



# Anti-money laundering and counter-terrorist financing measures

## Moldova

### 1<sup>st</sup> Enhanced Follow-up Report

May 2022

Follow-up report



**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.

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The 1<sup>st</sup> Enhanced Follow-up Report on Moldova was adopted by the MONEYVAL Committee at its 63<sup>rd</sup> Plenary Session (Strasbourg, 16-20 May 2022).

## Republic of Moldova: First Enhanced Follow-up Report

### I. INTRODUCTION

1. The mutual evaluation report (MER) of Moldova was adopted in July 2019. The report analyses the progress of Moldova 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 the adoption of the 5<sup>th</sup> Round MER: R.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.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Moldova 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	LC	LC	C	LC	PC	PC	PC	LC	PC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	PC	LC	C	LC	LC	LC	LC	PC	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	PC	PC	C	LC	LC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	LC	C	C	LC	LC	PC	LC	LC

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

*Source:* Moldova Mutual Evaluation Report, July 2019, <https://rm.coe.int/moneyval-2019-6-5th-round-mer-repmoldova/168097a396>.

3. Given the results of the MER, Moldova was placed in enhanced follow-up<sup>1</sup>. The assessment of Moldova'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):

- Andorra
- Georgia
- Japan

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

### III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

5. This section summarises the progress made by Moldova to improve its technical compliance by:

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<sup>1</sup> Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.

- a) Addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (R. 6, 7, 8, 10, 12, 19 and 23), and
  - b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.15).
6. For the rest of the Recommendations rated as PC (R.22, 24, 25 and 38) the authorities did not request a re-rating.
7. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Moldova submitted its country update report – at least six months before the FUR is due to be discussed by MONEYVAL<sup>2</sup>.

### **III.1 Progress to address technical compliance deficiencies identified in the MER**

8. Moldova has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Moldova has been re-rated on Recommendations 10, 12, 19 and 23. The country asked for a re-rating for R.6, 7 and 8 which are also analysed but no re-rating has been provided.

#### ***Recommendation 6 (Originally rated PC – no -re-rating)***

9. In its 5th round MER, Moldova was rated PC with R.6 based on the following deficiencies: there are no explicit legal provisions to appoint and authorize MFAEI (or other authority) for proposing persons or entities to the 1267/1989 and 1988 Committees and to identify targets based on the designation criteria set out in the relevant UNSCRs (c.6.1(a)); there is no clear reflection in the legislation on the evidentiary standard “reasonable grounds” to be applied by competent authorities when making a decision on processing a designation (both on UNSCR 1267 and 1373) (c.6.1(c)); there are no explicit legal provisions which would allow the authorities to give effect to actions initiated under the freezing mechanisms of other countries pursuant to UNSCR 1373(2001) (c.6.2(b)); there are no legal provisions or procedures, which need to be followed when requesting another country to give effect to the actions initiated under the freezing mechanisms (c.6.2(e)); deficiencies identified under c.6.2 (c) and (d) have impact on implementing TFS based on UNSCR 1373 as it is prescribed in footnote 21 of the FATF Methodology (c.6.4); there are no sanctions established in the AML/CFT Law for natural and legal persons which are not reporting entities (c.6.5(a)); there is no specific obligation to freeze funds or other assets that are jointly owned or controlled by designated persons (c.6.5(b)); there is no legal provision to report to competent authorities on attempted transactions (c.6.5(e)); there are no procedures to submit de-listing requests to the UN sanctions Committees 1267/1989 and 1988 in the case of persons and entities who do not or no longer meet the criteria for designation (c.6.6(a)); there are no specific legal authorities and procedures or mechanisms to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373, that no longer meet the criteria for designation (c.6.6(b)); there are no specific legal provisions or procedures in place to allow, upon request, review of the designation decision before a court or other independent competent authority (c.6.6(c)); there are no procedures to facilitate review of the designation by the 1988 Committee, including those of the Focal Point mechanism established under UNSCR 1730 (c.6.6(d)); there are no procedures for informing designated persons and entities of the availability of the of the United

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<sup>2</sup> This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable. In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

Nations Office of the Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083 to accept de-listing petitions (c.6.6(e)); there are no publicly known procedures to unfreeze the funds or other assets of the persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism (i.e. a false positive), upon verification that the person or entity involved is not a designated person or entity (c.6.6(f)); no guidance have been provided to FI and other persons and entities, including DNFBPs, that may hold targeted funds or other assets, on their obligation to respect a de-listing or unfreezing action (c.6.6(g)); there are no provisions envisaged for application of the relevant measures under c.6.7 for persons designated under UNSCR 1373 and other deficiencies.

10. Following the adoption of the MER, to address the identified deficiencies Moldova has undertaken a number of steps.

11. According to point 3(c) of the Regulation regarding the procedure of application of financial sanctions related with terrorist activities and of proliferation of weapons of mass destruction as of 28.10.2020 (hereinafter – Regulation), the Ministry of Foreign Affairs and European Integration was appointed and authorised for proposing persons or entities to the Sanctions Committee. Pursuant to point 10(b) of the Regulation the SIS is appointed and authorised to identify targets based on the designation criteria. The designation criteria are set out under para 12 of the Regulation are largely in line with the relevant UNSCRs as para 4 of UNSCR 2368(2017) is not covered (c.6.1(a)).

12. Point 12 of the Regulation sets out the list of criteria for designation by the ISS. However, the deficiency under c.6.1(a) is also applicable (c.6.1(b)).

13. Moldova has not taken any steps to address this deficiency. There is still no clear reflection in the legislation on the evidentiary standard “reasonable grounds” to be applied by competent authorities when making a decision on processing a designation (c.6.1(c)).

14. According to point 22 of the Regulation, the ISS shall fulfil in a term of up to 10 days from the moment of designation at the national level, the standard form and submit a request in this regard to the relevant Sanctions Committee in accordance with the procedure provided by the Security Council resolutions (c.6.1(d)).

15. Point 23 of the Regulation notes that the consolidated list shall be drawn up in such a way that the names of natural persons are accompanied by sufficient identification elements where available, such as date and place of birth, pseudonym, sex, citizenship, identity card or passport number. It also indicated that in the case of groups and entities, the information shall include the main headquarter, the place of registration, the date and the registration number, in so far as such information is available (c.6.1(e)).

16. Point 10 (1) of the Regulation empowers the ISS to create and maintain the consolidated list. Pursuant to point 10 (1) (a)-(d) of the Regulation the ISS undertakes on its own motion actions regarding the identification of persons, groups and entities for designation and examines and gives effect to the requests of foreign countries and organisations (c.6.2(a)).

17. Points 27, 28 and 30 of the Regulation allow the authorities to give effect to actions initiated under the freezing mechanisms of other countries pursuant to UNSCR 1373(2001) (c.6.2(b)).

18. In point 28 of the Regulation, it describes that the designation request shall be “examined and evaluated” by the Intelligence and Security Service and by the Ministry of External Affairs and European Integration within up to 5 days. The requirement to support the request by reasonable grounds is established by points 27 and 29 of the Regulation (c.6.2(c), c.6.2(d)).

19. In accordance with point 32 of the Regulation, Moldova must comply with the necessary procedures when requesting another country to give effect to the actions initiated under the freezing

mechanisms. In particular, Moldova must include sufficient information to identify the subject and of the circumstances of the case, together with the grounded reasons justifying the request for designation and the application of the restrictive measure, with the attachment of confirmatory documents to that effect (c.6.2(e)).

20. Deficiencies in relation to c.6.4 are addressed. Please see the analysis under c.6.2(c) and c.6.2(d).

21. Moldova has introduced publicly known procedures to submit de-listing requests to the UN sanctions Committees 1267/1989 and 1988 in the case of persons and entities who do not or no longer meet the criteria for designation (point 35 of the Regulation). However, these procedures only consider UNSCRs 1904, 1989 and 2083 (c.6.6(a)).

22. According to points 38 and 39 of the Regulation, there a specific legal authority (the ISS) and mechanism to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373, that no longer meet the criteria for designation (c.6.6(b)).

23. According to points 41 and 42 of the Regulation, there are specific legal provisions in place to allow, upon request, review of the designation decision (c.6.6(c)).

24. This deficiency on the lack of procedures for informing designated persons and entities of the availability of the of the United Nations Office of the Ombudsperson has been addressed by item 35 of the Regulation (c.6.6(e)).

25. Relevant amendments to the AML/CFT Law to address the deficiencies under c.6.5(b) and c.6.5(e) are in a draft form.

26. Moldova has not taken any steps to address the deficiency under c.6.5(a), c.6.6(d), c.6.6(f), c.6.6(g) and c.6.7.

27. Overall, Moldova has taken steps to remedy some of the identified deficiencies in the 5<sup>th</sup> round MER under R.6. In particular, Moldova has addressed the deficiencies under c.6.1(d,e), c.6.2(a-e), c.6.4, c.6.6(b,c,e), has largely addressed the deficiencies under c.6.1(a), c.6.1(b) and partially addressed c.6.6(a). Despite of these positive steps taken by Moldova, there are still outstanding deficiencies that have not been remedied under c.6.5(a,b,e). Moreover, Moldova has not addressed other deficiencies under c.6.1(c), c.6.6(d,f,g) and c.6.7. **Therefore, R.6 remains PC.**

#### ***Recommendation 7 (Originally rated PC – no re-rating)***

28. In its 5<sup>th</sup> round MER, Moldova was rated PC with R.7 based on the following deficiencies: the deficiencies identified under C.6.2 (c) and (d) have impact on the implementation of TFS based on UNSCR 1373 (c.7.1); there are no explicit legal provisions to appoint and authorize a competent authority to identify targets based on the designation criteria set out in the relevant UNSCRs (c.7.2); there is no specific obligation to freeze funds or other assets that are jointly owned or controlled by designated persons (c.7.2(b)); there is no legislation which would require REs to report any undertaken action regarding attempted transactions (c.7.2(e)); there are no specific procedures which enable or inform listed persons and entities to petition a de-listing request at the Focal Point mechanism established under UNSCR 1730 (c.7.4(a)); there is no publicly known procedure to unfreeze the funds or other assets of listed persons or entities which are wrongly matched (c.7.4(b)); it is not explicitly provided in law that SPCML's authorisation and formalities to perform payments from the amount of goods subject to restrictive measures is according to the applicable UNSCRs (c.7.4(c)); no guidance has been provided to REs on their obligations in respect of a listing/de-listing action (c.7.4(d)); there are no provisions or measures implementing c.7.5 and other deficiencies.

29. Following the adoption of the MER, to address the identified deficiencies Moldova has undertaken a number of steps.

30. The deficiencies identified under C.6.2 (c) and (d) that had impact on the implementation of TFS based on UNSCR 1373 (c.7.1), have been addressed. Please the analysis under c.6.2(c) and (d).

31. The Government Decision no. 792 of 28.10.2020 on approving the Regulation regarding the procedure of application of financial sanctions related with terrorist activities and of proliferation of weapons of mass destruction states in its point 6 that *"the Intelligence and Security Service of the Republic of Moldova (hereinafter the Intelligence and Security Service) is the specialised state body responsible for the direct realisation of the activity regarding the designation and exclusion from the list of persons, groups and entities involved in terrorist activities and proliferation of weapons of mass destructions, as well as other related actions"* (c.7.2).

32. Point 25 of the Regulation establishes that public authorities and institutions, reporting entities, natural and legal persons concerned, in their fields of activity should implement without delay the financial sanctions (c.7.2(a)).

33. Since the only step done by the country in order to mitigate the identified risk is the Draft Law, which is not in force, the deficiency is still not addressed (c.7.2(b)).

34. The most relevant United Nations Security Council Resolutions, such as UNSCRs 1718 and 2231, are directly applicable in Moldova (item 3 of the Regulation). In addition, the Law 308/2017 establishes the possibility of person, group, entity or any other interested party, to request to the Office, in coordination with the Intelligence and Security Service, authorisation to use a part of the amount of frozen assets to realise payments in order to cover particular expenses foreseen by UNSCRs. However, is it still unclear whether the authorisation and formalities to perform payments from the amount of goods subject to restrictive measures are according to the applicable UNSCRs (c.7.4(c)).

35. No guidance was provided by the authorities to REs on their obligations in respect of a listing/de-listing action (c.7.4(d)).

36. No measures have been taken by Moldova to address the deficiencies under c.7.2(e), c.7.4(a), c.7.4(b) and c.7.5(a,b).

37. Overall, Moldova has taken a few steps to address several deficiencies in relation to c.7.1, c.7.2, c.7.2(a), however, the country has not taken any measures to address the deficiencies under c.7.2(b), c.7.2(e), c.7.4(a-d) and c.7.5. **Therefore, R.7 remains PC.**

#### **Recommendation 8 (Originally rated PC – no re-rating)**

38. In its 5<sup>th</sup> round MER, Moldova was rated PC with R.20 based on the following deficiencies: the undertaken risk assessments do not identify the subset of organisations that fall within the FATF definition of NPO or features and types of them (c.8.1(a)); there is no specific domestic measure or ad hoc review aimed at identifying the nature of potential threats terrorist may pose to the NPOs (c.8.1(b)); there has been no specific review of the adequacy of measures, including laws and regulations that relate to the part of the NPO sector which may be abused for FT support (c.8.1(c)); there are no measures in place to encourage NPOs to conduct transactions via regulated financial channels beyond having a bank account (c.8.2(d)); the measures applied to promote effective supervision to NPOs at risk of FT are not fully risk-based (c.8.3); the monitoring of NPOs' compliance with requirements of R.8 is not risk-based (c.8.4(a)) and other deficiencies.

39. Following the adoption of the MER, to address the identified deficiencies Moldova has undertaken a number of steps.

40. Moldova has completed a specific study of the FT risks and use of non-profit organisations in terrorist financing, differentiated from the NRA. This study was developed in the context of the analysis of data and trends in the target segment for the 2017-2020 years. It was carried out by the ISS with the involvement of experts from the Office for Prevention and Fight against Money Laundering. The working methodology was based on risk-based assessment and analysis, in conjunction with the standards in the field of prevention and combating money laundering and terrorist financing developed by FATF and good practices in the field, by operating with statistical data presented by the State Tax Service, the Public Service Agency and the Ministry of Justice. At the beginning of 2020, 18350 non-profit organisations were registered in Moldova, according to the authorities, only 5592 were active.

41. The identified subset of NPOs at risk has been analysed. The authorities have identified a set of terrorist financing risk indicators that apply to NPOs and have concluded that in Moldova the NPOs more vulnerable at FT risk are religious NPOs. In order to identify the types of NPOs vulnerable for being used in terrorist financing, the Service uses for its information the open sources, non-public information, as well as the line of cooperation and exchange of information at the national level with other competent authorities (Public Services Agency, Ministry of Justice, State Tax Service, Office for Prevention and Fight against Money Laundering, National Bank of Moldova, National Anticorruption Centre, Ministry of Internal Affairs), financial institutions, as well as at the international level especially with partner special services (c.8.1(a)).

42. In establishing the nature of threats posed by terrorist organisations to NPOs, the ISS conducts the assessment of investigated cases, in terms of transfers with high-risk countries, connections with organised crime, promotion by the NPOs of extremist, fundamentalist-religious, hate, intolerance, discrimination messages and other destabilization forms. No indications of terrorist financing associated with the NPO were identified (c.8.1(b)).

43. The Moldavan NPO risk assessment was focused on review of laws and regulations and adequacy of supervisory measures related to the of NPOs sector mainly for those that can be abused for FT support. However, no information has been provided on measures taken following this review and the potential legislative changes it has entailed (c.8.1(c)).

44. In addition to the requirement for NPOs to have a bank account, the Law on state registration of legal persons and individual entrepreneurs limits the use of cash at the amount of 100 000 MDL (c.8.2(d)).

45. As it was state in the Moldovan MER, the are several state bodies involved in the supervision of NPOs. In this regard, Moldova promotes some action of cooperation between authorities in charge of NPOs supervision to improve the exchange of information which is positive to increase the effectiveness of supervision but still no risk based. Consequently, the supervision seems to be encompassed in a general framework which is the same for all NPOs regardless of the FT risk of each other except for the monitoring carried out by SIS (c.8.3).

46. As states in the criterion 8.3, Moldovan NPOs are under the general supervision framework. Even if the study of the TF risks of NPOs stablished the criteria for determining the subset of NPOs at FT risk, this is not enough to confirm that the monitoring of those NPOs is risk based (c.8.4(a)).

47. Overall, Moldova has taken some important steps to remedy the identified deficiencies in the 5<sup>th</sup> round MER. The country has carried out the NPO sector risk assessment, which identified the subset of NPOs falling within the FATF definition and is at risk of TF abuse (c.8.1(a)). In addition, Moldova has also identified the nature of threats posed to NPOs (c.8.1(b)). In relation to c.8.1(c), Moldova has provided information on review of laws and regulations, however, no information has been provided on measures taken following this review. The country has taken some additional



measures to encourage NPOs to conduct transactions via regulated financial channels (c.8.2(d)). Nevertheless, deficiencies under c.8.3 and c.8.4(a) have not been addressed, **therefore R.8 remains PC.**

### *Recommendation 10 (Originally rated PC – re-rated as LC)*

48. In its 5<sup>th</sup> round MER, Moldova was rated PC with R.10 based on the following deficiencies: The AML/CFT Law does not sufficiently cover certain FIs: insurance/reinsurance brokers are only required to undertake CDD measures when servicing legal entities, while non-bank entities providing foreign exchange trading platforms (Forex brokers) are not subject to the AML/CFT Law at all (c.10.2); there is no specific requirement to verify the BOs identity based on information or data obtained from a reliable source in case of FEOs (c.10.5); banks and non-bank PSPs are not required to obtain the names of all relevant persons having a senior management position in the legal person, while foreign exchange offices are not subject to any of the above requirements (c.10.9); in case of legal arrangements, the requirement to obtain full names of any person who ultimately exercises effective control does not apply to banks' customers that are natural persons and act in the capacity of trustees (c.10.11); the identification of BO in case of legal arrangements is limited for non-bank PSPs and FEOs (c.10.11); For FIs supervised by NCFM, in case of legal arrangements, the requirement to obtain full names of any person who ultimately exercises effective control does not apply to customers that are natural persons and act in the capacity of trustees (c.10.11); there are no specific requirements to include the beneficiary of an investment-related life insurance or annuity policy as a relevant risk factor in deciding whether to apply enhanced customer due diligence (ECDD) measures apart from checking their PEP status (c.10.13); establishing the business relationship prior to verification is allowed even if it is not essential for an uninterrupted conduct of business (c.10.14); there is no specific requirement to complete verification as soon as reasonably practicable (c.10.14); there is no specific requirement to adopt risk management procedures concerning situations where the business relationship is established prior to verifying the identity of customers or Bos (c.10.15); there is no requirement to apply CDD to existing customers at the moment when new national requirements are brought into force on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of the data obtained (c.10.16); the requirement of c.10.19 does not extend to situations where FIs cannot carry out an on-going monitoring of the business relationship (c.10.19); there are no legal provisions permitting FIs to not pursue CDD measures where this would tip-off the customer in cases of ML/FT suspicion (c.10.20).

49. Following the adoption of the MER, to address the identified deficiencies Moldova has undertaken a number of steps.

50. No measures have been taken by Moldova to address the deficiency under c.10.2. However, it should be highlighted that the deficiency under this criterion does not accurately reflect the deficiency identified by the AT in the 5<sup>th</sup> round MER. In this regard, this deficiency should be read as follow: *The AML/CFT Law does not sufficiently cover certain FIs: insurance/reinsurance brokers that are legal entities are only required to undertake CDD measures, while non-bank entities providing foreign exchange trading platforms (Forex brokers) are not subject to the AML/CFT Law at all.*

51. According to item 13 of the Regulation on requirements for prevention and combating money laundering and terrorism financing in the activity of Foreign Exchange Entities and Hotels, FEOs are required to verify the BO identity based on information from reliable sources (c.10.5).

52. With the aim of addressing identified deficiencies under this criterion, Moldova has amended the NBM Regulations (No. 200, 202 of 09 August 2018), therefore considering the excerpts with

regards to banks and PSPs the deficiencies have been remedied. As for the FEOs, as the MER itself outlines the deficiency, such as not being subject to any of the requirements considered under c.10.9. The Moldovan authorities have provided an argument that these FEOs do not deal with legal persons or legal arrangements at all. Pursuant to Article 41(1) of the Law on FEOs, Foreign exchange entities carry out currency exchange operations in cash in national and foreign currency and with traveller's cheques in foreign currency (hereinafter referred to as currency exchange operations in cash) only with physical persons (c.10.9).

53. Moldova has amended item 26(3) of Regulation No 200, which now has a clear requirement for banks' customers that are natural persons and act in the capacity of trustees (c.10.11)

54. With respect to non-bank PSP, this deficiency is addressed by item 24(2) of Regulation No 202. In relation to FEOs, the Moldovan authorities have provided an argument that these FEOs do not deal with legal arrangements at all. Pursuant to Article 41(1) of the Law on FEOs, Foreign exchange entities carry out currency exchange operations in cash in national and foreign currency and with traveller's cheques in foreign currency (hereinafter referred to as currency exchange operations in cash) only with physical persons (c.10.11).

55. From submitted explanation and interpreted excerpts presented by the assessed country it seems that still the NCFM's AML/CFT regulation requires its supervised FIs to identify founders, administrators and beneficiaries of goods (funds or other assets) under fiduciary management, but only when dealing with legal entities providing such services and not with natural persons acting as trustees. The regulation has not been amended since the MER (no information about the amendments has been presented) and submitted excerpt have interpretative character, which makes it difficult to identify the exact requirements of the regulation. Identified deficiencies under the criterion still remain to be remedied (c.10.11).

56. In the MER of Moldova, assessors noted (p.195, Art.81) that Article 24 of the Regulation on AML/CFT no. 38/1/2018 covers relevant requirements under criterion 10.13 with regards to the beneficiary of a life insurance. At the same time the AT indicated that no requirements exist in relation to the beneficiary of an annuity policy, which is an investment-related life insurance product, apart from checking its PEP status (Art. 8(7), AML/CFT Law). Moldova has not submitted any type of legislative change in this direction, therefore the shortcoming remains (c.10.13).

57. Moldova has addressed some of the identified deficiencies by amending the NBM Regulations (No. 200, 202 of 09 August 2018) and specifying for banking and non-banking payment service providers under its supervision that verification of identity of customer is allowed when it is essential for an uninterrupted conduct of business. As for the FEOs the authorities pointed out that item 11 of the Regulation on FEOs, requires to carry out full CDD (identification and verification) every time before a transaction is conducted. In relation to other FIs (apart from banks, PSP and FEOs) no additional measures have been taken (c.10.14).

58. Moldova has largely addressed some of the identified deficiencies by amending the NBM Regulations (No. 200, 202 of 09 August 2018) and specifying for banking and non-banking payment service providers under its supervision that in cases when an identity of the client and the beneficial owner has not been verified until the establishment of the business relationship, the banking and non-banking payment service providers shall ensure that this measure is carried out as soon as possible after the initial contact, but not later than one month. Until the completion of the verification measures, transactions are not allowed to be carried out through the account or specific conditions should be ensured for its use (value limits, types of services, etc.), in accordance with internal policies and procedures. As for the FEOs, they are required to carry out full CDD (identification and verification) every time before a transaction is conducted. In relation to other FIs (apart from banks, PSP and FEOs) no additional measures have been taken (c.10.14).

59. Moldova has largely addressed some of the identified deficiencies by amending the NBM Regulations (No. 200, 202 of 09 August 2018) and specifying for banking and non-banking payment service providers under its supervision that the internal AML/CFT programmes shall include, inter alia, the procedures and requirements set for the application of simplified customer/transaction due diligence measures when, by their very nature, they may present a lower-level risk of ML/TF, including risk management measures in case of establishing the business relationship until the verification of the identity of the client and the beneficial owner. As for the FEOs the authorities pointed out that item 11 of the Regulation on FEOs, requires to carry out full CDD (identification and verification) every time before a transaction is conducted. In relation to other FIs (apart from banks, PSP and FEOs) no additional measures have been taken (c.10.15).

60. In case of banks and non-banking payment service providers under the supervision of the NBM deficiencies have been fully remedied by item 39 (Regulation 200 on Banks) and item 33 (Regulation 202 on PSP). FEOs do not have existing customers. In relation to other FIs (apart from banks, PSPs and FEOs) no measures have been taken (c.10.16).

61. No measures have been taken by Moldova in relation to c.10.19 and c.10.20.

62. Overall, Moldova has taken a number of important measures to address the shortcomings in relation to banks, PSPs and FEOs. In particular, Moldova has fully addressed deficiencies under c.10.5 and c.10.9. Moreover, significant steps have been taken to largely address the deficiencies under c.10.11, c.10.14, c.10.15, c.10.16. The remaining deficiencies under these criteria are of minor nature as all of them are related to FIs supervised by the NCFM. As was noted in Chapter 1 of the 5th round MER the capital market is small and insignificant, while life insurance policies are provided by only one insurer. No measures have been taken by Moldova in relation to c.10.13, c.10.19 and c.10.20. **Due to significant progress R.10 is upgraded to LC.**

#### *Recommendation 12 (Originally rated PC – re-rated as LC)*

63. In its 5<sup>th</sup> round MER Moldova was rated PC with R.12 based on the following deficiencies: FIs are not required to take reasonable measures to establish the source of wealth (origin of the entire body of wealth) of customers and their beneficial owners identified as PEPs (c.12.1(c)); The definition of close associates is too limited to cover family members or close associates of all types of PEP (c.12.3); There is no express obligation to consider filing an STR to SPCML whenever higher ML/FT risks are identified with beneficiaries of investment-related life insurance or their BOs who are PEP (c.12.4).

64. The MER established that FIs were not required to take reasonable measures to establish the source of wealth of customers and their beneficial owners identified as PEPs. The NBM Regulation No. 200 of 09 August, 2018 have already foreseen the Banks' obligation to adopt appropriate measures for establishing the source of wealth and of funds in case of business relationships and transactions with politically exposed persons, their family members or persons associated with politically exposed persons. The same providences are set down for the FEOs and hotels (Section 28 amended by the NBM Decision no 38 of 11.03.2021) and for non-bank PSPs (amended Section 56 (3)). However, all those amendments are limited to the sector of foreign exchange office, hotels and non-bank payment services provider and don't include other type of FIs (c.12.1(c)).

65. Moldova has taken some steps to amend some definitions related to PEP in order to address the deficiency identified on the limitation of the definition of close associates. However, the definition of close associates seems to be as restrictive as during the MER (c.12.3)

66. Moldova has not taken any action to address the deficiency of the MER in relation to lack of a specific provision establishing an obligation to consider filing an STR whenever higher ML/FT risks

are identified with beneficiaries of investment-related life insurance or their BOs who are PEPs (c.12.4).

67. Overall, Moldova has taken steps to largely address the identified deficiencies under c.12.1(c) in relation to FIs, which are supervised by the National Bank of Moldova. As was noted in Chapter 1 of the 5th round MER banks and other FIs supervised by the NBM constitute a significant part of the financial sector. Moreover, the capital market is small and insignificant, while life insurance policies are provided by only one insurer. Deficiencies under c.12.3 and c.12.4 have not been addressed, however, these criteria were rated “mostly met”, **therefore R.12 can be upgraded to LC.**

### *Recommendation 19 (Originally rated PC – re-rated as LC)*

68. In its 5<sup>th</sup> round MER, Moldova was rated PC with R.19 based on the following deficiencies: there is no express requirement for FIs to apply ECDD measures towards customers from countries for which is called for by the FATF (c.19.1); there are no provisions that provide for the application of the relevant risk-mitigating countermeasures when this is called for by the FATF or independently, except in one case (c.19.2); SPCML’s list of high-risk countries does not include high-risk and other monitored jurisdictions as identified by the FATF (c.19.3); other SPCML documents that call on FIs to consider reports and lists are primarily concerned with ML-related suspicious transactions, and not with CFT (c.19.3).

69. According to the 5<sup>th</sup> round MER of Moldova, the evaluation team found moderate shortcomings under R.19 and rated its compliance with standards as - “Partially Compliant”. With the aim of addressing the deficiencies under c.19.1, Moldova enacted the new Order (OPFML Order No.36) pursuant to which Moldova specifically referred to FATF lists, public statements as the basis for considering jurisdictions as bearing high-risk, lacking effective AML/CFT systems (please, refer to the analysis of underlying factor for rating c.19.3). Additionally, Moldova presented amendments to NBM regulation No.202, pursuant to which in addition to the enhanced due diligence measures (referred to in No.202 – chapter VII) non-bank payment service providers are required to apply additional measures (apply in accordance with the requested actions and depending on the risk) in business relations or in case of transactions with customers and institutions from high-risk jurisdictions in regard of which FATF requests to take action (c.19.1).

70. Pursuant to the requirements under OPFML Order No.36, reporting entities foreseen by the provision of Article 4, para (1) of the AML/CFT Law are required to apply enhanced due diligence measures in accordance with the provisions of Article 8, alin. (2) - (8) of the AML/CFT Law, proportionate to the risks, to business relationships and transactions with natural and legal persons, including financial institutions from countries for which this is called for by the FATF. In addition to these requirements, banks, PSPs and FEO are required by relevant NBM Regulations to apply actions depending on the risk (item 62<sup>1</sup> of Regulation 200, item 27 of Regulation 201, 56<sup>1</sup> of Regulation 202). Apart from these FIs, there are no similar requirements are foreseen for other FIs (c.19.2).

71. The OPFML has approved Order No. 36, which creates and publishes (on the official web site of the Office, [www.spscsb.gov.md](http://www.spscsb.gov.md)) „The list of high-risk jurisdictions subject for a call for action” and „The list of jurisdictions under increased monitoring”. In relation to the listed jurisdictions reporting entities (4, para. (1) of the AML/CFT Law) are required to apply related countermeasures in accordance with the provisions of the Law nr. 308/2017, proportionate to the risks, when called upon to do so by the FATF and independently of any call by the FATF to do so. Pursuant to the enacted amendments the monitoring, updating and publication of the FATF decisions on the list of jurisdictions, as well as the verification of compliance on the application of the requirements foreseen in the order by the reporting entities is the responsibility of the Supervision and

Compliance Division of the OPFML. The last update made on 05.08 2020, (OPFML, Order No. 36) includes the FATF amendments of February 2020 (c.19.3).

72. No significant legal or procedural development has been demonstrated to support the rectification of c.19.3.

73. Overall, Moldova has addressed most of the deficiencies related to the implementation of R.19. Only minor deficiencies remain unaddressed. **In line with other MERs the rating for R.19 could be upgraded to LC.**

### ***Recommendation 23 (Originally rated PC – re-rated as LC)***

74. In its 5<sup>th</sup> round MER, Moldova was rated PC with R.23 based on the deficiencies identified under R.18 and R.19 that impact the implementation of c.23.2 and 23.2.

75. Pursuant to the 5<sup>th</sup> round MER of Moldova, the AT found moderate shortcomings under R.23 and rated its compliance with standards as - “Partially Compliant”. Only deficiencies under R.18 and R.19 impact the compliance of R.23. With respect to deficiencies under R.18 no measures have been taken by Moldova to address these deficiencies in relation to DNFBBPs.

76. As for the deficiencies outlined in R.19, which impact the outcome of c.23.3, c.19.2 and c.19.3 have higher impact. As for c.19.2 pursuant to the requirements of new Order (OPFML Order No.36) Moldova specifically referred to FATF lists, public statements as the basis for considering jurisdictions as bearing high-risk, lacking effective AML/CFT systems. In addition, requirements for DNFBBPs to apply risk adjusted countermeasures against high-risk jurisdictions either independently or at the specific request of FATF are in place, as pursuant to Art.1 of the OPFML Order No.36 in relation to the listed jurisdictions reporting entities (4, para. (1) of the AML/CFT Law) are required to apply related countermeasures in accordance with the provisions of the Law nr. 308/2017, proportionate to the risks, when called upon to do so by the FATF and independently of any call by the FATF to do so.

77. In relation to application of c.19.3 to DNFBBPs, please refer to the analysis under this criterion under R.19 which equally applies to DNFBBPs.

78. Overall, most of criteria under R.23 in the MER have been rated as met or mostly met and the deficiencies identified in the 5<sup>th</sup> round MER under R.19 have been remedied. The existing deficiencies under R.18 and R.19 could be considered minor. **Therefore, R.23 could be upgraded to “LC”.**

## **III.2 Progress on Recommendations which have changed since adoption of the MER**

79. Since the adoption of Moldova’s MER the FATF has amended R.15. This section considers Moldova’s compliance with the new requirements in relation to this Recommendation.

### ***Recommendation 15 (Originally rated LC – re-rated as NC)***

80. In its 5<sup>th</sup> round MER Moldova was rated LC with R.15 based on the following deficiency: the NRA conducted in 2017 does not contain the assessment of ML/FT risks related to new products and technologies as new payment methods or non-face to face verification systems of customers.

81. In October 2018, the FATF revised its Recommendation 15 to introduce new requirements for “virtual assets” (VAs) and “virtual asset service providers” (VASPs, including new definitions). In June 2019, the FATF adopted the Interpretative Note to Recommendation 15 that sets out the application of the Standards to VAs and VASPs. The FATF Methodology for assessing R.15 was

amended in October 2019 to reflect amendments to the FATF Standards incorporating VA and VASP. Consequently, new criteria 15.3-15.11 were added.

82. Overall, Moldova has not provided any information to assess its compliance with the new requirements nor how the country has addressed the deficiency under c.15.1. Moreover, no information has been provided on the materiality of the VASP sector, **therefore, R.15 is downgraded to NC.**

#### IV. CONCLUSION

83. Overall, Moldova has made progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER has been re-rated on five Recommendations (4 upgrades and a downgrade). Recommendations 10, 12, 19 and 23 initially rated as PC are re-rated as LC. Recommendation 15 initially rated as LC is re-rated as NC.

84. Moldova is encouraged to continue its efforts to address the remaining deficiencies.

85. Overall, in light of the progress made by Moldova 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, May 2022**

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

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

86. Moldova will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Moldova is expected to report back in one year's time.

## 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
OPFML	Office for Prevention and Fight against Money Laundering
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions
VA	Virtual Asset
VASP	Virtual Asset Service Provider

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May 2022

Anti-money laundering and counter-terrorist financing measures -  
**Republic of Moldova**

**1<sup>st</sup> Enhanced Follow-up Report**

This report analyses Moldova's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of July 2019.

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