

Anti-money laundering and counter-terrorist financing measures

Cyprus

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

November 2022

Follow-up report



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

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

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The 2nd Enhanced Follow-up Report and Compliance rating on Cyprus was adopted by the MONEYVAL through written procedure (19 September – 31 October 2022).

Cyprus: Second Enhanced Follow-up Report

1. INTRODUCTION

1. The fifth-round mutual evaluation report (MER) of Cyprus was adopted in December 2019 and its first enhanced follow-up report (FUR) was adopted in December 2021. This FUR analyses the progress of Cyprus in addressing the technical compliance (TC) deficiencies identified in its MER and first enhanced FUR. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

2. FINDINGS OF THE MER AND FOLLOW UP

2. The MER and the first enhanced FUR rated Cyprus as follows for technical compliance:

Table 1. Technical compliance ratings, December 2021

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

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

Source: [First enhanced follow-up report](#).

3. Given the results of the MER, Cyprus was placed in enhanced follow-up¹. The first enhanced follow-up report submitted for Cyprus was discussed at the 62nd Plenary meeting in December 2021. As a result of this discussion, Cyprus was re-rated PC on R.15, following changes made to the FATF Recommendations since the adoption of the 5th round MER. The plenary also agreed to request the FATF to consider the extent to which host country AML/CFT requirements should be applied to VASPs that are created in a foreign country, but which operate from a physical presence or on a remote basis in a host country in which they are not licenced or registered. Upgrades to ratings were not agreed for R.8, R.13 or R.31. The Plenary requested submission of a second enhanced FUR for Cyprus to the 64th MONEYVAL Plenary in December 2022.

4. The assessment of Cyprus' request for technical compliance re-ratings and the preparation of this FUR were undertaken by the following rapporteurs (together with the MONEYVAL Secretariat):

- Andorra
- Gibraltar

5. Section 3 of this FUR summarises Cyprus' progress made in improving technical compliance. Section 4 sets out the conclusion and a table showing which FATF Recommendations have been re-rated.

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

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Cyprus to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER and first enhanced FUR for which the authorities have requested a rating (R.8, R.15 and R.31).

7. The authorities did not request a re-rating for R.13.

8. This FUR takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Cyprus submitted its country update report – at least six months before the FUR is due to be considered by MONEYVAL².

3.1. Progress to address technical compliance deficiencies identified in the MER and first enhanced FUR

9. Whilst Cyprus has made progress to address the technical compliance deficiencies identified in the MER and first enhanced FUR, it has not been re-rated on any of the FATF Recommendations for which the authorities requested a re-rating (R.8, R.15 and R.31).

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

10. In its first enhanced FUR, Cyprus was rated PC with R.8, based on: (i) failure to identify the subset of NPOs which may be vulnerable to TF abuse (c.8.1(a)); (ii) failure to identify the nature of the threat posed by terrorist entities to those NPOs which are at higher risk (c.8.1(b)); (iii) absence of reassessment of the NPO sector (c.8.1(d)); (iv) limited outreach which was not on the potential vulnerabilities of NPOs to terrorist financing abuse and terrorist financing risks, and the measures that NPOs can take to protect themselves against such abuse (c.8.2(b)); (v) failure to develop best practices with NPOs to address TF risk (c.8.2(c)); (vi) failure to supervise/monitor NPOs on a risk-sensitive basis (c.8.3); (vii) gaps in sanctions that may be applied to charities and non-profit companies (c.8.4(b)); (viii) doubts about capacity to examine NPOs suspected of being exploited by, or actively supporting, terrorist activity or organisations (c.8.5(b)); (ix) absence of a specific mechanism for sharing information with competent authorities where there is TF suspicion (c.8.5(d)); and (x) failure to identify appropriate contact points and procedures to respond to international requests for information about NPOs (c.8.6); (xi) other shortcomings noted in the MER relate to non-profit companies, namely, no review concerning the adequacy of measures had been carried out (c.8.1(c)) and lack of measures to promote accountability, integrity and public confidence in administration and management (c.8.2(a)).

11. To address the deficiency identified in the MER for c.8.1(a), Cyprus has progressed with a risk assessment of NPOs. Out of 4 500 NPOs registered at the Ministry of Interior (NPO register), 90% are associations, 9% are foundations and 1% are federations/unions governed by the Associations, Foundations and other related matters Law of 2017. There are also 58 Charities governed by the Charities' Law and approx. 300 non-profit companies governed under the Law on Companies. Authorities report that approx. 10 % of NPOs fall under the FATF definition.

12. Since the first enhanced Follow-up report, Cyprus (with the help of an external service provider) has progressed with the risk assessment with a view to identify a subset of NPOs which are likely to be at risk of TF abuse³. The Methodology used for the risk assessment encompasses multiple criteria

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

³ To ensure accuracy and consistency of data (that is relevant for compliance with the R 8), Cyprus authorities were asked to verify the statistical data on a number of different occasions. However, this might be attributed to the fact that the risk assessment process has not been completed and thus authorities are in the midst of gathering comprehensive data affecting the compliance with the R.8.

related to ML, TF and tax abuse. However, the risk calculation method is set up in a way to enable distinction between the indicators that are directly linked to TF risk (as opposed to ML) and thus can provide risk calculation results solely based on TF. TF risk calculation is based on the following risk indicators: negative information or sanctions applied to NPO; links of the management personnel who is a foreign PEP with high-risk countries; source of funding with a geographical component; anonymous donations, including made in cash; distribution of funds using cash or crypto assets, NPO activities (and whether the financial flows correspond to the NPO activities), country of origin of BO or trustee, maintenance of bank accounts in foreign jurisdictions, financial relations with persons from high risk countries linked to TF, etc.

13. Near the end of the reporting period (data of 12 May), 321 files⁴ have been received and 67 assessments have been completed⁵. Authorities report that this exercise is still ongoing, with a set target to risk-assess all registered NPOs (4 500) by February 2023. Accordingly, shortcomings identified at c.8.1(a) remain partly addressed.

14. To address the deficiency identified in the MER for c.8.1(b), Cyprus has identified general TF threats arising from the (i) geographical location of Cyprus⁶; (ii) NPOs' activities; (iii) governance of NPOs; and (iv) fund flows. Authorities report that geographical factors might potentially influence the likelihood of fund flows towards the countries considered high risk from TF perspective. Large number of immigrants and refugees might utilize numerous fund-raising activities, incl. fund raising activities in cash; moreover, situations have been observed where immigrants and refugees originating from higher risk countries become members of the management bodies or beneficial owners of the NPOs, incl. those that hold PEP status in foreign jurisdictions. These threats were used as a basis to develop a list of TF risk factors which are used for the risk assessment (see c.8.1(a) for more information). Results of the NPO risk assessment, once fully completed, might further strengthen the understanding of threats posed by the terrorist entities to the NPOs which are at risk. Accordingly, the shortcomings identified at c.8.1(b) are largely addressed.

15. To address the deficiencies identified in the MER for c.8.1(c) and c.8.2(a) that relate to non-profit companies, Cyprus has initiated review of the adequacy of the measures that apply to non-profit companies. Authorities report that the decision has been taken to establish an Ad Hoc Committee that is tasked with reviewing the control framework for non-profit companies and suggesting necessary changes to it, if deemed necessary. The authorities report that this work is still ongoing. No additional measures since the adoption of the MER have been taken by Cyprus to promote accountability, integrity and public confidence in the administration and management of non-profit companies. Currently, the same requirements apply to non-profit companies as to regular companies. Non-profit companies are required to file annual returns, prepare financial statements in line with the International Accounting Standards, and might be subject to the strike off procedure (Art. 119, 121, 142 of the Companies Law). For every company that is required to prepare consolidated financial statements, mandatory audit or review of the financial statements, consolidated financial statements, management report and consolidated management report by auditors is required (Art. 152A(1) of the Law on Companies. These requirements provide a level of accountability in the administration of non-profit companies; however, additional measures are expected to promote integrity and public confidence in the administration and management of non-profit companies. As noted at c.8.1(c), review of the adequacy of the measures in relation to non-profit companies has just been started. Accordingly, the deficiencies concerning non-profit companies discussed at c.8.1(c) remain not addressed and deficiencies at c.8.2(a) – partly addressed.

16. The authorities are in the midst of conducting the first risk-based assessment for the whole NPO sector. Once completed, it is planned to be updated every 5 years. Accordingly, shortcomings identified at c.8.1(d) remain partly addressed.

⁴ Data and information concerning individual NPOs that is used for analysis.

⁵ Authorities further report (data of August 3, 2022) of having received 1261 files and 237 assessments completed.

⁶ Since 1974, the northern part of the island has not been under Government control (occupied area).

17. To address the deficiency identified in the MER for c.8.2(b), Cyprus has conducted an extensive outreach to the NPOs on different topics, such as risks to NPOs sector, self-monitoring, best practices, etc. However, the scope and depth of the discussed topics that relate to risks and vulnerabilities cannot be fully determined, as only partial translations into English of the training material were made available. Outreach events were attended by the representatives of approx. 1 000 NPOs (out of 4 500). No differentiation was made between different types of NPOs when designing the content of training/outreach material, thus it is doubtful whether the scope and depth of the outreach was determined on the risk sensitive basis and/or carefully considered different characteristics of NPOs.

18. Although no specific TF-related educational programmes have been designed for the donor community, however, Cyprus authorities report the existence of outreach events, i.e., the President of the Donation's Authority speaks regularly (once every three months) on TV and radio channels about various fundraising activities, including protection from TF abuse.

19. In addition, shortcomings identified at c.8.2(c) concerning best practices (one of the topics discussed at outreach events) have an impact on this criterion. Accordingly, shortcomings identified at c.8.2(b) remain partly addressed.

20. The first enhanced follow up report noted that deficiency identified in the MER for c.8.2(c) has been mostly addressed through publication of the Ministry of Interior guidance for the sound operation of NPOs (best practices paper). However, *best practices* paper concentrates on discussing governance, internal control and operational principles rather than focusing on the protection from TF abuse. For example, transfer of the financial resources to the beneficiaries scores only 20 % of the total good practices. However, the guidance paper further suggests that resources can't be transferred to the persons involved in gambling but is silent regarding any other beneficiary-related risk factors which might be more indicative of TF risk, such as targeted financial sanctions' screening performed on beneficiaries, including residence in high-risk areas or conflict zones, etc. Moreover, it is not clear as to why donating money is considered a higher risk for TF than sending money to beneficiaries, as no such geographical restrictions for beneficiaries exist as opposed to restrictions for donors, etc.

21. In addition, best practices paper is uniform and does not differentiate between varying levels of risk exposure by NPOs, nor different types, features and characteristics of NPOs (which, in turn, should signal different types of vulnerabilities). As a result, some requirements contained in the best practices paper seem to place excessive burden to NPOs that are lower risk and/or have limited capacity to adhere to the best practices (e.g., due to small size / scope of the activities), which, consequently, can potentially discourage legitimate NPO activities. The relevant examples in this regard are: (i) requirement/recommendation for an audit for annual financial statements which seems to be excessive for lower risk NPOs; (ii) transfers through regulated banking channels (both, from sending and receiving side) which might prevent donors from making donations and, more importantly, beneficiaries in less developed areas from receiving donations; (iii) money transfers from non-EU countries is not regarded as a good practice – which might potentially disrupt full scale activities of NPOs and/or even prevent them from operating.

22. It does not seem that the authorities, when designing the best practices paper, have worked in close cooperation with the whole NPO community to the fullest extent possible; with the intent to focus on finding a right balance between targeted protection from TF abuse and proportionality of the measures. On the positive note, the authorities report that consultations with NPOs were taking place and the feedback from the NPO community was considered. Authorities admit that the NPO community expressed diverging views concerning the requirements of the best practices – some welcomed the paper and suggested additional risk-linked amendments, some – were more critical (to support this, specific examples of the feedback from the NPO community were provided by the authorities). Communication with the NPO community is ongoing after the issuance of the best practices paper - the Ministry of Interior reports having had a meeting with one association of small sized NPOs the outcome of which was to provide a helping hand aimed at minimizing a burden of the regulatory requirements (more specifically – to draw up a template of articles association which correspond to the size and scope of the activities, etc.).

23. In light of the above, shortcomings identified at c.8.2(c) remain mostly addressed.

24. Cyprus is making further progress towards addressing the deficiencies identified in the MER for c.8.3⁷. Authorities developed a risk-based monitoring methodology (Risk Based Approach for the monitoring of Money Laundering and Terrorism Financing Risks in the NPO sector) and a monitoring strategy. Two types of monitoring are relevant here: (i) basic monitoring and (ii) close monitoring performed by the Ministry of the Interior (MoI). As an additional tool, the risk-based monitoring methodology also foresees possibility for thematic reviews that can be performed on a case-by-case basis, dependent on the trigger events or other similar circumstances. Authorities report that basic monitoring is performed yearly (desk-based review) and is based on the following criteria: financial information, activities, beneficial ownership screening, screening regarding maintenance of local bank account and risk questionnaire. According to the risk-based monitoring methodology, close monitoring is informed by the outcomes of the risk assessment of the whole NPO sector, i.e., frequency of the close monitoring actions will be dependent on the risk level of the individual NPOs. However, risk-based monitoring methodology does not discuss in detail (i) whether scope and depth of the monitoring is being determined based on the TF risk profile; (ii) certain elements that are of key importance to prevent TF abuse of NPOs, such as, controls relating to the funds transfer to beneficiaries, incl. TF-related targeted financial sanctions screening, etc. Moreover, the aforementioned methodology encompasses not only the risk elements of TF, but also ML. Consequently, risk-based actions might not be solely based on TF, but also ML. However, authorities reported that more concrete methodology for close monitoring is yet to be developed. Positive actions are being taken by the authorities to build capacity of the teams that are tasked with the close monitoring function, such as trainings aimed at deepening the understanding of the financial statements and accounting principles, as well as ongoing discussions on TF risks.

25. Although Cyprus has made significant steps towards promoting effective supervision and monitoring regarding the risk-based measures applicable to NPOs, the actions are not yet completed. Shortcomings identified at c.8.1 have an impact on this criterion. Accordingly, shortcomings identified at c.8.3. remain partly addressed.

26. To address the deficiency identified in the MER for c.8.4(b), Cyprus has amended “Associations and Foundations and other related matters Law”, however, sanctions foreseen in this law do not apply to charities (regulated by Charities Law) and Non-profit companies. To date, a large number (2 446) of NPOs registered under previous Societies and Institutions law of 1972 have been deleted from the register for non-compliance reasons. However, in light of the shortcomings noted at c.8.1 and c.8.3, extensive de-registration raises a question as to whether or not there have been unintended consequences⁸. Accordingly, shortcomings relating to absence of sanctions for charities and non-profit companies identified at c.8.4(b) remain not addressed.

27. Cyprus has not provided targeted information aimed at demonstrating that LEAs and other competent authorities possess specific investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organizations. There are currently 4 cases (opened in 2020-2021) under investigation by the law enforcement authorities that involves NPOs (mainly due to reasons relating to fraud, forgery and theft), however, none of these cases are specifically related to investigating NPOs that are exploited by, or actively supporting, terrorist activity or terrorist organisations. Although monitoring of NPOs activities (see c.8.3 and c.8.4 for more information) might be beneficial to identify suspicion relating to TF (or heightened risk areas), this alone does not prove investigative expertise to examine cases of TF involvement. Accordingly, shortcomings identified at c.8.5(b) are partly addressed.

⁷ The first enhanced follow up report of 2021 has noted that Cyprus took actions to introduce a number of measures to NPOs, such as requirements for a new bank account to be opened for each fundraising project and NPO and provide the information to the MoI of all accounts and actions at the end of the fundraising period. Given the preliminary sectorial assessment results, as well as the fact that most charities fall within the subset of NPOs that may pose higher ML/TF risk, all charities were also asked to submit audited accounts which were reviewed for risk patterns.

⁸ Moreover, authorities admit that banks tend to treat all NPOs as high risk, which might hinder their ability to get access to regulated financial channels.

28. Cyprus has not addressed the deficiencies identified in the MER for c.8.5(d). No steps were taken by Cyprus authorities in order to establish a specific mechanism to ensure that information related to TF suspicion involving an NPO is shared promptly with competent authorities. Although authorities demonstrate that Cyprus police cooperate with several NPOs under suspicion, this is not considered a mechanism to ensure that, when there is a TF suspicion involving an NPO, information is shared promptly with competent authorities.

29. Cyprus has not addressed the deficiencies identified in the MER for for c.8.6. There are no points of contact or procedures specific to requests related to NPOs suspected of TF or other forms of terrorist support.

30. Overall, Cyprus has taken a number of measures to address the deficiencies identified in the MER. However, the following shortcomings remain: (i) TF risk assessment of the NPO sector is not yet complete (c.8.1(a)); (ii) Risk assessment has not been finalized therefore re-assessment of risk has not commenced (c.8.1(d)); (iii) Outreach and educational awareness programs on TF threats, vulnerabilities and actions aimed at protection from TF abuse need to be expanded and adapted by taking into account different types of NPOs, their characteristics, scope and scale of the activities, related vulnerabilities and risk exposure (c.8.2(b)); (iv) Best practices guidance would benefit from extending the scope of requirements that would be indicative of TF risks/threats; authorities need to intensify a close cooperation with the NPO community regarding development of best practices aimed at protecting from TF abuse (c.8.2(c)); (v) Although good progress has been made towards ensuring risk-based monitoring of NPOs, the actions are not yet complete (c.8.3); (vi) No sanctions available for charities and non-profit companies (c.8.4(b)); (vii) Cyprus has not provided targeted information aimed at demonstrating that LEAs and other competent authorities possess specific investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organizations (c.8.5(b)); (viii) No steps were taken by Cyprus authorities in order to establish a specific mechanism to ensure that information related to TF suspicion involving an NPO is shared promptly with competent authorities (c.8.5(d)); (ix) There are no points of contact or procedures specific to requests related to NPOs suspected of TF or other forms of terrorist support (c.8.6); and (x) deficiencies identified in the MER concerning non-profit companies remain, namely, absence of review concerning the adequacy of measures (c.8.1(c)) and lack of measures to promote accountability, integrity and public confidence in administration and management. **R.8 therefore remains partially compliant.**

Recommendation 15 (originally rated PC – no re-rating)

31. In its first enhanced FUR, Cyprus was rated PC with R.15, based on: (i) there being no requirement to identify and assess risk that may arise in relation to new business practices or developing technologies (c.15.1); (ii) ML/TF risks emerging from VA activities and operations of VASPs not being identified or assessed (c.15.3(a)); (iii) the application of a risk-based approach to preventing or mitigating ML/TF commensurate with risks not being demonstrated (c.15.3(b)); (iv) registration requirements still being conditional upon entry into force of secondary legislation (c.15.4(a) and c.15.5); (v) it not being clear that every legal person created in Cyprus would be required to register as a VASP in Cyprus (c.15.4(a)(i)); (vi) some gaps in relation to the application of fit and proper measures under the AML/CFT Law (c.15.4(b)); (vii) it not being clear that a sufficient range of sanctions could be applied to more serious breaches of registration requirements (c.15.5); (viii) it not being clear what additional action had been taken in order to support risk-based supervision of covered VASPs (c.15.6(a)); (ix) guidance on identifying TF suspicions being limited (c.15.7); (x) a number of deficiencies linked to preventive measures (c.15.9 – see below); (xi) court orders allowing for the actual interception of the content of communications not extending to the investigation of ML, associated predicate offences and TF (c.15.11); and (xii) the authorities not explaining whether the widest range of VA cooperation was available to competent authorities (c.15.11).

32. The following deficiencies linked to the application of preventive measures are relevant to c.15.9: (i) preventive measures did not apply to VASPs that failed to register as required; (ii) there were no legal provisions allowing CDD measures to be dropped in order to prevent tipping off a customer (linked to c.10.20); (iii) the AML/CFT Law did not require all specified information to be collected by correspondent banks about foreign respondents (linked to c.13.1); (iv) correspondent requirements did not apply to relationships with respondents situated in EEA Member States (linked to c.13.1 and c.13.2); (v) there was no explicit requirement for payment service providers to file a report in any country affected by a suspicious wire transfer, in cases where that service provider controlled both the sending and receiving ends of the transfer (linked to c.16.17); (vi) there was no general, universal requirement for an independent audit (linked to c.18.1); (vii) binding guidance on high risk third countries had not been issued (linked to R.19); (viii) not all elements of originator or beneficiary information were covered by a collection and holding requirement and there was no requirement for this information to be submitted immediately and securely in a transfer or made available on request to the authorities (c.15.9(b)(i) and (ii)); (ix) no requirement was placed on a beneficiary VASP to monitor transfers lacking required information (c.15.9(iii)); and (x) obligations for VA transfers did not apply to FIs when sending or receiving VA transfers on behalf of a customer (c.15.9(b)(iv)).

33. Pending input from the FATF, the plenary did not decide whether the absence of application of regulatory and supervisory requirements (c.15.9 and c.15.6 respectively) to VASPs that provide services into Cyprus from the EEA on a remote basis should be treated as a deficiency. Pending receipt of such input, this point is not considered further in this FUR.

34. To address the deficiency identified in the MER for c.15.1, Section 66(2A) of the AML/CFT Act requires all obliged entities to identify and assess ML/TF risks before promoting any new technology, service, or product. The meaning of “promoting” is not entirely clear but is considered to cover development. Reference is not made to new business practices nor developing technologies as called for under this criterion. Nor does the AML/CFT Act specify that the assessment of the risk of technology should cover its application to new and pre-existing products. This shortcoming is mostly addressed.

35. Cyprus published a specific NRA on ML/TF risks on VA and VASP activities (“VASP NRA”) in December 2021 which mostly addresses the deficiency identified in the first enhanced FUR for c.15.3(a). The VASP NRA is very comprehensive and provides an honest analysis, using various inputs, into the threats, vulnerabilities, and structural weaknesses in VAs and VASP activities in Cyprus. Resources are being invested in authorisation and supervision of VASPs, analytical capacity

at the FIU, and to support investigations in line with the VASP NRA. Whilst CySEC has developed an action plan to address risks identified in the risk assessment, there is no equivalent national plan (c.15.3(b)). Accordingly, this deficiency has been partly addressed.

36. The Directive for the Prevention and Suppression of Money Laundering and Terrorist Financing (Register of Crypto Assets Services Providers) (CASP Registration Directive) came into force in June 2021 and addresses the registration deficiency identified in the first enhanced FUR for c.15.4(a) and c.15.5.

37. It is still not clear that every legal person created in the jurisdiction is required to register as a VASP in Cyprus, whether or not it offers VA services from Cyprus (c.15.4(a)(i)). Accordingly, this deficiency has not been addressed. However, it is noted that a future change in legislation to address this deficiency is proposed.

38. The CASP Registration Directive mostly addresses the deficiency identified in the first enhanced FUR regarding the application of fit and proper measures to holders of significant interests (c.15.4(b)). Paragraph 6(1)(d) of the CASP Registration Directive requires “beneficiaries of CASPs” to be honest and competent, “which is fulfilled if they have a good reputation and the ability to maintain the strong financial position of CASP.” The term “good reputation” includes a conviction for a “relevant offence”. Whilst the list of offences is not considered to be sufficiently wide, e.g., it does not include drugs or human trafficking, such offences could be taken into account by CySEC when considering integrity under a general power to consider any relevant factor.

39. In response to the deficiency identified in the first enhanced FUR that there is not a sufficiently clear range of sanctions that can be applied to more serious breaches of registration requirements (c.15.5), the CySEC has explained that it is able impose a fine of up to double the amount of an illegal gain (Law regulating CySEC, Art. 37(2)). However, it is noted that one of the recommended actions of the VASP NRA is that “Cyprus should consider whether to establish criminal liability by statute for failure to register as a VASP”. Accordingly, this deficiency has been mostly addressed.

40. In response to the deficiency identified in the first enhanced FUR concerning risk-based supervision (c.15.6(a)), the CySEC has explained that supervisory authorities are required to “base the frequency and intensity of the on-site and off-site supervision on the risk profile of obliged entities, and on the risks of money laundering and terrorist financing in the Republic” (AML/CFT Law, Section 59(5)(b)(iii)). Accordingly, this deficiency has been addressed.

41. The authorities have partly addressed the deficiency identified in the first enhanced FUR that guidance on identifying TF suspicion is limited (c.15.7). Guidance in place has not been issued by the competent Cypriot authorities but instead relies on referencing to FATF guidance.

42. The authorities have not addressed the deficiency identified in the first enhanced FUR that VASPs that fail to register are not required to apply preventive measures (c.15.9). However, it is noted that a future change in legislation to address this deficiency is proposed.

43. Relevant deficiencies identified in the MER for the following FATF Recommendations have been addressed: R.10 and R.19. However, relevant deficiencies have not been addressed or are partly addressed for R.13, R.16, or R.18 (c.15.9). Deficiencies identified in the first enhanced FUR regarding application of the travel rule have not been addressed through legislation or enforceable means, though there are plans to do so (c.15.9(b)). The travel rule has been introduced through guidance, compliance with which relies upon a general requirement to apply adequate and appropriate policies, controls and procedures which are proportionate to nature and size. Guidance is not considered to be an enforceable means.

44. In response to the deficiency identified in the first enhanced FUR concerning the availability of the widest range of cooperation (c.15.11), the authorities have explained that the same cooperation mechanisms are available for VAs and VASPs as for other assets and sectors. Accordingly, the deficiency has been addressed. Court orders allowing for the actual interception of the content of communications do not extend to the investigation of ML, associated predicate offences and TF (linked to R.37 and R.31) (also c.15.11). Accordingly, this deficiency has not been addressed.

45. Overall, Cyprus took measures to address most of the deficiencies identified in the first enhanced FUR. Some remain: (i) deficiencies in the application of requirements dealing with new technologies; (ii) absence of a national action plan to address risks identified in the risk assessment; (iii) limited guidance on identifying TF suspicion; (iv) technical deficiencies in respect of R.13, R.16 and R.18 (all LC with the exception of correspondent banking); (v) enforceability of the “travel rule”; and (vi) interception of communications. Also, it is still not clear that every legal person created in the jurisdiction is required to register as a VASP in Cyprus, whether or not it offers VA services from Cyprus. Overall, these deficiencies are considered to be moderate.

46. The rapporteurs have left to one side the issue, still to be resolved by the Plenary, regarding the extent to which it is necessary for EU registered VASPs providing services into Cyprus on a remote basis to be subject to regulation and supervision in Cyprus (c.15.6 and 15.9). Whilst it is the rapporteur’s view that this remains a key deficiency, it has not been weighted heavily in the overall rating for R.15 since there is no activity in this respect.

47. Cyprus has made substantive progress in the implementation of its VASP regime but remains **partially compliant with R.15**.

Recommendation 31 (Originally rated PC – no re-rating)

48. In its first enhanced FUR, Cyprus was rated PC with R.31, based on: (i) court orders allowing the interception of the content of communications not extending to the investigation of ML, associated predicate offences and TF (c.31.2(b)); and (ii) the absence of powers to apply controlled delivery techniques to cash/bearer negotiable instruments coming into, or leaving, the country (c.31.2(d)).

49. To address the deficiencies identified in the MER for c.31.2(b), amendments to the Protection of the Secrecy of Private Communications Law 1996 made through Law 13(I)/2020 (see Section 6) provide for interception of the content of private communications, if the monitoring of private communication is necessary in the interest of the security of Cyprus or to prevent, investigate or prosecute offences set out in Article 17(2)(B) of the Constitution. This can be done by means of submitting a unilateral application from the Attorney General to the Court. However, the list of offences in the Constitution does not appear to cover ML, all associated predicates or TF; i.e., the interception of the content of communications authorised by the Court covers only some ML predicate offences, namely murder or manslaughter, trafficking in human beings, drug dealing, some corruption offences (for which in case of conviction five years or more imprisonment penalty is provided), offences related to counterfeiting currency. Nevertheless, scope is limited as court orders allowing for the actual interception of the content of communication does not extend to the investigation of ML, TF and other predicate offences not mentioned above, such as, for example, sexual exploitation, including of children, participation in an organised criminal group, fraud, theft, arms trafficking, corruption offences that are punishable for less than five years of imprisonment, tax crimes, etc. Accordingly, this deficiency remains partly addressed.

50. Cyprus has now addressed the deficiencies identified in the MER for c.31.2(d) following the amendments to the Crime Suppression (Controlled Delivery and other Special Provisions) Law No. 3(I) of 1995. Amendments introduced in February 2022 expanded the utilization of controlled delivery concerning offences related to ML and TF, using cash and cash equivalents. Accordingly, shortcomings identified at c.31.2(d) are addressed.

Cyprus maintains PC rating for R.31 due to the absence of powers to intercept the content of communication concerning the investigation of ML, TF and some associated predicate offences. This is considered a very material vulnerability which might hinder the ability of the law enforcement authorities to investigate these crimes. **R.31 remains partially compliant**.

4. CONCLUSION

51. Overall, whilst Cyprus has made some progress in addressing the TC deficiencies identified in its MER and first enhanced FUR, it has not been re-rated on any of the FATF Recommendations for which it has a PC rating.

52. Further steps have been taken to improve compliance with R.8, R.15 and R.31 since adoption of the first enhanced FUR, but some gaps remain. Cyprus is encouraged to continue its efforts to address the remaining deficiencies.

53. Overall, in light of the progress made by Cyprus since its first enhanced FUR was adopted, its technical compliance with the FATF Recommendations has not been re-rated and remains as follows:

Table 2. Technical compliance with re-ratings, November 2022

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

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

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

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November 2022

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

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses Cyprus' progress in addressing the technical compliance deficiencies identified in the Mutual Evaluation Report of December 2019 and subsequent Follow-Up Reports.