234. On 11 October 2018, the *Saeima* adopted the "Whistleblowing Law"¹³⁴ that took effect on 1 May 2019. The law protects employees from detrimental treatment for disclosing misconduct, including corruption and foreign bribery and contains important elements that could arguably constitute good practices in terms of protection of whistleblowers. In particular:

- The law covers all Latvian workers in the public and private sectors.¹³⁵
- The motive of the person reporting wrongdoing is not relevant (there is no requirement to report in good faith), but the law stipulates that the employee must "consider" that the information about

¹³⁴ The text of the law can be found here: <https://likumi.lv/ta/en/en/id/302465>.

¹³⁵ The definition of "fulfilment of work duties" that is stipulated in Article 1 Section 1 Subsection 1 of the law includes as many different possible employment relations as possible, both in public and private sectors, that are governed by employment legal or other civil legal relations or State service relations.

suspected serious wrongdoing is true and may harm the public interest in order for the disclosure to come within the act and its protection (i.e. the person's motives cannot be to deliberately spread false information).

- The law defines wrongdoing broadly to include disclosures about any criminal offence, administrative violation or other violation of legal norms, including binding ethical or professional norms.
- Protection under the law applies to concerns raised (i) internally with an employer; (ii) externally, to a competent authority (KNAB possibly), the State Chancellor, an NGO, a foundation or a trade union; and (iii) where the report is made public “if due to objective reasons, whistleblowing mechanisms cannot be used”¹³⁶ or the violation is not eliminated “for a lengthy period without any objective reason” (i.e. without any objective reason there is failure to act (reduce, prevent or eliminate the violation) by a competent authority). Confidentiality of the whistleblowers' identifying information is protected under the law as well as the content of the report (that is subject to restricted access under data protection rules).¹³⁷
- The law provides for a large range of protections and guarantees of whistleblowers who report according to the legislation, including legal aid provided by the State.
- Finally, the law protects whistleblowers against “any direct or indirect adverse effects” which are defined very broadly.

235. At the on-site visit, the lead examiners discussed the interpretation of the “public interest” element. According to the authorities, public interest is defined in Section 3 of the law (any violation that constitutes a “criminal offence, administrative violation or other violation of legal norms or violations of binding ethical professional norms”) i.e. “any potential violations causing damage to society”. The authorities further stated that “as long as it is an activity against the interest of other persons, it will be considered in the public interest to come forward”. Protection under the law does not apply in case of “deliberate provision of false information, disclosure of information containing official secrets and reporting only on infringements of personal interests”.

236. Sanctions for reprisals against whistleblowers must consider the full range of retaliatory and discriminatory conduct. Examples of retaliation include, but are not limited to dismissal, demotion, reassignment of roles or tasks, denial of education, training or self-promotion opportunities, bullying, violence or unfair audit of the person's work. Whistleblowers should also be protected against threats of reprisals. Section 13 (1) of the law refers to “any direct or indirect adverse effects” which is very broad in scope. There is a reversal of the burden of proof: it is up to the employer to prove that the whistleblower or his/her relatives have not been subject to any “adverse effects” as a consequence of a whistleblower report. The law, however, does not contain any direct civil or criminal penalties to stop, prevent, or discourage retaliatory and discriminatory conduct, bullying, victimisation or harassment.

237. An additional form of protection is to provide private rights of action to aggrieved whistleblowers to sue the company or individual managers or directors for damages as a result of the discriminatory or retaliatory behaviour. Civil damages help compensate whistleblowers who have been fired and have difficulty finding future employment and could include lost income and litigation costs, such as attorney's

¹³⁶ According to the authorities, it would be the case where internal reporting channels have not been put into place; in situations of immediate danger, risks of reprisals or collusion between the company and the competent authorities or if there are reasons to believe that the violation will not be addressed.

¹³⁷ The OECD 2010 Good Practice Guidance on Internal Controls, Ethics and Compliance recommends that companies ensure internal and, where possible, confidential reporting by and protection of whistleblowers who report breaches of the law or professional standards or ethics occurring within the company.

fees. Section 13 of the law foresees in that respect the following measures: release from the payment of court expenses in civil proceedings and payment of the State fee in administrative court proceedings; temporary protection in civil proceedings and administrative proceedings in the court and appropriate compensation for losses or personal damage, as well as moral detriment (see also Sections 14 and 16 of the law).

238. Latvia states that further legislation is to be adopted with the view to implement several requirements under the law.¹³⁸

(ii) Efforts to encourage whistleblowing of suspected foreign bribery

239. In Phase 2, the WGB adopted Phase 2 recommendation 3(b) requesting Latvia to take steps to encourage whistleblowing, raising awareness of the protections available to private-sector whistleblowers, and ensuring that easily accessible channels are available to whistleblowers. Recommendation 3(b) was deemed partially implemented at the time of the Phase 2 Written Follow-up Report.

240. Whistleblowers take significant personal risks in reporting bribery and other crimes and misconduct to relevant authorities or bodies. Supporting and advising whistleblowers during the time they are deciding whether to make a report should help to instil confidence in the system and encourage reporting. To address this, the Whistleblowing Law has appointed the State Chancellery as the contact point for whistleblowers. The State Chancellery is also responsible for developing legislation and conducting the awareness raising campaign. Discussion during the on-site visit, however, revealed that the State Chancellery is seriously understaffed (only two employees were working on these issues full-time in May 2019) to carry out its ambitious mandate. This concern was also echoed by representatives from civil society during the on-site visit.

241. An awareness raising campaign by the State Chancellery started in April 2019. The aim of the campaign is to promote whistleblowing and explain the scope of whistleblowing and options to submit a report, as well as protection available. Titled "[See. Hear. Speak.](#)" the aim of the campaign is "to raise awareness of the importance of sounding the alert in the public interest," according to a press release which claimed that almost 70% of Latvia's residents are ready to get involved in improving life in Latvia, but more than half of the population does not know what to do if they see violations in the workplace. Moreover, the State Chancellery launched a dedicated website for whistleblowers on 1 May 2019. On 28 March 2019, Transparency International Latvia, AmCham, BritCham and other partners organised a conference "Is Latvia ready for the Whistleblowers Law? New rules and best practices" in which, many companies operating in Latvia participated and discussed new whistleblowing mechanisms. It is too early to measure the impact of these efforts as the new legislation is very recent. The authorities state that from 1 to 31 May 2019, 47 submissions were received and that 14 are whistleblowers' reports. During the on-site visit, representatives from civil society highlighted the need for active awareness raising efforts to convey the importance of *bona fide* whistleblowing as a component of public and private integrity systems and overcome a strong culture resistance to reporting.

242. The Whistleblowing Law requires public and private sector bodies with at least 50 employees to establish appropriate systems for receiving reports and publicise them internally among members of their personnel or other types of collaborators (consultants, temporary employees, etc.). In April 2019, the State

¹³⁸ Amendments to the Civil Procedure Law which would provide for temporary protection of a whistleblower and his or her relatives in the civil procedure have been prepared by the Ministry of Justice in August 2019 and are expected by the end of 2019. Draft amendment to the Whistleblowing Law, which foresees administrative liability for reprisal against whistleblower or his relative, as well as for providing false information in whistleblower report, have been adopted by the Cabinet of Ministers in August 2019 and has been sent to the Parliament for approval.

Chancellery finalised good practice guidelines for the establishment of internal whistleblowing system that were broadly disseminated.

243. At the on-site visit, the lead examiners discussed with the authorities the potential impact of the EU General Data Protection Regulation (GDPR) on whistleblowers' reporting. The GDPR is set to have a wide-reaching impact on internal reporting mechanisms within companies and raises concerns regarding potential conflicts between personal data protection imperatives and whistleblowing mechanisms. While the GDPR puts whistleblowers in a stronger position and affords them more authority over their own data, there remain challenges such as the protection of the whistleblower's identity.¹³⁹ Latvia's whistleblowing Law Article 11 stipulates Protection of the Identity of Whistleblower. The lead examiners consider that this issue and challenges go beyond the scope of this evaluation and that this is a horizontal issue among Parties to the Convention that the Working Group may wish to address.

Commentary

The lead examiners commend Latvia for the adoption of a very comprehensive legislation on whistleblower protection that contains important elements that reflect internationally recognised best practices. They are of the opinion that Phase 2 Recommendation 3(a) has been implemented. The legislation introduces major and far-reaching changes in the practice of whistleblower reporting that require more efforts to ensure implementation. The lead examiners thus consider that the Working Group should closely follow up the implementation of the legislation to ensure in particular that adequate awareness-raising initiatives are conducted on the protections available to whistleblowers under the new law and easily accessible reporting channels are available to whistleblowers in public and private sectors.

11. Public Advantages

(a) Public procurement

244. The Anti-Bribery Convention and 2009 Anti-Bribery Recommendation deal with public procurement mainly in one respect: whether a Party to the Convention disqualifies (*i.e.* debars) individuals and companies who have committed foreign bribery from participating in public procurement as a form of administrative sanction (Convention Article 3(4) and Commentary 24). In Phase 2, the WGB found that Article 391 (1)1(a) of Public Procurement Law (PPL) foresaw such disqualifications. In March 2017, a new Public Procurement Law came into force. Section 42 (1)1(b) of the law and Section 48 (1)1b) of Law on Procurement of Public Service Providers exclude from public procurement "a candidate, a tenderer or a person, who is proctor or member of the board of directors or council of tendered or candidate, or person, having the right to represent the candidate or tenderer", who has been sanctioned for bribe taking, bribery, bribe misappropriation and intermediation in bribery. The provisions cover both natural and legal persons who have been sanctioned by a court, including through a plea agreement, according to Latvia. These persons are excluded from obtaining public service and supply contracts exceeding EUR 42 000 and public works contracts exceeding EUR 170 000. Debarment applies for three years from final adjudication.

245. At the on-site visit, Latvian authorities stated that all procuring authorities are required to verify the Register of Punishment to determine whether participants in public procurement have a disqualifying conviction. The Register includes natural persons who have been convicted and legal persons who have been subject to coercive measures. Foreign natural and legal persons are required to provide separate proof that they do not have disqualifying convictions in a form of a statement from the corresponding competent

¹³⁹ Source: Transparency International (30 April 2018), "[The impact of the new general data protection regulation \(GDPR\) on whistleblowing](#)" or the FCPA Blog, (3 May 2018) "[Vera Cherepanova: GDPR implications for the whistleblowing process](#)" and FCPA Blog (22 may 2018) "[Yes, GDPR has already changed the whistleblowing landscape](#)".

authority certifying that the person is not subject to exclusion. The authorities mention procedures in place to verify the information on convictions (including through E-certificate) but confirmed that debarment lists of the multilateral development banks are not consulted as a part of due diligence. Furthermore, the existence of internal controls, ethics and compliance programmes are not taken into account in decisions to grant public procurement contracts. During the on-site visit, the lead examiners were told that there has been no case of debarment of natural and legal persons because of involvement in bribery.

Commentary

The lead examiners note the new Public Procurement Law that includes bribery in the category of such behaviour that would prevent companies convicted of foreign bribery from receiving public contracts. The lead examiners recommend that Latvia ensure the effectiveness of the exclusion mechanism, including by routinely checking debarment lists of multilateral development banks and conducting comprehensive due diligence before granting a procurement contract.

(b) Official Development Assistance

246. Latvia's role as a provider of development co-operation is relatively recent. Total net official development assistance (ODA), as reported to the OECD, reached USD 31.9 million (EUR 28.3 million) in 2017. Latvia undertakes to continue gradual increase of ODA up to 0.17% of Gross National Income in 2016 to 2020, according to its Development Cooperation Policy Guidelines for 2016-2020.¹⁴⁰ In 2017, Latvia's top five recipients of ODA were Turkey, Ukraine, Georgia, Moldova and Uzbekistan. The primary assistance modalities in Latvia's bilateral development cooperation are technical assistance and capacity-building projects, and most grant recipients are state institutions and civil society organisations. The Development Co-operation Policy Division of the Ministry of Foreign Affairs (MOFA) administers ODA. The vast majority of Latvia's ODA (89% in 2016) is channelled through multilateral institutions, but Latvia's ODA strategy envisages private sector implementation.¹⁴¹ This has not been successful yet, according to representatives from MOFA met at the on-site visit, considering the limited size of the grants. Noting that Latvia's bilateral ODA programme is small but is likely to grow, the WGB recommended in Phase 2 that Latvia take adequate measures to prevent, detect and report foreign bribery, and consider excluding companies convicted of this crime from ODA projects, if Latvia engages the private sector in future. Recommendation 5 was deemed partially implemented at the time of Latvia's Phase 2 Follow-up Report.

247. Latvia has made some, though limited, efforts to ensure that funding for projects financed by ODA are accompanied by adequate measures to prevent and detect corruption and that implementing partners, including other government agencies, government of developing countries, NGOs and companies that have been convicted of engaging in corruption are denied such funding. Since 2016, the MOFA adopted a policy in its Call for Proposals Regulation to exclude entities convicted of foreign bribery from ODA projects. Persons applying for ODA contracts are also required to declare that they have not been convicted of corruption offences. However, the mechanisms to verify the accuracy of these declarations consist in checking databases (e.g. the SRS's database) that are unlikely to provide relevant information. Publicly available debarment lists of multilateral financial institutions or the Register of Punishment are not consulted during the applicant's selection process. During this process and in the implementation phase of the projects, Latvia's embassies are reportedly involved in the assessment of foreign partners using the available public information resources and local contacts.

¹⁴⁰ Latvia indicated that "MOFA Plan for anti-corruption measures 2018-2020" deals with ODA-funded projects but the English translation of the Plan was not made available to the evaluation team and this document is not reviewed in this report.

¹⁴¹ The Development Cooperation Policy Guidelines 2016-2020 refer to Latvia's plan to further develop cooperation policy, including the role and involvement of the private sector.

248. The Development Cooperation Policy Guidelines 2016-2020 describe “lines of action” such as “systematically evaluate, prevent, and manage risks in all stages of assistance provision, particularly regarding corruption” but do not explain what actual measures are taken to prevent, detect and report foreign bribery. According to Latvia, some of these measures are detailed in the Call for Proposals Regulation. In practice, due diligence conducted before the signature of contracts is very limited. The MOFA asks for information on applicant’s corruption risks but there is no policy to check applicants’ internal controls, ethics and compliance programmes and measures. Applicants are incentivised to adopt such codes since the existence of such programmes affects the total score that the project applicant receives and respectively the possibility of receiving a grant. Project contracts on bilateral ODA-funded projects now also comprise anti-corruption clauses and ODA contracts contain termination, suspension or reimbursement clauses or other civil and criminal actions in the event of the discovery that information provided by applicants to ODA funds was false, or that the implementing partner subsequently engaged in corruption during the course of the contract. Since Phase 2, several training events have taken place to raise awareness of foreign bribery among MOFA’s staff and grant recipients, in collaboration with KNAB.

Commentary

Latvia has taken some steps since Phase 2 to prevent foreign bribery in bilateral ODA-funded projects and awareness raising efforts among public servants and project partners are welcome. However, the lead examiners are of the view that Phase 2 Recommendation 5 has not been fully implemented and they recommend that Latvia (i) strengthen the mechanisms to verify the accuracy of information provided by applicants, including by routinely checking debarment lists of multilateral development banks and the Register of Punishment; and (ii) ensure that appropriate due diligence is carried out prior to the granting of ODA-funded projects.

(c) Export credits

249. Altum is a state-owned development finance institution that also implements short-term export credit guarantee programmes. In Phase 2, the Working Group recommended that Latvia (a) ensure that Altum has sufficient human and financial resources to systematically conduct adequate due diligence on all applicants for support; (b) ensure that Altum’s anti-bribery policy and practice meet the 2006 Recommendation¹⁴² and (c) train Altum’s staff on preventing, detecting and reporting foreign bribery. Since Phase 2, Latvia has taken steps to implement recommendations 4(a) and (c). Recommendation 4(b) was deemed partially implemented and is reviewed in this report.

250. In Phase 2, the WGB found that Altum has incorporated some of the elements of the OECD 2006 Recommendation into its anti-bribery policy. Altum’s policy continues to fall short of translating all elements of the Recommendation. Since Phase 2, Altum’s policy to assess exporters/applicants and buyers has evolved. It requires all applicants for support to declare in the application form that neither they nor anyone acting on their behalf would commit foreign bribery. All applicants (and regardless the value of the export transaction) must also disclose convictions of foreign bribery within the past five years and current charges. The company’s ownership structure is identified using publicly available sources or the company’s credit report. Altum verifies whether the applicant is on the debarment lists of multilateral development banks or other sanctions lists (e.g. OFAC or the list that Latvia maintains of sanctioned individuals and entities), but it does not systematically check the Register of Punishment to determine whether an applicant has been convicted of foreign bribery in Latvia. This is because access to the Register is not free, according to Altum’s representatives met at the on-site site. Altum’s internal control consists in collecting information on exporters/applicants and buyers (as well as any person or entity acting on their

¹⁴² On 13 March 2019, the OECD adopted the new [Recommendation on Bribery and Officially Supported Export Credits](#), which replaces the 2006 Recommendation. Since the Phase 3 process of Latvia was already engaged at the time, this report has been drafted on the basis on the 2006 Recommendation.

behalf) and in checking whether appropriate management control systems or due diligence measures to combat bribery are in place and effective. The information that is collected is subject to verification.

251. Altum may – but it is not required to – request more information in the following circumstances: (i) the exporter/applicant is listed on the publicly available debarment lists; or (ii) it becomes known that the exporter/ applicant or anyone acting on their behalf in connection with the transaction, are currently under charge in a national court, or have been convicted in a national court or been subject to equivalent administrative measure for violation of laws against bribery of foreign public officials; or (iii) if there is a reason to believe that bribery may be involved in the transaction. Measures taken by Altum as part of this enhanced due diligence process consist for instance in requesting additional information from the MOF or the FIU. Altum refers to a case of one exporter engaged in transactions with a foreign public official. According to Altum, measures were taken to check the circumstances of the case and support was ultimately granted in absence of any suspicion. According to the Phase 3 Questionnaire, Altum plans to improve its internal regulatory documents and processes are being considered.

252. Altum indicates that, if it has “credible evidence” that foreign bribery has been committed by a client, its agent or representative, then it would ask the client to clarify the circumstances surrounding the conclusion of the export contract. Altum would suspend the application pending the outcome of the enhanced due diligence process. If bribery is proven after support has been granted, Altum would invalidate its support and seek reimbursement of funds that have been provided. According to Altum, such circumstances have never occurred.

253. Altum staff are not public officials and are not subject to the reporting obligations under the Law on Prevention of Conflict of Interest in Activities of Public Officials but, according to Altum, its staff may pass information to KNAB, if it has reason to believe that bribery was involved in a transaction. As a financial institution, Altum is required to report STRs and UTRs in application of the AMLTFL. Reports are sent to the SRS or to the FIU. According to representatives from Altum met at the on-site visit, no reports have been made to date based on suspicion of foreign bribery.

Commentary

The lead examiners are satisfied that Altum has enhanced its measures to prevent and detect foreign bribery and welcome Altum ongoing plans to improve its internal regulatory documents and processes. The lead examiners consider that Phase 2 Recommendation 4(b) has been partially implemented and that efforts to raise awareness of foreign bribery among Altum’s staff should continue. They therefore recommend that Latvia ensure that Altum (i) continue to strengthen its mechanisms to verify the accuracy of information provided by applicants, including by routinely checking the Register of Punishment; (ii) ensure that appropriate due diligence is carried out before granting supports; and (iii) provide training to its staff on preventing detecting and reporting foreign bribery.

C. RECOMMENDATIONS AND ISSUES FOR FOLLOW-UP

The Phase 2 evaluation report on Latvia adopted in October 2005 included recommendations and issues for follow-up (as set out in Annex 1). Of the recommendations that had not been fully implemented at the time of Latvia’s December 2017 written follow-up report, the Working Group concludes that: recommendations 3a) and 7b) have been implemented, recommendations 4b), 5, 6a), 7d), 7e), 8c), 8d), 8e), 9c), 10a) and 13b) remain partially implemented, recommendation 8b) is now considered partially implemented, and 2b), 9e) and 13a) remain not implemented. The implementation of Phase 2 Recommendations 3b) and 15b) will be followed up as practice develops (follow-up issues 16n) and 16i) respectively).

In conclusion, based on the findings in this report on Latvia’s implementation of the Convention, the 2009 Recommendation and related instruments, the Working Group: invites Latvia to submit a written

follow-up report on its implementation of all recommendations and follow-up issues within two years (i.e. by October 2021). Latvia is further invited to provide detailed information in writing on its foreign bribery-related enforcement actions when it submits this report.

1. Recommendations of the Working Group

Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery

1. Regarding the foreign bribery offence, the Working Group recommends that Latvia amend its legislation to ensure that:
 - a) The requirement of direct intent, as defined in Latvian law, is consistent with Article 1 of the Convention. [Convention Article 1; Phase 2 recommendation 13(a)]; and
 - b) The offence explicitly covers the promise of a bribe [Convention Article 1; 2009 Recommendation III(ii) and V; Phase 2 recommendation 13(b)(i)].
2. Regarding the criminal liability of legal persons, the Working Group recommends that Latvia:
 - a) Promptly adopt legislation to ensure that proceedings for the application of a coercive measure to a legal person can always be initiated, including when the related natural person is subject to ongoing prosecution or was acquitted abroad [(Convention Articles 2 and 3; 2009 Recommendation III(ii) and Annex I.B)]; and
 - b) Clarify that the liability of legal persons is not restricted to cases where the natural person(s) who perpetrated the offence are prosecuted or convicted, in Latvia or abroad and that proceedings against legal persons may be commenced in the absence of criminal charges against a natural person [Convention Articles 2 and 3; 2009 Recommendation III(ii) and Annex I.B].
3. Regarding sanctions and confiscation, the Working Group recommends that Latvia:
 - a) Take steps to ensure that sanctions imposed by the courts in foreign bribery and related money laundering cases are effective, proportionate and dissuasive. [Convention Articles 3(1) and 7]; and
 - b) Make effective use of its confiscation regimes and provide regular training to investigators, prosecutors and judges specifically on methods for quantifying proceeds of foreign bribery [Convention Article 3(3)].
4. Regarding the detection of foreign bribery, the Working Group recommends that Latvia:
 - a) Ensure that adequate resources are allocated to KNAB's detection functions and that KNAB give sufficient priority to detecting foreign bribery cases [Convention Article 5 and Commentary 27; 2009 Recommendation II and Annex I.D]; and
 - b) Further mobilise government agencies with particular potential for detecting foreign bribery committed by Latvian companies operating abroad, including the SRS and the FIU [Convention Article 5 and Commentary 27; 2009 Recommendation II].

5. Regarding cooperation, resources, and specialisation in foreign bribery cases, the Working Group recommends that Latvia:

- a) Further clarify KNAB's jurisdiction over foreign bribery cases, in particular where bribes are paid abroad and transferred through the Latvian financial system and ensure that all competent law enforcement and prosecution authorities are aware of KNAB's jurisdiction over such cases [Convention Articles 1, 5; and 2009 Recommendation V and Phase 2 Recommendation 10(a)];
- b) Reinforce coordination between KNAB and the State Police, as necessary, in foreign bribery and related money laundering investigations [Convention Article 5; 2009 Recommendation V and Annex I.D];
- c) Ensure that sufficient resources and expertise are made available to KNAB and the State Police to effectively investigate foreign bribery and financial crimes, including money laundering predicated on foreign bribery [Convention Article 5; 2009 Recommendation V and Annex I.D]; and
- d) Increase PPO's financial resources in particular through recruiting additional staff and ensuring sufficient specialised expertise for prosecuting foreign bribery and related money laundering cases and monitoring investigators [Convention Article 5; 2009 Recommendation V and Annex I.D].

6. Regarding the investigation and prosecution of foreign bribery, the Working Group recommends that Latvia take steps to:

- a) Ensure that foreign bribery cases are promptly and proactively investigated and adopt a strategic approach towards the investigation and prosecution of foreign bribery and related money laundering offences [Convention Article 5 and Commentary 27; 2009 Recommendation V and Annex I D];
- b) Take concrete and meaningful steps to ensure that KNAB routinely considers the involvement of Latvian financial institutions, shell companies and other corporate structures in foreign bribery schemes [Convention Article 5 and Commentary 27; 2009 Recommendation V and Annex I D];
- c) Ensure that KNAB promptly investigate foreign bribery allegations disclosed in the context of international cooperation [Convention Articles 5 and 9, Commentary 27; 2009 Recommendation III.ix and Annex I.D];
- d) Further encourage law enforcement authorities to make full use of the broad range of investigative techniques available, including special investigative techniques and forensics [Convention Article 5, 2009 Recommendation V and Annex I.D];
- e) Provide regular training to KNAB, the PPO and the judiciary on (i) the foreign bribery offence, including complicity to commit foreign bribery under Article 1(2) of the Convention and related money laundering offences; (ii) corporate liability and proceedings to impose coercive measures; (iii) effective sanctions; (iv) investigative techniques, including special investigative techniques, forensic accounting and information technology and (v) the application of non-trial resolutions in foreign bribery cases [Convention Articles 1, 3, 5; 2009 Recommendation V, Annex I.D and Phase 2 recommendation 9(c)]; and

- f) Take steps to ensure that false accounting related to foreign bribery is fully investigated and prosecuted, where appropriate [Convention Article 5 and 8; and Phase 2 Recommendation 9(d)].
7. Regarding jurisdiction, the Working Group recommends that Latvia ensure that:
- a) The application of Latvian legal provisions on jurisdiction cover those cases where Latvian legal persons, including financial institutions, have facilitated the commission of foreign bribery; [Convention Article 4] and
 - b) KNAB's investigators and the prosecutors thoroughly explore all jurisdictional bases when foreign bribery offences take place, even in part, on the territory of Latvia [Convention Article 4].
8. With respect to investigative and prosecutorial independence, the Working Group recommends that Latvia:
- a) Take steps to ensure that government officials refrain from commenting on the performances of the Prosecutor General that risk creating the perception of political interference [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D];
 - b) Take concrete steps to comply with and raise awareness of Article 5 of the Convention among relevant government officials [Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D].
9. With respect to mutual legal assistance, the Working Group recommends that Latvia continue providing effective and timely assistance and routinely seeking MLA in foreign bribery cases [Convention Article 9; 2009 Recommendation XIII(i) and (iii)];

Recommendations for ensuring effective prevention, detection and reporting of foreign bribery

10. Regarding money laundering, the Working Group recommends that Latvia take steps to:
- a) Take additional measures to substantially increase the number of money laundering convictions in particular when predicated on foreign bribery and routinely consider whether to hold financial institutions and their personnel liable for their involvement in money laundering schemes, where relevant [Convention Article 7; 2009 Recommendation III.ii and V];
 - b) Ensure that the money laundering risk criteria triggering enhanced due diligence measures are updated on a regular basis, using Latvia's National Risk Assessment as a source of information to identify customers and transactions that pose money laundering risks [Convention Article 7; 2009 Recommendation II];
 - c) Require all financial and non-financial entities to apply enhanced due diligence and other additional AML measures on customers and transactions that represent high corruption-related money laundering risks, including business with shell companies [Convention Article 7; 2009 Recommendation II and Phase 2 Recommendation 8(b)];
 - d) Ensure the efficient operation of the FCMC by: (i) regularly reviewing the adequacy of the FCMC's resources; (ii) reviewing its criteria for the application of available sanctions; (iii) monitoring FCMC's application of sanctions in cases of violations of AML requirements

by legal and natural persons to ensure that these are effective, proportionate and dissuasive; [Convention Article 7; 2009 Recommendation II];

- e) Continue to ensure compliance of the financial sector with the AMLTFL and related regulations especially regarding banks that represent high ML risks including through comprehensive and risk based oriented on-site visits;
 - f) Provide more resources to the FIU so that it has the capacity to detect and report foreign bribery as well as raise awareness and train FIU officials on detecting bribery-related money laundering cases [Convention Article 7; 2009 Recommendation II]; and
 - g) Continue its efforts to promote and ease the exchange of information between the FIU and law enforcement authorities [Convention Articles 5 and 7; 2009 Recommendation V].
11. Regarding accounting and auditing requirements, the Working Group recommends that Latvia:
- a) (i) Extend the legislative provision applicable to listed companies to also cover non-listed companies; and (ii) incentivise companies to conduct independent internal investigations and report to competent authorities in case of reports of suspected foreign bribery. [2009 Recommendation III(iv) and X.B(iv) and Phase 2 recommendation 7(d)];
 - b) Raise awareness among external auditors of their key role in detecting foreign bribery and of the requirement for external auditors to report suspected foreign bribery to competent authorities [(2009 Recommendation III(i); and
 - c) Amend its legislation to clarify that courts, prosecutors and investigators may require an auditor to provide information for use in foreign bribery investigations [2009 Recommendation III(iv) and X.B(v); Phase 2 recommendation 7(e)].
12. With respect to tax-related measures, the Working Group recommends that Latvia ensure that the non-tax deductibility of bribe payments is enforced in foreign bribery-related enforcement actions and in particular:
- a) Ensure that law enforcement authorities routinely share information with the SRS on foreign bribery investigations as foreseen in the PPO Informative Letter of 1 June 2016; [2009 Recommendation VIII and 2009 Tax Recommendation I(ii)];
 - b) Continue to provide guidance and training on foreign bribery to tax examiners, including on the importance of detecting foreign bribery and the priority that should be given to this offence [2009 Recommendation III(i) and (iii) and VIII and 2009 Tax Recommendation I(ii)];
 - c) Strengthen its system of risk-based tax audits to more adequately take into account the risk of foreign bribery when deciding which companies to audit and integrate the indicators detailed in the OECD Bribery Awareness Handbook for Tax Examiners and Tax Auditors into this risk assessment [(2009 Recommendation VIII and 2009 Tax Recommendation I(ii))];
 - d) Take further steps to assess whether bribes to foreign public officials are effectively detected by tax authorities. [2009 Recommendation VIII and 2009 Tax Recommendation I(ii); Phase 2 recommendation 6(a) (iv)]; and
 - e) Take steps to ensure that KNAB provides regular feedback on information provided by the SRS on allegations of bribery [2009 Recommendation VIII and 2009 Tax Recommendation I(ii)].

13. Regarding corporate compliance, internal controls and ethics, the Working Group recommends that Latvia continue to encourage companies, including SMEs and SOEs, to adopt effective internal controls, ethics and compliance measures designed to prevent and detect foreign bribery [2009 Recommendation X.C].

14. Regarding awareness-raising and the reporting of foreign bribery, the Working Group recommends that Latvia:

- a) Continue its efforts to raise awareness of the foreign bribery offence and risks among Latvian officials likely to detect and report foreign bribery, including officials based in foreign embassies, and officials in contact with Latvian businesses operating abroad [2009 Recommendation III.i and IX.ii]; and
- b) Require public officials to report, directly or indirectly through an internal mechanism, to law enforcement authorities, suspected acts of bribery of foreign public officials in international business transactions detected in the course of their work. [2009 Recommendation III.iv; Phase 2 recommendation 2(b)].

15. Regarding public advantages, the Working Group recommends that Latvia:

- a) Ensure that procuring authorities routinely check debarment lists of multilateral development banks and conducting comprehensive due diligence before granting a procurement contract [Convention Article 3(4); 2009 Recommendation XI.i];
- b) Ensure that authorities in charge of disbursing ODA (i) strengthen their mechanisms to verify the accuracy of information provided by applicants to ODA-funded projects, including by routinely checking debarment lists of multilateral development banks and the Register of Punishment; and (ii) ensure that appropriate due diligence is carried out prior to the granting of ODA-funded projects [2016 Recommendation 6; Phase 2 Recommendation 5]; and
- c) Ensure that Altum (i) continue to strengthen its mechanisms to verify the accuracy of information provided by applicants to officially supported export credits, including by routinely checking the Register of Punishment; (ii) ensure that appropriate due diligence is carried out before granting supports; and (iii) provide training to its staff on preventing detecting and reporting foreign bribery [2009 Recommendation IX(i), X.C, and XII; 2006 Recommendation on Bribery and Officially Supported Export Credits].

2. Follow-up by the Working Group

16. The Working Group will follow up the issues below as case law, practice and legislation develops:

- a) The autonomous application of the definition of foreign public official [Convention Article 1];
- b) The impact of the 2017 amendment of AMLTFL Section 5 on Latvia's ability to secure money laundering convictions [Convention Article 7];
- c) The application of the corporate liability provisions in CL Section 70¹, including in cases of failure to exercise supervision or control, especially whether the burden on the prosecution to prove the "failure to exercise supervision or control" presents challenges in practice [Convention Article 2, Phase 2 Follow-up issues 16(g)];

- d) Whether successor liability can be applied before the legal predecessor has been finally convicted of foreign bribery or in the absence of existing proceedings at the time of corporate restructuring [Convention Article 2];
- e) The determination of aggravated and further aggravated foreign bribery and the application of corresponding level of sentence [Convention Articles 1 and 3];
- f) Whether the sanctions imposed in practice for foreign bribery and money laundering predicated on foreign bribery against natural and legal persons are effective, proportionate and dissuasive [Convention Articles 3 and 7];
- g) The impact of the recent reform of the court organisation in Latvia on the adjudication of foreign bribery and related money laundering cases [Convention Article 5];
- h) The coordination role played by the FIU and its effectiveness [Convention Article 5; 2009 Recommendation III.ii and V];
- i) The practical application of non-trial resolutions in foreign bribery cases, in order to ensure the predictable and transparent nature of the procedure and that the sanctions imposed in such resolutions are effective, proportionate and dissuasive [Convention, Articles 3 and 5];
- j) The application of the obligation of external auditors to report suspicions of foreign bribery to the competent authorities under Section 33(32) LSA [2009 Recommendation III.iv, IX.i and X.B.v)];
- k) Latvia's ability to provide a broad range of MLA including (i) tracing, seizure, and confiscation of proceeds of crime, (ii) bank information, (iii) information when requested in foreign bribery-related civil or administrative proceedings against a legal person by a foreign state whose legal system does not allow criminal corporate liability and (iv) the use of CPL Section 850 to decline MLA and extradition requests [Convention Article 9; 2009 Recommendation XIII.iii, v];
- l) Whether the SRS is routinely informed of bribery convictions [2009 Tax Recommendation I(ii)];
- m) Whether members of Latvia's diplomatic missions report foreign bribery allegations [2009 Recommendation III.iv, IX.i, ii]; and
- n) The implementation of the whistleblower legislation and whether adequate steps are taken to raise awareness of the protections available and whether easily accessible reporting channels are available to whistleblowers both in the public and private sectors [2009 Recommendation IX.iii].

ANNEX 1 – Phase 2 recommendations to Latvia and assessment of implementation by the Working Group on Bribery in 2017

<i>Phase 2 recommendations (2015)</i>	<i>Written Follow-up Report (2017)</i>
<i>I. Recommendations for Ensuring Effective Prevention and Detection of Foreign Bribery</i>	
1. With respect to <u>prevention and awareness-raising</u> , the Working Group recommends that Latvia:	
a) ensure that the implementation of the Corruption Prevention and Combating Guidelines for 2015-2020 gives priority to addressing (i) KNAB's efforts and capacity to detect and investigate foreign bribery allegations; (ii) the process for appointing and dismissing the Director of KNAB; (iii) the prevention, detection and enforcement of corruption-related money laundering and false accounting; and (iv) the effectiveness of Latvia's foreign bribery offence (2009 Recommendation III);	<i>Fully implemented</i>
b) continue to significantly raise awareness of foreign bribery in the private sector, including among business associations and in important sectors such as SMEs and SOEs (2009 Recommendation III).	<i>Fully implemented</i>
2. With respect to <u>reporting of foreign bribery</u> , the Working Group recommends that:	
a) the Ministry of Foreign Affairs (MOFA) continue to provide written guidance and training to MOFA staff on their obligation to detect and report foreign bribery (including through media monitoring), and on the assistance that foreign missions should give to Latvian companies about bribe solicitation (2009 Recommendation III, IX(ii) and Annex I.A);	<i>Fully implemented</i>
b) Latvia pursue its intention to put in place measures to require reporting by public officials, directly or indirectly through an internal mechanism, to law enforcement authorities of suspected acts of bribery of foreign public officials in international business transactions detected in the course of their work (2009 Recommendation III and IX(i)).	<i>Not implemented</i>
3. Regarding <u>whistleblowing</u> , the Working Group recommends that Latvia:	
a) ensure that appropriate measures are in place to protect from discriminatory or disciplinary action public and private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of foreign bribery (2009 Recommendation III and IX(iii));	<i>Not implemented</i>
b) take steps to encourage whistleblowing, including by conveying the importance of bona fide whistleblowing as a component of public and private integrity systems, raising awareness of the protections available to private sector whistleblowers, and ensuring that easily accessible	<i>Partially implemented</i>

channels are available for whistleblowers (2009 Recommendation III, IX(i) and (iii)).	
4. With respect to <u>officially supported export credits</u> , the Working Group recommends that Latvia:	
a) ensure that Altum has sufficient human and financial resources to systematically conduct adequate due diligence on all applicants for support (2009 Recommendation IX(i), X.C, and XII).	<i>Fully implemented</i>
b) ensure that Altum's anti-bribery policy and practice meet the 2006 Recommendation, (2009 Recommendation IX(i), X.C, and XII).	<i>Partially implemented</i>
c) train Altum's staff on preventing, detecting and reporting foreign bribery (2009 Recommendation IX(i), X.C, and XII).	<i>Fully implemented</i>
5. With respect to <u>official development assistance</u> (ODA), the Working Group recommends that Latvia adopt adequate measures to prevent, detect and report foreign bribery, and consider excluding companies convicted of this crime from ODA projects, if Latvia engages the private sector in future ODA-funded projects (2009 Recommendation XI).	<i>Partially implemented</i>
6. Regarding <u>taxation</u> , the Working Group recommends that Latvia:	
a) enhance the detection of bribes by (i) amending SRS Internal Regulation 38 to ensure that it covers foreign bribery as defined in CL Section 323, (ii) considering incorporating additional material from the OECD Bribery Awareness Handbook for Tax Examiners into the Regulation, (iii) taking steps to ensure that taxpayers who are at risk of committing foreign bribery are identified for tax audits, and (iv) assessing whether bribes are effectively detected by tax authorities as per the 2009 Tax Recommendation I(ii) (2009 Recommendation VIII and 2009 Tax Recommendation I(ii));	<i>Partially implemented</i>
b) take steps to require that prosecutors request SRS to conduct an assessment of an alleged offender's tax return under Section 23(41) of the Law on Taxes and Fees in all foreign bribery cases (2009 Recommendation VIII);	<i>Fully implemented</i>
c) continue to raise awareness of foreign bribery among tax officials and taxpayers, and provide additional training to tax examiners on bribe detection (2009 Recommendation III, VIII and 2009 Tax Recommendation II).	<i>Fully implemented</i>
7. With respect to <u>accounting requirements, external audit and internal company controls</u> , the Working Group recommends that Latvia:	
a) take steps to encourage companies to develop, adopt and effectively implement adequate internal controls, ethics and compliance programmes or measures for the purpose of preventing and detecting foreign bribery; and encourage business and professional associations to develop similar	<i>Fully implemented</i>

programmes or measures in their efforts to assist companies, particularly SMEs (2009 Recommendation III and X.C(i));	
b) ensure that guidance on internal controls for SOEs in the anti-corruption area explicitly deals with foreign bribery (2009 Recommendation III and X.C(i));	<i>Not implemented</i>
c) take further steps to raise awareness of foreign bribery among external auditors, including by providing training on detecting foreign bribery (2009 Recommendation III(i));	<i>Fully implemented</i>
d) take effective steps to encourage companies that receive reports of suspected acts of foreign bribery from an external auditor to actively and effectively respond to such reports (2009 Recommendation III(iv) and X.B(iv));	<i>Partially implemented</i>
e) enact the legislative amendment to require external auditors to report foreign bribery to competent authorities as soon as possible; and further amend its legislation to clarify that courts, prosecutors and investigators may require an auditor to provide information for use in foreign bribery investigations (2009 Recommendation III(iv) and X.B(v)).	<i>Partially implemented</i>
8. With regards to <u>money laundering</u> , the Working Group recommends that Latvia:	
a) amend the AMLTFL to ensure that all categories of politically exposed persons (PEPs) are covered (Convention Article 7; 2009 Recommendation III(ii));	<i>Fully implemented</i>
b) require all regulated entities to apply enhanced due diligence and other additional anti-money laundering measures when evaluating non-residents who pose money laundering risks (Convention Article 7; 2009 Recommendation II);	<i>Fully implemented</i>
c) enhance the detection of money laundering by (i) ensuring that the FIU has sufficient resources to analyse all STRs and UTRs and forward information related to foreign bribery to KNAB, and (ii) providing additional guidance, typologies and training to regulated entities that specifically address the reporting of money laundering related to corruption and foreign bribery, especially money laundering by non-resident bank clients (Convention Article 7; 2009 Recommendation III(i));	<i>Partially implemented</i>
d) take steps to ensure compliance with the AMLTFL by (i) increasing the FCMC's resources; (ii) ensuring that on-site inspections of regulated entities, including their overseas offices, are conducted at a frequency that is commensurate with an entity's risk of assisting or facilitating money laundering; (iii) giving greater priority to inspecting banks that specialise in non-resident deposits; (iv) examining why the FCMC and/or reporting entities failed to detect the instances of alleged money laundering that have been reported in the media and taking appropriate remedial action;	<i>Partially implemented</i>

and (v) commence proceedings against the relevant natural and legal persons when breaches of the AMLTFL are detected (Convention Article 7; 2009 Recommendation II);	
e) take immediate steps to increase enforcement of its money laundering offence (Convention Article 7; 2009 Recommendation III(ii)).	<i>Partially implemented</i>
II. Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery and related offences	
9. With respect to the <u>investigation and prosecution</u> of foreign bribery and related offences, the Working Group recommends that Latvia:	
a) take steps to ensure that KNAB investigators systematically have in-depth discussions with the supervising prosecutor in all foreign bribery cases (Convention Article 5 and Commentary 27; 2009 Recommendation V and Annex I.D);	<i>Fully implemented</i>
b) (i) establish clear rules to ensure that all allegations of foreign bribery are systematically transmitted to KNAB for investigation, (ii) ensure that all credible foreign bribery allegations are proactively investigated, and (iii) make full use of the broad range of investigative measures available, as appropriate (Convention Article 5 and Commentary 27; 2009 Recommendation II, V and Annex I.D);	<i>Fully implemented</i>
c) provide regular training to KNAB, the PPO and the judiciary on (i) the foreign bribery offence and related offences, (ii) legal person liability; (iii) confiscation measures; (iv) investigative techniques, including forensic accounting and information technology and (v) the application of settlements in foreign bribery cases, including on the 2014 guidance on effective regret (Convention Article 5 and Commentary 27; 2009 Recommendation II, V and Annex I.D);	<i>Partially implemented</i>
d) take steps to ensure that false accounting related to foreign bribery is fully investigated and prosecuted where appropriate (Convention Article 5 and Commentary 27; 2009 Recommendation Annex I.D);	<i>Fully implemented</i>
e) make public, where appropriate and in conformity with applicable rules, available information about the settlements in foreign bribery cases, including the facts, the reason for settlement, the terms of the settlement, and any sanctions imposed (Convention Article 5 and Commentary 27; 2009 Recommendation V and Annex I.D);	<i>Not implemented</i>
f) take steps to ensure that KNAB's investigations proceed without undue delay (Convention Article 6 and 2009 Recommendation V).	<i>Fully implemented</i>

10. With respect to the <u>capacity and independence of KNAB</u> , the Working Group recommends that Latvia:	
a) ensure that personnel issues do not interfere with KNAB's ability to investigate foreign bribery (Convention Article 5 and Commentary 27; 2009 Recommendation II, III(i), V and Annex I.D);	<i>Partially implemented</i>
b) amend its legislation to (i) clarify the statutory grounds for dismissal of KNAB Director; and (ii) specify the composition of the committee on dismissal and (iii) permit dismissal only where the committee finds grounds (Convention Article 5 and Commentary 27; and 2009 Recommendation V and Annex I.D);	<i>Fully implemented</i>
c) take steps to ensure that the government continues to refrain from comments that risk creating the perception of political interference in KNAB (Convention Article 5 and Commentary 27; 2009 Recommendation V and Annex I.D);	<i>Fully implemented</i>
d) raise awareness of Article 5 of the Convention among KNAB and other relevant government officials (Convention Article 5 and Commentary 27; 2009 Recommendation V and Annex I.D).	<i>Fully implemented</i>
11. Regarding <u>statistics</u> , the Working Group recommends that Latvia:	
a) provide detailed enforcement data on KNAB's enforcement record, including on the number of complex cases and successfully concluded cases (Convention Article 5 and Commentary 27; and 2009 Recommendation V and Annex I.D);	<i>Fully implemented</i>
b) maintain comprehensive statistics on (i) delay in proceedings and cases that are time-barred; and (ii) incoming and outgoing MLA and extradition requests, including on the offences involved, assistance requested, and time required for execution; (Convention Articles 5, 6, 9; 10 and Commentary 27; 2009 Recommendation V and Annex I.D).	<i>Fully implemented</i>
12. With respect to <u>MLA and extradition</u> , the Working Group recommends that Latvia:	
a) take all necessary measures to ensure that MLA can be provided in foreign bribery-related non-criminal proceedings against a legal person (Convention Article 9; 2009 Recommendation III(ix) and XIII(iv));	<i>Fully implemented</i>
b) amend its legislation to expressly require the prosecution of Latvian individuals whose extradition has been refused solely on grounds of nationality, such as by revising the draft amendment of the CPL currently being considered by Parliament (Convention Article 10; 2009 Recommendation III(ix) and XIII(iv)).	<i>Fully implemented</i>

13. With respect to the <u>foreign bribery offence</u> , the Working Group recommends that Latvia amend its legislation to ensure that:	
a) the requirement of direct intent as defined in Latvian law is consistent with Article 1 of the Convention (Convention Article 1);	<i>Not implemented</i>
b) the offence explicitly covers (i) the promise of a bribe, and (ii) bribery of officials of any organised foreign area or entity, such as an autonomous territory or a separate customs territory (Convention Article 1; 2009 Recommendation III(ii) and V).	<i>Partially implemented</i>
14. With respect to the <u>liability of legal persons</u> , the Working Group recommends that Latvia:	
a) provide guidance to practitioners on the interpretation of the corporate liability regime in CL Section 701, including through interpretive manuals and training (Convention Article 2; 2009 Recommendation Annex I.B);	<i>Fully implemented</i>
b) amend the CPL to ensure that proceedings against a legal person for foreign bribery can be initiated where the natural person who committed the bribery has died or has been convicted (Convention Articles 2 and 3; 2009 Recommendation III(ii) and Annex I.B).	<i>Fully implemented</i>
15. With respect to <u>sanctions and confiscation</u> for foreign bribery and related offences, the Working Group recommends that Latvia:	
a) enact the draft amendment to (i) CL Section 322 and raise the maximum prison sentence for intermediaries to five years and (ii) raise maximum monetary sanctions for foreign bribery, false accounting and money laundering (Convention Article 3(1));	<i>Fully implemented</i>
b) take steps to ensure that the sanctions imposed in practice for (i) false accounting, (ii) foreign bribery against natural and legal persons, including in plea agreements, are effective, proportionate and dissuasive (Convention Articles 3 and 8);	<i>Partially implemented</i>
c) take steps to ensure that law enforcement authorities and prosecutors routinely seek confiscation in corruption cases (Convention Article 3(3)).	<i>Fully implemented</i>
<i>III. Follow-up by the Working Group</i>	
16. The Working Group will follow up the issues below, as practice develops, in order to assess:	
a) The provision of tax information to foreign authorities for use in foreign bribery investigations (2009 Recommendation III(iii); 2009 Tax Recommendation I);	<i>Continue to follow up</i>
b) Whether future appointments of the Director of KNAB are based on competence and without any	<i>Continue to follow up</i>

real or perceived political interference (Convention Article 5);	
c) Whether Latvia can provide confiscation as MLA in foreign bribery cases (Convention Articles 3(3) and 9);	<i>Continue to follow up</i>
d) Whether factors listed in Article 5 of the Convention influence the granting of MLA or extradition by Latvia in foreign bribery cases (Convention Articles 5, 9 and 10);	<i>Continue to follow up</i>
e) Whether Latvia's foreign bribery offence covers bribes paid in return for any use of the public official's position, whether or not within the official's authorised competence (Convention Article 1);	<i>Continue to follow up</i>
f) The interpretation of the term "in the interest of the giver or person offering the bribe, or in the interest of other persons" in CL Section 323 (Convention Article 1);	<i>Continue to follow up</i>
g) The application of the corporate liability provisions in CL Section 701 (Convention Article 2);	<i>Continue to follow up</i>
h) The sanctions imposed in practice against natural persons for money laundering and breaches of the AMLTFL (Convention Articles 3, 7 and 8; 2009 Recommendation III(ii)).	<i>Continue to follow up</i>

ANNEX 2 - Legislative extracts

Foreign bribery Offence

Criminal Law Section 323 Giving of Bribes (as amended on 7 April 2016)

(1) For a person who commits giving or offering or promising *if requested of bribes*, that is, material values, properties or benefits of other nature in person or through intermediaries to a public official in order that he or she, using his or her official position, performs or fails to perform some act in the interests of the giver or person offering or promising the bribe, or in the interests of other persons, irrespective of whether the bribe promised, offered or given is for this public official or for any other person, the applicable punishment is deprivation of liberty for a period up to five years or temporary deprivation of liberty, or community service, or a fine.

(2) For a person who commits the same acts, if commission thereof is on a large scale or if they have been committed by a State official, or also if they have been committed in a group of persons pursuant to prior agreement, the applicable punishment is deprivation of liberty for a term not exceeding eight years, with or without confiscation of property and with deprivation of the right to engage in specific employment or to take up a specific office for a term not exceeding five years.

(3) For the acts provided for in Paragraph one of this Section, if committed in an organised group, the applicable punishment is deprivation of liberty for a term of not less than two and not exceeding ten years, with or without confiscation of property, with deprivation of the right to engage in specific employment or to take up a specific office for a term not exceeding five years and with probationary supervision for a term not exceeding three years.

Criminal Law Section 322 Intermediation in Bribery

(1) For a person who commits intermediation in bribery, that is, acts manifested as the handing over of a bribe or the offering thereof from the giver of the bribe to a person accepting the bribe, the applicable punishment is deprivation of liberty for a term not exceeding four years or temporary deprivation of liberty, or community service or a fine.

(2) For a person who commits the same acts, if they have been committed by a State official, the applicable punishment is deprivation of liberty for a term of not less than two and not exceeding ten years, with or without confiscation of property.

Criminal Law Section 316 Concept of a State Official

(1) Representatives of State authority, as well as every person who permanently or temporarily performs his or her duties in the State or local government service, including in a State or local government capital company, and who has the right to make decisions binding upon other persons, or who has the right to perform any functions regarding supervision, control, investigation, or punishment or to deal with the property or financial resources of a public person or its capital company, shall be considered to be public officials.

(2) The President, members of the Saeima, the Prime Minister and members of the Cabinet as well as officials of State institutions who are elected, appointed or confirmed by the Saeima or the Cabinet, heads of local government, their deputies and executive directors shall be considered to be public officials holding a responsible position.

(3) Officials or agents of international organisations, international parliamentary assemblies and international courts, as well as any person holding a legislative, administrative or judicial office of a foreign state or of any its administrative unit, whether such appointed or elected, as well as any person exercising

a public function for a foreign state, including for any of its administrative units or public agency or public enterprise shall also be considered a public official.

(4) Within the meaning of this Section a foreign state is any territory outside the Republic of Latvia.

Corporate Liability

Criminal Law Section 70¹. Basis for the Application of Coercive Measures to Legal Persons

For the criminal offences provided for in the Special Part of this Law, coercive measures may be applied by a court or in the cases provided in law by a public prosecutor to a private law legal person, including a state or a municipal capital company, as well as a partnership, if the criminal offence has been committed in the interests or for the benefit of the legal person or as a result of a lack of supervision or control by a natural person acting as an individual or as a member of the collegial institution of the relevant legal person: (1) on the basis of a right to represent the legal person or to act on behalf of such legal person; (2) on the basis to take decisions in the name of such legal person, (3) realising control within the scope of the legal person.

Criminal Procedure Law Section 439. Procedures for Criminal Proceedings

(1) If it has been ascertained during the course of criminal proceedings that, most likely, there are grounds for the application of a coercive measure, a person directing the proceedings shall take a reasoned decision that proceedings are initiated for the application of a coercive measure to a legal person. The person directing the proceedings shall notify the relevant legal person by sending a copy of the decision, as well as informing regarding the rights and duties thereof.

(2) Proceedings for the application of a coercive measure to a legal person shall take place within the framework of the criminal proceedings initiated in accordance with the procedures laid down in this Law.

(3) The person directing the proceedings may, by means of a decision, isolate the proceedings regarding the application of a coercive measure to a legal person in separate records in the following cases:

- 1) The criminal proceedings against a natural person are terminated on the basis of reasons other than exoneration;
- 2) Circumstances have been established that prevent clarifying whether a particular natural person should be held criminally liable, or transfer of the criminal case to the court is not possible in the nearest future (within a reasonable period of time) due to objective reasons;
- 3) In order to settle criminal legal relations in a timely manner with a natural person who has the right to defence;
- 4) It is requested by the representative of the legal person.

(3¹) A procedurally authorised official may initiate proceedings for the application of a coercive measure to a legal person also in cases when it has been refused to initiate criminal proceedings or they have been terminated on the basis of non-exonerating circumstances, and the grounds for initiating the proceedings against a legal person laid down in Paragraph one of this Section have been ascertained.

(4) The decision by means the proceedings regarding the application of a coercive measure to a legal person are isolated in separate records shall be attached the copies of the materials of the separated criminal case and their list.

(5) The decision by means of which the proceedings regarding the application of a coercive measure to a legal person are isolated in separate records shall not be subject to appeal.

(6) Proceedings isolated in separate records regarding the application of a coercive measure to a legal person or proceedings regarding the application of a coercive measure to a legal person in the cases laid down in Paragraph 3.¹ of this Section shall take place in conformity with the general procedures laid down in this Law, unless it has been laid down otherwise in this Law.

Sanctions

Criminal Law Section 41. Fines

(1) A fine is a monetary amount imposed for payment by a court or a public prosecutor in favour of the State within 30 days in the amount set out in this Section as a basic punishment, but the court - also as an additional punishment.

(2) A fine as a basic punishment proportionate to the harmfulness of the criminal offence and the financial status of the offender shall be determined:

- 1) For a criminal violation - in the amount of three and up to one hundred minimum monthly wages specified in the Republic of Latvia;
- 2) For a less serious crime - in the amount of five and up to one thousand minimum monthly wages specified in the Republic of Latvia;
- 3) For a serious crime for which deprivation of liberty for a period not exceeding five years is provided for in this Law - in the amount of ten and up to two thousand minimum monthly wages specified in the Republic of Latvia.

Criminal Law Section 70.² Types of Coercive Measures Applicable to a Legal Person

(1) For a legal person one of the following coercive measures may be specified:

- 1) Liquidation;
- 2) Restriction of rights;
- 3) Confiscation of property;
- 4) Recovery of money.

(2) For a legal person one or several of the coercive measures provided for in Paragraph one of this Section may be applied. In applying liquidation, other coercive measures shall not be specified.

(3) The procedures for executing coercive measures shall be determined in accordance with the law.

(4) For a criminal violation, a less serious crime or a serious crime for which deprivation of liberty for a period of up to five years is provided for in the Special Part of this Law a public prosecutor, in drawing up a penal order regarding the coercive measure, may determine the recovery of money or restriction of rights as a coercive measure to a legal person.

Criminal Law Section 70.⁶ Recovery of money

(1) The recovery of money is a sum of money which is imposed by a court or public prosecutor to be paid for the benefit of the State within 30 days in the amount laid down in this Section.

(1¹) The recovery of money proportionate to the harmfulness of the criminal offence and the financial status of the legal person shall be determined:

- 1) For a criminal violation - in the amount of five and up to ten thousand minimum monthly wages prescribed in the Republic of Latvia;
- 2) For a less serious crime - in the amount of ten and up to fifty thousand minimum monthly wages prescribed in the Republic of Latvia;
- 3) For a serious crime - in the amount of twenty and up to seventy five thousand minimum monthly wages prescribed in the Republic of Latvia;
- 4) For an especially serious crime - in the amount of thirty and up to hundred thousand minimum monthly wages prescribed in the Republic of Latvia.

Money laundering offence

Section 5 (1) of the AML/CFT Law

(1) The following actions are money laundering:

- 1) The conversion of proceeds of crime into other valuables, transfer of their location or ownership, being aware that that these funds are proceeds of crime and if such actions are carried out for the purpose of concealing or disguising the illicit origin of funds or assisting any person who is involved in committing of a criminal offence in evading the legal liability;
- 2) The concealment or disguise of the true nature, origin, location, disposition, movement, ownership of proceeds of crime, being aware that these funds are proceeds of crime;
- 3) The acquisition, possession, use or disposal of the proceeds of crime of another person, while being aware that these funds are the proceeds of crime.

(1¹) The actions referred to in Paragraph one, Clauses 1, 2, and 3 of this Section, when a person deliberately assumed the funds to be proceeds of crime, shall also be regarded as money laundering.

ANNEX 3 - List of Participants in the On-Site Visit

Government Ministries and Agencies

- Control Service of the Financial Intelligence Unit - FIU
- Financial and Capital Market Commission (FKTK), including
 - Compliance Control Department
 - External Relations Division
 - Legal and Licensing Department
 - Supervision Department
- Ministry of Interior
- Ministry of Finance (MOF)
 - Accounting and Audit Policy Department
 - Direct Tax Department
 - Legal Acts Department
- Ministry of Foreign Affairs (MOFA)
 - Development Cooperation Policy Division
- Ministry of Justice (MOJ)
 - Criminal Law Department
 - Department of Judicial Cooperation
- Prosecutor General's Office (PGO), including
 - Division for Investigation of Especially Serious Cases, Criminal Justice Department
 - International Cooperation Division, Department of Analysis and Management
 - Methodology Division, Department of Analysis and Management
- Public Prosecutors' Office (PPO)
 - Prosecution Office for Financial Crime
 - Prosecution Office for Organised Crime
- Public Procurement Bureau
- State Chancellery
- State Revenue Service (SRS)

Parliamentarians

- Members of *Saeima*
 - Budget Committee
 - Judicial Committee
 - Defence, Internal Affairs and Corruption Prevention Committee

Law enforcement authorities

- Corruption Prevention and Combating Bureau (KNAB)
 - 1st Department (Strategy)
 - 2nd Department (Criminal Investigation)
- Internal Security Bureau
- State Police (SP)
 - Economic Unit
 - Finance Unit

Judiciary

- City of Riga Latgale Urban District Court
- Zemgale District Court
- Vidzeme District Court
- Latvian Judicial Training Centre (LJTC)

Private Sector

Private enterprises

- ARČERS Ltd (construction)
- AS Latvenergo (energy)
- AS Latvijas Gaze (energy)
- KEMEK Engineering Ltd (construction)
- Mintos (financial services)
- Olainfarm (construction)

- Eurorisk Ltd (insurance)
- Food Union (food)
- Itera Latvija , SIA (energy)

- SIA Business Latvia Accounting

Business associations

- Business Union of Latvia
- Employers' Confederation of Latvia (LDDK)
- Finance Latvia Association
- Latvian Chamber of Commerce and Industry (LCCI)
- Partnership of Latvian Construction Entrepreneurs

Financial institutions

- ALTUM (state-owned development finance institution)
- Baltic International Bank
- BlueOrange Bank
- Mintos (financial services)
- Reģionālā investīciju banka (RIB)
- Rietumu Banka
- SEB Banka
- Swedbank

Legal profession and academics

- Council of Sworn Notaries of Latvia
- Latvian Council of Sworn Advocates
- Academic from the University of Latvia
- Academic from the Turība University

Accounting and auditing profession

- Association of Accountants of the Republic of Latvia (AAR)
- Audit Consultative Council
- KPMG Latvia
- Latvian Association of Sworn Auditors
- PricewaterhouseCoopers SIA
- SIA Deloitte Latvia
- SIA Ernst&Young Baltic
- SIA Potapoviča un Andersone

Civil Society and media

- Delna Society for Transparency (Transparency International Latvia)
- LETA
- LTV
- Thomson Reuters
- TV3
- Žurnāls IR

ANNEX 4 – List of Abbreviations and Acronyms

AAL	Annual Accounts Law	LPO	Law on Prosecution Office
AML	Anti-Money Laundering	MAAC	Multilateral Convention on Mutual Administrative Assistance in Tax Matters
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism	MLA	Mutual Legal Assistance in criminal matters
AMLTFLL	Prevention of Money Laundering and Terrorism Financing Law	MMW	Minimum Monthly Wage (EUR 430 at the time of this report)
CDD	Customer Due Diligence	MOF	Ministry of Finance
CEO	Chief Executive Officer	MOFA	Ministry of Foreign Affairs
CIS	Commonwealth of Independent States	MOJ	Ministry of Justice
CL	Criminal Law	MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Council of Europe)
CPL	Criminal Procedure Law	NGO	Non-Governmental Organisation
DNFBP	Designated Non-Financial Businesses and Profession	NRA	National Risk Assessment
DOJ	US Department of Justice	ODA	Official Development Assistance
DPA	Deferred Prosecution Agreement	OECD	Organisation for Economic Cooperation and Development
ER	Enterprise Register	PEP	Politically Exposed Person
EU	European Union	PGO	Prosecutor General's Office
EUR	Euro	PPL	Public Procurement Law
EUROPOL	European Union Agency for Law Enforcement Cooperation	PPO	Public Prosecutor's Office
FATF	Financial Action Task Force	RSF	Reporters Without Borders
FCMC	Financial and Capital Market Commission	SAO	State Audit office
FDI	Foreign Direct Investment	SEC	US Security Exchange Commission
FinCEN	U.S. Department of the Treasury's Financial Crimes Enforcement Network	SME	Small and Medium-sized Enterprise
FIU	Financial Intelligence Unit	SOE	State-Owned or State-Controlled Enterprise
GDP	Gross Domestic Product	SP	State Police
GDPR	EU General Data Protection Regulation	SRS	State Revenue Service
IAS	International Accounting Standards	STR	Suspicious Transaction Report
IOL	Investigatory Operations Law	TFL	Taxes and Fees law
IOTA	Intra-European Organisation of Tax Administrations	UBO	Ultimate Beneficial Ownership
ISA	International Standards on Auditing	UN	United Nations
JIT	Joint Investigative Team	UNCTAD	United Nations Conference on Trade and Development
KNAB	Corruption Prevention and Combating Bureau	UTR	Unusual Transaction Report
LASA	Latvian Association of Sworn Auditors	USD	United States Dollar
LED	European Union Law Enforcement Directive	WGB	OECD Working Group on Bribery in International Business Transactions
LEIT	Enterprise Income Tax Law		
LIAA	Investment and Development Agency of Latvia		
LSA	Law on Audit Services		