

# 3<sup>rd</sup> Enhanced Follow-Up Report for The Republic of Tunisia

## TC Re- Rating Request

### Anti-Money Laundering and Combating the Financing of Terrorism

December 2018

The Republic of Tunisia

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*This document contains the 3<sup>rd</sup> Enhanced FUR for the Republic of Tunisia, which includes a TC re rating request for 11 recommendations, in addition to 2 recommendations amended by the FATF after the 2<sup>nd</sup> Enhanced FUR. This report reflects Tunisia's efforts, since the adoption of the MER in April 2016 and the 2<sup>nd</sup> Enhanced FUR, to adapt the AML / CFT system to international standards. The 28<sup>th</sup> MENAFATF plenary has adopted this report provided that the Republic of Tunisia remains in the Enhanced FU process and submits its 4<sup>th</sup> Enhanced FUR in the 30<sup>th</sup> plenary meeting in November 2019.*

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### 3<sup>rd</sup> Enhanced Follow-Up Report for the Republic of Tunisia (TC re-rating request for some recommendations)

#### Introduction:

1. The Republic of Tunisia was evaluated in the second round by the World Bank according to the 40 FATF Recommendations and the 11 Immediate Outcomes adopted by FATF in 2012. The Mutual Evaluation Report (MER) was prepared according to the Methodology adopted in 2013 and was adopted at the 23<sup>rd</sup> Plenary of the MENAFATF held in Doha, State of Qatar in April 2016, and thus became the 1<sup>st</sup> MER adopted in the second round.
2. Based on the ratings of the eleven Immediate Outcomes and the forty Recommendations set out in the Mutual Evaluation Report for the Republic of Tunisia, and according to the mutual evaluation process procedures adopted in November 2014, the 23<sup>rd</sup> Plenary held in April 2016 decided to place the Republic of Tunisia under enhanced follow-up.
3. In the 2<sup>nd</sup> Enhanced FUR presented to the 26<sup>th</sup> Plenary held in the city of Manama, the Kingdom of Bahrain, in December 2017, Tunisia has requested a re-rating for some Recommendations. The Plenary has decided to upgrade the TC for R 1, R 10, R 12, R 15, R 16, R 17, R 18, R 19, R 36 to “Largely Compliant”, and for R 25, R 26 and R 34 to “Partially Compliant”, to keep the ratings of compliance with R 2, R 6, R 22, R 24 and R 31 “Partially Compliant”, and to downgrade the rating of compliance with R 5 to “Largely Compliant”, and to downgrade the rating of compliance with R 8 to “Partially Compliant”.
4. This report analyses the progress in meeting the requirements of 13 Recommendation, 11 of which were rated “Partially Compliant” or “Non-Compliant” and for which the country requested the re-rating, in addition to the analysis of R 18 and R 21, based on the changes recently adopted by FATF.

#### First: Findings of the Mutual Evaluation Report and the 2<sup>nd</sup> Enhanced Follow-Up Report:

5. Based on the MER and the 2<sup>nd</sup> Enhanced FUR, the Republic of Tunisia was rated as follows for technical compliance:

<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>R5</b>	<b>R6</b>	<b>R7</b>	<b>R8</b>	<b>R9</b>	<b>R10</b>
LC	PC	C	LC	LC	PC	NC	PC	C	LC
<b>R11</b>	<b>R12</b>	<b>R13</b>	<b>R14</b>	<b>R15</b>	<b>R16</b>	<b>R17</b>	<b>R18</b>	<b>R19</b>	<b>R20</b>
C	LC	C							
<b>R21</b>	<b>R22</b>	<b>R23</b>	<b>R24</b>	<b>R25</b>	<b>R26</b>	<b>R27</b>	<b>R28</b>	<b>R29</b>	<b>R30</b>
C	PC	PC	PC	PC	PC	LC	PC	LC	C
<b>R31</b>	<b>R32</b>	<b>R33</b>	<b>R34</b>	<b>R35</b>	<b>R36</b>	<b>R37</b>	<b>R38</b>	<b>R39</b>	<b>R40</b>
PC	LC	PC	PC	LC	LC	C	PC	C	LC

6. In coordination with the Secretariat, the following experts assessed the Republic of Tunisia's request for TC re-rating for the afore-mentioned Recommendations:
- Mrs. Maha Al-KHAYAT, Special Investigation Commission - the Lebanese Republic
  - Mr. Peter Al-SHAROUNI, AML/CFT unit - the Arab Republic of Egypt

**Second: Overview of progress to implement the Recommendations subject of the re-rating request:**

7. This section of the report presents the measures taken by the Republic of Tunisia to comply with the Recommendations that being re-rated, as follows:
- a. The Recommendations for which the country was rated (Partially Compliant/Non- Compliant).
  - b. Recommendations where the criterion was amended since the adoption of the 2<sup>nd</sup> Enhanced FUR (R.18, R.21).

**A. The Recommendations for which the country was rated (Partially Compliant/Non-Compliant):**

8. Tunisia has requested a re-rating in relation to 10 Recommendations (6, 8, 22, 23, 24, 25, 26, 28, 31, 34) which were rated Partially Compliant and to R.7 which was rated Non-Compliant. We will handle hereinafter in detail, each Recommendation separately, according to the enclosed analysis:

- **Recommendation 6 (Targeted Financial Sanctions Related to Terrorism and Terrorist Financing) (Partially Compliant):**

9. The deficiencies in the implementation of Recommendation 6 were the absence of a mechanism for the identification and designation of targeted persons or entities in application of Resolution 1267/1989 and 1988, through an authority or a competent court on the one hand, and for the designation of names based on the designation criteria set out in the UNSCRs, on the other hand. Tunisian authorities have not applied any mechanism that allows them to identify entities and persons through a competent court or authority, under UNSCR No.1373 and they lack quality measures to consider the request made by another country to this end. Also, the Ministry of Finance lacks the powers and the mechanisms to request and collect information to identify persons and entities that, based on reasonable grounds, meet the criteria for designation and to operate unilaterally against these persons and entities. In addition, the freezing mechanism is only applied to the entities subjected to the AML/CFT Law and not to all the persons in the country. And there is no general prohibition on making assets or resources available or on undertaking any transaction with the designated persons or entities. Also, the law does not specify whether the concerned property comprises assets "which are controlled by designated persons or the property of persons acting on behalf of designated persons". Tunisian authorities have not issued delisting procedures, based on a request submitted to the UN Sanctions Committee by virtue of the procedures adopted by the 1267/1989 Committee and the 1988 Committee.

10. In order to address the deficiencies, Tunisia issued Organic Law No. 26 dated 07/08/2015 concerning the fight against terrorism and the prevention of money laundering. It sets out the establishing of a National Anti-Terrorism Commission at the Prime Ministry (Cabinet), mandated

to monitor and assess the implementation of resolutions issued by competent UN bodies on combating terrorism, to make recommendations and to issue related directives. The said Organic Law also determined the powers and mandates of this Commission and prohibited any kind of support and financing to individuals, organizations, or activities linked with terrorist offenses and it specified the preventive measures that legal persons should take to prevent being misused for TF or ML activities. It also empowered the National Commission to freeze funds of persons or organizations whose link to terrorist crimes has been appeared to it or to the competent UN bodies.

11. Tunisia issued governmental order No.1 of 2018 dated 4 January 2018 on the regulation of the procedures to implement the resolutions issued by competent UN bodies as regards the suppression of terrorist financing, this order designates the authority empowered to implement the UNSCRs on TF (the National Anti-Terrorism Commission) and determined its powers, the procedures for designation and proposal of names and the freezing procedures.

**Conclusion:**

12. The analysis reveals that Tunisia has met several requirements of the Recommendation 6, but it still has to add identifying information and specific information supporting the designation when requesting another country to give effect to the actions initiated under the freezing mechanisms.

13. Given that the remaining deficiencies are minor, the rating of compliance is **Largely Compliant**.

- **Recommendation 7 (Targeted Financial Sanctions Related to Proliferation) (Non-Compliant):**

14. The MER mentioned the absence of a targeted financial sanctions system in the application of UNSCRs on the proliferation of weapons of mass destruction and its financing (Iran and North Korea).

15. In order to address the deficiencies, Tunisia has prepared the draft amendment of governmental order No.1 of 2018, which aims at regulating the procedures for the implementation of articles 103, 104 and 105 of the AML/CFT law, on freezing the funds or persons, organizations or entities whose link to terrorist crimes and proliferation of mass destruction weapons has been established to the National Anti-Terrorism Commission or to the competent UN bodies. Tunisia is also working on the project of amending and supplementing law No.26 of 2015, dated 7 August 2017 on the follow-up and assessment of the implementation of the resolutions issued by competent UN bodies, on combating terrorism and preventing proliferation.

16. However, the said projects have not been adopted and ratified by competent authorities; therefore, they may not be drawn upon to re-rate compliance with the Recommendation.

**Conclusion:**

17. Given that the above-mentioned draft governmental order is not issued and that the deficiencies are major, the rating remains **“Non-Compliant”**.

- **Recommendation 8 (Non-Profit Organizations) (Partially Compliant):**

18. The 2<sup>nd</sup> Enhanced FUR mentioned that Tunisia still should include, after the amendment made to Recommendation 8 and its Interpretive Note by FATF, the new requirements of the said Recommendation. Furthermore, the MER included several deficiencies represented in the absence of an effective system to raise awareness among NPOs on combating terrorist financing, and also in the absence of provisions to implement rules for the identification of beneficiaries and partners in NPOs and in the absence of measures to conduct effective investigations on NPO's in order to combat terrorist financing.
19. In order to address the deficiencies, the Directorate General for Associations and Political Parties at the General Secretariat of Government adopted an approach to further promote national coordination with various bodies mandated to supervise associations and identify NPOs, and the relevant risks according to their activities and characteristics and based on specific criteria (236 associations were ranked as high-risk Including 110 NPOs designated as vulnerable to use form terrorists). After assessing the risks of NPOs, the Tunisian authorities identified the threats of terrorist entities to NPOs and the vulnerabilities. The Directorate has also approached various concerned bodies, including ministries, supervisors, governors of the regions, for coordination, monitoring and exchange of information, by giving effect to several practical mechanisms. The concerned Directorate conducted an off-site supervision and imposed sanctions for violations by 696 NPOs . The Directorate has also organized, in collaboration with the private sector, awareness workshops funded by the European Union for 110 associations from 1<sup>st</sup> to 30<sup>th</sup> of April 2017, in order to raise their awareness on the risks of the NPO's sector and its potential misuse for terrorist financing. The Tunisian Financial Analysis Committee issued decision No.12 of 2018, on 6<sup>th</sup> of June 2018 on AML/CFT guidelines for NPOs that include special measures on defining the beneficial owner and the partner of NPO's and other guidelines on due diligence measures for persons dealing with NPOs , due diligence measures for NPOs ,and measures for administrative oversight structures of NPO's .and organized on 21<sup>st</sup> of May 2018 an awareness workshop for regional coordinators at the governors regions who are mandated to supervise and monitor NPOs. In addition, the Tunisian authorities have published the Law of the National Register of organizations, including non-profit organizations, in the official Gazette on 6/11/2018.
20. For the purpose of achieving overall compliance with Recommendation 8, the Tunisian authorities have started to prepare a program at the national level with the "Kawakibi Center for Democratic Transformation of Tunisia", "the International Center for Not-For Profit Law", "the Human Security Collective" and "the Green Acre Advisory Office", in the framework of updating the national risk assessment, aims to reassess the risks in the NPOs sector with respect to what has been done in this regard ,in order to combat misusing NPOs for terrorism financing purposes, and to develop an educational program to raise awareness of NPOs sector as well as donors community regarding potential misuse of NPOs for financing of terrorism.

**Conclusion:**

21. Tunisia still should complete its effort to update the nature of threats posed by terrorist entities to the NPOs, and how terrorist actors abuse these NPOs, and to review the adequacy of procedures that relate to the NPOs that may be abused for the support of terrorist financing.
22. In view of the efforts made by Tunisian authorities to identify the subset of NPOs and to issue AML/CFT guidelines for the NPOs sector, to publish the Law of the National Register of organizations in the official Gazette, and to the awareness workshops held to these NPOs, the rating is “**Largely Compliant**”.

**Recommendation 22 (DNFBPs: Customer Due Diligence) (Partially Compliant):**

23. The MER mentioned that the thresholds set out by the Minister of Finance decision issued in 2016 determining the amounts set out in articles 100, 107, 114 and 140 of the AML/CFT Law, for casinos and dealers in precious stones, are considered very low, and may render the implementation difficult (approximately USD 1740 for casinos while the Recommendation set the amount at USD 3000, and USD 8700 for dealers in precious stones, while the threshold set in the Recommendation is USD 15000 in cash), and the Tunisian law covers, in this mechanism, any transaction, regardless of whether it is in cash or not. The 2<sup>nd</sup> Enhanced FUR mentioned the absence of circulars or executive provisions issued by the supervisory and monitoring authorities of each sector, as regards the implementation of due diligence toward PEP’s. In addition, there are no specific guidelines issued to DNFBPs on implementing due diligence related to ML/TF risks when using new technologies, and the requirements provided for due diligence in the law are not implemented through issuing a guideline for all the categories of DNFBPs.
24. In order to address the deficiencies, Tunisia issued Organic Law No.26 of 2015 under which the list of DNFBPs now covers all the professions set out in the Recommendation. In addition, the Tunisian Financial Analysis Committee issued guidelines to all DNFBPs, which are considered as a mechanism for guidance and streamlining of rules and measures which should be taken by DNFBPs for suspicious transactions reporting (lawyers, notaries, accounting experts, real estate agents, dealers in jewels and precious stones, and casinos). On 19th of April 2018, the Minister of Commerce decision on the ratification of the bylaw applied to real estate agents to monitor and report suspicious operations and transactions was issued, in addition to the decision issued by the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts dated 19th of April 2018 on the regulation of the bylaw applied to dealers in precious metals and stones to monitor and report suspicious transactions. Furthermore, a decision was issued by the Minister of Justice on 19th of April 2018 on the regulation of the bylaw applied to notaries to monitor and report suspicious operations and transactions. Also a decision issued on the same date by the Minister of Interior, the Minister of Finance, and the Minister of Tourism and Handicrafts , on ratifying the bylaw applied to directors of Casinos to monitor and report suspicious transactions, In addition to the general professional standard for accounting experts in the context of due diligence to combat ML/TF offenses and the suspicious transaction reporting system issued by the Tunisian Accounting Experts Authority ,and regarding the lawyers, it was not apparent that they

had issued regulatory instructions to them from the supervising authority of their AML / CFT obligations.

**Conclusion:**

25. The analysis of Recommendation 22 reveals that Tunisia has met several requirements of the Recommendation, and still should undertake the following:

- To complete the framework for binding non-financial businesses and professions by issuing binding supervisory instructions to lawyers.
- Although the threshold set for the obligations of casinos does not exceed the threshold set out in the international standard, it still needs to be reviewed, considering the low level of risks in this sector.
- To fulfill the requirements of criterion 22.4 related to risks of new technologies.
- To establish detailed criteria for the supervisory instructions, which would complete the remaining elements of the requirements relating to reliance on third parties, according to criterion 22.5.

26. Considering the remaining deficiencies which are considered moderate, the rating of Recommendation 22 is “**Partially Compliant**”.

**Recommendation 23 (DNFBPs: Other measures) (Partially Compliant):**

27. The deficiencies were that the obligation of dealers in jewels and precious stones and managers of casinos to report suspicious transactions is associated with the threshold of the transactions set out in the Minister of Finance decision referred to in the analysis of criterion 22.1 (see the annex); accordingly, the same afore-mentioned observations shall apply as regards these amounts. The law regulating the law profession, the law regulating the notaries profession and the law issued on the re-drafting of legislation for the accounting experts’ professions do not contain any provisions on AML/CFT internal control. In addition, supervisors mandated to supervise real estate agents and dealers in jewels and precious stones did not implement the determined measures required to recognize the AML/CFT internal control. There is a contradiction between the reporting obligation and article 31 of the law regulating the law profession which stipulates that “the lawyer must absolutely keep all the secrets disclosed to him by his client, or those he had access to due to the practice of his profession”.

28. In order to address the deficiencies, Tunisia issued Organic AML/CFT Law No.26 of 2015 a decision was issued by the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts on 19<sup>th</sup> of April 2018 for the ratification of the bylaw applied to managers in charge of casinos to monitor and report suspicious transactions. The Minister of Trade’s decision was issued on 19<sup>th</sup> of April 2018 for the ratification of the bylaw applied to the real estate agent to monitor and report suspicious operations and transactions. A decision was also issued by the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts on 19<sup>th</sup> of April 2018 on the regulation of the bylaw applied to jewelers dealing in precious metals and stones to monitor and report suspicious transactions. A decision was issued by the Minister of Justice on 19<sup>th</sup> of April 2018 on the regulation of the bylaw applied to notaries to monitor and report suspicious operations and transactions, in addition to the general professional standard for

the accountant in the framework of due diligence to combat ML/TF crimes and the system of detecting suspicious transactions issued by the experts committee of accountants in Tunisia.

**Conclusion:**

29. In order to comply with the requirements of Recommendation.23, Tunisian authorities still should:

- Complete the framework for binding DNFBPs by issuing binding supervisory instructions as regards the requirements of Recommendation.23 for lawyers.
- Although the thresholds set for the obligations of casinos do not exceed the thresholds mentioned in the international standard, they still need to be reviewed in view of the lower level of risks in this sector.
- Require all DNFBPs to implement screening procedures to ensure high standards of competence when hiring employees, and to have an independent audit function to test the system.
- As to financial groups, DNFBPs, except accountants should be required to establish policies and procedures for sharing information required for CDD and ML/TF risk management purposes; to provide, at group-level compliance, audit, and AML/CFT functions, customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes; and to provide adequate safeguards on the confidentiality and use of information exchanged.
- Require DNFBPs in Tunisia, except accountants, to verify that their foreign branches and majority-owned subsidiaries implement programs against ML/TF consistent with the requirements in Tunisia and that this should be undertaken to the extent that host country laws and regulations permit. There should be also a text stipulating that if the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements, financial groups should be required to apply appropriate additional measures to manage the ML/TF risks.
- amend the scope of the legal obligation to prevent DNFBPs, managers, officials and employees from disclosing the fact that STR or other relevant information has been submitted to the Tunisian FIU to include cases where the FIU does not issue a written decision to temporarily freeze funds subject of the STR.

30. Accordingly, it appears that Tunisia still should meet several requirements of Recommendation 23 and the rating of compliance with this Recommendation would be “**Partially Compliant**”, particularly that the remaining deficiencies are moderate.

- **Recommendation 24 (Transparency and Beneficial Ownership of Legal Persons) (Partially Compliant):**

31. The MER showed that the information held in the commercial register does not provide information about the beneficial owner, especially for foreign legal persons. The measures that subjected persons are required to implement depend on the extent to which they are able to access beneficial ownership information, which is not possible through the information held in the commercial register, particularly when foreign companies are concerned.

32. In order to address the deficiencies, Tunisia issued decision No.3 regarding beneficial owners, on 2<sup>nd</sup> of March 2017. also, the public parliament ratified the law project on the national register of enterprises in July 2018, which established the national center for the registry of enterprises under the supervision of the Prime Ministry, to act as registration functions at commercial courts.

33. With regard to the mentioned law draft, the national register of enterprises consists of four sub-registers:

- A commercial register where dealers, commercial companies, legal arrangements, public non-administrative enterprises and institutions, legal persons who are subjected to registration under the laws or their respective arrangements and the artisans as stipulated by the applicable legislation which regulates handicrafts are registered.
- A professional register where professional companies and professionals working on their own account.
- An NPOs' register where the NPOs created according to the applicable legislation are registered .
- A beneficial owners' register where the list of beneficial owners is determined according to a template prepared for this purpose.

**Conclusion:**

34. Tunisia has taken important steps towards by ratification the law on the national register of enterprises, however, the following requirements still need to be completed:

- To have an obligation that requires companies to maintain information relating to the register that contains the names and addresses of managers and members of the control board and the register of shares and voting powers at a location notified to the company registry; and to set an obligation requiring companies to update this data.
- To have a requirement that one or more natural person or a DNFBP owner who is resident in the country authorized by the company, and accountable to competent authorities, as regards the provision of all basic information and beneficial ownership information and providing further assistance to the authorities.
- To establish an update framework for the transfer of shares in partnership companies, if the memorandum of association does not include the conditions of transfer and in the case of partnership companies which convert into public companies.
- To establish a mechanism that enables to identify the beneficial ownership, particularly for foreign legal persons.
- To determine a mechanism to maintain documents and data after the termination of the activity of these legal entities.

- In case of shares in partnership companies, there should be a mechanism to determine the extent to which there are managers who act on behalf of another person should be issued and there should be also a measure that requires the agent to disclose his status or to maintain information that identifies the person who appointed him and to put this information at the disposal of competent authorities upon request.
- To provide information on the international cooperation, as regards basic and beneficial ownership information.
- To provide information on the extent to which the international cooperation mechanisms are being used to follow-up the quality of the assistance provided by other countries on basic and beneficial ownership information.

35. Based on the foregoing, it appears that Tunisia is currently working on issuing the new law on the national register of corporates, whereby several deficiencies mentioned in this Recommendation would be remedied once issued, and considering that the law is in the process of being issued and in view of the remaining moderate deficiencies, the rating of this Recommendation remains **“Partially Compliant”**

**Recommendation 25 (Transparency and Beneficial Ownership of Legal Arrangements) (Partially Compliant):**

36. The MER for the Republic of Tunisia mentioned the possibility of establishing a business relationship between any of the FIs or the DNFBPs and a foreign credit institution or a trust or a similar foreign arrangement which owns assets in Tunisia, or with a Tunisian lawyer or any other person acting as “trustee/manager” of an asset located abroad or in Tunisia or even a trust established under a foreign law. However, the Tunisian law or the AML/CFT law does not provide for the implementation of any measure to identify beneficial owners and ensure the transparency of transactions in terms of measures taken to prevent money laundering .
37. In its analysis of the decision issued by the Tunisian Financial Analysis Committee on the measures to establish the identity of beneficial owners, the 2<sup>nd</sup> Enhanced FUR mentioned that this decision cannot be deemed as a general framework which requires legal arrangements to declare their status to the Tunisian authorities, and the obligation to declare as stated in the decision does not require banks (with the exclusion of other FIs or DNFBPs) to implement due diligence measures in case they do not declare their capacity of trustees of a trust fund. Furthermore, banks lack a mechanism to verify the declared information. The decision does not refer to any punitive action in case a trustee of a trust fund fails to declare his identity to a bank when conducting a transaction or engaging in a business relationship.
38. In order to address the afore-mentioned deficiencies, the public parliament in Tunisia ratified the new law on the national register of enterprises as a preparation step for its issuance which comprises texts on collecting detailed data about legal persons and arrangements and making them available in an electronic form that has the legal force of the paper form. The new draft law addressed several shortcomings relating to this Recommendation. On 5/4/2018, the Tunisian Financial Analysis Committee issued guidelines to monitor and report suspicious transactions for

these professions (lawyers, accounting experts, real estate agents, and dealers in jewels and precious stones).

39. Since the 2<sup>nd</sup> FUR, Tunisia provided information stating the Tunisian Financial Analysis Committee has submitted several guiding papers for DNFbps which comprise guidance on the AML/CFT requirements, including requirements for the identification of the beneficial ownership of legal arrangements. It also submitted the new draft law on the national register of enterprises which was adopted by the Parliament in Tunisia and measures are being taken to issue it. It comprises provisions on collecting and detailed data about legal persons and legal arrangements and on providing them in an electronic form that has the legal force of the paper form. The new draft law addressed several observations related to this Recommendation, but since the law was not issued and put into effect, it may not be relied on to determine the rating of compliance with Recommendation 25.

**Conclusion:**

40. Therefore, most of the observations set out in the MER are still valid and the rating of the Recommendation remains “**Partially Compliant**”.

**Recommendation 26 (Regulation and Supervision of Financial Institutions) (Partially Compliant):**

41. The MER concluded that there are many deficiencies in the implementation of Recommendation 26, such as the lack of clear AML/CFT powers conferred upon the Central Bank, the Financial Market Board and the General Insurance Committee, and the gaps in the legislation regarding the authority which should handle the AML/CFT supervision of the Tunisian Post Office, the absence of specific written measures to carry out supervision on a risk-based approach, and the weak on-site supervision conducted by the Central Bank and the Financial Market Board and the absence of such supervision as regards the General Insurance Committee. As well as the failure to take into account the ML/TF risk levels to conduct such supervision. The poor understanding of risks by supervisors of the banking and financial sector due to weak or inexistent on-site visits. The poor human resources of supervisors of the banking and financial sector. The absence of a policy that would promote the understanding of ML/TF risks based on specific appropriate and current guidelines, and the lack of awareness among subjected persons as regards risks and obligations in the financial and banking sector. The failure to impose sanctions by the supervisory and monitoring authorities in the AML/CFT field.
42. The 2<sup>nd</sup> Enhanced FUR mentioned that the financial sectors are not reflecting the outputs of the national risk assessment on the work procedures, nor are they documenting and applying them in the supervisory operations and that the Financial Market Board and the General Insurance Committee did not identify the sectorial risks, nor did they reflect their results in the work procedures and inspections. As to the Financial Market Board, there is no on-site AML/CFT supervision.
43. In order to address the deficiencies, the Financial Market Board prepared and adopted, in 2018, a sectorial study on ML/TF risks that was based on the outputs of NRA conducted in 2017, and in

the light of the risk assessment findings, the Board prepared on-site visit programs which covered 3 stock exchange brokers (out of 23 in total) and 4 exchange companies (out of 22 in total). It was decided to impose sanctions on 3 stock exchange brokers and 3 exchange companies for detecting violations of the AML/CFT obligations. In February 2018, the Board adopted a procedure manual for AML/CFT inspectors and a group of AML/CFT inspectors was created and received a training throughout 2017 and 2018 provided by the World Bank (February 2018), the Academy of Banking and Financial Sciences (November 2017 and January 2018), the Professional Stock Exchange Brokers Association (October 2017) and the Tunisian Institute for Stock Exchange Brokers (February 2018). As to the General Insurance Committee, it has prepared a manual for AML/CFT inspectors, which was ratified by the Committee board on 2 March 2018. This manual comprises the following subjects (governance, policies, procedures, risk map, information system, due diligence measures and monitoring of suspicious transactions). This manual draws upon the risk-based approach, given that an emphasis was laid on the obligation of inspectors to focus on the aspects that pose high risks such as the beneficial owner of the life insurance contract, PEPs, persons residing in non-cooperative countries, NPOs, underwriting of insurance contracts at high sums and the change of beneficiaries throughout the validity of the contract. The General Insurance Committee also organized several sessions in collaboration with several entities. The insurance observers adopted the risk-based approach to program the on-site visits to insurance institutions, by preparing a risk matrix that includes the most important ML/TF risks (marketing life insurance contracts, using insurance brokers, purchase rate...) along with classifying each individual risk, based on its relevance. In the light of the available data (results of the questionnaires, annual reports and written procedures of insurance companies) and by relying on the risk matrix, the institutions were classified based on the degree of risks. The on-site visits covered 8 insurance institutions (4 institutions specialized in life insurance, 3 institutions engaged in all the fields and one Takaful insurance institution) and the on-site visits revealed some breaches and violations and on 18/04/2018 the Committee board decided to refer them to the disciplinary committee which imposed the appropriate sanctions against the breaching insurance companies. And regarding Tunisian Post Office , Tunisia has submitted a decision signed by the Minister of Communication Technology and the Digital Economy included forcing the National Office Post when carrying out financial transactions and banking services by implementing publications of Central Bank of Tunisia to banks and related financial institutions, also decisions issued by Tunisian Financial Analysis Committee for financial institutions that include guidelines for monitoring and reporting suspicious transactions and operations .moreover ,The resolution specifies that the Ministry of Communication Technology and the Digital Economy shall be considered as a supervisory authority to insure the compliance of the National Post Office with the duties related to combating money laundering and the financing of terrorism. As well as the decision identified that disciplinary sanctions is applied in the case any violations in accordance with the disciplinary system of the National Office Post. It should be mentioned that the Ministry Decision on the National Post Office has not yet been published in the Official Gazette.

### Conclusion:

44. Tunisia provided detailed information on the efforts made by the Capital Market Authority and the General Insurance Committee to monitor entities practicing in insurance sector and the stock exchange intermediary companies. It also completed the supervisory frameworks in the postal and microfinance sectors by the issuance of the texts of the Ministry of Communication Technologies and the Digital Economy and the supervisory authority on microfinance institutions. It remains unfulfilled to issue procedures for periodic, or exceptional, inspections to prevent criminals or accomplices from being the beneficial owners in intermediary companies and companies engaged in the management of portfolios in the securities market. Tunisia still has to provide information on the extent to which the risk-based supervision is applied at the financial group level, and to provide a mechanism based on reviewing the assessment of the ML/TF risks of FIs or financial groups periodically, or when there are major events or developments in their regard; and considering the lower level of risks in the post and micro-finance sectors, (based on the findings of NRA and the information provided by Tunisia in this regard), Tunisia has addressed most of the deficiencies raised in its MER, as regards Recommendation 26.

45. Therefore, the rating of compliance with this Recommendation is “**Largely Compliant**”.

- **Recommendation 28 (Regulation and supervision of DNFBPs) (Partially Compliant):**

46. The deficiencies in the implementation of Recommendation.28 were the absence of legal safeguards that prevent criminals or their associates from working in casinos or from acquiring a significant interest, or from supervising, or holding a management function in a casino, and the failure of any DNFBPs supervisor to issue legal provisions on the identification of customers, suspicious transactions reporting, training, internal control and record keeping, in addition to the absence of the power to monitor DNFBPs for compliance or any practical arrangements to perform such monitoring in terms of texts that regulate the activities of each. In addition, Tunisian authorities did not conduct any risk analysis in the AML/CFT field for DNFBPs.

47. In order to address the deficiencies, Tunisia issued the following decisions:

- The decision of the Minister of Justice dated 19<sup>th</sup> of April 2018 on the regulation of the bylaw applied to notaries to monitor and report suspicious operations and transactions, in application of the provisions of articles 107 and 115 of Organic Law No.26 of 2015.
- The decision of the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts dated 19/04/2018 on the regulation of the bylaw applied to jewelers dealing in precious metals and stones to monitor and report suspicious transactions, in application of articles 107 and 115 of Organic Law No.26 of 2015.
- The decision of the Minister of Commerce dated 19/04/2018 on the ratification of the bylaw applied to the real estate agents to monitor and report suspicious transactions, in application of articles 107 and 115 of Organic Law No.26 of 2015.
- The decision of the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts dated 19/04/2018 on the ratification of the bylaw applied to managers in charge of casinos to monitor and report suspicious transactions, in application of articles 107 and 115 of

Organic Law No.26 of 2015 (published in issue No. 32 of the Official Journal of the Republic of Tunisia on 20/04/2018).

- The professional standard No.55 dated 18/04/2018 issued by the Accounting Experts Authority, on the AML/CFT obligations of accounting experts

**Conclusion:**

48. Tunisia made significant efforts to address the remaining deficiencies, the most important of which is the issuance of supervisory instructions to managers at casinos, real estate agents, jewelers dealing in precious metals and stones, notaries and accountants which comprise binding texts as regards the AML/CFT requirements. In addition, DNFBP supervisors have the powers to monitor AML/CFT compliance, under the provisions of articles 115-117 of the Organic Law, including the power to establish programs for monitoring compliance and the power to impose graduated sanctions in case violations are detected. Tunisia has also taken measures to understand the risks posed by DNFBPs and established plans to deal with such risks, given that the national ML/TF risk assessment comprised outputs on ML/TF risks and priorities to deal with such risks. In 2017, Tunisia analyzed DNFBPs risks, and disseminated its results to the relevant DNFBPs, which led to the establishment of an action plan based on a timeline, and according to which, legal texts binding on most of DNFBPs were issued. A procedure manual for observers of these businesses and professions that comprises the method for conducting risk-based supervision is being currently prepared for adoption soon, in order to initiate their supervisory functions.

49. Despite the efforts made by Tunisia, it still has to address the following deficiencies:

- The need to provide legal safeguards that prevent criminals or their associates from working in this field or from acquiring a significant interest, or supervising, or holding a management function in a casino.
- As to lawyers, it did not appear that binding supervisory instructions were issued to them by the authority which monitors their AML/CFT obligations.
- To complete the efforts initiated by Tunisia to conduct actual supervisory operations over the DNFBP sector inconsistency with the risks identified.

50. Therefore, considering that the remaining deficiencies are moderate, the rating of Recommendation.28 is “**Partially Compliant**”.

**Recommendation.31 (Powers of Law Enforcement And Investigative Authorities) (Partially Compliant):**

51. The deficiencies set out in the MER were that Organic Law No. 26 of 2015 granted powers to use special means and techniques such as the intercepting communications, audio-visual monitoring, and hacking only in terrorism cases, with the exclusion of cases of money laundering and associated predicate offenses. The law does not comprise the power to use techniques of undercover operations and controlled delivery.

52. In order to address the deficiencies, Tunisia has prepared a draft amendment of the AML/CFT law, so as it comprises the use of new techniques for judicial investigations. However, it is still a draft law which is not adopted and ratified; therefore, it may not be drawn upon to re-rate the Recommendation.

**Conclusion:**

53. Given that the above-mentioned draft law is not adopted, the rating of compliance with Recommendation.31 should be “**Partially-Compliant**”.

**Recommendation 34 (Guidance and feedback) (Partially Compliant):**

54. The MER showed that the publication of best practices and the provision of appropriate feedback between the authorities and the subjected persons in terms of scope, update, importance, and adequacy are very limited, and that DNFBPs are not receiving any feedback.

55. In order to address the deficiencies, the Tunisian Financial Analysis Committee issued guidelines to lawyers, accounting experts, real estate agents, and dealers in jewels and precious stones. On 19/04/2018, a decision was issued by the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts on the regulation of the bylaw applied to dealers in jewels and precious stones to monitor and report suspicious transactions, in the application of articles 107 and 115 of the AML/CFT Law. In addition, the decision of the Minister of Commerce was issued on 19/04/2018 for the ratification of the bylaw applied to the real estate agents to monitor and report suspicious transactions, in the application of articles 107 and 115 of the said law. The decision of the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts was also issued on 19/04/2018 for the ratification of the bylaw applied to managers in charge of casinos to monitor and report suspicious transactions, in the application of articles 107 and 115 of the said law. In addition to the professional standard No.55 dated 18/04/2018 issued by the Accounting Experts Authority, on the AML/CFT obligations of accounting experts.

**Conclusion:**

56. Considering that Tunisian authorities have issued guidelines to assist FIs and DNFBPs in implementing national AML/CFT measures, namely in detecting and reporting suspicious transactions; the rating of compliance with Recommendation.34 should be upgraded to “**Largely Compliant**”, while emphasizing the importance of promoting the provision of feedback between supervisors and subjected persons, in terms of scope, update, and importance.

57. Considering the above-mentioned efforts made, the rating is “**Largely Compliant**”, particularly that the remaining deficiencies are minor.

**B. Recommendations amended since the adoption of the 2<sup>nd</sup> Enhanced FUR (R.18, R.21).**

- **Recommendation 18 (Internal Controls and Foreign Branches and Subsidiaries) (Largely Compliant):<sup>1</sup>**

58. Recommendation 18 was amended in a way that specifies the information which should be provided, and which should include information and analysis of the reports or activities which seem unusual (in case this analysis is conducted) and in order to provide such information to group-level compliance, audit, and/or AML/CFT functions. Branches and subsidiaries should also receive such information from such group-level functions, and inconsistency with the risk management. Safeguards on confidentiality, including safeguards to prevent tipping-off should be also provided.

59. Branches and subsidiaries in Tunisia do not appear to receive the information referred to from group-level compliance, audit and/or AML/CFT functions and inconsistency with the risk management. It does not appear either that there are sufficient safeguards on confidentiality and the use of information exchanged, including the prevention of tipping off, in the context of sharing information on the basis of its sensitive nature and its relation to the ML/TF risk management.

**Conclusion:**

60. Considering that the legislations currently applied do not meet the new requirements of the Recommendation following its amendment, the rating of compliance with Recommendation 18 is “Partially Compliant”.

- **Recommendation 21 (Tipping-off and confidentiality) (Compliant):**

61. Recommendation 21 was amended in a way that ensures provisions on the prohibition of FIs, and their directors, officers and employees, by law, from disclosing the fact that an STR or related information is being filed to the Financial Intelligence Unit, should not hinder the sharing of information under Recommendation 18.

62. Article 87 of the AML/CFT law and article 11 of circular No.2017-8 dated 19/9/2017 permit the provision of information, and prevention of tipping off information to the concerned person on the fact of filing an STR, without hindering the sharing of information that mentioned under Recommendation 18.

**Conclusion:**

63. Considering that the current legislation (mentioned in the article above) fulfills the new requirements, the rating of compliance with Recommendation 21 is “Compliant”.

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<sup>1</sup> Noting that the reviewer team has been provided with a circular by the Central Bank number 09-2018 in 18/10/2018 in internal supervision roles to manage the risk of ML/FT, but this document was not reviewed because it was received in very late time. The country stated that the circular considered the new requirements of the Recommendation 18 in terms of Banks supervision, and other authorities are working to implement the same measures.

**Third: Overall conclusion:**

64. After analyzing the information submitted by Tunisian authorities and which is enclosed with its request for re-rating 11 Recommendations rated “Partially Compliant” and “Non-Compliant” in the MER, the assessment team concluded the following:

- **Recommendations which are subject of the re-rating request:**
  - To upgrade the rating of 4 Recommendations (6, 8, 26 and 34) to “Largely Compliant”.
  - To maintain the rating of six Recommendations (22, 23, 24, 25, 28, 31) as “Partially Compliant”.
  - To maintain the rating of Recommendation (7) as “Non-Compliant”.
- **Recommendations amended since the adoption of the second Enhanced FUR (December 2017):**
  - To downgrade the rating of Recommendation (18) to “Partially Compliant”.
  - To maintain the rating of Recommendation (21) as “Compliant”.

65. The compliance ratings after re-assessment may be summarized in the following table:

<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>R5</b>	<b>R6</b>	<b>R7</b>	<b>R8</b>	<b>R9</b>	<b>R10</b>
LC	PC	C	LC	LC	LC	NC	LC	C	LC
<b>R11</b>	<b>R12</b>	<b>R13</b>	<b>R14</b>	<b>R15</b>	<b>R16</b>	<b>R17</b>	<b>R18</b>	<b>R19</b>	<b>R20</b>
C	LC	LC	LC	LC	LC	LC	PC	LC	C
<b>R21</b>	<b>R22</b>	<b>R23</b>	<b>R24</b>	<b>R25</b>	<b>R26</b>	<b>R27</b>	<b>R28</b>	<b>R29</b>	<b>R30</b>
C	PC	PC	PC	PC	LC	LC	PC	LC	C
<b>R31</b>	<b>R32</b>	<b>R33</b>	<b>R34</b>	<b>R35</b>	<b>R36</b>	<b>R37</b>	<b>R38</b>	<b>R39</b>	<b>R40</b>
PC	LC	PC	LC	LC	LC	C	PC	C	LC

66. The 28<sup>th</sup> Plenary adopted the report provided that the Secretariat takes into consideration comments given during the discussions, update and publish the report once the process of quality and consistency has been completed according to MENAFATF procedures. Moreover, Tunisia should submit its 4<sup>th</sup> Enhanced FUR in November 2019.