

Action Plan
on addressing the Risks
emanating from
Legal Entities, Legal Arrangements,
and
Voluntary Organisations

National Coordinating Committee on Combating
Money Laundering and Funding of Terrorism

December 2019

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Acronyms used in this assessment

AML	Anti-Money Laundering
AMLU	Anti-Money Laundering Unit of the Malta Police Force
AGO	Office of the Attorney General
BO	Beneficial Owner
OCVO	Office of the Commissioner for Voluntary Organisations
CFT	Combating the Financing of Terrorism
CFP	Combating the Financing of Proliferation
EU	European Union
FATF	Financial Action Task Force
FCC	Financial Crime Compliance
FI	Financial Institution
FIAU	Financial Intelligence Analysis Unit
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
IIP	Malta Individual Investor Programme
MBR	Malta Business Registry
MFSA	Malta Financial Services Authority
MIIPA	Malta Individual Investor Programme Agency
ML	Money Laundering
MSB	Money Service Business
MLA	Mutual Legal Assistance
NCC	National Coordinating Committee on Combating Money Laundering and Terrorism Financing
NRA	National Risk Assessment
NPO	Non-Profit Organisations
PF	Proliferation Financing
STR	Suspicious Transaction Report
TFS	Targeted Financial Sanctions
VO	Voluntary Organisation

1. Introduction

The Financial Action Task Force (FATF)¹ requires that countries should take measures to prevent the misuse of legal persons for money laundering or terrorist financing. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system. In collaboration with other international stakeholders, the FATF also works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.

Risk assessment in the area of legal entities, legal arrangements and VOs is necessary, and this is especially so in view of the fact that these sectors do not represent a specific ‘sector’ of the economy, but rather they constitute the structures through which a nation’s economic activity is delivered. This is especially so when one takes into consideration the definitions as provided by FATF:

- Legal entities: any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, other corporate bodies, foundations, partnerships, or associations and other similar entities. This group excludes legal entities established for non-profit or social purposes (including purpose foundations and purpose associations) which are considered in voluntary organisations;
- Legal arrangements: refers to express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include fiducie, Treuhand and fideicomiso;
- Voluntary organisations: A legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of ‘good works’ (e.g. charities).

To this end, the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC) was established within the Ministry for Finance through Subsidiary Legislation S.L. 373.02, enacted on the 13th April 2018. The NCC is the governing body responsible for the general oversight of Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) policy. The NCC in 2018 led the exercise for the completion of thematic risk assessments, including for legal entities and arrangements. This sectoral risk assessment was a national effort and incorporated data and expertise from relevant authorities and the private sector. For competent authorities, the insights will help prioritise efforts and resources using a risk-based approach, while for the private sector, they will promote an understanding of the threats and vulnerabilities posed by each vehicle type and will allow for the development of proportionate and effective controls.

The risk assessment on legal entities, legal arrangements and VOs has been finalised and endorsed by the NCC board members in July 2019. The purpose of this risk assessment was to evaluate Malta’s ML/FT risk exposure through the lens of legal entities and arrangements, to

¹ The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering and counter-terrorist financing standard.

improve the understanding of the nature of these risks (e.g. typologies and patterns), and to identify measures that would strengthen the AML/CFT regime to mitigate such risks. Given that the FATF guidelines stipulate that an assessment of risk should result in clear and practical follow-up actions, this document represents the targeted action plan to mitigate the identified risks within this sectoral risk assessment. The NCC has consulted with all the relevant competent authorities for the finalization of this action plan, namely with the Financial Investigations and Analysis Unit (FIAU), the Malta Police Force (MPF); the Malta Financial Services Authority (MFSA); the Office of the Commissioner for Voluntary Organisations (OCVO); the Office of the Attorney General (AGO) and the Malta Business Registry (MBR).

It is to be noted that this document is to be presented together with a document outlining the key results of the sectoral risk assessment in which more detail is provided on the approach and methodology taken in assessing risks related to the legal actions, legal arrangements and VOs. The action plan presents a summarised view of the methodology and key findings of the risk assessment. In fact, prior to assessing briefly the key findings from the respective sectoral risk assessment, a brief insight of the Maltese economy is presented in order to highlight the importance of conducting a risk assessment on such entities. How this risk assessment was conducted is briefly presented in the third section. Subsequently, the key findings of this risk assessment follow, while the final section will present the action plans aimed at mitigating such risks.

2. The Maltese Economy

The FATF Recommendations do not predetermine any sector as higher risk. The standards identify sectors that may be vulnerable to ML/FT and indicate that the overall risk should be determined through an assessment of the sector at a national level. Different entities within a sector will pose higher or lower risk depending on a variety of factors including services, products, customers, geography, preventive measures and the strength of an entity's compliance program. Accordingly, this section assesses the landscape of legal entities and arrangements in Malta and the particular characteristics pertaining to this sector.

First of all, it should be noted that Malta has a mixed legal system in that it has its roots in the Civil Law, but has absorbed many features of Common Law. The Maltese legal framework provides for the establishment of the following legal persons: public liability companies; private limited liability companies; Societa Europea, European Economic Interest Groupings; Partnerships en nom collectif (unlimited liability) and Partnerships en Commandites (limited liability); as well as private foundations, purpose foundations and associations. With regard to legal arrangements, the Maltese legal framework provides for the establishment of trusts. The below table outlines the number of companies, foundations and associations registered in Malta as of spring 2018.

Table 1: Number of companies, foundations and associations

Year	2014	2015	2016	2017	2018
Public Limited Liability Company	422	477	523	555	555
Private Limited Liability Company	38,800	42,213	45,348	48,772	48,129
Societa Europea	6	7	7	7	7
European Economic Interest Grouping	30	34	40	40	41
Partnerships en Commandite	95	127	141	159	159
Partnerships en nom collectif	979	1,014	1,062	1,098	1,125
Private foundations	76	116	143	168	171
Purpose Foundations	168	194	228	264	268
Associations	68	80	93	110	113

Source: Mutual Evaluation Report, July 2019

In addition, as at 31st August 2018, there were 3,529 trusts under the administration of licensed trustees in Malta.² Furthermore, it should be noted that there are a large number of VOs operating in Malta. Up to September 2019, there were 1,813 organisations listed in the Registry of the Commissioner. An additional 36 organisations were still yet to be recorded in the Registry at the time of writing, thus leading to a total of 1,849 organisations. The majority of these organisations are small (over 1,000 have income below €20,000 per annum), but there are also a number that handle significant sums of money (~50 have annual income above €200,000).

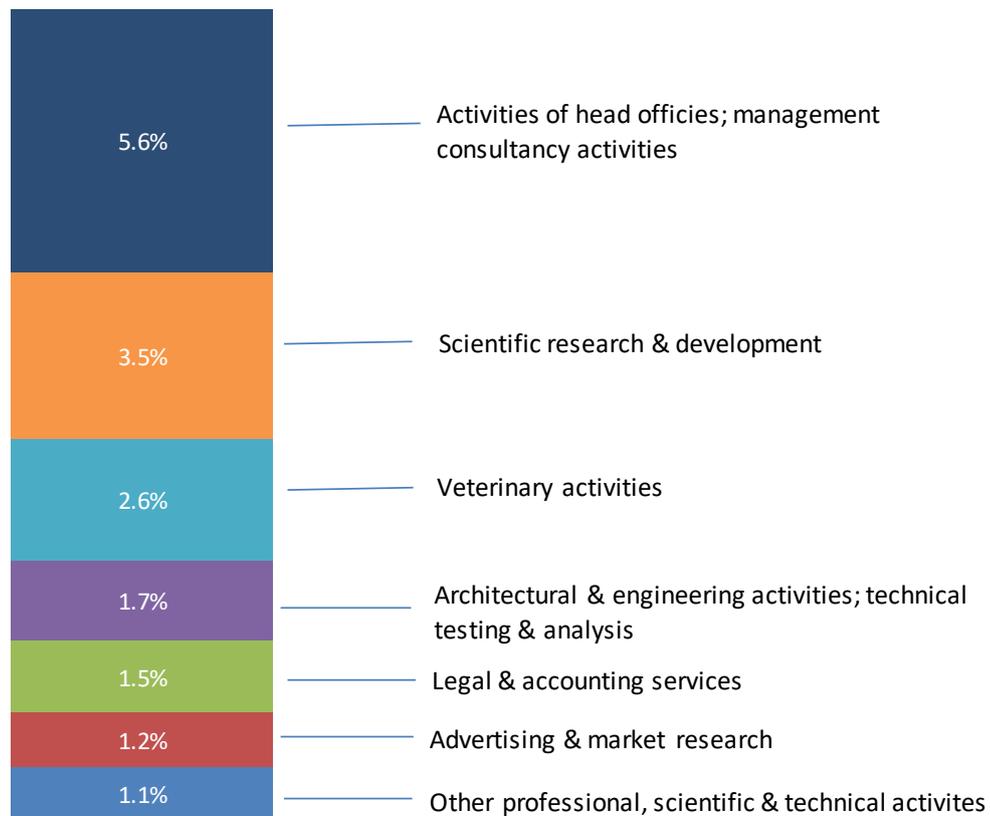
Data from the National Statistics Office shows that in line with administrative data provided by Jobsplus in Malta, in December 2018, registered full-time employment in the Professional, Scientific and Technical Activities category increased by 17.1 per cent over the corresponding 2018 period. This category is made up of employment in the following categories:

- Legal and accounting services
- Activities of head offices; management consultancy activities
- Architectural and engineering activities; technical testing and analysis
- Scientific research and development
- Advertising and market research
- Other professional, scientific and technical activities
- Veterinary activities.

Figure 1 shows the contribution increase by each of the category and according to this figure, 1.5 per cent of the increase in the Professional, Scientific and Technical activities in 2018 over 2017 is attributable to the Legal and Accounting Services sub-category.

² Mutual Evaluation Report, July 2019

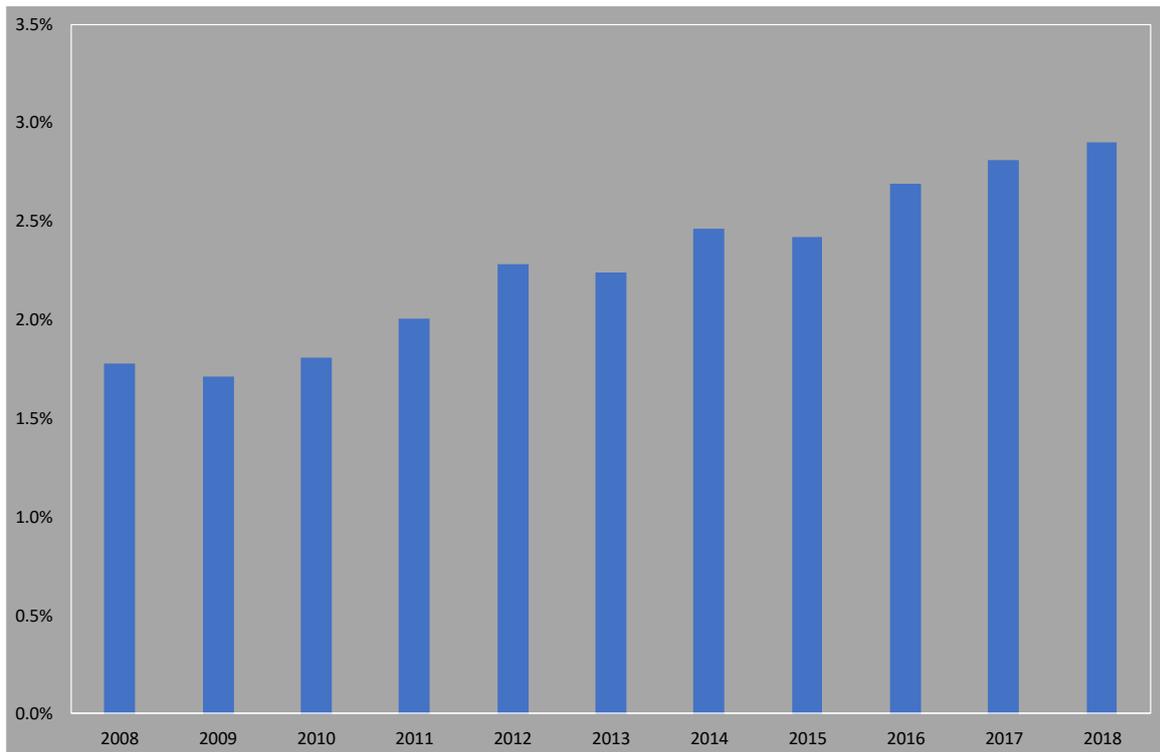
Figure 1: The contributing growth in the 2018/2017 increase in the Professional, Scientific and Technical Activities (%)



Source: National Statistics Office

In December 2018, full-time employment in the Legal and Accounting Services sub-category increased by 375 persons, an increase of 9.6 per cent over the comparable month in 2017. This is a notable increase and indicates the importance of this sub-category along the years. In fact, statistics from the Eurostat indicate that employment share of the Legal and Accounting Services as a share of the Professional, Scientific and Technical Activities increased from 1.8 per cent in 2008 to 2.9 per cent in 2018 as shown in Figure 2 below.

Figure 1: Legal and Accounting Services as a share of the Professional, Scientific and Technical Activities (%)³



Source: Eurostat

As indicated by statistics, legal entities and arrangements are noteworthy in the economy of Malta and this stresses more the importance of keeping up to date a risk assessment in this regard. This is especially so when taking into consideration the fact that legal entities and arrangements are the vehicles through which economic activity is delivered and that as argued by the FATF, ‘criminals have responded to the money laundering defences put in place by banks and other financial institutions by misusing corporate vehicles to disguise and convert their proceeds of crime before it enters the traditional financial system’.⁴

3. Overview of the Risk Assessment

In this risk assessment, the FATF guidance definitions were used, whereby, legal arrangements refer to express trusts or other similar legal arrangements. In addition, legal persons refer to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, bodies corporate, foundations, partnerships, or associations and other relevantly similar entities.

³ When compiling Labour Force Statistics for Eurostat, the NSO adopts the International Labour Organisation (ILO) definition, an internationally agreed definition on employment and unemployment. This definition has also been adopted by Eurostat and is used by all EU Member States. Since Jobsplus records and LFS results measure two different facets of employment and unemployment, these are not comparable. Users are therefore cautioned that these two sets of statistics should not be used interchangeably.

⁴ FATF, *The Misuse of Corporate Vehicles, Including Trust and Company Service Providers*, 2006

The first step was to assess the ‘threats’ that are most likely to exploit legal entities and arrangements, as well as their inherent vulnerabilities. It leveraged a combination of qualitative insights and quantitative data gathered by the competent authorities. On completion of the threat assessment, inherent vulnerabilities and control effectiveness were reviewed for each class of legal entity and arrangement. This led to an articulation of the overall residual risk for each class which, in line with global perspectives, found that a number of classes of legal entities and arrangements (in particular private companies, trusts, foundations and associations) are more vulnerable to abuse and misuse for money laundering purposes. This is primarily driven by the opportunities presented by these structures to conceal beneficial ownership and is compounded by varied coverage/ effectiveness of ongoing monitoring. Other entity types, such as partnerships and branches of foreign entities, are marginally less vulnerable due to more transparent beneficial ownership (i.e. for partnerships) and due to the added involvement of peer EU regulators in monitoring (i.e. foreign branches). VOs, meanwhile, are vulnerable to exploitation for terrorist financing owing to their international presence and the expectation that a number will operate in high-risk locations (e.g. conflict zones).

Therefore, this risk assessment had as an objective that of assessing the nature of ML/FT risk posed to the different types of legal entities and arrangements present in Malta, to help inform both the public and private sector of these risks and the measures they can take to mitigate them. As already mentioned, there were three fundamental elements to this consideration:

- Threats: the types of predicate offences which could give rise to instances of money laundering or terrorist financing through a legal entity or arrangement;
- Vulnerabilities: the characteristics of a particular class of legal entity or arrangement which may make it attractive for money laundering or terrorist financing purposes; and
- Controls: the measures in place to mitigate any risk of exposure to money laundering or terrorist financing.

Using these three elements, assessments of the risks posed by each class of legal entity and arrangement can be formed. The two key measures of risk considered by this risk assessment were:

- Inherent risk: the risk of ML/FT occurring through a particular class of legal entity and legal arrangement, taking into account the threats posed to the legal entities and arrangements and vulnerabilities associated with their specific characteristics, before accounting for controls and mitigating actions;
- Residual risk: the risk of ML/FT occurring through a particular class of legal entity and arrangement, taking into account the controls and mitigating factors which aim to reduce the inherent risk. The FATF guidelines indicate that countries, competent authorities and DNFBPs, which include TCSPs, should identify, assess and understand the ML/FT risks to which they are exposed and take the required AML/CFT measures to effectively and efficiently mitigate and manage the risks. For TCSPs, identifying and maintaining an understanding of the ML/FT risk faced by the sector as well as specific to their services, client base, jurisdictions in which they operate and the effectiveness of actual and potential risk controls that are or can be put in place, will require the investment of resources and training. For supervisors, this will also require maintaining an understanding of the ML/FT risks specific to their area of supervision, and the degree to which AML/CFT measures can reasonably be expected to mitigate such risks. The next section presents the key findings emanating from this risk assessment, where actions aimed at addressing such risks are presented in Section 5.

4. Salient Points of the Risk Assessment

Findings of the assessment indicate that certain classes of legal entities and arrangements are highly exposed to illicit proceeds of crime from tax evasion, activities of local criminal groups and drug trafficking. However, it is to be noted that such findings do not take into account the controls in place or their effectiveness. For threats such as fraud and misappropriation, corruption and bribery and unlicensed financial services, legal entities and arrangements may be misused to enable these predicate offences. In addition, it is to be noted that this exercise, found that in line with global perspectives, a number of classes of legal entities and arrangements (in particular private companies, trusts, foundations and associations) are more vulnerable to abuse and misuse for money laundering purposes. This is primarily driven by the opportunities presented by these structures to conceal beneficial ownership and is compounded by varied coverage/ effectiveness of ongoing monitoring. Other entity types, such as partnerships and branches of foreign entities, are marginally less vulnerable due to more transparent beneficial ownership (i.e. for partnerships) and due to the added involvement of peer EU regulators in monitoring (i.e. foreign branches). VOs, meanwhile, are vulnerable to exploitation for terrorist financing owing to their international presence and the expectation that a number will operate in high-risk locations (e.g. conflict zones).

Controls and residual risk assessment relating to legal entities showed that:

With regards to an assessment of the controls, this risk assessment found that controls in Malta relating to:

- Private limited companies were assessed to have a ‘moderate’ level of effectiveness, with some mitigating impact on the inherent risk. However, despite these current controls the residual risk remains ‘high’.
- Public limited companies (i.e. capital companies) were also found to be operating with a ‘moderate’ effectiveness resulting in a ‘medium-low’ residual risk; though still comparatively higher control effectiveness compared to private limited companies and higher than partnerships.
- Partnerships were found to operate with ‘low’ control effectiveness resulting in a residual risk of ‘medium-high’. This stems from a combination of limited market entry controls, limited transparency over beneficial ownership, a low level of ongoing monitoring and limited enforcement activities.
- Foundations were found to operate with a ‘low’ effectiveness of controls with a ‘high’ residual risk. Although there are market entry controls and some ongoing monitoring, effectiveness across the regime is limited due to lack of verification of beneficial ownership and limited detection, investigation and prosecution.
- The controls in place to mitigate the risks posed by branches of foreign entities are varied due to the coverage and oversight of different supervisory bodies, as well as by the sectors in which they operate.

Overall the controls were assessed as ‘moderate’ effectiveness with ‘medium’ residual risk. Other legal entities, which includes registered associations, have varied controls applied to them, with appropriate market entry controls but limited ongoing monitoring. Furthermore, the understanding of AML/CFT risks is limited, especially as they are not subject persons. The effectiveness of the controls in place was assessed as ‘low’, with a resulting residual risk of ‘medium-low’.

The effectiveness of the controls in place, in respect of trusts, was assessed as ‘low’, with a resulting residual risk of ‘high’. Other legal arrangements have limited market entry controls, limited understanding of AML/CFT risks faced by their businesses, and low levels of detection and enforcement activity. The effectiveness of the controls in place was assessed as ‘low’, with a resulting residual risk of ‘high’.

Until 2018, voluntary organisations in Malta have had limited market entry requirements and a relatively low level of understanding of AML/CFT obligations. The effectiveness of the controls in place was assessed as ‘moderate’, with a resulting residual risk of ‘high’. Accordingly, the next section will review the actions that are aimed at mitigating the aforementioned risks. Consultations with the competent authorities were carried out in order to be able to have a holistic overview of the actions that will be implemented.

5. Planned Actions aimed at mitigating Risks

The FATF Recommendations require that, when carrying out a risk assessment, DNFBPs, countries, competent authorities and supervisors decide on the most appropriate and effective way to mitigate and manage the ML/FT risks they have identified. In order to introduce actions aimed at addressing the risks emerging from this risk assessment, consultations were carried out with the following competent authorities under the coordination of the NCC:

- Financial Investigations Analysis Unit (FIAU) – ultimately responsible for the AML/CFT supervision of all credit and financial institutions and DNFBPs;
- Malta Financial Services Authority (MFSA) – responsible for the prudential and conduct supervision of financial services firms and TCSPs and collaborate closely with FIAU on the AML/CFT supervision of these entities;
- Malta Business Registry (MBR) - responsible for the registration of new commercial partnerships, the registration of documents related to commercial partnership, the issuing of certified documentation including certificates of good-standing amongst others, the reservation of company names, the collection of registration and other fees, the publication of notices and the imposition and collection of penalties. The Registry also conducts investigations of companies and the keeping of the company and partnership register.
- Office for the Commissioner of the Voluntary Organisations (OCVO) – responsible for the AML/CFT supervision of VOs;
- Counter-Terrorism Unit of the Malta Police Force (CTU) – responsible for the collection, analysis and dissemination of intelligence related to terrorism, extremism, radicalization and ancillary matters, and investigation of related cases;
- Attorney General (AG) – responsible for prosecution of financing of terrorism cases that reach the Criminal Court;

The competent authorities are all committed to preventing, detecting and prosecuting money laundering and terrorist financing activities, and all agree that financial crime threatens the safety of our society, the integrity of our financial system, and the stability of our economy. To this end, all the authorities agreed that there must be a clear strategic direction at the national level entwined with a close cooperation among relevant stakeholders and that there should be increased communication throughout.

Furthermore, as a general note, in order to address the instances where the risk assessment indicates that there is a lacuna of statistics, the NCC is currently working on observing and

maintaining the latest knowledge of ML/FT developments in Malta to ensure adequate monitoring of the progress achieved with regards to the investigating and prosecuting of ML/FT.

In the risk assessment, controls were assessed across internal controls and governance; external controls; supervision, monitoring and oversight; and detection, investigation and prosecution. Accordingly, the following recommendations were made:

- Finalise and refine the beneficial ownership databases to ensure compliance with the EU's Fourth Anti-Money Laundering Directive and conduct ongoing review to ensure the databases are fully populated with the required, up to date, information to ensure timely access by authorities. Specific measures include ensuring up to date beneficial ownership data is accessible to the relevant authorities and establishing an online database to store public information on legal persons to facilitate transparency.
- Collect and aggregate relevant statistical data in an accessible format to enrich the understanding of the nature of risks to which legal entities and arrangements are exposed. Additional activities include collecting and maintaining detailed statistics relating to the different corporate entity types, collecting statistics on the number of non-corporate entities and arrangements in Malta and gathering data on the areas of operation of VOs, the submission of annual returns, and any other relevant information for the purposes of assessing risk.
- Acquire and embed advanced analytics capabilities to continue to enhance the monitoring and detection capabilities of the authorities. Network analysis capabilities should be a key focus, which would allow relevant data from multiple sources to be considered as a dataset rather than individually. Document verification systems could also be introduced, which cross-reference formal documents against official sources to ensure validity. Finally, third party information providers such as credit reference agencies and name screening platforms could be integrated with databases to verify and risk-assess ownership.
- Enhance monitoring activities, including the expansion of checks conducted on beneficial ownership information and an increase in the frequency of on- and off-site inspections. Efforts should also be made to link the work of all relevant authorities across the supervisory lifecycle.
- Increase the breadth and depth of private sector outreach to raise awareness of ML/FT risks and AML/CFT obligations of entities themselves (e.g. VOs) and their gatekeepers (e.g. DNFBPs). Specifically, competent authorities should continue to implement their outreach plan within their remit on AML/CFT issues, and look to run further workshops with entities, arrangements, subject persons and gatekeepers (e.g. TCSPs, DNFBPs).
- Increase the specialisation of human resources to allow supervisors and other competent authorities to expand the activities they conduct and to inject additional expertise in order to raise the effectiveness of the whole AML/CFT regime. This should be done across competent authorities.
- Enact legislative changes as required to reduce the risk of legal entity and arrangement features being exploited for ML/FT purposes, e.g. seek legal opinions on whether legislative changes are required to enhance the authorities' visibility over trusts and associations and review the potential implications of such changes (legally, politically and

constitutionally). There should also be a focus on enhancing the powers of the authorities to impose sanctions for non-compliance with disclosure requirements. For example, strengthening of the legal powers of the MBR to take action against companies who do not comply with reporting requirements; the MBR plan to use the ‘defunct procedure’ in cases of non-compliance, but review of provision for objections may be required as this currently states that if a creditor objects, then the MBR cannot strike the name of the company off the register.

- Competent authorities need to continue engaging with the private sector to help them deepen their understanding of the AML/CFT risks associated with specific legal entities and arrangements.

Key Initiatives

Financial Intelligence Analysis Unit

In line with these recommendations, the FIAU primarily stressed that by January 2020, its Compliance Section through Compliance and Supervision Platform for Assessing Risk (CASPAR) will have the following implemented:

- a) Include a module where to record breaches identified during examinations, to assist in identifying the main ML/FT shortcomings by subject persons;
- b) Implement a reporting tool to collect data on main ML/FT risks as stated by subject persons themselves in the risk evaluation questionnaire.

Furthermore, the FIAU is continuously contributing in the sectoral risk assessments on FT. The FIAU is currently working on identifying FT trends and typologies and compiling an internal report which will be ready by November 2019. Subsequently, FIAU aims at conducting a consultation session with the private sector to finalise a FT trends and typologies document, and thereafter publish an updated FT Trends and Typologies Report by June 2020. Thus, a thematic review is to be carried out on financial institutions carrying out money remittance activities which will assist in identifying FT risks by June 2020. Such FT risks are to be considered particularly in the conduct of supervision on credit institutions and financial institutions. Thereafter, FIAU will concentrate on carrying out a strategic analysis of at-risk VOs and thus publish a typologies report. Along this action, FIAU will also be conducting a Customs Exercise on cash declarations made in 2018, and thus it will be able to finalise and share report with other competent authorities by May 2020. Besides, FIAU is aiming at carrying out a strategic analysis on data from money remitters to identify FT risks, trends or typologies, with the conclusion of strategic analysis to be completed by April 2020.

Additionally, in order to address the recruitment aspect, it is to be noted that for the FIAU:

- a four-year recruitment plan for the Compliance Section, covering 2018 to 2021, is well-underway and shall see an ultimate increase of resources to over 58 employees by the end of 2021. The Compliance Section has been split into four teams as follows,
 - A Risk, Enforcement and Follow-Up Team,
 - three Sectorial Teams.

This allows more coverage of supervision on all sectors from risk assessment stage until follow-up stage and better sectorial expertise. Recruitment is constantly ongoing.

- In the interim, resources for carrying out supervision are additionally being augmented through an outsourcing agreement with third party experts.

- A training needs assessment was carried out in March 2019. The plan following the assessment is being implemented throughout the year, with training being delivered to all staff across all teams. Training records are being maintained on a database.

With regards to the recommendation aimed at raising awareness, the FIAU is also committed to:

- issuing sector specific guidance for banks and financial institutions, which will also include guidance on risk factors and mitigating measures. The FIAU is targeting to issue this document by March 2020;
- issuing of sector specific guidance for CSPs, which will also include guidance on risk factors and mitigating measures. The FIAU is targeting to issue this document by March 2020;
- holding consultation meetings with sector representatives throughout the drafting process of the aforementioned guidance documents;
- Delivering training sessions to subject persons upon the launch of the aforementioned sector specific procedures for banks and financial institutions and for CSPs;
- issuing a guidance document on risk factors and mitigating measures relevant to the property sector (which are targeted primarily towards Notaries and real estate agents). The FIAU is targeting to issue this document by February 2020;
- Delivering training sessions on the risk factors and mitigating measures relevant to the property sector upon the issuance of the aforementioned guidance document;
- Issuing sector specific guidance for lawyers, which will also include guidance on risk factors and mitigating measures. The FIAU is targeting to issue this document by June 2020.

The FIAU is also closely working with MITA in order to link its offices and software with certain government departments for direct access to information. The FIAU signed a number of MOUs for cooperation with other government bodies and is further strengthening its collaboration through the direct access for information as outlined below:

- Tax Database - work in progress (legal changes required). Information however is obtained promptly through requests for information;
- MBR – full access, including beneficial ownership;
- Land Registry – The FIAU and CfR are currently in the process of setting up direct access for FIAU to the Business Objects Report (BOR), which is administered by the CfR. The BOR contains data on real estate and other information including, vehicle registration;
- Public Registry – Full access;
- Vehicle Registration – Almost complete, and waiting for the final IT works by MITA;
- Passenger Name record database – Indirect, through requests to the Police;
- Identity Malta - Not direct, but MIIPA and MRVA exchange information with FIAU on a regular and routine basis.

Office of the Commissioner for the Voluntary Organisations

With regards to VOs, the OCVO is vigilant on the non-enrolled VOs through close monitoring of the social media. The Office is also preparing a list of the risks which these non-enrolled VOs present to the sector. With regards to public collections regulation, drafting of the legislation has reached an advance stage and is being reviewed. The permit for public collections is mandatory for individual fundraisers presently issued by the police. The fact that enrolment of VOs is mandatory makes applying to the police for a license irrelevant. The OCVO will continue to work in order to have an adequate number of staff as well as premises

in order to cater for the present as well as the new responsibilities. In fact, by the first quarter of 2020, the OCVO is planning to recruit Field Investigation Officers to carry out onsite investigations.

Malta Financial Services Authority

The Financial Crime Compliance (FCC) within the MFSA are currently conducting Forums (AML Forums) for all the Prudential and Conduct Supervisory MFSA Staff. The purpose of these AML Forums are to give information on AML/CFT topics targeting specifically each function, such as to assist the supervisory teams on what to look for during a supervisory on-site visits and to increase cooperation between Prudential/Conduct Supervisory teams and FCC.

In addition, there is on-going communication between the supervision units and FCC in relation to gather information in preparation to on-sites and also ad-hoc issues.

Furthermore, whenever there is a new authorization/revision of licenses, a request will come from the Authorisation Unit to FCC for our comments in this regard. When dealing with the review, FCC will look at the application holistically and see what might be of concern from an AML perspective of the authorisation. The team will be looking at the general oversight and highlight any red flags to AU. FCC will also scrutinise the arrangements which firms plan to establish at the authorisation stage, to supervise their correct implementation to ascertain that firms are set up for legitimate purposes and have adequate safeguards to prevent themselves from being used for money laundering and terrorist financing.

On a yearly basis, the FCC sends a request to all Prudential and Conduct Supervisory teams to fill in the **Prudential Risk Assessment Questionnaire**. Each respective function will need to compile the template with information related to all the subject persons under their supervision and submit this to the FCC. The total score emanating from the questionnaire will feature into the Pillar 2 CASPAR final risk score.

Furthermore, it is to be noted that a number of actions have taken place to enable the clear identification of the UBO in any trust. The required changes in the law were also made to ensure their proper functioning of the UBO registers. The UBO database for trusts is up and running. Entities were given six months to comply, and the MFSA has already established processes to ensure that the UBO database is up to date. Accordingly, any changes in UBO must be made to MFSA within 14 days of the change. There are heavy fines for those who do not comply or fail checks.

In addition, by October 2019, MFSA has reviewed the authorization policies with regard to banks with a very limited number of beneficial owners; and has increased the levels of governance and accountability levels in proportion to risks associated with the ownership structure. By December 2019, MFSA will develop enhanced BMA process around ownership for use at application/inspection stage.

In so far as legal arrangements such as trusts are concerned, in order to tackle any vulnerabilities in the approach to obtaining accurate and timely beneficial ownership information of trusts, the following should be noted with regards to key actions by the MFSA:

- A number of onsite inspections focusing specifically on verifying the accuracy of the data reported in the trusts BO register have been carried out throughout 2019 and a

thematic review communicating the findings and the MFSA's expectations in this regard were published in October 2019. This is in addition to the vetting and consistency and accuracy checks which the MFSA undergoes for each declaration of beneficial ownership upon submission;

- With the promulgation and coming into force of the relevant legislation transposing the 5th AML Directive in January 2020, any competent authority and subject person who becomes aware of any discrepancies between the beneficial ownership information available in the register and the beneficial ownership information available to them, shall be required to report such discrepancies to the MFSA.

When it comes to resources the MFSA is also making efforts to increase capacity and resources specifically dedicated to AML/CFT supervision. With regards to recruitment, by the end of 2019, MFSA targets to increase FCC team to 20 FTE, plus additional staff in supervision; by the second quarter of 2020 it aims to increase FCC team plus additional staff in supervision and start training and handover by the transition team.

Malta Business Registry

In so far as legal entities, the MBR is going to conduct on-site inspections on commercial partnership to verify that the information on beneficial ownership provided to the Registrar of Companies is correct. The MBR officials will analyse whether adequate, accurate and up-to-date information is kept. Amendments to the law already in place by virtue of Legal Notice 158 of 2019 which came into force on 12th July 2019. On-site inspections are to start in the first quarter of 2020. MBR is also going to strike off companies who failed to file annual returns (basic information), annual accounts and BO forms. It is also planned to enforce penalties even by means of judicial letters and garnishee orders.

Presently, Malta Enterprise is taking care of the tendering process for the setting up of a holistic electronic business register that will include all economic operators (companies, self-employed and partnerships) operating from Malta will be operating. This will be administered by MBR and will form part of a business portal which is being implemented by Malta Enterprise, which is envisaged to have the functionality required to accommodate the requirements of MONEYVAL.

In addition, any share transfer documents or change in share capital, must now also include a UBO declaration, otherwise they will be refused.

Outreach Initiatives

By the second quarter of 2020, the FIAU in conjunction and in collaboration with the MFSA and the MBR, intend to organize a series of workshops aimed at CSPs and Trustees to increase awareness about risky business models, AML/CFT risks and vulnerabilities, red flags etc. The MFSA also intends to issue guidelines in this regard. Moreover, the MFSA is also in the process of reviewing and revising the regulatory framework applicable to trustees and CSPs which will include rules and best practices to reflect the outcome of the sectorial risk assessment. Moreover, in January 2019 the MFSA organised industry training sessions with regards to the Trusts Ultimate Beneficial Ownership Register online platform. Sessions were carried out with trustees, competent authorities and subject persons.

By the end of 2019, the OCVO will have embarked on an outreach awareness programme for the whole sector. Three outreach sessions are being planned with a focus on Financial Abuse of VOs.

6. Concluding Remarks

The FATF guidelines specify that countries should establish the most appropriate regulatory regime, tailored to address relevant ML/FT risks. Competent authorities should be able to obtain, or have access in a timely fashion to, adequate, accurate and current information on the beneficial ownership and control of companies and other legal persons that are created in the country. It is stressed that countries should assess the money laundering and terrorist financing risks associated with different types of legal persons created in the country. NCC as the governing body responsible for the general oversight of AML/CFT policy, will continue to work hard to ensure that actions aimed at mitigating the risks origination from the sectoral risk assessments are effectively and efficiently carried out. In addition, the NCC will continue to strive to ensure that risk assessments are continuously updated in light of the fact that information, coordination and cooperation are the key ingredients to avoid an incorrect misuse of the corporate vehicles of legal entities and arrangements.