



# Anti-money laundering and counter-terrorist financing measures

## Cyprus

### 1<sup>st</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2021



**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.

The 1<sup>st</sup> Enhanced Follow-up Report and Compliance rating on Cyprus was adopted by the MONEYVAL Committee at its 62<sup>nd</sup> Plenary Meeting (Strasbourg, December 2021).

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## Cyprus: First Enhanced Follow-up Report

### 1. INTRODUCTION

1. The fifth-round mutual evaluation report (MER) of Cyprus was adopted in December 2019. This first enhanced follow-up analyses the progress of Cyprus in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This Follow-up Report (FUR) also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since the last onsite visit: R.15. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

### 2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Cyprus as follows for technical compliance:

**Table 1. Technical compliance ratings, December 2019**

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	LC	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:* [Cyprus Mutual Evaluation Report, December 2019](#).

3. Given the results of the MER, Cyprus was placed in enhanced follow-up<sup>1</sup>.

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):

- Gibraltar
- Russia

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.

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

6. This section summarises the progress made by Cyprus to improve its technical compliance by:

- a) Addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a rating (R.8, R.13 and R.31); and
- b) Implementing new requirements where the FATF Recommendations have changed since the last onsite visit (R.15).

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

7. 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 submits its country update report – at least six months before the FUR is due to be considered by MONEYVAL<sup>2</sup>.

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

8. Whilst Cyprus has made progress to address the technical compliance deficiencies identified in the MER, it has not been re-rated on any of the FATF Recommendations for which the authorities requested a re-rating (R.8, R.13 and R.31).

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

9. In its MER, 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 NPO sector (c.8.1(d)); (iv) limited outreach (c.8.2(b)); (v) failure to develop best practices with NPOs to address TF risk (c.8.2(c)); (vi) absence of measures to encourage use of regulated financial channels (c.8.2(d)); (vii) failure to supervise/monitor NPOs on a risk-sensitive basis (c.8.3); (viii) gaps in sanctions that may be applied to NPOs (c.8.4(b)); (ix) doubts about capacity to examine NPOs suspected of being exploited by, or actively supporting, terrorist activity or organisations (c.8.5(b)); (x) absence of a specific mechanism for sharing information with competent authorities where there is TF suspicion (c.8.5(d)); and (xi) failure to identify appropriate contact points and procedures to respond to international requests for information about NPOs (c.8.6).

10. To address the deficiency identified in the MER for c.8.1(a), Cyprus has collected information on all existing societies, institutions, federations/associations, charities, and non-profit companies to perform a fully-fledged sectorial risk assessment. As a result, 2 220 societies and institutions (around 40%) were removed from the register held by the Ministry of Interior (MoI). Subsequently, an audit was performed on all remaining NPOs. This audit provided for the examination of the articles of association and accounts of all NPOs, 80% of which had been completed at the time of submission of the country update report, which led to further categorisation of these NPOs according to their activity. Based on activity conducted, the assessment concluded that 10% of NPOs assessed fall within the subset of organisations under the FATF definition which are likely to be at risk of ML/TF abuse.

11. Even though the authorities have made a commendable effort to determine the subset of NPOs that are vulnerable to TF misuse, activities initiated in 2019: (i) had not covered all operational NPOs in Cyprus at the time of submission of the country update report; (ii) have focused more on ML risk; and (iii) exclude sources of information other than the results of an internal review of statutes and financial statements. Accordingly, this shortcoming has been partly addressed. Further action has been taken by the authorities since submitting its country update report, too late for it to be taken into account for this FUR.

12. To address the deficiency identified in the MER for c.8.1(b), Cyprus has developed a list of risk indicators to determine the subset of NPOs that are most vulnerable for TF and other abuse. This list was finalised by Cyprus after submitting its country update report, too late for it to be taken into account in this FUR. Nevertheless, only limited activities have been performed to

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

determine specific typologies used by terrorist actors to abuse NPOs which is the focus of this sub-criterion. Accordingly, this shortcoming is partly addressed.

13. To address the deficiency identified in the MER for c.8.1(d), Cyprus has made a substantive effort to finalise its initial sectorial assessment of NPOs, which has led to a more in-depth study of some categories of NPOs. However, at the time that Cyprus submitted its country update report, this assessment had not covered all NPOs created (20% were outstanding), and list of ML/TF risk indicators had not been finalised. The authorities have since commenced a second assessment of the NPO sector. The existing legal framework does not indicate any specific requirements that would set forth a periodic assessment/reassessment of the NPO sector, leaving this decision at the discretion of the authorities. This shortcoming is partly addressed.

14. To address the deficiency identified in the MER for c.8.2(b), Cyprus is developing a fully-fledged understanding of the risks and vulnerabilities of NPOs to ML/TF in Cyprus taking on board the newly created list of specific TF and other indicators of NPO abuse (see above). Furthermore, a communication strategy has been developed by an external consultant to undertake outreach and educational activities with all relevant stakeholders. Both the list of indicators and communication strategy were prepared after completion of the country update report and so cannot be taken into account in this FUR. This shortcoming is partly addressed.

15. The deficiency identified in the MER for c.8.2(c) has been largely addressed through publication by the MOI of guidance for the sound operation of NPOs. Based on FATF best practices, this guidance – designed to be used as a self-diagnostic tool - covers key areas necessary to protect NPOs from TF abuse. The deficiency identified for c.8.2(d) has been addressed through this guidance, which, inter alia, promotes uses of the banking system.

16. To address the deficiency identified in the MER for c.8.3, legislation now requires a new bank account to be opened for each fundraising project and NPO to subsequently inform 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 for all years up until 2020 and these accounts were reviewed for risk patterns. However, since the authorities have yet to complete work on the identification of NPOs at risk of TF abuse, this shortcoming is assessed as partly addressed.

17. The deficiency for c.8.4b is made up of two parts with only one part being addressed. In 2020, the MoI removed 2 220 societies and institutions from the NPO register for non-compliance with the 2017 Societies and Institutions Law. As a result, these NPOs have lost their legal ability to operate, and their property has been alienated. In particular, their bank accounts were frozen. Since then, this law has been used to strike off a further eight NPOs, though it is not clear that all had been removed from the register at the time of completion of the country update report. Reasons for removal have included anomalies with funding and in the preparation of financial statements. Although the particular scope of sanctions for breaching the Societies and Institutions Law is limited to striking from the register and dissolution, this is considered to be an important sanction and so this part of the deficiency is addressed. No information has been provided on sanctioning for charities (58) and non-profit companies (105), the activities of which are considered by the authorities to be material. Accordingly, this part of the deficiency is not addressed.

18. Cyprus has not addressed the deficiencies identified in the MER for c.8.5(b) or c.8.6. To address the deficiency noted under c.8.5(d), Registry staff are expected to report to the police, the FIU or Auditor General where risk factors are identified. This shortcoming is partly addressed.

19. Overall, Cyprus has taken measures to address the deficiencies identified in the MER, including the striking off of 2 220 NPOs. Even though the authorities have made a commendable effort to determine the subset of NPOs that are vulnerable to TF misuse, work was not complete at the time of submission of the country update report and has focused more on ML rather than TF misuse. Some additional measures have been taken since submission of the country update

report, e.g., newly formed list of risk indicators, which cannot be considered in this FUR. As a result, most shortcomings identified in the MER have only been partially addressed by the jurisdiction. However, guidance has been published to support the identification of TF risk by NPOs and to encourage transactions to be conducted via regulated financial channels. **R.8 remains PC.**

### *Recommendation 13 (Originally rated PC – no re-rating)*

20. In its MER, Cyprus was rated PC with R.13, based on: (i) failure of the AML/CFT Act to specify requirement for correspondents to collect information about whether their foreign respondents have been subject to ML/TF investigations or regulatory actions (c.13.1); (ii) failure to apply R.13 to respondents situated in the European Economic Area (EEA) (c.13.1 and c.13.2); and (iii) the possibility that FIs may rely on third parties to evaluate the risk that respondents may permit their accounts to be used by shell banks (c.13.3).

21. To address the deficiency identified in the MER for c.13.1 (collection of information), the authorities have identified that Joint Guidelines on Risk Factors issued under Articles 17 and 18(4) of Directive (EU) 2015/849 (ML Directive) by the European Supervisory Authorities (ESA Guidelines) are enforceable in Cyprus as they have been incorporated in the 5th AML/CFT Directive of the Central Bank of Cyprus (CBC Directive) to Credit Institutions which was issued in February 2019. Paragraph 40 of the CBC Directive explains that credit institutions shall form an overall picture of the risk associated with each case considering the risk factors referred to in the ESA Guidelines<sup>3</sup>. Paragraphs 54 and 55 of the ESA Guidelines explain that firms: (i) must take specific EDD measures where they have a cross-border correspondent relationship with a respondent who is based in a third country (in line with the ML Directive); and (ii) should refer to Title III for guidelines on EDD in relation to **all** correspondent banking relationships. The ESA Guidelines explain that Title III may also be useful for firms in other correspondent relationships.

22. The combined effect of paragraph 40 of the CBC Directive and Title III of the ESA Guidelines is that correspondents must consider, on a risk-sensitive basis, whether obtaining publicly available information about any recent regulatory or criminal sanctions for AML/CFT failings would be appropriate. **This was not acknowledged in the MER.** However, the effect of this is not to require FIs to collect information about whether their foreign correspondents have been subject to ML/TF investigations or regulatory actions, and, as noted above, the scope of the CBC Directive is limited to credit institutions and not also other FIs that may offer similar relationships to correspondent banking. Accordingly, this shortcoming is partly addressed.

23. Cyprus has not addressed the deficiencies identified in the MER for c.13.1 and c.13.2 (failure to apply R.13 in the EEA). The amended AML/CFT Act continues to draw a distinction between respondents based inside and outside the EEA. In cases where a respondent is within the EEA, the correspondent institution remains under an obligation to apply a risk-based approach (AML/CFT Act, Section 64(1)(b)) and where there is an “increase in the risk” associated with a respondent institution established in an EEA Member State, it shall apply EDD measures generally (not specified) and shall consider applying at least some of the EDD measures required for third country relationships, in particular those described in Section 64(1)(b)(i) and (ii) of the AML/CFT Act (AML/CFT Act, Section 64(1)(b)). The effect of this is not to treat all EEA correspondents as presenting an increased risk or to require c.13.1 to be applied and so this shortcoming has not been addressed.

24. Nevertheless, it is worthy of note that, of the total number of credit institutions at the time of the onsite visit (28), only two provided corresponding banking services to EEA respondents. These two credit institutions offered correspondent services to six respondents, five of which are

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<sup>3</sup> Section 59(6) of the AML/CFT Act provides, among other things, for the imposition of sanctions to FIs in cases where they fail to comply with the provisions of the Act or with the Directives issued by the Supervisory Authorities.

based in Cyprus. The number of transactions effected through the one account outside Cyprus is not material, though the value of such transactions is unknown.

25. To address the deficiencies identified in the MER for c.13.3, the authorities have identified that paragraph 85 of the ESA Guidelines refers to Article 24 of the ML Directive which requires Member States to ensure that credit and financial institutions do not engage in, or continue, relationships with a credit or financial institution that is known to allow its accounts to be used by a shell bank.

26. The MER suggests that this terminology might allow reliance to be placed on an assessment conducted by a third party, rather than the institution itself, to determine whether a respondent is used by shell banks. However, the examples given in the ESA Guidelines (asking the respondent for confirmation that it does not deal with shell banks, having sight of relevant passages in the respondent's policies and procedures, or considering publicly available information, such as legal provisions that prohibit the servicing of shell banks) suggest that the correspondent institution must satisfy itself that the respondent does not permit its accounts to be used by shell banks. **This was not acknowledged in the MER.** As mentioned in c.13.1 above, these guidelines are enforceable by the CBC. Accordingly, this shortcoming is addressed.

27. Overall, it is established that there are no substantial changes in Cyprus' AML/CFT framework with a view to rectifying deficiencies identified in the MER under R.13. Whilst the extent to which correspondent services are offered outside Cyprus to EEA respondents appears very limited, there is no requirement to treat such relationships as presenting an increased risk or to apply the enhanced measures that are required under R.13. However, the Rapporteurs consider that reliance may be placed on ESA Guidelines to address two of the deficiencies highlighted in the MER. **Overall R.13 remains PC.**

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

28. In its MER, Cyprus was rated PC with R.31, based on: (i) court orders not allowing the interception of the content of communications (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)).

29. 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 - provide for: (i) interception of the content of private communications, including electronic communications; (ii) implementation of the technical part of the interception; and (iii) obligations of e-communication providers to provide assistance to the competent authorities, 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 This shortcoming is partly addressed.

30. Cyprus has not addressed the deficiencies identified in the MER for c.31.2(d)). However, a draft bill for the amendment of the Crime Suppression (Controlled Delivery and other Special Provisions) Law No. 3(I) of 1995 has already been discussed before the Legal, Justice and Public Order Committee of the House of Representatives and is expected to be enacted before the end of 2021.

31. Overall, it is established that there are now powers to intercept communications, but it remains unclear whether these extend to ML, all associated predicate offences and TF. Limitations also remain in respect of the controlled delivery of cash and BNIs, and so **R.31 remains PC.**

### 3.2. Progress on Recommendations which have changed since the last report

32. Since the onsite visit, the FATF has amended R.15. This section considers Cyprus' compliance with the new requirements and progress in addressing deficiencies identified in the MER in relation to these FATF Recommendations, where applicable.

#### *Recommendation 15 (originally rated LC – re-rated to PC)*

33. In June 2019, R.15 was revised to include obligations related to virtual assets (VA) and virtual asset service providers (VASPs). These new requirements include: (i) requirements on identifying, assessing, and understanding ML/TF risks associated with VA activities or operations of VASPs; (ii) requirements for VASPs to be licensed or registered; (iii) requirements for countries to apply adequate risk-based AML/CFT supervision (including sanctions) to VASPs and for such supervision to be conducted by a competent authority; and (iv) requirements to apply preventive measures to VASPs and provide international co-operation.

34. In its MER, Cyprus was rated LC with R.15 based on: (i) the absence of requirements for FIs other than credit institutions, securities firms, and insurance companies to identify, assess and manage ML/TF risks that may arise in relation to new technologies (c.15.1); and (ii) there being no explicit requirement for risk assurance and mitigation to take place before launch of a new technology, product, or service (c.15.2).

35. Cyprus applies registration requirements to all persons conducting VASP business **from** or **in** Cyprus, except, in some cases, those already registered in Member States of the EEA (hereafter referred to as covered VASPs) which exceeds what is required under the standard. The definition of “crypto-asset service provider” (hereafter referred to as VASP) covers all five activities of the FATF definition of VASP, albeit more specifically defined but on which the Rapporteurs did not find deficiencies. At the time of submission of the country update report, implementation of registration requirements set out in Section 61E of the AML/CFT Act was still conditional upon entry into force of a Directive for the Prevention and Suppression of ML and TF issued by the Cyprus Securities Exchange Commission (CySEC). This subsequently came into force on 25 June 2021, too late for it to be taken into account in this FUR.

36. 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. This shortcoming is largely addressed.

37. To address the deficiencies identified in the MER for c.15.2, Section 66(2A) of the AML/CFT Act requires obliged entities to take appropriate measures to identify and assess the risks of ML/TF prior to the promotion of any new technology, service, or product. This shortcoming is addressed.

38. At the time of the submission of the country update report, a standalone specialised assessment of ML/TF risk presented by VAs and VASP activities in Cyprus had not been published (c.15.3(a))<sup>4</sup>. It is due to be finalised by 31 October 2021. The current NRA addresses digital currencies only to a very limited extent and does not address the development of VAs and VASPs in the years since publication<sup>5</sup>. In the absence of such an assessment and any other information, Cyprus is unable to demonstrate the application of a risk-based approach commensurate with

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<sup>4</sup> A standalone assessment of ML/TF risk presented by VAs and VASPs was published on 13 December 2021, too late to be taken into account in this FUR.

<sup>5</sup> A policy statement on the registration and operations of crypto-asset service providers was published in September 2021 by CySEC which highlights some risks inherent in the use of VAs. It was published too late to be taken into account in this FUR.



identified risks (c.15.3(b)). Covered VASPs are required to apply risk mitigation measures in line with other obliged entities, which were assessed as met in the MER (c.15.3(c)).

39. The Rapporteurs have interpreted the term “from” in Section 61E(2)(a) of the AML/CFT Act as including all cases involving a legal person created under Cypriot law that is a VASP, irrespective of whether it conducts any VASP activities from Cyprus (c.15.4(a)(i)). The same application of “from” also covers natural persons located in Cyprus (c.15.4(a)(ii)). However, the authorities have not explicitly confirmed this interpretation, and, in the absence of a definition for carrying on business “from” the Republic, it is not clear that every legal person created in the jurisdiction is required to register as a VASP in Cyprus.

40. The high-level ongoing requirement of Section 59(5A) of the AML/CFT Act that is placed on CySEC to take measures does not extend to holders of a “significant interest” (who may not have a controlling interest) or beneficial owners thereof, as required by c.15.4(b). Section 59(5A) requires supervisory authorities to put measures into place to prevent persons from holding a management position or being the beneficial owner of an obliged entity where such persons or their associates have been convicted of related offences. The definition of beneficial ownership in Section 2 of the AML/CFT Act is linked to control, e.g., to 25% plus one share through direct or indirect ownership.

41. Sections 61E(9) and (10) of the AML/CFT Act require the CySEC to evaluate on an ongoing basis the competency and honesty of persons holding administrative positions and who are “beneficiaries” in a VASP, which includes those with a significant interest (c.15.4(b)). However, these requirements were still conditional upon entry into force of CySEC’s Directive for the Prevention and Suppression of ML and TF which came into force on 25 June 2021, too late to be taken into account in this FUR. “CASP Beneficiary” is defined in Section 2 of the AML/CFT Act as, inter alia, a person who directly or indirectly holds a qualifying holding in a VASP (at least 10% of the capital or rights of the VASP). Whilst it may be argued that “honesty” would capture preventing a criminal from holding a significant or controlling interest this is not clearly defined in statute and would certainly not cover associates.

42. The CySEC has explained generally what actions it is able to take to identify those who may be acting outside of the registration requirements. These include following-up complaints, use of internet searches and media monitoring (c.15.5). Where it discovers that a person is acting outside registration requirements, the CySEC may: (i) require the cessation of unauthorised activities (Law regulating CySEC, Art. 25(1)(o)); and (ii) impose an administrative fine not exceeding EUR 350 000, or, in the case of a repeated violation, EUR 700 000 (Law regulating CySEC, Art. 25(1)(o)). A sufficient range of sanctions can therefore be applied to lesser breaches of the registration requirement, but perhaps not greater breaches (where the profit made from unauthorised activities could be higher than the maximum fine).

43. By virtue of the definition in Section 2A(i) of the AML/CFT Act, VASPs registered under Section 61E(1) are subject to regulation and supervision (c.15.6(a)). This excludes EEA VASPs providing services or carrying out activities remotely into Cyprus which they are registered elsewhere to provide. The Rapporteurs consider that this is a gap under c.15.6 since: (i) they consider that c.15.6(a) is about the application of regulatory and supervisory powers over all VASPs that conduct business in, or from, a country, not just those which c.15.4 requires to be licensed or registered; and (ii) responsibility for monitoring compliance with requirements in the AML/CFT Act should rest with CySEC (rather than the home country)<sup>6</sup>. The express statutory exclusion (in some cases) of regulatory and supervisory functions over incoming passporting firms in Cyprus may pose a substantial AML/CFT risk to the jurisdiction. The authorities disagree

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<sup>6</sup> This point was considered by MONEYVAL at its 62<sup>nd</sup> Plenary, held in December 2021, as part of a wider discussion of the application of host country AML/CFT requirements and supervision to business that is done in, or from, a host country by a foreign VASP that is not licenced or registered by that host supervisor. The point, along with other issues discussed at the Plenary, is to be referred to the FATF for further clarification. Accordingly, the Plenary did not decide whether there is a shortcoming within the context of c.15.6 and c.15.9 of the Cyprus FUR.

with the Rapporteurs on this point and consider there is no significant risk posed to the system. This is because Article 61E(2)(b) of the AML/CFT Law provides an exemption only in a case where the particular service provided remotely in Cyprus is covered by the registration and supervisory regime of another Member State (and so, is not a general exemption available to any Member State that regulates VASPs). The authorities also disagree on responsibility lines and consider that responsibility for supervision rests with the supervisor in the home EEA Member State (i.e., EEA Member State from which services are provided remotely) for services the EEA VASP is registered elsewhere in the EEA to provide.

44. In the absence of information about VASPs providing services into Cyprus, but without the need to register, it is not possible to assess the importance of the lacuna in regulatory and supervisory powers.

45. By virtue of the definition in Section 2A(i) of the AML/CFT Act, VASPs registered under Section 61E(1) are subject to regulation and supervision. The CySEC has the same powers available to supervise covered VASPs as it has for other obliged entities that have been assessed under R.27 (rated as compliant) including the application of risk-based supervision (c.15.6(b)).

46. Guidance is provided by CySEC for covered VASPs which will assist VASPs in applying AML/CFT requirements. Such guidance has been assessed as LC under R.34 (c.15.7).

47. Section 59(6) of the AML/CFT Act empowers the CySEC to take a number of regulatory actions including imposition of fines up to EUR 1 000 000, the modification, suspension and revocation of its authorisations, prohibition on persons performing administrative duties, the application of administrative penalties to natural persons as well as naming and shaming powers (c.15.8(a)). In addition to the administrative sanctions specified above, criminal sanctions are applicable in some circumstances (reporting and tipping off). Sanctions are in line with those applicable to other obliged entities, assessed as compliant in the MER. Section 59(6)(v) of the AML/CFT Act gives the supervisory authority power to impose administrative fines on natural persons if this was as a result of that person's fault, intentional omission, or negligence (c.15.8(b)). These sanctions are in line with those applicable to other obliged entities, assessed as compliant in the MER.

48. VASPs registered elsewhere in the EU are not required to apply preventive measures set out in the AML/CFT Act when providing services or carrying out activities in the Republic on a remote basis. This is considered to be a gap by the Rapporteurs since they consider that c.15.9 is about the application of the AML/CFT Act to all VASPs that conduct business in, or from, a country, not just those which c.15.4 requires to be licensed or registered<sup>5</sup>. The authorities disagree – see above.

49. Section 60 of the AML/CFT Act applies CDD measures to covered VASPs in the same way as for FIs, except that the threshold on occasional VA transactions is EUR1 000 or above (AML/CFT Act, Section 60(g)) (c.15.9 and c.15.9(a)). However, covered VASPs that fail to register with the authorities are not required to apply preventive measures. This is because the AML/CFT Act applies only to VASPs that are registered (AML/CFT Act, Section 2A((i))).

50. Whilst appreciating that the CDD requirements applicable to covered VASPs contain all the major CDD components required: (i) there is no requirement in Cypriot law requiring that originator or beneficiary information be submitted immediately and securely by an originating VASP with a VA transfer (this so called "travel rule" is a key element); and (ii) some required originator and beneficiary information may not be held by the originating or beneficiary VASP since (unlike under R.16), there is no obligation to obtain it (c.15.9(b)(i) and (ii)). Also, the authorities have not explained whether the originating VASP is required to make information held available on request to the authorities.

51. An amendment to Section 2 of the AML/CFT Act now includes VAs in the definition of "property". As such, the powers available under the AML/CFT Act apply to VAs in the same way as other types of property (c.15.9(b)(iii)). In respect of designated persons under UNSCRs, the authorities explain that the definition of property under the Combating of Terrorism and Victims'

Protection Law is similar to the AML/CFT Act. It is this law, not the AML/CFT Act, which covers the freezing of property relating to designated persons by covered VASPs.

52. The same obligations do not apply to FIs when sending or receiving VAs on behalf of a customer (c.15.9(b)(iv)).

53. The application of c.6.5(d), c.6.5(e), c.6.6(g), c.7.2(d), c.7.2(e), c.7.3 and c.7.4(d) to covered VASPs should be read in conjunction with the MER (c.15.10). Only minor shortcomings have been identified.

54. The application to covered VASPs of exchange of information requirements as obliged entities should be read in conjunction with ratings for R.37 to R.40 in the MER (c.15.11). However, except for the supervisor, the authorities have not explained whether the widest range of cooperation is available to competent authorities.

55. The lack of an updated NRA and/or specific risk assessment for the VASP sector seriously impairs Cyprus' ability to apply risk mitigation measures commensurate with the risks it may face<sup>7</sup>. Added to this deficiency is that Cyprus has enacted legislation to require VASPs operating in the country to be registered but had not, at the time of the submission of its country update report, given this effect thereby not enabling the application of preventative measures or supervision over these entities to be applied. Even following introduction of the CySEC's Directive for the Prevention and Suppression of ML and TF on 25 June 2021, AML/CFT requirements do not apply to VASPs that are required to register, but have failed to do so, and CySEC, in some cases, is not required to supervise services provided remotely into Cyprus by VASPs registered in the EEA. In the absence of a definition for carrying on business "in" or "from" the Republic, it is not clear that every legal person created in the jurisdiction that is a VASP is required to register in Cyprus. Also, there are no measures in place to give effect to the travel rule in any meaningful way. Accordingly, **revised R.15 is assessed as PC**.

#### 4. CONCLUSION

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

57. Further steps have been taken to improve compliance with R.15 that has been revised by the FATF since the onsite visit, but some gaps remain. Cyprus is encouraged to continue its efforts to address the remaining deficiencies. R.15 is re-rated to PC.

58. Overall, in light of the progress made by Cyprus, its technical compliance with FATF Recommendations has been re-rated as follows:

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<sup>7</sup> A standalone assessment of ML/TF risk presented by VAs and VASPs was published on 13 December 2021, too late to be taken into account in this FUR.

**Table 2. Technical compliance with re-ratings, post 1<sup>st</sup> Enhanced Follow-up**

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	<b>R 15</b>	R 16	R 17	R 18	R 19	R 20
C	LC	PC	C	<b>PC</b>	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).

59. 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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December 2021

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

**1<sup>st</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating**

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

The report also looks at whether Cyprus has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2019 assessment.