

Anti-money laundering and counter-terrorist financing measures

Albania

1st Enhanced Follow-up Report

December 2019

Follow-up report



The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

The 1st Enhanced Follow-up Report on Albania was adopted by the MONEYVAL Committee at its 59th Plenary Session (Strasbourg, 3 – 6 December 2019).

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Albania: 1st Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report (MER) of Albania was adopted in July 2018. This follow-up report analyses the progress of Albania in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since Albania report was adopted: Recommendation 2, 18 and 21. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Albania has made to improve its effectiveness. A later follow-up assessment will analyse progress on improving effectiveness which may result in re-ratings of Immediate Outcomes at that time.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Albania as follows for technical compliance:

Table 1. Technical compliance ratings, July 2018

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

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

Source: Albania Mutual Evaluation Report, July 2018, link <https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/1680931f70>.

3. Given the results of the MER, Albania was placed in enhanced follow-up¹. The Plenary invited Albania to submit a second enhanced follow-up report for the 59th MONEYVAL Plenary in December 2019.

4. The assessment of Albania request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Hungary
- Ukraine

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

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

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Albania to improve its technical compliance by:
- a) Addressing the technical compliance deficiencies identified in the MER, and
 - b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted.

3.1. Progress to address technical compliance deficiencies identified in the MER

7. Albania has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Albania has been re-rated on Recommendations 6, 8, 18, 19, 21 and 35.

Recommendation 6 (Originally rated PC – re-rating as C)

8. In its 5th round MER, Albania was rated PC with R.6, based on the following deficiencies: the listing criteria did not cover undertakings having links to designated persons or entities; there was no reflection on the evidentiary standard to be applied in the national legislation; there were no detailed, explicit procedures at the national level in relation to proposing designations to UNSC Committees; there were no specific legal provisions in Albania determining the procedures for requesting foreign country to give effect to the actions initiated under the freezing mechanisms, and provision of identifying information; targeted financial sanctions (TFS) were not implemented “without delay”; application of assets freezing by all natural and legal persons was cumbersome, and discretionary-based; the freezing obligations by natural and legal persons did not clearly extend to all types of funds and property as required under UN Resolutions 1267, 1988 and 1373; reporting obligation did not extend to the attempted transaction; there were no national procedures for submitting de-listing requests to the UN Sanctions Committees 1267/1989 and 1988; rules and procedures on return of the seized funds and other property were not adopted; there were no procedures set out on unfreezing of funds of inadvertently affected persons and entities; and, there were no mechanisms in place to communicate unfreezing to the FIs and DNFBPs immediately, upon taking such actions.

9. To address the deficiencies identified in MER for the R.6, Albania amended the Law No. 157/2013 “On Measures Against Terrorism Financing” (Law on MTF) which addresses the shortcomings identified in MER.

10. The listing criteria now covers the undertakings having links to designated persons or entities and legislation specifies the evidentiary standard of proof of “*reasonable grounds*” or “*reasonable basis*” applies when relevant authorities decide whether or not to make a proposal for designation.

11. Amendments introduce explicit procedures at the national level in relation to proposing designations to UNSC Committees and procedures for requesting foreign country to give effect to the actions initiated under the freezing mechanisms, and provision of identifying information.

12. Targeted financial sanctions (TFS) are now implemented “without delay”. According to the amendments, the reporting entities (REs) or institutions, as well as any person in the Republic of Albania, shall temporarily freeze the funds or other assets of the designated persons or entities,

directly, as soon as they become aware of the announcement by the relevant structures of the UNSC, international organizations to which the Republic of Albania is a party of, without being subject to the issuance of the temporary blocking order or the corresponding decision of the Council of Ministers (CoMs) (as it was identified in MER), in accordance with the provisions of the law. Before the decision of the CoMs on the designation of a person, the Minister of Finance orders a temporary freezing of assets and other property for a period of no more than 45 working days, when this is the only way to prevent the circumvention of the implementation of the measures stipulated in the Law on MTF. The order of the Minister of the Finance is not subject to discretion and enters into force immediately. Therefore, there is now a general obligation of immediate freezing that takes effect immediately regardless of the timing of issuance of the decision by the CoMs and there is also requirement for the Minister of Finance to order a temporary freezing of assets before the decision of the CoMs is taken. These revised measures ensure the implementation of TFS without delay.

13. Revisions to the legislation ensure also that all natural and legal persons within the country are obliged to freeze, without delay and without prior notice, the funds or other assets of designated persons as required by the standard and the freezing obligations by natural and legal persons extend now clearly to all types of funds and property as required under UN Resolutions 1267, 1988 and 1373.

14. Albania has also introduced the procedures for submitting de-listing requests to the UN Sanctions Committees 1267/1989 and 1988, adopted rules and procedures on the return of seized funds and other property, and set out procedures on the unfreezing of funds of inadvertently affected persons and entities. Mechanisms are in place to communicate the unfreezing to the FIs and DNFBPs immediately upon taking such actions.

15. Albania has now a robust legal framework to implement targeted financial sanctions related to terrorism and terrorism financing, including with respect to identifying and designating, implementing targeted financial sanctions without delay, de-listing and unfreezing measures. **Considering the progress made, Albania is re-rated as C with R.6.**

Recommendation 8 (Originally rated PC – re-rating to LC)

16. In its 5th round MER, Albania was rated PC with R.8, based on the following deficiencies: the analysis of the non-profit organization (NPO) sector did not identify the NPOs at risk of financing of terrorism (FT) abuse, and the nature of threats posed; a review of the legislation and measures from the perspective of FT had not been undertaken; Albania had no clear, if any, policies to promote accountability, integrity, and public confidence in the administration and management of NPOs; Albania had taken limited outreach to the NPO sector and the donor community concerning FT issues; the absence of a best practice-document developed by Albania with the involvement of NPOs; Albania had not taken steps to promote targeted risk-based supervision or monitoring of NPOs; the supervisory powers of the General Directorate of Taxation (GDT) were limited and did not cover appropriately the countering of the financing of terrorism (CFT) aspects.

17. Albania has conducted a second round of revision of the National Risk Assessment (NRA) assessment of ML and FT, which included a general risk assessment of the vulnerabilities and threats of NPOs (i.e. addressing the deficiencies in relation to identifying the nature of the threats posed by terrorist entities to the NPOs and adequacy of the measures applied to NPO sector).

18. Albania has also adopted new Instructions "On Supervision of Non-Profit Organizations In Function Of Prevention Money Laundering And Financing Of Terrorism" (the Instructions)

enhancing inter-institutional cooperation between the General Directorate for the Prevention of Money Laundering (GDPML) and GDT with respect to supervision of the NPOs, which foresee the publication of an annual report on issues identified with respect to supervised NPOs and periodical re-assessment of the NPO sector. The Instructions also provide for the measures for targeted risk-based supervision and monitoring of NPOs by the GDT.

19. In addition, Albania has introduced some important measures to promote accountability, integrity, and public confidence in the administration and management of NPOs through amendments to the Law on Tax Procedure and through Guidance “On Tax Procedures in the Republic of Albania”. These measures include an obligation for NPOs to have a bank account and to declare such account in the tax administration. This new requirement encourages NPOs to conduct transactions via regulated financial channels. The amendments to the Law on Tax Procedure also introduced sanctions for the failure to comply with registration or data updating obligations.

20. With respect to the outreach to the NPO sector about the potential vulnerabilities of NPOs concerning FT issues, the GDT has conducted several meetings with representatives from the NPO sector to share and exchange the relevant information on FT risks. However, Albania still needs to develop relevant best practice document with the involvement of the NPO sector.

21. **Considering the progress made, Albania is re-rated as LC with R.8.**

Recommendation 19 (Originally rated PC – re-rating to C)

22. In its 5th round MER, Albania was rated PC with R.19, based on the following deficiencies: there was no explicit requirement to apply enhanced due diligence (EDD) measures, proportionate to the risks, to business relationships and transactions with customers from countries for which it is called for by the FATF (C.19.1); the application of EDD measures did not extend to the mitigation of the FT risk (C.19.2); and there were no requirements on the proportionality of countermeasures with the risks posed by the countries either called upon by the FATF or identified by Albania (C.19.2).

23. Albania has addressed all deficiencies identified in the MER for R.19 through the amendments to the AML/CFT Law. These amendments notably introduced explicit requirements: to apply EDD measures proportionate to the risks to business relationships and transactions with customers from countries for which it is called for by the FATF (C.19.1); to apply EDD measures to mitigate the FT risk (C.19.2); and on the proportionality of countermeasures with the risks posed by the countries either called upon by the FATF or identified by Albania (C.19.2).

24. All the criteria under R.19 are now met. **On that basis, Albania is re-rated as C with R.19.**

Recommendation 24 (Originally rated PC – no re-rating)

25. In its 5th round MER, Albania was rated PC with R.24, based on the following deficiencies: absence of mechanisms in place that identify and describe the processes for obtaining and recording BO information (C.24.1); absence of a comprehensive assessment of the ML/FT risks associated with all types of legal persons created in the country (C.24.2); lack of a requirement for legal entities (LEs) to maintain basic information and a register of their shareholders or members by their own (C.24.4); the National Business Centre (NBC) and the District Court of Tirana (DCoT) do not bear responsibility for the accuracy of the registered data (C.24.5); lack of NPO tailor-made timeframe to provide data on amendments of previously submitted information (C.24.5); LEs or Registries are not required to obtain and hold, or take reasonable measures to obtain and hold, accurate and up-to-date information on BO, whereas the current mechanism does not ensure that information collected

by reporting entities (REs) performing customer due diligence (CDD) measures ensures coverage of all legal persons concerned (C.24.6 and C.24.7); legal representatives of legal persons are not required to be residents of the country, thus enforcement of the law enforcement authorities' powers for cooperation could be challenging (C.24.8); NPOs are not required to have an authorised person to act as their representative and provide information to competent authorities (C.24.8); there is no requirement to maintain basic and BO information and records for at least 5 years after the date on which the company is dissolved or otherwise ceases to exist, except for by the NBC, DCoT and the REs (C.24.9); bearer shares or bearer share warrants are not prohibited, and there are no measures in place to ensure that they are not misused for ML/FT (C.24.11); nominee shares and nominee directors are not specifically prohibited or controlled (C.24.12); the range of sanctions that can be applied by the NBC and supervisory authorities is not proportionate and there are no sanctions set out for associations, foundations and centers failing to comply with the requirements (C.24.13); the competent authorities' ability to rapidly provide international cooperation in relation to beneficial ownership (BO) information is hampered by deficiencies identified in R. 37, 40 and C.24.10 (C.24.14); and there is no mechanism for any formal assessment of the quality of assistance received from other countries by the Albanian authorities, except for the Police and the GDPML (C.24.15).

26. Albania has addressed several of these deficiencies. As part of the second revision of the ML/FT NRA, the authorities have now conducted an analysis of ML/TF risks associated with legal persons created in Albania (C.24.2). The country has also introduced a requirement for all legal persons (all of which are subject to taxation) to maintain a bank account and for details of such an account in Albania to be reported to the tax authority. The effect of this is that adequate information on legal persons should be obtained by banks in Albania and kept as up to date as possible (C.24.6 and C.24.7). This means that competent authorities, including law enforcement authorities, should have timely access to BO information for all legal persons created in the country (C.24.10).

27. However, many important deficiencies remain, in particular for C.24.4, C.24.5, C.24.8, C.24.9, C.24.11 and C.24.13. On this basis, **Albania remains PC with R.24.**

Recommendation 25 (Originally rated PC – no re-rating)

28. In its 5th round MER, Albania was rated PC with R.25, as REs are not required to conduct CDD, maintain records and provide information do not extend to trust relevant parties (C.25(c)). The MER also found that the information available to national and foreign competent authorities is limited by deficiencies identified under C.25.5(c) (C.25.2). In addition, trustees were not explicitly required to disclose their status to REs when forming a business relationship or carrying out a transaction above the threshold (C.25.3). MER noted also that there were no sanctions set out for trustees apart from ones under the AML/CFT Law, while the powers of supervisory authorities to obtain information held by the entities were limited (C.25.5). The deficiencies identified under C.25.1 and C.25.2 regarding availability of specific trust-related information, and certain limitations described under R. 37, 40 applied to C.25.6 (C.25.6). Moreover, there were no sanctions set out for trustees apart from ones under the AML/CFT Law (C.26.7).

29. Whereas the AML/CFT Law has been changed to require information on relevant trust parties to be held, obligations are placed on the arrangement rather than the trustee. Thus, the deficiencies identified in MER in relation to C.25(c), C.25.2, C.25.5, C.25.6 and C.25.7 remain.

30. Amendments to the AML/CFT Law address the deficiency related to C.25.3. Trustees are now required to disclose their status to the reporting entities when establishing a business relationship or when conducting occasional transactions (C.25.3).

31. While amendments to AML/CFT Law allow supervisory authorities to request data, they do not give them a power to do so or place a specific deadline for data to be provided. Accordingly, the limitation observed in the MER under C.25.5 remains.

32. Whereas the AML/CFT Law has introduced some changes, most of the deficiencies identified in MER remain. On that basis, **Albania remains PC with R.25.**

Recommendation 26 (Originally rated PC - no re-rating)

33. In its 5th round MER, Albania was rated PC with R.26, based on the following deficiencies: there were gaps in the fit and proper requirements for shareholders and administrators of FIs (C.26.3); for core principle FIs, there were some deficiencies in regulation and supervision as benchmarked against relevant international standards (C.26.4); the frequency and intensity of the Bank of Albania (BoA) supervision has not necessarily correlated to ML/TF risk (C.26.5(a)); the BoA has not yet applied the enhanced ML/TF risk assessment facilitated by offsite supervision for sectors under its supervision to the currency exchange sector (C.26.5(b)); there was not yet a document in place setting out a risk-based approach for supervision of investment funds by the FSA (C.26.5); and, for BoA and FSA supervision, there was no indication in the relevant documents that assessment of the ML/TF risk profile should be reviewed when there are major events or developments in the management and operations of the FI (C.26.6).

34. Albania has made some progress with respect to C.26.3 shortcomings. The BoA has amended the licencing regulations to introduce additional requirements in relation to fitness and propriety of banks' shareholders, partners, members and donators i.e. covering information on possible relationships. Similar requirements have been introduced for savings and loans associations and other FIs to identify the associates of the criminals. Additional requirements have been introduced covering broader checks in relation to indirect shareholders with the amendments to the Law on Banks.

35. With regard to insurance companies, the FSA has enhanced the procedures with amending the regulation no 1 *"On the procedures and method of submitting information and documentation regarding the capital source for insurance company shareholders"* to cover detailed fitness and propriety checks on shareholders that include conviction records, information on prosecutions, outstanding liabilities, etc. Moreover, obligation extends to an annual submission of the BO information to the Financial Supervisory Authority (FSA).

36. Amended regulation *"On granting approval/license to carry out the insurance agent activity, as well as denied cases of registration and refusal to grant the license"* cover now also insurance agents' activities and their propriety.

37. With regard to securities market participants, the FSA's has amended: (a) Regulation No. 69 to cover fitness and propriety of management companies' employees or agents (criminal conviction checks apply); (b) Regulation 165 to cover fitness and propriety of shareholders of the advisory companies, brokers and investment advisors, including any changes in relation to the governing body; (c) Regulation 124 to cover fitness and propriety of the employees of the management companies.

38. Notwithstanding the additional measures listed by the authorities, it is not possible to re-rate C.26.4 without the benefit of a self-assessment against relevant principles set by the IAIS and IOSCO (both sets of standards most recently assessed as partially compliant (or equivalent)). Accordingly, deficiencies identified in relation to C.26.4 remain.

39. Regarding the C.26.5 deficiencies the authorities have reported the collection of data to support the risk-based supervision. Whilst this is a positive development, the Albanian authorities have not demonstrated how they have addressed other deficiencies identified under this criterion described in MER.

40. The deficiency related to C.26.4(b) remains, as no changes have been introduced since the MER.

41. In relation to C.26.6 the authorities have explained that there are provisions in place requiring FIs to disclose major events or developments in management and operations. In the case of the FSA, these are new provisions. However, the authorities have not explained how supervisors review their assessment of the ML/TF risk profile of FIs or groups in the event of such events or developments. Nor does the new FSA guidance provide examples to non-bank FIs of the types of events and developments that should be reported. Accordingly, the deficiencies identified under C.26.6 remain.

42. Albania has addressed some deficiencies identified in the MER. However, moderate deficiencies remain. On that basis, **R.26 remains PC**.

Recommendation 28 (Originally rated PC – no re-rating)

43. In its 5th round MER, Albania was rated PC with R.28, based on the following deficiencies: fit and proper requirements for casinos did not specifically mention criminal associates and BOs (C.28.1(b)); there were no detailed licensing requirements for online gaming (C.28.1(a)); there were limited measures to prevent criminals or their associates from controlling or managing designated non-financial businesses and professions (DNFBPs) (28.1 (b) and 28.4 (b)); sanctions framework was not sufficiently proportionate and dissuasive (28.4 (c)); no requirements for supervisors to take into account the ML/TF risk profile when assessing the adequacy of the AML/CFT internal controls, policies and procedure (28.5(b)); supervision of DNFBPs was not performed on a risk-sensitive basis (28.5(a)).

44. C.28.1(b) deficiency remains since no changes have been introduced in relation to provisions for casinos, which do not explicitly mention criminal associates and indirect shareholders/BOs.

45. Regarding the deficiency in relation to C.28.1(a), Albanian authorities have reported that online gaming companies are currently prohibited in Albania.

46. No actions have been taken to address the deficiency in relation to limited measures to prevent criminals or their associates from controlling or managing DNFBPs (28.1 (b) and 28.4 (b)).

47. Albania has also not addressed the deficiencies in relation to sanctions framework. Although the fines are available, it does not appear that a proportionate range of sanctions in line with R.35 is available to deal with failure by DNFBPs to comply with AML/CFT requirements (C.28.4(c)).

48. Although the Public Oversight Body (POB) enhanced its risk based supervisory practices recently, limited information on supervisory developments has been received from other competent authorities (C.28.5(b)). In addition, regarding the requirement for supervisors to take into account the ML/FT risk profile when assessing the adequacy of the AML/CFT internal controls, policies and

procedures, the authorities have not explained how all supervisors take ML/TF risk profile into account when assessing the adequacy of the AML/CFT internal controls, policies and procedures (C.28.5(b)).

49. Albania has taken limited actions to remedy deficiencies. On that basis, **the rating of R.28 remains PC.**

Recommendation 35 (Originally rated PC - re-rating to LC)

50. Albania was rated PC with R.35 in the 5th Round MER in the light of various deficiencies identified. In particular, the MER noted the following: it is not unequivocally clear if there are sanctions available for failure of REs to provide information to supervisors (relevant for R.9) (C.35.1); the range of sanctions that can be imposed on REs for breaches of AML/CFT obligations under R.10 to R.23 is not sufficiently proportionate or dissuasive (c.35.1); there is no proportionate range of sanctions available for directors and senior management (c.35.2); there is no clear link between sanction powers and the requirements that are covered by other documents than the AML/CFT Law (e.g. guidance, regulations issued by supervisors) (c.35.1).

51. To address the deficiency that is related to the lack of sanctions available for failure of REs to provide information to supervisors (C.35.1), Albania amended the AML/CFT Law by adding Article 21/1 which requires REs to provide the GDPML with requested information, data and documents. However, as no measures have been taken by Albania with regard to the bank of Albania (BoA), it is still unclear whether the latter can impose sanctions on banks if they fail to provide requested information in general.

52. With respect to the range of sanctions that can be imposed on REs for breaches of AML/CFT obligations under R.10 to R.23 (c.35.1), it was noted that they are not sufficiently proportionate or dissuasive. To remedy this deficiency, Albania amended Article 27 of the AML/CFT Law to increase fines for violating the requirements related to R.10 to R.23. Sanctions for legal persons foreseen by Article 27 could be considered as proportionate and dissuasive. However, fines for natural persons that fail to comply with the AML/CFT Law requirements cannot be considered as proportionate and dissuasive.

53. The deficiency that is related to the lack of a proportionate range of sanctions available for directors and senior management is addressed by the amendments to Article 27 of the AML/CFT Law (C.35.2).

54. With respect to the lack of a clear link between sanction powers and the requirements that are covered by other documents than the AML/CFT Law (e.g. guidance, regulations issued by supervisors), no concrete steps have been taken by Albania.

55. Albania has remedied the outstanding deficiencies to a large extent, with some minor deficiencies remaining. **On this basis, Albania is re-rated LC with R.35.**

3.2. Progress on Recommendations which have changed since the adoption of the MER

56. Since the adoption of the Albania's MER the FATF has amended R. 2, 18 and 21. This section considers Albania's compliance with the new requirements and progress in addressing deficiencies identified in the MER in relation to these Recommendations, where applicable.

Recommendation 2 (originally rated LC – no re-rating)

57. In its 5th round MER Albania was rated LC with R.2 in the light of two deficiencies identified by the assessment team. In particular, the MER noted the absence of sufficient evidence to conclude that all of the key risks identified in the 2015 NRA are adequately addressed through national policies (C.2.1). The MER also found that there were no cooperation and coordination mechanisms in place to combat proliferation financing (PF) (C.2.4).

58. In October 2018, R.2 was amended to cover that countries should have co-operation and coordination between relevant authorities to ensure compatibility of AML/CFT requirements with Data Protection and Privacy Rules. The amended recommendation further requires a domestic mechanism for the exchange of information. Pursuant to the information provided, it can be concluded that Albania has the necessary mechanisms to exchange information domestically among the competent authorities to foster the development and implementation of AML/CFT policies and activities both at the policymaking and operational level. In particular, this is achieved through the establishment of different working groups (namely the CCFML and IITWG) as well as bilateral and multilateral agreements. Moreover, Albania has the necessary mechanisms to ensure compatibility of AML/CFT requirements with Data Protection and Privacy rules through different formal and informal mechanisms.

59. Considering all the above-mentioned measures and steps taken by Albania, it can be concluded that the revised requirements of R.2 are met. However, the deficiencies identified in the 5th Round MER and mentioned above remain. **Therefore, Albania remains LC with R.2.**

Recommendation 18 (Originally rated PC – re-rated LC)

60. In its 5th round MER Albania was rated PC with R.18. The following deficiencies were identified: there was no requirement to implement programmes against ML/FT having regard to ML/TF risk and the size of the business (C.18.1); screening procedures did not cover the compliance officers in case they are appointed at administrative level (C.18(b)); there was no explicit requirement for FIs to have an on-going training programme (C.18.1(c)); FIs (except for banks, insurance companies, management companies and the Saving and Loan Association (SLA)) were not required to implement an independent audit function (C.18(d)); there was no legislative requirement imposed upon FIs to implement group-wide programmes against ML/FT. Limited requirements are set only for the banking financial and insurance groups (C.18.2); and there was no requirement for the FIs to apply additional measures to manage the ML/TF risks in case the host country does not permit the proper implementation of the AML/CFT measures (C.18.3).

61. In November 2017, the interpretative note to R.18 was revised to clarify the requirements on the sharing of information related to unusual or suspicious transactions within financial groups. This also includes providing this information to branches and subsidiaries when necessary for AML/CFT risk management.

62. The deficiency identified under C.18.1 regarding the requirement for FIs to implement programmes against ML/FT, having regard to ML/FT risk and the size of the business, is rectified by the amended AML/CFT Law.

63. As regards C.18.1(b), screening procedures to ensure high standards, cover both new and existing employees.

64. A requirement for FIs to have an on-going training program (C.18.1(c)) for the responsible persons is introduced in the amended AML/CFT Law and the amended FSA Regulation No. 58.

65. Concerning C.18.1(d), the AML/CFT Law provides that the entities shall instruct the internal audit to check the compliance with the obligations of this Law and of the relevant secondary legislation acts. The authorities explained that, in absence of any specific internal audit structure (usually in small size entities), the requirement to audit the compliance falls on the administrator/legal representative. Foreign exchange offices are the only type of FIs without an internal audit function due to limited number of employees.

66. Entities which are part of the banking and/or financial groups are obliged to implement the group's AML/CFT programme, if they comply with the obligations set forth in the AML/CFT Law and its implementing legislation. The Law also provides for the policies and procedures for information-sharing required for the purposes of due diligence and risk management of ML/FT; audit structures and/or compliance functions for customers, accounts and transactional information (including information and analysis of transactions or activities that appear unusual), from any unit within the entity at group-level; and adequate measures to safeguard the confidentiality of the information exchanged, to prevent unauthorised disclosure (C.18.2(a, b and c)).

67. Regarding C.18.3, the AML/CFT Law requires entities to take additional measures to manage and mitigate high risks when identified. The Law also stipulates that - if the laws of the country where the subsidiaries, branches, sub-branches or agencies have been established foresee impediments for the implementation of the obligations - the entity shall report about those impediments to the responsible authority and, depending on the case, to its supervising authority.

68. Considering all the above-mentioned measures and steps taken, it can be concluded that Albania meets criteria 18.2 and 18.3. Criterion 18.1 is mostly met due to the absence of internal audit function in foreign exchange offices (see C.18.1(d)). **On this basis, Albania is re-rated as LC with R.18.**

Recommendation 21 (Originally rated LC – re-rated C)

69. In its 5th round MER Albania was rated LC with R.21, as the exemption from legal liability for the information disclosures to the GDPML is limited to professional and banking secrecy disclosures and does not cover the disclosure of other information protected by contract or law, regulatory or administrative provision. In November 2017, the interpretative note to R.21 was amended to clarify that tipping-off provisions under R.21 are not intended to prevent information sharing under R.18.

70. The deficiency under C21.1 is rectified by the amended AML/CFT Law (Art.14) which provides for a general exemption from legal liability for information disclosures to the GDPML for financial institutions (including their managers, officers and employees). As regards the new requirement under C.21.2, Art.11(b) of the AML/CFT Law provides for information-sharing within a financial group via the nomination of a responsible person for the prevention of ML at the administrative/management level in the central office. It follows implicitly from this provision that information-sharing at group-level is required and not inhibited by Art. 15 AML/CFT Law (which introduces a general prohibition to disclose the fact that an STR has been filed with the GDPML).

71. Albania has taken steps to rectify the identified deficiency under C.21.1 and meets the newly introduced requirement. **On this basis, Albania is re-rated as C with R.21.**

4. CONCLUSION

72. Overall, Albania has made a progress in addressing the TC deficiencies identified in its 5th Round MER and has been re-rated on 6 Recommendations (6 upgrades). Recommendations 8, 18 and 35, initially rated as PC, are re-rated as LC. Recommendations 6 and 19, initially rated as PC, are re-rated as C. Recommendation 21 initially rated as LC, is re-rated as C.

73. Further steps have been taken to improve compliance with the other Recommendations, including those Recommendations that have been revised since the adoption of the MER, but some gaps remain. Albania is encouraged to continue its efforts to address the remaining deficiencies.

74. Overall, in light of the progress made by Albania since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, December 2019

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

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

75. Albania will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Albania is expected to report back to the Plenary within one year.

GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
HFIU	Hungarian Financial Intelligence Unit
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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December 2019

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

1st Enhanced Follow-up Report

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

The report also looks at whether Albania has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2018 assessment.