



Anti-money laundering and counter-terrorist financing measures

Malta

1st Enhanced Follow-up Report

April 2021



The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism -

MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

The 1st Enhanced Follow-up Report on Malta was adopted by the MONEYVAL Committee at its 61st Plenary Session (Strasbourg, 28-30 April 2021).

All rights reserved. Reproduction is authorised, provided the source is acknowledged, save where otherwise stated. For any use for commercial purposes, no part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc.) or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission in writing from the MONEYVAL Secretariat, Directorate General of Human Rights and Rule of Law, Council of Europe (F-67075 Strasbourg or moneyval@coe.int)

Malta: First Enhanced Follow-up Report

1. INTRODUCTION

1. The mutual evaluation report (MER) of Malta was adopted in July 2019. This 1st enhanced follow-up report (FUR) analyses the progress of Malta in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since Malta's MER was adopted: Recommendation 15. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Malta has made to improve its effectiveness.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Malta as follows for technical compliance:

- **Table 1. Technical compliance ratings, July 2019**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	C	LC	LC	C	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	LC	PC	LC	PC	LC	LC	LC	C	PC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	LC	LC	PC	LC	PC	LC	PC	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	C	LC	LC	PC	LC	PC	C	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

- Source: The Malta Mutual Evaluation Report, July 2019, <https://www.coe.int/en/web/moneyval/jurisdictions/malta>.

3. Given the results of the MER, Malta was placed in enhanced follow-up¹. The Plenary invited Malta to submit the first enhanced follow-up report for the 61st MONEYVAL Plenary in April 2021.

4. The assessment of Malta's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Jersey
- Italy

5. Section III of this report summarises Malta's progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Malta to improve its technical compliance by:
- a) Addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (Recommendations 8, 13, 20, 24, 26, 28, 36, and 38), and
 - b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (Recommendation 15).

3.1. Progress to address technical compliance deficiencies identified in the MER

7. Malta has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Malta has been re-rated on Recommendations 8, 13, 20, 24, 26, 28, 36, and 38.

8. Current analysis takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at least 6 months before the update report is due to be discussed by the Plenary. Respectively the Rapporteur team did not analyse or verify continuous efforts (legislative and other) made by Malta to improve its compliance with the FATF Standards after the deadline.

Recommendation 8 (Originally rated PC – re-rated as LC)

9. In its 5th round MER, Malta was rated PC with Recommendation 8, based on: the absence of analysis to identify the subset of non-enrolled Voluntary Organisations (VOs) which by virtue of their activities or characteristics are likely to be at risk of TF abuse, using relevant sources of available information, therefore the risk assessment of the VO sector was not comprehensive (c.8.1(a)); lack of identification of the nature of threats posed by terrorist entities to the VOs which are at risk as well as how terrorist actors abuse those VOs (c.8.1(b)); lack of provisions on the periodic reassessment of the sector’s potential vulnerabilities to terrorist activities (c.8.1(d)); lack of outreach to raise awareness amongst the donor community (8.2(b)); lack of measures taken to encourage VOs to conduct transactions via regulated financial channels, whenever feasible (c.8.2(d)); lack of risk- based measures applied to monitor or supervise the VOs (c.8.3 and 8.4(a)); lack of co-operation with the Registers for Legal Persons and for Trusts (c.8.5(a)); and, the absence of specific information on the procedures to respond to international requests to the Commissioner for Voluntary Organisations (CVO) in Malta for information regarding particular VOs suspected of TF (c.8.6).

10. To address the deficiencies identified in the MER for c.8.1(a), Malta informed that the Office of the Commissioner for Voluntary Organisations (OCVO) set up a dedicated structural unit and deployed resources for an ongoing monitoring and detection of non-enrolled VOs that fall within the FATF definition of NPO, and conducting a further risk assessment. Respectively, since the adoption of the MER, the OCVO detected 403 VOs suspected of being non-enrolled. Further analysis of these VOs revealed that only 1 VO has been found to fall under the scope of the FATF definition. The OCVO analysed the risks associated with this 1 VO and enrolled it.

11. To address the deficiencies identified in the MER for c.8.1(b), Malta took steps to identify risks related to VOs (see also c.24.2). According to findings the terrorist actors can pose a threat by misusing the most vulnerable VOs, which include the ones that work in international development and humanitarian aid; carry out projects worldwide, and also offer financial support to Maltese missionaries abroad; VOs which are based on ethnicity and diaspora groups, due to the uncontrolled remittances; and VOs depend on public collections. Analysis of the nature of the

threat and the ways how the VOs can be abused by the terrorist actors suggests that this can be done through: VO funding; use of VO assets; use of a VO's name and status; abuse from within a VO; and, set up VOs for illegal or improper purposes.

12. To address the deficiencies identified in the MER for c.8.1(d), Malta provided the Voluntary Organisations Act (VOA) which stipulates that the OCVO should review periodically new information on the voluntary sector's potential vulnerabilities to the funding of terrorism (Article 7). In addition, Malta has conducted assessment of the sector's potential vulnerabilities to terrorist activities in 2018, which was followed by the reassessment in 2019. The authorities also informed that Malta has launched the update of the 2021/2022 National Risk Assessment. This assessment would also include the assessment of TF risks associated with VOs.

13. To address the deficiencies identified in the MER for c.8.2(b), Malta informed that OCVO reached out: the public entities forbidding provision of public funds to VOs which are not enrolled and that those enrolled, need to be compliant. In addition, the OCVO reached out to the Individual Investors Programme Agents with the same advice.

14. Malta advised that the OCVO has reached out the general public through a written media. Analysis of this did not suggest that this concerned potential vulnerabilities of VOs to TF abuse or TF risks.

15. To address the deficiencies identified in the MER for c.8.2(d), Malta took steps to address the systemic issue - VOs being outside the risk appetite of reporting entities. In particular, negotiations were conducted with the Malta Bankers Association and some separate financial institutions (FIs) to revisit the set practice, the MFSA's Banking Supervision Unit addressed the banking sector with a clarification on the ways banks may handle the risks posed by the VOs, and the OCVO proactively supported the VOs for opening the bank accounts. These steps demonstrate the commitment of the Maltese authorities to support the VOs' access to the formal financial sector, but do not demonstrate the encouragement of the VO sector itself to be engaged with the financial sector.

16. The OCVO suggested that it encourages VOs to conduct transactions via regulated financial channels extensively discussing this issue during the workshops held on 11, 17, 18, 23, 25, 27, October 2018; 21 and 28 November 2019; 18 June, 25 August and 28th October 2020. This action while welcomed does not, however, fully meet the expectations, as described in the FATF Best Practices on Combating the Abuse of Non-Profit Organisations (Recommendation 8) from June 2015.

17. To address the deficiencies identified in the MER for c.8.3, Malta revised the VO Act (Art. 12B and 22B) introducing a number of risk-based measures that are in line with the examples provided in the Interpretive Note to Recommendation 8 (para.6(b)).

18. To address the deficiencies identified in the MER for c.8.4(a), Malta revised the VO Act (Art.7(1(b))) to ensure the powers of the Commissioner of VOs to perform monitoring of the VOs' activities in order to ensure observance of the legislative and other requirements. These include also compliance of VOs with the measures described under c.8.3.

19. To address the deficiencies identified in the MER for c.8.5(a), Malta put in place necessary arrangements - regulatory framework and memorandum of understanding - that enable co-operation, co-ordination and information sharing on VOs amongst the Malta Business Register (MBR), Malta Financial Services Authority (MFSA) and the OCVO.

20. To address the deficiencies identified in the MER for c.8.6, the CVO approved OCVO Standard Operating Procedures Manual (Section 17) that sets out the procedure for handling foreign requests for information, including regarding any particular VO suspected of TF.

21. Overall, Malta took measures to address most of the deficiencies identified in the MER. Concerns remain with outreach to donor community on VO vulnerabilities and encouragement of VOs to conduct transactions via regulated financial channels. **Recommendation 8 is therefore re-rated Largely Compliant.**

Recommendation 13 (Originally rated PC – re-rated as LC)

22. In its 5th round MER, Malta was rated PC with Recommendation 13, based on: the application of mandatory measures regarding correspondent banking relationships only to respondent institutions outside the EU (c.13.1); lack of requirement for correspondent banks to determine if the respondent has been subject to a ML/TF investigation or regulatory action (c.13.1(a)); lack of requirement to clearly understand the respective responsibilities (c.13.1(d)); application of measures only to non-EU respondents (c. 13.2 and 13.3).

23. To address the overarching deficiency identified in the MER for c.13.1-13.3 with respect to application of respective measures regarding correspondent banking not only to respondent institutions outside the EU but also inside the EU, Malta introduced amendments into the FIAU Implementing Procedures Part I (IPP I) extending the application of the enhanced measures in line with c.13.1 (a)-(d), and other respective measures in line with c.13.2-13.3 to EU respondent institutions, but only where such relationship is considered to be higher risk. The IPP I provides that when carrying out a customer risk assessment the correspondent relationship is to be deemed a high risk factor (Section 3.5.3.). Hence, the FATF standard is still not fully met, as the enhanced measures are still not mandatory for all cross-border correspondent banking and other similar relationships with EU respondent institutions. However, Malta has also issued a guidance specifying that all correspondent relationships should be considered to be higher risk, including intra-EU relationships. Further, the majority of Maltese correspondent relationships are with non-EU respondent institutions, so the deficiency is not a material one. The combination of the guidance and the limited materiality render this deficiency minor.

24. In addition, the amendments to the PMLFTR (Reg. 11(3(a))) explicitly require banks to determine whether the respondent institution has been subject to ML/TF investigations or regulatory action, and the amendments to the PMLFTR (Reg. 11(3(d))) explicitly require banks to understand the respective responsibilities of each institution.

25. Overall, Malta took measures to address most of the deficiencies identified in the MER. Minor concerns remain with the risk-based application of measures to respondent institutions in the EU, and these are, to some extent, alleviated by the guidance issued to industry and the limited impact of the deficiency in terms of the limited number of intra-EU correspondent relationships. **Recommendation 13 is therefore re-rated Largely Compliant.**

Recommendation 20 (Originally rated PC – re-rated as C)

26. In its 5th round MER, Malta was rated PC with Recommendation 20, as the mechanism to file STRs casts doubts on the fulfilment of the obligation to do so “promptly” (c.20.1); the legislation did not clearly and expressly include also the attempted transactions among those to be reported by the subject persons (c.20.2).

27. To address the deficiencies identified in the MER for c.20.1, Malta amended PMLFTR (Reg.15(3)) to clearly require that the FIs make a disclosure to the FIAU “promptly”. In accordance with the amended IPP I (Chapter 5) “The FIAU expects such a report to be made by not later than the next working day.”

28. To address the deficiencies identified in the MER for c. 20.2, Malta amended the PMLFTR (Reg. 15(3)) to clearly require that the FIs make a disclosure to the FIAU also on attempted transactions. This requirement is further explicitly reflected also in the IPP I (Chapter 5).

29. Overall, Malta took measures to address all deficiencies. **Recommendation 20 is therefore re-rated Compliant.**

Recommendation 24 (Originally rated PC – re-rated as LC)

30. In its 5th round MER, Malta was rated PC with Recommendation 24, as an in-depth analysis of how all types of Maltese legal persons and legal arrangements could be used for ML/TF purposes was not finalised (c.24.2); the shortcomings in applied mechanisms called into question the accuracy of beneficial ownership (BO) information (c.24.7-24.8); there is no explicit legal requirement for a liquidator to retain BO information (c.24.9); financial sanctions were not dissuasive and proportionate in respect of failing to submit BO information to the Registries in respect of companies, commercial partnerships and foundations (c.24.13); no information was provided on how the AG Office or the MFSA and MGA monitor the quality of assistance received from other countries (c.24.15).

31. To address the deficiencies identified in the MER for c.24.2, Malta conducted a sectoral risk assessment focusing on the ML/TF risk associated with all types of legal entities and legal arrangements (including the voluntary organisations). Malta developed a set of recommendations for the public and private sectors and adopted an Action Plan. Documents are published on the National Coordinating Committee website².

32. To address the deficiencies identified in the MER for c.24.7-24.8, Malta introduced amendments into the BO Regulation, and enhanced the powers and capacities of the Malta Business Registry (MBR).

33. The MER suggested that the Maltese authorities take a multi-pronged approach (combination of three mechanisms) to obtaining BO information in a timely manner on legal persons incorporated under Maltese law and legal arrangements, but deficiencies were identified.

34. Out of three, the two mechanisms are based on collecting information through (i) company formation services (company service providers, lawyers, accountants and trustees, as a source of information) and (ii) banking services (banks as a source of information through servicing the accounts opened due to share capital requirements).

35. These two mechanisms had weaknesses. Legal entities were not required to be set up by persons who are regulated and/or subject persons. Lawyers providing company services were exempt from registration with the MFSA. There were no requirements for the share capital be deposited in a Maltese bank subject to AML/CFT supervision. There was no progress demonstrated by Malta with respect to these two mechanisms as described above.

36. Nevertheless, as indicated in the MER, statistics from 2018, suggested that, in practice, 98% of legal entities were created with the assistance of a subject person (corporate service provider and/or a lawyer or accountant). The authorities estimated that in practice 80% of these companies' share capital is deposited into a Maltese bank account.

37. The third mechanism is based on collecting information through a centralised register of legal entities as a source of information. With this respect, Malta took measures to enhance the powers and capacities of the Malta Business Registry (MBR). It is currently set to maintain the BO information on companies, partnerships, associations and foundations. Malta suggested that the

² <http://www.ncc.gov.mt/wp-content/uploads/2020/09/Key-Results-LEA.pdf>
<http://www.ncc.gov.mt/wp-content/uploads/2020/09/Action-Plan-LEA.pdf>

register of BOs of all legal entities is now fully populated and is accessible online by all interested parties.

38. The MBR set up the automated analytical system, which will be progressively enriched and developed, and in the authorities' view, would potentially enhance the accuracy of maintained BO data.

39. Currently, in addition to regular provision of information on changes in the BO, companies and partnerships are to provide an annual confirmation of the registered BO (BO Regulations Art. 6A(1)). Failure to provide the annual confirmation provides the Registrar with grounds for striking off a company or a partnership (BO Regulation Art. 9(3)). This mechanism may potentially ensure a proactive interaction of companies' and partnerships' responsible persons with the MBR, at least on an annual basis, thus largely addressing the deficiency.

40. In addition, on the authorities view the auditor that the company should appoint at each general meeting (Companies Act Article 151 (1)) will be another source of information on basic and BO information. This, however, would not suggest that the auditor is a responsible person authorised by the company to provide information to the authorities, and will be limited to scope regulated by the PMLFTR - when the auditor, as a reporting entity, should provide information related to ML/TF suspicion. On the other hand, the function of the auditor would potentially enhance the accuracy of the BO information.

41. There was a deficiency noted in the MER suggesting that directors (or equivalent) and the company secretary who are responsible for providing BO information to the Registrar are not required to be resident in Malta, and hence to be subject to Maltese AML/CFT supervision. Currently, Article 12(5) of Civil Code (Second Schedule) stipulates that "It shall be a condition for registration of any organisation the administrator or administrators³ of which are not ordinarily resident in Malta, to appoint and retain at all times, a person who is ordinarily resident in Malta to act as a local representative ...". "legal representation of such organisation in Malta [...] for all purposes of any law in Malta". This would meet the requirement to have a resident in the country authorised by company to provide information to competent authorities, but the accountability will remain with the company officer (Companies Act (Art. 2(1)) and BO Regulation (Art.6(5))). In addition, the MFSA requires that the TCSPs, when licensed, provide an evidence of a local presence. This would potentially mean that when the TCSPs provide services beyond the company formation and they are authorised by the company, will be acting as a national contact point for provision of information to competent authorities. The function of the TCSP would potentially enhance the accuracy of the BO information.

42. Amendments introduced into the BO Regulation (Art. 12(1)) rectified a deficiency indicated in the MER with respect to the lack of MBR supervisory powers. Currently, the Registrar is empowered to carry on physical on-site investigation of information at the registered office of the company or at such other place in Malta as may be specified in the Memorandum or Articles of Association of the company, in order to establish the current BO and to verify that the BO information submitted to MBR is accurate and up-to-date.

43. Breach of requirements for maintaining and providing to the MBR accurate and up-to-date information on BO of a company or partnership is punished by sanctions – every officer of the company is liable to a penalty of not more than €100,000 to be paid (BO Regulation Art. 12(4)).

³"administrator" means an officer or a person who is appointed to control and administer an organisation including a governor, a director, a trustee or a committee member and any person who carries out such functions even if under another name – Civil Code, Art 7(2).

44. While legislative amendments were introduced also with respect to associations and foundations, the deficiencies mentioned in the MER remain valid. The approach, as described above, does not apply to these types of legal arrangements in an equal manner.

45. With respect to foundations, the Maltese authorities suggested that Article 29(1) of the Maltese Civil Code (Second Schedule) provides that “*A foundation may only be constituted by virtue of a public deed inter vivos or by a will.*” Public deeds shall only be published by Notary Public. On the authorities view the Notary Public will be another source of information on basic and BO information. This, however, will be limited to the scope regulated by the PMLFTR, when the Notary Public, should provide information related to ML/TF suspicion, and would not suggest that the Notary Public is a responsible person authorised by the company to provide information to Maltese authorities. On the other hand, involvement of the Notary Public would potentially enhance the accuracy of the BO information.

46. To address the deficiencies identified in the MER for c.24.9, Malta introduced amendments into a number of legislative provisions. While there were no amendments introduced into the Art. 324(2) of the Companies Act referred to in the MER, Malta ensured the compliance with the c.24.9 through the following legislative provisions: for companies and partnerships - BO Regulations (Reg. 17); for foundations - Civil Code (Second Schedule) Register of BO – Foundations Regulation (Reg. (14(3))); and for association - Civil Code (Second Schedule) Register of BO – Associations Regulation (Reg. (4(10))). Respectively, a liquidator should maintain BO information of a company or a partnership for 10 years; a Registrar should maintain this information in the case of a transparent foundation for 5 years, and a private foundation - for 10 years; and an administrator of an association shall retain this information for 10 years.

47. To address the deficiencies identified in the MER for c.24.13, Malta amended the sanctions applied to companies and partnerships for a breach of obligations on maintaining and providing the BO information as required under BO Regulations (Reg. 5, 6, 6A, 8 and 12). These are increased tenfold since the adoption of the MER. Failure to provide the annual confirmation of the BO information may lead to initiation of a strike off of a company or a partnership by the Registrar (BO Regulation Reg. 9(3)). Hence, current sanctions set for companies and partnerships are proportionate and dissuasive. With respect to foundations, no amendment was introduced into the Civil Code (Second Schedule) (Register of Beneficial Owners – Foundations) Regulations that sets out applicable penalties. There are dissuasive and proportionate sanctions available under separate legal provisions (VO Act, Art.34, Trusts and Trustees Act, Art.43(15(i-ii) and Art.51(7), PMLFTR (Reg. Reg.2(1), 21(1-2)) that would apply in the specific circumstances, these, however, do not still fully address the gap.

48. To address the deficiencies identified in the MER for c.24.15, the MFSA issued an internal Guidelines on International Requests for Exchange of Information, designated a structural unit, and provided practical examples of monitoring of quality of assistance received from foreign counterparts. The AG Office conducts monitoring of received MLA assistance on the basis of Internal Procedures. This information includes also submissions concerning the BO requests. No progress was demonstrated by the MGA.

49. Overall, Malta took measures to address most of the deficiencies identified in the MER. Concerns remain with accuracy of BO information; dissuasiveness and proportionality of financial sanctions for foundation, in respect of failing to submit BO information to the Registries; and monitoring of quality of received assistance by the MGA. **Recommendation 24 is therefore re-rated Largely Compliant.**

Recommendation 26 (Originally rated PC – re-rated as LC)

50. In its 5th round MER, Malta was rated PC with Recommendation 26, as application processes to prevent criminals and their associates from holding or being the BO of a significant or controlling interest, or a management function of FIs and TCSPs was not fully embedded into the MFSA's authorisation procedures for all types of licence applications (c.26.3); the MFSA did not subject persons holding a significant or controlling interest or management function in a FI or TCSP to regular UN sanctions and adverse media screening (c.26.3); the authorities were unable to confirm their level of current compliance with the Core Principles where relevant for AML/CFT purposes, including provide details on supervision of financial groups for AML/CFT purposes on a consolidated basis (26.4(a)); and, there were no formalised procedures in place, setting out how the frequency and intensity of on-site and off-site supervision for all types of FIs was determined, taking into account the ML/TF risks associated with an institution or group and the wider ML/TF risks present in Malta (26.5-26.6).

51. To address all of the deficiencies identified in the MER for c.26.3, MFSA adopted the Due Diligence Procedures and the Personal Questionnaire. These ensure that all necessary structures and processes are now embedded for all licence types, and that the fit and proper checks include consideration of any ongoing proceeding (criminal or civil) (Personal Questionnaire, Section 3.2A(1)). Sanctions screening and adverse media monitoring is now incorporated into application process, and applied to all significant or controlling interest or management function holders in a FI or TCSP (Due Diligence Procedures, paragraphs 1.5, 1.7, 2.4, 2.5, 3.1, and 3.5; Personal Questionnaire and Glossary).

52. To address the deficiencies identified in the MER for c.26.4(a), Malta provided information (a combination of self-assessments conducted by Malta and peer review conducted by the IMF, EIOPA⁴) that suggests the system to have characteristics of compliance with the Core Principles where relevant for AML/CFT purposes, including providing details on supervision of financial groups for AML/CFT purposes on a consolidated basis. The results of these assessments, and self-assessments were presented to Prevention of ML and TF Committee for discussion and informative purposes.

53. To address the deficiencies identified in the MER for c.26.5-26.6, Malta put in place formalised procedures, covering most aspects of criteria 26.5 and 26.6. This is set out in the Risk-based Supervisory Strategy, Methodology and Plan, as provided by the Maltese authorities. The main concerns raised in the MER have been remediated. However, it remains unclear if in these documents ML/TF risks associated with a group are considered. Information provided by the Maltese authorities confirms that the FIAU "has requested" information in relation to group structures in order to understand the wider risks of the subject person and to be able to factor this into the risk-based supervision. It therefore appears from information provided that this is not yet fully implemented.

54. Overall, Malta took measures to address most of the deficiencies identified in the MER. Concerns remain in one area - Malta formalised the risk-based approach to determining frequency, intensity of AML/CFT supervision and revision of the FIs' risk profile, however, the procedures are yet to be clarified whether the legal provisions require that ML/TF risks posed by

⁴ IMF (International Monetary Fund Technical Note on the Insurance and Securities Sector Supervision), Malta: Financial Sector Assessment Program-Technical Note-Insurance and Securities Sector Supervision; (November 21, 2019)

<https://www.imf.org/en/Publications/CR/Issues/2019/11/21/Malta-Financial-Sector-Assessment-Program-Technical-Note-Insurance-and-Securities-Sector-48830>.

membership of wider group are considered. **Recommendation 26 is therefore re-rated Largely Compliant.**

Recommendation 28 (Originally rated PC – re-rated as LC)

55. In its 5th round MER, Malta was rated PC with Recommendation 28, because DPMS, real estate agents, and lawyers were not regulated by sectorial legislation, therefore there were concerns regarding the adequacy of market entry measures and on-going fitness and properness measures for these persons (c.28.4(b)); the exemptions and de minimis ruling by the MFSA might have resulted in some persons not being subject to market entry measures and/or subject to AML/CFT (c.28.4(b)); civil sanctions did not extend to the “senior management” at the subject person (c.28.4(c)); the frequency and intensity of both onsite and offsite inspections for DNFBPs, other than casinos and TCSPs, did not fully take into account the ML/TF risks associated with an institution or group and the wider ML/TF risks present in Malta (c.28.5).

56. To address the deficiencies identified in the MER for c.28.4(b), Malta amended the Trading Licences Regulation, and adopted the Act to Make Provision for the Licensing of Real Estate Agents, Property Brokers and Property Consultants. Amendments are drafted also to the Company Service Providers Act, but not approved and enforced within the reporting timeframe.

DPMS

57. The Trading Licences Regulation introduced licensing requirements for DPMSs (Reg. 48-50, 52 and 53). These requirements ensure prevention of criminals from being a sole trader, or in case of a partnership – being the directors, partners, secretary and BOs. While the Maltese legislation requires submission of a police certificate also for the persons who effectively direct the business, of the owner or owners of the business, this information is not indicated to be considered for the eligibility criteria for obtaining a license. The eligibility criteria cover only the circumstances when a person was convicted of any offence punishable by deprivation of liberty or a detention order for at least 6 months or 1 year. No legislative provision is made available to confirm that the on-going criminal investigation will be taken into account in the course of the integrity assessment of a person. These requirements do not extend to preventing the associates of criminals from being professionally accredited or holding (or being the BO of) a significant or controlling interest in a DPMS. There is no on-going monitoring procedure provided by the Maltese authorities. Nevertheless, the Trade Licensing Unit would suspend or cancel the license if becomes aware that eligibility criteria is not anymore met, or on the basis of FIAU information on breaching the AML/CFT legislation.

Estate Agents

58. Malta adopted the Act to Make Provision for the Licensing of Real Estate Agents, Property Brokers and Property Consultants (Art. 3, 4, 5 and 10) that imposes licensing requirements on real estate agents, property brokers and property consultants. These requirements ensure prevention of criminals from being a property broker or real estate agent or being employed or engaged as a branch manager or property consultant, and a BO.

59. It is not evident, nevertheless, that these provisions would tackle persons holding a significant or controlling interest or holding management function (except for a branch manager) under the licensing provisions. These requirements do not extend to preventing the associates of criminals from being professionally accredited or holding (or being the BO of) a significant or controlling interest. The eligibility criteria are broad, and refer either to issues related to bankruptcy, or applicant’s conduct and repute, his financial position and fitness or properness. These criteria are, however, too general, and do not allow to conclude whether these would cover the past criminal conduct of the applicant and its BO. Maltese authorities refer to a to-be issued

Notice requiring that the interested persons provide detailed police conduct certificate issued by the Commissioner of Police in Malta. This declaration will confirm that the individual concerned aspiring to access a respective license has no criminal record or conduct or any sort of conflict of interest within the property market or real estate agents business. There is no on-going monitoring procedure provided by the Maltese authorities. Nevertheless, the Act to Make Provision for the Licensing of Real Estate Agents, Property Brokers and Property Consultants provides that the Board would suspend or cancel the license, among others, if it becomes aware that eligibility criteria is not anymore met, or becomes aware of any adverse information.

Lawyers

60. Malta has not yet demonstrated a progress that would affect the technical compliance conclusions.

61. To address all the deficiencies identified in the MER for c.28.4(c), Malta amended the PLMFTR (Reg. 21(7(ii))), to make it explicit that administrative penalties for AML/CFT breaches are applicable to senior management officials. Senior management officials may also be suspended or precluded from holding such a role (PLMFTR, Reg. 21(7)).

62. To address the deficiencies identified in the MER for c.28.5, Malta formalised the Risk-based Supervisory Strategy, Methodology and Plan. The main concerns raised in the MER have been remediated. However, it remains unclear in these documents whether ML/TF risk posed by membership of wider group is considered. Information provided by the Maltese authorities confirms that the FIAU “has requested” information in relation to group structures in order to understand the wider risks of the subject person and to be able to factor this into the risk-based supervision. It therefore appears from information provided that this is not yet fully implemented.

63. Overall, Malta took measures to address most of the deficiencies identified in the MER. Concerns remain with a regulatory framework for the DPMS and real-estate sector representatives, which needs some further improvements. Malta has not yet demonstrated a progress with respect to lawyers. Malta has not yet adopted legislation that would amend the application of exemptions and de minimis ruling by the MFSA. Concerns remain whether the ML/TF risks posed by membership of wider group is considered. **Recommendation 28 is therefore re-rated Largely Compliant.**

Recommendation 36 (Originally rated PC – re-rated as C)

64. In its 5th round MER, Malta was rated PC with Recommendation 36, taking into consideration that provisions implementing Art. 5 of the Vienna Convention were not fully aligned, with different rules that may cause confusion in practice (c.36.2); and the principles on third party confiscation were not fully implemented (c.36.2).

65. To address all the deficiencies identified in the MER for c.36.2, Malta introduced amendments to different sections of the Criminal Code (CC), Dangerous Drugs Ordinance (DDO) and to the Prevention of Money Laundering Act (PMLA) to put national provisions in line with Art. 5 of the Vienna Convention, so as to address the risks of confusion in the practical implementation of the rules. Legislative provisions currently provide a mechanism for protection of the bona fide third parties (DDO (Art. 22C), Medical and Kindred Professions Ordinance (Art. 120A(2B)) and PMLA (Art. 7)).

66. Overall, Malta took measures to address all the deficiencies identified in the MER. **Recommendation 36 is therefore re-rated Compliant.**

Recommendation 38 (Originally rated PC – re-rated as LC)

67. In its 5th round MER, Malta was rated PC with Recommendation 38, on the basis that no specific information was provided whether all categories of property listed under c.38.1 were covered; no specific information was provided on freezing or seizing of property which does not belong or is not due to a suspect, and which could, however, constitute laundered property, proceeds of crime or instrumentalities (c.38.1); there was no legal basis to execute a foreign civil in rem confiscation order since the underlying conduct had to be qualified as a criminal offence (c.38.2); there was no specific mechanism for managing, and when necessary disposing of, property frozen, seized or confiscated in the context of MLA (c.38.3).

68. To address all the deficiencies identified in the MER for c.38.1, Malta demonstrated that the categories listed under c. 38.1 are covered under the provisions of PMLA (Art. 2(1) and 3(5)), the DDO (Art. 22, 22(3A)(d) and 22(3B)), the MPKO (Art. 120A(2A), (2A)bis) and (2B)) and the CC (Art. 23, 23B and 23C). Freezing or seizing of property which does not belong or is not due to a suspect, and which could, however, constitute laundered property, proceeds of crime or instrumentalities is regulated under CC (Art. 23C(4)).

69. To address all the deficiencies identified in the MER for c.38.2, Malta demonstrated that in accordance with CC (Art. 435D) and PMLA (Art. 11(1)), a confiscation order made by a court outside Malta providing or purporting to provide for the confiscation or forfeiture of any property of or in the possession or under the control of any person described in the order shall be enforceable in Malta. The Attorney General may bring an action in the First Hall of the Civil Court by an application containing a demand that the enforcement in Malta of the foreign confiscation order be ordered (DDO Art. 24D(2-11)). For the purposes of the CC and DDO "confiscation order" includes any judgement, decision, declaration, or other order made by a court whether of criminal or civil jurisdiction providing or purporting to provide for the confiscation or forfeiture of property (CC (Art. 435D), DDO (Art. 24D(12)) and PMLA (Art. 11(2))).

70. The authorities confirmed that Attachment and Freezing Orders are issued only against known persons who are suspected/accused of having committed a criminal offence, even if absent from the Maltese Islands. The referred provisions are, however, broad and general, and do not specify whether the circumstances indicated in c.38.2, such as death, and absence of person would apply.

71. To address all the deficiencies identified in the MER for c.38.3, Malta introduced mechanisms for managing and disposal of seized, frozen and confiscated property. Since August 2018 the Asset Recovery Bureau has been tasked with the management and disposal of instrumentalities and proceeds of crime (Asset Recovery Bureau Regulations (Art. 6 and 31), CC (Art.328K(e) and 700(3))).

72. In line with these provisions, the management of property at the stage of freezing refers to: (i) restriction of transfer of assets to third parties; (ii) identification and location of movable and non-movable assets; (iii) preservation of assets as much as possible to ensure that value is retained. At the stage of confiscation, the assets are subject to disposal if suitable for public use. These, however, do not extend to a systematic management of a property.

73. Overall, Malta took measures to address most of the deficiencies identified in the MER. Concerns remain with respect to ability of Malta to provide MLA for execution of a foreign civil in rem confiscation order in all circumstances, as indicated in the c. 38.2, and with systematic management of frozen, seized, and confiscated property. **Recommendation 38 is therefore re-rated Largely Compliant.**

3.2. Progress on Recommendations which have changed since adoption of the MER

74. Since the adoption of Malta's MER the FATF has amended Recommendation 15. This section considers Malta's compliance with the new requirements and progress in addressing deficiencies identified in the MER in relation to this Recommendation, where applicable.

Recommendation 15 (originally rated PC- re-rated as LC)

75. In June 2019, Recommendation 15 was revised to include obligations related to virtual assets (VA) and virtual asset service providers (VASPs). These new requirements include: requirements on identifying, assessing and understanding ML/TF risks associated with VA activities or operations of VASPs; requirements for VASPs to be licensed or registered; requirements for countries to apply adequate risk-based AML/CFT supervision (including sanctions) to VASPs and for such supervision to be conducted by a competent authority; as well as requirements to apply preventive measures to VASPs and provide international co-operation.

76. In its 5th Round MER, Malta was rated PC with Recommendation 15, as Malta conducted no risk assessment for the purpose of identifying and assessing ML/TF risks that may arise in relation to the development of new products and practices, delivery mechanisms or the use of new technologies, at the country level. The requirement to assess the risk of new products, services and new or developing technologies did not specify that such assessments be undertaken by the FIs prior to the use of such products, practices and technologies.

77. Since its 5th Round MER, Malta has conducted a risk assessment in relation to "virtual financial assets" (VAs), launched the risk assessment mechanisms for smart contracts, and created a Regulatory sandbox. All of these activities were directed to development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for new products. The gap remains only with respect to pre-existing products.

78. Further amendments introduced into the PMLFTR and the FIAU's IPP I effectively address the deficiencies with respect to c.15.2, clarifying the requirements imposed on the FIs with respect to assessment of respective ML/TF risks prior to the use of new products, practices and technologies.

79. In relation to new requirements for VA/VASPs, Malta has introduced a regime which covers most of the requirements and has only minor shortcomings.

80. To implement c.15.3, Malta has conducted a sectorial ML/TF risk assessment, performed by the NCC, with the involvement of the relevant stakeholders throughout 2019. The VFA Sectorial ML/TF Risk Assessment and Strategy Report were finalised in October 2019. The Key Findings and the Action Plan were published in February 2020⁵.

81. The regulatory framework for VA and VASPs was set in Malta in 2018, and the main detailed risk analysis was conducted on the basis of information available as of October 2018. The analysis was based on information gathered from a range of sources - in total 100 responses from potential VA issuers, VA agents and VASPs; STRs; interviews with public and private sector representatives, and data from public sources (documents developed by international bodies, research and crypto-news websites). This Sectorial Risk Assessment acknowledges that "given the nascent nature of the industry, data was limited". The applied risk analysis methodology does not allow to conclude on the overall level of ML/TF risks in the country related to VA activities and covered VASPs' operations and activities. The desk review of the presented risk assessment document cast doubts on the completeness and, therefore, also the reasonableness of the risk

⁵ <http://nccmalta.azurewebsites.net/aml-cft-reports/>

assessment, which does not allow to conclude on the risk profile of the country in terms of VA activities and VASPs.

82. Nevertheless, it should be taken into consideration that the VA and VASP activities are a new developing area, and Malta was one of the pioneers in conducting such a risk assessment back to 2019. In addition, the authorities informed that Malta has launched the update of the 2021/2022 National Risk Assessment. This assessment would also include assessment of ML/TF risk related to the VA/VASP sector, to come up with updated and more mature conclusions on the current risks.

83. While not always based on the identified risks, but rather aimed at ensuring the alignment of the national framework with the newly set FATF Standards on VA and VASPs, in 2020 Malta has developed an Action Plan that sets valuable actions to ensure the continuous development of the sector, and enhancement of the preventative mechanisms.

84. The requirement for covered VASPs to take appropriate steps to identify, assess, manage, and mitigate their ML and TF risks is adequately regulated under the PMLFTR (Reg. 5 and 11).

85. To implement c.15.4, Malta requires the VASPs to be licensed (Virtual Financial Assets Act (Art. 13)). The VFA Act (Art. 2(2)) recognise both, the legal entities and natural persons to act as a VASP. Art.15(2)(c)(d) of the VFA Act clarifies that where the applicant is a natural person, such person should be a resident in Malta; and where the applicant is a legal person it is constituted either in Malta, in accordance with the laws of Malta, or in a recognised jurisdiction. Nevertheless, natural persons are precluded from offering VFA related services in Malta, as authorities have effectively limited the issuance of a licence only to those VASPs which are legal persons (R3-2.1.2.6 of Chapter 3 of the VFA Rulebook). Natural persons offering VASP services are considered to be outside of Malta's risk appetite.

86. The definition of the VA services adopted by the Maltese authorities does not explicitly cover all types of services as defined in the FATF Methodology. In particular, under the current legislative regime and framework it is not yet possible to conclude that VASPs conducting exchange between VAs and fiat are covered. Nevertheless, the Maltese authorities have provided information published on the website of the MFSA (<https://www.mfsa.mt/wp-content/uploads/2020/03/VFA-Rulebook-FAQs.pdf>) relating to the VFA Framework issued on 10th October 2018 which states: "A VFA Exchange is defined under the Act as a "a DLT exchange operating in or from within Malta, on which only virtual financial assets may be transacted..." It should be understood that it is the VFAs that are transacted 'on the platform', to the exclusion of the other DLT asset types; this definition should not thus be interpreted as excluding fiat currencies from its scope. Therefore, the VFA exchange licence under the Act will encompass (i) VFA-to-VFA, (ii) fiat-to-VFA and (iii) VFA-to-fiat transactions". The Maltese authorities informed also that this interpretation had been confirmed by their Attorney General and therefore the assessment team consider that the application of the legislation counts as law or other enforceable means. VAs transfer services, are not recognised as a distinct type of a service. All other types of VASPs activities and operations are regulated.

87. Malta applies two – steps approach to ensuring the fitness and properness of the covered VASPs. According to the VFA Act the process includes fit and proper checks of the applicant VASP conducted by the VFA Agent, and the MFSA. Both conduct the checks on the basis of the non-binding "Guidance on the Fitness and Properness Assessments Applied by the Authority" issues by the MFSA. The VFA Act (Art. 15(8)) and the VFA Rulebook (Chapter 3, R3-2.2.3.1.3) together ensure that fit and proper checks apply to all the respective parties, but these requirements together do not cover the associates of criminals. In line with the VFA Rulebook (Chapter 3, R3-

2.2.3.1.1) the fitness and properness requirements should be met both during authorisation stage, as well as, on an ongoing basis thereafter.

88. To implement c.15.5, Malta has taken action to identify natural and legal persons carrying on the VASP activities without the requisite licenses. The MFSA is designated as a competent authority for licensing and oversight of the covered VASPs' activities VFA Act (Art.2(2)). In order to detect un-licensed natural and legal persons the MFSA operates a daily adverse media search and monitors the received consumer complaint reports. In addition, while not legislatively substantiated, MFSA cooperates actively with the MBR to ensure that any companies undertaking licensable activities obtain the required authorisation.

89. During the time period between introducing a transitional period and its expiry, Malta identified a natural person (further analysis proved this to be a legal person) operating without a license, and in addition, has followed up on 57 out of the original 180 companies, that did not provide any notification to the Authority.

90. The action taken includes a public statement (VFA Act, Art. 56) (<https://www.mfsa.mt/news-item/warning-to-the-public-regarding-unlicensed-vfa-companies/>) with the names of all 57 entities and indicating that such were not licensed nor authorised by the MFSA to provide any VFA services or other financial services nor have they initiated the application process to obtain a VFA services licence.

91. The MFSA has also liaised with the MBR to strike off these companies from the MBR Register, leading to issuance of a public notice, shutting down of a VFA ATM (along with a public notice) and a visit to a legal entity.

92. The VFA Act does not provide for such type of a sanction as striking off the company, for unlicensed activity. The authorities clarified that they used provisions of Companies Act (Art. 325(1)) - reasonable cause to believe that a company is not carrying on business or is not in operation. While the authorities achieved the result, this, nevertheless, does not seem to be an appropriate mechanism for sanctioning for unlicensed VASP activities. The targeted sanctions for the un-licensed activities of legal and natural persons are covered only under provisions of Art. 56 of the VFA Act and consist only of issuance of a public warning. This does not seem to be appropriate sanction, as does not ensure the proportionality and dissuasiveness of the sanctioning regime.

93. To implement c.15.6, Malta has designated two authorities to supervise the VASPs: the MFSA – for a prudential supervision (VFA Act, Art.2(2), 15; MSA Act, Art 4), and the FIAU - for the monitoring and supervision of VASPs for compliance with the AML/CFT requirements under the PMLA (Art. 16(c) and Art. 26) and the PMLFTR (Reg.4(5)).

94. The FIAU acts on a risk sensitive basis (PMLA Art. 26(2)), in accordance with its Risk-based Supervisory Strategy, Methodology and a Plan. The MFSA acts on the basis of its Risk-Based Supervision - Strengthening Our Supervisory Approach guiding document, that provides a framework for planning, risk assessment, execution of a supervisory plan and regular monitoring and evaluation.

95. The FIAU's powers to apply sanctions to VASPs are stipulated under PMLFTR (Reg.21). The MFSA's powers to apply various disciplinary and financial sanctions to VASPs, including cancellation or suspension of a licence, are stipulated under VFA Act (Art. 21(1) and Part VII).

96. To implement c.15.7, Malta has developed a set of sector-specific guidelines, provided feedback on STR filing, and conducted series of targeted trainings. The FIAU, which is the main authority empowered to issue legally binding procedures and guidance (PMLFTR (Reg. 17)) issued a general guidance on the application of all the AML/CFT obligations envisaged under the

PMLFTR, which is the IPP I, and a sector specific guidance document – IPP II on Application of Anti-Money Laundering and Countering the Funding of Terrorism Obligations to the VFA Sector.

97. In line with its powers the FIAU provides a feedback to VASPs on the status of the files STR and its quality (PMLA (Art. 32), PMLFTR (Reg. 15(11))).

98. The MFSA and Finance Malta organised two trainings covering wide variety of topics related to VA and VASP activities and operations, providing a solid information on the regulatory and other developments in Malta and globally. Among other, the FIAU, within its mandate (PMLA (Art.16)) communicated its expectations and views in relation to the ML/TF risks inherent in the sector as well as with regards how these can be mitigated. These events covered more than 100 participants representing prospective VASPs and VFA Agents as well as other representatives of sectors accosted with VASP activities, including legal professionals, accountancy professionals and FIs. Representatives of the public sector – supervisors, LEAs (also dealing with asset recovery), were also present.

99. With respect to implementation of c.15.8, Malta has confirmed that the sanctions in place, as described in the analysis of the MER under Recommendation 35, are valid and equally applicable to VASPs. As reflected above under c.28.4 the amendments to the PLMFTR (Reg. 21(7(ii))) have remediated the deficiency identified in Recommendation 35 by making it explicit that administrative penalties for AML/CFT breaches are applicable to senior management officials. Senior management officials may also be suspended or precluded from holding such a role (PLMFTR (21(7))).

100. With respect to implementation of c.15.9, Malta has confirmed that requirements set out in Recommendation 10 to 21 are reflected in a number of provisions of the PMLFTR which, unless otherwise stated, are applicable to VASPs. Malta has introduced a number of legislative amendments, which improved the level of compliance with the preventative measures, bringing the Recommendations 10 to 21 to a level of compliant or largely compliant. It is also concluded that since currently, the Maltese legislation does not recognise VA transfer as a distinct type of a service the requirements under Recommendation 14 are not applicable.

101. With respect to requirement for conducting customer due diligence (CDD) the Maltese legislation applies a stricter approach than the FATF Standard does, obliging the covered VASP to conduct CDD even in the circumstances when the amount of transaction is below EUR1000 (PLMFTR (Reg. 2) and (Reg. 7(5(b))).

102. With respect to regulatory measures for conducting VA transfers, Malta confirmed drafting a Regulation to implement the Travel Rule requirement, but it is yet to complete this work so as to be able to transmit information immediately and securely. Currently, certain information is captured and available to authorities upon request. Whilst some parts of Recommendation 16 can be complied with by existing legislation (PMLFTR, and Implementing Procedures – Part II applicable to the VFA Sector), the area covering the transferring of the information to the beneficiary a VASP or a FI (if any) immediately and securely is not in place yet.

103. As concerns the obligations applying to FIs when sending or receiving VA transfers on behalf of a customer, in Malta FIs are not permitted to send or receive VAs on behalf of their customers, as such activities would require a separate license, which can only be given to a separate entity with a VASP licence established for that purpose (VFA Act (Art. 15(2(c(ii))). VASPs should be licensed by the MFSA. There are limited instances in which it may be possible for a FI to handle VAs on behalf of customers and these would include the situations envisaged under VFA Regulations (Reg.4(1)(f), (g) and (n)). This is limited to acting as a custodian in relation to a collective investment scheme or holding an equivalent authorisation. This, however, does not amount to conducting wire transfers. Hence, out of the scope of the Standards.

104. With respect to implementation of c.15.10, Malta has confirmed that the obligations related to freezing measures under Recommendations 6 and 7 are regulated by the National Interest (Enabling Powers) Act (NIA) which extends to all reporting entities defined in the PMLFTRs (Act. Art. 17(6)), hence including the covered VASPs. Malta sufficiently complies with all respective requirements, except for the ones under c.6.6.(g) and c.7.4(d) – de-listing and unfreezing decisions taken in accordance with European regulations are published in the Official Journals of the EU and on a dedicated website, but no information is provided on the national framework.

105. With respect to implementation of c.15.11, Malta has confirmed that international cooperation with respect to VA and VASP activities and operations will be provided within the current legislative framework specifically dealing with these matters. Nevertheless, as indicated above, definition of VASP does not sufficiently cover all types of VASP activities, which will imply that the range of cooperation will be also potentially limited, accordingly. Other than this, Malta was assessed as compliant with Recommendation 39, largely compliant with Recommendation 37 and Recommendation 40. As concerns Recommendation 38, Malta has demonstrated a considerable progress rectifying majority of the shortcomings, with only minor improvements being required.

106. Overall, Malta took measures to address most of the deficiencies identified in the MER. Minor concerns remain with respect to conducting a risk assessment by a country with respect to application of new technologies to pre-existing products; improving the completeness and reasonableness of assessment of ML/TF risks emerging from VA and VASP activities and operations; clarification of definition of VASPs and respective types of services that fall under the regulatory scope; clarification of market entry requirements; clarification of targeted sanctions applied to non-licensed VASP activities; further improvement of compliance with applicable preventive measures; introducing specific requirements related to wire transfer services provided by VASPs, introducing domestic measure dealing with de-listing and unfreezing of assets, and improving the international cooperation. **Recommendation 15 is therefore re-rated Largely Compliant.**

4. CONCLUSION

107. Overall, Malta has made progress in addressing the TC deficiencies identified in its 5th Round MER and has been re-rated for 8 Recommendations (Recommendations 8, 13, 20, 24, 26, 28, 36, and 38).

108. Recommendations 8, 13, 24, 26 and 38, initially rated as PC, are re-rated as LC. Recommendations 20 and 36, initially rated as PC, are re-rated as C.

109. Further steps have been taken to improve compliance with Recommendation 15 that have been revised since the adoption of the MER, but minor shortcomings remain. Malta is encouraged to continue its efforts to address the remaining deficiencies.

110. Overall, in light of the progress made by Malta since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, April 2021

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	C	LC	LC	C	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	LC	LC	LC	LC	LC	LC	LC	C	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30

C	LC	LC	LC	LC	LC	LC	LC	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	C	LC	LC	C	LC	LC	C	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

111. Malta will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Malta is expected to report back to the Plenary in two years.

GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

© MONEYVAL

www.coe.int/MONEYVAL

April 2021

Anti-money laundering and counter-terrorist financing measures -
Malta

1st Enhanced Follow-up Report

This report analyses Malta's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of November 2018.

The report also looks at whether Malta has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2018 assessment.