

ANTI-MONEY LAUNDERING/COMBATTING OF FINANCIAL TERRORISM (AML/CFT)

SUMMARY

Since the adoption of Mutual Evaluation Report (MER) in July 2018, Mauritius has addressed the technical compliance (TC) deficiencies identified in its MER.

This report summaries further progress made by Mauritius to improve its technical compliance by addressing additional TC deficiencies which was identified in the MER and then implementing the new requirements where the FATF standards have changed since the adoption of the 2nd Follow up report (FUR) (Recommendation. 15).

Progress has been made by Mauritius in addressing the TC deficiencies regarding to Recommendation (R) 26 and 32. In addition to that, Mauritius has been re-rated largely compliant with R.26 and R.32. But R.15 has been downgraded from Compliant (C) to Partially Compliant (PC) due to the fact that Mauritius has not addressed the new requirement concerning the Recommendation which were adopted by the FATF in October 2019.

Recommendation 26: Regulation and Supervision of Financial Institutions (Originally rated PC)

The Bank of Mauritius (BoM) and Financial Services Commission (FSC) have developed and are implementing AML/CFT risk-based supervision frameworks and in accordance with which the frequency and intensity of on-site and off-site AML/CFT supervision of Financial Institutions (FIS) are performed on a risk sensitive basis. These principles and procedures are recorded in the RBS AML/CFT User Manuel (BoM) and inspection Manual (FSC).

The framework includes the following:

- ✓ The Money Laundering / Terrorist Financing (ML/TF) risks
- ✓ National ML/TF risks as highlighted in the NRA Report
- ✓ The characteristics of the FIS or groups

Furthermore, BoM and FSC administer a questionnaire annually to the FIS to gather data such as products, delivery channels, customs, country risks, CDD status, transaction monitoring system which inform the institution's and group risk profile.

FIS licensed by BoM are compelled to implement group-wide AML/CFT programs and are subject to consolidated group supervision for AML/CFT purposes (S.64A and S. 64C (1) of the Banking Act). However, there are no legal or institution frameworks indicating that FSC applies consolidated group supervision for AML/CFT purposes on conglomerates that offer financial services. The establishment or continued operation of shell banks is restricted in Mauritius.

Further to that, BoM and FSC conducts a fit and proper test on beneficial owners which comprises checking the criminal record (S. 5 of the Banking Act and S.20 of the Financial Services Act).

Mauritius has made sufficient progress to address TC deficiencies identified in the MER. The supervisory authorities apply AML/CFT supervision of FIS on a risk sensitive basis. It comprises of the Foreign exchange

bureaus and MVTs providers. For the prevention of criminals, the authorities have proffered information that stipulates that the FSC performs background check on the criminal record of beneficial owners.

There is a deficiency regarding consolidated supervision. That is, BoM performs consolidated supervision for AML/CFT purposes however, it is not the case with FSC.

Recommendation 32: Cash Couriers (originally rated PC)

In the 2nd round, Mauritius was rated PC with 32. The problem was that false or non-declaration of currency or BNIs is not subject to confiscation. There are other deficiencies identified by the MER such as:

- absence of sanctions against false declarations and
- lack of coordination mechanisms or arrangements in place with regard to currency or BNIs.

This deficiency was assessed under Mauritius 2nd FUR and the result was that sanctions was introduced against false declarations. However, the information provided was not enough to warrant a re-rating. The MER found a deficiency regarding the requirement to retain false declarations to simplify international cooperation.

Amendments were introduced by Mauritius through the Finance (Miscellaneous provisions) Act 2018 which authorizes the customs authorities to detain currency or BNIs for a period of 6 months whenever they reasonably suspect ML and inform the FIU, Police and Independent Commission against Corruption (S.131A (4) of customs Act). If ever there is TF suspicion, the Customs Authorities detain the currency or BNIs and report to the police or other investigatory body. Moreover, Competent authorities have the power to stop the currency or BNIs whenever there is a false declaration to ascertain if ever there is evidence of ML or TF (Section 131 A (3) (b) of Customs Act). In case of reasonable suspicion, then it is required to detain the currency or BNIs.

Regarding absence of coordination, new information has not been provided since the 2nd FUR was adopted in September 2019 to justify reconsideration of c. 32.7. As per section 2 and 39 of the National Archives Act, all public bodies including the Mauritius Revenue Authority (Customs) are required to retain any written record and any other record conveying information by any other means. MRA (Customs) has to keep all written records as well as Currency Declaration Forms (CDF). As Sections 131 (A) (1A) of Customs Act declarations of currency and BNIs have to be sent to FIU. These declarations are uploaded on GoAML system of FIU and this information is available for sharing whenever there is a request.

According to Section 131 A (4), whenever there is a suspicion that ML and TF is involved, this data is sent to FIU, Police and ICAC. A custom officer has the power to detain and search a person whenever there is a reasonable suspicion. Under section 39 of the National Archives, all agencies have to keep relevant documents. Although there is no legal or institutional framework addressing this retention of declarations, Mauritius has to keep the retention of records which can support international cooperation.

Mauritius has made sufficient progress to address deficiencies identified in the MER. In addition to that, there are general provisions which necessitate competent bodies to retain information relating to currency/BNIs in order to facilitate international cooperation. Apart from submission of currency/BNIs declarations forms by the customs to the FIU, it is not clear that there is adequate coordination amongst customs, immigration and other related authorities on issues regarding implementation of R.32. This is categorized as a minor shortcoming.