

# 2<sup>nd</sup> Enhanced Follow-Up Report for Tunisia Re- Ratings Request

Anti-Money Laundering and  
Combating the Financing of Terrorism

6 December 2017

The Republic of Tunisia

Document Language: English.

Original Language: Arabic.

*This document contains the 2nd enhanced follow-up report for the Republic of Tunisia, which includes a request of technical compliance re-ratings for 17 recommendations. This report reflects Tunisia's efforts, since the adoption of the Mutual Evaluation Report in April 2016, to adapt the AML / CFT system to international standards. The 26<sup>th</sup> MENAFATF plenary adopted the report, and approved that the Republic of Tunisia remains in the enhanced follow-up process, and submits its third report in the 28<sup>th</sup> plenary meeting in November 2018.*

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**2<sup>nd</sup> Enhanced Follow-Up Report for the Republic of Tunisia**  
**(Request of technical compliance re-rating for 17 recommendations of the MER)**

**I. Introduction:**

1. The Republic of Tunisia was evaluated in the second round by the World Bank according to the 40 Recommendations of the Financial Action Task Force (FATF) and the 11 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> Plenary Meeting of the Middle East and North Africa Financial Action Task Force (MENAFATF) held in the city of Doha, State of Qatar in April 2016, and thus became the first MER adopted in the second round.
2. The report analyzes the level of effectiveness of the AML/CFT system in Tunisia and the level of technical compliance with the forty Recommendations adopted by the FATF. According to the MER, the Republic of Tunisia was rated (Non-Compliant) in relation to 5 Recommendations and (Partially Compliant) in relation to 17 out of the 40 Recommendations. The MER also showed a (Low Level) in 6 Immediate Outcomes and a (Moderate Level) in 5 Immediate Outcomes, out of the 11 Immediate Outcomes in relation to the evaluation of effectiveness.
3. According to the ratings of the eleven Immediate Outcomes and the forty Recommendations set out in the MER for the Republic of Tunisia, and as per 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 the enhanced follow-up, provided that it submits its first Follow-Up Report (FUR) at the Plenary Meeting which will be held in November 2017. The date was later modified to April 2017 subject to the amendments made to the procedures of streamlining the follow-up process in the second round.
4. Tunisia submitted its first enhanced FUR which was presented to the 25<sup>th</sup> Plenary Meeting, stating the request of the Republic of Tunisia for re-rating compliance with 16 recommendations; since the compliance re-rating mechanism was not clear in the mutual evaluation procedures for the second round at that time, the Plenary Meeting decided to adopt the enhanced FUR. provided that the country submits its second report which would include the request for technical compliance re-rating to the 26<sup>th</sup> Plenary Meeting.
5. On July 7, the Republic of Tunisia submitted information on the progress achieved since the adoption of the last MER, and requests the re-rating of 17 recommendations, as follows: 1, 2, 6, 10, 12, 15, 16, 17, 18, 19, 22, 24, 25, 26, 31, 34, 36.
6. Whereas the MENAFATF procedures for the 2nd Round of Mutual Evaluation” provides for the activation of the “peer review” principle by engaging MENAFATF experts experienced in the AML/CFT field and previously trained on the mutual evaluation process in analyzing the progress made by the country who shall assist in preparing the follow-up reports which comprise re-rating requests during regular or enhanced follow-up, the level of compliance of the Republic of Tunisia with the recommendations which need re-rating was analyzed by the

following experts: Mrs. Maha Al-Khayat (Senior officer - financial analyst at the SIC, FIU of Lebanon), Mr. Abdeljabbar MOUKRIM (Chief of the legal division at UTRF – FIU of Morocco), and Mr. Raed Al-Rawashda (Senior officer - financial analyst at the AML/CFT unit, FIU of Jordan). In addition to the Secretariat represented by Mr Rachid KASIMI (Executive Officer – Mutual Evaluation) and Mr. Fahad ALDAWISH (Officer-Mutual Evaluation).

## II. Results of the Mutual Evaluation Report:

7. The ratings of technical compliance and effectiveness set out in the Mutual Evaluation Report for the Republic of Tunisia are as follows:

- **TC rating:**

<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>R5</b>	<b>R6</b>	<b>R7</b>	<b>R8</b>	<b>R9</b>	<b>R10</b>
PC	PC	C	LC	C	PC	NC	LC	C	PC
<b>R11</b>	<b>R12</b>	<b>R13</b>	<b>R14</b>	<b>R15</b>	<b>R16</b>	<b>R17</b>	<b>R18</b>	<b>R19</b>	<b>R20</b>
C	PC	LC	LC	PC	NC	PC	PC	PC	C
<b>R21</b>	<b>R22</b>	<b>R23</b>	<b>R24</b>	<b>R25</b>	<b>R26</b>	<b>R27</b>	<b>R28</b>	<b>R29</b>	<b>R30</b>
C	PC	PC	PC	NC	NC	LC	PC	LC	C
<b>R31</b>	<b>R32</b>	<b>R33</b>	<b>R34</b>	<b>R35</b>	<b>R36</b>	<b>R37</b>	<b>R38</b>	<b>R39</b>	<b>R40</b>
PC	LC	PC	NC	LC	PC	C	PC	C	LC

- **Effectiveness Ratings:**

<b>IO 1</b>	<b>IO 2</b>	<b>IO 3</b>	<b>IO 4</b>	<b>Io 5</b>	<b>Io 6</b>	<b>IO 7</b>	<b>IO 8</b>	<b>IO 9</b>	<b>IO 10</b>	<b>IO 11</b>
Mod	Mod	Low	Low	Low	Mod	Mod	Mod	Low	Low	Low

8. The MER showed some deficiencies related to technical compliance with the forty Recommendations and the Immediate Outcomes regarding the effectiveness of the AML/CFT system. Recommendations on taking some corrective steps that shall be prioritized by the Republic of Tunisia were also incorporated in the report, as follows:

- The Tunisian authorities, with the assistance of the supervisory authorities for the financial and non-financial sectors, should complete a comprehensive, coherent analysis of the risks and establish a national strategy that could serve as a basis for increasing the legal, institutional, human and financial resources for combating terrorism and its financing, corruption and smuggling. This NRA should also serve as a basis for the development of a risk-based approach in the financial sector and in the DNFBPs.
- To tackle the financing of terrorism, the Tunisian authorities should (1) establish legal mechanisms generally prohibiting the provision of any economic resources to the persons included on the 1267 lists and ensure that these mechanisms are respected; (2) ensure the immediate freezing of assets held by persons designated by the 1267 lists or under Resolution 1373; (3) increase the legal, administrative, human and financial resources of the police services and judicial authorities handling cases involving terrorism and its financing; and (4) increase the resources of the units responsible for the supervision of associations. Finally, the Tunisian authorities should establish legal and administrative

mechanisms for the identification of individuals or entities that Tunisia could propose for addition to the U.N. lists and the designation of persons and entities in Tunisia in application of Resolution 1373.

- The effectiveness of criminal investigations and prosecutions should be improved through the adoption and implementation of the necessary legislation for the operation of the Financial Unit and the development of special investigative techniques. Moreover, the staff with financial expertise assigned to the police, gendarmerie and courts (judges and prosecutors) should be increased. The public prosecution offices should be encouraged to give priority to cases relating to terrorist financing and the laundering of the proceeds of corruption and smuggling. The Ministry of Justice should draft and implement a criminal policy guidance giving the public prosecution offices clear objectives in terms of the effective use of criminal confiscations and requiring the systematic opening of financial investigations based on cases of corruption, smuggling or trafficking of migrants.
- The CATF's human and physical resources should be increased to enable it to handle the growing number of suspicious transaction reports, and the makeup of its decision-making body should be changed to ensure that its members can perform their functions on a full-time basis.
- The effectiveness of the prevention measures should be enhanced by means of legislative or regulatory provisions requiring a risk-based approach for the identification of beneficial owners, the extension of the obligations concerning foreign politically exposed persons (PEPs) to national PEPs, and the enforcement of the customer due diligence requirements of financial institutions other than banks. For the DNFBPs, regulatory measures should be adopted and implemented to fill the gaps in the AML/CFT law, precisely identify the professions concerned, and encourage the vulnerable sectors, including lawyers, notaries, real estate agents and accountants, to implement customer due diligence requirements and submit suspicious transaction reports.
- The supervisory, oversight and regulatory authorities should systematically organize on-site and off-site AML/CFT examinations and inspections in the most vulnerable sectors. In the financial sector, the Central Bank, the Financial Market Board and the General Insurance Committee should use the identification and documented analysis of sectoral risks established in the context of the NRA to develop audit and work procedures, particularly concerning the financing of terrorism, sanctions against designated persons and the identification of beneficial owners and politically exposed persons. The scheduling of on-site inspections should be based on the frequency, perimeter, scope and relevance of the risks and the staff dedicated to AML/CFT supervision should be increased.

### **III. Overview of the progress made in implementing the recommendations subject of the re-rating request:**

9. This section of the report presents the measures taken by the Republic of Tunisia to comply with the re-rated recommendations, as follows:

- ***First:*** *The recommendations for which the country was rated (Partially Compliant/Non Compliant).*
- ***Second:*** *The recommendations which were amended after the adoption of the MER (R5, R8).*

**First: The recommendations for which the country was rated (Partially Compliant/Non Compliant):**

10. Tunisia requested the re-rating of 17 recommendations that were rated (Partially Compliant) or (Non Compliant), as follows: (1, 2, 6, 10, 12, 15, 16, 17, 18, 19, 22, 24, 25, 26, 31, 34, 36). Below the detailed analysis of each recommendation:

- ***R1 (Assessing Risks and Applying a Risk-Based Approach) (Partially Compliant):***

11. The deficiencies referred to in the MER for Tunisia were focused on the non-completion of the overall risk analysis and the absence of an AML/CFT policy and national strategy which impedes comprehensive understanding of the risks. The mechanisms for providing information on risk assessment results to different sectors are not clearly defined and applied. In addition, the risk-based approach is not widespread nor is it based on any enhancement or a lessening of preventive measures taken in accordance with the gravity or triviality of the risks identified.

12. In order to address such deficiencies, the Tunisian authorities completed the comprehensive national study on ML/TF risk assessment, published the final results of this study on the CTAF website and organized introductory workshops regarding the results. Tunisia also issued the national strategy to fight terrorism and the national strategy for good governance and combating corruption and established the Economic and Financial Judiciary Pole in the Court of Appeal. The ML/TF national risk assessment included the national strategy and the work plan on the short, medium and long term in order to limit the risks.

**13. Conclusion: Consequently, the Tunisian authorities addressed most of the deficiencies in the recommendation; however, it does not appear whether they adopted a national strategy regarding smuggling, based on the results of the national risk assessment, nor does it appear whether they are implementing a risk-based approach to allocate resources and to apply preventive measures against money laundering and terrorist financing according to criteria (1-5) and (1-6). Therefore, we deem it appropriate to upgrade the rating of Recommendation 1 to Largely Compliant, while advising the Tunisian authorities to address the deficiencies mentioned in criteria (1-5) and (1-6).**

- ***R2 (National Cooperation and Coordination) (Partially Compliant).***

14. The deficiencies related to recommendation 2 were focused on the absence of a mechanism to combat the financing of proliferation of weapons of mass destruction, the lack of formal cooperation and coordination in the financial sector between the three authorities (the Central Bank of Tunisia, the General Insurance Committee and the Financial Market Board) and the lack of coordination on the part of the Ministry of Justice to coordinate the work of public prosecutions.

15. Tunisia issued the national strategies to fight terrorism, for combating corruption crimes and for good governance. The law regulating the bylaws of the Central Bank was issued and it established an Authority formed of the supervisory authorities for the financial sector; however, the said law did not stipulate that the said Authority shall undertake the development and implementation of policies and activities to fight money laundering and terrorist financing. In addition, nothing indicates that national policies or measures were adopted regarding the risks resulting from smuggling according to the national risk assessment, and the country has not adopted any cooperation mechanisms between the concerned national entities regarding the cooperation mechanism to coordinate the combating of the financing of the proliferation of weapons of mass destruction.

**16. Conclusion: Therefore, and notwithstanding the efforts made, the Tunisian authorities did not complete the measures to address the technical deficiencies related to recommendation 2 and we deem it appropriate to keep the rating of compliance with the recommendation as Partially Compliant.**

- ***R6 (Targeted Financial Sanctions Related to Terrorism and Terrorist Financing) (Partially Compliant)***

17. The deficiencies in the implementation of recommendation 6 were as follows: With regard to resolution No.1267, even though the mechanism shall be applied to “all the persons in the country”, this obligation is limited to the entities subjected to the AML/CFT law. And the provision does not specify whether the concerned properties comprise the assets “which are controlled by the listed persons or the properties of the persons acting on behalf of the listed persons”. And there is no general prohibition to make assets or resources available or to undertake any transaction with the designated persons or entities. And regarding resolution No.1373, the provision, highly dependent on the institution of legal proceedings, can hardly initiate a freeze without delay.

18. In order to address the deficiencies, Tunisia issued Organic Law No. 26 dated 07/08/2015 concerning the fight against terrorism and the prevention of money laundering. It sets out the establishment of a National Anti-Terrorism Commission at the Prime Ministry to undertake the mission of following-up and assessing the implementation of competent UN bodies resolutions related to the fight against terrorism, providing recommendations and issuing related directives. The said Organic Law determined the powers and mandates of this Commission. It provided for the prohibition of any kind of support and financing to individuals, organizations, or activities linked with terrorist offences and it specified the prudential measures legal persons must take to prevent their misuse for TF or ML operations. It also empowered the said National Commission to freeze funds of persons or organizations whose link to terrorist crimes has been established to it or to the competent UN bodies. It also determined the measures to be taken by those responsible for implementing the decision to freeze, the conditions to request a permission to use a part of the frozen assets and the conditions to lift the freeze. It also provided for the sanctions imposed against subjected persons and “managers, representatives, assistants and partners of corporate bodies” whose liability for breaching or failing to observe the requirements of section 103 on the necessary measures which must be implemented by those responsible for executing the decision to freeze.

19. Notwithstanding the above-mentioned efforts, the Tunisian system is still incomplete as the application of the targeted financial sanctions remains associated with the development of the necessary mechanisms for the application of such sanctions.

**20. Conclusion: Tunisia has made efforts to address the deficiencies related to the implementation of recommendation 6; however, it still should address the remaining deficiencies and issue the afore-mentioned governmental orders. According to the foregoing, we deem it appropriate to keep the rating of compliance with this recommendation as "Partially Compliant".**

• ***R10 (Customer Due Diligence) (Partially Compliant)***

21. Most of the deficiencies in Tunisia were focused on the absence of legal provisions stipulating the prohibition of FIs from maintaining anonymous accounts or accounts with fictitious names, the absence of legal provisions requiring stock exchange intermediaries, companies engaged in the disposal of securities portfolios and insurance companies to apply due diligence measures, the lack of due diligence rules related to credit institutions, and absence of obligations requiring FIs to take due diligence measures according to materiality and risk and the absence of legal provisions stipulating that the beneficiary from a life insurance policy is considered as one of the associated risk factors. In addition to some deficiencies in criteria (10-1, 10-2, 10-5, 10-7, 10-11, 10-13, 10-16, 10-17).

22. Law No.26 dated 07/08/2015 concerning the fight against terrorism and the prevention of money laundering addressed the deficiencies related to criteria 10-2, 10-5, 10-7 and 10-11. On 19/09/2017, the Central Bank of Tunisia issued circular No.08-2017 which addressed most of the deficiencies in criteria 10.1, 10.16 and 10.17.

23. Article 43 of the circular provided for the prohibition of banks and FIs from maintaining anonymous accounts or accounts with fictitious names. Article 4 thereof also stipulated that FIs must implement customer due diligence measures based on materiality and risks. Regarding the implementation of enhanced due diligence measures when there are high risks of money laundering/and terrorist financing, the implementation of due diligence is consistent with the level of risks; furthermore, the subjected persons are required to implement enhanced due diligence measures toward high-risk customers upon the sorting, classification and identification of risks, high-risk customers related to the ML/TF national risk assessment, as well as NPOs.

24. Tunisia did not present any provision that expressly stipulates that the beneficiary from a life insurance policy is considered as one of the associated risk factors when determining the enforceability of the enhanced due diligence measures, even though they consider the sector as a low-risk sector.

**25. Conclusion: Considering the efforts made by Tunisia, namely the issuance of the new circular No.08-2017 which addressed a number of deficiencies tackled by the MER and the first FUR, we deem it appropriate to upgrade the rating of compliance with this recommendation from "Partially Compliant" to "Largely Compliant".**



- **R12 (Politically Exposed Persons) (Partially Compliant):**

26. The MER mentioned that the AML/CFT law only handles foreign Politically Exposed Persons (PEPs) and there are no legal provisions related to the implementation of due diligence measures toward PEPs by some entities subjected to the law (securities brokers and portfolio management companies).
27. To address the deficiencies, Organic Law No.26 of 2015 dated August 7, 2015 required the subjected persons to implement due diligence measures when dealing with persons who occupied or still occupy public positions, or had or still have parliamentarian or political missions in Tunisia or in a foreign country, with their relatives or with related persons. In addition, circular No.08-2017 defined PEPs and set a list of the major concerned positions. Article 16 of this circular stipulated that subjected institutions must promote due diligence in their relationships with this type of customers, including the determination whether the customer is a Politically Exposed Person and obtaining the approval upon continuing the relationship with the customer, understanding the source of the funds and ensuring an ongoing and enhanced monitoring.
28. However, the definition of PEPs in the circular No. 08-2017 mentioned above indicates that it is considered to be a Politically Exposed Person, all persons who, during the last two years, have carried out the functions referred to in the same circular. However, the FATF's Guide related to PEPs points out in its fourth paragraph that classifying clients as being in this category of clients must be risk-based and not time-bound.
29. Law 26-2015 and Central Bank Circular No 08-2017 do not refer to the application of measures to PPSs when the beneficial owner of the client is himself a PEPs, regardless of whether the client is himself a PEPs or not. (C.12.1.a and 12.2.a).
30. The deficiencies referred to in C.12.1.a and C.12.2.a are reflected in C.12.3
31. There are no provisions that apply when the beneficiary of a life insurance contract is a PEPs, or when the beneficial owner of the beneficiary of the insurance contract is a PEPs.
32. **Conclusion: Tunisia addressed the deficiencies related to recommendation 12 through Organic Law No.26 of 2015 and circular No.08-2017 of 2017. However, Tunisia still have to address the above mentioned deficiencies, and accordingly, we deem it appropriate to upgrade the rating of compliance with this recommendation from Partially Compliant to "Largely Compliant".**

- **R15 (New Technologies) (Partially Compliant)**

33. The MER showed that the then-current AML/CFT law was limited to the requirement which compelled the entities subjected to the law to give special attention to ML/TF risks resulting from the use of new technologies and to take necessary additional measures to this effect. The assessment team proposed to require credit institutions to implement this type of measures. The Tunisian law does not provide for the assessment of risks related to offering new products and technologies and for taking appropriate measures to this effect.
34. To address such deficiencies, the Organic Law concerning the fight against terrorism and the prevention of money laundering included the credit institutions among the persons subjected to the law. The subjected persons are required to implement due diligence measures when using

modern technologies and to take additional measures when necessary. In addition, circular No.08-2017 required institutions subjected to the law to establish systems for the management and identification of ML/TF risks which might arise from the development of new products and services, including new distribution channels, use of new or developing technologies related to the new or the previously existing products and to conduct a risk assessment before introducing new products or services or before using new or developing technologies. Institutions subjected to the law must also take the appropriate measures to reduce such risks.

35. In addition to the foregoing, article 16 of the arrangement of the Financial Market Board dated 19/01/2017 on the regulation of the executive measures stipulated that institutions should implement the necessary measures to identify and assess the ML/TF risks associated with the development of new products and services or with the use of new technologies and when necessary, to update their AML/CFT rules and procedures.
36. General Insurance Commission has not issued regulations or measures in regard to the compliance of requirements on identifying and assessing ML/TF risks that may arise in relation to the development of new products or practices, and the use of new or developing technologies, and to take appropriate measures to manage and mitigate the risks.
37. **Conclusion: Pursuant to the provisions of Organic Law No.26 and circular No.08-2017, it can be said that the Tunisian authorities addressed most deficiencies related to recommendation 15, however; the Tunisian General Insurance Commission still should issue the regulations and measures in relation to new technologies, and accordingly, we deem it appropriate to upgrade the rating of compliance from Partially Compliant to “Largely Compliant”.**
  - ***R16 (Wire Transfers) (Non Compliant)***
38. The MER showed the absence of legal provisions, which explain in detail the measures that FIs must apply regarding wire transfers and data keeping. It also showed the absence of rules applied to money transfer service operators, and the absence of procedures related to the implementation of measures that would prevent the conduct of any wire transfer operations pursuant to the targeted financial sanctions.
39. Tunisia addressed the deficiencies set out in recommendation 16 through Organic Law No.26 and the issuance of circular No.08-2017 dated 19/09/2017 requiring the financial institutions originating the transfer or the ordering institutions to verify that the international transfers include accurate and complete information on the transferors and information on the beneficial owner. The circular determined the mechanism of wire transfers issued by the same entity ordering the transfer, in a consolidated file, and consequentially the beneficiary’s country would be able to pursue this information.
40. Article 2 of circular No.08-2017 fixed the amount of worthy transfers in all the transactions which value exceeds 1000 Tunisian Dinars (around 410 USD) and referred to the information the unworthy transactions must include and to the conditions for the verification of the information accuracy. The circular stipulated that institutions are required to keep customers files, documents and information related to transactions which were conducted electronically or on paper, so as to

enable the competent authorities to peruse them. Article 25 set out the conditions governing the refusal of FIs to conduct any transfer.

41. The circular also provided for the obligations of intermediary financial institutions such as ensuring that all transferor and beneficiary information be kept with the wire transfer, keeping all the information received by the financial institution originating the transfer or by any other intermediary financial institution. In case of technical constraints, that prevent attaching information of the transferor or the beneficiary kept with the transfer, then the intermediary financial institution is required to keep the information obtained by the originator financial institution or any other intermediate financial institution, for at least 10 years. Furthermore, the circular also requires intermediary financial institutions to set appropriate measures to detect whether the transferor and beneficiary information is complete and consistent with the transfer system, developing risk-based policies and measures allowing to take decisions to execute or suspend the execution, to request additional information, to reject transfers which do not include the required information or sufficient information or that information fields were not filled out properly.
42. Tunisia still should issue instructions related to money or value transfer service providers, and instructions to implement freezing measures, and to prohibit the conduct of transactions with designated persons and entities according to the obligations provided for in UNSC resolutions No.1267 and No.1373 and other relevant resolutions.
43. **Conclusion: Tunisia addressed most of the deficiencies related to recommendation 16, therefore, we deem it appropriate to upgrade the rating of compliance from “Non Compliant” to “Largely Compliant”.**
  - ***R17 (Reliance on Third Parties) (Partially Compliant)***
44. Tunisia was facing some deficiencies in the implementation of recommendation 17, which were represented by the absence of provisions on the monitoring of third parties’ compliance with “keeping documents and records” rules, and it does not clearly address the legal situation in which the third party is located in a country not complying with the FATF Recommendations. Furthermore, no legislative provision has been communicated concerning the legal situation in which the financial institution relies on a third party of the same financial group.
45. To address the deficiencies, the Tunisian Law concerning the fight against terrorism and the prevention of money laundering required the subjected persons to implement the following due diligence measures: To obtain, when referring to third parties, the necessary data for the identification of the customer, to verify that third parties are subjected to a legislation and monitoring related to the prevention of money laundering and the combating of terrorism financing and that they are taking the necessary steps to this end and to verify their ability to provide, at the soonest, copies of the data related to the determination of their customer’s identity and other related documents, and in all cases, the customer identification is the subjected persons’ responsibility.
46. On 19/09/2017, the Central Bank of Tunisia issued circular No.08-2017 which included new controls regulating the reliance on third parties, whereas it stipulated that reliance on third parties does not exempt institutions subjected to the law from their responsibility for customer

identification. It also set out the conditions governing this operation, thus enabling to implement due diligence measures in terms of identifying the customer and the beneficial owner and to understand the nature of the business. Concerning financial institutions which rely on a third party that is part of the same financial group, the circular determined the cases regarding which the conditions provided for herein above are deemed as fulfilled, as detailed in the annex.

47. In paragraph 315 of the Technical Compliance Annex of the MER, it was noted that the legislative provisions do not contemplate the monitoring of third parties' compliance with record keeping rules and do not specifically address the situation in which the third party is located in a country not complying with the FATF Recommendations. No reference was made to how to address the deficiencies. (C.17.2).
48. The requirements of the circular No. 08-2017 issued by the Central Bank shall apply to banking and financial institutions and shall not apply to insurance institutions.
- 49. Conclusion: Tunisia addressed the deficiencies set out in the assessment of recommendation 17, therefore, we deem it appropriate to upgrade the rating of compliance from Partially Compliant to "Largely Compliant".**
- ***R18 (Internal Controls and Foreign Branches and Subsidiaries) (Partially Compliant).***
50. Tunisia was facing some deficiencies in the implementation of recommendation 18, which were represented by the absence of an AML/CFT program suitable for all branches regarding the protection of privacy, use of information exchanged within a group, data transmission for compliance and audit purposes, measures applicable in relation to the variations in legislation of the host countries and in relation to all institutions subjected to the law (including insurance companies).
51. Tunisia addressed most of the deficiencies related to this recommendation through articles 10 and 11 of circular No.08-2017 issued on 19/09/2017 to banks and FIs, which provided for the most important provisions which require FIs which have branches or any branches established abroad to verify that they are taking the necessary precautions to avoid the risk of being misused for ML/TF purposes. It must also be equipped with an alert system equivalent to, at least, the system indicated in this circular. When minimum AML/CFT requirements in the host country are lower than those applied in Tunisia, FIs are required to verify that their branches located abroad and subsidiaries are implementing appropriate additional measures to ensure the management of ML/TF risks and to inform the Central Bank of Tunisia of the same.
52. Article 11 of the same circular stipulated that financial groups are required to implement the same group-wide AML/CFT program and to apply it to all branches and majority-owned subsidiaries. The article also mentioned that such programs must comprise the application of policies and measures for providing information for due diligence purposes, and managing ML/TF risks, and providing information related to costumers, accounts and transactions executed by branches and subsidiaries for AML/CFT purposes, and group-wild auditing, as well as controls to protect information and ensure confidentiality.

53. The General Insurance Commission has not issued any circular or publication to its subjected entities in order to require them to implement programs against ML/TF which should be applicable to all branches and subsidiaries.

**54. Conclusion: Tunisia addressed most of the deficiencies related to the implementation of recommendation 18, therefore, the rating of compliance is “largely Compliant”, pending addressing the shortcomings referred to above.**

- ***R19 (Higher-Risk Countries) (Partially Compliant)***

55. The deficiencies set out in the MER were represented by the impossible implementation of appropriate counter-measures against a country if it persists in not sufficiently implementing the FATF recommendations. In addition, there are no appropriate measures taken to inform the financial entities subjected to the law on the concerns arising from the deficiencies higher risk countries.

56. To address the deficiencies, article 18 and 19 of circular No.08-2017 required the subjected institutions to implement enhanced due diligence measures when dealing with customers residing in high-risk countries, that listed among the public statement of FATF. the articles also provided for the counter-measures which must be implemented in consistency with the risks.

57. Tunisia still should take the appropriate measures to enable the direct contact with FIs on the concerns about weaknesses in the AML/CFT systems of other high-risk countries.

**58. Conclusion: Tunisia addressed most of the deficiencies related to the implementation of recommendation 19; however, it still should expedite the implementation of measures which ensure that FIs are informed about weaknesses in the AML/CFT systems of other countries. Accordingly, we deem it appropriate to upgrade the rating of compliance with recommendation 19 to “Largely Compliant”.**

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

59. The MER mentioned a number of deficiencies, which included the failure to take into account the obligations related to the risks of dealing with political leaders and senior officers in the national sectors. On this note, the assessment team recommended that campaigns to increase awareness of DNFBPs, including legal professionals, should be conducted.

60. To address the deficiencies, Tunisia issued the Organic Law which covers all the professions listed in the recommendation, and the sector is consequently required to implement due diligence measures toward (domestic and foreign) high-risk persons. However, this obligation was not reflected in detail in circulars or executive provisions by the authorities in charge of the supervision and monitoring of every sector. And there are no specific directives addressed to various DNFBPs on implementing due diligence measures related to ML/TF risks when using new technologies and the requirements provided in the law (due diligence) have not been reflected by issuing executive or guiding provisions for all sectors of DNFBPs. On the other hand, the level of awareness of these subjected persons, according to the MER, remains insufficient. In addition, it is difficult to verify if such professions are implementing the due diligence obligations provided for by the law in the absence of monitoring. It should be noted that several shortcomings presented in the MER for Recommendations 10, 12, 15 and 17 were addressed by the Central Bank's circular, while no

circulars were published towards DNFBPs. Therefore, the deficiencies mentioned in respect of the above recommendations are directly related to Recommendation 22 (see analysis of the above recommendations).

**61. Conclusion: Tunisia should address the deficiencies related to due diligence toward DNFBP customers; therefore, we deem it appropriate to keep the rating of compliance with this recommendation as “Partially Compliant”.**

• ***R24 (Transparency and Beneficial Ownership of Legal Persons) (Partially Compliant)***

62. The MER mentioned a number of deficiencies; the information appearing in the commercial register pertains to the legal ownership of the company and not its beneficial ownership. When the owner of the Tunisian company is a foreign legal person, the identification of the beneficial owners draws upon the implementation of the international cooperation, which does not allow to obtain such information in a timely manner.

63. To address the deficiencies, CTAF issued decision No.3 on March 2, 2017 which is related to beneficial owners. The decision included provisions on the identification of the beneficial owner and on the due diligence measures which must be taken to verify the beneficial owner. It also included criteria that must be relied upon to determine the beneficial owner(s) when the customer is a legal person.

64. However, the said decision does not cover all the deficiencies, whereas the information declared in the commercial register does not make it possible to know the beneficial owner, namely as regards foreign legal persons. The measures which are required to be implemented by the subjected persons depend on the extent to which it is possible for them to access beneficial ownership information, which is not possible through the information declared in the commercial register, particularly when foreign companies are concerned. Therefore, Tunisia prepared a work plan to develop the commercial register system and to simplify and allow the expedite access to information.

**65. Conclusion: Notwithstanding the efforts made by Tunisia by issuing decision No.3 dated March 2, 2017, to address its deficiencies in the implementation of recommendation 24, it did not cover all the criteria of the recommendation. And the observations set out in the MER still exist. Therefore, we deem it appropriate to keep the rating of compliance as “Partially Compliant” and to urge authorities to expedite the implementation of measures related to the development of the commercial register system.**

• ***R25 (Transparency and Beneficial Ownership of Legal Arrangements) (Non-Compliant)***

66. 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 on behalf of a trust established under a foreign law. However, the Tunisian law or the AML law does not provide for the implementation of any special measure to identify beneficial owners and ensure the transparency of transactions in terms of measures taken to prevent money laundering.

67. CTAF issued decision No.3 of 2017 which is related to beneficial owners. The decision determined the measures for the identification of the beneficial owner and mentioned the beneficial owner in "case of a fiduciary trust established under a foreign law, such as those related to trust funds and any other similar arrangements". It also mentioned a definition of the fiduciary trusts and trust funds. It also required "banks, financial institutions, lawyers, insurance institutions, investment institutions and accounting experts, when acting as a trustee of fiduciary funds, to declare their capacities to such banks, when establishing a business relationship or conducting an operation or a transaction in this regard".
68. This decision covers only a part of the requirements of recommendation 25, whereas it cannot be deemed as a general framework which requires legal arrangements to declare their status to the Tunisian authorities, and the obligation to declare as stated in the decision does not enable banks (with the exclusion of the other remaining FIs and DNFBPs) to implement due diligence measures in case they do not declare their capacity of trustees of a trust fund. Furthermore, banks do not have a mechanism to verify the declared information. It is worth mentioning that the decision did not refer to any punitive action in case a trustee of a trust fund fails to declare their identity to a bank when conducting an operation or engaging in a business relationship.
69. **Conclusion: By issuing the said decision, Tunisia has enhanced some of its measures to verify the transparency and determine the identity of the beneficial ownership of legal arrangements (including credit funds); however it does not cover most of the requirements of recommendation 25; therefore, we deem it appropriate to upgrade the rating of compliance from "Non-Compliant" to "Partially Compliant" and Tunisia should consider addressing the remaining deficiencies.**
- ***R26 (Regulation and Supervision of Financial Institutions) (Non-Compliant)***
70. The MER concluded that there are many deficiencies in the implementation of recommendation 26, such as the lack of clear powers conferred upon the Central Bank, the Financial Market Board and the General Insurance Committee in the AML/CFT field. Moreover, there are gaps in the legislation regarding the authority supervising the Tunisian Post Office, (which administratively comes under the Ministry of Telecommunications) in the AML/CFT field. There are no specific written measures to carry out the supervision on a risk-based approach. And the poor on-site monitoring conducted by the Central Bank and the Financial Market Board and the absence of such supervision as regards the General Insurance Committee. As well as the failure of taking into account the ML/TF risk levels to conduct such supervision. The poor understanding of risks by the supervisory authorities for the banking and financial sector due to weak or inexistent on-site visits. The poor human resources of the supervision and monitoring authorities for the banking and financial sector. The absence of an appropriate and updated policy that would promote the understanding of AML/CFT risks and obligations based on specific guiding principles, and the lack of awareness of risks and obligations by the subjected persons in the financial and banking sector. The failure to impose sanctions by the supervisory and monitoring authorities in the AML/CFT field.

71. To address the deficiencies, Law No.48 of 2016 granted the Central Bank of Tunisia off-site and on-site supervision powers in the AML/CFT field. Articles 64 and 66 of the banking law, article 23 of the Insurance Code, article 83 of the law on re-regulating the financial market and article 115 of the AML/CFT law enable to conclude that the three authorities have the necessary powers to conduct off-site and on-site supervision over the persons subjected to their supervision, even if the laws regulating the Financial Market Board and the General Insurance Committee do not include any requirements related to the combating of money laundering and terrorist financing. The new banking law established a new autonomous licensing authority in charge of setting and controlling licensing procedures that will be presented to the licensing committee for ratification.
72. Considering the recent conduct of the national risk assessment and notwithstanding the efforts of the financial sector, nothing reflects the outputs of the assessment on the work procedures, and their documentation and application in the supervisory operations. The Financial Market Board and the General Insurance Committee did not identify the sectoral risks, nor did they reflect their results on the work procedures and inspections. The General Insurance Committee prepared a risk-based approach manual on AML/CFT supervision in the sector, in the context of the cooperation program with the Financial Services Volunteer Corp (FSVC). The General Insurance Commission board will ratify this manual for adoption. Regarding the Financial Market Board, nothing indicates that it has conducted AML/CFT on-site monitoring operations.
- 73. Conclusion: The Tunisian authorities made efforts to establish a risk-based supervision system; however, such authorities, namely the General Insurance Commission and the Financial Market Board, still have to complete their measures to support monitoring of the sectors they supervise and to document their measures in this field. Therefore, we deem it appropriate to upgrade the rating of compliance from “Non-Compliant” to “Partially Compliant”.**
- ***R31 (Responsibilities of Law Enforcement and Investigative Authorities) (Partially Compliant).***
74. Tunisia was facing some deficiencies in the implementation of recommendation 31, in terms of the absence of powers related to controlled deliveries and undercover operations, and there are no legal texts that allow intercepting communications in the context of judicial investigations in case of money laundering or predicate offenses.
75. To address the deficiencies, Tunisia established measures for the confiscation of funds and has a confiscation committee having significant powers. The committee in charge of confiscation was established at the Central Bank of Tunisia in order to recover illegally acquired funds which are abroad. However, Organic Law No. (26) of 2015 only granted powers to use special means and techniques in terrorism cases, while excluding cases of money laundering and associated predicate offenses. Neither the Criminal Procedures Law nor the said Organic Law refer to powers related to controlled deliveries and undercover operations, and there are no legal texts that allow intercepting communications in the context of judicial investigations in money laundering or predicate offense cases.
- 76. Conclusion: Therefore, until the legislative framework is achieved more broadly and the Criminal Procedures Law is revised so as to be in line with the special means of investigation**



**into money laundering crimes and TF predicate crimes, we deem it appropriate to keep the rating of compliance with the recommendation as Partially Compliant.**

• ***R34 (Guidance and Feedback) (Non-Compliant)***

77. The MER showed that the publication of good practices and the provision of appropriate feedback between the authorities and the subjected persons in terms of scope, updates, and importance is limited, and that the DNFBPs are not receiving any feedback. The assessment team recommended the supervisory authorities for the financial and banking sector to establish practical guiding principles.

78. On 02/03/2017, CTAF issued guiding principles addressed to the financial professions regarding the declaration of suspicious operations, beneficial owners, and detecting and reporting of suspicious transactions.

79. On the other hand, CTAF and the supervisory authorities issued provisions to the subjected persons, among others, guiding principles for 2017 and a manual on the AML/CFT measures for the Financial Market Board. In addition, CTAF issued annual reports which included typologies and case studies for subjected persons and held periodical meetings with FIs' representatives subjected to reporting. It also published a bulletin to the public and the subjected persons as well as notifications on some suspicious cases or practices.

**80. Conclusion: Tunisia has made a progress on sharing good practices; however, it still should improve the provision of feedback between the supervisory authorities and the subjected persons (particularly the DNFBPs) in terms of scope, updates and importance. Therefore, we deem it appropriate to upgrade the rating of compliance from “Non Compliant” to “Partially Compliant”.**

• ***R36 (International Instruments) (Partially Compliant)***

81. The deficiencies of Tunisia were represented by the fact that the supervisory authorities for the financial sector have not performed inspection and monitoring operations to ensure the implementation and effectiveness of the inspections conducted by these institutions. And Tunisia does not have an administrative freezing mechanism that is fully consistent with the provisions set forth in UNSC resolutions No.1267 and No.1373.

82. The AML/CFT law assigned the National Commission to follow-up and evaluate the implementation of the resolutions of the UN bodies concerned with the terrorism. The law also assigned the Commission with the mission of freezing the funds of persons or organizations whose link to terrorist crimes has been established by it or by the competent UN bodies. The law also assigned the commission to regulate the procedures related to the implementation of the resolutions issued by the UN bodies by virtue of a governmental order.

83. Consequently, despite the existence of the governmental order draft to regulate the procedures related to the implementation of the UNSC resolutions, Tunisia has not issued yet an integrated and comprehensive system that is fully consistent with the provisions of UNSC resolutions No.1267 and 1373; furthermore, nothing indicates that the supervisory authorities for the financial and non-financial institutions are verifying that the financial and non-financial institutions are implementing UNSC resolutions No. 1267 and No.1373.

84. By reviewing the terms of the Vienna, Palermo and Merida Conventions, and the Terrorist Financing convention, as stipulated in this Recommendation, it appears that there is a lack of implementation of the requirements of : Article 11 / Controlled Delivery of the Vienna Convention, and article 13 / International Cooperation for Forfeiture, and Article 20 / Special investigative techniques in Palermo convention, and article (50) / Special investigative techniques, and article 54/Mechanisms for property recovery through international cooperation in the area of confiscation, and article 55 / International cooperation for purposes of confiscation from the Merida Convention.
85. It should be noted that the approved MER referred to requirements for the implementation of Security Council resolutions 1267 and 1373, although recommendation 36 does not require this in its first and second criteria.
86. **Conclusion: Recommendation (36) does not explicitly require any requirements for the implementation of Security Council Resolutions 1267 and 1373, however, the counterterrorism and terrorist financing system is an integrated system that begins with signing and ratifying International conventions including suppression terrorism financing, and to reflect the provisions of the Convention on legislations and regulations to criminalize TF, to expose and freeze terrorist funds, and dry the sources of their financing, as stated in articles (2-18) especially in article 8. In the implementation of a number of articles of international conventions, as described previously, and taking into account that the recommendation 36 does not refer to the implementation of UNSC resolutions abovementioned, and the efforts of Tunisia, we deem it appropriate to upgrade the rating of compliance with the recommendation as Largely Compliant.**

**Second: The recommendations which were amended after the adoption of the MER:**

87. After the on-site visit conducted by the assessment team to the Republic of Tunisia in February 2015 to prepare the MER, R5 and R8 were amended. This section provides an analysis of the compliance of the country with the requirements of both recommendations following their amendment and presents all the deficiencies in the implementation of such recommendations as set out in the MER.
- ***R5 (Terrorist Financing Offense) (Compliant)***
88. Recommendation 5 and its Interpretive Note were amended by replacing the term “funds” with “funds and other assets” and the definition mentioned in the terminology was also amended by adding “oil, other natural resources and other assets which can generate funds”.
89. The elements of the recommendation also included that countries shall criminalize the financing of the travel of foreign terrorist fighters (individuals who travel to a country other than their country of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or providing or receiving of terrorist training), in application of the requirements of UNSC resolution No.2178.
90. Accordingly, the Tunisian authorities provided information on their level of compliance with the new requirements of recommendation 5, in terms of defining funds in article 3 of the Organic Law which comprised all the funds and property “property of every kind, whether tangible or intangible,

movable or immovable, however acquired, and incomes and profits resulting therefrom and legal documents or instruments in any form, including physical or electronic , evidencing title to, or interest in, such property.”

91. Article 36 of the Organic Law concerning the fight against terrorism and the prevention of money laundering issued on August 7, 2015 mentioned that “any person is a perpetrator of a terrorist offense and is imprisoned from 6 to 12 years with a penalty ranging between 50,000 and 100,000 Dinars if he intentionally commits, by any means, whether directly or indirectly, any of the following acts: (...) Donates, collects, offers or provides funds knowing that they are intended to finance the travel of persons outside the territories of the Republic to join a terrorist organization or a party, to commit any terrorist offenses or to receive or provide a training for committing a terrorist offence.”
92. It is worth mentioning that article 36 of the Tunisian Organic Law No.26 of 2015 criminalizes the financing of persons for their travel outside the country to join a terrorist organization, to commit a terrorist offense, to receive a training for this end or to provide this type of training. However, the law does not criminalize the financing individuals to travel for the purpose of planning or preparing for a terrorist act.
- 93. Conclusion: Whereas the Tunisian law fulfills most of the requirements set out in recommendation 5 following its amendment, the rating of compliance with the said recommendation 5 is “Largely Compliant”.**

- ***R8 (Non-Profit Organizations) (Largely Compliant)***

94. Recommendation 8 and its Interpretive Note were amended whereas countries should determine the non-profit organizations which must be placed under supervision to avoid the risks of using them for terrorist financing, according to the FATF definition of non-profit organizations, identify the nature of threats terrorist entities constitute to non-profit organizations which are exposed to risk, and develop instructional and teaching programs for non-profit organizations and donors on the potential vulnerabilities from misusing them, and the measures they must implement to take precautions against such risks. The recommendation also mentions that countries should work with non-profit organizations on developing the best practices to avoid TF risks and to urge such organizations to arrange their financial operations through regulated channels.
95. The Tunisian MER mentioned some deficiencies in the implementation of recommendation 8, represented in the absence of an efficient system to raise the awareness of NPOs regarding the combating of terrorist financing, in addition to the absence of provisions requiring the implementation of the rules for the identification of the beneficiary and the partner in the non-profit organizations, as well as the lack of quality measures for effective investigation and inquiry about the organizations with the aim of combating terrorist financing.
96. The Tunisian authorities submitted information on their level of compliance with the new requirements mentioned in recommendation 8, as follows:
- Creating a technical committee in charge of preparing a draft amending the decree pertaining to the regulation of the organizations.

- The ML/TF risk assessment indicated that most of the high-risk organizations had a religious missionary nature or charitable social nature, whereas no suspicious financial activities related to scientific, research or sports organizations were detected.
  - The national risk assessment recommended the necessary amendment of the legal framework regulating the NPOs sector and the promotion of the supervisory role by intensifying on-site visits and off-site supervision. It also required such establishments to prepare annual accounting financial statements to be published for the public after being audited and reviewed by external auditors appointed for this purpose, and it urged organizations to create an internal control structure to follow-up the activities of these institutions, and to submit periodical reports to supervisory authorities.
97. The Tunisian national risk assessment report determined the categories of organizations which are considered to pose high risks; however, it does not appear that such information is reflected in the monitoring and supervision mechanism for non-profit organizations, in addition to the absence of a clear system aimed at raising the awareness of such organizations on TF risks by misusing them and the lack of measures which must be applied in case the sector faces any threats. Tunisia also did not share the best practices with non-profit organizations yet, nor did it encourage them to limit their transactions to regulated FIs which are subjected to the supervision of the official authorities.
- 98. Conclusion: Whereas the Tunisian authorities did not address all the deficiencies mentioned in the MER and since their current system does not cover the new requirements set out in recommendation 8 following its amendment, the rating of compliance with recommendation 8 is “Partially Compliant”.**

#### **IV. Conclusion:**

99. After analyzing the information submitted by the Republic of Tunisia and which is enclosed with its request for re-rating compliance with 17 recommendations which were rated “Partially Compliant” and “Non-Compliant” in the MER, the assessment team concluded the following:

##### **Recommendations which are subject of the re-rating request:**

- To upgrade the rating of compliance to "Largely Compliant" for nine recommendations, being R1, R10, R12, R15, R16, R17, R18, R19 and R36.
- To upgrade the rating of compliance to “Partially Compliant” for three recommendations, being R25, R26 and R34.
- To maintain the rating of “Partially Compliant” for five recommendations, being R2, R6, R22, R24 and R31.

##### **Recommendations which were amended after the adoption of the MER:**

- R5: It was rated “Compliant” and re-rated “Largely Compliant”.
- R8: It was rated “Largely Compliant” and re-rated “Partially Compliant”.

100. The compliance scores after the re rating can be summarized in the following table:

<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>R4</b>	<b>R5</b>	<b>R6</b>	<b>R7</b>	<b>R8</b>	<b>R9</b>	<b>R10</b>
LC	PC	C	LC	LC	PC	NC	PC	C	LC
<b>R11</b>	<b>R12</b>	<b>R13</b>	<b>R14</b>	<b>R15</b>	<b>R16</b>	<b>R17</b>	<b>R18</b>	<b>R19</b>	<b>R20</b>
C	LC	LC	LC	LC	LC	LC	LC	LC	C
<b>R21</b>	<b>R22</b>	<b>R23</b>	<b>R24</b>	<b>R25</b>	<b>R26</b>	<b>R27</b>	<b>R28</b>	<b>R29</b>	<b>R30</b>
C	PC	PC	PC	PC	PC	LC	PC	LC	C
<b>R31</b>	<b>R32</b>	<b>R33</b>	<b>R34</b>	<b>R35</b>	<b>R36</b>	<b>R37</b>	<b>R38</b>	<b>R39</b>	<b>R40</b>
PC	LC	PC	PC	LC	LC	C	PC	C	LC

101. The Plenary Meeting adopted the report provided that Tunisia remains in the enhanced follow up process and present its third report to the 28<sup>th</sup> Plenary meeting on November 2018, and the Secretariat publishes this report as an enhanced follow-up report with a re-rating request according to the adopted MENAFATF procedures.

**Annex 1: The recommendations for which the country was rated (Partially Compliant/Non Compliant)****1. Part 1:**

<b>Recommendation</b>	<b>Current rating</b>	<b>Required rating</b>	<b>Justifications of the country</b>	<b>Opinion of experts</b>
1 Assessing risks and applying a risk-based approach	Partially Compliant	Compliant	Tunisia is considered to have fulfilled most of the recommendations on AML/CFT policies and coordination related to the Immediate Outcome 1, mainly those related to the national study on the assessment of ML/TF risks. Accordingly, it requests to upgrade the level of effectiveness to substantial level and to upgrade the level of technical compliance with R1 and R2 to Largely Compliant, considering that Tunisia completed the national study on risk assessment and worked on promoting national cooperation and coordination.	<p>The Tunisian authorities completed the comprehensive national study on ML/TF risk assessment and submitted the final results to the concerned authorities in the country for consideration. These results were also submitted to the financial sector and the DNFBPs and the national risk assessment was published on CTAF website. Tunisia also issued the national strategy to fight terrorism and the National Anti-Corruption Commission issued the national strategy for good governance and combating corruption.</p> <p>The ML/TF national risk assessment included the national strategy as set out in chapter 9 of the report on the work plan which comprised the measures to be implemented on the short, medium and long term in order to limit the risks.</p> <p>It is found that the Tunisian authorities understand the ML/TF risks and implemented a number of measures to limit such risks, through national strategies issued and workshops organized in order to inform the entities of the results of the national risk assessment, the creation of the economic judicial pole at the Court of Appeal which is responsible for conducting inquiry, examination, investigation and rendering rulings on economic and financial crimes and the issuance of Organic Law No.10 dated 07/03/2017 on the corruption reporting and whistle blower protection; therefore, the</p>

				<p>Tunisian authorities addressed the deficiencies in criteria (1-1), (1-2), (1-3) and (1-4). On the other hand, it does not appear whether the Tunisian authorities adopted a national strategy regarding smuggling, according to the results of the national risk assessment, nor does it appear whether they are implementing the risk-based approach to allocate resources and to apply preventive measures against money laundering and terrorist financing according to criteria (1-5) and (1-6). <b>Therefore, since the Tunisian authorities addressed most of the deficiencies related to the recommendation, we deem it appropriate to upgrade the rating of technical compliance to Largely Compliant, while advising the Tunisian authorities to address the deficiencies mentioned in criteria (1-5) and (1-6).</b></p>
<p><b>• Comment of the assessed country:</b> <b>Compliance with criteria 1.5 and 1.6 was met since Tunisia prepared and published the ML/TF national risk assessment and such assessment comprised a work plan for the implementation of the necessary immediate measures on the short and medium term, including among others, the increase of human and financial resources for all the entities concerned with the risk-based approach. Therefore, we insist on re-rating the compliance as Compliant.</b></p>				
2 National cooperation and coordination	Partially Compliant	Largely Compliant	Tunisia is considered to have fulfilled most of the recommendations on AML/CFT policies and coordination related to the Immediate Outcome 1, mainly those related to the national study on ML/TF risk assessment . Accordingly, it requests to upgrade the level of effectiveness to substantial level and to upgrade the level of technical compliance with R1 and R2 to	The Tunisian authorities issued many national strategies on the fight against terrorism and crimes of corruption and on good governance, in the light of the results of the national risk assessment; however, nothing indicates that national policies or measures were adopted regarding the risks resulting from smuggling according to the national risk assessment. The law regulating the bylaws of the Central Bank, was issued. It provided for the cooperation between all the

			<p>Largely Compliant, considering that Tunisia completed the national study on risk assessment and worked on promoting national cooperation and coordination.</p>	<p>supervisory authorities for the financial sector and established an Authority formed of the supervisory authorities for the financial sector in order to stabilize and strengthen the financial system, to avoid regulatory risks and to limit any potential turmoil that can affect the economy; however, the said law did not stipulate that the said Authority shall undertake the development and implementation of policies and activities to fight money laundering and terrorism financing according to criterion (2-3).</p> <p>With regard to the cooperation mechanism to coordinate the combating of the financing of the proliferation of weapons of mass destruction, the Tunisian authorities have not adopted any cooperation mechanism applied between the concerned national entities in this regard yet, according to the international standard (2-4).</p> <p>Therefore, the Tunisian authorities did not complete the measures to address the technical deficiencies related to recommendation 2 and we deem it appropriate to keep the rating of compliance with the recommendation as Partially Compliant.</p>
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**Comment of the assessed country:**

**Tunisia confirms the following:**

**Criterion 2.3: The Tunisian authorities endeavored to avoid vulnerabilities Concerned with mechanisms that enable entities in charge of policy making, the FIU, the LEAs, the supervisory entities and other related competent authorities to cooperate, and when necessary, to coordinate, domestically, among each other, by establishing an institutional mechanism, in addition to the foregoing, represented by the National Intelligence Center which is created under governmental order No.71 dated 19/01/2017, and which is in charge of coordination between the various national intelligence bodies. It is also assigned to gather analysis and reports from various national intelligence bodies, to facilitate the exchange of information between them, to prepare strategic options and set priorities in the intelligence field, to coordinate international**



cooperation programs in the intelligence field and to regulate the mechanisms for coordination with the administrative bodies charged with following up the information and communication system crimes.

Regarding the prudential supervision authority, even if it is explicitly stipulated that the said authority which is established by virtue of the Central Bank Organic Law No.35 of 2016 shall be tasked with the implementation of policies and activities in the AML/CFT field, its mandates are however considered more comprehensive as it is considered an essential element in securing financial stability, keeping the banking sector safe, and limiting risks and their impact on the safety of the economy, including the ML/TF risks. Accordingly, the lack of explicit provision requiring such authority to develop work policies and programs in this field does not negate its ability to issue recommendations to the reviewing authorities to take precautions against such risks, considering that the article has a general perspective and did not determine the fields of intervention of this authority, knowing that the recommendations of the prudential supervision authority are deemed binding upon the reviewing authorities, as set out in articles 91 and 92 of the same law.

**Criterion 2.4:** Tunisia agrees that this criterion is not met but at the same time, this fact does not prevent it from requesting an upgrade of the recommendation rating to Largely Compliant based on the following justifications:

Tunisia met three out of four criteria related to recommendation 2 and since the individual criteria used to assess each recommendation - according to the methodology with regard to weighting (paragraph 35) - do not all have equal importance, the relative importance of each criteria must be considered, when deciding on the rating for each recommendation, in the context of the country. In addition, the significance of any deficiencies must be considered, given the country’s risk profile; and since the national risk assessment and the results of the MER did not conclude that the financing of proliferation of weapons of mass destruction is a high risk, the weighing of this criteria in the general context of the country’s risk has little effect on the required compliance rating which is Largely Compliant, thus indicating minor deficiencies

- The soundness of the second justification derives from criterion 2.4 which stated that there is no obligation to establish a coordination mechanism to combat the financing of proliferation of weapons of mass destruction “.....and, where appropriate, coordination mechanisms to combat the financing of proliferation of weapons of mass destruction.” Therefore and taking the foregoing into consideration, Tunisia insists on its request to upgrade the rating of the recommendation to Largely Compliant.

19 Higher-risk countries	Partially Compliant	Compliant	Tunisia requests to upgrade the rating of recommendation 19 to Largely Compliant in	Circular No.8 of 2017 issued by the Central Bank, namely articles 18 and 19 thereof, required the subjected institutions to implement enhanced due
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			<p>view of the efforts and the regulatory provisions issued by the concerned entities.</p>	<p>diligence measures when dealing with customers residing in high-risk countries, listed in the public data of FATF and accordingly, counter-measures commensurate with the risks must be taken, such as:</p> <ul style="list-style-type: none"> <li>- Automatic suspicious reporting on such operations</li> <li>- To refrain from establishing branches or representative offices in such countries</li> <li>- To limit transactions with persons residing in these countries.</li> <li>- To avoid dealing with third parties residing in these countries.</li> </ul> <p>The Tunisian authorities would have, thereby, addressed criterion (19-2) of the recommendation.</p> <p>Even though the Tunisian Committee published the updated bulletins regarding countries that face risks which are issued by the FATF on CTAF website, no measures were taken by the Tunisian authorities to enable the direct contact with FIs on the concerns about weaknesses in the AML/CFT systems of other high-risk countries according to criterion (19-3).</p> <p><b><u>Therefore, since the Tunisian authorities took a substantial action to address criterion (19-2) of the recommendation according to the Central Bank circular, we deem it appropriate to upgrade the rating of compliance with the recommendation to Largely Compliant.</u></b></p>
<p>• <b>Comment of the assessed country:</b>  <b>Circular No.8 of 2017 issued by the Central Bank of Tunisia, namely articles 18 and 19 thereof, required banks and financial institutions to implement enhanced due diligence measures when dealing with customers residing in high-risk countries, listed in the public data of FATF. And accordingly, counter-measures commensurate with the risks must be taken, such as:</b></p>				

<ul style="list-style-type: none"> <li>- <b>Automatic suspicious reporting on such operations</b></li> <li>- <b>To refrain from establishing branches or representative offices in such countries</b></li> <li>- <b>To limit transactions with persons residing in these countries</b></li> <li>- <b>To avoid dealing with third parties residing in these countries</b></li> </ul> <p><b>Therefore, we request to upgrade the rating of compliance to Compliant.</b></p>				
<p>31 Powers of law enforcement and investigative authorities</p>	<p>Partially Compliant</p>	<p>Largely Compliant</p>	<p>Tunisia is deemed to have tackled the deficiencies related to recommendation 31 (Powers of law enforcement authorities) by virtue of Organic Law No.26 of 2015 which provided for special means of investigation and accordingly, it requests to upgrade the rating for recommendation 31 to Compliant.</p>	<p>The Tunisian authorities apply measures for the confiscation of funds and the Ministry of State Property and Real Estate Affairs has a confiscation committee which is granted wide powers to request information which would enable it to achieve its tasks and peruse all the documents it requires from the administrative entities and the public or private institutions. There is also a committee in charge of confiscation, established at the Central Bank of Tunisia in order to recover illegally acquired funds which are abroad.</p> <p>Organic Law No. (26) of 2015 grants powers to use special means and techniques such as the interception of communications, hacking, audio-visual monitoring and hacking in terrorism cases only, while excluding the cases of money laundering and associated predicate offenses.</p> <p>The Criminal Procedures Law or the Organic Law No. (26) of 2015 does not indicate that there are powers related to controlled deliveries and undercover operations. There are no legal texts that allow interception of telephone numbers in the context of judicial investigations in case of money laundering or predicate offenses according to criterion No. (31-2). The Tunisian authorities mentioned that a committee was established by the Minister of Justice to revise the Criminal Procedures Law in order to keep in line with</p>

the special means of investigation into money laundering crimes, predicate crimes and terrorism financing.  
Therefore, until the legislative framework is achieved in terms of investigations into ML and TF crimes to address all the deficiencies, we deem it appropriate to keep the rating of compliance with the recommendation as Partially Compliant.

**Comment of the assessed country:**

**Tunisia considers that criteria 31.1, 31.3 and 31.4 are met and regarding the remaining criteria, the following is noted following a meeting held with the judicial authorities in the country:**

**- Criteria 31.2 provided for the ability of competent authorities to use a wide range of investigative techniques for the investigation of money laundering and predicate offenses, which means that the point of reference for the ability of competent authorities in the field of investigations is legally derived whether from the legal text or from judicial authorizations (whether issued by the Public Prosecution or by the investigating judge, depending on the situation). Since the reference of the assessment team was only based on legal texts, this is considered “a prejudice against the criteria” for the following reasons:**

- \* First reason: The criterion does not explicitly provide for the necessity of including the special means of investigation in a law-type provision.**
- \* Second reason: There is nothing, in fact or by law, that prevents the Judiciary from issuing decisions to the authorities concerned with investigation by using the special means set out in criterion 31.2, and this is what actually took place at “the White Hands Campaign” that the government has launched in the past few months where the Judiciary issued a decision to the competent investigation authorities to use the means of investigation in crimes initially related to money laundering and other predicate offenses such as corruption and smuggling.**
- \* Third reason: The third reason is evidenced in the last part of the Methodology which is entitled “Glossary” that assessors must peruse to ensure the consistency of the approach applied in the evaluation process according to paragraph 13 of the Methodology, where the term “Law” is defined as follows: “The notion of law also encompasses judicial decisions that impose relevant requirements, and which are binding and authoritative in all parts of the country”.**

**In addition to the foregoing, section 5 of Organic Law No.26 of 2015, which is entitled “Regarding special means of investigation”, comprises investigations in the terrorist financing field and not only in terrorist cases, considering that TF crimes constitute terrorist crimes under the same law. As mentioned above, the Judiciary used the special means of investigation by virtue of judicial decisions to detect money laundering**

**crimes and associated predicate offenses. In addition, article 53 of the Criminal Procedures Law stipulates that the investigating judge “may order to conduct examinations and carry out all actions in an effort to uncover exculpatory and incriminatory evidence.”**

**Therefore, Tunisia insists on upgrading the rating of technical compliance with recommendation 31 to Largely Compliant.**

36 International instruments	Non Compliant	Compliant	<p>Tunisia mentions that recommendation 36 concerns the international instruments and calls the countries to ratify and implement the international agreements related to the combating of money laundering and terrorist financing, being Vienna, Palermo, New York and Merida Conventions. Tunisia accepted all such conventions and the recommendation has nothing to do with the implementation of UNSC resolutions No.1267 and No.1737 as mentioned in the evaluation report, which FATF covered under recommendation 6. Therefore, Tunisia deems it unfair to be rated “Partially Compliant” while on the other hand it has met all the criteria of the recommendation in view of its acceptance of the relevant international agreements.</p> <p>Tunisia requests to upgrade its rating of technical compliance with recommendation 6 to “Compliant” since it has accepted all the international agreements.</p>	<p>The AML/CFT law entrusted the National Commission to follow-up and assess the implementation of the resolutions of the competent UN bodies concerned with terrorism. The Law also assigned the Commission with the mission of freezing the funds of persons or organizations whose link to terrorist crimes has been established by it or by the competent UN bodies and with regulating the procedures related to the implementation of the resolutions issued by the UN bodies by virtue of a governmental order.</p> <p>The Tunisian authorities mentioned that they have prepared the final version of the draft governmental order on the regulation of the procedures for the implementation of the Security Council resolutions in cooperation with the International Monetary Fund; however, the said governmental order has not been issued until this date, so as to be in consistency with the requirements of the UNSC resolutions related to terrorism, namely UNSC resolutions No.1267 and No.1373. Consequently, the Tunisian authorities have not issued yet an integrated and comprehensive system that is fully consistent with the provisions of UNSC resolutions No.1267 and No.1373; furthermore, nothing indicates that the supervisory authorities for the financial and non-financial institutions are verifying that the financial and non-financial institutions are implementing UNSC resolutions No. 1267 and 1373.</p>
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**Therefore, until a comprehensive system related to the regulation of the procedures for the implementing the UNSC resolutions related to terrorism, and a supervisory mechanism to follow up the implementation by the FIs of such resolutions, we deem it appropriate to keep the rating of compliance with the recommendation as Partially Compliant.**

**• Comment of the assessed country:**

**Regarding criterion 36.1, it is met since Tunisia has accepted all the said international agreements, being Vienna, Palermo, New York and Merida conventions.**

**Regarding criterion 36.2, it requests countries to fully implement the provisions set out in articles 11-3, 15, 17 and 19 as to Vienna convention concerning criminalization, carriers, traffic by sea and use of mails; articles 5-7, 10-16, 18-20, 24-27, 29-31 and 34 of Palermo convention; articles 14-17, 23-24, 26-31, 28, 40, 43-44, 46, 48, 50-55, and 57-58 of Merida Convention; and articles 2 and 18 of New York Convention. This implies that the recommendation is not related to the implementation of UNSC resolutions No.1267 and No.1373 (subject of recommendation 6) or even Palermo Convention on terrorism and its financing, where article 2 is related to criminalization and in this regard, Tunisia is compliant. But article 18 is related to cooperation, measures FIs must take and implement to identify customers and to prohibit the opening of anonymous accounts and measures to monitor the physical transportation of funds. Therefore, Tunisia requests to upgrade the rating to “Compliant”.**

**In addition, Tunisia also requests, in case the request of upgrading the rating is not accepted, to be provided with a detailed clarification on the link between the two criteria of recommendation 36 and UNSC resolutions No.1267 and No.1373, regardless of the MER .**

**Part 2:**

Recommendation	Current rating	Required rating	Justifications of the country	Opinion of experts
10 Customer due diligence	Partially Compliant	Largely Compliant	Tunisia requests to upgrade the rating of technical compliance with recommendation 10 to Compliant since Organic Law No.26 covered all the deficiencies mentioned in the MER.	<p>Since the MER adoption, the Republic of Tunisia issued Law No.26 dated 07/08/2015 concerning the fight against terrorism and the prevention of money laundering and this law addressed deficiencies in criteria 10-2, 10-5, 10-7 and 10-11. On 19/09/2017, the Central Bank of Tunisia issued a new circular which addressed the deficiencies in criteria 10.1, 10.13, 10.16 and 10.17. Regarding criterion 10.1, article 43 of the new circular provided for “the prohibition of banks and FIs from maintaining anonymous accounts or accounts with fictitious names”.</p> <p>Regarding criterion 10.16 on the implementation of customer due diligence measures on the basis of materiality and risks by FIs, article 4 of the same circular (dated 19/09/2017) stipulated that banks and FIs must:</p> <ol style="list-style-type: none"> <li>1- Assess and document the risks</li> <li>2- Consider all the relevant risk factors before determining what is the level of overall risk to address and mitigate them by applying an appropriate level of due diligence commensurate with the degree of risks.</li> <li>3- Keep this assessment up to date</li> </ol> <p>Regarding criterion 10.17 which requires FIs to implement enhanced due diligence measures when high risks of money laundering and terrorist financing are detected, in point 2 above, we find that the said deficiencies related to this criterion were addressed</p>

				<p>whereas the subject of implementing due diligence became commensurate with the degree of risks.</p> <p>Finally, regarding criterion 10.13, Law No.26 dated 07/08/2015 does not stipulate that the beneficiary from a life insurance policy is considered as one of the associated risk factors when determining the enforceability of the enhanced due diligence measures (10.13)</p> <p><b>We consider that the rating of compliance with this recommendation should therefore become “Largely Compliant”.</b></p>
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- Comment of the assessed country:**

It is worth mentioning that the deficiencies related to criterion 10.1 were addressed after the issuance of the new circular of the Central Bank of Tunisia (Circular No.8 of 2017 issued on September 19, 2017), where article 43 thereof explicitly provided for the prohibition of banks and FIs from maintaining anonymous accounts or accounts with fictitious names.

Regarding criteria 10.16 and 10.17, all the regulatory provisions provided for the risk-based approach and the new circular issued by the Central Bank (article 4 thereof) provided for the risk-based approach which allows a better allocation of resources and ensures that banks and FIs would properly manage ML/TF risks, which calls them to identify, measure and understand the risks they are exposed to and to adapt the due diligence measures with the nature of such risks. Article 15 of the General Insurance Committee arrangement No.2 dated 29/12/2016 stipulates the following: “Insurance institutions, re-insurance institutions and insurance intermediary companies must identify and assess ML/TF risks they are exposed to and take the necessary measures to reduce them. They must also devote and direct their efforts and resources according to the degree and nature of such risks.” Article 21 of the Financial Market Board arrangement regarding the regulation of the executive measures for the prevention of money laundering and the combating of terrorist financing which is ratified by the Minister of Finance resolution dated 19/01/2017 stipulates that “institutions must draw up a risk mapping for money laundering and terrorist financing and examine the nature of transactions and operations they conduct and the type of customers they deal with. And they must also update them periodically.” Article 28 of the same arrangement also stipulates the following: “Institutions must provide the Financial Market Board, within a period of six months at the latest from the issuance of this arrangement, with the written rules which regulate due diligence measures for the



prevention of money laundering and the combating of terrorist financing. They must also provide the Board, within a period of one year at the latest from the issuance of this arrangement, with a risk mapping for money laundering

and terrorist financing. They must also provide the Board with their updates without delay.”

Regarding criterion 10.13, Tunisia considers that the due diligence measures are assumed by insurance companies by virtue of Organic Law No.26 of 2015 and the General Insurance Committee arrangement issued on 29/12/2016 and even if the wording of criterion 10.13 was not explicitly provided for, this fact cannot adversely affect the technical compliance rating for recommendation 10 since all the remaining criteria were met and in view of the weighting of criterion 10.13 which we consider that it cannot be of the same importance as the remaining criteria, in the light of the results of the national risk assessment which considered that the insurance sector represents moderate risks.

**Therefore, we insist on re-rating the technical compliance with recommendation 10 and rating Tunisia as Largely Compliant**

12 Politically exposed persons	Partially Compliant	Compliant	Tunisia requests to upgrade the rating of technical compliance with recommendation 12 to Compliant since Organic Law No.26 covered the Politically Exposed Persons.	Article 110 of Organic Law No.26 required the subjected persons to implement due diligence measures when dealing with persons who occupied or still occupy public positions, or had or still have parliamentary or political missions in Tunisia or in a foreign country, with their relatives or with related persons. <b><u>Therefore, we deem it appropriate to upgrade the rating of compliance with this recommendation to Compliant.</u></b>
15 New technologies	Partially Compliant	Compliant	Tunisia requests to upgrade the rating of recommendation 15 to Largely Compliant in view of the efforts and the regulatory provisions issued by the concerned entities.	Organic law No.26 dated 07/08/2015 concerning the fight against money laundering and terrorist financing included loan institutions among the persons subjected to the law. Article 112 of this law stipulates that the subjected persons are required to implement due diligence measures when using modern technologies and to take additional measures when necessary. On 19/09/2017, the Central Bank of Tunisia issued a new circular which addressed the deficiencies in criteria 15.1 and 15.2. Article 18 of this circular stipulated that institutions subjected to the law must implement

				<p>enhanced due diligence measures for customers that act in the capacity of originator or beneficiary of a transfer if:</p> <ol style="list-style-type: none"> <li>1- The client is residing in any of the countries referred to in the data issued by GAFI</li> <li>2- Or if the operation is conducted using new information or communication technologies</li> </ol> <p>Article 20 of the same circular stipulated that institutions subjected to the law must establish a mechanism to prevent risks resulting from the use of new technologies for ML/TF purposes. To achieve this target, they must have systems for the management and identification of ML/TF risks which might arise from:</p> <ol style="list-style-type: none"> <li>1- The development of new products and services, including new distribution channels.</li> <li>2- Use of new or developing technologies related to the new or the previously existing products.</li> </ol> <p>This risk assessment must be conducted before introducing new products or services or before using new or developing technologies. Institutions subjected to the law must also take the appropriate measures to reduce such risks.</p> <p><b>Therefore, we deem it appropriate to upgrade the rating of compliance to “Largely Compliant”.</b></p>
<p>• <b>Comment of the assessed country:</b></p> <p><b>Regarding new technologies, it must be ascertained that efforts were made to include requirements to prevent ML/TF risks related to new technologies (article 18 and article 20 of circular No.08 of 2017). In this regard, banks and FIs were required to:</b></p> <p><b>- Implement the enhanced due diligence obligation when using new technologies</b></p>				

**- Assess the risks of creating or using new or developing technologies regarding all the new products and establish internal measures which would reduce risks.**

**Article 16 of the Financial Market Board arrangement concerning the regulation of the executive measures for the prevention of money laundering and the combating of terrorist financing, which is ratified by the Minister of Finance and issued on 19/01/2017 stipulates that:” Institutions must implement the necessary measures to identify and assess the ML/TF risks associated with the development of new products and services or the use of new technologies and when necessary, to update their AML/CFT rules and procedures.**

**Therefore, we deem it appropriate to upgrade the rating of compliance to Compliant since the only remaining criterion was overcome.**

16 Wire transfers	Non Compliant	Compliant	Tunisia requests to upgrade the rating of recommendation 16 to Largely Compliant in view of the efforts and the regulatory provisions issued by the concerned entities.	<p>Deficiencies in the criteria of recommendation 16 were addressed by issuing the new circular on 19/09/2017 as follows:</p> <ul style="list-style-type: none"> <li>- Criterion No.16.1: Article 23 of the circular stipulated that institutions originating the transfers or the ordering institutions must verify that the international transfers include accurate and complete information on the originators (full name of the ordering person and his account number when this account is used to conduct the operation or the identification number of the operation ensuring its traceability, address of the person ordering the transfer, his national identity number or the passport number for non-residents, issue and expiry dates, date and place of birth).</li> </ul> <p>Institutions originating the transfers must also verify that the international transfers include the following information on the beneficial owner (beneficial owner full name and account number, the identification number of the operation ensuring its traceability).</p>
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				<ul style="list-style-type: none"> <li>- Criterion No.16.2: Article 26 of the circular stipulates that when consolidating various transfers originated by the same person ordering the transfer in order to send them to beneficiaries, they must include the account number of the person ordering the transfer, the identification number of the operation and full information on the beneficiary, thus ensuring the full traceability of this information by the beneficiary country.</li> <li>- Criteria 16.3 and 16.4: Paragraph 2 of article 23 of the circular stipulated that all the transfers which value is below the specific minimum threshold must be always accompanied with the full name of the person ordering the transfer and the beneficiary, their account numbers or the identification number of the operation. In this case, FIs are required to verify the veracity of the information in case of suspected money laundering or terrorist financing.</li> <li>- Criterion No.16.5: Paragraph 1 of article 24 of the circular stipulates that institutions originating the transfers must verify the veracity of the said information based on the data or information obtained from reliable sources, before conducting the transfers.</li> <li>- Criterion 16.6: Article 27 of the circular stipulates that local transfers must include the information required in article 23 which is previously detailed unless it is made available by:             <ol style="list-style-type: none"> <li>1- The beneficiary financial institution or the Central Bank of Tunisia within three working</li> </ol> </li> </ul>
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				<p>days from the date of receiving the request from the financial institution originating the transfer</p> <p>2- The judicial authorities, once requested</p> <p>In this case, the financial institutions originating the transfer must be required only to include the account number or the identification number of the transaction provided that either of them ensures the traceability of the operation until it reaches the originator or the beneficiary of the transfer.</p> <ul style="list-style-type: none"> <li>- Criterion 16.7: Paragraph 2 of article 24 stipulates that all the collected information must be kept, in consistency with article 51 of the circular.</li> <li>- Criterion 16.8: Article 25 of the circular mentioned that the financial institutions originating the transfers must reject the conduct of any transfer in case the required information is missing or unavailable.</li> <li>- Criteria 16.9 and 16.10: Article 28 of the circular stipulated that, regarding transfers, intermediary financial institutions are required to ensure that all originator and beneficiary information be kept with the wire transfer. In case there are technical constraints that prevent the information required about the originator and the beneficiary of the transfer which is kept with the wire transfer from being maintained with the related local wire transfer. The intermediary financial institution must be required to keep all the information received from the originating financial institution or from any other</li> </ul>
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				<p>intermediary financial institution for a period of 10 years at least.</p> <ul style="list-style-type: none"> <li>- Criterion 16.11: Article 29 of the circular mentioned that intermediary financial institutions must establish appropriate measures to detect whether the information on the person ordering the transfer and the beneficiary is complete and consistent with the transfer system.</li> <li>- Criterion 16.12: Article 30 of the circular mentioned that the intermediary financial institutions are required to develop risk-based policies and measures.</li> <li>- Criterion 16.13, 16.14 and 16.15: Articles 33, 34 and 36 of the circular mentioned that beneficiary financial institutions must establish appropriate measures to detect whether the information on the person ordering the transfer and the beneficiary is complete and consistent with the transfer system. The same applies for the transfers which are considered “valid” and amount to 10000 T.D. Beneficiary financial institutions must verify the veracity of the information based on the documents and information available from reliable sources before making deposits in the account of the beneficiary. Beneficiary financial institutions must be also required to develop risk-based policies and measures.</li> <li>- Criteria 16.16 and 16.17: Deficiencies related to these two criteria were not addressed yet whereas</li> </ul>
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				<p>there is no provision or circular regarding money or value transfer service providers.</p> <p><b>Therefore, we deem it appropriate to upgrade the rating of compliance to “Compliant”.</b></p>
<p><b>• Comment of the assessed country:</b></p> <p><b>Regarding wire or electronic transfers, it must be verified that the Central Bank of Tunisia observed, by virtue of circular No.8 of 2017, all the criteria of this recommendation. On this note, the new circular dedicated a whole chapter (Chapter III of Title 1) on measures that allow the tracing of all electronic transfers and that cover all the requirements related to those involved in the payment chain and represented by the source and beneficiary of the transfer as well as the parties involved, whereas the following was undertaken:</b></p> <ul style="list-style-type: none"> <li>- <b>Determining a threshold fixed at 1000 T.D. for cross-border wire transfers considered “valid”, in consistency with criterion 16.5, as set out in the preamble of the circular</b></li> <li>- <b>Determining the scope of implementation of requirements related to electronic transfer operations prescribed in this circular, in consistency with criterion (16.4) and according to the requirements of article 22 of the circular</b></li> <li>- <b>Setting accurate controls regarding information enclosed with all the cross-border wire transfers, in consistency with criteria (16.6), (16.7) and (16.8), as set out in article 23</b></li> <li>- <b>Framing the information enclosed with all local wire transfers in the light of criteria (16.9) and (16.1) as set out in articles 23 and 27 of the circular</b></li> <li>- <b>Accurately determining the responsibilities and controls assumed by each of:</b> <ul style="list-style-type: none"> <li>• <b>The institutions originating the transfers or the ordering institutions in application of criteria (16.11), (16.12), (16.13) and (16.14) as set out in articles 24, 25 and 26 of the circular</b></li> <li>• <b>The intermediary institutions stated in criteria (16.15), (16.16), (16.17) and (16.18) as set out in articles 28, 29, 30, 31 and 32 of the circular</b></li> <li>• <b>The beneficiary institutions according to criterion (16.19), (16.20) and (16.21) as set out in articles 33, 34, 35, 36, 37 and 38</b></li> </ul> </li> <li>- <b>Developing controls for the dealing of banks and FIs with electronic transfer service providers (16.22).</b></li> </ul> <p><b>Therefore, we insist to upgrade the rating of technical compliance to “Compliant”.</b></p>				
17 Reliance on third parties	Partially Compliant	Compliant	Tunisia requests to upgrade the rating of recommendation 17 to Largely Compliant in	Paragraph 4 of article 108 of Organic Law No.26 concerning the fight against terrorism and the prevention of money laundering stipulated that: “the

			<p>view of the efforts and the regulatory provisions issued by the concerned entities</p>	<p>persons mentioned in article 107 of this law must implement the following due diligence measures: To obtain, when referring to third parties, the necessary data for the identification of the customer, to verify that third parties are subjected to a legislation and monitoring related to the prevention of money laundering and the combating of terrorist financing and that they are taking the necessary measures related thereto and to verify their ability to provide, at the soonest, copies of data related to the identification of their customers and other related documents, provided that the liability of verifying the customer’s identity shall fall upon them in all cases.”</p> <p>Article 9 of circular No.08-2017 issued on 19/09/2017 stated that FIs must, upon relying on third parties, and in order to fulfill the obligation of knowing the customer:</p> <ul style="list-style-type: none"> <li>• Immediately obtain the necessary information on the customer due diligence measures</li> <li>• Take steps to verify that the customer identification data and other documents related to due diligence measures will be provided by the third party upon request and at the soonest.</li> <li>• Verify that the third party is subjected to appropriate AML/CFT regulation and supervision and that it has measures in place to comply with customer due diligence and record-keeping requirements.</li> <li>• Verify that the third party is a legal arrangement the identity of which is clear and can be easily identifiable.</li> </ul>
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Relying on a third party does not exempt institutions subjected to the law from their responsibility for customer identification.

When financial institutions rely on a third party that is part of the same financial group, competent authorities may also check whether the requirements of the criteria as mentioned above are fulfilled in the following cases:

- 1- The group implements requirements of customer due diligence measures, record keeping and AML/CFT programs.
- 2- The implementation of such requirements is supervised by the competent authorities.
- 3- Sufficiently reducing any high risks in countries by implementing the AML/CFT policies of the group.

**Considering the efforts made by Tunisia to address the deficiencies mentioned in the MER and the first FUR, we deem it appropriate to upgrade the rating of compliance to “Compliant”**

**• Comment of the assessed country:**

**This deficiency was overcome and addressed following the issuance of circular No.08 for 2017, whereas article 9 thereof stated that when institutions rely on third parties, it is necessary for them to obtain the necessary data that can identify the customer and ensure that the third party is subject to regulation and supervision as regards combating money laundering and the financing of terrorism, that it has taken the measures required for this purpose and that it is able to provide, as soon as possible, copies of customer identification data and other related documents on condition that in all cases the third party assumes responsibility for customer identification.**

**New controls regulating the reliance upon third parties which are part of the same group were added by determining the cases where the conditions provided for above are met, such as:**

- Implementing due diligence measures by the group regarding the identification of customers and the document-keeping criteria**

<ul style="list-style-type: none"> <li>• <b>Setting due diligence measures regarding the verification of the customers identity, controls and criteria for document-keeping and developing AML/CFT programs</b></li> <li>• <b>Working on satisfactorily reducing risks related to the country by developing an AML/CFT strategy</b></li> </ul> <p><b>Therefore, we request the re-rating of compliance as Compliant.</b></p>				
18 Internal controls and foreign branches and subsidiaries	Partially Compliant	Largely Compliant	Tunisia requests to upgrade the rating of recommendation 18 to Largely Compliant in view of the efforts and the regulatory provisions issued by the concerned entities.	<p>Deficiencies related to this recommendation were addressed by referring to the following in article 10 of circular No.08-2017 issued on 19/09/2017:</p> <ul style="list-style-type: none"> <li>- FIs which have branches or any branches established abroad must verify that they are taking the necessary precautions to avoid the risk of being misused for ML/TF purposes. They must have a due diligence system in place that is at least equivalent to the system provided for in this circular.</li> <li>- When the minimum AML/CFT requirements of the host country are less strict than those applied in Tunisia, FIs must verify that their branches located abroad and subsidiaries are implementing appropriate additional measures to ensure the management of ML/TF risks and they must inform the Central Bank of Tunisia of the same. (18.3)</li> </ul> <p>And article 11 of the circular mentioned that financial groups are required to implement group-wide AML/CFT programs which must be also applied to all branches and majority-owned subsidiaries and such programs must include the following:</p> <ol style="list-style-type: none"> <li>1- Policies and procedures for sharing information required for customer due diligence and ML/TF risk management purposes</li> </ol>

				<p>2- Provision of customer, account and transaction information from branches and subsidiaries for the purpose of combating money laundering and terrorist financing and group-level audit functions.</p> <p>3- Provision of adequate safeguards on the confidentiality and use of information exchanged. (18.2)</p> <p><b>Therefore, we deem it appropriate to upgrade the rating of compliance to “Largely Compliant”</b></p>
<p><b>• Comment of the assessed country:</b></p> <p>According to articles 10 and 11 of circular issued by the Central Bank of Tunisia, the requirements of supervision over branches and subsidiaries were supported by the following:</p> <p>Calling banks and FIs to verify that foreign branches and subsidiaries are subjected to additional measures to take precautions against ML/TF risks if it is established that the AML/CFT system that is adopted in the host country is less strict than that adopted in the country of origin, Setting up new rules regarding supervision over financial associations as defined in article 86 of law No.48 of 2016, where institutions subjected to the requirements of the circular were required to develop AML/CFT programs and strategies at the level of the association for all the branches and majority-owned subsidiaries. Such programs must include:</p> <p>Measures for the exchange of information within the association in order to execute the customer due diligence obligation and good conduct as regards ML/TF risks</p> <p>Sending the information obtained about branches and related to accounts, customers and operations to the bodies in charge of auditing, monitoring and compliance for the purpose of combating money laundering and terrorist financing</p> <p>Controls to protect information and to ensure its confidentiality.</p> <p>Therefore, we insist on re-rating the compliance as Largely Compliant.</p>				
34 Guidance and feedback	Non Compliant	Compliant	Tunisia requests to upgrade the rating for recommendation 34 to Largely Compliant	On March 2, 2017, CTAF issued guiding principles addressed to the financial professions regarding the declaration of suspicious operations and transactions, guiding principles addressed to the financial sector regarding beneficial owners and guiding principles

				<p>addressed to the financial sector regarding the monitoring and reporting of suspicious operations. But the country still has to enhance the sharing of good practices and the provision of feedback between the supervisory authorities and the subjected persons in terms of scope, updates, and importance, particularly DNFBPs.</p> <p><b>Considering the foregoing, we deem it appropriate to upgtade the rating of compliance from “Non Compliant” to “Partially Compliant”.</b></p>
<p><b>• Comment of the assessed country:</b>  <b>Tunisia insists on what was mentioned in the first FUR, since feedback is provided for in Organic Law No.26 of 2017 and is one of the obligations assumed by CTAF regarding STRs and by the Judiciary regarding the results of the referrals. On the other hand, CTAF and the supervisory authorities issued provisions to the subjected persons, among others, guiding principles for 2017 and a manual on the AML/CFT measures for the Financial Market Board. In addition to the annual reports issued by CTAF and which included typologies and case studies for subjected persons and the periodical meetings held with FI correspondents subjected to the obligation of declaration, the publication of a bulletin by CTAF to the public and the subjected persons as well as notifications to the public and the subjected persons on some suspicious cases or practices.</b>  <b>Therefore, we request to upgrade the rating to Compliant since the recommendation includes only one criterion and Tunisia considers that it has met the content thereof.</b></p>				

**2. Part 3:**

<b>Recommendation</b>	<b>Current rating</b>	<b>Required rating</b>	<b>Justifications of the country</b>	<b>Opinion of experts</b>
6 Targeted financial sanctions related to terrorism and terrorist financing	Partially Compliant	Largely Compliant	Tunisia requests to upgrade the rating of technical compliance with recommendation 6 to “Compliant” since Organic Law No.26 of 2015 set up a new integrated system. It sought the technical assistance of experts from the Counter-Terrorism Executive Directorate and the International Monetary Fund and we have recently obtained the semi-final copy of the draft governmental order concerning the measures for freezing terrorist funds, which is prepared by international experts and which takes into account the amendments proposed and it will be definitely examined.	<p>Tunisia requests to upgrade the rating of recommendation 6 pursuant to what was stated in Organic Law No.26 dated 07/08/2015 concerning the fight against terrorism and the prevention of money laundering, mainly regarding the establishment of a National Anti-Terrorism Commission at the Prime Ministry to undertake the mission of following-up and assessing the implementation of competent UN bodies resolutions related to the fight against terrorism, providing recommendations and issuing related directives (articles 66 to 70). The said Organic Law determined the powers and mandates of this Commission.</p> <p>On the other hand, the Organic Law provided for the prohibition of any kind of support and financing to individuals, organizations, or activities linked with terrorist offenses (articles from 98) and it specified the prudential measures legal persons must take to prevent their misuse for TF or ML operations, whereas it set out the conditions for accepting the financing, the conditions for keeping the accounts and the condition to obtain a prior license from the Minister of Finance to accept any financial transfers sent from abroad to legal persons suspected of being involved with persons, organizations or activities linked with money laundering or terrorist financing (articles 98 to 102).</p> <p>The Organic Law also empowered the said National Commission to freeze funds of persons or organizations</p>

				<p>whose link to terrorist crimes has been established to it or to the competent UN bodies. It also determined the measures to be taken by those responsible for implementing the decision to freeze, the conditions to request a permission to use a part of the frozen assets and the conditions to lift the freeze (articles 103 to 106). Article 140 provided for the sanctions imposed against subjected persons and “managers, representatives, assistants and partners of corporate bodies” whose liability for breaching or failing to observe the requirements of article 103 on the necessary measures which must be implemented by those responsible for executing the decision to freeze was established.</p> <p>Consequently, Organic Law No.26 dated 07/08/2015 would have thereby set the legal basis for building a comprehensive system to apply the targeted sanctions related to the UNSC resolutions pertaining to terrorism and its financing.</p> <p>However, this system remains incomplete for the following reasons:</p> <ul style="list-style-type: none"> <li>- Article 66 provides for the establishment of the National Anti-Terrorism Commission and article 67 sets out its composition; however, the latter article refers to a governmental order that will be issued to determine the regulation and operation of this Commission.</li> <li>- Article 103 of the said Organic Law empowered the National Anti-Terrorism Commission to take the decision to freeze funds of persons or organizations whose link to terrorist crimes has been established to it or to the competent UN bodies. The same article referred to a governmental order that will be</li> </ul>
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				<p>subsequently issued to regulate “the measures of implementing the resolutions issued by the competent UN bodies”. The first FUR mentioned that the Tunisian authorities sought the technical assistance of experts from the International Monetary Funds and the UN Counter-Terrorism Committee Directorate to prepare a mechanism for the implementation of the UNSC resolutions and a preliminary draft was prepared and is still under study.</p> <ul style="list-style-type: none"> <li>- Article 103 stipulated the following “those responsible for executing the decision to freeze must implement the necessary measures to this end once published in the Official Gazette of the Republic of Tunisia and they must inform the National Anti-Terrorism Commission about the freezing processes they have initiated and provide it with all the useful information to execute their decision”; however, this article does not determine what is meant by “those responsible for freezing”. By referring to article 140 related to sanctions, it mentions that sanctions are applied only to the subjected persons and managers, representatives, assistants and partners of "corporate bodies". Which is contrary to paragraph “a” of criterion 5.6 which stipulates the following: “... Countries should require all natural and legal persons within the country to freeze, without delay and without prior notice, the funds or other assets of designated persons and entities”.</li> <li>- Article 98 stipulated the following “it is prohibited to provide any kind of support and financing to</li> </ul>
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				<p>individuals, organizations, or activities linked with terrorist offenses provided for in this law and other illicit activities whether they are granted directly or indirectly through individuals or legal entities regardless of their form or purpose, even if they pursue a non-profit objective...etc.”; however, the law did not refer to this article in the article pertaining to sanctions (article 140), therefore, we inquire about the sanction applied against those who fail to comply with the prohibition provided for in article 98, knowing that it is difficult to link between this article and article 36 which provides for TF offenses and sets out the relevant sanction applied, which would make the implementation difficult.</p> <p><b>Conclusion: Organic Law No.26 dated 07/08/2015 set the legal basis for building a comprehensive system to apply the targeted sanctions related to the UN resolutions pertaining to terrorism and its financing and to implement recommendation 6. However, this system remains incomplete pending the issuance of the governmental order which regulates the National Commission and its operation, and the governmental order concerning the establishment of mechanisms for the implementation of the freezing decisions, taking into account the other foregoing observations. Therefore, we deem it appropriate to keep the rating of compliance with this recommendation as “Partially Compliant”.</b></p>
<p>• <b>Comment of the assessed country:</b>  <b>Tunisia confirms the following:</b></p>				



**First: The regulation of the National Anti-Terrorism Commission was signed by virtue of governmental order No.1777 dated 25/11/2015 regarding the regulation and operation of the Commission.**

**Second: The measures provided for in articles 103, 104 and 105 of Organic Law No.26 dated 07/08/2015 authorize the National Anti-Terrorism Commission to carry out its tasks related to the recommendation and the Commission published its official website on the Internet (cnlct.tn). And the final version of the draft governmental order provided for in article 103 of the Organic Law is now ready and the Commission will initiate the administrative procedures to promulgate the regulatory provisions. Therefore, we request the re-rating of the recommendation as Largely Compliant.**

<p>22 Designated non-financial businesses and professions: Customer due diligence</p>	<p>Partially Compliant</p>	<p>Compliant</p>	<p>Tunisia requests to upgrade the rating of recommendation 22 to Largely Compliant in view of the efforts made and the regulatory provisions issued by the concerned entities.</p>	<p>The MER mentioned that there is a significant deficiency at the DNFBPs level. And Tunisia was accordingly rated “Partially Compliant” in this recommendation.</p> <p>The Tunisian authorities implemented measures to address some deficiencies noted and request to change the rating of compliance to “Largely Compliant”.</p> <p>It is worth mentioning that by issuing the Organic Law, the non-financial profession regulation now covers all the professions provided for in the recommendation, taking into account the observation mentioned in the MER which stated that the thresholds fixed by the Minister of Finance resolution issued on March 1, 2016 concerning the determination of the amounts provided for in articles 100, 107, 114 and 140 of Organic Law No.26 dated 07/08/2015, as regards casinos and dealers in precious stones are very low and may render the implementation difficult.</p> <p>(Approximately 1740 USD for casinos, knowing that the recommendation sets the amount at 3000 USD.</p> <p>(Approximately 8700 USD for dealers in precious stones, knowing that the threshold fixed in the recommendation is 15000 USD in cash (the Tunisian</p>
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				<p>law refers to any operation equaling or exceeding 8700 Dollars regardless whether it is in cash or not).</p> <p>It is not clear what is meant by the exception mentioned in article 109 regarding “the professionals who have no authorities and mechanisms for research and investigation in the context of the laws regulating their professions” whereas they were excluded from the obligation of updating the data related to their customers identity and implementing ongoing due diligence toward them.</p> <ul style="list-style-type: none"> <li>- The MER mentioned that Tunisia held meetings and seminars with some non-financial professions regarding awareness and coordination to issue guiding principles.</li> <li>- The Organic Law included an obligation requiring DNFBPs to implement due diligence measures toward (domestic and foreign) high-risk persons and this obligation still has to be reflected in detail in sessions or executive provisions by the supervisory and monitoring authorities for every sector.</li> </ul> <p>Article 112 of the Organic Law required the subjected persons to “pay particular attention to the risks of money laundering and terrorist financing inherent in the use of new technologies and take, if necessary, additional measures to protect themselves in order to avoid them”. However, this obligation remains a general obligation and there are no specific guiding principles addressed to various non-financial professions.</p> <p>The requirements provided for in the law (due diligence obligations) were not reflected through the issuance of executive or guiding provisions for each of the concerned professions.</p>
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				<b>Conclusion:</b> Considering the above-mentioned observations, and the results of the national risk assessment which considered the real estate, gold and lawyers as high-risk sectors, we deem it appropriate to keep the rating of compliance as “Partially Compliant”.
<p><b>Comment of the assessed country:</b></p> <p>It is worth reminding that recommendation 22 is related to the implementation of the due diligence measures by DNFBPs, as set out in R10, R11, R12, R15 and R17 and as long as article 107 of Organic Law No.26 provided for DNFBPs as set out in FATF international standard and considered them as subjected persons, they are accordingly required to implement all the obligations related to CDD measures provided for in article 108 et.seq. of the law, which is related to CDD measures (criterion 22.1), record-keeping (criterion 22.2), measures toward PEPs (criterion 22.3), measures regarding new technologies (criterion 22.4) and measures regarding reliance on third parties (criterion 22.5). Therefore, Tunisia would be technically compliant with recommendation 22. And consequently, each of the criteria from 22.1 to 22.5 is met under the provisions provided for in Organic Law No.26 of 2015.</p> <p>Regarding the results reached by the working group assigned with re-rating, they are outside the scope of recommendation 22 and relate to recommendation 28 concerning the supervisory authorities for non-financial businesses and professions and the conclusions the said working group came to fall within the assessment of effectiveness and not technical compliance.</p> <p>Therefore, Tunisia insists on re-rating the compliance as Compliant.</p>				
24 Transparency and beneficial ownership of legal persons	Partially Compliant	Largely Compliant	Tunisia requests to upgrade the rating of technical compliance for recommendation 24 to Largely Compliant, since CTAF decision No.3 of 2017 comprised provisions that covered the recommendations mentioned in the evaluation report.	Tunisia requests to upgrade the rating of recommendation 24 pursuant to decision No.3 issued by CTAF on March 2, 2017, regarding beneficial owners. The said decision comprises provisions on the definition of the beneficial owner and the due diligence measures the subjected persons must implement to verify the beneficial owner. It also comprised the criteria which must be drawn upon to identify the beneficial owner(s) when the customer is a legal person. However, the said decision does not cover all the deficiencies, whereas the information declared in the commercial register does not make it possible to know

				<p>the beneficial owner, namely foreign legal persons. The measures that subjected persons are required to implement depend on the extent to which it is possible for them to access beneficial ownership information, which is not possible through the information declared in the commercial register, particularly when foreign companies are concerned.</p> <p>Regarding the beneficial owner, the same applies to other legal persons (associations and others),</p> <p>The first FUR mentioned that a committee was formed at the Ministry of Justice to work in cooperation with the USAID office on developing the commercial register system to simplify the procedures and reduce the durations.</p> <p>On the other hand, the work plan prepared in the light of the results of the ML/TF national risk assessment comprises measures for the review of provisions regulating the commercial register, with the aim of requiring the incorporation of the identity of shareholders and managers of companies and considering the possibility for all those involved to jointly have systems enabling them to identify the beneficial owner. This work plan comprised a number of measures for setting up and periodically updating a comprehensive database for all the organizations, which comprises the necessary information and data related to associations and giving all the concerned entities access to it.</p> <p><b>Conclusion: CTAF decision No.3 of 2017 covers only partially the criteria of recommendation 24. And the observations set out in the MER still exist, pending what will the measures comprised in the work plan</b></p>
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				<b>lead to and the other measures which are under completion. Therefore, we deem it appropriate to keep the rating of compliance with recommendation 24 as “Partially Compliant”.</b>
25 Transparency and beneficial ownership of legal persons	Non Compliant	Largely Compliant	Tunisia requests to upgrade the rating of technical compliance for recommendation 25 to Largely Compliant, since CTAF decision No.3 of 2017 comprised provisions that covered the recommendations mentioned in the evaluation report	<p>The MER mentioned that Tunisia does not have a legal framework applicable to trusts as these legal arrangements are not known. As trusts are not explicitly prohibited in national laws and regulations, it is possible for foreign trustees to establish business relations with Tunisian financial institutions or DNFBPs, for a foreign trust or similar arrangement to own assets in Tunisia, or for a Tunisian lawyer or any other person to act as trustee/manager of an asset located abroad or in Tunisia or to act on behalf of a trust established under foreign law.</p> <p>Notwithstanding these situations, no specific anti-money laundering measure is provided in Tunisian law or the AML/CFT law to identify beneficial owners and ensure the transparency of transactions in terms of measures taken to prevent money laundering.</p> <p>On March 2, 2017, CTAF issued decision No.3 which is related to beneficial owners. The decision determined the measures that the subjected persons must implement to identify the beneficial owner and mentioned the beneficial owner in case of “a fiduciary trust established under a foreign law, such as those related to trust funds and any other similar arrangements”. It also mentioned a definition of the fiduciary trusts and trust funds. On the other hand, the decision required “banks, financial institutions,</p>

				<p>lawyers, insurance institutions, investment institutions and accounting experts, when acting as a trustee of fiduciary funds, to declare their capacities to such banks, when establishing a business relationship or conducting an operation or a transaction in this regard”</p> <p>And while the said decision No.03 partially covers the requirements of recommendation 25 by requiring fund trustees (including foreign fund trustees) to declare their identity to banks, it gives rise to the following observations:</p> <ul style="list-style-type: none"> <li>• The said decision does not constitute a general framework which requires legal arrangements - including foreign trust funds - to declare their status to the Tunisian authorities,</li> <li>• And the obligation to declare as stated in the decision does not enable banks to implement due diligence measures to this end in case they do not declare their capacity of trustees of a trust fund. Banks do not have a mechanism to verify the declared information (such as the mechanism that the commercial register allows for companies or the real estate register allows for real estate).</li> <li>• It is worth mentioning that the decision did not provide for any punitive action in case a trustee of a trust fund fails to declare his identity to a bank when conducting an operation or engaging in a business relationship.</li> <li>• The obligation to declare which is imposed on the fiduciary fund trustees (including trust funds) as provided for in decision No.03 only</li> </ul>
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				<p>covers banks with the exclusion of the other remaining FIs or non-financial professions.</p> <p><b>Conclusion: Decision No.03 is an advantage toward ensuring transparency and identifying the beneficial owner of legal arrangements (including trust funds) but covers only partially the requirements of recommendation 25. Consequently, most of the observations mentioned in the reports still exist. Therefore, we deem it appropriate to upgrade the rating of compliance to “Partially Compliant”.</b></p>
26 Regulation and supervision of financial institutions	Non Compliant	Largely Compliant	Tunisia requests to upgrade the rating of technical compliance with recommendation 26 to Compliant, considering the efforts made by the supervisory authorities for the banking and financial sector and the new amendments made in the related regulatory provisions.	<p>The MER noted a number of observations which revealed many deficiencies in the regulation and supervision of FIs. The report mentioned the following deficiencies in this regard (we only cite the main ones):</p> <ul style="list-style-type: none"> <li>- Lack of clear powers conferred upon the Central Bank, the Financial Market Board and the General Insurance Committee in the AML/CFT field.</li> <li>- Gaps in the legislation regarding the authority supervising the Tunisian Post Office, (which administratively comes under the Ministry of Telecommunications) in the AML/CFT field.</li> <li>- No written regulations and procedures for supervision on a risk-based approach.</li> <li>- Poor on-site supervision conducted by the Central Bank and the Financial Market Board and the absence of such supervision as regards the General Insurance Committee. Failure of taking into account the ML/TF risk levels to conduct such supervision.</li> <li>- Poor understanding of risks by the monitoring authorities for the banking and financial sector due to weak or inexistent on-site visits.</li> </ul>

				<ul style="list-style-type: none"> <li>- Poor human resources of the supervisory and monitoring authorities for the banking and financial sector.</li> <li>- Lack of an appropriate and updated policy that would promote the understanding of AML/CFT risks and obligations based on specific guiding principles and lack of awareness of risks and obligations by the subjected persons in the financial and banking sector, which makes the efforts made by the supervisory authorities and CTAF very limited.</li> <li>- Failure to impose sanctions by the supervisory and monitoring authorities in the AML/CFT field despite the deficiencies in the due diligence measures which the inspection campaigns revealed.</li> </ul> <p>The first FUR mentioned the measures taken by the Tunisian authorities and the supervisory and monitoring authorities to address the deficiencies related to supervision and monitoring of the banking and financial sector.</p> <ul style="list-style-type: none"> <li>• <u>Regarding the monitoring powers</u> Regarding the determination of the powers of the Central Bank of Tunisia, the Financial Market Board and the General Insurance Committee as being AML/CFT supervisory authorities, and except for the new banking law (Law No.48 of 2016) which comprised requirements that confer upon the Central Bank of Tunisia off-site and on-site supervision powers</li> </ul>
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				<p>in the AML/CFT field, the laws regulating the Financial Market Board and the General Insurance Committee do not include any requirements related to the combating of money laundering and terrorist financing. It can be concluded from a correlated reading of these laws (article 64 and 66 of the banking law, article 23 of the Insurance Code and article 83 of the law on re-regulating the financial market) and the AML/CFT Organic Law (article 115) that the three authorities have the necessary powers to conduct off-site and on-site monitoring over the persons subjected to their supervision. This is justified by the issuance of regulatory provisions to this end by the authorities.</p> <p>However, it would still be better to unequivocally clarify this in the AML/CFT law and the regulatory laws of each of the three authorities.</p> <ul style="list-style-type: none"> <li>• Regarding licenses and monitoring the entry to the market:</li> </ul> <ul style="list-style-type: none"> <li>- As to the Central Bank, we refer to the requirements set out in the new banking law (and referred to also by the FUR) which established thereunder a new autonomous licensing authority in charge of setting and controlling licensing procedures. The Tunisian authorities mentioned that <b><u>(according to the FUR, the preparation of these procedures is completed but the country still has to present them to the license committee for ratification)</u></b>. The FUR referred to a number of conditions which are relied upon to grant licenses. Such conditions are adequate and prevent criminals from entering the banking sector.</li> <li>- Regarding the Financial Market Board:</li> </ul>
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				<p>The FUR mentioned that the Market Board prepared a detailed manual on the procedures related to the method of considering license applications for the appointment of managers of stock exchange intermediary companies and it was circulated among the bodies charged with studying such requirements stated in the manual for adoption as a reference (we have not perused the manual yet). Tunisia mentioned that the Financial Market Board is currently considering all the aspects of the new AML/CFT regulatory framework, in order to determine the aspects which were revised and to make the necessary amendments in the manual. The Tunisian authorities mentioned (according to the FUR) that a procedures manual on the operations made in the capital structure of the stock exchange intermediary companies shall be prepared during the first half of 2017 and such manual shall take into account the requirements related to the prevention of money laundering and terrorist financing. The Board is currently collecting and studying all the legal and regulatory texts governing the operations made to the capital structure of the companies, including the stock exchange intermediary companies, which would enable it to develop a comprehensive and consistent procedures manual. The MER mentioned that loan institutions, insurance companies and their agents, in general, are subject to stringent measures as regards registration and obtaining licenses for carrying out their activities. Regarding intermediaries working in the securities market and companies engaged in the</p>
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				<p>management of portfolios, only the conditions related to the reputation of managers are reviewed through the licensing procedures. The report concluded that the supervisory authorities for the banking and financial sector did not document all the phases of monitoring the entry to the market according to special regulations and rely in most cases on legal requirements.</p> <ul style="list-style-type: none"> <li>• Regarding the risk-based approach for monitoring and follow-up. The FUR mentioned a number of measures implemented by the supervisory and monitoring authorities for the banking and financial sector, namely the Central Bank, in order to set a risk-based supervision system taking into account the outputs of the national risk assessment and the risks identified at the sectoral level. However, nothing indicates that the outputs of the national risk assessment are reflected in the work procedures and regulations and that they are documented and applied in the conduct of inspections. The Financial Market Board and the General Insurance Committee did not identify the sectoral risks, nor did they reflect their results in the work procedures and inspection operations. It appears that the Tunisian authorities set a work plan to overcome such shortcomings.</li> </ul> <p>- The MER mentioned that there is no risk-based supervision due to the insufficient human resources allocated to this end and to the absence of appropriate and documented work mechanisms.</p>
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				<p>On this note, the FUR stated that the Tunisian authorities implemented a number of measures to increase the human resources of the monitoring teams related to the supervisory and monitoring authorities for the banking and financial sector, whether at the qualification level or the employment level (namely for the Central Bank and the General Insurance Committee).</p> <p>The FUR stated that the General Insurance Committee prepared a risk-based approach manual on AML/CFT supervision in the insurance sector, in the context of the cooperation program with the Financial Services Volunteer Corp (FSVC). The board of the General Insurance Committee will ratify this manual which will be adopted in on-site monitoring operations during the second half of 2017.</p> <p>As to the Financial Market Board, it is currently considering the possibility of referring to international experts to assist it in taking the necessary AML/CFT measures as regards the enhancement of the supervisors capacities, preparation of a risk mapping, establishment of a supervision methodology that draws upon the risk-based approach, regulation of the procedures for on-site and off-site visits which rely on ML risks and development of off-site supervision means.</p> <p>The Central Bank conducted several inspections, while nothing indicates that the Financial Market Board and the General Insurance Committee conducted AML/CFT on-site monitoring operations.</p>
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				<p>On the other hand, the MER mentioned that the unjustified absence of sanctions against FIs subjected to the AML/CFT law has significantly affected the actual implementation of their obligations in this field, which impairs the efficiency of the monitoring operations.</p> <p><b><u>Conclusion:</u> The Tunisian authorities made varying efforts from one sector to another in order to lay down efficient risk-based monitoring. But many shortcomings still need to be remedied. This may be due to the recent conduct of the national risk assessment and to the time taken to execute the work plan developed pursuant to the conclusions of the national risk assessment and the results of the MER. Even though the Central Bank made headway in addressing the deficiencies raised by the MER, the General Insurance Committee and the Financial Market Board still have to complete the measures they initiated to support monitoring of the sectors they supervise and to document their procedures in this field.</b></p> <p><b><u>Considering the foregoing, we deem it appropriate to upgrade the rating of compliance from “Non Compliant” to “Partially Compliant”.</u></b></p>
<p><b>Comment of the assessed country:</b>  <b>Regarding the on-site inspection missions, and as previously referred to, an inspection team in charge of the internal control system for the management of the ML/TF risk was formed. This team launched horizontal inspection missions that covered 4 banks, 3 of which were completed and disciplinary actions are currently taken against banks in breach. 3 special missions were completed and the necessary actions were taken, such as notifying the Public Prosecution during one of those missions. As we previously mentioned, the terms of reference used to prepare the on-site monitoring tasks are based on a risk-based assessment and the completion of the inspection missions is made according to a special procedures manual.</b></p>				

**Therefore, Tunisia insists on upgrading the rating to Largely Compliant.**

**Annex 2: The recommendations which were amended after the adoption of the MER (R5, R8).**

<b>R5</b>	<b>Information provided by the country</b>
<p>- Amendment of the interpretive note to R5 to cover the foreign fighters by adding paragraph B3 so as to incorporate UNSC resolution No.2179 concerning foreign fighters. Accordingly, R5 requires countries to criminalize the financing of the travel of persons for committing terrorist acts. (2015)</p> <p>Recommendation 5 and its Interpretive Note were amended by replacing the term “funds” with “funds and other assets” and the definition mentioned in the terminology was also amended by adding “oil, other natural resources and other assets which can generate funds”. (2016)</p>	<p>- Article 36 of Organic Law No.26 dated August 7, 2015 stipulates the following:” Any person commits a terrorist offense and is imprisoned from 6 to 12 years with a penalty ranging between 50,000 and 100,000 Dinars if he intentionally commits, by any means, whether directly or indirectly, any of the following acts: (...)                      Donates, collects, offers or provides funds knowing that they are intended to finance the travel of persons outside the territories of the Republic to join a terrorist organization, an agreement, to commit any terrorist offenses or to receive or provide a training to this end.”</p> <p>- The <b><u>definition of “funds”</u></b> was mentioned in article 3 of Organic Law No.26 dated August 7, 2016 and comprised all the funds and property in order to avoid omitting any form of funds: “<b><u>Property of every kind</u></b>, whether tangible or intangible, movable or immovable, however acquired, and incomes and profits resulting therefrom and legal documents or instruments in any form, including physical or electronic, evidencing title to, or interest in, such property.”</p>
<b>R8</b>	<b>Information provided by the country</b>
<p>Recommendation 8 and its Interpretive Note were amended so as to determine the type of non-profit organizations which must be placed under supervision to avoid the risks of using them for terrorist financing, whereas recommendation 8 provides for the organizations identified by countries as most exposed to TF risks and that countries must implement the necessary measures on a risk-based approach (2016)</p>	<p>- A technical committee was currently established with the task of preparing a draft amendment for the order related to organizations. The ML/TF risk assessment concluded that most of the high-risk organizations had a religious missionary nature or charitable social nature, whereas no suspicious financial activities related to scientific, research or sports organizations were detected.</p>

	<p>Accordingly, the national risk assessment recommended the necessary amendment of the legal framework regulating the NGOs sector and the promotion of the supervisory role by intensifying on-site visits and off-site supervision. It also required such establishments to prepare annual accounting financial statements to be published for the public after auditing and review by external auditors appointed to this end and it urged organizations to create an internal control structure to follow-up the activities of these institutions and to submit periodical reports to supervisory authorities.</p>
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