

Liechtenstein

Fifth Round Mutual Evaluation Report

Executive Summary

1. This report provides a summary of the anti-money laundering and combating financing of terrorism (AML/CFT) measures in place in Liechtenstein as at the date of the onsite visit (6-17 September 2021). It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Liechtenstein's AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) ML/TF risks have been assessed in a frank and impartial way and, overall, the authorities have demonstrated a good broad and convergent understanding of core money laundering (ML)/terrorist financing (TF) risks. Whilst there is a scope for a more comprehensive understanding of risk in some particular areas, this only requires refinements to a well-established risk process. Some threats and important inherent risks have not been fully examined, which affects understanding of ML risk. These include an estimation of the extent of use of Liechtenstein's financial sector to launder the proceeds of tax offences committed abroad, and information on the types and location of non-bankable assets that are administered by trust and company service providers (TCSPs). Extensive use is made of data collected by the Financial Market Authority (FMA) to understand TF risk. Risks are addressed successfully by national AML/CFT policies and activities and support the application of enhanced and simplified customer due diligence measures (CDD). However, some exemptions are in place that are not supported by a country assessment of risk, including one that applies to investment funds, which is used extensively. Objectives and activities of the competent authorities are commensurate with risks and policies. Cooperation and coordination among stakeholders is effective.
- b) Liechtenstein's Financial Intelligence Unit (FIU) constitutes an important source of financial intelligence, and its analytical reports are considered to be of a high quality by its primary users - prosecutors and law enforcement authorities (LEAs). Whilst the majority of ML investigations are triggered by requests for mutual legal assistance (MLA)/information received by foreign counterparts, the FIU's analyses are an inevitable part of any investigation/operational activity carried out by LEAs. Suspicious activity reports (SARs)/suspicious transactions reports (STRs) filed by persons subject to the Due Diligence Act (DDA) are generally commensurate with the landscape of prevalent proceeds-

generating crimes in the country. However, they have rarely targeted some of the higher risk predicate offences, e.g., tax offences. As regards TF-related reporting, submission of only seven SARs/STRs might appear low, however the assessment team (AT) did not observe that persons subject to the DDA were not vigilant enough in exercising their duties in this regard. The FIU has so far produced several comprehensive strategic analysis reports - mostly based on trends and methods explored by the Egmont Group. Yet, the country would further benefit from strategic analysis in relation to TF, laundering of proceeds of foreign tax crimes, and on appropriateness of SAR/STR reporting in relation to these offences. The size of the jurisdiction allows prompt information exchange and intensive consultation amongst the relevant authorities. Whilst the FIU has the necessary infrastructure in place, additional resources would be required in view of managing its growing workload.

- c) Liechtenstein's legal and institutional framework enables effective investigation and prosecution of all types of ML. Whilst the FIU, LEAs and prosecution authorities have high awareness of a need to consistently pursue all ML-related activities, there is a lack of ML investigations/prosecutions targeting sophisticated ML schemes which potentially include complex legal structures established and managed in Liechtenstein. Risks and threats identified in the national risk assessment (NRA) mirror the typologies already observed in the country. Consequently, consistency between the types of ML activity being investigated and prosecuted with the country's threats and risk profile and national AML/CFT policies has been attained, with the exception of threats posed by tax crimes committed abroad. The judiciary has achieved convictions for all (three) types of ML cases: of the two types of ML, self-laundering of the proceeds of fraud committed abroad is still a prevailing typology and third-party laundering is encountered infrequently as are autonomous ML prosecutions. Sanctions imposed are not sufficiently dissuasive and proportionate. Liechtenstein introduced and has applied in practice criminal justice measures where, for justifiable reasons, a ML conviction cannot be secured. These measures include: (i) non-conviction-based confiscation; and (ii) criminalisation of failure to report a suspicious transaction by a person subject to the DDA.
- d) Confiscation of the proceeds of crime is pursued as a policy objective in Liechtenstein. This has not only been confirmed through different strategic and policy documents but also through introduction of a comprehensive legal framework and continuous strengthening of the capacities of LEAs and prosecutors, both of which consider seizure and confiscation as a priority action when investigating any proceeds-generating offence(s). Financial investigations are routinely applied and communication between different authorities appears to be smooth and fruitful in each phase of seizure/confiscation proceedings. Liechtenstein has a framework treaty with Switzerland which stipulates that the execution of cross border controls is delegated to the Swiss Border Guard Corps. Communication between the Swiss Border Guard Corps and the National Police is intensive and smooth. The outcome of the authorities' actions, both in terms of assets seized and confiscated, is generally in line with the country's risk profile.
- e) Being geographically located between Switzerland and Austria, Liechtenstein closely cooperates with both countries in combatting terrorism and TF. The absence of TF prosecutions in Liechtenstein is generally in line with the country's risk profile. One TF investigation was carried out, but it did not result in further proceedings as no evidence of

TF was found. This notwithstanding, the features of this case confirmed that the competent authorities are equipped with skills and knowledge on how to detect collection, movement and use of funds for TF purposes. Since there have been no prosecutions/convictions for TF, no conclusion could be made on proportionality and dissuasiveness of sanctions applied. Whilst there is no specific counter-terrorism related strategy developed by the country, the initiatives taken by Liechtenstein in the field of CFT show an appropriate degree of commitment, inter-agency cooperation and awareness by the competent authorities. Although some measures to disrupt TF are available to the competent authorities (such as expulsion of foreigners as per the Foreigners Act) none of these has yet been applied in lieu of proceedings with TF charges.

- f) Liechtenstein has a sound legal framework which ensures automatic implementation of relevant United Nations (UN) Security Council (UNSC) Resolutions (UNSCR) on targeted financial sanctions (TFS) related to TF and proliferation financing (PF) into the national framework. Amendments introduced in 2020 and 2021 set the competent national authorities and relevant procedures, in particular with regard to supervision and designation/listing/de-listing, parts of which have been implemented recently. So far, there have not been any designations made at national or UN level, which is consistent with the country's risk profile. Persons subject to the DDA demonstrated a generally good understanding of PF TFS-related obligations, while banks and large TCSPs demonstrated advanced practical knowledge in this regard. Understanding of most persons subject to the DDA in relation to identifying persons indirectly controlling or owning funds involved in transactions is limited to checking existing lists, whilst the majority of persons subject to the DDA (apart from banks and TCSPs) do not distinguish between TF- and PF-related TFS. So far, no assets have been frozen. PF TFS-related supervision has recently been introduced. While the FMA has already conducted some on-site inspections, this has not been done by the Chamber of Lawyers.
- g) NPO risk analysis aimed at identifying the subset of non-profit organisations (NPOs) falling under the FATF definition and has resulted in the identification of 52 NPOs which might be exposed to high TF risk. Monitoring/supervision over foundations and establishments is carried out by several institutions: the FMA, Foundation Supervisory Authority (STIFA) and the Fiscal Authority. The NPO Risk Report was a trigger for additional oversight measures regarding those NPOs identified as high-risk. NPOs met onsite demonstrated a proper awareness of the Risk Report and of the risks they might be exposed to. This cannot be attributed to NPOs that are associations. The association met onsite was not aware of the obligations vis-a-vis CFT measures and the ways associations could be misused for TF.
- h) Understanding of ML/TF risks and obligations is now generally good in the private sector. Banks and large TCSPs demonstrated the best understanding of ML/TF risks, linked to private banking and wealth management, and have implemented sophisticated measures to mitigate risk. In general, mitigating measures are now effectively applied and are commensurate with risk, though less attention was given to establishing and corroborating source of wealth (SoW) and source of funds (SoF) and to the possible illicit uses of "shell" companies until more recently. In general, CDD (including enhanced measures) and record-keeping obligations are now being diligently applied. Reporting obligations have been met only to a limited extent and there has been less reporting than expected in respect of tax offences. Many persons subject to the DDA have never filed a SAR/STR, e.g., some TCSPs and

asset managers, and some banks and TCSPs have been reported to the Office of the Public Prosecutor (OPP) for failing to make reports. Generally, good controls and procedures are in place.

- i) Controls implemented by supervisors are effective at preventing criminals from holding or being the beneficial owner (BO) of a significant interest or holding a management function. Positive steps have been taken by the FMA to improve its knowledge of ML/FT risks, including introduction of a specific supervisory risk model, and the FMA is considered to have a good understanding of risk. The FMA supervisory approach has been subject to a significant overhaul and greater use is now made of FMA inspections to conduct reviews of compliance with AML/CFT requirements. Direct FMA supervisory activity of entities that it assesses as presenting a high-risk or medium-high risk (predominantly TCSPs and investment funds) is not sufficient and resource constraints are a concern. In particular, the FMA is insufficiently equipped to deal with high risk and medium-high risk TCSPs. There has been a welcome move towards the use of focussed and thematic inspections, though there remains a need also for some more general supervisory activity to test compliance with the full range of preventive measures at all levels of risk. The use of monetary fines by the FMA has increased notably since 2019 but it is not possible to conclude that effective, proportionate, or dissuasive sanctions have been applied. Overall, the FMA continues to mostly use remedial supervisory measures to deal with breaches, and enforcement action against the TCSP sector is less than expected by the AT. Supervision by the Chamber of Lawyers is comparatively rudimentary but given the risk and size of the regulated sector, this is not a major concern.
- j) The authorities have a good broad understanding of the risk that legal persons (and legal arrangements) may be used to launder the proceeds of crime. There is a less granular, documented understanding in respect of TF. A range of effective measures are in place to prevent misuse, including an obligation placed on legal persons that are predominately non-trading and wealth management structures (around 80% of legal persons) to appoint a “qualified member” (a TCSP) to sit on the governing body. Basic and BO information on legal persons and legal arrangements is available from registers maintained by the Office of Justice and directly from the private sector and there have been no difficulties accessing information in a timely manner. Basic information held by these sources is generally accurate and up to date, but it has not been demonstrated that this is the case also for BO information. At the time of the onsite visit, the Office of Justice had yet to start monitoring the completeness and plausibility of information held on the BO register and had placed reliance on qualified members to submit accurate information on a timely basis. However, the AT considers that there has been insufficient FMA supervisory oversight of the performance of CDD activities by such members. Also, BO information held by the private sector – which updates information based on risk – will not necessarily be up to date.
- k) International cooperation constitutes an important part of Liechtenstein’s AML/CFT system in view of the predominantly foreign nature of predicate crimes to ML. The country has a comprehensive legal and institutional framework to perform international cooperation. Competent authorities demonstrated effective cooperation in providing and seeking information, both through the use of formal and informal channels, with a range of foreign jurisdictions. Some issues in relation to dual criminality requirements regarding tax evasion

and obligation to hear an entitled party before rendering evidence to a foreign jurisdiction, could have an impact on effective cooperation. Several measures aimed at diminishing these risks have been implemented in recent years, thus minimising the risks posed by these legislative provisions.

Risks and General Situation

2. As an international financial centre (IFC), Liechtenstein's primary money ML threats stem from non-resident customers that may seek to transfer criminal proceeds that were generated abroad or use Liechtenstein financial intermediaries to facilitate their illicit activities. In this regard, economic crime (in particular fraud, embezzlement, fraudulent bankruptcy, and tax offences) and corruption are the most relevant predicate offences. The inherent risks for the financial centre result, in particular, from its international clientele and the services/products offered in the field of wealth management. All types of financial products and services that wealthy non-resident clients may seek are offered in Liechtenstein, including establishment and administration of legal persons and legal arrangements, bank accounts, trading in securities, insurance policies, virtual asset (VA) services etc. These could make the country an attractive location for layering criminal proceeds.

3. Liechtenstein has not experienced any terrorist attacks to date and the likelihood that it will become a target of terrorism is low. No terrorist organisations are operating or present in Liechtenstein and no parts of its population are sympathetic to terrorist causes. The threat of funds being used for terrorism in Liechtenstein is, therefore, low. Still, the risk that Liechtenstein may be misused for TF purposes is determined to be medium as funds may be moved through its financial system. As an IFC, services and products offered in Liechtenstein could potentially be used to finance terrorism abroad.

Overall Level of Compliance and Effectiveness

4. Liechtenstein has taken steps since its last evaluation to remedy the deficiencies identified during that process – the jurisdiction strengthened its legal and regulatory framework and conducted its first comprehensive NRA (covering the period from 2013 to 2015), which was then updated by its second iteration - finalised in July 2020.

5. In most respects, the elements of an effective AML/CFT system are in place, but the practical application of the existing framework has still to be improved in some areas to reach a substantial level of compliance. These improvements should, *inter alia*, include better understanding of the ML threats associated with the current tax regime; investigations/prosecutions of complex ML schemes which potentially include legal structures established and managed in Liechtenstein; increased supervisory activity for entities the FMA assesses as presenting a high-risk or medium-high risk; and a better understanding of reporting by persons subject to the DDA, etc.

6. In terms of technical compliance, the legal framework has been enhanced in many aspects, nevertheless, some issues remain, including measures applied with regard to new technology – VA and virtual assets service providers (VASPs) (R.15); regulation and supervision of designated non-financial businesses and professions (DNFBPs) (R.28) and sanctions for failing to comply with AML/CFT requirements (R.35).

Assessment of risk, coordination, and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)

7. Risks have been assessed in a frank and impartial way and, overall, the authorities have demonstrated a good broad and convergent understanding of core ML/TF risks. Whilst there is a scope for a more comprehensive understanding of risk in some particular areas, this only requires refinements to a well-established risk assessment process.

8. Even though the risk of misuse of Liechtenstein's financial sector to launder the proceeds of tax offences committed abroad has been recognised, the extent of the threat has not been estimated. Two other ML threats have not been fully examined, these being: (i) the extent to which prominent global offences that have a transnational element may be laundered through the financial system in Liechtenstein; and (ii) understanding of transactional links to countries presenting a higher ML risk.

9. Some important inherent ML risks have not been considered which affect understanding of risk: (i) whilst the FMA now holds valuable information about TCSPs, this does not include data on the types and location of non-bankable assets that are administered by TCSPs - often held through complex structures; (ii) information is not held on the profile of customers of banks that subscribe for units in non-private investment funds; and (iii) there has been limited analysis of the use of cash.

10. Recent changes to Article (Art.) 165 of the Criminal Code (CC) - to include tax savings as asset components subject to ML - have largely curtailed use in the private sector of shell companies, which is conscious of the higher risk of such companies being used to make transactions now criminalised under the CC. However, understanding of how residual risk has changed in this area is rather limited.

11. Extensive use is made of data collected by the FMA to understand TF risk. Whilst the analysis and consequent understanding of transactional links to countries presenting a higher TF risk is insufficient, this is considered to have only a minor effect on risk understanding.

12. ML/TF risks, as acknowledged and analysed in national risk assessments, are addressed successfully by national AML/CFT policies and activities. The country's action plan does not include any explicit action to examine and estimate the extent of use of Liechtenstein's financial sector to launder the proceeds of tax offences committed abroad.

13. Cases triggering the application of enhanced CDD (EDD) and simplified measures are consistent with risks identified in the NRA. Some exemptions from the application of preventive measures are in place that are not supported by a risk assessment at country level, including one that applies to investment funds, which is used extensively.

14. Objectives and activities of the competent authorities are commensurate with risks identified in the NRA and policies. Cooperation and coordination among stakeholders is effective and constitute one of the strengths of Liechtenstein's system.

15. Based on efforts taken to share results, the private sector demonstrated a high level of awareness on NRA findings.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29-32)

16. Liechtenstein's LEAs and prosecutors have access to and in practice make systematic use of a wide variety of sources of financial intelligence and other relevant information when investigating ML

and predicate offences, tracing assets and identifying criminal money flows. Parallel financial investigation is an integral part of investigations of proceeds-generating crimes.

17. Whilst the majority of ML investigations are triggered by requests for MLA/information received by foreign counterparts, the FIU's analyses are an inevitable part of any investigation/operational activity carried out by LEAs.

18. As regards SARs/STRs filed with the FIU, during the period under review a number of initiatives have taken place which resulted in an overall increase of the number of reports filed. Although the FIU expressed a general satisfaction with the quality of SARs/STRs received, some areas still warrant improvements, including the following: (i) although SARs/STRs filed by persons subject to the DDA are generally commensurate with the landscape of prevalent proceeds-generating crimes in the country, they have rarely targeted some of the higher risk predicate offences, e.g., tax offences; (ii) the increase in the overall number of SARs/STRs in recent years did not trigger a tangible difference in the number of FIU disseminations to LEAs; and (iii) the tendency of reactive or non-reporting, which was prevalent before 2018, can still be observed, although to a lesser extent.

19. Whilst the FIU has so far produced several comprehensive strategic analysis products, the AT has identified a need for further analysis or review of the appropriateness of SARs/STRs filed on: (i) laundering of foreign tax offence proceeds; and (ii) TF, taking into account transactions with TF-related high-risk jurisdictions. In addition, TF-related typologies, as well as red flags/indicators to support reporting suspicion of handling the proceeds of foreign tax offences would be an asset.

20. Liechtenstein's legal and institutional framework enables effective investigation and prosecution of all types of ML. The FIU, law enforcement and prosecution authorities have high awareness of a need to consistently pursue and investigate all ML-related activities. The OPP and the National Police regularly investigate financial elements of predicate offences and develop parallel financial investigations, the aim of which is twofold: (i) to identify proceeds of crime; and (ii) to identify the way these proceeds were laundered or attempted to be laundered through Liechtenstein financial institutions (FIs), DNFBPs or VASPs. Given that the vast majority of predicate offences have been committed abroad, ML investigations are mostly triggered by incoming MLA requests. Consequently, analysis of financial flows are essential and inevitable parts of any ML investigation carried out in Liechtenstein. This being said, and taking into account the context of an IFC, a lack of ML investigations/prosecutions targeting sophisticated ML schemes which potentially include complex legal structures established and managed in Liechtenstein has also been observed.

21. Risks and threats identified in the NRA mirror the typologies already observed in the country. Therefore, consistency between the types of ML activity being investigated and prosecuted with the country's threats and risk profile and national AML/CFT policies has been attained, with the exception of threats posed by tax crimes committed abroad. This type of criminality has never been subject to an ML prosecution in Liechtenstein. In addition, tax evasion is not an ML predicate offence which hampers the authorities' efforts to further investigate ML in relation to this offence when committed abroad. Whilst the judiciary has achieved convictions for all (three) types of ML cases: of the two types of ML, self-laundering of the proceeds of fraud committed abroad is still a prevailing typology and third-party laundering is encountered infrequently as are autonomous ML prosecutions. Sanctions imposed by Liechtenstein courts for ML offences are not proportionate and dissuasive.

22. Confiscation of the proceeds of crime is pursued as a policy objective. Introduction of a comprehensive legal framework and continuous strengthening of the capacities of LEAs and prosecutors to detect, seize/freeze and confiscate assets further confirm this statement. Competent

authorities routinely carry out financial investigations parallel to any proceeds- generating crime investigation. They have managed to establish strong inter-institutional cooperation which works well throughout each phase of the seizure/confiscation proceedings. Judicial authorities are also vigilant and aware that proceeds may dissipate instantly and thus consider a grounded suspicion as sufficient to approve freezing orders (both for proceeds and instrumentalities of crime) over the course of a criminal investigation. Both conviction and non-conviction-based confiscation, including the confiscation of equivalent value, are frequently applied in practice. The amounts seized/frozen and confiscated are considerable. Although the amount of confiscated assets is still inferior to the sums seized/frozen, this mostly results from delays in receiving responses to MLA requests sent abroad. Furthermore, the authorities actively seek and provide assistance from/to their foreign counterparts when seeking/tracing proceeds of crime. The outcome of the authorities' actions, both in terms of assets seized and confiscated, is generally in line with the country's risk profile.

23. Liechtenstein has a framework treaty with Switzerland which stipulates that the execution of cross border controls is delegated to the Swiss Border Guard Corps. Statistics and discussions held with the Swiss Border Guard Corps revealed certain weaknesses in the system. However, the AT observed that communication between the Swiss Border Guard Corps and the National Police is intensive and smooth. Any infringement identified by the Swiss Border Guard Corps is immediately notified to the National Police.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5-8, 30, 31 & 39.)

24. There have been no TF prosecutions/convictions in Liechtenstein so far. The country has never received an MLA request from foreign counterparts in relation to terrorism or TF. The national TF risk assessment concluded that the risk of TF in Liechtenstein is medium. The absence of TF prosecution is generally in line with the country's risk profile. One TF investigation was carried out, but it did not result in further proceedings as no evidence of TF was found. This notwithstanding, the features of this case and actions undertaken by the competent authorities confirmed that they are equipped with skills and knowledge on how to detect collection, movement and use of funds for TF purposes.

25. Since there have been no prosecutions/convictions for TF, no conclusion could be made on proportionality and dissuasiveness of sanctions applied. On the other hand, sanctions, as envisaged by the CC for the TF offence, appear proportionate and dissuasive. There is no specific counter-terrorism related strategy developed by the country. However, the country has developed a TF Strategy, the main goals of which aim to develop the ability to prevent/suppress TF. Other initiatives undertaken by Liechtenstein in the CFT field show an appropriate degree of commitment, inter-agency cooperation and awareness by the competent authorities. Measures to disrupt TF are available to competent authorities (such as expulsion of foreigners as per the Foreigners Act), however none of these has yet been applied in lieu of proceedings with TF charges.

26. Liechtenstein's legal framework ensures automatic implementation of UN TFS related to TF/PF into the national framework. The country has recently further amended its legislation in line with FATF Recommendations covering TF/PF TFS-related supervision, procedures for designation, listing and delisting. Liechtenstein has not identified any individuals or entities or proposed any designations under UNSCRs 1267/1989 or 1988 which is consistent with the TF risk profile of the country. Nor have domestic procedures in relation to UNSCR 1373 been tested in practice due to the absence of such cases.

27. Persons subject to the DDA demonstrated at least a generally good understanding of PF TFS-related obligations, while banks and large TCSPs demonstrated advanced practical knowledge in this regard. Smaller DNFBPs explained that they would mostly rely on banks as regards identification and subsequent freezing/reporting. Understanding of most persons subject to the DDA in relation to identifying persons indirectly controlling or owning funds involved in transactions is limited to checking lists. In addition, the Terrorism Ordinance does not provide for the obligation to freeze funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities. As for the understanding on PF TFS, most persons subject to the DDA did not differentiate between TF and PF related TFS. So far, no UNSCR TF/PF TFS-related funds have been frozen.

28. Since 30 January 2020, supervisory authorities have been entrusted with authority to monitor compliance with the special obligations of persons subject to the DDA.

29. Monitoring/supervision of the NPO sector is conducted by several authorities, including STIFA and the Fiscal Authority, as well as the FMA as regards the supervision (as TCSPs) of qualified members of the governing body of NPOs. The supervisory activities conducted by the competent authorities cover the whole range of activities provided under the Interpretative Note to FATF Recommendation 8 (INR.8) as regards monitoring/supervision exercised over foundations and establishments. These activities were applied to all common-benefit foundations and establishments in an undifferentiated manner until the adoption of the NPO Risk Report, such that a risk-based approach, including a focus on TF aspects, was not implemented. Based on the NPO risk analysis conducted by the competent national authorities, 52 NPOs were identified as falling under the FATF definition and represent a high risk for TF. Based on the results of the NPO Risk Report, a number of risk-based initiatives were implemented in relation to these NPOs, including bilateral supervisory meetings and enhanced scrutiny by the FMA towards the qualified members of those NPOs. As for associations, these are currently subject to fiscal monitoring, although STIFA has started supervisory meetings with ones identified as high-risk based on the NPO Risk Report.

Preventive measures (Chapter 5; IO.4; R.9–23)

30. Understanding of ML/TF risks and obligations is now generally good among covered FIs, DNFBPs and VASPs. This was not the case for all the period under review. Amongst FIs, banks demonstrated the most sophisticated level of understanding of ML/TF risks (linked to private banking and wealth management and use of cash) and obligations. Amongst DNFBPs, TCSPs and casinos have the best understanding of risks and obligations (especially large TCSPs). The understanding of large VASPs was at the same level as large TCSPs.

31. In general, mitigating measures are now effectively applied and are commensurate with risk. This was not the case for all the period under review, e.g., less attention was given to establishing and corroborating SoW and SoF and to the possible illicit uses of “shell” companies. Banks and large TCSPs have implemented sophisticated measures to mitigate ML/TF risks. Measures in place in other sectors are less robust but still satisfactory. Non-private investment funds widely apply an exemption that means that they are not required to identify and verify the identity of underlying investors but often do not have sufficient information available to adequately assess ML/TF risks.

32. In general, CDD and record-keeping obligations are being diligently applied. However, weaknesses have been identified during the period under review in respect of information held on SoF and SoW, with improvements noted following the strengthening of supervisory measures in 2019, and

with customer profiling in the VASP sector. Record-keeping measures have been applied in line with R.11 by all sectors.

33. Generally, enhanced measures have been applied appropriately for: (i) PEPs; (ii) new technologies; (iii) wire transfers; (iv) TFS relating to TF; and (v) higher-risk countries identified by the FATF. Whilst FIs do not offer correspondent relationships, except for foreign subsidiaries, VASPs have relationships with similar characteristics. The effectiveness of measures regarding wire transfers and TFS have been hindered in the VASP sector, as the travel rule is not fully implemented in practice.

34. During much of the period under review, reporting obligations were met only to a limited extent. Whilst there has been a significant increase in reporting since 2019, there has been less reporting than expected by the AT in respect of tax offences. Many persons subject to the DDA have never filed a SAR/STR, e.g., some TCSPs and asset managers, and some banks and TCSPs have been reported by the FMA to the OPP for failing to make reports. Late reporting has also been observed in the TCSP and VASP sectors. Some smaller non-bank FIs and DNFBPs were unable to elaborate on typologies that could give rise to a SAR/STR. Internal policies/procedures and training are in place to prevent tipping-off.

35. FIs, DNFBPs and VASPs have generally good controls and procedures. AML/CFT compliance functions are properly structured and resourced and involve regular internal audits and training programmes.

Supervision (Chapter 6; 10.3; R.14, R.26–28, 34, 35)

36. Controls implemented by supervisors, including those applied on an ongoing basis, are effective at preventing criminals from holding or being the BO of a significant interest or holding a management function. These controls have successfully picked up a small number of cases of criminal involvement at pre- and post-licensing stages.

37. Positive steps have been taken by the FMA to improve its knowledge of ML/FT risks, including introduction of a specific supervisory risk model. Accordingly, the FMA is considered to have a good understanding of risk.

38. The FMA supervisory approach has been subject to a significant overhaul and greater use is now made of FMA inspections to conduct reviews of compliance with AML/CFT requirements. There is now also much greater FMA input into, and oversight of, commissioned inspections (conducted by auditors).

39. Direct FMA supervisory activity of entities that it assesses as presenting a high-risk or medium-high risk (predominantly TCSPs and investment funds) is not sufficient and resource constraints are a concern. The FMA is insufficiently equipped to deal with high risk and medium-high risk TCSPs and has only been able to perform a marginal number of random checks on medium or medium-low risk institutions. Since 2019, there has been a welcome move towards the use of focussed and thematic inspections, though there remains a need also for some more general supervisory activity to test compliance with the full range of preventive measures at all levels of risk.

40. There has been a notable increase in the imposition of monetary fines since 2019. However, it is not possible to conclude that effective, proportionate, or dissuasive sanctions have been applied by the FMA. Overall, the FMA continues to mostly use remedial supervisory measures to deal with

breaches and the number and level of monetary fines imposed during the period under review has been low. In particular, enforcement action against the TCSP sector is less than expected by the AT.

41. Supervisors promote a clear understanding of AML/CFT obligations and risks but have not clearly demonstrated that their actions have had an effect on compliance.

42. Supervision by the Chamber of Lawyers is comparatively rudimentary but given the risk and size of the regulated sector, this is not a major concern.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

43. Detailed information is available publicly on the creation and types of legal persons and arrangements found in Liechtenstein. The authorities have a good broad understanding of the risk that legal persons (and legal arrangements) may be used to launder the proceeds of crime. There is less granular, documented understanding in respect of the risk of TF.

44. The authorities rely on a range of measures to prevent the misuse of legal persons and legal arrangements, including an obligation placed on legal persons that are predominately non-trading and wealth management structures (around 80% of legal persons) to appoint a qualified member to sit on the governing body. These measures are effective in helping to prevent misuse.

45. Basic and BO information on legal persons and legal arrangements is available from two sources: (i) registers maintained by the Office of Justice; and (ii) directly from the private sector. In practice, whilst BO information has been obtained by competent authorities through the BO register, those authorities also seek BO information directly from the private sector (including qualified members of legal persons), and law enforcement also from legal persons and legal arrangements. There have been no obstacles or difficulties accessing basic or BO information in a timely manner.

46. The AT considers that basic information held by these sources is generally accurate and up to date. A BO register has been in place since August 2019 and, with few exceptions, it holds adequate BO information on legal persons and legal arrangements. At the time of the onsite visit, the Office of Justice had yet to start monitoring the completeness and plausibility of information held on the register, and, instead, reliance was placed on qualified members of legal persons to submit accurate information to it on a timely basis. While the results of supervisory activity do not indicate particular issues in compliance with BO obligations, the AT considers that there has been insufficient FMA oversight of the performance of CDD activities by qualified members. This alternative to proactive oversight by the Office of Justice is therefore not considered to be sufficiently effective in demonstrating that BO information held in the register is accurate and up to date.

47. These shortcomings would not matter, or matter less, if combined access to information held in the BO register and BO information held by the private sector cumulatively ensured the availability of adequate, accurate and current information. However, BO information held by the private sector – which updates information based on risk – will not necessarily be up to date.

48. Sanctions taken in respect of failures to comply with basic information requirements are considered to be effective, proportionate, and dissuasive. However, administrative fines applied for failing to provide BO information to the Office of Justice are not.

International cooperation (Chapter 8; IO.2; R.36–40)

49. Given the predominantly foreign nature of predicate offences to ML, international cooperation plays an important role in the country's overall AML/CFT framework. Liechtenstein has, in general, provided constructive and timely MLA and extradition across the range of international co-operation requests. Based on feedback from the global network, the authorities provide good quality cooperation to a large extent both in terms of MLA requests and other forms of cooperation.

50. Some issues were identified by the AT which could have an impact on the overall effectiveness of cooperation, these being dual criminality in relation to foreign tax evasion and the right by an entitled party to be heard before the court (and thus indirectly informed of an on-going investigatory action) prior to the execution of any MLA. Efforts have been made by the country to diminish these risks through: (i) provision of administrative assistance on foreign tax offences; and (ii) introduction of legislative changes to the MLA Act, which now gives the possibility to transmit relevant objects, documents, and data to the requesting authority and to postpone the right of the entitled party to be heard before the court up until the end of the investigation by the requesting party, thus minimising the risk of tipping-off.

Priority Actions

- Liechtenstein should conduct additional studies to examine and estimate the extent of ML threats associated with tax offences committed abroad. In line with the country's action plan, it should continue to improve its understanding of ML/TF threats presented by transactional links to countries presenting a higher ML risk. Follow-up action should be taken as necessary.
- Liechtenstein should consider collecting the following additional information in order to support its analyses of inherent risk: (i) types and location of non-bankable assets that are administered by TCSPs (e.g., foreign operational subsidiaries, high value goods and real estate); (ii) profiles of underlying investors in investment funds that benefit from CDD exemptions; and (iii) use of cash and prepaid cards, e.g. economic sectors presenting greater exposure and reasons, recurrent use of cash above certain thresholds, use of ATMs in countries that neighbour conflict zones, and trends. Follow-up action should be taken as necessary.
- The authorities should carry out further review/analysis with regard to: (i) SAR/STR reporting on high-risk predicates, i.e., laundering of foreign tax offences proceeds; and (ii) TF-related SAR/STR reporting taking into account transactions with TF-related high-risk jurisdictions. Both reviews/analyses should be reviewed periodically, possibly through the public-private partnership platform.
- To support reporting obligations, the FIU should provide more granular sectoral guidance (especially for non-bank FIs and DNFBPs) and training on sector specific ML/TF methods trends and typologies, including major risks identified in the NRA.
- Liechtenstein authorities should ensure that the OPP, investigative judges, the National Police and the FIU effectively target complex, large-scale ML, including cases involving funds deriving from high-risk predicates committed abroad (corruption, tax crimes, trafficking in narcotic drugs, etc.) which are then layered through Liechtenstein FIs, DNFBPs or VASPs.

- Competent authorities should continue to prioritise investigations related to the financial component of predicate offences and improve their understanding of typologies related to the main risks the jurisdiction is facing.
- In order to further expedite all forms of international cooperation, Liechtenstein should introduce written procedures/guidance on the exact modus operandi to be followed by competent authorities when receiving MLAs related to fiscal matters (regardless if in a concrete case the dual criminality principle applies). Responses to the requesting state should outline the scope of information/administrative assistance that can be obtained from the Fiscal Authority. The authorities should also consider developing a standard template form for responding to these MLA requests.
- The FMA should review its targets for the frequency of supervisory activity of entities that it assesses as presenting a high-risk or medium-high risk (predominantly TCSPs and funds). When doing so, it should also consider the use of offsite supervision to ensure that a full range of AML/CFT obligations continues to be adequately assessed across all sectors.
- Liechtenstein should increase the number of staff that are available to the FMA to deal with high risk and medium-high risk TCSPs and investment funds and conduct more frequent random reviews of other risk categories.
- The FMA should make more extensive use of monetary fines particularly in those sectors identified as presenting a higher risk, in addition to requiring remediation of shortcomings.
- Competent authorities should invest further efforts to introduce and enforce risk-based monitoring/supervision for all NPOs representing a high-risk for TF (as identified by the NPO Risk Report), including associations.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings¹

IO.1 – Risk, policy and coordination	IO.2 – International cooperation	IO.3 – Supervision	IO.4 – Preventive measures	IO.5 – Legal persons and arrangements	IO.6 – Financial intelligence
SE	SE	ME	ME	ME	SE
IO.7 – ML investigation & prosecution	IO.8 – Confiscation	IO.9 – TF investigation & prosecution	IO.10 – TF preventive measures & financial sanctions	IO.11 – PF financial sanctions	
ME	SE	SE	ME	ME	


Technical Compliance Ratings²

R.1 - assessing risk & applying risk-based approach	R.2 - national cooperation and coordination	R.3 - money laundering offence	R.4 - confiscation & provisional measures	R.5 - terrorist financing offence	R.6 - targeted financial sanctions – terrorism & terrorist financing
LC	C	LC	C	LC	LC
R.7- targeted financial sanctions – proliferation	R.8 -non-profit organisations	R.9 – financial institution secrecy laws	R.10 – Customer due diligence	R.11 – Record keeping	R.12 – Politically exposed persons
LC	LC	C	LC	LC	LC
R.13 – Correspondent banking	R.14 – Money or value transfer services	R.15 – New technologies	R.16 – Wire transfers	R.17 – Reliance on third parties	R.18 – Internal controls and foreign branches and subsidiaries
LC	C	PC	C	LC	LC
R.19 – Higher-risk countries	R.20 – Reporting of suspicious transactions	R.21 – Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence	R.23 - DNFBPs: Other measures	R.24 – Transparency & BO of legal persons
LC	LC	LC	LC	LC	LC
R.25 - Transparency & BO of legal arrangements	R.26 – Regulation and supervision of financial institutions	R.27 – Powers of supervision	R.28 – Regulation and supervision of DNFBPs	R.29 – Financial intelligence units	R.30 – Responsibilities of law enforcement and investigative authorities
LC	LC	LC	PC	LC	C
R.31 – Powers of law enforcement and investigative authorities	R.32 – Cash couriers	R.33 - Statistics	R.34 – Guidance and feedback	R.35 - Sanctions	R.36 – International instruments
C	LC	LC	C	PC	C
R.37 – Mutual legal assistance	R.38 – Mutual legal assistance: freezing and confiscation	R.39 – Extradition	R.40 – Other forms of international cooperation		
LC	C	C	LC		

¹ Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

² Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

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