EASTERN AND SOUTHERN AFRICA ANTI-MONEY LAUNDERING GROUP

Anti-money laundering and counter-terrorist financing measures

Mauritius

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

September 2019

Follow-up report

The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 18 countries and also includes a number of regional and international observers such as AUSTRAC, COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, GIZ, IMF, SADC, United Kingdom, United Nations, UNODC, United States of America, World Bank and World Customs Organization.

ESAAMLG's members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism and proliferation, in particular the FATF Recommendations.

For more information about the ESAAMLG, please visit the website: **www.esaamlg.org**

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This report was adopted by the ESAAMLG Task Force of Senior Officials and approved by the Council of Ministers at the September 2019 meeting in Ezulwini, Eswatini.

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MAURITIUS: 2nd FOLLOW-UP REPORT & REQUEST FOR RE-RATING

I. INTRODUCTION

1. The Mutual Evaluation Report (MER) of Mauritius was adopted by the Task Force in April 2018 and subsequently approved by the Council of Ministers in July 2018. This follow-up report assesses the progress made by Mauritius to resolve the technical compliance shortcomings identified in its MER. New ratings are given when sufficient progress has been made. This report also assesses the progress made in implementing the new requirements of one of the FATF Recommendations that has been updated since adoption of the MER: Recommendation 2. In general, countries are expected to have corrected most or all of their technical compliance shortcomings by the end of the third year of follow-up at the latest. This report does not cover the progress made by Mauritius in improving its effectiveness. Progress in this area will be assessed as part of a subsequent follow-up assessment. If sufficient progress has been made, the Immediate Outcome ratings may be reviewed.

II. KEY FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER[1] gave Mauritius the following technical compliance ratings:

Table 1. Technical compliance ratings[2], July 2018

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

[1] Mutual Evaluation Report (MER) on Mauritius, July 2018, https://www.esaamlg.org/reports/Second%20Round%20MER%20of%20Mauritius-July%202018.pdf

[2] Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

3. In the light of these results, Mauritius was placed in the enhanced follow-up process. [3]

4. Subsequent to the adoption of the MER, Mauritius submitted its first request for re-rating of Recommendations 9, 10, 12, 13, 14, 15, 16, 17, 18, 22, 27 and 32. The Task Force approved the re-rating of Recommendations 9, 10, 12, 13, 14, 15, 16, 17, 18, 22 and 27 in April 219 and these were published on the ESAAMLG website[4] as shown in Table 1(a) below:

Table 1 (a): Technical compliance following revision of ratings, April 2019

R 9	R 10	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 22	R 27	R 32
C	LC	C	C	C	PC	LC	C	C	LC	C	No rerating (PC)

5. The assessment of Mauritius' request for technical compliance re-ratings and the preparation of this report were undertaken by the following experts (Supported by ESAAMLG Secretariat: Muluken Yirga Dubale):

- James Manyonge (Kenya)
- Chanda Lubasi Punabantu (Zambia)
- Juma Msafiri (Tanzania)
- Sandra Hall (Seychelles)
- Kennedy Mwai (Kenya)
- Paulo Munguambe (Mozambique)
- Thomas Mongella (Tanzania)

6. Part 3 of this report summarises the progress made by Mauritius on technical compliance. Part 4 sets out conclusions and contains a table of Recommendations for which a new rating has been given.

III. OVERVIEW OF PROGRESS IN TECHNICAL COMPLIANCE

7. This section of the report summarises the progress made by Mauritius in improving technical compliance by resolving the shortcomings identified in its MER

[3] Enhanced follow-up is based on the traditional ESAAMLG policy for members with significant shortcomings (in technical compliance or effectiveness) in their AML/CFT systems, and involves a more intense follow-up process.

[4] https://www.esaamlg.org/index.php/Mutual_Evaluations/readmore_me/424

and implementing the new requirements associated with the changes made to FATF standards since adoption of the MER (R. 2).

3.1. Progress in Resolving the Technical Compliance Shortcomings Identified in the MER

8. Mauritius has made progress in resolving the technical compliance shortcomings identified in the MER and the first FUR for the following Recommendations:

- R.1, R.6, R.7, R.23, R.24 and R.28 which had all received a NC rating;
- R.2, R.5, R.15, R.19, R.21, R.25, R.32, R.33 and R.35 which had all received a PC rating; and
- R.3, R.4, R.10, R.16, R.22 and R.29 which had received an LC rating.

9. Given the progress made, Mauritius' rating has been revised for the following Recommendations: 1, 2, 3, 4, 5, 6, 7, 10, 15, 16, 19, 21, 22, 23, 24, 25, 28, 29 and 35. The ESAAMLG warmly welcomes the progress made by Mauritius to improve its technical compliance with regard to R.32 and R.33. However, it is not considered to have made sufficient progress to justify upgrading the rating for these Recommendations.

3.1.1. Recommendation 1-Assessing risks and applying a risk-based approach **(Originally rated NC- re-rated to C)**

10. The main shortcomings identified in the MER were as follows: a) Mauritius has not assessed all ML / TF risks to which the country is exposed; b) Mauritius has not developed a risk-based approach to implementation of the AML/CFT measures; and c) FIs under BoM and DNFBPs are not required to assess their ML / TF risks, and take mitigating means.

11. In terms of Section 19D (2) FIAMLA as amended by section 27 of Finance (Miscellaneous Provisions) Act 2018, the Ministry of Financial Services and Good Governance is mandated to conduct an assessment of the risks of money laundering and terrorist financing affecting the domestic market and relating to cross border activities. In terms of this provision, Mauritius carried out a national risk assessment (NRA) in 2019. According to the NRA report, the overall ML risk was classified as medium high with medium ML threat and medium high vulnerability level while terrorist financing risk was rated medium given that the TF threat is rated Medium-Low and the TF vulnerability is rated Medium-High.

12. Section 19D (1) FIAMLA as amended by section 27 of Finance (Miscellaneous

Provisions) Act 2018 sets out the requirement for the Ministry to coordinate and undertake measure to identify, assess and understand the national ML/TF risks.

13. The ML/TF risk assessment has just been completed and, therefore, it is considered to be up-to-date. Besides, Section 19D (1) of the FIAMLA as amended by section 27 of Finance (Miscellaneous Provisions) Act 2018 requires the risk assessment to be reviewed at least every 3 years.

14. In terms of Section 19D (3) of the FIAMLA as amended by Finance (Miscellaneous Provisions) Act 2018, the Central Coordinating Body is responsible for informing the AML/CFT Authority, competent authorities and all reporting persons of ML/TF of the NRA results in order to assist them to identify, understand, manage and mitigate the risks. In addition, based on Article 5.3.9 of the Tripartite MOU entered into by the FSC, FIU and BOM in September 2018, the supervisors have agreed to conduct joint outreach for the dissemination of the NRA findings.

15. Section 19D (4) of the FIAMLA as amended by the Finance (Miscellaneous Provisions) Act 2018 requires that every supervisory and investigatory authority should use the findings of their risk assessment to assist in the allocation and prioritization of resources to combat ML/TF and to ensure that appropriate measures are put in place in relevant sectors to mitigate the risks of ML/TF.

16. The Financial Intelligence and Anti-Money Laundering Regulations 2003 which provides for exemptions from application of the identification requirements in respect of life insurance policies and proceeds of one-off transactions is repealed in terms of Regulation 34 of the FIAMLA Regulations, 2018 (as amended). Under the 2018 FIAMLA Regulations, no exemption with respect to activities conducted by FIs or DNFBPs as defined under the FATF Standards is currently applicable in Mauritius.

17. Section 17C (3) of the FIAMLA as amended by the Finance (Miscellaneous Provisions) Act 2018 provides that where risks are higher a reporting person must conduct enhanced due diligence measures consistent with the risks identified. Regulation 12 of the FIAMLA Regulations 2018 also provides that where a higher risk (including in relation to correspondent banking and PEPs) of ML or TF has been identified or where through supervisory guidance a high risk of ML/TF has been identified, a reporting person must perform enhanced CDD. In terms of 17(2)(b) of the FIAMLA as amended by the Finance (Miscellaneous Provisions) Act 2018, the risk assessment undertaken by a reporting person must take into account the outcome of

any risk assessment carried out at a national level.

18. Sections 18 and 19G of the FIAMLA as amended by the AML/CFT Act, 2019 empowers supervisory authorities to supervise and enforce compliance with requirements (including the specific risk-based requirements) contained in the FIAMLA and FIAML Regulations 2018.

19. Section 17(1) (a) of the FIAMLA as amended by the AML/CFT Act, 2019 requires a reporting a person to identify, assess, understand and monitor its ML/TF risks taking into account for customers, countries or geographic areas; and products, services, transactions or delivery channels. Section 17(2) of the FIAMLA, 2019 as amended by the AML/CFT provides that the nature and extent of any assessment of money laundering and terrorism financing risks carried out by the reporting person shall be appropriate having regard to the nature and size of the business of the reporting person. Section 17(4) of the FIAMLA as amended by the Finance (Miscellaneous Provisions) Act 2018 requires every reporting person to document their risk assessment in writing, keep their risk assessment up to date and to make available, upon request the risk assessment to relevant competent authorities without delay. Section 17(1)(b) of the FIAMLA as amended by the AML/CFT Act, 2019 requires all reporting person to consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied.

20. Section 17A (2) of the FIAMLA as amended by the AML/CFT Act, 2019 provides that policies, controls and procedures established by are porting person to mitigate and manage ML/TF risks must be proportionate to the size and nature of the business and must be approved by its senior management. Section 17A(1)(b) of the FIAMLA as amended by the AML/CFT Act requires that reporting persons must monitor the implementation of, regularly review, update and where necessary, enhance the, policies, controls and procedures. Section 17C (3) of the FIAMLA and Regulation 12 of the Regulations 2018 require that when risks are higher a reporting person must conduct enhanced CDD measures.

21. Regulation 11 of the Regulations 2018 allows a reporting person to apply simplified CDD measures where lower risks have been identified. The simplified CDD measures must be commensurate with lower risk factors and in accordance with guidelines issued by supervisory authorities. Regulation 11(3) of the Regulations 2018 provides that simplified CDD measures can be taken where there is a suspicion of ML/TF.

Weighting and Conclusion

22. Mauritius has addressed all the deficiencies identified against R.1 in the MER.

Mauritius is re-rated Compliant with R. 1.

3.1.2. Recommendation 2- National cooperation and coordination (Originally rated PC – re-rated to C)

23. The main shortcomings under the MER related to: a) Mauritius does not have AML/CFT policies which are informed by identified ML/TF risks; and b) Mauritius does not have mechanisms for cooperation to fight the financing of the proliferation of weapons of mass destruction. In February 2018, R.2 was amended to ensure compatibility of AML/CFT requirements and date protection and privacy rules, and to promote domestic inter-agency information sharing among competent authorities.

24. Mauritius has a *National Strategy Combatting Money Laundering and the Financing of Terrorism and Proliferation 2019-2022* which sets out the approach which Mauritius adopts to tackle money laundering (ML), terrorist financing (TF) and proliferation financing (PF) threats over the next three years. The strategy is informed by the risks that Mauritius has identified and the gaps identified in the MER. The strategy has just been completed and, therefore, it is considered to be up-to-date. As per Section 19B of the FIAMLA, 2002, the National Committee for Anti-Money Laundering and Combating the Financing of Terrorism is mandated to regularly review and implement the strategy.

25. Mauritius established a National Committee for AML/CFT under s.19A of FIAMLA. Some of the functions of the Committee are to: (a) assess effectiveness of AML/CFT policies, (b) advise the Minister on legislative, regulatory and policy reforms in relation to AML/CFT and (c) promote coordination among the key stakeholders. Section 19B of the FIAMLA was amended by the Finance (Miscellaneous Provisions) Act 2018 to include combating the financing of proliferation in the mandate of the National Committee (see Section 27 of the Finance (Miscellaneous Provisions) Act 2018).

26. The FIAMLA and its subsequent amendment legislations have provisions, which are aimed at ensuring the compatibility of the AML/CFT requirements with its legal framework on the confidentiality and personal data protection under the Data Protection Act 2017 (Mauritius' data protection and privacy legislation) that came into force on 15 January 2018. [5] The Data Protection Act established the Data Protection

[5] The authorities indicated that Act was enacted to strengthen the control and personal autonomy of data subjects (individuals) over their personal data and be in line with current relevant international standards, in particular the European Union's General Data Protection

Office of Mauritius which is led by a commissioner and acts with complete independence impartiality (See Section 4). Data controllers/processors [6] are appointed within each competent authority in accordance with the Act. Section 14 provides that no person shall act as controller or processor unless he or it is registered with the Commissioner.

27. Under Section 21 of the Act, the data controllers/processors need to ensure that processing of personal data is lawful, fair, transparent, adequate, relevant, accurate, kept for as long as required and proportionate to the purposes for which it is being processed. The data controllers/processors regularly co-operate and co-ordinate with the Data Protection Office as per Section 5 of the Data Protection Act and the National Committee in terms of Section 19B of the FIAMLA that empowers the Committee to collect and analyse statistics and other information from competent authorities to assess the effectiveness of policies and measures to combat money laundering and the financing of terrorism and proliferation offences. The authorities indicated that the data controllers/processors cooperated with the National Committee throughout the NRA process and since July 2019, the Data Commissioner of the Office is co-opted as a member of the National Committee.

28. Under Section 28 [7] of the Data Protection Act, no data controller/processor is allowed to process personal data unless for compliance with any legal obligation[35] to

Regulation (GDPR) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as well as to promote the safe transfer of personal data to and from foreign jurisdictions, given the diversification, intensification and globalisation of data processing and personal data flows.

[6] Under Section 2 of the Act, a controller is defined as" a *person who or public body which, alone or jointly with others, determines the purposes and means of the processing of personal data and has decision making power with respect to the processing"* and a processor is *"a person who, or a public body which, processes personal data on behalf of a controller"*.

[7] The legal obligation under Section 28 of the Act includes:

- The duties in relation to sharing of information under the FIAMLA (e.g. Sections 11(2), 19E and 22(3));
- Section 64(3) of the Banking Act which has been amended in the Finance (Miscellaneous Provisions) Act 2018 to provide the conditions where the duty of confidentiality imposed on financial institutions may not apply;
- Section 54 of the Finance Act 2018 which amended Section 81 of the Prevention of Corruption Act to allow the Director General of the ICAC to disclose to, inter alia, the FIU such information as he considers necessary in the public interest; and
- Section 35 of the Finance Act 2018 which amended Section 154 of the Income Tax to allow the MRA to share information with FIU which could assist them in enriching their intelligence packages.

which the controller is subject. Otherwise, it is an offence and the data controllers/processors will be subjected to punishment as per Section 42 of the Act. In terms of Section 19D (5) of the FIAMLA, any person involved in conducting a risk assessment must sign a confidentiality undertaking and is prohibited disclose, or make use of, during and after the completion of the risk assessment exercise any confidential information relating to the risk assessment which comes to his knowledge. Otherwise, it is an offence and the person will be subjected to punishment as per Sections 19D (6) and 30 (1)(a) of the Act. The Director, every officer of the FIU, and the Chairperson and members of the Board of the FIU have similar duties and subject to punishment if there is violation as per Section 30 of the FIAMLA, 2002.

Weighting and Conclusion

29. Mauritius has addressed all the deficiencies identified against Rec. 2 in the MER. **Mauritius is re-rated Compliant with R. 2.**

3.1.3. Recommendation 3-Money Laundering Offense (Originally rated LC – re-rated to C)

30. The main shortcomings identified under the MER related to: a) Mauritius does not criminalise the elements of TF in relation to the financing of a terrorist individual and terrorist organisation; and b) Illicit trafficking in stolen and other goods is not designated as a predicate offence of ML.

31. Section 4 of The Convention for the Suppression for the Financing of Terrorist Act as amended by the Finance Act 2019 criminalises TF including the collection or provision of funds to be used by a terrorist organization or a terrorist. The Criminal Code has also been amended by section 8 of the AML/CFT Act, 2019 to include a new offence criminalizing the illegal trafficking in stolen and other goods.

Weighting and Conclusion

32. Mauritius has addressed all the deficiencies identified against R. 3 in the MER. **Mauritius is re-rated Compliant with R. 3.**

3.1.4. Recommendation 4- Confiscation and provisional measures (Originally rated LC-re-rated to C)

33. The MER states that Mauritius does not have a legal provision that covers confiscation of instrumentalities.

34. Section 17 of the Asset Recovery Act by the AML/CFT Act has been amended to specifically provide for the confiscation of instrumentalities.

Weighting and Conclusion

35. Mauritius has addressed all the deficiencies identified against R. 4 in the MER. **Mauritius is re-rated Compliant with R. 4.**

3.1.5. Recommendation 5- Terrorist financing offence (Originally rated PC – re-rated to C)

36. The MER indicates a shortcoming that: a) Mauritius does not criminalise the provision of funds to and collection of funds for individual terrorists and terrorist organizations, when a terrorist act has not occurred; b) the legal framework for suppressing financing does not include the travel of individuals who travel to a State other than their States of residence or nationality.

37. Section 4 of The Convention for the Suppression for the Financing of Terrorist Act as amended by the Finance Act 2019 criminalises TF including the collection or provision of funds to be used by a terrorist organization or a terrorist. The Convention for the Suppression for the Financing of Terrorist Act has been amended in sections 2 and 4 by section 7 of AML/CFT Act to criminalize the financing of the travel of individuals who travel to a State other than their States of residence or nationality.

Weighting and Conclusion

38. Mauritius has addressed all the deficiencies identified against R. 5 in the MER. **Mauritius is re-rated Compliant with R. 5.**

3.1.6. Recommendation 6- Targeted Financial Sanctions related to Terrorism and TF (Originally rated NC – re-rated to C)

39. The main shortcomings identified under the MER are: a) Mauritius does not have the identification and designation mechanisms provided for in UNSCRs 1267/1989 and 1373; b) Incomplete definition of the notion of 'funds'; c) No general prohibition on making funds available to individuals and entities subject to financial sanctions; d)

Insufficient means of communication to financial institutions and designated non-financial businesses and professions; e) absence of protective measures for good faith third parties; f) absence of procedures (i) governing requests to the relevant United Nations Committee when a person fails to meet or no longer meets the designation criteria; (ii) relating to the designations and de-listings under UNSC Resolution 1373; and (iii) for communicating de-listings to the private sector.

40. A National Sanctions Committee has been established under section 4 of the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act (UNSA), 2019 and is responsible for proposing persons or entities to the 1267/1989 Committee for designation; and for proposing persons or entities to the 1988 Committee for designation (See sections 4, 5(1)(b), 16(1) of the Act). Pursuant to section 16(3) of UN Sanctions Act, the Committee directs the Secretary for Home Affairs to propose to the relevant United Nations Sanctions Committee, through the diplomatic channel, the name of a party which meets the listing criteria. "Listing criteria" is defined under Section 2 of the Act as *"the criteria, as defined in the relevant United Nations Security Council Resolution, which indicate that a party is eligible for listing on a United Nations Sanctions List."* Section 16(3) of the Act provides that it is only where there are reasonable grounds to believe that a party meets the relevant listing criteria, that the National Sanctions Committee shall direct the Secretary for Home Affairs to propose the name of that party to the relevant United Nations Sanctions Committee. A proposal for listing is not conditional upon the existence of a criminal proceeding (see section 16(4) of the UN Sanctions Act). Pursuant to section 16(5)(a)-(b) of the Act, Mauritius follows the procedures adopted by the relevant UN Committees and provide as much as information to the Committees in making a designation proposal.

41. The UNSA, 2019 sets out the procedures for designation compatible to those of UNSCR 1373. In accordance with Sections 5(1)(a), 9(1)-(2) and Section 10(4)-(5) of the Act, the National Sanctions Committee directs the Secretary for Home Affairs to declare, for the purposes of UNSCR 1373 or any other international obligations, a party as a designated party. Mauritius has mechanisms to identify targets for designation based on the designation criteria set out in UNSCR 1373 as set out in Sections 9 and 10 of the Act. With regard to designations based on requests from other countries, in terms of Section 10 of the Act, the Ministry responsible for the subject of foreign affairs immediately submit the request to the National Sanctions Secretariat for a determination by the National Sanctions Committee as to whether there are reasonable grounds to declare the party as a designated party under this Act. Where the National Sanctions Committee

determines that there are reasonable grounds to declare a party as a designated party under this section, it shall direct the Secretary for Home Affairs to immediately declare the party as a designated party and the Secretary immediately declares that party as a designated party. In terms of Section 10(6) of the same Act, 2019, where the Secretary for Home Affairs submits a request for designation and freezing of funds or other assets to another country, he must provide in the request as much identifying information, and specific information supporting the designation, as available.

42. In submitting their designation requests, the Mauritian authorities should identify information and facts, which form a basis of their requests and have reasonable grounds to assume persons/entities, either in designation process initiated by the country's own motion or foreign initiatives, are terrorists or terrorist organisation as per sections 9(3), 10(7) and 16(4) of the UNSA (See also above) and the designations operate *ex parte* in terms of sections 9(3), 10(7) and 16(4) of the Act.

43. Sections 11(1-2), 18(1-2), and 23 of the UNSA require that the freezing of assets of designated persons or entities and the changes thereto must be carried out "*immediately*". "Immediately" is defined in Section 2 of the Act as *"without delay and not later than 24 hours."* Under Sections 11(1) and 18(1) of UNSA, the National Sanctions Secretariat is mandated to immediately give public notice, in such manner as the National Sanctions Committee may determine, of the United Nations Sanctions Lists or a declaration made at a domestic level and any changes thereto including any delisting therefrom and direct FIU to immediately disseminate the United Nations Sanctions or declaration Lists and any changes thereto, including any delisting therefrom, to the supervisory authorities, the investigatory authorities, the reporting persons and any other relevant public or private agency. For the purpose of Section 18, the National Sanctions Secretariat should, on a daily basis, monitor the United Nations Sanctions Lists (See Section 18(3)).

44. Under Sections 23, 24 and 26 of the UNSA, Mauritius has broadly the legal authority and procedures in place and has identified domestic competent authorities responsible for implementing and enforcing targeted financial sanctions. The freezing order under 1267 and 1373 List takes place immediately after the FIU disseminates the List to the competent authorities, the reporting persons and any other private agency based on the direction given by the National Sanctions Secretariat. To implement relevant UNSCRs 1267/1989, 1988 and 1373, Section 23 of UNSA prohibit any person from performing any dealing of funds or other assets with any designated or listed party. These prohibitions apply to all natural and legal persons and the term "party"

under Section 2 of the Act includes an individual, a group, an undertaking or an entity. The definition of "fund or other assets" is broad as defined under Section 2 of the Act. The comprehensive prohibitions on any transaction involving such fund or other assets effectively meet the definition of "freeze" accounting to the FATF Methodology, as they prohibit the transfer, conversion, disposition, or movement of any funds or other assets that are owned or controlled by designated or listed parties. Since it also requires any person to immediately refrain from performing any action, the "freeze" applies without delay and without prior notice. In terms of Section 18(2) of UNSA, where dissemination is made under Section 18(1), sections 23 and 24 will apply immediately. Thus, the obligation to freeze assets required under c6.1 automatically has legal effect in Mauritius upon designation at the UN.

45. In terms of Section 23 (1)(a) -(d) of UNSA, the obligation to freeze extends to all funds or other assets as per the requirements of Criterion 6.5 (b). The prohibitions in Section 24 of UNSA broadly cover the prohibition of making any other funds or assets, or financial or related services, available to designated or listed parties.

46. Pursuant to sections 11(1) and 18(1) of UNSA, the National Sanctions Secretariat is responsible for publishing in a public notice the Declaration made by the Secretary of Home Affairs and UN Sanctions List in such manner as the National Sanctions Committee may determine. While this method of communicating the designation is not directly to the financial institutions or DNFBPs, it is a public notice to all persons residing in Mauritius. The public notice for the types of lists is given immediately upon the declaration by the Secretary for UNSCR 1373 or the decision made by the relevant UN sanction Committee for the purposes of UNSCR 1267 and successive resolutions. The FIU also disseminates the relevant stakeholders and reporting persons based on the direction given by the Secretariat. As per Sections 18(2) and 22(2) of UNSA, where the name of a designated or listed party is removed from the relevant Declaration by the Secretary for Home Affairs or United Nations Sanctions List respectively, any freezing order or prohibition under the Act shall immediately cease to apply. In terms of Section 40(1) of UNSA, a supervisory authority may, after consultation with the National Sanctions Committee, develop such rules and guidance and disseminate such other relevant information as may be necessary for the purposes of the Act.

47. Section 23(4) of the UN Sanctions Act requires any person who holds, controls or has in custody or possession any funds or other assets of (including attempted transactions) a designated party or listed party to immediately notify the National Sanctions Secretariat. In addition, Section 25 of the Act requires every reporting person

to identify any funds or other assets owned by a designated or listed party and to report same to the National Sanctions Secretariat. The rights of bona fide third parties are protected under Sections 28 and 29 of UNSA.

48. Mauritius has publicly known procedure for submitting de-listing requests to the UNSC, either directly to the UN Office of the Ombudsperson or the Focal Point as the case may be or via Mauritius (sections 19-20 of UNSA). It also has legal authorities and procedures provide for the mechanisms to delist and unfreeze the funds or other assets of parties designated pursuant to UNSCR 1373, that no longer meet the criteria for designation (see Sections 14(2)-(3) and 34 of UNSA). As per Section 15 of UNSA, a designated party may make an application to the Supreme Court for a judicial review of the declaration. In terms of Section 33(7) of UNSA, an individual claiming to have been subjected to prohibition measures as a result of false or mistaken identification or confusion with individuals included on the ISIL (Da'esh) and Al-Qaida Sanctions List may, through the Focal Point, transmit a communication to this effect for consideration by the ISIL (Da'esh) and Al-Qaida Sanctions Committee.

49. Sections 27, 30 and 31 of provide for the procedures that authorise the access to frozen funds or other assets (under UN Resolutions 1267 and 1373) which have been determined to be necessary for basic expenses, for the payment of certain fees.

Weighting and Conclusion

50. Mauritius has addressed all the deficiencies identified against R.6 in the MER.
Mauritius is re-rated Compliant with R. 6.

3.1.7. Recommendation 7- Targeted Financial Sanctions related to proliferation **(Originally rated NC – re-rated to C)**

51. The main shortcoming identified under the MER is that there were no frameworks for implementation of targeted financial sanctions relating to the prevention suppression and disruption of proliferation of mass weapons of mass destruction and its financing.

52. Mauritius has passed the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act (UNSA 2019) which provides for the prevention and suppression of financing the proliferation of weapons of mass destruction. The term "United Nations Sanctions Lists" is defined in Section 2 and Schedule 2 of UNSA and

includes UNSCRs 1718 (2006) and their successor resolutions, 1737 (2006) and 2231(2015).

53. Under Section 18(1) of UNSA, the National Sanctions Secretariat is mandated to immediately give public notice, in such manner as the National Sanctions Committee may determine, of the United Nations Sanctions Lists and any changes thereto including any delisting therefrom and direct FIU to immediately disseminate the United Nations Sanctions List and any changes thereto, including any delisting therefrom, to the supervisory authorities, the investigatory authorities, the reporting persons and any other relevant public or private agency. For the purpose of Section 18, the National Sanctions Secretariat should, on a daily basis, monitor the United Nations Sanctions Lists (See Section 18(3)).

54. Under Sections 23, 24 and 26 of the UNSA, Mauritius has broadly the legal authority and procedures in place and has identified domestic competent authorities responsible for implementing and enforcing targeted financial sanctions. Under Sections 23, 24 and 26 of the UNSA, the freezing order under the relevant UNSC Resolutions List under Recommendation 7[8] takes place immediately after the FIU disseminates the List to the competent authorities, the reporting persons and any other private agency based on the direction given by the National Sanctions Secretariat. To implement the UNSC Resolutions, Section 23 of UNSA prohibit any person from performing any dealing of funds or other assets with any designated or listed party. These prohibitions apply to all natural and legal persons and the term "party" under Section 2 of the Act includes an individual, a group, an undertaking or an entity. The definition of "fund or other assets" is broad as defined under Section 2 of the Act. The comprehensive prohibitions on any transaction involving such fund or other assets effectively meet the definition of "freeze" accounting to the FATF Methodology, as they prohibit the transfer, conversion, disposition, or movement of any funds or other assets that are owned or controlled by

[8.] Recommendation 7 is applicable to all current UNSCRs applying targeted financial sanctions relating to the financing of proliferation of weapons of mass destruction, any future successor resolutions, and any future UNSCRs which impose targeted financial sanctions in the context of the financing of proliferation of weapons of mass destruction. At the time of issuance of the FATF Standards to which this Methodology corresponds (June 2017), the UNSCRs applying targeted financial sanctions relating to the financing of proliferation of weapons of mass destruction are: UNSCR 1718(2006) on DPRK and its successor resolutions 1874(2009), 2087(2013), 2094(2013), 2270(2016), 2321(2016) and 2356(2017). UNSCR 2231(2015), endorsing the Joint Comprehensive Plan of Action (JCPOA), terminated all provisions of UNSCRs relating to Iran and proliferation financing, including 1737(2006), 1747(2007), 1803(2008) and 1929(2010), but established specific restrictions including targeted financial sanctions. This lifts sanctions as part of a step by step approach with reciprocal commitments endorsed by the Security Council. Implementation day of the JCPOA was on 16 January 2016.

designated or listed parties. Since it also requires any person to immediately refrain from performing any action, the "freeze" applies without delay and without prior notice. In terms of Section 18(2) of UNSA, where dissemination is made under Section 18(1), sections 23 and 24 will apply immediately. Thus, the obligation to freeze assets required under c7.1 automatically has legal effect in Mauritius upon designation at the UN.

55. In terms of Section 23 (1)(a) -(d) of UNSA, the obligation to freeze extends to all funds or other assets as per the requirements of Criterion 7.2 (b). The prohibitions in Section 24 of UNSA broadly cover the prohibition of making any other funds or assets, or financial or related services, available to designated or listed parties.

56. Pursuant to sections 11(1) and 18(1) of UNSA, the National Sanctions Secretariat is responsible for publishing in a public notice the Declaration made by the Secretary of Home Affairs and UN Sanctions List in such manner as the National Sanctions Committee may determine. While this method of communicating the designation is not directly to the financial institutions or DNFBPs, it is a public notice to all persons residing in Mauritius. The public notice for the types of lists is given immediately upon the decision to be made by the relevant UN sanction Committee for the purposes of the relevant UNSCRs under FATF Recommendation 7. The FIU also disseminates the relevant stakeholders and reporting persons based on the direction given by the Secretariat. As per Sections 18(2) and 22(2) of UNSA, where the name of a designated or listed party is removed from the relevant Declaration by the Secretary for Home Affairs or United Nations Sanctions List respectively, any freezing order or prohibition under the Act shall immediately cease to apply. In terms of Section 40(1) of UNSA, a supervisory authority may, after consultation with the National Sanctions Committee, develop such rules and guidance and disseminate such other relevant information as may be necessary for the purposes of the Act. Section 23(4) of the UN Sanctions Act requires any person who holds, controls or has in custody or possession any funds or other assets of (including attempted transactions) a designated party or listed party to immediately notify the National Sanctions Secretariat. In addition, Section 25 of the Act requires every reporting person to identify any funds or other assets owned by a designated or listed party and to report same to the National Sanctions Secretariat. The rights of bona fide third parties are protected under Sections 28 and 29 of UNSA.

57. Section 40(2) of the UN Sanctions Act provides that a supervisory authority shall supervise and enforce compliance by reporting persons over whom they exercise supervisory control or oversight with the requirements imposed under the UN

Sanctions Act. Section 40(3) of the UN Sanctions Act, provides that in case of non-compliance with the Act, the supervisory authority may take, against the reporting person, any action which it may be empowered to take under the relevant enactments. In the FIAMLA, a new section 19G was included which requires regulatory body to supervise and monitor DNFBPs under its purview for compliance with the UNSA. Section 19H further vests on regulatory bodies powers to effectively discharge its functions including giving directions, issuing private warning, public censure, imposing administrative penalties, banning from conducting profession or business for a period not exceeding 5 years and revoking or cancelling a licence, an approval or an authorization. Section 14 of the Law Practitioners Act has been amended by adding the following new subsection –*(4) Where a barrister, an attorney or a notary has failed or is failing to comply with, or has failed or is failing to take such measures as are required under the Financial Intelligence and Anti-Money Laundering Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, the Court may, in addition to its powers under subsection (3)* –

(a) issue a warning;

(b) impose such penalty as it may determine.

Pursuant to section 14(3) of the Law Practitioners Act, the Court may –

(a) suspend the law practitioner for such period as it thinks fit;

(b) order that the name of the law practitioner be erased from the Roll; or

(c) make such other order as it thinks fit.

58. Mauritius has publicly known procedure for submitting de-listing requests to the UNSC, either directly to the UN Office of the Focal Point as the case may be or via Mauritius (sections 19-20 of UNSA). It also has legal authorities and procedures provide for the mechanisms to delist and unfreeze the funds or other assets of parties designated pursuant to the relevant UNSCRs under Recommendation 7, that no longer meet the criteria for designation (see Sections 14(2)-(3) and 34 of UNSA). In terms of Section 33(7) of UNSA, an individual claiming to have been subjected to prohibition measures as a result of false or mistaken identification or confusion with individuals included on the Sanctions List may, through the Focal Point, transmit a communication to this effect for consideration by the relevant UN Sanctions Committee.

59. Sections 27, 30 and 31 of provide for the procedures that authorise the access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain fees.

60. Section 23(2) of the UNSA 2019 permits the relevant additions to accounts subject to the probation to deal with funds or other assets of a listed party. Section 23(3) of UNSA provides: *Where a party is listed pursuant to UNSCR 1737 and the listing continues pursuant to UNSCR 2231, or is listed pursuant to UNSCR 2231, the National Sanctions Committee may authorize the listed party to make any payment due under a contract, an agreement or an obligation, provided that the National Sanctions Committee –*

(a) is satisfied that the contract, agreement or obligation was entered prior to the listing of such party;
(b) is satisfied that the contract, agreement or obligation is not related to any of the prohibited items, materials, equipment, goods, technologies, assistance, training, financial assistance, investment, brokering or services referred to in UNSCR 2231 and any future successor resolutions;
(c) is satisfied that the payment is not directly or indirectly received from, or made to, a person or entity subject to the measures in paragraph 6 of Annex B to UNSCR 2231; and
(d) has, 10 working days prior to such authorization, notified the United Nations Sanctions Committee of its intention to authorize such payment.

Weighting and Conclusion

61. Mauritius has addressed all the deficiencies identified against Rec. 7. **Mauritius is re-rated Compliant with R. 7.**

3.1.8. Recommendation 10- Customer due Diligence (Re-rated under the 1st FUR from the original rating NC to LC – re-rated to C)

62. Under the First FUR, it was concluded that Mauritius had addressed all the deficiencies identified against Rec. 10 in the MER except the identified deficiencies under Criterions 10.2(c) and 10.10(c).

63. Section 17C of the FIAMLA (as amended by the Finance (Miscellaneous Provisions) Act 2018) has been amended by section 10 (j)(i)(B) of the AML/CFT Act to remove the statutory threshold 500, 000 Mauritius Rupees (equivalent to USD 14,368.02) for occasional wire transfers under the previous act. Under the First FUR of Mauritius, it was found that the requirement under C10.10 (c) is not fulfilled as the FIAMLA Regulations, 2018 requires FIs to identify natural persons holding senior management position only when the requirements under 10.1(a) and (b) are not fulfilled cumulatively (i.e. connected by 'and') instead of alternatively as required under the standard (i.e.

connected by 'or'). This issue has been addressed by amending Regulation 6(1)(c) of the Regulations 2018 through Section 19(c) of the AML/CFT Act 2019.

Weighting and Conclusion

64. Mauritius has addressed all the deficiencies identified against R. 10 in the MER. **Mauritius is re-rated Compliant with R. 10.**

3.1.9. Recommendation 15- New technologies[9] *(Re-rated under the 1st FUR from the original rating NC to PC – re-rated to C)*

65. Under the First FUR, the reviewers concluded that the deficiencies against c.15.2 were addressed. However, the deficiencies against c.15.1 in relation to identifying and assessing ML/TF risk that may arise on new products and technologies both at a country and FI level remained outstanding.

66. At country level, Section 17(3) of FIAMLA has been amended by section 10(h)(iii) of the AML/CFT Act 2019 to require supervisory authorities also to identify and assess the ML/TF risks that may arise in relation to new or developing technologies. The NRA has been completed and the vulnerabilities associated with Emerging and New Products /services in relation to internet banking, mobile banking and prepaid cards has been undertaken on the Banking industry. Under the 2019 NRA, it is highlighted that while it is recognised that the use of FINTECH products and services such as Bitcoins, block chain and crowdfunding are being widely used internationally, the impact of these products and services on the Mauritian economy is yet to be assessed. The authorities indicated that the FSC is currently undertaking a risk assessment pertaining to inherent vulnerabilities associated with the Custodian Services (Digital Asset) which is work in progress. It is expected that the risk assessment will be completed by end of August 2019 though the risk is deemed to be low. Nevertheless, the BoM has, since December 2013, cautioned members of the public to exercise utmost care and diligence when dealing with virtual currencies which were unregulated products in view of the risks involved. The anonymous use of the virtual currencies could be misused for criminal activities, including money laundering. In August 2017, the BoM has, through a Communiqué, reiterated its concern regarding the use of cryptocurrencies. In September

[9] In June 2019, the FATF revised R.15 to require countries to apply preventive and other measures to virtual asset service providers and virtual asset activity. This review does not assess compliance with revised R.15 because, as at the review period, the FATF had not yet revised its assessment Methodology accordingly. *Mauritius* will be reviewed for technical compliance with revised R.15 in due course.

2018, the FSC issued Guidance Note on the recognition of digital assets as an asset-class for investment by sophisticated and expert investors and in February 2019, the Financial Services (Custodian Services (digital asset)) Rules 2019 were thereafter promulgated and prohibits any person from carrying out custody services for digital asset in Mauritius without a Custodian Services (digital asset) license issued by the FSC.

67. At institutional level, Section 17(3) of the FIAMLA (as amended) and Regulation 19(1) of the FIAML Regulations require FIs to identify and assess ML/TF risks posed by new products, business practices and technologies. Section 53A of the Banking Act (as amended) requires financial institution to identify and the assessment of ML/TF risks posed by new services, methods and technologies. As highlighted under Paragraph 243 of the 2018 MER, all banks, FIs and MCs interviewed informed the assessors during the on-site visit that before introducing a new financial service/product, delivery method or technology, they normally conduct a product risk assessment that includes ML/TF risk factors, and determine the controls needed to mitigate any identified risk. This was further confirmed by the supervisors.

Weighting and Conclusion

68. Mauritius has addressed all the deficiencies identified against R. 15 in the MER. **Mauritius is re-rated Compliant with R. 15.**

3.1.10. Recommendation 16- Wire transfers (Re-rated under the 1st FUR from the original rating NC to LC – re-rated to C)

69. Under the first FUR, the reviewers concluded that Mauritius had addressed all the deficiencies identified against Rec. 16 in the MER except the identified deficiencies under Criterion 16.18.

70. Sections 23, 24 and 26 of the UNSA provide for (i) prohibition to deal with funds or other assets of designated party or listed party, (ii) prohibition to make funds or other assets of designated party or listed party available and (iii) freezing orders of funds or other assets of designated party or listed party (See Recommendation 6). Pursuant to section 2 of the Act, "deal" includes transferring and "freezing order" includes an order to transfer.

Weighting and Conclusion

71. Mauritius has addressed all the deficiencies identified against R. 16 in the MER. **Mauritius is re-rated Compliant with R. 16.**

3.1.11. Recommendation 19- High-risk Countries (Originally rated PC – re-rated to C)

72. The main shortcoming identified in the MER includes: no legal requirement or operational mechanisms indicating that Mauritius applies countermeasures proportional to the risks when called upon by FATF or independent of any call by the FATF.

73. Section 17H (2) of the FIAMLA as amended by the AML/CFT Act 2019 and Regulation 24(3) of the FIAMLA Regulations 2018 require reporting persons to apply enhanced CDD when this is called for by the FATF. Section 17H (3) of the FIAMLA as amended by the AML/CFT Act and Regulation 24 of the Regulations 2018 allows Mauritius through the Minister of Financial Services and Good Governance to apply counter measures proportionate to the risks (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.

Weighting and Conclusion

74. Mauritius has addressed all the deficiencies identified against R. 19 in the MER. **Mauritius is re-rated Compliant with R. 19.**

3.1.12 Recommendation 21- Tipping Off and Confidentiality (Originally rated NC- re-rated to C)

75. The main shortcoming identified in the MER includes: a) Non-compliance with the provision which prohibits disclosure becomes an offence only if the disclosure is made to some other person apart from the owner; and b) the provision which prohibits disclosure does not include directors.

76. Section 14C of FIAMLA as amended by the AML/CFT Act 2019 widens the scope of the tipping off offence to cover disclosures made to any person by requiring all reporting persons and its officers, i.e. its director, employee, agent or other legal representative, not to disclose that an STR or related information is being filed with the Financial Intelligence Unit. A new provision under Section 16 of the FIAMLA (section 16(3)) has been added by the AML/CFT Act 2019 to ensure that the requirements in relation to tipping off do not inhibit the sharing of information within reporting persons or at group level provided that adequate safeguards regarding confidentiality and use of information are in place within the group.

Weighting and Conclusion

77. Mauritius has addressed all the deficiencies identified against R. 21 in the MER. **Mauritius is re-rated Compliant with R. 21.**

3.1.13 Recommendation 22- DNFBPs: Customer due diligence (Re-rated under the 1st FUR from the original rating NC to LC – re-rated to C)

78. Under the first FUR, it was concluded that Mauritius has fully addressed the identified deficiencies against Criterions 22.2, 22.3 and 22.5, mostly addressed the deficiencies against Criterions 22.1 and partially addressed the deficiencies against Criterion 22.4.

79. See the analyses for Recommendations 10 and 15 which also apply to DNFBPs.

Weighting and Conclusion

80. Mauritius has addressed all the deficiencies identified against R. 22 in the MER. **Mauritius is re-rated Compliant with R. 22.**

3.1.14. Recommendation 23- DNFBPs: Other measures *(Originally rated NC- re-rated to C)*

81. The limits identified in the MER include: a) no obligation in enforceable means to comply with internal control requirements set out in Rec 18; b) no obligation in enforceable means to comply with higher risk requirements set out in Rec 19; and c) inadequate legal provisions in relation to tipping off and confidentiality requirements as set out in Rec 21.

82. Regulation 22(1) of the FIAML Regulation requires DNFPBs to have in place internal procedures, policies and controls, including (a) the appointment of a compliance officer, (b) screening procedures for hiring employees; (c) ongoing training of employees and (d) having in place an independent audit function. Regulation 23 of the FIAML Regulations, 2018 provides for the framework in law to meet the requirements of Criterions 18.2-3. See the analyses made for recommendations 19 and 21, which also apply for DNFBPs.

Weighting and Conclusion

83. Mauritius has addressed all the deficiencies identified against R. 23 in the MER. **Mauritius is re-rated Compliant with R. 23.**

3.1.15. Recommendation 24-Transparency and beneficial ownership of legal persons **(Originally rated NC- re-rated to PC)**

84. The limits identified in the MER include: a) ML/TF risks posed by legal persons have not been assessed; b) except for institutions under FSC, there is no provision in law or other enforceable means which requires companies, FIs, DNFBPs and company registry to obtain information on beneficial ownership; c) no legal requirement to ensure the information on beneficial ownership is accurate and up-to-date.

85. The processes for obtaining and recording beneficial ownership [10] information are laid down in the company laws of Mauritius which are publicly available [11] .

86. Though Mauritius has already completed it NRA, the NRA does not cover the ML/TF risks associated with legal persons. The authorities indicated that they are in the process of finalising ML/TF risk assessment in relation to legal persons.

87. The Companies Act was amended in July 2017 to provide in Section 91(3)(a)(ii) that share registers maintained by companies shall state where the shares are held by a nominee, the names of the beneficial owners or ultimate beneficial owners. A new Section 41A was inserted in the Limited Liability Partnerships 2016 by the Finance (Miscellaneous Provisions) Act 2018 which requires every limited liability partnership to keep a register of partners at its registered office.

88. Where a partner is a nominee, the name of his of its beneficial owner or ultimate beneficial owner shall be disclosed in the register of partners. Section 29 of the Financial Services Act has been amended by the Finance (Miscellaneous Provisions) Act 2018 with the addition of a new subsection (4) which requires every licensee of the FSC to keep and maintain at all times a register of the beneficial owner of each of its customers and record such information as the FSC may determine. Section 36(1) of the Foundations Act

[10] As per Section 91(8) of the Companies Act and Section 41A(4) of the Limited Liability Partnerships 2016 Act (as amended by the Finance (Miscellaneous Provisions) Act 2018), Section 2 of the Foundations Act , "Beneficial owner" or "ultimate beneficial owner" is defined as a natural person who holds by himself or his nominee, a share or an interest in a share which entitles him to exercise not less than 25 per cent of the aggregate voting power exercisable at a meeting of shareholders. The FSC Code regards the beneficial owner as the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

[11] http://companies.govmu.org/

has been amended by the Finance (Miscellaneous Provisions) Act 2018 requiring all foundations to keep records of the name of the beneficial owner, if any, and where the beneficiary is a nominee, the name of the beneficial owner or ultimate beneficial owner.

89. Mauritius applies a a holistic approach, relying on several mechanisms, which involve institutions actively obtaining and verifying beneficial ownership information for the purposes of Criterion 24.6. Section 91(3A) of the Companies Act as amended by the Finance (Miscellaneous Provisions) Act 2018 provides that the information referred to in section 91(3)(a)(ii) should be lodged with the Registrar within 14 days from the date on which any entry or alteration is made to the share register. The same requirement is set for limited partnerships and foundations as per Section 39(1A) of the Limited Partnerships Act amended by the Finance (Miscellaneous Provisions) Act 2018 and Section 36(3) of the Foundations Act amended by the Finance (Miscellaneous Provisions) Act 2018 respectively. As per Section 29(4) of the Financial Service Act as amended by the Finance (Miscellaneous Provisions) Act 2018, the licensees are required to keep and maintain, at all times, a register of the beneficial owners of each of its customers and record such information as the FSC may determine. The authorities indicated that the FSC is in the process of developing the legal conditions to determine the duties of licensees on keeping and maintaining UBO information. FIs and DNFBPs are required to conduct ongoing monitoring of a business relationship including ensuring that documents data or information collected under the CDD process are kept up to date and relevant (See Regulation 3(1)(c) and(e) and Regulation 6 of the FIAMLA Regulations 2018 and analysis on Recommendations 10, 11 and 22).

90. Criterion 24.7 follows the order of the approaches in c.24.6 above to hold accurate and up-to-date beneficial ownership information.

91. Section 17F of the FIAMLA requires all reporting persons to maintain books and records for a period of not less than 7 years from the date of the completion of the transaction. In addition, Section 91(3B) of the Companies Act requires companies to keep the share register of shareholders and beneficial owners for a period of at least 7 years from the date of the completion of the transaction, act or operation to which it relates.

92. The ICAC, FSC, the Police, the Mauritius Revenue Authority and the Enforcement Authority are empowered to apply to the Judge in Chambers for disclosure orders to obtain any information from a financial institution relating to the transactions and accounts of any person [64 (9) of Banking Act]. In addition, the ICAC

has powers to issue warrants to enter and search, at all reasonable times, premises or place of business and remove there from any document or material which may provide evidence relevant to an investigation being conducted by the Commission (s.52 of PoCA). Furthermore, the Mauritian Revenue Authority has the power to require information under section 123 of the Income Tax Act in respect of offences under the Revenue Laws (see also ss. 127A and 127B of the Customs Act). Lastly, the FSC has the power to request information under sections 42 and 44 of the Financial Services Act. As discussed under c.24.3 above, competent authorities can inspect documents at the company registry and obtain information for investigations. Section 14(11) of the Companies Act enables the Registrar to disclose beneficial ownership information to competent authorities for the purposes of an enquiry, investigation or any other matter.

93. In terms of Section 91(3)(a)(ii) of the Companies Act, Section 21 of the Limited Liability Partnership Act, Section 36(1)(e) of the Foundations Act and section 29 of the Financial Services Act, the different types of legal persons are required to maintain a share register which states where the shares are held by a nominee, the name of the beneficial owner or ultimate beneficial owner in alphabetical order and the last known addresses of the persons giving to the shareholder instructions to exercise a right in relation to a share either directly or through the agency of one or more persons.

94. As per Sections 17, 19, 19K, 19M, 19N and 19P of the FIAMLA amended by the AML/CFT Act 2019, CSPs are subject to criminal and administrative sanctions. A breach of the Regulations 2018 is also punishable under Regulation 33 of the FIAMLA Regulations 2018.

95. There are no written policies or procedures specifying that Mauritius should monitor the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad. As a temporary measure, the AGO has developed an excel database system to track incoming and outgoing MLA and Extradition requests. The authorities indicated that the database has the capacity to track international requests and the speed of which they are being responded to. The system also classifies its requests so that requests related to information on the beneficial owners of legal persons and arrangements can be specifically identified and independently tracked. The FSC has exchanged information through the MOUs with local and foreign counterparts on a regular basis including the IOSCO MMOU for the purpose of discharging its functions under section 87(1) of the FSA which also include sharing of information on beneficial ownership information. The FIU also monitors the

exchange of information as part of its approach to meeting EGMONT procedures and best practices.

Weighting and Conclusion

96. Mauritius has addressed the deficiencies identified against Criterions 24.1, 24.6, 24.7, 24.9, 24.10, 24.12, mostly addressed the deficiencies against Criterion 24.15 in the MER. However, the deficiencies against Criterions 24.2, 24.3, 24.4 and 24.8 remain outstanding. In view of the remaining moderate shortcomings, **Mauritius is re-rated Partially Compliant with R. 24.**

3.1.16. Recommendation 25-Transparency and beneficial ownership of legal arrangements (Originally rated PC- re-rated to PC)

97. The limits identified in the MER include: a) there is no requirement for trustees themselves (professional or otherwise) to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold; and b) there are legal restrictions on access to beneficial ownership information from trusts.

98. As per Section 5A of the FIAMLA as amended by the AML/CFT Act 2019 trustee of an express trust are required to disclose his status as a trustee to a reporting person when forming a business relationship or carrying out an occasional transaction in an amount equal to or above 500,000 rupees or an equivalent amount in foreign currency. The rating for R 9 was also upgraded to 'Compliant' under the first Follow Up report. Thus, the requirements under 25.4 are fulfilled.

99. Section 33 of the Trust Act has been amended to provide for the investigatory authority to apply directly to court for a disclosure or production order required for the purpose of any enquiry relating to, or trial into, a financial crime. Section 2 of the Trust Act was amended to broaden the scope to capture any serious offence. The term 'financial crime' has been defined and means: (a) an offence that involves fraud or dishonesty under this Act; or (b) an offence under the Financial Intelligence and Anti-Money Laundering Act, the Prevention of Terrorism Act, the Convention for the Suppression of the Financing of Terrorism Act, the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 and the Prevention of Terrorism. In the new sections of the relevant legislations (the Companies Act, the Limited Partnerships Act, the Limited Liability Partnerships Act, the Foundations Act), the Registrar of Foundation has been empowered to request for BO information in case

of any investigation or enquiry to the appropriate authorities in the case of domestic legal arrangements. The FSC can also request and share information with a supervisory body or any other public sector agency relevant to the enforcement of the relevant Acts for the purpose of discharging the functions of that body under section 87(1) of the FSA which also include sharing of information on beneficial ownership information in relation to international trusts.

100. Section 29(4) of the FSA as amended by the Finance (Miscellaneous Provisions) Act 2018 requires financial institutions to keep and maintain a register of BO. This requirement also applies to qualified trustees where the qualified trustees are required to keep and maintain, at all times, a register of any trust under its administration or trusteeship. For financial institutions regulated by the FSC - section 83(6) of the FSA has been amended by the AML/CFT Act for investigatory authority to apply directly to court for a disclosure or production order required for the purposes of an enquiry. The scope has also been widened to capture any serious offence. For financial institutions regulated by the BOM – section 64(9) of the Banking Act provides that any competent authority, in or outside Mauritius, who requires any information from a financial institution relating to the transaction and accounts of any person may apply to a judge in chambers for an order of disclosure. For members of a relevant profession and occupation, section 19G (1) (c) of the FIAMLA provides that every regulatory body shall, for the purposes of FIAMLA and the UNSA, exchange information with investigatory authorities and supervisory authorities.

101. Section 33(4) of the Trust Act provides for the obligations of Mauritius to disclose information, including beneficial ownership information, on trusts under international treaty or convention or agreement and the obligations of any public sector agency under international agreement. However, this provision is limited to formal arrangements.

102. Section 83(6) of the FSA was revised to broaden the scope of offences for which information can be accessed on global business companies. Section 83(6) of the FSA was amended to remove the limitation for accessing information from the global business companies by law enforcement agencies. Information on companies will be disclosed through the Supreme Court without having to apply to the office of the DPP.

103. In terms of sections 53 and 90 of the FSA, trustees are administratively and/or criminally liable for any failure to perform the duties relevant to meeting their obligations and appropriate proportionate and dissuasive sanctions being applied. FSC

has a wide range of sanctions available to deal with failures to comply with AML/CFT requirements including the power to commence disciplinary proceedings, issue directions, and suspend licenses and revocation. The obligation to obtain adequate beneficiary information relating to a trust (as a customer) with their respective liability in case of non-compliance is now imposed on FIs and DNFBPs.

104. Regulation 14(3) of the FIAMLA Regulations requires reporting persons to ensure that all CDD information and transaction records are swiftly made available to the FIU or any regulatory body or supervisory authority or any other competent authority upon request. Failure to comply with the above regulation entails both criminal and administrative sanctions. See Regulation 33 of FIAML Regulations and section 18 of the FIAMLA.

Weighting and Conclusion

105. Mauritius has addressed all the deficiencies identified against R. 25 except the identified deficiencies against Criterions 25.1, 25.5b ***AND***, 25.6a in the MER. In view of the outstanding minor shortcomings, **Mauritius is re-rated Largely Compliant with R. 25**

3.1.17. Recommendation 28-Regulation and supervision of DNFBPs (Originally rated NC- re-rated to LC)

106. The limits identified in the MER include: a) supervisory authorities have not yet started carrying out monitoring DNFBPS for compliance; b) supervisory authorities have not developed and implemented risk-based AML/CTT supervision; and c) no specific provision in relation to inspections for AML/CFT purposes.

107. The Registrar of Companies is now the designated AML/CFT supervisor for CSPs which serve the domestic market. Trust Service Providers are regulated by the Financial Services Commission. The FIU is the designated Regulatory Body for Legal professionals (see part I and part II of the First Schedule of FIAMLA as amended by section 10(w) of the AML/CFT Act).

108. Section 18(3A) of FIAMLA states that a regulatory body shall supervise and enforce compliance by members of a relevant profession or occupation with AML/CFT requirements and the guidelines issued under section 10(2) (b) of the FIAMLA. In addition, a new Part IVB has been inserted in the FIAMLA by section 10 (q) of the

AML/CFT Act 2019, which *inter alia* sets out new functions and powers for DNFBP AML/CFT regulators.

109. The new Part IVB of the FIAMLA, entitled 'Supervision by Regulatory Bodies', in particular Sections 19G, 19H, 19J, 19K, 19L, 19N and 19P, now make provision for the powers of the designated AML/CFT DNFBP regulators. The Regulatory Bodies, as listed in the First Schedule of FIAMLA, now have the powers to supervise and enforce compliance by members of relevant professions or occupations falling under their purview with the AML/CFT requirements imposed under the FIAMLA and the UN Sanctions Act and any regulations or guidelines made thereunder. Among other things, the Regulatory Bodies have powers to:

i. issue guidelines for the purposes of combating money laundering, terrorism financing or proliferation financing activities;
ii. give directions to their member of a relevant profession or occupation;
iii. require their respective member to furnish any information and produce any records or documents;
iv. conduct on-site inspections at the business premises of their member to check whether the member is complying or has complied with the requirements under the FIAMLA and the UN Sanctions Act;
v. require their member to submit a report on corrective measures, at such intervals as may be required by the regulatory body;
vi. apply any or all of the following administrative sanctions-
    - issue a private warning;
    - issue a public censure;
    - impose such administrative penalty as may be specified by the regulatory body;
    - ban a person from conducting his profession or business for a maximum period of 5 years;
    - revoke or cancel a licence, approval or authorization, as the case may be.

110. Section 10(b) of FIAMLA also enables the FIU, as a DNFBP regulator to issue guidelines to members of relevant professions falling under its purview for the combatting of ML, TF and PF. The Financial Reporting Act was amended by the AML/CFT Act to provide for Section 23A which establishes an AML/CFT Monitoring Panel. This panel is responsible for reviewing, analysing and identifying any failure on the part of any licensed auditor to comply with the FIAMLA or the UN Sanctions Act as well as any associated regulations.

111. S.33(4)(b) of the Financial Reporting Act stipulates that anybody seeking to be licensed as an auditor must be a '*fit and proper* person' and the Application Form prescribes elements are used in order to determine whether or not a person is fit and proper. After the assessment, Mauritius has taken legal steps to regulate some of DNFBPs on market entry issues. The Registrar of Companies may only register a person as a CSP if the person is a fit and proper person. (Section 167A (2) (b) of the Companies Act). TSPs are licensed under section 18 of the FSA. Section 18(2) (e) of the FSA provides that the FSC shall not grant an application for a licence unless it is satisfied that the applicant and each of its controllers and beneficial owners are fit and proper persons to carry out the business for which a licence is sought. Section 48(1) of the Cooperatives Act 2016 provides that no person shall be eligible to serve as a director if he has been involved in an offence involving fraud, dishonesty, drug trafficking or financial malpractice, amongst others. Law firms, joint law firms, joint law ventures, foreign lawyers and law practitioners are required to meet fit and proper criteria (please refer to section 6(2)(b) of Law Practitioners Act which required that a prospective law practitioner must be of good character, Section 10C(2) requires every law firm to comprise at least one member who is a legal practitioner, Section 10G (2)(c) further requires. Regulation 22(1)(b) of the Regulations 2018 requires all reporting persons to implement programmes against ML/TF which includes having in place screening procedures to ensure high standards when hiring employees. As for the rest of the DNFBPs, there is no indication that authorities carry out measures to prevent criminals from being professionally accredited, or holding (or being a beneficial owner of) a significant/ controlling interest or holding a management position in a DNFBP though the gaming sector poses high risk and the jewelry and real estate medium high risk for ML in Mauritius in terms of the findings of the NRA. Section 19H, 19K(4) and (5), 19L, 19M, 19N and 19P of the FIAMLA as amended by the AML/CFT Act 2019 have sanctions available in line with Recommendation 35 to deal with failure to comply with AML/CFT requirements.

112. In accordance with Section 19D (4) of FIAMLA as amended by the Finance (Miscellaneous Provisions) Act 2018, every supervisory authority shall use the findings of the risk assessment to – assist in the allocation and prioritisation of resources to combat money laundering and terrorism financing; and ensure that appropriate measures are put into place in relevant sectors to mitigate the risks of money laundering and terrorism financing. Section 19K of the FIAMLA (as amended by the AML/CFT Act 2019) also provides that a regulatory body may, at any time, cause to be carried out an inspection on the business premises of a member of a relevant profession or occupation.

Weighting and Conclusion

113. Mauritius has addressed all the deficiencies identified against R. 28 in the MER except 28.1 and 28.4(b). Since the ratings for both Criterions 28.1 and 28.4 are mostly met under the MER, **Mauritius is re-rated Largely Compliant with R. 28.**

3.1.18. Recommendation 29-Financial Intelligence Units (Originally rated LC- re-rated to C)

114. The limit identified under the MER was powers of the FIU to request additional information is limited to FIs involved in the transactions.

115. Section 10 (d) (v) of the AML/CFT Act has amended Section 13 of FIAMLA by including new subsections (6) and (7) thereto to enable the FIU Director to request a reporting person to inform him whether a person is or has been a client of the reporting person; is acting or has acted on behalf of any client of the reporting person or whether a client of the reporting person is acting or has acted for a person.

116. Section 81(4) of the POCA has been amended by Section 54(d) of the Finance (Miscellaneous Provisions) Act 2018 to enable the Director General of the Independent Commission against Corruption to share information with the FIU. Section 154(2) of the Income Tax Act has been amended by Section 35(az) of the Finance (Miscellaneous Provisions) Act 2018 to enable the MRA, for the purposes of FIAMLA, to communicate to any person, including the FIU, any matter relating to the Income Tax Act. The FIU has, in May 2019, disseminated to relevant law enforcement and supervisory authorities a strategic report on drug trafficking. Additionally, the FIU also shared a strategic report on terrorism financing with the Counter-Terrorism Unit.

Weighting and Conclusion

117. Mauritius has addressed all the deficiencies identified against R. 29 in the MER. **Mauritius is re-rated Compliant with R. 29.**

3.1.19. Recommendation 32- Cash couriers (Originally rated PC – no re-rating)

118. The shortcoming identified under the MER relates to: a) the fact that false or non-declaration of currency or BNIs is not subject to confiscation; b) there are no mechanisms or arrangements in place with regard to currency or BNIs detected by the PIO in circumstances other than a targeted passenger; and c) no evidence to demonstrate how information of declaration exceeding threshold, or where there is falsely declared or involves ML/TF is retained to provide international cooperation.

119. Section 131A (3) (b) of the Customs Act provides that where a proper officer has reasonable cause to believe that a declaration made by a person under Section 131A (1) or (1A) is false or misleading in any material particular, such an officer may detain and search the person as provided for under Section 132 of the Customs Act.

120. The penalties under Section 131A (5) has been amended. Any person who fails or refuses to make a declaration or makes a declaration which is false or misleading, or refuses to answer questions shall commit an offence and be liable to a fine of not less than 20% of the whole amount, which is the subject-matter of the offence, but not exceeding Rs 2 million and imprisonment for a term not exceeding 5 years. In addition, section 131A (5A) enables the Director General to detain the amount of the currency and BNI or precious stones and metals or any goods of high value. Section 131A (5B) provides that where the court has convicted a person under subsection 5, the subject-matter of the offence may be confiscated. The sanctions appear to be dissuasive and proportionate.

121. Section 131A(4) of the Customs Act has been amended by Section 9(c) of the AML/CFT Act 2019 to provide that a proper officer of the MRA who reasonably suspects that the amount of currency or bearer negotiable instruments or precious stones and metals or any goods of high value may involve money laundering, financing of terrorism or any other criminal offence, he shall detain in an escrow account or in such manner as the Director General may determine, the amount of the currency or bearer negotiable instrument or precious stones. Section 131A(3) read together with Section 131A(4) as well as under Section 131A(5) read together with subsection (5A) make provision for currency or BNIs or precious stones and metals including gold, diamond and jewelry or any goods of high value including works of arts to be detained by Customs in these circumstances.

122. Though the authorities indicated that to formalize the arrangement between the law enforcement agencies and customs, a Memorandum of Understanding was signed in in August 2019, the Agreement does not include the PIO as one of the parties which is required under Criterion 32.7. Though the authorities indicated that the Customs Department has a Standard Operating Procedures Manual to facilitate both domestic and international cooperation, the Review Group found that the Procedures only cover domestic cooperation and information retention. Thus, the remaining deficiencies have not been sufficiently addressed.

Weighting and Conclusion

123. Mauritius has addressed the identified deficiencies against Criterions 32.5 and 32.8. It has not sufficiently addressed the remaining deficiencies against Criterions 32.7 and 32.9. Given Mauritius is an international financial centre and therefore, due to the importance of the remaining deficiencies, ***there is no rerating for Recommendation 32.***

3.1.20. Recommendation 33- Statistics (Originally rated PC – No rerating)

124. The shortcoming identified under the MER relates to: a) inconsistent statistics on disseminations made by the FIU and received by LEAs except ICAC; b) inadequate statistics maintained by the central authority in relation to MLA.

125. The authorities indicated that Statistics template provided by the ESAAMLG Secretariat in April 2019 has been disseminated to all competent authorities and is currently being used for keeping and maintaining the relevant statistics.

Weighting and Conclusion

126. This is ongoing and ***there is no rerating for Recommendation 33.***

3.1.21. Recommendation 35- Sanctions (Originally rated PC – rerated to C)

127. The shortcoming identified under the MER relates to: a) no sanctions for breach of requirements in relation to R.6; b) no sanctions for non-compliance with BoM Guidance Notes and Guidelines; and c) in relation to requirements under the FSC Code, the framework does not provide a direct link between obligations and sanctions.

128. Criminal and administrative sanctions are available for natural and legal persons that fail to comply with AML/CFT requirements in relation to Recommendation 6 and these sanctions are found to be proportionate and dissuasive (see section 40 of the UN Sanctions Act). With respect to the FSC Code, the FIAMLA Regulations 2018 now provides for preventive measures and there is thus a direct link between obligations and sanctions. The BOM's guidance notes are now enforceable means (see Section 18(2) of FIAMLA).

Weighting and Conclusion

129. Mauritius has addressed all the deficiencies identified against R. 35 in the MER. **Mauritius is re-rated Compliant with R. 35.**

IV. CONCLUSION

130. Mauritius has made significant overall progress in resolving the technical compliance shortcomings identified in its MER and ratings for 21 Recommendations have been revised. The jurisdiction has addressed the deficiencies in respect of Recommendations 1 (initially rated NC), 2 (initially rated PC), 3 (initially rated LC), 4 (initially rated LC), 5 (initially rated PC), 6 (initially rated NC), 7 (initially rated NC), 10 (initially rated LC), 15 (initially rated PC), 16 (initially rated LC), 19(initially rated PC), 21(initially rated PC), 22(initially rated LC), 23 (initially rated NC), 29 (initially rated

LC) and 35 (initially rated PC) and the reviewers recommend to upgrade the rating for each recommendation with Compliant (C). In relation to Recommendations 25 (initially rated PC) and 28 (initially rated NC), Reviewers recommend re-rating for the recommendations with Largely Compliance (LC).

131. Some steps have been taken to improve compliance with Recommendation 24 (initially rated NC). However, moderate shortcomings still remain. Therefore, it was agreed to re-rate it as PC.

132. Reviewers have also evaluated information provided in support of the request for re-rating of Recommendation 32 and 33 (both initially rated PC). However, while the steps taken to address the deficiencies have been noted, the information currently provided does not indicate that the country has made sufficient progress to warrant re-rating. On this basis, it was agreed that rating for these Recommendations should remain as it is.

133. Given the progress made since adoption of its MER, Mauritius' technical compliance with the FATF Recommendations has been revised as shown in the table below:

Table 2. Technical compliance following revision of ratings, September 2019

Recommendation	**R1**	**R2**	**R3**	**R4**	**R5**	**R6**	**R7**	**R10**	**R15**	**R16**	**R19**
Previous Rating	NC	PC	LC	LC	PC	NC	NC	LC	PC	LC	PC
Re-rated to	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**
	R21	**R22**	**R23**	**R24**	**R25**	**R28**	**R29**	**R32**	**R33**	**R35**	
Previous Rating	NC	LC	NC	NC	PC	NC	LC	PC	PC	PC	
Re-rated to	**C**	**C**	**C**	**PC**	**LC**	**LC**	**C**	**PC (No rerating)**	**PC (No rerating)**	**C**	

Note: Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

134. Mauritius will remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving and implementing its AML/CFT measures.

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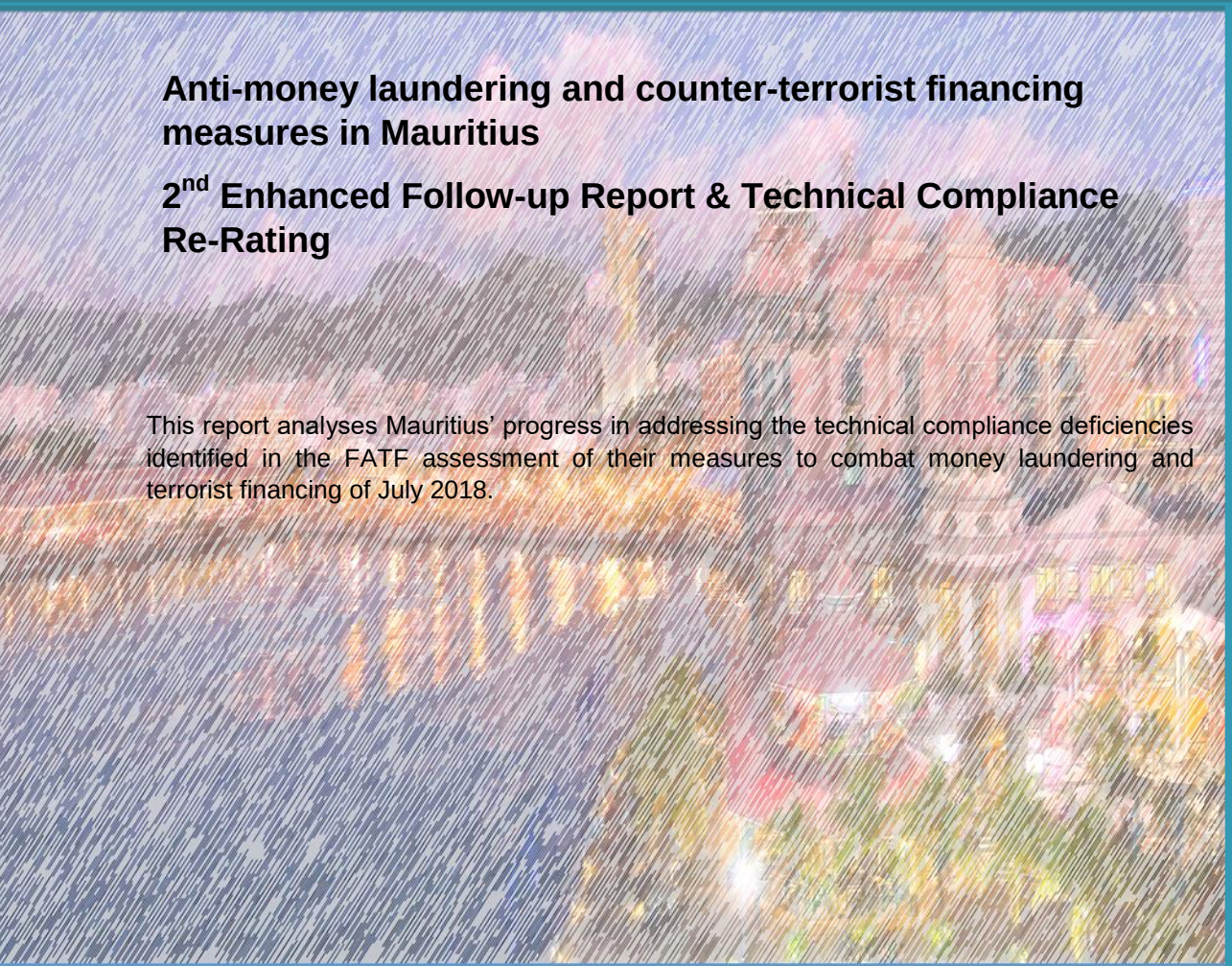
September 2019

Anti-money laundering and counter-terrorist financing measures in Mauritius

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



This report analyses Mauritius' progress in addressing the technical compliance deficiencies identified in the FATF assessment of their measures to combat money laundering and terrorist financing of July 2018.

Follow-up report