



Interpretative Note on Assessing Jurisdictional Risk and the Consequential Application of AML/CFT Obligations in light of Malta’s Grey Listing by the Financial Action Task Force

On 23 June 2021, the Financial Action Task Force (FATF) placed Malta under increased monitoring as part of a process to ensure that it addresses specific remaining deficiencies in its anti-money laundering and countering the financing of terrorism (AML/CFT) regime – a process which is often informally referred to as having been “grey listed”.

Grey listed jurisdictions are to be considered as non-reputable in line with the definition of a “non-reputable jurisdiction” provided for in Regulation 2(1) of the PMLFTR and as further set out in Section 8.1.1 of the Implementing Procedures – Part I. This also means that a number of obligations are triggered, including the application of Enhanced Due Diligence (EDD) measures (Regulation 11(10)), and restrictions of the application of Simplified Due Diligence (SDD) (Section 8.1.3 of the Implementing Procedures – Part I) and of reliance (Regulation 12(2)(a)).

The Financial Intelligence Analysis Unit (FIAU) is issuing this Interpretative Note to guide subject persons as to how they are to adhere to their AML/CFT obligations in light of Malta’s grey listing by the FATF.

Although subject persons are required to assess the reputability and risk of a jurisdiction to better understand the risks they are exposed to, this obligation is not to be interpreted as being also applicable to Maltese subject persons with respect to Malta itself. Therefore, subject persons are not required to assess the jurisdictional risks arising from entertaining business relationships or conducting occasional transactions with Maltese or resident clients.

Therefore, subject persons are not expected, solely because of Malta’s placement under increased monitoring by the FATF, to consider Malta as non-reputable or as a high-risk jurisdiction. This development need not be considered as a trigger to revise or update the Business Risk Assessment or Customer Risk Assessments. Neither should this development, on its own, result in an intensification of AML/CFT measures, including the application of EDD, with respect to Maltese or Maltese resident customers, including bodies corporate and legal arrangements established in Malta or having Maltese beneficial owners. Subject persons may therefore continue to place reliance on other Maltese subject persons, and may equally continue to apply SDD on Maltese or resident customers in situations which are deemed to pose a low risk of ML/FT.