



8<sup>th</sup> Follow-Up Report

# Mutual Evaluation of Samoa

June 2023





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# SAMOA

## 8<sup>TH</sup> ENHANCED FOLLOW-UP REPORT 2023

### I. INTRODUCTION

1. The mutual evaluation report (MER) of Samoa was adopted in 2015. Previous FURs were adopted each year since 2016 with FURs with re-rating in 2017 and 2018.
2. This FUR analyses the progress of Samoa in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.
3. This report does not analyse any progress Samoa has made to improve its effectiveness.
4. The assessment of Samoa’s request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:
  - *Brandt Botha, Principal Adviser – AML, Financial Markets Authority, New Zealand*
  - *Matthew Shannon, the Department of Finance, Canada*
5. The preparation of the report was supported by Sylvia Deutsch from the APG Secretariat.
6. Section III of this report summarises the progress made to improve technical compliance against Samoa’s requested Recommendations and against Recommendations that has changed since Samoa’s FUR in 2015. Section IV contains the conclusion and a table illustrating Samoa’s current technical compliance ratings.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

7. Samoa current rating<sup>1</sup> are follows:

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Mod	Sub	Low	Mod	Mod	Low	Low	Mod	Mod	Mod	Low

R.	Rating
1	PC (2015 MER)
2	PC (2015 MER), ↑ LC (2017 FUR)
3	PC (2015 MER), ↑ LC (2018 FUR)
4	LC (2015 MER)
5	PC (2015 MER), ↑ LC (2018 FUR)
6	PC (2015 MER)
7	NC (2015 MER)
8	PC (2015 MER)

R.	Rating
21	C (2015 MER)
22	PC (2015 MER)
23	PC (2015 MER)
24	PC (2015 MER)
25	PC (2015 MER)
26	PC (2015 MER)
27	PC (2015 MER)
28	PC (2015 MER)

<sup>1</sup> There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Effectiveness ratings for the 11 Immediate Outcomes are: Low, Moderate (Mod), Substantial or High.

9	C (2015 MER)	29	LC (2015 MER)
10	PC (2015 MER), ↑ LC (2018 FUR)	30	C (2015 MER)
11	C (2015 MER)	31	LC (2015 MER)
12	PC (2015 MER)	32	LC (2015 MER)
13	PC (2015 MER)	33	LC (2015 MER)
14	C (2015 MER)	34	PC (2015 MER)
15	PC (2015 MER)	35	PC (2015 MER)
16	PC (2015 MER)	36	PC (2015 MER)
17	PC (2015 MER)	37	LC (2015 MER)
18	LC (2015 MER)	38	LC (2015 MER)
19	NC (2015 MER)	39	LC (2015 MER)
20	LC (2015 MER)	40	LC (2015 MER)

8. Given these results and the effectiveness ratings, Samoa is on enhanced follow-up.<sup>2</sup>

### III. PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

9. In keeping with the APG ME Procedures, this FUR considers progress made up until 1 June 2023 and considers progress to address the deficiencies identified in the MER and the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional or operational framework is unchanged since the MER or previous FUR. This report does not address the progress Samoa has made to improve its effectiveness.

10. This section summarises the progress made by Samoa to improve its technical compliance by:

- implementing requirements in place at the time of the MER, and
- implementing new requirements where the FATF Recommendations have changed since the MER was adopted.

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

11. Samoa requested re-ratings of R.19, R.24, and R.36.

12. The APG welcomes the steps that Samoa has taken to improve its technical compliance. As a result of this progress, Samoa has been re-rated on R.19 and R.36. However, insufficient progress has been made to justify a re-rating of R.24.

#### *Recommendation 19 [R.19] (Originally rated non-compliant)*

13. Samoa was rated NC for R.19 in its 2015 MER. Deficiencies included there was no requirement for FIs to apply EDD, proportionate to the risks, to business relationships and transactions

<sup>2</sup> There are three categories of follow-up based on mutual evaluation reports: regular, enhanced and enhanced (expedited). For further information see the APG Mutual Evaluation Procedures.

from countries for which this is called for by the FATF, as well as specific counter measures for identified high risk countries.

14. **Criterion 19.1** is *partly met*: Section 16C of the ML Act 2007 (as amended in 2018) outlines the circumstances that require enhanced due diligence by Financial Institutions (FIs). One of the requirements specified in section 16C (e) is that FIs must conduct enhanced due diligence if the “FIU receives an official request from FATF or APG.” Additionally, Section 16C (d) requires FIs to conduct enhanced due diligence when they determine that the level of risk involved is such that it should be applied, and Section 16(f) requires FIs to conduct enhanced due diligence when called for by the Governor of the Central Bank. As c.19.1 requires the jurisdiction to apply enhanced due diligence when called for by the FATF, it is not clear that FATF listing of a jurisdiction on its website would constitute an ‘an official request to the FIU’ or that the Governor has called for EDD in response to FATF listing.

15. Samoa has sought to give clarity to FIs through the 2010 AML/CFT Guidelines (not updated to reflect 2018 Money Laundering Prevention amendments) and an Explanatory Memorandum on FATF List available on the FIU’s website. While the Explanatory Memorandum on FATF List directs FIs to the appropriate FATF listing, this is not enforceable.

16. **Criterion 19.2** is *not met*: The obligations at s.16C to conduct EDD and at s.20 to monitor transactions does not amount to Samoa being able to apply countermeasures proportionate to the risks when called on by the FATF or independently of any call by the FATF.

17. **Criterion 19.3** is *mostly met*: Samoa issued the 2010 AML/CFT Guidelines to support FI’s implement all AML/CFT preventive measures including those related to high-risk counties; however, these guidelines have not been updated to reflect 2018 Money Laundering Prevention amendments. In 2021, the Central Bank of Samoa also issued an Explanatory Memorandum for Samoa FIs in relations to FATF lists to assist FIs to identify high risk jurisdictions and to apply enhanced due diligence and additional measures to these customers, business relationships and transactions. The Explanatory Memorandum also include links to the FATF lists.

### *Weighting and Conclusion*

18. Samoa has made progress since its 2015 MER including amending the MLP Act 2007 and issuing an Explanatory Memorandum for Samoa FIs. However, MLP Act 2007 (as amended in 2018) does not clearly obligate EDD when call for by the FATF and Samoa cannot impose countermeasures when called for by the FATF. Samoa issued the 2021 Explanatory Memorandum to support FI’s implement requirements in line with R.19 and 2010 AML/CFT Guideline covers all AML/CFT preventive measures including guidance related to high-risk counties; however, these guidelines have not been updated to reflect 2018 Money Laundering Prevention amendments.

19. **Recommendation 19 – the rating is re-rated to partially compliant.**

### ***Recommendation 24 [R.24] (Originally rated partially compliant)***

20. Samoa was rated PC for R.24 in its 2015 MER. The MER noted that while the statutory framework for the regulation of both domestic and international legal persons is generally adequate there are some gaps. The most significant gap and the main area of concern is with respect to IBCs particularly given the number of IBCs (34,141) and the potential for abuse. There is no mandatory requirement to keep registers of IBCs (although some registers are kept) and there is a lack of transparency as the registers are not open for inspection without the consent of the TCSP. Beneficial ownership information is only updated annually. Furthermore, the Samoan TCSP is reliant on the introducer providing accurate and timely information with regard to the ultimate beneficial ownership of the IBC.

*Overview of legal persons in Samoa:*

21. As outlined in the 2015 MER, Samoan law allows for the creation of both domestic and international (offshore) legal persons. The domestic sector is relatively small primarily in the form of domestic private companies form under the Companies Act 2001. According to the draft 2024 NRA, there were approximately 1,774 domestic companies operating in Samoa in 2020. The Ministry of Commerce, Industry and Labour (MCIL) is responsible for monitoring all domestic legal persons for compliance with the requirements of the Companies Act 2001.

22. Samoa is a centre for the establishment and creation of international legal persons through a Samoan trustee company (TSCP), of which there are 11 licensed to operate by the Samoa International Finance Authority (SIFA). The types of international legal persons that can be established or created in Samoa are:

- International business companies (IBCs or International Companies) – formed under the International Companies Act 1988
- International partnerships – formed under the International Partnership and Limited Partnership Act 1998
- International segregated fund companies – formed under the Segregated Fund International Companies 2000. Section 6 of the Segregated Fund International Companies Act 2000 (SFICA) allows the incorporation of segregated fund international companies that separate or quarantine their assets and liabilities into individual ownership units known as segregated funds or cells. These companies follow the same rules and obligations as international companies under the International Companies Act 1988, unless the SFICA provides otherwise. Therefore, Segregated Fund International Companies are not discussed as separate legal persons in the below analysis.

23. IBCs are by far the most widely used type of legal persons in Samoa’s international sector. According to the draft 2024 NRA, in 2020 there were approx. 32,131 International Companies and less than 10 (each) segregated fund and international partnerships.

24. As outlined in the 2015 MER, international companies created primarily for asset holding/protection purposes and for the purpose of obtaining tax privileges and exemptions under Samoan law. IBCs must be created through a Samoan TCSP. Most IBCs are created on the basis of introduced (third party) business, in many cases by intermediaries which are affiliated with the Samoan TCSP in some way (sometimes being the parent company). Most of these introducers (other TCSPs, legal and accounting firms etc) are in Hong Kong, Singapore and Chinese Taipei and are therefore regulated/supervised there; many clients are from China or these other jurisdictions. An IBC may be registered for one, five, 10 or 15 years. The annual fee for registering an IBC in Samoa is US\$300, with discounts provided for IBCs which are registered for longer periods. Most IBCs are registered for one year and most are renewed annually, otherwise they lapse and are deregistered/struck-off. SIFA is the Registrar of international legal persons (IBC, international partnerships and International segregated fund companies).

25. **Criterion 24.1** is met: As outlined in the 2015 MER, Samoa has mechanisms in identifying different types or forms of legal persons in the country as explained in the Companies Act, the International Companies Act 1988 (ICA), the Segregated Fund International Companies Act 2000, and the International Partnership and Limited Partnership Act 1988. These statutes also described with their basic features of the legal persons.

26. The MER also highlighted that the process for the creation of legal persons and for recording and obtaining basic information available in the statutes and from the relevant registrar’s website. An

online registry accessible by the public for domestic companies established under the Companies Act 2001 holds basic information relating to company directors, shareholders, and the share register. The website (<https://www.businessregistries.gov.ws/>), which is maintained by Ministry of Commerce, Industry and Labour (MCIL). SIFA's website (<http://www.sifa.ws>) contains similar information regarding the various types of legal persons that can be created in the international sector.

27. Regarding the gap highlighted in the 2015 MER, the process for recording and obtaining BO information by: (i) by FI and DNFBPs is set out in the Money Laundering Prevention Act 2007 and the 2009 regulation and 2010 guidance, (ii) by trustee company (TSCP) is set out in the Trustee Companies Act 2017 (although the BO requirements are not enforceable), (iii) by Inland Revenue Services (of the Ministry of Customs and Revenue) is set out in Business License Act 1998 and on the IRS website (<https://www.revenue.gov.ws/business-license-matters/>).

28. **Criterion 24.2** is *partly met*: Samoa's 2015 MER highlighted: (i) while the 2012 NRA includes an assessment of ML and TF and international companies and trusts sectors, it does not address the risks associated with domestic companies and other legal persons (see analysis under c.24.2), and (ii) at the time of the ME onsite, the 2012 NRA was being revised with a draft copy of the 2014 NRA provided to the AT during the on-site visit. As the 2014 NRA was yet to finalised, the 2015 MER analysis was primarily based on the 2012 NRA (see c.24.2).

29. In terms of assessing the ML/TF risks associated with all types of legal person created in Samoa since the 2015 MER, Samoa completed the 2014 NRA and is in final stages of completing the 2024 NRA report. Some key points are:

- The NRA report from 2014 rated the international companies sector as high-risk rating and rates trustee companies (TCSPs) that provide international companies services as high-risk. The overall conclusion on the risk rating is reasonable and analysis includes reference to global vulnerabilities associated with international companies' sector, but the NRA lacked a detailed analysis of the vulnerabilities/risks related to the specific structural elements of international companies able to be formed in Samoa, and discussion of mitigation measure (including AML/CFT controls) is high-level.
- The NRA report from 2014 rates the domestic companies sector as low risk. Like the above conclusion, while the risk rating seems reasonable (particularly in comparison to international companies), the NRA in the lacks a detailed analysis of the vulnerabilities/risks related to the specific structural elements of domestic companies.
- In the draft 2024 NRA report, Samoa conducted a more thorough assessment of the ML/TF risks for various legal persons able to be formed in Samoa including international companies, Trustee Companies (TCSPs), and domestic companies. According to the draft 2024 NRA report, the international legal persons pose a high ML risk due to offshore controlling interest, which increases its potential to misuse for holding or concealing criminal proceeds generated abroad as well the number of information requests, cases, and typologies involving Samoa's international companies sector. Several factors, such as taxes, currency or exchange control, annual returns and audited financial accounts, and double taxation agreements, increase the vulnerability of the sector being abused for ML and other predicate offences. Trustee Companies TCSPs are assessed as high in ML/TF vulnerability due to challenges in identifying and verifying the identity of ultimate beneficial owners (UBOs), reliance on third parties that are not licensed by SIFA, and difficulties in conducting ongoing monitoring of transactions.
- The domestic sector in the 2024 NRA, including domestic presents a medium ML risk due to the absence of proper legal and regulatory frameworks and insufficient systems and procedures that hinder the capture and access of essential information on beneficial ownership of domestic companies and trusts.

30. Since the 2015 MER, Samoa has made efforts to evaluate the ML/TF risks associated with the legal persons through completing the 2014 NRA and drafting the 2024 NRA Report. As Samoa is in the final stages of completing a 2024 National Risk Assessment with Cabinet approval the final step to be completed, more weight has been placed on the 2014 NRA. As outlined above, while the overall conclusions of the 2014 NRA are reasonable the analysis lacks depth.

31. **Criterion 24.3** is *mostly met*: As outlined in the 2015 MER, for domestic companies, upon registration, it is mandatory to provide company details as required by c.24.3 (section 6 of the Companies Act 2001). This information is publicly available via MCIL's website (<https://www.businessregistries.gov.ws/>).

32. For international companies, as outlined in the 2015 MER, registration is required under the ICA and must be done through a trustee company (TCSP). The trustee company (TCSP) needs to submit the registration fee, company name, proof of incorporation, company details, and a list of directors and secretaries as required by c.24.3 to the Registrar of International and Foreign Companies, which is a part of SIFA. SIFA maintains a register of all international legal persons, including their basic information, which can be accessed by the public, but not online. If requested, the Registrar can confirm the existence of an IBC and provide its registered office, including a contact person, to a member of the public without needing the consent of the TCSP or IBC. Section 12 (2) of the ICA 1988 requires written permission to be obtained from the international company or TCSP to release documents held by the Registrar.

33. Since the 2015 MER, amendments to Section 28 (1A) of the ICA 1988 now allows for the Registrar to release of a copy of the Memorandum and Articles (for companies registered before 1993) when required by any person and make available for inspection or copying, in whole or in part. Memorandum and Articles cover the basic information required under c.24.3. Amendments to Section 228C of the ICA provide for the Registrar to issue a Certificate of Good Standing of a company incorporated or registered under this Act to any person upon request. The Certificate of Good Standing includes "a statement as to whether: (a) the company is in the process of being wound up and dissolved; or (b) any proceedings to strike the name of the company off the register have been instituted."

34. For international or limited partnerships, as outlined in the 2015 MER, application for registration is made to the Registrar (SIFA), as promulgated under the International Partnership and Limited Partnership Act 1988 by providing information details confirming that one of the partners of the limited partnership is either an international company; a foreign company; or a trustee company (TCSP); and each partner is a non-resident. For registration of a limited partnership, the TCSP needs to certify that it will consist of at least one general and one limited partner. Before the limited partnership starts operating, a certificate must be filed with the Registrar. This certificate, completed and signed by a general partner, must include the firm name, names, and addresses of all partners (differentiating between general and limited partners), capital contribution of each limited partner, the general nature of the business, the principal place of business, and the term for which the limited partnership is entered into. In case the term for the partnership is unlimited, a statement to that effect and the date of its commencement must also be included. The gap identified in the 2015 MER (that no information held by the registrar regarding an international or limited partnership can be open for inspection unless the trustee or partnership agrees (section 7(2) International Partnership and Limited Partnership Act 1988)) has not been rectified.

35. Overall, Samoa has made some progress in public access to companies' basic information by amending the ICA 1988, which now allow for the Registrar to release copies the Memorandum and Articles and issue Certificates of Good Standing. However, section 12 (2) of the ICA 1988 still requires written permission to be obtained from the international company or TCSP to release all other information held by the Registrar and due to section 7(2) International Partnership and Limited



Partnership Act 1988 information held by the registrar on international or limited partnerships is not publicly available.

36. **Criterion 24.4** is *mostly met*: As outlined in the 2015 MER, for domestic companies, information set out in c.24.3 and a register of shareholders is required to be maintained at the companies' registered office in Samoa (117, 119 and 40 of the Companies Act 2001).

37. As outlined in the 2015 MER for international companies, information set out in c.24.3 is required to be provided to the Registrar by the Trustee Company (TCSP) administering the international company (section 9 ICA 1988) Furthermore, a register of members/shareholder (containing shares held by each shareholder but not the type) is required to be maintained at the company's registered office in Samoa (which is the TCSP) (section 105 ICA 1988). Requirements under the ICA are enforceable (see c.24.13). Under the TCA 2017, the Trustee Company (TCSP) is also required to retain and maintain at its registered office up to date copies of the register of directors and of the register of shareholders/members for all legal persons it administers (section 32(2)(h)). However, this requirement is not enforceable (see detailed discussion on enforceability in c.24.6).

38. For international partnerships and limited partnerships, information set out in c.24.3 is required to be provided to the Registrar by the Trustee Company (TCSP) administering the international partnerships, which includes details of partners (section 9 and 10 International Partnership and Limited Partnership Act 1988). International Partnership and Limited Partnership Act 1988 is unclear if the details of partners are required to be held at the partnerships office in Samoa (which is the TCSP) (section 12 International Partnership and Limited Partnership Act 1988), and requirements for Trustee Company (TCSP) (section 32(2)(h)) to maintain a register of directors and of the register of shareholders/members for all legal persons it administers are not enforceable. While the reviewer acknowledges the number of international partnerships in Samoa has risen from 0 in 2015 (as reported in the MER) to 6 in 2024 (as reported in the draft FUR), as there is only 6 international partnerships in Samoa, this is given less weight.

39. **Criterion 24.5** is *mostly met*. For domestic companies, as outlined in the 2015 MER, section 117 of the Companies Act 2001 sets out the documents that must be kept at the company's registered office and includes information under c.24.3. In addition, (i) under section 117, the company must maintain minutes of all meeting and resolution of shareholders and directors (including current full name and address), all written communications with all shareholders and all accounting records, (ii) director must ensure adequate measures exist prevent and detect falsified records (section 118(2), and (iii) all records must be kept in a manner that is readily accessible (section 118(1)(b)). Together these measures ensure information maintained by domestic companies is accurate and updated.

40. As outlined in the 2015 MER, domestic companies are required to file an Annual Return (section 124) and other documents/notices related to new rules of the company (within 10 days), shares and changes shareholders (within 10 days), and changes in directors (within 35 days), change in location of records (within 10 days), and registered address (no deadline to change to be notified) (section 126). These requirements generally provide for timely submission. Furthermore, under Section 312 of the CA, the Registrar may require information and copies of documents of corrected or updated details of any matter entered on any of the registers of the company. Section 332 of the CA 2001 further explains that the registrar's decision to register or refuse a document does not indicate its validity or invalidity, or the accuracy of the information in it. This suggests that there is no obligation to verify information for accuracy.

41. For international companies, as outlined in the 2015 MER, they are required to keep a register of all members, including their names, addresses, and details of shares held (section 105 ICA). Limited Life Companies (yearly renewal) must also appoint a resident agent, which must be a trustee company (TCSP) to maintain its records in Samoa. Any transfer of shares or debentures requires a proper

instrument of transfer to be delivered to the company via its registered office. The register is considered prima facie evidence of any matter inserted as required and authorized by the ICA. Failure to update the register with changes in ownership can lead to an offense committed by the company and its officer. Verification of information for accuracy is not mentioned.

42. International companies, as outlined in the 2015 MER, are required to lodge (through a trustee companies (TCSPs)) an annual return within three months after the date of its AGM for the year to which the annual return relates. It must also notify, and provide a copy of the relevant documents, the Registrar within one month of changes in its name (change of name required approval from the Registrar - section 23 of ICA), Articles (section 26 of ICA allows an IBC to alter its articles), Memorandum (section 19 of ICA), capital (or number of registered members if it does not have a capital) (section 54 of the ICA), register of directors (section 91 ICA), registered office (section 81(3) ICA) or in the powers of any local resident director (section 83 ICA). While the Registrar has no explicit proactive mechanism to ensure the information is accurate, the following two mechanisms assist in insuring information provided to by the company (through a trustee companies (TCSPs)) is accurate; (i) trustee companies (TCSPs) that administer international companies are subject to AML/CFT preventative measures requirements under the MPA. Where appropriate, information maintained by trustee companies (TCSPs) in compliance with CDD obligations could be used by the SIFA (as the registrar and AML/CFT supervisor) to assist in insuring accuracy of information, and (ii) section 109 ICA provides a reactive mechanism (in response to an application from the public) for the Registrar to rectify register.

43. International partnerships and limited partnerships must be registered with the Registrar of International Partnerships through a trustee company (TCSP), along with a partnership agreement. Limited partnerships must complete a certificate disclosing the names and addresses of all partners, distinguishing general partners from limited partners (section 23(1) of the IPLPA). The registration is submitted by the trustee company to the Registrar and requires a certificate attesting that one partner is a trustee company, international company, or foreign company registered under the ICA, and that all partners are non-residents of Samoa (sections 2(1), 10 and 21 of the IPLPA). To exist, these partnerships must meet these conditions at all times (section 2 of the IPLPA) and must have a registered office in Samoa that is the principal office of a trustee company (sections 12 and 18 of the IPLPA). Trustee companies involved in the registration of these entities are required to record, verify, and keep updated ownership information of vehicles (including IPLP) it provides registered office or resident agent services to as per section 30 of the International Partnership and Limited Partnership Act 1998. As there are only 6 international partnerships in Samoa, this is given less weight gaps in the accuracy and up-to-date of International partnerships and limited partnerships information.

44. Since the MER, Samoa sought to ensure basic information on international legal persons including on director/members is accurate and up-to-date by strengthening requirements on trustee companies (TCSPs). These new requirements in the TCSP complement and are in addition to preventive measures requirements already on trustee companies (TCSPs) under the MLPA. However, trustee companies (TCSPs) requirements under the TCA 2017 to keep accurate and current updated copies of the Register of Directors and the Register of Shareholders (or Register members) are not enforceable.

45. **Criterion 24.6** is *mostly met*. All the three sub-criteria are analysed (bearing in mind they are in the alternative).

46. As outlined in the 2015 MER, there is no requirement for companies to obtain information on their BO or to hold BO information in a register (**Criteria 24.6(a)** and **(b)**).

47. **Criterion 24.6(c)**: Samoa primarily relies upon BO information collected by FIs and DNFBPs as part of the CDD procedures and for domestic companies, since 2020, by the Inland Revenue Services (of the Ministry of Customs and Revenue) as part of business license requirements.

48. *c.24.6(c)(i)*: Mechanisms to ensure that information on the BO of a company is obtained, or can otherwise be determined in a timely manner, rely on FIs and DNFBPs CDD of legal persons. As international legal persons have very limited to nil exposure to domestic FI and DNFBPs, BO information through CDD would be exclusively obtained by trustee companies (TCSPs). Trustee companies (TCSPs) have BO enforceable CDD obligation under the MLPA to identify BO of legal persons. While BO requirements are also set out under section 30 of the TCA, they are not enforceable (see below for detailed discussion).

49. The 2018 FUR re-rated R.10 to LC noting that Samoa has sound CDD BO requirements in the MLPA and its regulation which apply to all FIs and DNFBPs. There are no additional requirements in regulation to support Trustee Companies (TCSPs) implement BO CDD requirements on the different types of international legal persons they may administer. The accuracy and up-to-date of BO information collected under CDD is discussed below at c.24.7.

50. Section 30 of the TCA introduced Professional Duties for trustee companies (TCSPs) which requires them to have documents, information, policies, and procedures to administer, manage and provide services to international legal persons and to record, verify and keep updated BO information. Trustee companies are required to maintain up to date BO information. Additionally, section 32 (2)(h) of the TCA 2017 requires a TCSP to retain and maintain up-to-date copies of the register of directors and of the register of shareholders or of members of each vehicle. Furthermore, Trustee companies are also required to ensure they identify and verify the BO information. Regulation 3 (9) of the Trustee Company Regulations 2018 explains that records of BO must be made available by the TCSP within 5 working days upon request by SIFA. While SIFA devoting significant resources, since 2016, to its quarterly supervision of TCSPs focusing on BO and accounting records and have found high level of compliance, there are no sanctions for non-compliance with BO requirements in the TCA. Section 45 of the TCA allows for monetary sanctions to be imposed in regulation, but this is yet to be done.

51. *c.24.6(c)(ii)*: For domestic companies, since 2020, the Inland Revenue Services (of the Ministry of Customs and Revenue) has collected and held BO information obtained as part of business license requirements. Under regulation 6 of the Business Licence Amendment Regulations 2022, domestic companies are required to apply for a licence or renewal of a license, which include details of Beneficial Owner (Ultimate Owner) of the business or any updated information on the BO. The BO definition is in line with the FATF standards. It is mandatory to update BO information to the Inland Revenue Services on an annual basis. Furthermore, Regulation 4 of the Business Licence Amendment Regulations 2018 obliges companies to notify the Inland Revenue Services where there has been a change of ownership at least 14 days before the transfer takes place. Sanctions of administrative fine will be applied if fail to comply with any requirement or condition for a license under the Regulations. Domestic companies are also required to obtain a business from the Inland Revenue Services (of the Ministry of Customs and Revenue) under section 5 of the Business License Act 1998. BO information held by Inland Revenue Services in the registry is public (for a fee) (section 9 Business Licence Act 1998).

52. Samoa does not rely on other competent authorities that hold BO information on international legal persons.

53. *c.24.6(c)(iii)*: For domestic companies, Samoa can reply on information as required by c.24.3 held by the company using LEA powers – Samoa is rated LC with R.31. Similarly, for international legal persons, Samoa can reply on shareholder/members information held by the Trustee companies administrating the legal person.

54. *c.24.6(c)(iv)*: While the Companies Act provides for public companies, there are no public companies in Samoa.

55. **Criterion 24.7** is *partly met*: As above in c.24.6, Samoa primarily relies upon BO information collected by FIs and DNFBSs as part of the CDD procedures under the MLPA and its regulation. While R.10 was updated to LC in 2018 with Samoa having sound CDD BO requirements in the MLPA for all FIs and DNFBSs, Samoa has moderate shortcoming in requirements for FIs and DNFBSs to conduct on-going due diligence on the business relationship (c.10.7) (requirements are mainly under the MLPA Regulation 2009) and these would not operate to ensure that CDD is conducted upon change of the BO of a legal persons. Furthermore, the Regulation does not include any more detailed requirements which would support Trustee companies (TCSPs) compliance. Therefore, CDD BO information collected by FI and DNFBSs (including Trustee companies for international legal persons) is unlikely to be accurate and up-to-date.

56. While this gap is overcome for domestic companies due to annually updated BO information as part of Inland Revenue Services (of the Ministry of Customs and Revenue) business license requirements, due to their risks weight is placed on gaps related to obtaining accurate and up-to-date CDD BO information on international legal persons by trustee companies (TCSPs).

57. **Criterion 24.8** is *partly met*. The gap/s related to domestic companies have not been addressed with the analysis of the 2015 MER being current. Similarly, the analysis in the 2015 with regard to the ICA and International Partnership and Limited Partnership Act is current.

58. International legal persons must use a trustee company (TCSP) for incorporation, have a registered office in Samoa which is the trustee company (TCSP), and appointment of an officer of the trustee company as a resident director/officer (see c.24.3). Samoa has sought to ensure trustee company (TCSP) co-operate with competent authorities through professional duties and conduct requirements (section 30 and 31 TCA 2017). However, except for obstruction of regulators (section 37(7)), these requirements are not enforceable.

59. **Criterion 24.9** is *mostly met*: No steps have been taken to address this deficiency since the MER was adopted.

60. As outlined in the 2015 MER, for domestic companies, a domestic company is obligated under section 117 of the Companies Act 2001 to keep company records for 7 years in a form and location specified under sections 118 and 119 respectively. However, the Act is silent about the retention of records of domestic companies being wound up. Since the 2015 MER, Samoa enacted amendments to the Companies Act 2001 (CA 2001) which require per Schedule 13 of the CA 2001 that a liquidator maintain the accounts and records for 5 years after a company winds up. There is a discretion for Registrar to extend this time period beyond 5 years.

61. For international companies, as outlined in the 2015 MER, section 185(2) of the ICA requires retention of information and records are retained by the TCSP for a period of 6 years from the commencement of the winding-up.

62. For international partnerships and limited partnerships, accounting records and other financial records must be maintained for 7 years (section 46 International Partnership and Limited Partnership Act 1988) but the silent about the retention of records of partnerships being wound up. This gap is mitigated by requirement for TCSPs to maintain within Samoa for 7 years any books, records, or documents to accurately reflect the business of the company, including separate records or documents, for each entity that the company acts for in its capacity as TCSP. These records must be retained for seven years (section 32(1) (a & b)). However, this requirement is not enforceable as a regulation setting out monetary penalties as required under s.45 of the Act has not yet been issued.

63. **Criterion 24.10** is *mostly met*: While the 2015 MER includes moderate shortcomings for this criterion, R.31 was rated LC with the analysis highlighting investigative authorities generally have all

the powers that they require to investigate ML, TF and associated predicate offences. Samoa is rated LC for R.37- R.40.

64. Samoa was rated PC for R.27 with the moderate shortcoming noting that supervisors, including SIFA as the supervisors of trustee companies (TCSPs), do not have powers to compel the production of information for the purpose of assessing DNFBPs' compliance with the MLP Act or to impose sanctions on their supervised entities for AML/CFT breaches. Samoa sought to overcome this for SIFA with the TCA including a broad power for SIFA to investigate, review, and supervise a trustee companies (TCSPs) and its business pursuant to any regulation. No regulation has been issued including a regulation on sanctions for non-compliance with powers to compel production of information.

65. **Criterion 24.11** is *met*: There have been no material changes since the MER that would result a change in the findings with this criterion.

66. **Criterion 24.12** is *not met*: Since the MER, Samoa has passed the Trustee Companies Act 2017 (s.17) provides a basis for TCSPs to make use of nominees to act as nominee director or shareholder for companies formed under the International Companies Act that make use of the TCSP's services. The act requires each TCSP to obtain permission of the regulator to establish such nominee arrangements (s.17(2)) and requires the nominees to be licenced in circumstances where they are not a wholly owned subsidiary or related company of the TCSP (s.17(5)). However, this requirement is not enforceable as a regulation setting out monetary penalties as required under s.45 of the Act has not yet been issued.

67. **Criterion 24.13** is *partly met*: The analysis in the 2015 MER set out a range of penalties available to enforce compliance with domestic and international legal persons in the Companies Act, ICA. The available penalties were not, overall proportionate, and dissuasive as the number of penalty units was low. Available penalty provisions have not been amended since the MER.

68. Since the MER, Samoa has passed the Trustee Companies Act 2017 (section 17) which provides a basis for trustee companies (TCSPs) to administer and provide a range of services to international legal persons. As discussed above in c24.6, the BO obligation is not enforceable as Samoa has not yet issued monetary sanction in regulation as required under s.45 of the Act.

69. Regarding sanctions of BO CDD obligations under the MLPA, Samoa is rated partially compliant with R.35 with the 2015 MER analysis highlighting that Samoa relies heavily on criminal sanctions (in the MLP Act) to penalise FIs, DNFBPs or any persons for breaches of the AML/CFT requirements. The range of sanctions available is not considered proportionate (in cases of less serious breaches which may not merit court action) and dissuasive.

70. **Criterion 24.14** is *met*: The measures remain as per the 2015 MER and the rating of this criterion is supported. Samoa was rated LC for R.37 to R.40. Furthermore, SIFA has the power to provide information, including through establishment of MOUs, on a trustee company (TCSP) to a foreign agency for AML/CFT purposes (section 42 TCA 2017).

71. **Criterion 24.15** is mostly *met*: As outlined in the 2015 MER, Samoa advised that the registrar (SIFA) monitors the quality of assistance provided by other countries and Samoa further advised that it was able to monitor the quality of information through its membership of international standard setter groups such as the APG, GIFCS and the Peer Review Group, Sub-Group of the OECD Global Forum (PRG). The exchange of information on request could also happen in the context of Samoa's TIEA treaty network. Samoa has signed TIEAs with 16 treaty partners with whom it may exchange tax information (including information on beneficial ownership) on an 'on-request' basis. The scope for such exchanges includes information that may benefit investigations into criminal tax matters in partner jurisdictions. While Samoa has not signed TIEA with China and Hong Kong, China, on 25 August 2016,

Samoa signed The Convention on Mutual Administrative Assistance in Tax Matters which came into force on 1 December 2016. Both China and Hong Kong, China are parties to the Convention.

#### *Weighting and Conclusion*

72. Samoa has public mechanisms to identify and describe all legal persons formed in Samoa. Samoa's risk assessments of all legal persons have lacked sufficient depth of analysis on the structural elements of the legal persons. Amendments to the International Companies Act ensures basic information is publicly available with shortcoming related to all other legal persons considered minor due to the risks associated with these legal persons. While Samoa sought to implement BO information requirements for all international legal persons by requiring trust companies (TCSPs) under their primary legalisation to maintain accurate and up-to-date BO information on the entities they administer, these requirements are not enforceable. Therefore, Samoa relies on BO CDD under the MLPA and regulations. While R.10 was updated to LC in 2018 with Samoa having sound CDD BO requirements in the MLPA for all FIs and DNFBPs, Samoa has moderate shortcoming in requirements for FIs and DNFBPs to conduct on-going due diligence on the business relationship and these would not operate to ensure that CDD is conducted upon change of the BO of a legal person. For domestic legal persons, since 2020, the Inland Revenue has collected and held BO information obtained as part of business license requirements. The review team has placed weight on the limitations in obtaining accurate and up-to-date on international legal persons. Unenforceable requirements in the TCA undermine other steps Samoa has taken to improve compliance with other criterion, particularly c.24.8 and c.24.13 which have moderate shortcomings, c.24.12 which has major shortcomings.

73. ***Recommendation 24 – the rating remains partially compliant***

#### ***Recommendation 36 [R.36] (Originally rated partially compliant)***

74. Samoa was rated PC for R.36 in its 2015 MER. Deficiencies included Samoa was not yet party to the Palermo and Merida Conventions, and all conventions were not fully implemented.

75. **Criterion 36.1** is *met*: Samoa acceded to both the Merida Convention against corruption (18 April 2018 – per UNODC – Country Review Report of Samoa conducted in 2019) and the Palermo Convention (17 December 2014) (Palermo Convention as noted in Samoa's FUR 2017 Paragraph 8 page 4).

76. In line with the 2015 MER, Samoa acceded to the Vienna Convention on 19 August 2005 and the TF Convention on 27 September 2002.

77. **Criterion 36.2** is *mostly met*: Samoa is party to all four Conventions. Consideration of Samoa's implementation of the conventions is determined by consideration of Samoa's compliance with the relevant FATF Recommendations that cover the various convention articles. There are minor deficiencies with implementation of requirements in the conventions that have been discussed in R.3, R.4, R.5, R.10, R.20, R.32, R.37 and R.38. There are moderate shortcomings with R.12.

#### *Weighting and Conclusion*

78. Samoa is party to the Palermo Convention, Vienna Convention, the Convention Against Corruption, and the Terrorist Financing Convention. There are minor deficiencies in implementing the requirements in the conventions (R.3, R.4, R.5, R.10, R.20, R.32, R.37, and R.38) and moderate shortcomings with R.12.

79. ***Recommendation 36 – the rating is re-rated to largely compliant.***

### ***3.2. Progress on Recommendations which have changed since adoption of the last FUR or MER.***

80. The APG welcomes the steps that Samoa has taken to improve its technical compliance with Recommendations which have changed since adoption of last FUR in 2018. Samoa remains rated largely compliant for R.2 and R.18; is re-rated to LC for R.21; remains rated partially compliant for R.15; and remains non-compliant for R.7.

#### ***Recommendation 2 [R.2] (Originally rated largely compliant)***

81. Samoa was rated LC for R.2 in its 2015 MER. The MER noted Samoa has made a number of significant policy decisions based on and informed by risk, which has resulted in the assessment team placing little weight on the lack of a written policy or strategy when considering Samoa's context. Samoa has no coordination mechanism for proliferation financing.

82. **Criterion 2.1** is *mostly met*: The FUR 2017 outlined that Samoa has developed and implemented an AML/CFT National Strategy 2016-2020, an AML/CFT Policy Paper 2016-2020 and a National AML/CFT Policy. Samoa's AML/CFT National Strategy 2016-2020 is informed by risk, setting out Samoa's high-risk sectors and planned action relating to these sectors, and includes planned actions to mitigate other risk factors. The MLPA extended the use of the current National Strategy 2016-2020 and AML/CFT Policy Paper 2016-2020 until the new NRA is complete, and the new national strategy is approved. Samoa is in the final stages of completing a new National Risk Assessment with Cabinet approval the final step to be completed. Samoa also has a new national strategy which builds on the previous national strategy and is informed by the new NRA.

83. **Criterion 2.2** is *mostly met*: The analysis in the FUR 2017 stands.

84. **Criterion 2.3** is *met*: As outlined in the 2017 FUR, the MLPA was responsible for coordinating national AML/CFT policies (established under Section 4 of MLPA 2007) and the MLP Task Force was established under section 5 of the MLP Act as the advisory body to the MLPA which aims to strengthen the level of cooperation among competent authorities in implementing AML/CFT regime.

85. Section 5 of MLPA 2007 provides for the establishment of an MLP Task Force consisting of the Governor of the Central Bank (Chairperson), the Attorney-General, the Commissioner of Police, the CEO of the SIFA, the Head of Customs Department, the Head of Immigration Department, the Director of the FIU, and other members as appointed by the Minister on advice of the SIFA. MLP Task Force meets quarterly to discuss / consider relevant matters such as the draft AML/CFT Policies prior to submission to Cabinet for approval, draft NRA, National Strategy which was circulated to all MLP Task Force members for comment. MOUs are also in place between the FIU and all MPL Task Force members to assist the administration and the exchange of information.

86. The Samoa AML/CFT National Policy also provides for co-operation between MLP Task Force members – per “A Co-Operative System”, which provide that “Task Force members will share information and personnel freely in both formal and informal arrangements.”

87. MoUs are placed between the Money Laundering Prevention Authority (MLPA) of Samoa and its members to provide for the exchange of information.

88. **Criterion 2.4** is *met*: The analysis in the FUR 2017 stands in that the Samoa's AML/CFT National Policy notes that PF is included under the remit of the MLPA Taskforce.

89. **Criterion 2.5** is *met*: The cooperation and coordination between relevant authorities in Samoa ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules. The MPL Task Force has been established as required by section 5 of the MLPA 2017. Section 5 (2) (b) 2017 requires that the authority ensures a close liaison, cooperation and coordination between the various government departments, statutory corporations and the authority and the FIU. It also requires that members of the MPL Task Force must not disclose any information obtained in the performance of their duties or the exercise of their functions under the Act, except for the detection, investigation or prosecution of a serious offence, a ML, or an offence of the financing of terrorism, or the enforcing of the Counter Terrorism Act 2014 or the POCA 2007.

#### *Weighting and Conclusion*

90. Samoa has well established national AML/CFT cooperation and coordination with the only minor shortcoming being that while its national AML/CFT polices are informed by risk, they are somewhat out-of-date due to delays in Samoa's current risk assessment process. Samoa new NRA is in the final stage of Cabinet approval with a new national strategy (informed by the new NRA) ready to be approved soon after.

91. **Recommendation 2 – the rating remains largely compliant.**

#### *Recommendation 7 [R.7] (Originally rated non-compliant)*

92. Samoa was rated NC for R.7 in its 2015 MER. The MER noted Samoa has not put in place any specific measures for the purposes of implementing targeted financial sanctions related to proliferation in order to comply with UNSCRs.

93. **Criterion 7.1 to 7.5** are *not met*: Samoa has efforts underway to address the shortcoming identified in R.7, however, there remains no legal basis for implementation of targeted financial sanctions relating to the prevention, suppression, and disruption of proliferation of weapons of mass destruction and its financing.

#### *Weighting and Conclusion*

94. Samoa is in the initial process of implementation of R.7 to address deficiencies identified in its 2015 MER.

95. **Recommendation 7 – the rating remains non-compliant.**

#### *Recommendation 15 [R.15] (Originally rated partially compliant)*

96. Samoa was rated PC for R.15 in its 2015 MER. The MER noted Samoa had not clearly mandated that risks related to new technologies must be identified and assessed prior to launch of new technologies and had also not mandated that FIs were obliged to take measures to manage and mitigate the risks when launching or using new technologies.

97. **Criterion 15.1** is *partly met*: The gap identified in the MER remains unresolved with Samoa having no requirements that require FIs to identify and assess the ML/TF risks related to new technologies, and FIs to assess the risk of ML/TF risks related to new technologies in practice prior to launch. In line with the findings of the MER, Samoa indicated that due to the size and context of the financial system in Samoa, the CBS continues to assess new products and delivery channels being considered by FIs before they are launched, which was recently done with the launch of the Automated Transfer System.



98. **Criterion 15.2** is *partly met*: The gap identified in the MER remains unresolved with no requirements in Samoa for FI to undertake risk assessments of new technologies prior to launch and take appropriate measures. However, there are general risk assessments and mitigations obligations, and some risk assessments are occurring in practice (see above example).

99. **Criterion 15.3** is *partly met*: Samoa has not assessed the ML/TF risks emerging from virtual asset activities or operations of VASPs. Samoa has sought to apply AML/CFT controls to VASPs by amending Schedule 1 of the MLPA 2007 to include “dealers and promoters of virtual or digital currency or anything related to block chain technology” as FIs. This seems to capture the vast majority of VASP activities; however, these terms are not further defined in statute in Samoa. These obligations were included in the 2018 amendments to the MLPA on the basis of general understanding of ML/TF risks associated with VA/VAPS rather than a formal risk assessment. While VASPs are FI, there are some gaps in obligations for FI to identify, assess, manage, and mitigate their ML/TF risks as required by c.1.1 (moderate shortcomings) and c.1.11 (minor shortcomings) (see 2015 MER).

100. **Criterion 15.4** is *not met*: There is no licensing or registration regime for VASPs including under the current regime for FIs in Samoa.

101. **Criterion 15.5** is *partly met*: While VASPs have been included as FIs in Schedule 1 of the MLP Act 2007 and there are general business licencing/legislation requirements in Samoa, there is no mechanism in place to identify VASPs. Should a VASPs be identified sanctions for non-compliance with AML/CFT could be applied but as discussed in the 2015 MER Samoa has moderate shortcoming in R.35.

102. **Criterion 15.6** is *partly met*: While VAPS are FI under the MLPA and subject to AML/CFT supervision, Samoa has no supervisory framework for VASP at present and CBS and SIFA have moderate shortcoming in their AML/CFT supervision powers (see 2015 MER). According to Samoa, there are no VASPs operating in Samoa.

103. **Criterion 15.7** is *not met*: CBS and SIFA have not established guidelines and provided feedback to assist VASPs comply with AML/CFT requirements noting that according to Samoa there are no VASPs operating in Samoa.

104. **Criterion 15.8** is *partly met*: FI sanctions under the MLPA are applicable to VASPs; however, as discussed in the 2015 MER Samoa has moderate shortcoming in R.35.

105. **Criterion 15.9** is *partly met*: VAPS are FI under the MLPA and subject to the same AML/CFT obligations as other FIs including that there is no threshold for carrying out CDD on occasional transactions (see 2018 FUR in which R.10 was re-rated to LC). There are no specific obligations on VASPs with regard to R.16, which was rated PC in the 2015 MER. With the expectation of R.18, R.19 and R.21, all other AML/CFT preventative measures obligations are as described in the 2015 MER: R.11, and R.14 are rated C; R.20 is rated LC; R.12, R.13, R.17 are rated PC. As discussed above, R.19 is rated PC and as discussed below R.18 and R.21 are both rated LC and C.

106. **Criterion 15.10** is *not met*: While VASPs are FIs, there are no reporting obligations on FI under c.6.5(e) and c.72(e) or communication mechanisms (c.6.5(d), and c.6.69(g) or 7.4(g) or monitoring under 7.3).

107. **Criterion 15.11** is *partly met*. The FIU and CBS as AML/CFT supervisors do not have the power to compel the production of information for the purpose of assessing AML/CFT compliance with Samoa rated PC with R.27. However, LEAs (Samoa is rated LC with R.31) have adequate powers to obtain information (including from FIs/VASPs) and have adequate mechanisms for international cooperation (Samoa is LC with R.37 to R.40).

### *Weighting and Conclusion*

108. Criteria related to the assessment of new technologies remain unchanged from the 2015 MER with moderate shortcomings. While Samoa has not assessed its ML/TF risks related to VA/VASPS, Samoa has sought to apply AML/CFT controls to VASPS by amending Schedule 1 of the MLPA 2007 to include “dealers and promoters of virtual or digital currency or anything related to block chain technology” as FIs. This seems to capture the vast majority of VASP activities; however, these terms are not further defined in statute in Samoa. All AML/CFT preventative measures obligations apply to VASPs (shortcomings identified in the MER and this FUR apply) and while CBS and the FIU are the designed AML/CFT supervisors there are no VASPS in Samoa and there is no framework for risk-based supervision. LEAs have adequate powers to obtain information and have adequate mechanisms for international cooperation related to VASPS.

109. ***Recommendation 15 – the rating remains partially compliant.***

### ***Recommendation 18 (Originally rated largely compliant)***

110. Samoa was rated LC for R.18 in its 2015 MER. Deficiencies included no specific requirements to give effect to c.18.2.

111. **Criterion 18.1** is *met*. The analysis in the MER stands with Samoa having no shortcoming in its compliance with c.18.1 and Samoa having made no changes to these requirements.

112. **Criterion 18.2** is *not applicable*. There is no change from the MER with Samoa having no specific requirements under the MLP Act and MLP Regulations covering the requirements of c.18.2. However, as consistent with the 2015 MER, there are no financial groups or enabling legislation for such structures in Samoa

113. **Criterion 18.3** is *not applicable*. Consistent with the 2015 MER, there are no financial groups or enabling legislation for such structures in Samoa, and no Samoan domestic FI has foreign branches or subsidiaries operating outside of Samoa

### *Weighting and Conclusion*

114. Samoa confirmed that no changes have occurred since the 2015 ME. In line with the MER, Samoa has requirements to give full effect to c.18.1. Consistent with the 2015 MER, there are no financial groups or enabling legislation for such structures in Samoa, and no Samoan domestic FI has foreign branches or subsidiaries operating outside of Samoa.

115. ***Recommendation 18 – the rating is re-rated to compliant.***

### ***Recommendation 21 [R.21] (Originally rated compliant)***

116. Samoa was rated C for R.21 in its 2015 MER.

117. **Criterion 21.1** is *met*. The analysis in the MER stands with the protections under section 29 of MLPA 2007.

118. **Criterion 21.2** is *met*. The analysis in the MER stands with the prohibition to prevent tipping off now under Section 27 of MLPA 2007. Samoa does not have requirements for information sharing across financial groups. However, consistent with the 2015 MER, there are no financial groups or enabling legislation for such structures in Samoa.

### *Weighting and Conclusion*

119. Samoa confirmed that no changes have occurred since the 2015 ME. Although, Samoa does not have requirements for information across financial groups, consistent with the 2015 MER, there are no financial groups or enabling legislation for such structures in Samoa.

120. ***Recommendation 21 – the rating remains compliant.***

## **IV. CONCLUSION**

121. Overall, Samoa has made progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated to LC on R.36, and PC for R.19. R.18 has also been re-rated to C. Samoa remains rated compliant for R.21; remains rated largely compliant for R.2 remains rated partially compliant for R.15 and R.24; and remains non-compliant for R.7.

122. A summary table setting out the underlying deficiencies for each of the recommendations assessed in this report is included at Annex A.

123. Overall, in light of the progress made by Samoa since its MER was adopted, its technical compliance with the FATF Recommendations as follows as of the reporting date 1 June 2023:

<b>R.</b>	<b>Rating</b>	<b>R.</b>	<b>Rating</b>
1	PC (2015 MER)	21	C (2015 MER, 2023 FUR)
2	PC (2015 MER), ↑ LC (2017 FUR and 2023 FUR)	22	PC (2015 MER)
3	PC (2015 MER), ↑ LC (2018 FUR)	23	PC (2015 MER)
4	LC (2015 MER)	24	PC (2015 MER, 2023 FUR)
5	PC (2015 MER), ↑ LC (2018 FUR)	25	PC (2015 MER)
6	PC (2015 MER)	26	PC (2015 MER)
7	NC (2015 MER) (2023 FUR)	27	PC (2015 MER)
8	PC (2015 MER)	28	PC (2015 MER)
9	C (2015 MER)	29	LC (2015 MER)
10	PC (2015 MER), ↑ LC (2018 FUR)	30	C (2015 MER)
11	C (2015 MER)	31	LC (2015 MER)
12	PC (2015 MER)	32	LC (2015 MER)
13	PC (2015 MER)	33	LC (2015 MER)
14	C (2015 MER)	34	PC (2015 MER)
15	PC (2015 MER) (2023 FUR)	35	PC (2015 MER)
16	PC (2015 MER)	36	PC (2015 MER) ↑ LC (2023 FUR)
17	PC (2015 MER)	37	LC (2015 MER)
18	LC (2015 MER) ↑ C (2023 FUR)	38	LC (2015 MER)

<b>R.</b>	<b>Rating</b>	<b>R.</b>	<b>Rating</b>
19	<b>NC</b> (2015 MER) <b>↑</b> <b>PC</b> (2023 FUR)	39	<b>LC</b> (2015 MER)
20	<b>LC</b> (2015 MER)	40	<b>LC</b> (2015 MER)

124. Samoa has 21 Recommendations rated C/LC. Samoa remains on enhanced follow-up.

## Annex A

### Summary of Technical Compliance – Deficiencies underlying the ratings<sup>3</sup>

<b>Compliance with FATF Recommendations</b>		
<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) underlying the rating<sup>4</sup></b>
2. National cooperation and coordination	PC (2015 MER) LC (2017 FUR & 2023 FUR)	<ul style="list-style-type: none"> <li>While Samoa’s national AML/CFT polices are informed by risk, they are somewhat out-of-date due to delays in Samoa’s current risk assessment process.</li> </ul>
7. Targeted financial sanctions related to proliferation	NC (2015 MER) (2023 FUR)	<ul style="list-style-type: none"> <li>There is no legal basis for implementation of targeted financial sanctions relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.</li> </ul>
15. New Technologies	PC (2015 MER) (2023 FUR)	<ul style="list-style-type: none"> <li>There are enforceable requirements for FIs to assess the ML/TF risks of new products or delivery channels and to take appropriate measures to manage and mitigate any risks.</li> <li>Samoa has not assessed its ML/TF risks related to VA/VASPS.</li> <li>VASPs are FI under the MLPA albeit that the definition of VASP is not totally clear.</li> <li>All AML/CFT preventative measures obligations apply to VASPs (shortcomings identified in the MER and this FUR apply).</li> <li>While CBS and the FIU are the designed AML/CFT supervisors, there are no VASPS in Samoa and there is no framework for risk-based supervision.</li> <li>Shortcomings in relations to sanctions (see R.35 in the MER) are applicable.</li> <li>Shortcomings in relations to TFS (see R.6 and R.7 in the MER) are applicable.</li> </ul>
19. Higher Risk Countries	NC (2015 MER) PC (2023 FUR)	<ul style="list-style-type: none"> <li>There is no requirement for FIs to apply enhanced CDD, proportionate to the risks, to business relationships and transactions from countries for which this is called for by the FATF. MLP Act 2007</li> </ul>

<sup>3</sup> Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

<sup>4</sup> Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating <sup>4</sup>
		<p>(as amended in 2018) does not clearly obligate EDD when call for by the FATF.</p> <ul style="list-style-type: none"> <li>• Samoa cannot impose countermeasures when called for by the FATF.</li> <li>• The 2021 Explanatory Memorandum and 2010 AML/CFT Guideline have not been updated to reflect 2018 Money Laundering Prevention amendments.</li> </ul>
24. Transparency and Beneficial Ownership of Legal Persons	PC (2015 MER, 2023 FUR)	<ul style="list-style-type: none"> <li>• While the overall conclusions of the 2014 NRA are reasonable the analysis lacks depth. The 2024 NRA is in draft.</li> <li>• Full basic information for IBCs is not available publicly, written permission from international companies or TCSP is required to release all information held by the Registrar. Certain registers lack clear mechanisms for updating and verifying accuracy.</li> <li>• Obligations under the TCA on Trustee Companies are not enforceable.</li> <li>• Samoa has moderate shortcoming in requirements for FIs and DNFBPs to conduct on-going due diligence on the business relationship (c.10.7) (requirements are mainly under the MLPA Regulation 2009) and these would not operate to ensure that CDD is conducted upon change of the BO of legal persons.</li> <li>• For domestic companies, there is no provision in the Companies Act that one or more natural persons who are resident in Samoa are required to maintain information.</li> <li>• For domestic companies, there is no requirement regarding the retention of records of domestic companies being wound up.</li> <li>• Requirements to prevent the misuse of trust companies as nominee director or shareholder are not enforceable.</li> <li>• Shortcomings regarding sanctions in R.35 are applicable.</li> </ul>
36. International instruments	PC (2015 MER) LC (2023 FUR)	<ul style="list-style-type: none"> <li>• There are minor deficiencies in implementing the requirements in the conventions (R.3, R.4, R.5, R.10,</li> </ul>

<b>Compliance with FATF Recommendations</b>		
<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) underlying the rating<sup>4</sup></b>
		R.20, R.32, R.37, and R.38) and moderate shortcomings with R.12.