

# 4<sup>th</sup> Enhanced Follow-Up Report for The Republic of Tunisia

TC Re- Rating Request

Anti-Money Laundering and  
Combating the Financing of Terrorism

November 2019

The Republic of Tunisia

*This document contains the 4th Enhanced FUR for the Republic of Tunisia, which includes a TC re rating request for (10) recommendations. This report reflects Tunisia's efforts, since the adoption of the MER in April 2016, and the 3<sup>rd</sup> FUR. The 30<sup>th</sup> MENAFATF plenary has adopted this report provided that the Republic of Tunisia remains in the Enhanced FU process and submits its 5<sup>th</sup> Enhanced FUR in the 32<sup>nd</sup> plenary meeting in November 2020.*

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## 4<sup>th</sup> Enhanced Follow-Up Report for the Republic of Tunisia (TC re-rating request for some recommendations)

### **First: Introduction:**

1. The Republic of Tunisia was evaluated in the second round by the World Bank according to the FATF forty Recommendations and the eleven Immediate Outcomes adopted by the FATF in 2012. The Mutual Evaluation Report (MER) was prepared according to the Methodology adopted in 2013. The report was adopted at the 23<sup>rd</sup> MENAFATF Plenary held in Doha, the State of Qatar in April 2016, and consequently became the 1<sup>st</sup> MER adopted in the second round.
2. Based on the ratings of the eleven Immediate Outcomes and the forty Recommendations set out in the Mutual Evaluation Report for the Republic of Tunisia and according to the mutual evaluation procedures adopted in November 2014, the 23<sup>rd</sup> Plenary Meeting held in April 2016 decided to place the Republic of Tunisia under enhanced follow-up.
3. In the 3<sup>rd</sup> Enhanced Follow-Up Report (FUR) which was submitted to the 28<sup>th</sup> MENAFATF Plenary Meeting held in Beirut, the Lebanese Republic, in November 2018, Tunisia requested a re-rating for eleven Recommendations and the Plenary decided to upgrade the technical compliance ratings for R.6, R.8, R.26 and R.34 to “Largely Compliant”, to maintain the rating of “Partially Compliant” for R.22, R.23, R.24, R.25, R.28 and R.31 and to maintain the rating of “Non-Compliant” for R.7. In view of the Recommendations revised since the adoption of the 2<sup>nd</sup> FUR (12/2017), the Plenary decided to downgrade the rating for R.18 from “Largely Compliant” to “Partially Compliant” and to maintain the rating of “Compliant” for R.21 .
4. This report analyses the Recommendations for which the Republic of Tunisia requests re-rating, and they are 10 Recommendations (6,7,8,18,22,23,24,25,28,31)<sup>1</sup>.

### **Second: Findings of the Mutual Evaluation Report and the 3<sup>rd</sup> Enhanced Follow-Up Report:**

5. Based on the MER and the 3<sup>rd</sup> Enhanced FUR, the technical compliant ratings for Tunisia were as follows:

**Table (1): Technical Compliance Ratings based on the MER**

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

\*Note: There are four technical compliance ratings: (compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC))

Reference: <http://www.menafatf.org/information-center/menafatf-publications/3rd-enhanced-fu-report-republic-tunisia-re-rating>

<sup>1</sup> The FATF amended R.15 and its interpretive note in June 2019 to require countries to apply preventive measures to virtual asset service providers and virtual asset activities. Tunisia will later make a request for re-rating this Recommendation to assess its compliance with the requirements of R.15, as part of the follow-up process. R.2 was also amended since Tunisia’s 3<sup>rd</sup> enhanced FUR. Therefore, Tunisia will be required to provide the necessary documents to re-rate this Recommendation.

6. In coordination with the Secretariat, Mrs. Kholoud Hussein - as expert at the Egyptian AML/CFT Unit - has assessed Tunisia 's compliance with the Recommendations for which a re-rating is sought.

**Third: Overview of progress to implement the Recommendations subject of the re-rating request:**

7. This section of the report presents the measures taken by Tunisia to comply with Recommendations for which a re-rating is sought, as follows:

- a. The Recommendations for which the country was rated (Largely Compliant/Partially Compliant/Non-Compliant).
- b. The Recommendations which were amended by the FATF after the adoption of the 2<sup>nd</sup> Enhanced FUR (12/2017).<sup>2</sup>

**A. The Recommendations for which the country was rated (Largely Compliant/Partially Compliant/Non-Compliant):**

8. Tunisia requested a re-rating for 9 Recommendations, two of which, (R.6 and R.8), were rated “Largely Compliant”, 6 Recommendations, (R.22, R.23, R.24, R.25, R.28, R.31), were rated “Partially Compliant” and one Recommendation, (R.7), was rated “Non Compliant” . Each Recommendation is addressed separately in detail, according to the enclosed analysis, as follows:

- **Recommendation 6 (Targeted Financial Sanctions Related to Terrorism and Terrorist Financing) (Largely Compliant):**

9. The 3<sup>rd</sup> Enhanced FUR mentioned that Tunisia has met several requirements of R.6, however, but it still needs to provide as much identifying information as possible and specific information supporting the designation when submitting a request to another country to give effect to the actions initiated under the freezing mechanisms.
10. In order to address the deficiencies, Tunisia issued governmental order No.419 dated 17 May 2019, as amended and supplemented by virtue of governmental order No.457 dated 31 May 2019 on regulating the procedures for the implementation of resolutions issued by competent UN bodies relating to the prevention of terrorist financing and the prevention of proliferation financing; given that articles 21 and 22 thereof stipulate that the Commission (i.e. the National Anti-Terrorism Commission) can, on its own motion or at the request of any of the competent administrative authorities, submit a request to any other country, to designate persons or entities that meet the designation criteria; and provide all the information and documents needed to justify the request. It should provide a statement of case which contains as much detail as possible on the basis for the designation proposal, including information relating to any legal actions. The request should also prove the extent to which the proposed listing meets the relevant criteria, identify any connection between the proposed designee and any currently designated persons or entities on the country's domestic list and provide as much accurate and comprehensive information as possible on the identity.
11. According to article 20 of the afore-mentioned governmental order, the Commission examines the requests received from other countries to add persons or entities to the domestic list. It should decide on the requests according to the conditions and the listing criteria set out in article 5 of the governmental

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<sup>2</sup> Criteria for R.18 were amended by the FATF following the adoption of the 2<sup>nd</sup> EFUR and the country's request to re-rate the Recommendation in the 4<sup>th</sup> re-rating request.

order. It should follow the procedures set out in article 7, paragraph (h) and the examination of requests by the Commission should not take more than 30 working days whenever possible and it may obtain from the relevant authorities the information that it deems necessary to examine these requests, and nothing prevents it from taking its decision promptly.

**Conclusion:**

12. The analysis reveals that Tunisia has met all the requirements of R.6 - in particular, following the issuance of governmental order No. 419, dated 17 May 2019 regarding the procedures for implementing the resolutions issued by competent UN bodies relating to the prevention of terrorist financing and the prevention of proliferation financing.
13. Since Tunisia has addressed the afore-mentioned deficiencies, the rating of R.6 is “**Compliant**”.

- **Recommendation 7 (Targeted Financial Sanctions Related to Proliferation) (Non-Compliant):**

14. The MER mentioned the absence of a TFS system in application of UNSCRs on the proliferation of weapons of mass destruction and its financing (Iran and North Korea).
15. In order to address the deficiencies, Tunisia issued Basic Law No.9 of 2019 dated 23 January 2019 amending and supplementing Basic Law No.26 of 2015 dated 7 August 2015; article 103 thereof stipulates that the National Anti-Terrorism Commission (the Commission) takes a decision to freeze the funds of persons, organizations or entities whose link to financing the proliferation of weapons of mass destruction has been established by it or by the competent UN bodies and authorities and to prohibit from making any funds, other assets, economic resources, or financial or other related services, available to those persons, organizations or entities and those concerned with the implementation of the freezing decision should take the necessary measures in this regard and notify the Commission of the freezing processes they have initiated and provide it with all the useful information to execute its decision. However, it is not possible to claim fines or prosecute any natural or legal person for carrying out, in good faith, the obligations imposed on him, in implementation of the freezing decision; knowing that regardless of the criminal sanctions, any violation of the obligations provided for in this law requires disciplinary actions, in accordance with the applicable measures within the disciplinary system of each of the persons listed in article 107 of this law.
16. Tunisia also issued governmental order No.419 of 2019 dated 17 May 2019, as amended and supplemented by virtue of governmental order No.457 dated 31 May 2019 on the regulation of the procedures for the implementation of resolutions issued by competent UN bodies relating to the prevention of terrorist financing and the prevention of proliferation financing. It provides for the powers and mandates of the National Anti-Terrorism Commission which is concerned with making designation proposals to relevant UN authorities, publishing the UN list on its website, informing financial and non-financial institutions of such publication, also publishing guidelines for financial and non-financial institutions and any other person or entity about their obligations to freeze and unfreeze funds, communicating any request it receives from Tunisian persons and entities which were designated on the UN list to the Ombudsperson’ office, permitting FIs and DNFBPs to make payments due under contracts that arose prior to the date on which the name of the person or entity was added to the UN list and permitting them to make the due payments to settle anything related to any mortgage or to any judicial, administrative or arbitration judgment. The governmental order comprised several procedures for canceling the freezing and unfreezing of the funds or other assets of persons or entities with the same or similar names as the names of the designated persons or entities and which were unintentionally affected by any freezing mechanism. It also included several measures which should be taken by FIs

and DNFBPs, namely in terms of reporting to the Commission the value of funds or other assets which have been frozen, including any action taken regarding any attempted transaction. It is worth mentioning that the governmental order prevents from making any funds, other assets, economic resources, or financial or other related services, available, for designated persons or entities, according to the requirements of criterion 7-2 (c).

17. The Central Bank issued circular No.09 of 2018 regarding FIs, the Minister of Trade issued the decision dated 19 April 2018 on the real estate agent profession and the Minister of Tourism, the Minister of Finance and the Minister of Interior issued a decision dated 19 April 2018 on casinos and jewelry dealers. Each of these decisions contained special provisions requiring that funds should be frozen and should not be made available to persons and entities associated with proliferation financing crimes. It did not appear that there are measures for monitoring financial institutions and DNFBPs and ensuring their compliance with the relevant laws or enforceable means governing the obligations set out under this Recommendation. The Minister of Finance also issued the decision dated 06/03/2018 on the measures for combating money laundering, terrorist financing and proliferation financing; article 06 bis thereof stipulated that institutions addressed in the decision should take the necessary measures to verify, when establishing business relationships or conducting an occasional transaction or operation, and thereafter periodically, that the customer or the beneficial owner is not included on the list of designated persons or entities subject to TFS relating to the prevention, suppression and disruption of proliferation and financing of weapons of mass destruction.

**Conclusion:**

18. The analysis of R.7 reveals that Tunisia has taken several measures to meet the criteria of the Recommendation, by issuing Basic Law No.9 of 2019, governmental order No.419 of 2019, the Central Bank circular, the Minister of Trade decision, the decision of the Minister of Tourism, the Minister of Finance and the Minister of Interior dated 19 April 2018 concerning casinos and jewelery traders, and the Minister of Finance decision dated 06/03/2018 on the measures for combating money laundering, terrorist financing and proliferation financing. However, the deficiencies referred to in the analysis and related to the obligation to take measures to monitor FIs and owners of DNFBPs (other than the measures which have been previously mentioned) to implement UN resolutions related to the prevention of the financing of proliferation of weapons still need to be addressed.
19. Considering the remaining deficiencies which are deemed minor, the rating of R.7 is “**Largely Compliant**”.

- **Recommendation 8 (Non-Profit Organizations) (Largely Compliant):**

20. The 3<sup>rd</sup> Enhanced FUR mentioned that Tunisia still needs to complete its efforts to update the nature of threats posed by terrorist entities to NPOs, to determine how terrorist actors are misusing these NPOs, and to review the appropriateness of the measures relating to NPOs which may be misused for terrorist financing support.
21. In order to address the afore-mentioned deficiencies, authorities reviewed the appropriateness of the measures, including the domestic laws and regulations relating to NPOs, given the issuance of law No.52 of 2018 on the national register of enterprises which created a register for NPOs, which is considered as a public database for the collection of information, data and documents related to associations, to maintain them and make them publicly available. Basic Law No.26 of 2015 was amended by virtue of Basic Law No.9 of 2019, by modifying articles 99 and 100 thereof, which both require associations to comply with some rules, namely, the prohibition of accepting cash whose value

exceeds a certain threshold and refrain from accepting donations or financial aids of unknown source. Authorities updated the risk assessment of NPOs between 2017 and 2019.

22. Authorities also undertook several initiatives and held many workshops to implement awareness programs, and issued principles addressed to NPOs, which include procedures and guidance aiming at achieving a better compliance with the requirements for combating TF risks. Subsequent dates were also fixed to organize more awareness courses periodically, based on the outputs of the NRA, in order to prevent the abuse of NPOs for TF. Authorities stated that a plan was established to identify associations based on the degree of risks, and as a result, around 300 off-site visits were made to several associations between 2016 and 2018 and accordingly, sanctions were imposed on 696 NPOs.
23. Authorities also indicated that they have collected the necessary information and data to re-assess the sector and a relevant questionnaire was distributed to NPOs to identify the nature of threats posed by terrorist entities, and by the end of September 2019, the assessment process will be completed and the relevant study results published. Authorities explained that according to clause 4 of article 5 of governmental order No.1098 of 2016 dated 15 August 2016 relating to the regulation of the Tunisian Financial Analysis Committee and its working methods, the risks of NPOs are periodically updated as part of the periodical update of the NRA. Tunisian authorities also added that the NRA is updated every two years. On the other hand, authorities indicated that they have taken appropriate measures to meet the requirements of sub-criterion (8.5 d); this is in addition to the MoUs signed between the competent authorities which warrant the exchange of information in a timely manner.

**Conclusion:**

24. The analysis of R.8 reveals that Tunisia has met the requirements of this Recommendation, given the issuance of law No.52 of 2018 on the national register of enterprises which created a register for NPOs, the amendment of Basic Law No.26 of 2015 by virtue of Basic Law No.9 of 2019, which amended articles 99 and 100 and the updates made by the Tunisian authorities to the NRA for NPOs between 2017 and 2019.
25. Since Tunisia has addressed the afore-mentioned deficiencies, the rating of R.8 is “**Compliant**” .

- **Recommendation 22 - (DNFBPs: Customer Due Diligence) (Partially Compliant):**

26. The 3<sup>rd</sup> Enhanced FUR mentioned that Tunisia still needs to complete the framework for binding DNFBPs by issuing enforceable supervisory instructions for lawyers, to re-determine the threshold set for the obligations of casinos and to fulfill the requirements of criteria 22.4 and 22.5 relating to new technologies and reliance on third-parties requirements.
27. In order to address the deficiencies, Tunisia issued Basic Law No.9 of 2019 supplementing and amending law No.26 of 2015 on the Fight Against Terrorism and Prevention of Money Laundering, where article 107 (new) thereof was amended. This required lawyers, notaries and other legal professionals to comply with the requirements of the CDD measures, but the Basic Law does not include all the measures set out in R.10, to ensure the compliance of lawyers with criterion 22.1. Basic Law No.9 of 2019 comprised a definition of “Politically Exposed Persons” which was in line with the FATF definition. The concerned persons mentioned in article 107 (new) were required to comply with the requirements of R.12, R.15 on new technologies and R.17, when relying on third parties. There is no text indicating that when determining in which countries the third party that meets the conditions can be based, countries should have regard to information available on the level of country risk, in addition to the absence of texts providing for the situations where third parties who are part of the same financial group can be relied on.

28. The Minister of Finance decision dated 1 March 2016 was amended by virtue of the decision issued on 24 July 2019 which required managers of casinos to implement CDD measures (set out in article 108 of law No.26 of 2015) when they engage with their customers in transactions equal to or above 10,000 Dinars (approximately EUR 3000).

**Conclusion:**

29. The analysis of R.22 reveals that Tunisia has met several requirements of this Recommendation and still needs to meet some sub-criteria related to the framework for binding lawyers, according to what is mentioned in the analysis of criterion 22.1 and to establish criteria which would complete the remaining elements of the reliance on third parties requirements according to criterion 22.5 regarding reliance on third parties requirements set out in R.17.

30. Considering the remaining deficiencies which are deemed minor, the rating of R.22 is “**Largely Compliant**” .

- **Recommendation 23 - (DNFBPs: Other measures) (Partially Compliant):**

31. The 3<sup>rd</sup> Enhanced FUR mentioned that Tunisia still needs to complete the framework for binding DNFBPs by issuing enforceable supervisory instructions in relation with the requirements of R.23 concerning lawyers, to review the threshold set for casinos in order to start fulfilling their obligations, to require all DNFBPs to implement screening procedures to ensure high standards of competence when hiring employees, and to have an independent audit function to test the system, to require them, other than accountants, to establish policies and procedures for sharing the required information in consistency with the requirements of criterion 18-2 and to require them as well to comply with the requirements of criterion 18-3, namely to verify that their foreign branches and majority-owned subsidiaries are implementing programs against ML/TF consistent with the requirements imposed in Tunisia, in addition to the obligation to amend the legislative requirement to prohibit them and to prohibit their directors, officers and employees from disclosing the fact that a STR or any other related information is being filed with the Tunisian Financial Analysis Committee, including cases where such Committee does not issue a written decision to the reporting entity on the temporary freezing of the funds subject of the STR.

32. In order to address the deficiencies, Tunisia issued Basic Law No.26 of 2015 on the Fight Against Terrorism and Prevention of Money Laundering, where article 125 thereof stipulates that subjected persons should report to the Tunisian Financial Analysis Committee all the executed and non-executed suspicious transactions or operations suspected to relate to funds deriving from illicit activities. A decision was also issued by the Minister of Interior, the Minister of Finance and the Minister of Tourism and Handicrafts on 19 April 2018, requiring casinos to immediately and directly report to the Tunisian Financial Analysis Committee operations or transactions suspected to relate to money laundering or terrorist financing, including attempted operations, regardless of the amount of the operation. It is worth noting that the supervisory instructions issued to DNFBPs cover the obligations set out in criterion 23.3. As regards lawyers, they are not subject to supervisory instructions, therefore, they are subject, (including non-financial businesses and professions) to the provision of article 112 of Basic Law No.26 which stipulates in article 107 that special attention should be given to business relationships with persons residing in countries that do not or insufficiently apply the international standards for preventing ML and combating TF.

33. Authorities also issued Basic Law No.9 of 2019 which requires persons mentioned in article 107 (new) to comply with the requirements of criterion 18-2, without explicitly stipulating that financial groups should be required to apply appropriate measures consistent with the ML/TF risk management when



sharing information, and without stipulating that safeguards to prevent tipping-off should be provided. The country did not provide any updates on the other deficiencies which have previously been identified, specifically those relating to the screening procedures to ensure high standards of competence when hiring employees, and the existence of an independent audit function to test the system, and those relating to the requirements of criterion 18-3. Article 127 of the afore-mentioned Basic Law No.26 is not considered sufficient, given that it prohibits the reporting entity from tipping off the concerned party about the suspicious transaction report and the resulting measures, without explicitly stipulating that other directors, officers and employees should be prohibited from disclosing the fact that a STR is being filed, according to sub-criterion 21-2.

**Conclusion:**

34. In order to fulfill the requirements of R.23, Tunisian authorities still need to:
- Require DNFBPs, (other than accountants), to verify that their foreign branches and majority-owned subsidiaries are implementing programs against ML/TF consistent with the requirements imposed in Tunisia and according to criterion 18.1 and to stipulate that if the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements, financial groups should apply appropriate additional measures to manage the ML/TF risks and to establish safeguards to prevent tipping off in case the information exchanged is used, according to sub-criterion 18.2 c.
  - Prohibit DNFBP managers, officers and employees, by virtue of a law, from disclosing the fact that a STR or any other related information is being filed with the Tunisian Financial Analysis Committee.
35. Considering the remaining deficiencies which are considered moderate, the level of compliance achieved for R.23 remains “**Partially Compliant**” .

**- Recommendation 24 (Transparency and Beneficial Ownership of Legal Persons) (Partially Compliant):<sup>3</sup>**

36. The 3<sup>rd</sup> Enhanced FUR mentioned that Tunisia has taken important steps to issue the law on the national register of enterprises. It still needs to require companies to maintain information relating to the register that contains the names and addresses of managers and members of the control board and the register of shares and voting powers; to require them to entrust a person with the provision of information to authorities, namely on beneficial ownership; to establish a framework for update, as regards the transfer of shares in joint stock companies and in the event where they convert into public companies; to establish a framework for the identification of the beneficial owner, particularly in foreign companies, and to determine the mechanism for the retention of documents and data after the termination of the companies activity; to establish a mechanism to determine the extent to which there are managers who act on behalf of another person in joint-stock companies, to require the agent to maintain information that identifies his nominator and to make it available to competent authorities upon request, and to provide international cooperation as regards basic information on beneficial ownership and on the extent to which the mechanisms for international cooperation are being used to monitor the quality of assistance provided by other countries.

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<sup>3</sup> The availability of accurate and up-to-date basic information on the beneficial owner is also assessed by the OECD Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may be different due to the difference between the methodology, objectives and scope of the respective FATF and Global Forum standards.

37. In order to address the deficiencies, Tunisia issued Basic Law No.52 of 2018 on the national register of enterprises which stipulates that natural and legal persons must be registered in the register, provided that it contains the data that determines the identity of the owners of institutions, trustees of legal arrangements, partners, shareholders, managers of legal persons and auditors. The law also stipulates that a copy of the minutes of deliberation of the constituent plenary session, comprising the number of shares owned by each shareholder, the classes of shares and the voting rights should be added to the application for the registration of public shareholding joint stock companies. Authorities indicated that the update of the share transfer is a legal obligation, although it was not provided for in the companies' articles of associations.
38. Subject to the provisions of law No.52, the register is formed of sub-registers, including the beneficial owners register, and the law provides for the registration and update procedures, including the beneficial ownership data. In application of article 19 of this law and governmental order No.54 of 2019 on the mechanisms and criteria for the identification of the beneficial owner, the national register of enterprises prepared an electronic and paper form for institutions that should contain accurate beneficial ownership identification data. Article 26 of law No.52 stipulates that any change that requires an update of the register must be reported, however, there was no information indicating whether this form requests the identification of one natural person or more residing in Tunisia who is authorized by the company, and accountable to competent authorities, as regards the provision of all basic information and beneficial ownership information. There was no information either indicating whether any of the measures set out in sub-criterion 24-8 were taken to verify that companies are cooperating with competent authorities to the fullest extent possible in determining the beneficial owner.
39. Law No.52 of 2018 addressed the requirements of criterion 24-9, considering that each registered person who definitively ceases the activity should submit all their documents to the Center within one month of complete and definitive discontinuance of activity, provided that the Center shall keep these documents for a period of ten years from the date on which they were submitted and the retention of documents in electronic form is not subject to any time limit.
40. In the context of providing international cooperation, Tunisia provided information indicating that foreign authorities have direct access to the information included in the new commercial register through its website or by referring to their Tunisian counterparts. On this note, law No.52 of 2018 allows the latter to access the data contained in the national register that includes information on the beneficial owner, shareholders and other basic information mentioned in the company's register. It is worth noting that there was no information on the measures implemented by Tunisian authorities to monitor the quality of basic information provided by other countries on beneficial ownership; and the observation on the requirements of criterion 24.12 is still valid, namely in terms of requiring nominee shareholders and directors to disclose the identity of their nominator to the company.

**Conclusion:**

41. Tunisia took important steps to issue the law on the national register of enterprises and to issue the governmental order regulating the criteria for the identification of the beneficial owner. It still needs to fulfill the requirements to establish a mechanism that requires nominee shareholders and directors to identify their nominator, to make this information available to competent authorities upon request; and to provide information on whether there is a mechanism in place to monitor the quality of assistance that authorities receive in response to requests made to other countries for basic information on beneficial ownership.

42. Considering the remaining deficiencies which are deemed minor, the rating of R.24 is “**Largely Compliant**”.

- **Recommendation 25 (Transparency and Beneficial Ownership of Legal Arrangements) (Partially Compliant):<sup>4</sup>**

43. The MER for the Republic of Tunisia mentioned the possibility of establishing a business relationship between any of the FIs or DNFBPs and a foreign credit institution or a trust or a similar foreign arrangement which owns assets in Tunisia, or with a Tunisian lawyer or any other person acting as “trustee/manager” of an asset located abroad or in Tunisia or even a trust established under a foreign law. However, the Tunisian law or the AML/CFT Law does not provide for the implementation of any specific measure to identify beneficial owner and to ensure the transparency of transactions in terms of measures taken to prevent money laundering.

44. In order to address the deficiencies, Tunisia issued Basic Law No.52 of 2018 on the national register of enterprises which stipulates that “legal arrangements” must be registered in the register. The law includes obligations requiring that the register should contain data that identifies the trustees of legal arrangements, provided that the application for the registration shall be accompanied by the identification documents of the founder, trustee and beneficial owner, deed of assignment, deeds evidencing title to funds or right and in case the founder is a legal person, the application for registration shall be accompanied by the identification documents of the partners, shareholders or members and that of the beneficial owner. The law comprises obligations to maintain the documents submitted to the national register of enterprises for a period of 10 years. On the other hand, governmental order No.54 of 2019 comprises obligations requiring the implementation of measures to verify the identity of the founder of the legal arrangement, the trustee, the custodian and the beneficiaries. There was no obligation requiring trustees to keep specific information on the identity of the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. It is worth noting that the obligations to keep the information up to date which are provided for in this law are not applied to data the trustees are required to maintain due to the absence of an obligation requiring them to maintain such data.

45. Tunisia provided information indicating that foreign authorities may directly access the information included in the new commercial register through its website ([www.registre-commerce.tn](http://www.registre-commerce.tn)) or by referring to their Tunisian counterparts which have the legal powers to access the data included in the national register that comprises information on the identity of the managers or trustees of legal arrangements.

46. The law on the national register of enterprises comprises several sanctions and penalties for late registration or late amendment in the register. Article 55 thereof stipulates that any person who deliberately provides an untrue or false declaration or deliberately violates the provisions of article 10 of this law, for the purpose of registration, amendment, deletion or completion of missing information shall be punished with imprisonment for five years and a fine of fifty thousand Dinars. There is no text that allows the application of sanctions on trustees for violating their obligations, namely those set out in criterion 25.1.

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<sup>4</sup> The availability of accurate and up-to-date basic information on the beneficial owner is also assessed by the OECD Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may be different due to differences between methodologies, objectives and scope of the respective FATF and Global Forum standards.

**Conclusion:**

47. Tunisia took important steps to address most of the deficiencies relating to this Recommendation. It still needs to fulfill the requirements for trustees to maintain and register the information on trusts.
48. Considering the remaining deficiencies which are deemed minor, the rating of R.25 is “**Largely Compliant**”.

- **Recommendation 28 (Regulation and supervision of DNFBPs) (Partially Compliant):**

49. The 3<sup>rd</sup> Enhanced FUR mentioned that Tunisia has made significant efforts to address the deficiencies relating to this Recommendation. It still needs to take legal measures to prevent criminals or their associates from holding a management function or from holding significant or controlling interest in casinos; to issue enforceable supervisory instructions for lawyers to monitor and verify their compliance with the AML/CFT requirements and to complete the efforts it has exerted to conduct actual supervision of the DNFBP sector in line with the risks identified.
50. In order to address the deficiencies identified in criterion 28-5, Tunisian authorities issued Basic Law No.9 of 2019 which requires the entities mandated to monitor the persons mentioned in article 107 of the law to establish practical programs and measures that serve as a basis for a risk-based supervision to combat money laundering and terrorist financing and monitor the extent of the implementation of their obligations. The Tunisian Financial Analysis Committee indicated that it issued, on 05 April 2018, a guideline to the authorities mandated to supervise all the DNFBPs, which comprised the method for conducting risk-based supervision. During November 2018, the Committee organized, jointly with supervisors and regulatory authorities, several formation courses for DNFBP supervisors. Overall, it appears that some DNFBP supervisors are conducting AML/CFT supervision, yet, the observations regarding the deficiencies related to criteria 28-1, 28-3 and 28-4 are still valid, since Tunisian authorities did not provide any update in this regard.

**Conclusion:**

51. Tunisia took several actions to fulfill the requirements of the Recommendation. However, it still needs to address some remaining deficiencies represented in the provision of legal safeguards to prevent criminals or their associates from working in casinos or from acquiring a significant interest, or supervising, or holding a management function in a casino; to adopt and issue a procedures manual for the DNFBP supervisors that comprises the method for conducting risk-based supervision, given that authorities have previously stated that they are about to complete it in order to initiate their supervisory functions; and all DNFBP supervisors to complete the efforts made by Tunisia to conduct actual supervision that is consistent with the risks identified.
52. Considering the remaining deficiencies which are deemed minor, the rating of R.28 is “**Largely Compliant**”.

- **Recommendation 31 (Responsibilities of Law Enforcement and Investigative Authorities) (Partially Compliant):**

53. The deficiencies set out in the MER were represented by the fact that Basic Law No. (26) of 2015 granted powers to use special means and techniques such as the interception of communications and audio-visual monitoring and hacking in terrorism cases only, with the exclusion of money laundering and associated predicate offense cases. The law does not comprise the power to use the undercover operations technique and controlled delivery.

54. In order to address the deficiencies relating to this Recommendation, Tunisian authorities issued Basic Law No.9 of 2019 which allows the use of undercover operations and interception of communications of suspected persons in investigations related to terrorist financing, money laundering and associated predicate offenses. There is no text that allows authorities to use controlled delivery in investigations related to money laundering, associated predicate offenses and terrorist financing.

**Conclusion:**

55. Following the issuance of Basic Law No.9 of 2019, Tunisia met most of the criteria relating to this Recommendation, and in order to be fully compliant with this Recommendation, powers should be conferred, by virtue of a legislative text, upon competent authorities in a way that enables them to use controlled delivery in investigations related to money laundering, associated predicate offenses, and terrorist financing.

56. Considering the remaining deficiencies which are deemed minor, the rating of R.31 is “**Largely Compliant**”.

**B. Recommendations amended by FATF after the adoption of the 2<sup>nd</sup> Enhanced FUR - 12/2017.**

57. Tunisia requested a re-rating of Recommendation 18, whose compliance was analyzed in the 3<sup>rd</sup> enhanced FUR, as amended by the FATF, which resulted in a downgrade from “Largely Compliant” to “Partially compliant, and Recommendation (18) is addressed in detail, according to the enclosed analysis, as follows.

- **Recommendation 18 (Internal Controls and Foreign Branches and Subsidiaries) (Partially Compliant):**

58. The international standards in R.18 were amended in a way that specifies the information which should be provided and which should include information and analysis of STRs or activities which appear to be unusual (in case this analysis is conducted) and that ensures the provision of such information to group-level compliance, audit, and/or AML/CFT functions. Furthermore, branches and subsidiaries would also receive such information from such functions at the group level, and in consistency with the risk management, in addition to the provision of safeguards on confidentiality, including safeguards to prevent tipping-off.

59. In order to address the deficiencies relating to this criterion, Tunisian authorities issued Basic Law No.9 of 2019 which stipulates that the persons mentioned in article 107 (FIs, owners of non-financial businesses and professions) should verify that their foreign branches and majority-owned subsidiaries are implementing policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management. They include, when necessary, the provision, at group-level compliance, audit, and AML/CFT officers, of customer, account, and transaction information, including unusual transactions and suspicious transaction reports, from branches and subsidiaries. There is no text explicitly stipulating that branches and subsidiaries should also receive such information from these group-level functions, in consistency with the risk management. As regards the provision of safeguards on confidentiality and use of information exchanged, there is no text explicitly stipulating that it is necessary to provide safeguards to prevent tipping-off.

60. The Central Bank also issued circular No.2018-09, where article 10 (new) thereof stated that reporting institutions that have branches or foreign branches should ensure that their branches or branches owned by foreigners having an adequate controlling interest have measures in place to take precautions against the risk of being misused for ML/TF, by implementing appropriate group-wide programs that are

consistent with the ML/TF risks and the nature of their activity, and which are in line with the requirements of criterion 18.2/(b, c), as regards institutions subjected to the supervision of the Central Bank.

**Conclusion:**

61. Tunisia took important steps to address the deficiencies relating to this Recommendation. Regulatory authorities still need to issue instructions requiring entities not subject to the supervision of the Central Bank to maintain group-wide programs against ML/TF that include safeguards to prevent tipping-off and to require the group-level compliance employee to share customer, account and transaction information with compliance officers at the level of the branch and subsidiaries, when this is appropriate for risk management.
62. Considering the remaining deficiencies which are deemed minor, the rating of R.18 is “**Largely Compliant**” .

**Fourth: Conclusion**

63. After analyzing the information submitted by Tunisian authorities and which is enclosed with its request for re-rating 10 Recommendations rated “Largely Compliant”, “Partially Compliant” and “Non-Compliant” in the MER, the expert reviewer concluded the following:

- **Recommendations which are subject of the re-rating request:**
  - To upgrade the rating of two Recommendations (R.6, R.8) to “**Compliant**”.
  - To upgrade the rating of six Recommendations (R.7, R.22, R.24, R.25, R.28 and R.31) to “**Largely Compliant**” .
  - To maintain the rating of “**Partially Compliant**” for R.23.
- **Recommendation amended since adoption of the MER (12/ 2017):**
  - To upgrade the rating of R.18 to “**Largely Compliant**” .

64. The compliance ratings after re-rating may be summarized in the following table:

**Table (2): Technical compliance re-ratings**

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

\* There are four technical compliance ratings: (compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC))

65. Tunisia is rated “Compliant” with (10) Recommendations, “Largely Compliant” with (26) Recommendations, and “Partially Compliant” with (4) Recommendations, as a result of the analysis of the 4<sup>th</sup> re-rating request, and according to the MENAFATF procedures, Tunisia will remain in enhanced follow-up, and shall submit its 5<sup>th</sup> Enhanced FUR in November 2020.