COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES AND THE FINANCING OF TERRORISM (MONEYVAL)

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Anti-money laundering and counter-terrorist financing measures

Estonia

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2024

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.

The 1st Enhanced Follow-up Report and Technical Compliance Re-Rating on Estonia was adopted by the MONEYVAL Committee at its 68th Plenary Meeting (Strasbourg, 2-6 December 2024).

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Estonia: 1st Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report (MER)[1] of Estonia was adopted in December 2022. Given the results of the MER, Estonia was placed in enhanced follow-up.[2] The report analyses the progress of Estonia in addressing the technical compliance (TC) deficiencies identified in its MER. 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. The assessment of Estonia's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Jersey
- Israel

3. Section II of this report summarises Estonia's progress made in improving technical compliance. Section III sets out the conclusion and a table showing which Recommendations have been re-rated.

II. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

4. This section summarises the progress made by Estonia to improve its technical compliance by:

   a) Addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (R.6, 7 and 15).

5. For the rest of the Recommendations rated as PC (1, 8, 13, 19, 20, 21, 23, 24, 25, 28, 33, 35) the authorities did not request a re-rating.

6. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Estonia submitted its country reporting template – at least six months before the FUR is due to be considered by MONEYVAL.[3]

II.1 PROGRESS TO ADDRESS TECHNICAL COMPLIANCE DEFICIENCIES IDENTIFIED IN THE MER AND APPLICABLE SUBSEQUENT FURS

7. Estonia has made progress in addressing the technical compliance deficiencies identified in the MER. This has resulted in a re-rating for R.6 from PC to LC.

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[1] https://rm.coe.int/moneyval-2022-11-mer-estonia/1680a9dd96

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

[3] 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.

8. Annex A provides the description of the country's compliance with each Recommendation that is reassessed, set out by criterion, with all criteria covered. Annex B provides the consolidated list of remaining deficiencies of the re-assessed Recommendations.

III. CONCLUSION

9. Overall, in light of the progress made by Estonia since its MER, its technical compliance with the FATF Recommendations remains as follows:

Table 1. Technical compliance with re-ratings, December 2024[4]

R.1	R.2	R.3	R.4	R.5
PC	C	LC	C	LC
R.6	R.7	R.8	R.9	R.10
LC (FUR1 2024) ~~PC (MER)~~	PC (FUR1 2024) PC (MER)	PC	C	LC
R.11	R.12	R.13	R.14	R.15
C	LC	PC	LC	PC (FUR1 2024) PC (MER)
R.16	R.17	R.18	R.19	R.20
C	LC	LC	PC	PC
R.21	R.22	R.23	R.24	R.25
PC	LC	PC	PC	PC
R.26	R.27	R.28	R.29	R.30
LC	LC	PC	LC	C
R.31	R.32	R.33	R.34	R.35
C	LC	PC	LC	PC
R.36	R.37	R.38	R.39	R.40
LC	LC	LC	LC	LC

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

10. Estonia will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Estonia is expected to report back within one year's time.[5]

[4] Recommendations with an asterisk are those where the country has been assessed against the new requirements following the adoption of its MER or FUR.

[5] Rule 23, paragraph 1 of the Rules of Procedure for the 5th Round of Mutual Evaluations.

Annex A: reassessed Recommendations

Recommendation 6 - Targeted financial sanctions related to terrorism & TF

	Year	Rating
MER	2022	PC
FUR1	2024	↑ **LC** (upgrade requested)

1. In the 5th round MER of 2022, Estonia was rated PC. Identified shortcomings included: (i) a lack of guidelines; (ii) no formalised procedure under which Estonia would request another country to give effect to freezing measures undertaken by competent authorities; (iii) a limitation on the scope of assets to be considered when taking freezing actions; and (iv) no provisions adopted to protect the rights of bona fide third parties acting in good faith when implementing international financial sanctions.

2. Estonia implements UNSCRs through the domestic legislation ISA and the EU legislation. As concerns the EU legislative framework, UNSCR 1267/1989 (on Al Qaida) are implemented through the EU Council Decision 2016/1693/CFSP and EC Regulation 881/2002; UNSCR 1988 (on Taliban) – through EU Council Decision 2011/486/CFSP and EC Regulation 753/2011; and the UNSCR 1373 - through EU Council Common Position (CP) 2001/931/CFSP and EC Regulation 2580/2001. The EC Regulations have a direct legal effect in Estonia as per general EU law principles.

3. There has been some extension to the scope of the sanctions' provisions. The ISA Guidelines remain in force.

4. Criterion 6.1 –

(a) In Estonia, the authority responsible for proposing persons or entities to the UN Committees 1267/1989 and 1988 is the Ministry of Foreign Affairs (MFA) (International Sanctions Act (ISA), §8.1(1)).

(b) In Estonia, there are formal procedures establishing the process for identification of targets for designations based on the designation criteria set out in the UNSCRs (ISA, §8.1(3)) and the "Guidelines for Proposing the Designation or Removal of a Natural or Legal Person, Entity or Body from the List of Subjects of an International Sanction" adopted by the Government Order on 17 March 2022 (ISA Guidelines)).

(c) At the time of making the proposal for designation, there has to be reasonable doubt that the natural or legal person, entity or body contained in the proposal meets the criteria for designation under the respective UNSCRs. The initiation of criminal proceedings against a natural or legal person, entity or body identified in the proposal shall not be a precondition for designation (ISA Guidelines, point 2(4-5)).

(d) The MFA shall submit a proposal for designation to the UN Committees 1267/1989 or 1988 in the format established by those Committees (ISA Guidelines, point 2(6)). The Guidelines do not specify that the authorities will follow the procedures established by those Committees.

(e) When making a proposal, Estonia shall collect, consider and submit all the relevant information as required by the respective UNSCR (ISA Guidelines, point 1(3)). The legislation does not stipulate that Estonia shall specify whether its status as a designating state may be made known.

5. **Criterion 6.2** – In relation to designations pursuant to UNSCR 1373, Estonia implements those through the EU and national mechanisms:

(a) *At the EU level*, the EU Council (through the Council's Working Party on the Application of Specific Measures to Combat Terrorism (COMET WP)) is the competent authority for making designations according to CP 2001/931/CFSP (Art.1(4)) and EC Regulation 2580/2001 (Art.2(3)). These do not include persons, groups and entities having their 'roots, main activities and objectives with the EU (EU internals).

At the national level, the Government of Estonia is the competent authority for imposing sanctions by regulations, followed by the designation of persons and entities by a Minister of MFA. This is done upon the proposal of the MFA (ISA, §4 and §27(1-2)). On the own motion, or when a foreign country request is received the ISS shall assess the request against the criteria for designation as per respective UNSCRs and provide this information to the MFA for further actions (ISA Guidelines, points 1(5) and 2(1-2, 7)). The national legislation allows for listing the EU internals.

(b) *At the EU level*, the competent authority of the EU Member State submits a proposal for listing (the MFA for Estonia). The COMET WP prepares and makes recommendations for designations. The EU Council applies designation criteria set in the CP 2001/931/CFSP (Art.1(2) and (4)), and EC Regulation 2580/2001(Art.2(3)).

At the national level, the mechanism for identifying targets for designation based on the designation criteria set out in UNSCR 1373 is established by the ISA Guidelines (points 1-2).

(c) *At the EU level*, requests for designations are received and examined by the COMET WP, which evaluates and verifies information, including the reasonable basis for request, to determine whether it meets the criteria set forth in UNSCR 1373. No clear time limit has been set for the procedural steps to be accomplished before the COMET WP circulates the proposal to delegations. Once circulated, delegations are given 15 days, which in exceptional instances can be further shortened (doc. 14612/1/16 REV 1 on establishment of COMET WP, ANNEX II Art. 9-10).

At the national level, when a foreign country request is received the ISS shall immediately assess the request and the provided information against the criteria of the respective UNSCRs (ISA Guidelines, points 1, 5).

(d) *At the EU level*, the COMET WP assesses and evaluates whether the information for designation meets the criteria set out in CP 2001/931/CFSP. Designation decision shall be based on serious credible evidence without being conditional upon the existence of an investigation or conviction (CP 2001/931/CFSP, Art.1(2) and (4)).

At the national level, at the time of making the proposal for designation, there has to be reasonable doubt that the natural or legal person, entity or body contained in the proposal meets the criteria for designation under the UNSCR. The initiation of criminal proceedings against a natural or legal person, entity or body identified in the proposal shall not be a precondition for making the proposal for designation (ISA Guidelines, point 2(4-5)).

(e) *At the EU level*, there is no specific mechanism that would allow for requesting non-EU member states to implement the EU restrictive measures. Within the scope of the approximation procedure countries aspiring to join the EU are proposed to be invited to align themselves with the EU Council Decisions.

At the national level, there is no formalised procedure under which Estonia would explicitly request another country to give effect to freezing measures undertaken by competent authorities. Nevertheless, where it would need to do so, this will be done through the MFA, within the scope of implementation of foreign policy matters. There is a general provision whereby Estonia's sanctions legislation enables Estonian authorities to cooperate with another country to implement Estonian sanctions. However, this legislation and the accompanying explanatory memorandum do

not require Estonia to provide as much identifying information and specific information supporting the designation, as possible, to a country when requesting another country to give effect to the action's initiation under their freezing mechanism. The MFA will use diplomatic channels of communication and provide information and supporting evidence to foreign competent authorities when requesting another country to give effect to domestic freezing actions (Statute of the MFA, §8(1) and Foreign Relations Act, §9(1(1)).

6. Criterion 6.3 –

(a) *At the EU level*, the Member States shall provide the widest possible assistance in countering terrorism, through police and judicial co-operation in criminal matters (CP 2001/931/CFSP (Art.4)). The Member States are required to communicate all relevant information available to them under the EU Regulations on TFS (EC Regulation 2580/2001 (Art.8), EC Regulation 881/2002 (Art.8), and EC Regulation 753/2011 (Art.9)).

At the national level when the Estonian authorities receive information which could give rise to the designation of a person or entity pursuant to UNSCRs, they shall notify the ISS, which is empowered to collect and solicit information from EFIU, LEAs the GPO and courts, as well as from the relevant foreign authorities in order to verify and establish whether the criteria for designation per respective UNSCRs are met (Security Authorities Act, §21.1, §32 and the ISA Guidelines, points 1 and 4).

(b) *At the EU level*, as for the UNSCRs 1267/1989 regime, the Council Decision 2016/1693/CFSP (Art.5(2) and (3)) and EC Regulation 881/2002 (Art.7a) provides for ex parte proceedings against a person or entity whose designation is considered. The Court of Justice of the EU makes an exception to the general rule that notice must be given before the decision is taken in order not to compromise the effect of the designation. Other respective regulatory measures[6] are silent on the application of measures ex parte.

At the national level, operation ex parte against a person or entity, when identified or designated, is ensured by the provisions of ISA that specify that the Administrative Procedure Act shall not apply to the designation of the subjects (§27(3)).

7. Criterion 6.4 – *At the EU level*, implementation of TFS, pursuant to UNSCRs 1267/1989 and 1988, does not yet occur "without delay." There is often a delay between the date of the UN designation and its transposition into the EU law. For resolution 1373, TFS are implemented without delay because, once the decision to freeze has been taken, EU Regulation 2580/2001 is immediately applicable within all EU Member States.

8. At the national level, Estonia implements the UN TFS without delay. International sanctions imposed by a UNSCR are implemented under the conditions laid down in the resolution with regard to the subjects of the international sanctions listed by the respective UN Committee established on the basis of the resolution until the regulation of the EU Council is updated or adopted (ISA, §8). Thus, the UNSCRs are enforced in Estonia as of the day of adoption, before transposed into the EU legislative framework.

9. Criterion 6.5 – In Estonia, the MFA is a coordinating body for the implementation of international sanctions (ISA, §10(1)). The EFIU is a designated authority for implementation and enforcement of the TFS under the Estonian national legislation (ISA, §11(3)3)). The EFSA exercises supervision over compliance with the application of financial sanctions by its supervised OEs (ISA,

[6] Council Decision 2011/486/CFSP and EC Regulation 753/2011; CP 2001/931/CFSP.

§30(1.1)). The Bar Association and the Ministry of Justice (or when delegated - the Chamber of Notaries) carry out supervision of lawyers and notaries (ISA, §30(4), (5)).

(a) *At the EU level*, in relation to UNSCRs 1267/1989 and 1988, EU Regulations establish the obligation to freeze all the funds and economic resources belonging to, or owned, held or controlled, either directly or indirectly by a person or entity designated on the European list (EC Regulation 753/2011 (Art.3) and EC Regulation 881/2002 (Art.2).

For UNSCR 1373, the obligation for natural and legal persons to freeze the assets of designated persons derives automatically from the entry into force of the EU Regulation, without any delay and without notice to the designated individuals and entities (EC Regulation 2580/2001 (Art.2(1a) and 10). Listed EU "internals" are not subject to freezing measures but only to increased police and judicial cooperation among members (CP 2001/931/CFSP footnote 1 of Annex 1).

At the national level, all natural and legal persons are obliged to apply financial sanctions (ISA, §8 (2)). Financial sanctions are referred to as the international sanctions that establish freezing obligation (§14(1)), hence extend to the UNSCRs 1267/1989 and 1988, and include the measures taken within the scope of UNSCR 1373. Those financial sanctions should be applied in the circumstance when the natural or legal person establishes or has doubts that a person who has or is planning to have a business relationship with them is a designated person or entity, or a transaction or act intended or carried out by that person or entity violates financial sanctions (ISA, §19). This provision limits the scope of freezing obligations.

The ISA sets out additional obligations for the implementation of financial sanctions specifically by "persons having specific obligations" and "legal service providers" (§20-21 and 24). The coverage of those specified entities does not extend to (i) types of FIs that are not covered under the AML/CFT requirements (see also R.1(c.1.6)). However, all those non-covered entities would be captured under the obligations set forth for all natural and legal persons, as above. In addition, implementation of financial sanctions by the persons having specific obligations is limited to circumstances when the designated person has or is planning to have a business relationship with them or that the transaction or act intended or carried out by a designated person is in breach of financial sanctions. As concerns the legal service providers (notaries, lawyers and others) their obligation for implementation of financial sanctions is limited to the representation of a client when conducting a specified list of operations only.

(b) *At the EU level*, freezing obligations extend to all funds and economic resources, including interest, dividends or other income on or value accruing from or generated by assets belonging to, owned, held or controlled directly or indirectly by the designated person or entity or a third party acting on their behalf or at their direction. This is ensured for UNSCR 1267/1989 through EU Regulation 881/2002 (Art. 1(1) and 2(1)), and for UNSCR 1988 – cumulatively through the provisions of Council Decision 2011/486/CFSP (Art.4(1)) and EC Regulation 753/2011 (Art.1(a) and Art.3(1)).

With regard to UNSCR 1373, the freezing obligation applies to all funds, other financial assets and economic resources belonging to, or owned or held by the designated person or entity (EU Regulation 2580/2001, Art. 2(1(a)). There is no explicit reference to the freezing of funds or other assets controlled by, indirectly owned by, or derived from assets owned by, or owned by a person acting on behalf of, or at the direction of a designated person or entity. However, this is partly mitigated at the national level (see below) and this gap is further mitigated by the EC's ability to designate any legal person or entity controlled by, or any natural or legal person acting on behalf of, a designated person or entity (EU Regulation 2580/2001, Art.2(3) (iii) and (iv)).

At the national level, the obligation to freeze extends to funds and economic resources of a designated person (ISA, §5, §14(1), §19 and §21(1)), including when those are owned jointly

(§15(1)). However, domestic legal provisions do not explicitly cover the requirement to freeze funds and other financial assets or economic resources of the entities owned or controlled indirectly, by designated persons or entities, those derived or generated from funds or other assets owned and controlled by the designated persons and entities, as well as funds or other financial persons and entities acting on their behalf, or at the direction of, designated persons or entities. Nevertheless, this is largely mitigated by the fact that the domestic legal provisions also extend to persons, entities, or institutions *related to* designated persons (§14). The explanatory memorandum to the amendment to the ISA made in May 2024 sets out that *related to* is to be interpreted *mostly as persons or parties who are directly or indirectly, fully or partially owned, possessed or controlled* by the designated person. Further, the criterion on how these terms are to be defined is set out in the ISA.

(c) *At the EU level*, the UNSCR1267/1989 is implemented through the prohibition to make available funds or economic resources, directly or indirectly, to, or for the benefit of designated persons and entities, to entities owned or controlled directly or indirectly and acting on behalf of or the direction of those. These requirements are obligatory for EU nationals and persons and entities within the EU jurisdiction. The prohibition is waived when authorised or notified. This is ensured cumulatively through the provisions of the Council Decision 2016/1693/CFSP (Art.3(2, 5)) and EU Regulation 881/2002 (Art. 2(2-2a), Art.2a and Art.11). The provisions of the UNSCR 1988 are implemented cumulatively through the prohibitions and derogations as set out in the Council Decision 2011/486/CFSP (Art.4(2 and 3) and EC Regulation 753/2011 (Art.3(2) and Art.5).

With regard to UNSCR 1373, the prohibitions and derogations are implemented through EU Regulation 2580/2001 (Art. 2(1(b), Art.6 and Art.10). There is no explicit reference to the prohibitions with respect to funds or other assets controlled by, or indirectly owned by, or derived from assets owned by, or owned by a person acting on behalf of, or at the direction of a designated person or entity. However, this is partly mitigated at the national level (see below) and this gap is further mitigated by the EC's ability to designate any legal person or entity controlled by, or any natural or legal person acting on behalf of, a designated person or entity (EU Regulation 2580/2001, Art.2(3) (iii - iv)).

At the national level, prohibition is extended to making available financial and economic resources to designated persons, providing a range of defined financial services investment, initiation or continuation of business relationship. (ISA, §14(1)(2). These prohibitions, also apply to persons, entities, or institutions *related to* designated persons, and to listed activities. Derogations from the prohibitions are regulated pursuant to ISA (§11(2) and §13).

(d) *At the EU level*, designations made pursuant to respective EU instruments are published in the Official Journal of the EU. Information on designations is included in the EU Consolidated Financial Sanctions List, which is also available publicly. Once published the measure is enforced, thus immediate communication of EU designations is ensured. The EU Council provides guidance by means of the EU Best Practices for the effective implementation of restrictive measures, which are periodically revised and made publicly available.

At the national level, as of 17 June 2024, the MFA is responsible for informing the public immediately regarding the imposition or amendments regarding designated persons and entities through its website and other information channels (ISA, §10(1)(4))). The EFIU (in 2022) and the EFSA (in 2021) have issued respective Guidelines for the implementation of financial sanctions. The EFIU Guidelines are addressed to all natural and legal persons in general, and to FIs, DNFBPs, VASPs and legal service providers, in particular. The EFSA Guideline is addressed only to its supervised OEs.

(e) *At the EU level,* the reporting obligation is widely covered under the requirement to "provide immediately any information which would facilitate compliance with […] Regulation […]" (EC

Regulation 881/2002 (Art. 5(1(a)), EC Regulation 753/2011 (Art.8(1(a)) and EC Regulation 2580/2001, Art.4(1)).

At the national level, when persons with special obligations and legal service providers apply financial sanctions, they shall immediately inform about this the EFIU. This includes also intended transactions (ISA, §21(1) and §24(1)). The non-covered FIs, and all other DNFBPs (including non-covered) are subject to similar requirements within the scope of the provisions addressed to all natural and legal persons (ISA, §19(1)).

(f) *At the EU level,* freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with the Regulation, shall not give rise to liability of any kind on the part of the natural or legal person, entity or body implementing it, or its directors or employees, unless it is proven that the funds and economic resources were frozen, or not made available, as a result of negligence (EC Regulation 881/2002 (Art. 6), EC Regulation 753/2011 (Art.7(1)). No similar provisions are set in the EC Regulation 2580/2001.

At the national level, there are provisions to protect the rights of *bona fide* third parties acting in good faith when implementing international financial sanctions (ISA, §6[1]).

10. Criterion 6.6 – The procedures for de-listing and unfreezing the funds or assets of persons and entities no longer meeting the designation criteria are implemented in Estonia in the following manner:

(a) *At the EU level,* for designations made in line with the UNSCRs 1267/1989 and 1988 mechanisms, there are procedures to consider de-listing requests through EC Regulations (EC Regulation 881/2002, Art. 7c, and EC Regulation 753/2011, Art.11 (3-5)). The process for applying to the EU when listed on the basis of the UN Sanctions is provided in the EU Sanction Guidelines (5664/18, Annex I, para 18-20) and the EU Best Practices for the effective implementation of restrictive measures (8519/18, para.23-24)).

At the national level, the MFA is the designated body for submission, of a proposal to the UNSC Committees to remove a natural or legal person, entity or body that does not meet the conditions set out in the resolution (ISA, §8.1(2)).

(b) *At the EU level,* for 1373 designations, the EU has de-listing procedures under Regulation 2580/2001 (Art.7). The detailed process for de-listing under the EU autonomous sanctions is provided respectively in the EU Best Practices for the effective implementation of restrictive measures (8519/18, para.18-22)). De-listing is immediately effective and may occur ad hoc or after mandatory 6-monthly review (CP 2001/931/CFSP, Art.1(6) and Regulation 2580/2001, Art.7 and Art.11(2)).

At the national level, there are various mechanisms for reconsideration of the designations. Under the first mechanism - the sanctions imposed by the Government of Estonia shall be valid until the term designated in a regulation or for an unspecified term. If those are enforced for more than 1 year, they need to be revised regularly. However, the legislator does not specify what is considered as “regularly” for the revision and the process for the revision when initiated (ISA, §29(1-2)). Under the second mechanism - a governmental authority, a state agency administered by a governmental authority, or a court may make a reasoned proposal to the MFA to remove a subject of the sanctions of the Government of the Republic from the list (ISA, §29(4)). While, in none of the two instances, it is indicated in the ISA who should be the decision-making body with respect to the delisting of the designations, authorities suggested that this will be dealt by within the scope of the Administrative Procedure Act (§93(1)). According to the latter, the authority issuing the act

within its competencies is the one also to repeal it (other than that this can be decided by the Supreme Court).

(c) *At the EU level*, a listed individual or entity can write to the EU Council to have the designation reviewed or can challenge the relevant Council Regulation, a Commission Implementing Regulation, or a Council Implementing Regulation in Court, per Treaty on the Functioning of the European Union (TFEU) (Art.263(4)). TFEU (Art.275) also allows legal challenges of a relevant CFSP Decision.

At the national level, (i) the subject of the sanctions of the Government of Estonia may submit a reasoned application together with evidence to the MFA for removal from the list of subjects of sanction. The MFA shall respond to the inquiry within thirty days (ISA, §28 (2)); and (ii) a person who is the subject of the sanctions of the Government of Estonia may file an appeal regarding the designation of them as the subject of sanction with an Administrative Court pursuant to the procedure provided for by the Code of Administrative Court Procedure (ISA, §28(4)).

(d) and (e) *At the EU level*, with regard to designations under 1267/1989 and 1988, designated persons/entities are informed of the listing, its reasons and legal consequences, their rights of due process and the availability of de-listing procedures including the UN Office of the Ombudsperson (UNSCR 1267/1989 designations) or the UN Focal Point mechanism (UNSCR 1988 designations). There are procedures that provide for de-listing names, unfreezing funds and reviews of designation decisions by the EU Council (EC Regulation 881/2002, Art.7a; EC Regulation 753/2011, Art.11).

At the national level, on the MFA website[7] the public is provided with a link to the UN Focal Point for de-listing to inform about the mechanism for applying to the UN directly. This webpage also provides information on addressing the UN Office of the Ombudsperson with respect to designations on the Al-Qaida Sanctions Lists.

(f) *At the EU level,* upon verification that the person/entity involved is not designated, the funds/assets *must* be unfrozen (EC Regulations 881/2002, 753/2011 and 2580/2001). The EU Best Practices on the implementation of restrictive measures provide guidance on the procedure for cases of mistaken identity (8519/18, para. 8-17).

At the national level, a person with regard to whom TFS has been applied shall have the right to submit an application to the EFIU for verification on whether the application of sanctions has been lawful. The EFIU *investigates* and verifies the claims made by the person within 10 working days (or when justified up to 60 days) and immediately informs the person who submitted the application or notice of the results of the inspection (ISA, §17-18). The decision taken by the EFIU can be appealed in court (Code of Administrative Court Procedure, §5(1)).

(g) *At the EU level*, legal acts on delisting are published in the EU Official Journal and information on the de-listings is included in the Financial Sanctions Database maintained by the European Commission. Once published the measure is enforced, thus immediate communication of EU designations is ensured. The EU Council provides guidance by means of the EU Best Practices for the effective implementation of restrictive measures, which are periodically revised and made publicly available.

At the national level, as of 17 June 2024, the MFA shall immediately publish or make available on its website information regarding the imposition or amendments regarding designated persons and entities (ISA, §10(1) (4)). The EFIU (in 2022) and the EFSA (in 2021) have issued respective Guidelines for the implementation of financial sanctions extending also to the procedures for un-

[7] https://vm.ee/en/international-sanctions

freezing the funds and other assets. The EFIU Guidelines are addressed to all natural and legal persons in general, and to FIs, DNFBPs, and legal service providers, in particular. The EFSA Guideline is addressed only to its supervised OEs.

11. **Criterion 6.7** – *At the EU level*, there are procedures in place to authorise access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain types of expenses, or for extraordinary expenses (EC Regulation 881/2001, Art.2a; EC Regulation 753/2011, Art.5; and EC Regulation 2580/2001, Art.5-6).

12. *At the national level,* the authorisation is issued by the EFIU on the basis of the received application with the approval of the MFA, on the conditions imposed by the UNSCRs (ISA, §9(1), §11(2) and §13(1-2, 4)). The wording of the ISA is broad enough to cover both types of expenses: basic and extraordinary, as provided by the UNSCR 1452

Weighting and Conclusion

13. Estonia implements the UNSCRs without delay. It has a framework for domestic designations under the UNSCR 1373. The framework for proposing the designations to the UN Committees and to other countries is largely in place. There are minor shortcomings with respect to requirements for freezing assets, such as limited circumstances, and assets to which the freezing measures shall be applied. Also, the prohibition of making funds available has limitations. There are minor shortcomings with respect to the provision of guidance to OEs and reconsidering the designations. **R.6 is re-rated to LC.**

Recommendation 7 – Targeted financial sanctions related to proliferation

	Year	Rating
MER	2022	PC
FUR1	2024	PC (upgrade requested, maintained at PC)

14. In the 5th round MER of 2022, Estonia was rated PC. Identified shortcomings included: (i) the requirement to freeze assets is applied in limited circumstances only; (ii) the scope of assets that should be considered when implementing freezing obligations is limited; (iii) no provisions protecting the rights of bona fide third parties; and (iv) gaps in sanctions provisions for failure to comply. Estonia implements UNSCRs through the domestic legislation ISA and the EU legislation. UNSCR 1718 concerning the DPRK is transposed into European law by EU Council Decision 2016/84/CFSP, and EC Regulation 2017/1509, and UNSCR 2231 requirements are implemented through EU Council Decision 2010/413/CFSP and EC Regulation 267/2012. The EC Regulations have a direct legal effect in Estonia as per general EU law principles. The ISA provisions on implementation of TFS are identical for TF and PF sanction regimes, hence the analysis under R.6 also applies here, where the reference is made.

15. There has been some extension to the scope of the sanctions' provisions. The ISA Guidelines remain in force.

Criterion 7.1 –

16. At the EU level, implementation of TFS, pursuant to UNSCRs 1718 and 2231, does not yet occur "without delay." There is often a delay between the date of the UN designation and its transposition into the EU law. While the sanctions for DPRK are generally not implemented "without delay", the sanctioning system is mitigated by the significant number of other designations by the EU. This does not apply to sanctions for Iran.

17. At the national level, Estonia implements the UN TFS "without delay". International sanctions imposed by a UNSCR are implemented under the conditions laid down in the resolution with regard to the subjects of the international sanctions listed by the Committee established on the basis of the resolution until the regulation of the Council of the European Union is updated or adopted (ISA, §8). Thus, the UNSCRs are enforced in Estonia as of the day of adoption, before transposed into the EU legislative framework.

18. Criterion 7.2 – In Estonia, the MFA is a coordinating body for implementation of the international sanctions (ISA, §10(1)). The EFIU is a designated authority for the implementation and enforcement of the TFS under the Estonian national legislation (ISA, §11(3)3)). The EFSA exercises supervision over compliance with the application of financial sanctions by its supervised OEs (ISA, §30(1.1)). The Bar Association and the Ministry of Justice (or when delegated - the Chamber of Notaries) carry out supervision of lawyers and notaries (ISA, §30(4), (5)).

(a) *At the EU level,* in relation to UNSCRs 1718 and 2231, EU Regulations establish the obligation to freeze all the funds and economic resources belonging to, or owned, held or controlled, either directly or indirectly by a person or entity designated on the European list (EC Regulation 2017/1509 (Art.1 and 34) and EC Regulation 267/2012 (Art.23, 23a and 49).

At the national level, the regulatory framework and the identified deficiencies as described under c.6.5(a) apply.

(b) *At the EU level,* the freezing obligation extends to all funds and economic resources belonging to, owned, held or controlled by a designated person or entity (EC Regulation 2017/1509, Art.34; EC Regulation 267/2002, Art.23 and 23a). This includes funds or other assets derived or generated

from such funds (EC Regulation 2017/1509, Art. 2(12(d)), EC Regulation 267/2002, Art.1(l(iv))). However, (i) there is no explicit reference to funds or assets owned jointly, but the non-binding EU Best practices for the implementation of restrictive measures (8519/18, para. 34) clarify this matter; (ii) there is no reference to funds or assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities, but (a) these situations are covered by the requirement to freeze funds or assets "controlled by" a designated person or entity and (b) by requiring the designation of any person or entity acting on behalf or at the direction of designated persons or entities (EC Regulation 2017/1509, Art.34(5); EC Regulation 267/2012, Art.23(2(a, c, e)) and 23a (2(c)).

At the national level, the regulatory framework and the identified deficiencies as described under c.6.5(b) apply.

(c) *At the EU level,* no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of any person or entity designated by the EU (EC Regulation 2017/1509, Art.1 and 34(3); EC Regulation 267/2012, Art. 23(3), 23a(3) and 49).

At the national level, the regulatory framework and the identified deficiencies as described under c.6.5(c) apply.

(d) *At the EU level,* designations made pursuant to respective EU instruments are published in the Official Journal of the EU. Information on designations is included in the EU Consolidated Financial Sanctions List, which is also available publicly. Once published the measure is enforced, thus immediate communication of EU designations is ensured. The EU Council provides guidance by means of the EU Best Practices for the effective implementation of restrictive measures, which are periodically revised and made publicly available.

At the national level, the regulatory framework as described under c.6.5(d) applies. The EFIU (in 2022) and the EFSA (in 2021) respective Guidelines for the implementation of financial sanctions apply also to PF-related TSF sanction regimes and address the same scope of OEs.

(e) *At the EU level,* the reporting obligation is widely covered under the requirement to "provide immediately any information which would facilitate compliance with [...] Regulation [...]" (EC Regulation 2017/1509, Art.50(1(a)); EC Regulation 267/2012, Art.40(1(a)).

At the national level, the regulatory framework as described under c.6.5(e) applies.

(f) *At the EU level,* the rights of *bona fide* third parties are protected at European level (EC Regulation 2017/1509, Art.54 and EC Regulation 267/2012, Art.42).

At the national level, there are provisions to protect the rights of *bona fide* third parties acting in good faith when implementing international financial sanctions (ISA, §6).

19. Criterion 7.3 – *At the EU level,* Member States are required to take all necessary measures to ensure that the EU Regulations on this matter are implemented and to determine a system of effective, proportionate, and dissuasive sanctions in line with EU Regulations (EC Regulation 2017/1509, Art.55(1) and EC Regulation 267/2012, Art.47(1).

20. At the national level, the EFIU is a designated authority for the state supervision over the application of financial sanctions and compliance with requirements of the ISA and legislation established on the basis of thereof by persons with special obligations (ISA, §30(1)). At the same time, the EFSA exercises supervision over compliance with the application of financial sanctions by its supervised OEs (ISA, §30(1.1)). The TFS supervision of lawyers and notaries is carried out by the Bar Association and the Ministry of Justice (or when delegated - the Chamber of Notaries) (ISA, §30(4),

(5)). Other DNFBPs are subject to state supervision carried out by the EFIU over the application of TFS by natural and legal persons (ISA, §20(1), §30(1)). The LEAs may also exercise state supervision over the implementation of the ISA (ISA, §31).

21. There are various sanctions set forth for the failure to comply with obligations under R.7, but gaps exist.

(a) Under the administrative proceedings the EFIU and EFSA may issue a precept to suspend the transaction, or acts suspected of violation or oblige taking measures necessary for the application of the non-compliance levy (ISA, §32; FSAA, §18(2)4), §55(1)). There are dissuasive and proportionate sanctions set for non-compliance with the percept set for the covered FIs and other natural and legal persons (thus covering non-covered FIs and all DNFBPs) (ISA, §33) ;

(b) Under the misdemeanour proceedings the sanctions set extend to the violation of a requirement to notify the EFIU of identification of a listed person or entity, or violation of financial sanctions, or submission of false information (ISA, §35). However, those cover only persons with special obligations which include only the covered FIs and DNFBPs and do not extend to the violation of an obligation of freeze without delay and without prior notice. Violation of a notification requirement or filing false information is punishable by a fine of up to 300 fine units (EUR 1 200) or by detention and the same act, if committed by a legal person - is punishable by a fine of up to EUR 400 000. The limitations of the misdemeanour proceedings which affect the effectiveness, proportionality and dissuasiveness of sanction as under c.35.1 apply. The authorities did not provide relevant provisions in their legislation or sufficient information which demonstrates otherwise;

(c) Under the disciplinary proceedings the Bar Association, the Ministry of Justice and the Chamber of Notaries may apply sanctions to the lawyers and notaries. The range of available sanctions for the limited scope of obligations as per ISA (§24), including the maximum amount of fine which can be imposed, appears to be proportionate and dissuasive (see also c.35.1);

(d) In addition, there is a criminal liability set for the failure to comply with obligations provided by legislation implementing international sanctions or for violation of the prohibitions (PC, §93.1). Sanctions are set for both natural and legal persons. Pecuniary punishment or up to five years' imprisonment are set for the natural person and the same act, if committed by a legal person, is punishable by a pecuniary punishment.

22. Criterion 7.4 –

(a) *At the EU level*, petitioners of PF TFS can submit de-listing requests either through the UNSCR 1730 Focal Point or through their government (EU Best practices for the implementation of restrictive measures, 8519/18, para. 23).

At the national level, on the MFA website[8] the public is provided with a link to the UN Focal Point for de-listing to inform about the mechanism for applying to the UN directly.

(b) *At the EU level*, the EU Best Practices on the implementation of restrictive measures provide guidance on the procedure for cases of mistaken identity (8519/18, para. 8-17).

At the national level, procedures described under c.6.6(f) are applicable.

[8] https://vm.ee/en/international-sanctions

(c) *At the EU level,* there are procedures for authorising access to funds or other assets if member states' competent authorities have determined that the exemption conditions of UNSCRs 1718 and 2231 are met (EC Regulation 2017/1509, Art.35-36 and EC Regulation 267/2012, Art. 24, 26-28).

At the national level, the regulatory framework as described under c.6.7 applies.

(d) *At the EU level*, legal acts on delisting are published in the EU Official Journal and information on the de-listings is included in the Financial Sanctions Database maintained by the European Commission. Once published the measure is enforced, thus immediate communication of EU designations is ensured. The EU Council provides guidance by means of the EU Best Practices for the effective implementation of restrictive measures, which are periodically revised and made publicly available.

At the national level, the EFIU shall immediately publish or make available on its website information regarding the imposition or amendments regarding designated persons and entities (ISA, §16(1)). The EFIU (in 2022) and the EFSA (in 2021) respective Guidelines for the implementation of financial sanctions apply also to PF-related TSF sanction regimes and address the same scope of OEs.

23. Criterion 7.5 – With regard to contracts, agreements or obligations that arose prior to the date on which the account became subject to TFS:

(a) *At the EU level,* the addition of interests or other earnings to frozen accounts is permitted pursuant to EC Regulation 2017/1509, Art.34(9) and EC Regulation 267/2012, Art.29).

At the national level, there is no provision permitting the addition to the accounts or payments due under contracts, agreements or obligations that arose prior to the date on which the property became subject to freezing.

(b) *At the EU level,* with regard to freezing measures adopted on the basis of Resolutions 1737 and 2231, specific provisions allow for the payment of sums due by virtue of contracts concluded prior to listing, provided that the payment is not related to an activity prohibited by the resolutions, and that the UN Sanctions Committee is notified in advance (EC Regulation 267/2012, Art. 25).

At the national level, the authorisation is issued by the EFIU on the basis of the received application with the approval of the MFA, on the conditions imposed by the UNSCRs (ISA, §9(1), §11(2) and §13(1-2, 4)). The wording of the ISA is broad enough to cover authorisation for making payments under the contracts that arise prior to the listing of a person or entity pursuant to UNSCR 1737 and 2231.

Weighting and Conclusion

24. Estonia implements the UNSCRs on PF in a timely manner. There are shortcomings with respect to the requirement for freezing assets, such as limited circumstances, and assets to which the freezing measures shall be applied also, and the prohibition of making funds available has limitations. There are various sanctions set forth for the failure to comply with obligations under R.7, but moderate limitations exist. There are minor shortcomings with respect to the provision of guidance to OEs and reconsidering the designations. **R.7 remains rated PC.**

Recommendation 15 – New technologies

	Year	Rating
MER	2022	PC
FUR1	2024	PC (upgrade requested, maintained at PC)

25. In the 5th round MER of 2022, Estonia was rated PC on R.15. The main shortcomings were deficiencies in the underlying ratings for Recommendations 10-21 and the lack of effective sanctions. Estonia has now completed an assessment of the risks of VASPs, and mandatory reporting is now required.

26. Criterion 15.1 – At the national level, in 2016 Estonia conducted an analysis of ML/TF risks related to the remote identification of customers; in 2021 the NRA analysed the ML/TF risks related to the use of VAs, FinTech (crowdfunding and VASPs); in 2021 sectoral risk analysis identified the risks related to provision of payment services within the framework of correspondent relationship to customers who are FIs providing VA services; in 2022 the sectoral risk assessment looked into the ML/TF risks posed by the VA transactions. While the pre-MER assessments were not always accompanied by in-depth analysis, they were followed by a more in-depth analysis of the risks related to VASPs/VAs by the EFIU in 2024.

27. With regard to covered FIs, they are required to identify and assess the risks of ML/TF related to new and existing products and services, including new or non-traditional delivery channels and new or emerging technologies (MLTFPA, §13(1)3)4) and §14(1)6)).

28. Criterion 15.2 –

(a) The covered FIs are required to undertake the risk assessment of products, practices and technologies, including the new and emerging ones, which should be updated where necessary, and on the basis of the NRA (MLTFPA, §13(1)3)4), §13(4)). There is, nevertheless, no explicit requirement to undertake a risk assessment *prior to* the launch or use of such products, practices and technologies.

At the same time, the EFSA Advisory AML/CFT Guideline recommends that the risk assessment must also be reviewed if the obliged entity decides to change the services provided and products offered, or use new or updated sales channels, which might suggest a prior risk assessment.

(b) The covered FIs shall have procedures that provide effective mitigation and management of risks relating to ML/TF and ensure adherence with those (MLTFPA, §14(1)(2)).

29. Criterion 15.3 –

(a) In Estonia, the ML/TF risks related to the VA activities and VASPs were assessed within the scope of the NRA of 2021, the sectorial risk assessment of the EFSA from 2021, and the EFIU – from 2020 and 2022.

The NRA of 2021 identified that the VASP sector is exposed to high ML and TF risks. The main ML risks in the sector are related to VASPs with activity licenses issued in Estonia that are used for committing (investment) frauds abroad, for converting proceeds of fraud into virtual currencies, for conducting exchange operations through ATMs using cash thus impeding an appropriate identification of a customer, and transactions with non-resident customers from high-risk jurisdictions. As concerns the TF risks related to the VASP sector, those were the use of VASPs by the sanctioned persons or by persons with extreme Islamic views and by non-resident customers from high-risk jurisdictions. With respect to the vulnerabilities in the VASP sector, those were identified to be similar for the purposes of ML and TF: (i) the insufficient legislative framework

(including the coverage of the VASPs) and resources for ensuring an appropriate level of entry requirement checks and supervision of the rapidly growing VASP market, with a weak link to Estonia (until 2020); (ii) poor application of preventative measures (including weaknesses in identification and verification of customers and compliance control systems) and reporting by the VASP sector. The NRA acknowledged that the available quantitative and qualitative data did not allow for the establishment of patterns, the profile of criminals or suspicious activities related to VASPs in Estonia (see also c.1.1).

The EFSA SRA from 2021, identified the risks related to the provision of payment services within the framework of correspondent relationships to customers who are FIs providing VA services.

The EFIU Survey of VASPs from 2020 analysed the schemes and practices of unlawful use of the VAs. The findings of this analysis were further incorporated into the NRA 2021. Further on, in 2022 the EFIU conducted the second analysis of the VASP market. In this study, more diversified sources of information were used, such as the LEA information and foreign cooperation requests including the MLAs. The study highlighted fraud, ransom, and drug crime as the prevailing threats. As per the vulnerabilities, those in the majority of instances reiterated the findings of the NRA highlighting the weak connection of the licensed VASPs with Estonia, including the seat addresses (use of identical address by approx. 2/3 of VASPs or unknown addresses)[9], nominal board member and shareholder (nearly 75% have a CSP among associated persons)[10], a small number of local employees (15 largest VASPs had a total of 27 employees in Estonia)[11].

To enhance the VASP sectorial risk matrix, EFIU uses data from VASP periodic reporting and off-site questionnaires. The EFIU data team is tasked with refining the risk matrix from a technical perspective. EFIU has devised a methodology, and the data team is utilizing the information from VASP periodic reports to automate updates to the sectorial risk matrix. While the results of those analyses were used to prepare in-house summaries, issue several thematic reports, and enhance risk-based supervision, there was no publication of an updated NRA or sectoral risk assessment.

(b) Following the adoption of the NRA of 2021 Estonia developed and adopted on 5 July 2021 an Action Plan for implementation of AML/CFT measures for the period of 2021-2024. Those respective actions are prioritised in line with the level of the identified risks. The actions for mitigation of risks identified in the VASP sector as a high ML/TF risk sector are given a high priority. With this purpose Estonia had revised the MLTFPA by 15 March 2022, strengthening the requirements for the licensing regime and for the application of preventative measures (including identification and verification of customers and compliance control systems).

Since the mutual evaluation, Estonia has passed a regulation establishing mandatory reporting requirements for credit institutions and virtual asset service providers, which came into effect on 18 September 2023; this should contribute to more efficient supervision and strategic analysis capability in the sector of VASPs[12].

(c) VASPs are required to take appropriate steps to identify, assess, manage and mitigate their ML/TF risks as set out in c.1.10 and 1.11 (MLTFPA, §§13,14).

30. Criterion 15.4 –

[9] The SRA related to VASP sector, p.5 and 19
[10] The SRA related to VASP sector, p.19
[11] The SRA related to VASP sector, p.20
[12] In addition, Estonia has published Typology Message 9TT202408. However, this was not published until 8 August 2024 and therefore after the cut-off date for information to be taken into account for this FUR.

(a) The definition of VASPs as amended in Mach 2022 covers all five activities as defined by the FATF (MLTFPA, §3(9^1)(10^3). VASPs are required to be licensed, and the EFIU is the competent authority (MLTFPA, §70(1)4), §71). An FI which is operating on the basis of a licence/authorisation granted by the EFSA does not need to obtain a separate licence/ authorisation for providing VA services (MLTFPA, §70(2)). Nevertheless, the licencing regime of the FIs under the EFSA's competence, based on the sectoral legislation, does not permit performing VASP activities, except for banks.

(i) The licensing requirement for legal persons providing VASP services extends to the ones that have the registered seat, the seat of the management board and place of business is in Estonia, or the branch that is registered in the Business Register and the place of business and the seat of the head is in Estonia (MLTFPA, §72(1)4)).

(ii) The same provisions are applicable to the VASPs which are natural persons, since the term undertaking as defined in the legislation encompasses both, the natural and legal persons (General Part of the Economic Activities Code Act, §5(1), MLTFPA, §72(1)4)).

(b) The regulatory measures for VASPs are similar to those for the FIs that are under the competence of the EFIU. Those requirements are applicable to both legal and natural persons. The fit and proper assessment requires that the applicant, including the owner, BO and the members of the management body: (i) does not have any unspent conviction for a criminal offence against the authority of the state, offence related to ML or other intentionally committed criminal offence; (ii) has a proper business reputation, this extends also to associates with criminals (MLTFPA, §72(1)1),11). The detailed analysis of business reputation requirements is provided under c.26.3. Any subsequent appointment or change in the circumstances of a member of a governing body, owner, BO, or procurator is subject to a prior notification and approval by the EFIU, with an obligation to resubmit all the required documents (MLTFPA, §§70(3), 73, 74). The EFIU can also revoke an authorisation when the grounds which served for granting authorisation are no longer compliant (MLTFPA, §75(4)).

31. **Criterion 15.5** - Estonia has designated the Police and Border Guard Board to be the default authority for detecting breaches of licensing provisions (the Police and Border Guard Act). In the circumstances when the unlicensed VASP activity is carried out by an entity that is licensed for providing services falling within the covered FIs or covered DNFBPs without prior notification of change of a business model, or in breach of restriction related to office (for notaries), or legal restrictions imposed on activities of advocates (for lawyers) the respective licensing or authorising authority, i.e., EFSA, EFIU, Bar Association or Chamber of Notaries are those responsible for detection and sanction (FSAA, §6(1)4^1) and 18(2)1), MLTFPA, §§74, 75, 97; BAA, §19, §82^1; NA, §12, §17(2)). The respective sanctioning powers can be imposed in those circumstances (see R.35).

32. In order to detect unlicensed VA activities, the EFIU uses the following main sources of information: the STR or other reports filed by the OEs, information received from the foreign counterparts, and the PGDB database. The EFIU routinely searches social media and other public advertisements for businesses which operate in the regulated sector and are not appropriately licensed.

33. In the circumstances when the unlicensed VASP activity is carried out by the undertaking that is not a covered FI or covered DNFBP a criminal report should be filed to the investigative authority or the Prosecutor's Office (CCP, §195(1)). Economic activities without an activity licence is a criminal offence pursuant to PC, §372 (see c.35.1).

34. According to information provided by the Estonian authorities, in the period 2022-2024, from the above-mentioned provision (§372) which deals with unlicensed economic activity, 2 cases where

VASPs were accused, and criminal procedure has been initiated and have been sent to the prosecutor's office.

35. Criterion 15.6 –

(a) The EFIU is the designated supervisory authority for VASPs in ensuring compliance with the AML/CFT framework (MLTFPA, §64(1)). The EFSA acts as a supervisory authority in the circumstances when the VASP services are provided by a service provider that is operating on the basis of a license/authorisation issued by the EFSA (MLTFPA, §64(2), §70(2)). The EFIU and the EFSA are required to apply a RBA when supervising entities providing VA services (Code of Conduct for the Supervision Activities, §1.5; EFSA AML Rules of Procedure, Chapter 6: Risk-based approach model, §5.1). However, it is not clear how the RBA models of the EFSA and the EFIU take into account the degree of discretion allowed to the covered FIs under the risk-based approach (see c.26.5). Both supervisory authorities should revise the assessment of ML/TF risk profile of VASPs annually or in case of emerging trends, major events or developments. In the case of the EFSA, this is required by the AML/CFT rules of procedure (EFSA AML Rules of Procedure, Chapter 6: Risk-based approach model, §1.12, §3.3). For the EFIU, there is no such formal obligation. However, the authorities advised that the 2021 Risk Matrix tool is required to be updated regularly, at least once a year, and take into account new typologies and emerging risks in the supervised sectors. (see also c.26.6).

(b) Both supervisors, the EFIU and the EFSA (as applicable), have powers to supervise the VASPs and take appropriate measures to ensure compliance with AML/CFT requirements (MLTFPA, §54(1)4), §64(1) and (2); FSAA, §6(7); SFIU, §7(4)). Both supervisors have powers to conduct on-site and off-site inspections of VASPs, or a combination of both methods (MLTFPA, §66; AML Rules of Procedure of the EFSA, §2.6; Code of conduct for the supervision activities of the EFIU, §2.2). They are empowered to compel OEs to provide information without the need for a court order (MLTFPA, §58(1) and §66; FSAA, 22.[1](1)1)) (see also the R.27). Both supervisory authorities are empowered to apply to VASPs a range of administrative and misdemeanour measures, including the revocation of a license fully or partially (see c.35.1).

36. Criterion 15.7 – There are no VASP-specific guidelines established in Estonia. Nevertheless, the EFIU issued three guidelines that reflect on the characteristics of reports; the reporting obligation, the management of risks relating to ML/TF and the application of due diligence issued in 2019 and 2022 respectively. In addition, the EFIU has been providing the VASPs with sector-specific feedback since 2020, and in 2023 the EFIU published an overview of sanctions evasion through the use of virtual currencies. The EFIU also published a short survey regarding financing models of a terrorist organisation, which includes virtual currency-related risk indicators, as well as an example case demonstrating how VASPs can be utilized. There is, however, a need for further guidance on sector specific typologies, in particular with respect to TF.

37. Criterion 15.8 –

(a) Most financial sanctions are proportionate and dissuasive. Sanctions covered by 94[2], 95, and 96[1] are not considered proportionate and dissuasive. The limitation period for misdemeanour proceedings is not considered enough for failure to submit beneficial owner information or submission of false data. Having said this, enough information has not been presented to conclude on all the aspects of R.35. Therefore, shortcomings under c.35.1 apply to this sub-criterion to the extent not covered hereby.

(b) The administrative measures i.e., precepts, are issued to legal persons. Nevertheless, depending on their scope, they can have a direct impact or effect on the natural persons, including the directors and senior management of the VASP (e.g., when the precept demands the removal of a manager of a VASP, or the temporary suspension of his/her authority). The financial penalties

pursuant to the misdemeanour proceedings may be imposed on both natural and legal persons, thus being applicable to the directors and senior management of the VASPs. (see c.35.2).

38. **Criterion 15.9 –** With respect to the preventive measures, VASPs are required to comply with the requirements of R.10-21 in the same manner as the covered FIs and are subject to the same deficiencies. The application of the preventive measures by VASPs is subject to the following qualifications.

(a) The VASPs are not allowed to provide services outside a business relationship (MLTFPA, §25(1[3]). The requirement to conduct CDD applies to all transactions regardless of any threshold.

(b) EU Regulation 2023/1113, in force since June 2023, introduces obligations regarding information that should accompany transfers of "certain crypto-assets", but will not be directly applicable in EU Member States until 30 December 2024. The national level action (set out below) has been unchanged since the MER.

(i) and (ii) In relation to transactions of exchange or transfer of virtual currency, the VASPs are required to collect the information regarding the originator: the name, unique identifier of the transaction, identifier of the payment account or virtual currency wallet, the national identity number, date and place of birth and address (for legal persons – person's registry code or, in case of absence, the relevant identified in the country if its seat) (MLTFPA, §25 (2[4])). VASPs are also required to collect, with respect to the virtual currency or to the recipient of the transfer, the particulars of the transaction's unique identifier, and the beneficiary account number, where such an account is used to process the transaction. The unique identifier of a transaction must allow the transaction to be followed from its initiator to the recipient of the transfer. (MLTFPA, §25(2[5]), (2[6])). There is no express requirement to obtain and hold the information regarding the name of the beneficiary. The mentioned information must be transmitted without delay to the recipient's VASP, together with transmission of the set of payment instructions to the recipient's VASP or to the recipient's credit or financial institution (MLTFPA, §25(2[7]). There is no express requirement for the originator and beneficiary VASPs to make available this information, on request, to appropriate authorities.

(iii) When the beneficiary VASP is unable to receive or process the data, the originating VASP is required to ensure the monitoring of the transaction in real time and risk analysis in respect of each transaction. This obligation of the originating VASP is also applicable in the case of unhosted wallets (MLTFPA, §25(2[8]). There is no requirement for the beneficiary VASP to perform post-event or real time monitoring in case of transfers which lack the required originator or beneficiary information. Likewise, the beneficiary VASPs are not required to have risk-based policies and procedures in order to determine whether to reject or suspend a VC transfer and take appropriate follow-up actions. TFS obligations apply to VASPs in the same manner as for the covered FIs.

(iv) There are no legal provisions to ensure that the same obligations apply to FIs when sending or receiving virtual assets transfers on behalf of a customer. The authorities suggested that such obligation would be covered by the provisions of the EU Regulation 2015/847. Nevertheless, its scope is limited to the transfer of funds.

39. **Criterion 15.10** – UNSCRs 1267/1989, 1988 and 1373 are implemented in the EU by a number of EU regulations[13], which are directly applicable in Estonia, as per general EU law principles. *At the national level*, all regulatory measures apply identically to TF- and PF-related TFS. The EFIU shall immediately publish or make available on its website information regarding the imposition or amendments regarding designated persons and entities (ISA, §16(1)). There are no guidelines

[13] Regulations 881/2002 (UNSCR 1267/1989), 753/2011 (UNSCR 1988) and 2580/2001 (UNSCR 1373).

provided to VASPs on their obligation to take action under the freezing mechanism, albeit some generic Guidelines have been issued by EFIU. When VASPs apply financial sanctions, they shall immediately inform about this the EFIU. This includes also intended transactions (ISA, §21(1)). The Sanctions applicable to VASPs for non-compliance with the obligations under R.7 are identical to the ones that apply to covered FIs and the deficiencies as per c.7.3, especially concerning the lack of sanctions for non-compliance with the freezing obligation, apply.

40. Criterion 15.11 – The international cooperation measures described in R.37 to R.40 apply to activities related to VAs or concerning VASPs. The deficiency with respect to issues on double-criminality requirement applies (see c.37.6). Both supervisory authorities have a right to exchange information and cooperate with their counterpart authorities of other countries based on the duties provided by the MLTFPA (§64(6)). In addition, the EFIU is empowered to engage with the foreign FIU or a LEA with the purpose of ensuring implementation of the TFS by VASPs (ISA, §34)4-5)).

Weighting and Conclusion

41. Estonia requires the risk assessment of new technology and services when launching the products to a large extent. It has a regulatory framework for VASPs and has conducted an ML/TF risk assessment. VASPs are required to be licensed and, as of March 2022, all five activities described by the FATF standard are encompassed by the definition of VASPs. However, although the licencing regime for FIs applied by the EFSA pursuant to the sectoral legislation does not permit performing VASP activities banks are entitled to provide VA-related services under the supervision of the EFSA. Implementation of AML/CFT obligations has moderate shortcomings due to the applicable deficiencies identified under R.10-21 and those regarding the VA transfers. Although subject to a broad range of sanctions, including financial penalties for AML/CFT and TFS violations pursuant to the misdemeanour proceedings is not considered sufficiently effective and dissuasive and there are no sanctions for non-compliance with the freezing obligation. There are also minor shortcomings identified with respect to the provided guidelines. The remaining shortcomings carried over from the shortcomings in the preventive measures and the provisions related to targeted financial sanctions continue to be of relevance in the context of Estonia. **R. 15 remains rated PC.**

Annex B: Summary of Technical Compliance – Deficiencies underlying the ratings

Recommendations	Rating	Factor(s) underlying the rating[14]
6. Targeted financial sanctions related to terrorism & TF	PC (MER 2022) LC (FUR1 2024)	• The Guidelines do not specify that the authorities will follow the procedures established by the UN Committees when prospering designations. (c.6.1(d)) • The legislation does not stipulate that Estonia shall specify whether its status as a designating state may be made known. (c.6.1(e)) • At the national level, there is no formalised procedure under which Estonia would request another country to give effect to freezing measures undertaken by competent authorities, and require them to provide as much information as possible (c.6.2(e)) • Requirement to freeze assets is to be applied in the certain circumstances only, which limits the compliant application of those. (c.6.5(a)) • The scope of assets that should be considered when implementing freezing obligations is limited. (c.6.5(b)) • Prohibition to make available funds and other assets are limited only to designated persons and to listed activities. (c.6.5(c)) • There are various mechanisms for reconsideration of the designations but none of them explicitly provide competent authority and the process (c.6.6(b)) • The EFSA Guideline is addressed only to its supervised OEs. (c6.6 g)
7. Targeted financial sanctions related to proliferation	PC (MER 2022) PC (FUR1 2024)	• Requirement to freeze assets is to be applied in the certain circumstances only, which limits the compliant application of those. (c.7.2(a)) • The scope of assets that should be considered when implementing freezing obligations is limited. (c.7.2(b)) • Prohibition to make available funds and other assets are limited only to designated persons and to listed activities. (c.7.2(c)) • There are various mechanisms for reconsideration of the designations but none of them explicitly provide competent authority and the process. (7.2 (b) • There are various sanctions set forth for the failure to comply with obligations under R.7, but gaps exist (c.7.3) • There is no provision permitting the addition to the accounts or payments due under contracts, agreements or obligations that arose prior to the date on which the property became subject to

[14] Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

		freezing. (c.7.5(a))
15. New Technologies	PC (MER 2022) PC (FUR1 2024)	• New Technology risk assessments are not always accompanied with in-depth analysis. (15.1 (a)) • There is no explicit requirement to undertake a risk assessment prior to the launch or use of such products, practices and technologies. (15.2 (a)). • The NRA acknowledged that the available quantitative and qualitative data did not allow for the establishing of patterns, the profile of criminals or suspicious activities related to VASPs in Estonia. (15.3) • There is no detailed information about detecting unlicensed VASP activities. (15.5) • It is not clear how the RBA models of the EFSA and the EFIU take into account the degree of discretion allowed to the covered FIs under the risk-based approach. (15.6 (a)) • There is need for further guidance of sector specific typologies, in particular in respect to TF. This is especially important considering the materiality of the sector and a high level of TF risks in the sector. (15.7) • Sanctions covered by 94[2], 95, and 96[1] are not considered as proportionate and dissuasive. (15.8(a)) • The limitation period for misdemeanour proceedings is not considered enough for failure to submit beneficial owner information or submission of false data. (15.8(a)) • Shortcomings under c.35.1 apply 15.8 to the extent not covered under this FUR. (15.8(a)) • There is no express requirement to obtain and hold the information regarding the name of the beneficiary. (15.9 (b)) • There is no express requirement for the originator and beneficiary VASPs to make available information, on request, to appropriate authorities. (15.9) • There is no requirement for the beneficiary VASP to perform post-event or real time monitoring in case of transfers which lack required originator or beneficiary information. Likewise, the beneficiary VASPs are not required to have risk-based policies and procedures in order to determine whether to reject or suspend a VA transfer and take appropriate follow-up up actions. (15.9) • There are no legal provisions to ensure that the same obligations apply to FIs when sending or receiving virtual assets transfers on behalf of a customer. (15.9) • There are no guidelines provided to VASPs on their obligation to take action under the freezing mechanism. The sanctions applicable to VASPs for non-compliance with the obligations under R.7 are identical to the ones that apply to

		covered FIs and the deficiencies as per c.7.3, especially concerning the lack of sanctions for non-compliance with the freezing obligation. (15.10) • The deficiency with respect to issues on double-criminality requirement apply (see c.37.6). (15.11)

GLOSSARY OF ACRONYMS

DNFBPs	Designated non-financial business or profession
EC	European Commission
EFIU	Estonian Financial Intelligence Unit
EFSA	Estonian Financial Supervision Authority
EMI	E-money institutions
EU	European Union
FATF	Financial Action Task Force
FI	Financial institution
GPO	General prosecutor's Office
ISS	Internal Security Service
LEAs	Law Enforcement Agencies
MFA	Ministry of Foreign Affairs
ML	Money laundering
MLTFPA	Money Laundering and Terrorist Financing Prevention Act
NRA	National risk assessment
OE	Obliged entity
PF	Proliferation financing
PSP	Payment Service Provider
RBA	Risk-based approach
TF	Terrorism financing
TFS	Terrorism financing sanctions
UN	United Nations
UNSCR	United Nations Security Commission Resolution
VASPs	Virtual assets service provider
VA	Virtual assets

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December 2024

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

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses Estonia's progress in addressing the technical compliance deficiencies identified in the December 2022 assessment of their measures to combat money laundering and terrorist financing and in subsequent follow-up reports.

Follow-up report