

# 3<sup>rd</sup> Enhanced Follow-Up Report for The Kingdom of Morocco

*Technical Compliance Re- Rating Request*

Anti-Money Laundering and  
Combating the Financing of Terrorism

May 2022

Kingdom of Morocco

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*This document contains the 3<sup>rd</sup> Enhanced FUR for the Kingdom of Morocco, which includes a TC re-rating request for (14) recommendations. This report reflects Morocco's efforts since adopting the MER in April 2019. The 34<sup>th</sup> MENAFATF plenary has adopted this report, provided that the Kingdom of Morocco remains in the Enhanced FU process and submits its 4<sup>th</sup> Enhanced FUR in the 36th plenary meeting in May 2023.*

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**Kingdom of Morocco's 3<sup>rd</sup> Enhanced Follow-up Report  
(With Technical Compliance Re-rating)**

**Introduction**

1. The Kingdom of Morocco was evaluated in the second round by the Middle East and North Africa Financial Action Task Force (MENAFATF) according to the F Recommendations and the eleven Immediate Outcomes adopted by the Financial Action Task Force (FATF) in 2012 and based on the Methodology adopted in 2013. The report was adopted by the MENAFATF at its 29th meeting held in the city of Amman, the Hashemite Kingdom of Jordan, in April 2019. Based on the ratings and according to the mutual evaluation process procedures, the 29th Plenary Meeting decided to place the Kingdom of Morocco under enhanced follow-up.

2. The Kingdom submitted the 1st Enhanced Follow-Up Report (EFUR) at the 31st Plenary Meeting held in November 2020, which contained a request for technical compliance re-ratings for (13) Recommendations (1, 2, 8, 10, 12, 13, 17, 18, 19, 20, 26, 33, 34) and concluded with a request to upgrade the ratings of all the Recommendations to “Compliant/Largely Compliant”. Besides, the Kingdom submitted the 2nd EFUR at the 33rd Plenary Meeting in November 2021 without a request for technical compliance re-ratings.

3. The 3rd EFUR for the Kingdom of Morocco includes a request for re-analyzing the technical compliance for (14) Recommendations “4, 6, 7, 22, 23, 24, 25, 28, 30, 31, 32, 35, 40”, and recommendation “15” which is amended by the FATF after the on-site.

**Findings of the Mutual Evaluation Report and the 1<sup>st</sup> Enhanced Follow-Up Report:**

4. According to the Mutual Evaluation Report (MER) and the 1st EFUR, the Kingdom of Morocco was rated “Compliant” with (4) Recommendations, “Largely Compliant” with (21) Recommendations, “Partially Compliant” with 12 Recommendations and “Non-Compliant” with (3) Recommendations, as follows:

**Table No. (1): Technical compliance ratings based on the MER and the 1st Enhanced FUR\***

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

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

Reference: <https://menafatf.org/ar/information-center/menafatf-publications/>

5. The analysis of the Recommendations subject matter of the request for technical compliance re-ratings was undertaken, in coordination with the Secretariat, by **Ms. Aseel Zimmo**, an expert at the Ministry of Justice and Islamic Affairs in the Kingdom of Bahrain, **Mr. Selim Bejaoui**, expert at the Tunisian Financial Analysis Committee in the Republic of Tunisia, and **Ms. Noura Allohaidan**, an expert at the Anti-Money Laundering Committee in the Kingdom of Saudi Arabia.

#### **Overview on the progress made in implementing the assessed Recommendations:**

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

- a) The Recommendations for which the country received a (NC or PC) rating.
- b) The Recommendation amended by the FATF after the on-site.

#### ***a. The Recommendations for which the country received a (PC /NC) rating:***

7. The Kingdom of Morocco requested a technical compliance re-rating for 13 Recommendations which were rated “PC” or “NC”, being Recommendations (4, 6, 7, 22, 23, 24, 25, 28, 30, 31, 32, 35, 40). The following is an analysis of the efforts made by the Kingdom for each Recommendation apart according to the enclosed analysis:

#### **Recommendation 4 (Confiscation and Provisional Measures) (Partially Compliant):**

8. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 4, due to the following deficiencies: Confiscation does not cover proceeds or instrumentalities used or intended for use in predicate offenses. Confiscation does not cover property of equivalent value used or intended for use in predicate offenses. The freezing period imposed by the Royal Prosecutor is not considered enough to conduct investigations in ML crimes. No mechanisms for the disposition or liquidation of frozen, seized or confiscated funds were provided for.

9. In order to address the deficiencies mentioned in the MER, article 574-5 of Law No. 12-18, supplementing and amending Law No. 43-05 on anti-money laundering and combating terrorist financing stipulated that confiscation covers proceeds or instrumentalities, also property of equivalent value used or intended for use in predicate offenses. Article 19 of the same law stated that the freezing period that the Public Prosecution can apply during the stage of search was extended to three months instead of two. Besides, the Customs Administration provided a mechanism for disposing, when necessary, of the seized or confiscated goods, according to the requirements of the criterion. It reported that a competent administrative entity named “the Department of State Property” related to the Ministry of Economy and Finance was appointed to manage all the State property. It handles the management of all the assets subject of confiscation, according to article 13 of decree No.2-07-995 amended on 7 October 2019 regarding the regulation and competences of the Ministry of Economy and Finance.

10. **Conclusion:** It appears that the Kingdom addressed most of the deficiencies mentioned in the MER; yet, although a competent administrative entity was appointed to manage all the State property and it handles all the assets subject of confiscation, it did not appear that a mechanism was adopted for this process according to the requirements of the criterion and the mechanism in place for disposing of property was limited to the goods seized and confiscated only at the Customs Administration, to the exclusion of other entities. **Accordingly, the compliance rating is “Largely Compliant”.**

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

11. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 6, due to the following deficiencies: Moroccan authorities did not designate any competent authority or any court as having responsibility for proposing persons or entities to the UN committee pursuant to UNSCRs 1267/1989 and 1988 for designation. Moroccan authorities lack a mechanism for identifying targeted persons or entities for designation pursuant to the designation criteria provided for in relevant SC resolutions. No evidentiary standard of proof of “sufficient grounds” or “reasonable basis” is applied when deciding whether or not to make a designation. Moroccan authorities lack the procedures for using standard forms for listing, as adopted by the relevant committee (the 1267/1989 and 1988 Committee). Moroccan authorities cannot provide as much relevant information as possible on the proposed name; and a statement of case for the designation and the basis for listing cannot be provided, therefore, the designating country may not be made known.

12. Moroccan authorities did not designate a competent authority or a court as having responsibility for designating persons or entities that meet the specific criteria for designation according to UNSCR 1373. Moroccan authorities lack a mechanism for identifying persons or entities targeted for designation pursuant to the designation criteria provided for in UNSCR 1373 and they lack a mechanism, when receiving a request, for making a prompt determination that the request is supported by sufficient grounds, or a sufficient basis, to suspect or believe that the person or entity meets the criteria for designation set out in UNSCR 1373. Considering the absence of a mechanism for identifying persons or entities targeted for designation, no evidentiary standard of proof of “reasonable grounds” or “reasonable basis” is applied, when deciding a designation. Moroccan legislations did not cover the extent to which designations are conditional upon the existence of a criminal proceeding.

13. There are no texts that determine the quantity of information to be provided when a request is made to another country and which would support the designation, as possible. The country has no legal authorities or mechanisms to collect or solicit information to identify persons or entities that meet the criteria for designation. No authority in the country has the legal authorities to operate ex parte against a person or entity who has been identified and whose proposal for designation is being considered. Nothing indicates that targeted financial sanctions are applied without delay. There is no explicit text on the protection of the rights of bona fide third parties in the context of implementing the UNSCRs. The mechanism for implementing UNSCRs only tackles UNSCR 1276 and nothing indicates that it comprises UNSCR 1373, due to absence of a national list.

14. The definition of the properties covered by the freezing, in application of the UNSCRs, does not cover all the funds which are directly or indirectly controlled by the designated person or entity and does not cover the funds or other assets which are derived or generated from funds or other assets owned, or directly or indirectly controlled by designated persons or entities, as well as the funds or other assets of persons and entities acting on behalf of, or at the direction of persons or entities. There is no text explicitly stipulating those financial institutions and DNFBPs should report to competent authorities any assets frozen or procedures applied in compliance with the prohibition requirements of the relevant Security Council resolutions, including attempted transactions.

15. The Moroccan system did not determine procedures for submitting de-listing requests to the UN committee concerned with the follow-up of relevant sanctions. The Moroccan system did not identify legal authorities and appropriate procedures or mechanisms to de-list and unfreeze the funds or other assets of persons and entities designated for the UN committee concerned with the follow-up of relevant sanctions, pursuant to UNSCR No. 1373 (2001). There is no specific mechanism to request a reconsideration of designations, and Moroccan authorities did not set up a national list pursuant to UNSCR No.1373. Moroccan authorities did not issue procedures to facilitate review by the 1988 Committee as regards designations under UNSCR 1988. There are no procedures for informing designated persons and entities of the possibility to submit de-listing petitions with respect to designations on the Al-Qaida Sanctions List to the United Nations Ombudsperson, pursuant to UNSCRs 1904, 1989, and 2083. It did not appear that there are publicly known procedures to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities.

16. In order to address the deficiencies mentioned in the MER, article 32 of Law No. 12-18, supplementing and amending Law No. 43-05 on anti-money laundering and combating terrorist financing and governmental decree No.2.21.484, stipulated that a national committee called “the national committee in charge of the implementation of the sanctions set out in the UNSCRs relating to terrorism and proliferation and their financing” was created. It takes all the measures to implement the targeted financial sanctions as set out in the relevant UNSCRs, including the proposal of persons or entities to the UN committee. A mechanism was put in place for identifying persons or entities targeted for designation pursuant to the designation criteria provided for in relevant SC resolutions, under article 11 of decision No.1/2022. The same article stated that the proposal for designation is not conditional upon the filing of a criminal lawsuit or the existence of criminal proceedings against the concerned person”. The Committee encloses the proposal prepared using the standard forms for listing as adopted by the UN bodies, according to the procedures and standard forms for designating names on the list.

17. Article 11 of the Committee’s Decision No.01/2022 also stated that each proposal submitted should include as much relevant information and documents as possible on the entity or person proposed for designation, namely, sufficient information allowing for the accurate and positive identification of individuals, groups, undertakings, and entities, and a statement of case which contains as much detail as possible on the grounds for the designation request, as well as any supporting information or documents that can be submitted. The same article also stated that the extent to which it is possible to disclose the status of the Kingdom of Morocco as being the designating State should be determined. On the other hand, Governmental Decree No.2-21-484 and Decision No.2/2022 included the conditions for designation on the domestic list based on the

designation criteria set out in UNSCR 1373. Pursuant to the same decree and decision, a mechanism was put in place for identifying persons or entities targeted for designation, based on the designation criteria as set out in UNSCR 1373. This mechanism enables authorities, when receiving a request, to make a prompt determination that the request is supported by sufficient grounds, or a sufficient basis, to suspect or believe that the person or entity meets the criteria for designation set out in UNSCR 1373. It also included that an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” is applied, when deciding a designation and that when requesting another country, as much identifying information, and specific information supporting the designation, as possible should be provided.

18. Article 32 of Law No.12-18 gave the committee powers to request the necessary documents and information to perform its functions and obtain them from subject persons, supervisory and monitoring authorities, directorates, public institutions and other legal persons that are subject to the public or private law. Article 2 of Decision No.2/2022 granted it the power to take any action, ex parte, against any person or entity that has been identified and whose designation is being considered. On the other hand, article 32 of the same law stated that the committee may undertake promptly freezing without prior notice, pursuant to the requirements of the Recommendation. Article 7 of Decision No.2/2022 and 1/2022 stated that the legal obligation to freeze promptly and without delay by subject entities shall be undertaken forthwith upon the publication on the committee’s website. The decisions also included the mechanism for prompt freezing. Articles 4 and 7 thereof required FIs and DNFBPs to report to the Committee the value and the detailed stock-take of the funds or assets and movable and immovable property which have been frozen, all the attempted transactions and the actions they have taken to implement the freezing decision, within 48 hours at the latest from the issuance of the decision confirming the freezing.

19. Article 32 of the amended law explicitly provided for the protection of bona fide third parties, as part of implementing the UNSCRs. Procedures for submitting de-listing requests to the UN committee concerned with the follow-up of relevant sanctions were determined. On a similar note, appropriate measures for removing names from the domestic lists were also determined and a specific mechanism to request a reconsideration of designations on the 1373 list was put in place. Moreover, the Kingdom provided procedures to facilitate review by the Security Council committees (regardless of the decision), according to certain procedures, including focal point mechanisms pursuant to UNSCR 1730. There are also procedures in place for informing designated persons and entities of the possibility to submit de-listing petitions with respect to designations on the Al-Qaida Sanctions List to the United Nations Ombudsperson. Article 32 of amending Law No.12-18 enabled to challenge the Committee’s decisions related to designation on the domestic list and the resulting effects, before the Rabat administrative court.

20. **Conclusion:** The Kingdom addressed most of the deficiencies identified in the MER; yet, although an authority was appointed to propose persons or entities to the UN committee for designation, it was not explicitly stated that this covers the implementation of UNSCRs 1988, 1989 and 1267, because the Kingdom adopted a comprehensive concept for the UNSCRs on combating terrorism and terrorist financing. Consequently, the extent to which all the concerned UNSCRs are implemented was not verified. It did not appear that the statement of case enclosed with the designation request should include the information or documents specified in footnote No.20 of the Methodology. Given that the legal obligation to implement the decisions becomes effective once the committee publishes the UN lists and updates made thereto promptly, and although the

committee provided links that redirect to the UN consolidated list and the updates published on the UN website, it also provided a list of updates made to the UN lists related to terrorist financing, however, this list did not include one update No. S/C14622 issued on the UN website on 6/9/2021. This was considered a minor shortcoming given the recent formation of the committee (3/8/2021) and the recent creation of its website which took place in November 2021 and that this update was made during the period between the assignment of the committee (August 2021) and (the activation of the website).

21. Although the Kingdom provided procedures to facilitate review by the Security Council committees, according to procedures, the implementation of the provisions of UNSCRs 1988 and 1730 was not explicitly referred to in order to facilitate review and coordination. Although there are procedures in place for informing designated persons and entities of the possibility to submit de-listing petitions with respect to designations on the Al-Qaida Sanctions List to the United Nations Ombudsperson, there was no explicit reference to the implementation of the requirements of the criterion with respect to Al-Qaida sanctions pursuant to UNSCRs 1904, 1989 and 2083. **Accordingly, the compliance rating for this Recommendation is “Largely Compliant”.**

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

22. According to the Mutual Evaluation Report, Morocco was rated “NC” with Recommendation 7, for not meeting the requirements of the whole Recommendation.

23. In order to address the deficiencies mentioned in the MER, article 32 of Law No. 12-18, supplementing and amending Law No. 43-05 on anti-money laundering and combating terrorist financing and Decision No.1/2022, stipulated that a national committee called “the national committee in charge of the implementation of the sanctions set out in the UNSCRs relating to terrorism and proliferation and their financing” was created. It takes all the measures to implement the targeted financial sanctions as set out in the relevant UNSCRs, including the proposal of persons or entities to the UN committee. It was entrusted, under the law, with “the promptly freezing, without prior notice, of the property of natural or legal persons, or entities, organizations, gangs or groups whose names are cited in the lists attached to the UNSCRs relating to terrorism. Article 4 of the Committee's Decision No.1/2022 required 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. Besides, the law broadened the scope of freezing to cover the points cited in criterion 7.2 (b).

24. Article 32 of Law No.12-18 prohibited from making property, funds or other assets, economic resources, financial or other related services of any kind, directly or indirectly, wholly or jointly with others, available to natural or legal persons, entities, organizations, gangs or groups designated on these lists, until their names are de-listed. The Kingdom adopted the mechanism for publication on the website as an enforceable mean for FIs and DNFBPs, according to Decision No.1/2022 which included guidance to FIs and DNFBPs on how to refer to the lists and to report any match or potential match and how to apply the freezing and other related matters. FIs and DNFBPs were required to report to the Committee the value and the detailed stock-take of funds or assets and movable and immovable property which have been frozen, all the attempted



transactions; they took actions that observe the rights of bona fide third parties upon the implementation.

25. The National Committee adopts publicly known procedures to make requests for de-listing persons or entities to whom the conditions of designation on the Security Council lists do not or no longer apply, to the United Nations Office of the Ombudsperson or requests to remove their names from the national list and to lift the financial sanctions (article 9 of decree No.2.21.484). Publicly known procedures were adopted to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities. According to section 3 of Decision No.1/2022 regarding the implementation of the UNSCRs, article 7 stipulated that the Committee is competent to consider the possibilities to give access to frozen property, funds or other assets to cover urgent needs, extraordinary expenses and payments. Mechanisms were put in place for communicating de-listings and unfreezing to the financial sector and the DNFBNs and guidance was also issued to them.

26. **Conclusion:** The Kingdom addressed most of the deficiencies identified in the MER; yet, although an authority was appointed to propose persons or entities to the UN committee for designation, it was not explicitly stated that this covers the implementation of UNSCRs 1718 and 223 because the Kingdom adopted a comprehensive concept for the relevant UNSCRs. This action may not prove that the Kingdom is implementing all the said UNSCRs and successor resolutions. Although there is a mechanism and a guidance in place for FIs and DNFBNs in this regard, and since the legal obligation incumbent upon them is associated with what is published on the committee's website, the said website included links to the relevant UN lists but without providing these lists or the updates made thereto (including deletion, amendment or addition). The weighing of this shortcoming is minor considering the recent assignment of the committee to implement the Security Council sanctions for terrorist financing and proliferation financing, by virtue of a decree issued in August 2021 and the recent creation of its website (November 2021); in addition to the absence of any updates made to the UN lists relating to proliferation financing on the UN website since the assignment of the committee. On the other hand, although the Kingdom provided procedures to facilitate review by the Security Council committees, according to procedures, the implementation of the provisions of UNSCRs relating to proliferation and Resolution 1730 was not explicitly referred to in order to facilitate review and coordination. Pursuant to Decision No.01/2022, the addition to the accounts frozen of interests or any other earnings due on those accounts was permitted, provided that any such interests, other earnings and amounts be frozen. Pursuant to Decision No.1/2022, all the conditions set out in criterion 7.5 (b) were met. **Accordingly, the compliance rating for this Recommendation is "Largely Compliant".**

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

27. According to the Mutual Evaluation Report, Morocco was rated "Partially Compliant" with Recommendation 22, due to the following deficiencies: The UTRF's general directive No.DG.1/2014 did not set out any provision on the obligation to comply with the requirements referred to in Recommendation 10 for the purchaser and sellers of real estate properties. The UTRF's general directive No.DG.1/2014 and decision D5/12 did not determine the requirements referred to in Recommendation 10 on lawyers and notaries. There is no provision for CDD requirements for trusts and company services providers set out in recommendation 10.

28. The UTRF's general directive No.DG.1/2014 did not contain many requirements as contained under Recommendation 10, specifically with regard to taking reasonable measures to verify the identity of the beneficial owners of legal persons (10.10) and legal arrangements (10.11), as well as the timing of verification of the identity of the customer or the beneficial owner (10.14). In addition, this directive did not address the issue of failure to complete the CDD measures, where article 7 of the UTRF's directive did not require subject entities to comply with the requirements of paragraph (b) of criterion 10.19, and the text of Article 7 also needs to be amended due to a typing mistake in the wording where instead of stating: "When the subject person is unable to respect the specified obligations..., he should not establish or continue the business relationship..." It stated he should establish the business relationship.

29. DNFBPs were not required to have sufficient transaction records to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. The Ministry of Justice did not issue any decisions that meet criterion 22.2. The UTRF's decision No. D5/12 which only covers a part of the non-financial professions subjected to the FIU supervision stipulated that enhanced due diligence measures shall apply as regards this category of customers, without meeting all the criteria of Recommendation 12. There is no guidance directed to lawyers and notaries to comply with the new technologies requirements. DNFBPs are not required to comply with the reliance on third-parties requirements set out in Recommendation 17.

30. In order to address the deficiencies mentioned in the MER, article 2 of Law No.12-18 determined the list of subject persons, including "real estate agents". Article 3 and 4 of the same law set forth the due diligence requirements, while article 5 required subject real estate agents to comply with the said requirements "when they prepare for, carry out or participate in the buying and selling of real estate for their clients. Decision No. D1/ANRF/2021 that replace Decision No. D5/12 included details about enhanced due diligence which is also applicable to real estate agents (as per article 3 of the decision) and which also addressed the deficiencies with respect to R.10 that were mentioned in the first Enhanced Follow-Up Report. Article 5 also stated that the due diligence measures (as per R.10) are applicable to Dealers in Precious Metals and Stones when they engage in any cash transaction equal to or above 150,000 Dirhams (USD 15,000).

31. Besides, article 2 also mentioned that "lawyers, authenticators, notaries and certified expert accountants and accredited accountants" are among the subject persons. Law No.12-18 also included customer due diligence requirements, including the identification of the beneficial owner, for company service providers. The Kingdom provided the review team with the circular issued by the Ministry of Justice to lawyers and authenticators requiring them to apply due diligence, including record keeping, as per the requirements of R.11. This circular required DNFBPs to have sufficient transaction records to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. DNFBPs were also required to implement the requirements of R.12 and R.15.

32. Article 6 of Law No.12-18 stipulated that "subject persons may rely on the third parties cited in the same article, in order to implement due diligence measures relating to the identification of customers and the beneficial owner, understanding the nature of the business relationship and requesting related information or in order to act as business intermediary. In this case, those subject persons who rely on third parties are ultimately responsible for the implementation of these

measures. Given that reliance on third parties according to article 3 above was limited to having recourse to subject persons (under article 2 of the same law) who are bound to implement due diligence, it did not appear that the Kingdom required DNFBPs which rely on third parties to comply with the remaining provisions of R.17. Moreover, DNFBPs (listed among subject persons under article 2 of the same law) did not include trusts.

33. **Conclusion:** The Kingdom addressed most of the deficiencies identified in the MER, however, nothing provides for the CDD requirements for trust service provider, and they were not reckoned among DNFBPs. Although the responsibility for implementing due diligence requirements by third parties was incumbent upon the DNFBPs, it did not appear that the Kingdom required DNFBPs that rely on third parties to comply with the remaining requirements of R.17. **Accordingly, the compliance rating for this Recommendation is “Largely Compliant”.**

### **Recommendation 23 (DNFBPs - Other Measures) (Partially Compliant)**

34. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 23, due to the following deficiencies: Morocco provided for the general requirements for filing STRs for all DNFBPs without providing explanations for the conditions set forth in paragraphs (a, b, and c) of criterion 23.1. It did not appear whether legal professionals are not required to report, namely in circumstances where they are subject to legal professional secrecy or legal professional privilege.

35. The UTRF’s Decision No. D5/12 did not include lawyers and accountants’ compliance with the internal controls requirements set out in R.18. There are no measures to require compliance with higher-risk countries requirements set out in R.19.

36. In order to address the deficiencies mentioned in the MER, article 9 of Law No.12-18 amending Law No.43-05 and the practical guidance for legal professions issued in January 2022 determined the scope of compliance for these professions according to the conditions set out in criterion 23-1, as subject persons, including legal professionals, were required to immediately file an STR. The UTRF’s amended decision included lawyers, accountants and authenticators among the subject persons. It stated that “subject persons should verify that their branches and subsidiaries based abroad are applying the strictest AML/CFT standards, in case of differences between the obligations determined in the said Law No.43-05 and those applied in the host country. In the event where the legislations in the host country conflict with the implementation of these obligations, subject persons should apply appropriate additional measures to manage the ML/TF risks, and immediately inform the competent supervisory and monitoring authority and the Authority in writing”.

37. Article 2 of the UTRF's amended decision defined higher-risk persons which included “natural or legal persons or legal arrangements from countries that pose high money laundering and terrorist financing risks, namely those countries designated on the FATF lists”. Article 5 of the same decision stated that “enhanced due diligence measures should be applied toward customers and business parties representing higher risks due to their legal nature and the type of transactions they conduct, and the higher-risk countries; and that measures commensurate with these risks should be taken.

38. **Conclusion:** The Kingdom addressed most of the deficiencies identified in the MER by virtue of Law No.12-18 and the National Financial Intelligence Authority's decision. Trust services providers, however, were not included in these endeavors, nor were DNFBPs required to comply with the requirements of criterion 18.2. **Accordingly, the compliance rating for this Recommendation is "Largely Compliant".**

**Recommendation 24 (Transparency and Beneficial Ownership of Legal Persons) (Partially Compliant):**

39. According to the Mutual Evaluation Report, Morocco was rated "Partially Compliant" with Recommendation 24, due to the following deficiencies: Nothing indicates that the information related to the National Registry of the Self-Contractors which is held by Morocco Post is made publicly available and there is no beneficial ownership information. In addition, the risks of misusing legal persons in ML/TF operations were not assessed. The central register is considered public, but access to it can only take place in the presence of the official assigned to maintain it and the extent to which it is made publicly available is not clear. There are no legal texts requiring companies to maintain the information set out in criterion 24.3, or to maintain a register of their shareholders or members, including details on the type and number of owned shares, the name of the registered shareholder and the voting rights, in addition to all the relevant information on the transmissions of shares. There are no mechanisms ensuring that the information set out in criteria 24-3 and 24-4 is accurate and updated on a timely basis; There are no texts requiring company registries to obtain or take reasonable measures to obtain and hold up-to-date information on beneficial ownership. There are no texts requiring company registries to keep beneficial ownership information accurate and as up to date as possible. Moroccan authorities did not provide any information indicating cooperation among companies and competent authorities in determining the beneficial owners.

40. There are not texts on requiring persons, authorities and entities to maintain the information and records for five years at least. There are no provisions on granting powers to competent authorities, in particular law enforcement, to obtain in a timely manner basic and beneficial ownership information held by the relevant parties. It did not appear that companies are required to have a natural person residing in the Kingdom of Morocco or to have a designated non-financial business or profession in the Kingdom which is authorized by the company and accountable before competent authorities, for providing all basic information and available beneficial ownership information.

41. No measures were taken by Moroccan authorities to overcome the obstacles that prevent the transparency of companies, including bearer shares, to ensure that they are not exploited in ML or TF. Moroccan authorities did not provide any information indicating that the legal persons who have nominee shares or nominee directors are not misused in ML/TF operations. Moroccan authorities did not provide any specific information or legal texts on subjecting legal or natural persons that fail to comply with the requirements to liability and proportionate and dissuasive sanctions. The provisions of the Code of Commerce did not indicate facilitating access by foreign authorities to basic information held by company registries. Moroccan authorities have no reference to the exchange of information on shareholders and the use by competent authorities of the investigative powers, in accordance with their domestic law, to obtain beneficial ownership information on behalf of their foreign counterparts. There are no provisions or measures taken to

enable the authorities in Morocco to monitor the quality of assistance they receive from other countries in response to requests for basic information on legal persons and their shareholders and beneficial ownership information.

42. In order to address the deficiencies mentioned in the MER, article 1 of Law No.12-18 defined the beneficial owner as being “the natural person who owns or ultimately controls the customer or the natural person for whom the transactions are carried out. This definition applies to the natural person who exercises an actual, direct or indirect control or through a chain of control or ownership over a legal person or a legal arrangement”. The review team was provided with a summary of the ML/TF risk assessment for legal persons. Article 13.3 of Law No.12.18 also stipulated that “a national public register shall be created for beneficial owners of legal persons established in the Kingdom of Morocco and legal arrangements. It may entrust the management of this register to a public entity or institution, by virtue of a joint agreement. The manner of maintaining this register, the data it includes, the obligations of authorized persons and the conditions for accessing the centralized information shall be determined by virtue of a regulatory text”. Pursuant to the law above, the implementing decree for article 13.3 was issued on 23 September 2021, regarding “the public register of beneficial owners of companies created in Morocco and legal arrangements”. The Kingdom reported that the task of enforcing the law and the implementing decree was undertaken by “the Moroccan Office for Commercial and Industrial Property”.

43. Article “6” of the decree stipulated that “the public register for beneficial owners is kept through an electronic platform created for this purpose and that the database established for this platform is fed by the reports filed by representatives of companies and legal arrangements who are legally qualified or delegated for this purpose”. This platform has been created by integrating it into the Direct Info platform which includes a database that comprises all the basic information on companies, such as (the company’s name, proof of incorporation, legal form, address of the registered office, main organizational powers, list of directors, branches, representatives of companies, effective date...). This data is publicly available and the National Office for Commercial and Industrial Property (public institution) was charged with its maintenance and management. A summary of the risk assessment for legal persons conducted by the Kingdom was provided and it concluded that the risks are low.

44. The decree stipulated that “in case violations are detected in the declaration, the declarant shall be called upon to rectify his declaration within 15 days after the date of communicating the rejection. If the rectification is not made within the said deadline, the declaration shall be rejected. This rejection shall be communicated to the declarant and shall be considered as a violation of the obligation to declare set out in article 12 of this decree, subject to the sanctions set out in article 15. Article 12 of the same decree requires companies to declare any amendment made to the information which has previously been declared, within the month following such amendment made to the information relating to the company or the beneficial owners. The same article 12 also stipulates that deletion from the public register of beneficial owners should be requested within the month following the discontinuance of the activity. The decree also imposes sanctions on those who fail to carry out the obligation to declare.

45. On the other hand, article 13 of the decree compelled all beneficial owners to declare their information to the companies which are in turn obliged to declare. The Kingdom mentioned that the Moroccan Office for Commercial and Industrial Property regularly (monthly) compares the

information available in its database with the information provided in the commercial register for concordance and accuracy and to detect any violations. Article 9 of the decree relating to the public register of beneficial owners stipulated that the information available in the public register of beneficial owners and the related evidentiary documents are kept for 10 years after the deletion of the company. Article 6 of decree No.2.21.708 issued on 8 September 2021 and published in the official gazette on 23 September 2021 stipulates that “the information available in the public register of beneficial owners should be accurate, reliable, up-to-date and secured.”

46. **Conclusion:** The Kingdom addressed some deficiencies mentioned in the MER regarding Recommendation 24; however, nothing indicates that the information related to the National Registry of the Self-Contractors which is held by Morocco Post is made publicly available. On the other hand, although the platform is public by virtue of the decree, it should contain basic information on beneficial ownership, but it is not publicly available. Although the Kingdom indicated that the national risk assessment for legal persons was completed and a summary was presented in this regard, the reviewer does not consider it comprehensive and it does not include ML/TF risks, given that it only relied on the level of supervision and legislative texts to conclude that the level of risks is low (the reviewer considered it a significant shortcoming), nor did the Moroccan authorities provide any information indicating that companies cooperate with competent authorities in identifying the beneficial owners. It did not appear that companies are required to have a natural person residing in the Kingdom of Morocco or to have a designated non-financial business or profession in the Kingdom which is authorized by the company and accountable before competent authorities.

47. In addition, although law No.15-95 on the code of commerce addressed the shortcoming relating to companies being required to declare and register this information, by themselves, on the electronic platform created for this purpose, article 9 of law No.43-05 which compelled subject persons to keep the information and documents of the beneficial owners for ten years did not require companies to keep such information and documents for ten years, nor did it require them to maintain a register of shareholders or their members, including details on the type and number of owned shares, the name of the registered shareholder and the voting rights, in addition to all the information on the transmissions of shares. Moroccan authorities did not provide information indicating that there are mechanisms ensuring that the information set out in criterion 24-4 is accurate and updated on a timely basis. Moreover, the actions taken by the Kingdom of Morocco did not indicate that it has met the requirements of criterion 24.14 (a, b, c).

48. Besides, Moroccan authorities did not provide any information indicating that legal persons that have nominee shares or nominee directors are not misused in ML/TF transactions, nor did they provide information supporting their prohibition of these activities if any, or that they have taken measures to enable the authorities in Morocco to monitor the quality of assistance they receive from other countries in response to requests for basic information on legal persons and their shareholders and beneficial ownership. No verification was conducted for the assessment of information obtained from foreign counterparts on the quality and accuracy before use, and there is no official mechanism to monitor the quality of assistance received. **Accordingly, the compliance rating for this Recommendation is “Partially Compliant”.**

**Recommendation 25 (Transparency and Beneficial Ownership of Legal Arrangements) (Non-Compliant):**

49. According to the Mutual Evaluation Report, Morocco was rated “Non-Compliant” with Recommendation 25, due to absence of any legislations or measures required to implement the requirements of Recommendation 25, except criterion 25.4.

50. In order to address the deficiencies mentioned in the MER, the Kingdom of Morocco provided, according to the AML/CFT Law No.12-18 as amended, a definition of the beneficial owner, in line with the FATF definition. This definition applies to the natural person who exercises an actual, direct or indirect control or through a chain of control or ownership over a legal person or a legal arrangement”. The law also defined the legal arrangement as being “any entity, including trusts, not regulated under the applicable legislative texts, which is created outside the national territory, under a contract or an agreement, by virtue of which a person places, for a limited period, a property at the disposal or under the supervision of another person, to manage it for the benefit of a certain beneficiary or for a specific purpose, where movable property is not considered part of the property of the person entrusted with the disposition and supervision of such property”. In implementation of the law, it issued decree No.2.21.708 which provided for the creation of a public platform that contains information on beneficial owners of legal arrangements who are legally qualified or delegated for this purpose and also indicated how to declare this information. Article 5 of decree No.2.21.708 stated that the identification of beneficial owners extends to the identification of the settlor (s) and the trustee (s), in addition to beneficial owners.

51. Article 6 of the same decree stated that this information should be accurate, reliable, up-to-date and secured. Article 12 of the same decree required trustees and beneficial owners to disclose their basic information to the legal arrangement to enable it to carry out its obligations to disclose such information to the public register of beneficial owners. The decree also stated that this platform should keep this information, in addition to the documents provided, for a period of 10 years after the deletion of the company. Article 14 of the decree stipulated that the following authorities and entities have the right to obtain timely access to all the information available in the public register of beneficial owners.

52. **Conclusion:** The Kingdom addressed some deficiencies identified in the MER, however, although the decree required trustees to disclose information to the legal arrangements and required the legal arrangement to provide such disclosed information to the public register, it did not require trustees or trusts to maintain basic information. The information which should be kept and declared did not include information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. Although trustees are required to disclose and keep the information current, it was not stipulated that this information is updated at a certain frequency (periodical update). No measures were taken by the Kingdom to ensure that trustees disclose their status to financial institutions and DNFBPs when establishing a business relationship or carrying out an occasional transaction above the designated threshold.

53. Although the information that can be accessed includes information on the beneficial owners, the trustee’s place of residence and other information referred to in the same decree, there is no explicit text stipulating that this information also includes assets held or managed by the financial institution or DNFBPs. On the other hand, by checking the platform, no information on beneficial



ownership of legal arrangements was found. Although article 10 stipulates that “the information available in the public register of beneficial owners can be used in the context of international cooperation...”, the mechanism for international cooperation in this regard could not be perceived. Although dissuasive and proportionate sanctions are applied, these sanctions may not be put into effect in case of failure to provide the basic information as set out in criterion 25.1.b. **Accordingly, the compliance rating for this Recommendation is “Partially Compliant”.**

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

54. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 28, given that the assessment team could not perceive the approach adopted for AML/CFT supervision, in view of the large number of authorities which undertake this role. These procedures are not applicable to shareholders, associates and members of the administration committee in casinos, and it did not appear to the team that any measures are taken to identify beneficial owners. As to the real estate agents, dealers in precious metals and stones and service providers who engage in the creation, organization and domiciliation of undertakings, there are no legal or regulatory measures to prevent criminals and their associates from holding controlling or significant interest or holding functions in them. Authorities in Morocco did not provide any information on administrative sanctions such as a warning, or restriction of work, or license withdrawal. Moroccan authorities did not provide anything indicating that the Financial Information Processing Unit and the Ministry of Justice should undertake supervision over DNFBPs on a risk-sensitive basis, including the determination of the frequency and intensity of supervision and that the risk profile is taken into account.

55. Article 13-1 stated that supervisors of casinos and gambling houses (the governmental authority in charge of interior affairs and the governmental authority in charge of financial affairs) undertake to ensure the subject persons’ compliance with the provisions of the AML/CFT Law and its implementing provisions. For this purpose, these authorities are qualified to conduct on-site monitoring and check the documents of subject persons and they may determine specific rules for each category of persons which are under their supervision, based on the nature of their activities and the risks they are exposed to.

56. In order to address the deficiencies mentioned in the MER, the Kingdom reported that the governmental authority in charge of interior affairs and the governmental authority in charge of financial affairs coordinate among each other. In this context, a joint circular on supervision and monitoring of casinos which determines how to conduct supervision and monitoring over casinos was signed between the Ministry of Interior and the Ministry of Economy and Finance. Law No.12-18 on anti-money laundering entrusted the following authorities and entities with the task of monitoring and supervising AML/CFT professions. Real estate agents are subject to licensing by the domestic authority in the country where they are exercising their activity. As reported by the Kingdom, they also undergo a check to verify their integrity and precedents. According to article 7 of the decree regulating business agents, “convicted persons are prohibited from exercising the profession”. As to dealers in precious metals and stones and service providers, the Kingdom reported that they are subject to licensing by the Customs and Indirect Tax Department. By virtue of Law No.43-05 on anti-money laundering, the scope of administrative sanctions was broadened against subject persons, their managers and agents, such as a warning, or restriction of work, or license withdrawal. Article 13-1 of Law No.12-18 stated that “monitoring and supervisory



authorities may determine rules for each category of persons subject to their supervision, according to the nature of their activity and the risks they are exposed to.

57. Conclusion: The Kingdom addressed most of the deficiencies identified in the MER, but no reference was made in detail to the incorporation of regulatory measures they are applying to prevent criminals from being controlling associates, or holding management functions in, or being the beneficial owners, in casinos. The shortcoming is considered minor since the Kingdom stated that it does not grant a license to casinos unless they operate within well-known hotels and that there are only 7 casinos in the country. Regarding the procedures followed with respect to real estate agents, the actions undertaken by the Kingdom include the prevention of convicted persons/criminals from exercising the profession. However, it was not clearly stipulated that the term “convicted persons” covers associates or those who hold management functions in casinos. The shortcoming is considered minor, since the Kingdom mentioned that the task of the real estate agent in Morocco is only limited to bringing the seller and the buyer together and he does not interfere in concluding the sale or the purchase.

58. Regarding dealers in precious metals and stones and service providers, it did not appear that there are legal or regulatory measures to prevent criminals or their associates from holding controlling or significant interests or holding functions in casinos. This shortcoming is considered minor, given that the MER stated that the relative importance of these sectors is low. On the other hand, despite the fact that supervisors are compelled to implement off-site and on-site risk-based supervision and although the Kingdom mentioned that it is determining the method and frequency of this supervision, it was not clearly stipulated that the frequency and intensity of supervision is determined according to the risk-based approach. **Accordingly, the compliance rating for this Recommendation is “Largely Compliant”.**

### **Recommendation 30 (Responsibilities of Law Enforcement and Investigative Authorities) (Partially Compliant):**

59. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 30, due to the following deficiencies: LEAs are not conducting a parallel financial investigation during an investigation of predicate offenses or referring the case to another agency authorized to conduct the required parallel financial investigations. Nothing in the AML law or any other law indicates that other authorities (which are not LEAs) which pursue investigations in predicate offenses are authorized to conduct financial investigations of predicate offenses. There are no sufficient powers to identify, trace, freeze and seize assets in ML/TF offenses related to corruption offenses.

60. In order to address the deficiencies mentioned in the MER, the Kingdom stated that the judicial police are the law enforcement authority in charge of conducting “parallel financial search” when investigating predicate offenses, according to article 78 of the Code of Criminal Procedures which stipulated that “the judicial police officers conduct preliminary inquiries pursuant to the instructions of the Public Prosecution or spontaneously”. Besides, the Directorate General of National Security addressed a directive to the judicial police on 20 May 2021 requiring them to conduct parallel financial investigation in all the predicate offenses associated with ML crimes. On the other hand, the Kingdom added that all the relevant cases are referred to the Public Prosecution, as the only authority which is competent to pursue financial investigations of

predicate offenses in the Kingdom. It mentioned that the National Authority for Probity and for the Prevention of Corruption is not considered an investigative entity for corruption crimes, according to Law No.46/19 issued on 21 April 2021 and that the responsibility for investigating ML/TF offenses arising from corruption crimes is incumbent upon the Public Prosecution. The Kingdom validated this fact through circular No.”1” issued in January 2020, requiring “each first public attorney at the court of cassation and the Royal Public Prosecutors at the courts of appeal to conduct inquiries on the information they receive with respect to corruption and to initiate search through the national squads of judicial polices, as long as the facts are sufficient.

61. **Conclusion:** The Kingdom addressed most deficiencies determined in the MER; however, although the Directorate General of National Security is required to conduct parallel financial investigations in all the predicate offenses associated with ML crimes, this did not include the conduct of parallel financial investigation related to TF crimes. On the other hand, the Kingdom did not provide the reviewer with a clear legal text indicating that the Public Prosecution is the only authority which is competent to pursue financial investigations of predicate offenses in the Kingdom. **Accordingly, the compliance rating for this Recommendation is “Largely Compliant”.**

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

62. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 31, due to the following deficiencies: Law enforcement authorities do not have the power to solicit information directly from financial institutions, DNFBPs and other legal persons or to have access to documents, without a judicial order. The AML law or the Code of Criminal Procedures did not authorize law enforcement authorities to use investigative techniques with respect to undercover operations for the investigation of money laundering, terrorist financing and predicate offenses. There is no indication on the extent to which the Royal Public Prosecutor is entitled to issue an order for the interception, record and making copies or seizure of telephonic calls and all communications made through remote means of communication in the ML offense and other predicate offenses. The Code of Criminal Procedures, the AML law or the law on the fight against terrorism did not comprise any provision authorizing LEAs to directly access a computer system without obtaining a judicial order.

63. The power of the Royal Public Prosecutor did not extend to cover access to information on persons who hold or control accounts, when conducting a judicial inquiry in a TF case, within 30 days. The Law does not explicitly grant this power with respect to ML and predicate offense cases, in addition to the fact that the period of 30 days given to provide the information requested is somewhat long. The text stated in the Code of Criminal Procedures is only limited to TF cases and does not cover ML cases. The Code of Criminal Procedures does not explicitly stipulate for the right to take measures enabling the identification of assets without prior notification to the Royal Prosecutor or the investigation judge. There are no powers that enable the judicial police mandated to conduct ML/TF investigations to ask for all relevant information held by the UTRF.

64. In order to address the deficiencies mentioned in the MER, article 21 of Law No.43-05 as amended stipulated that the National Financial Intelligence Authority provides the competent public Prosecution or the investigation judge, upon their request and in order to carry out their

functions, with the documents and information obtained while performing its functions. The President of the Public Prosecution's circular No.14 issued on 30 April 2021 urged to seek the UTRF's assistance in collecting evidence and information on predicate offenses, money laundering and terrorist financing crimes that would inform the search. Besides, the Kingdom provided the experts team with several requests received by the Authority, in the context of parallel financial investigations conducted by the judicial police which are responsible for financial investigations of money laundering and terrorist financing. On the other hand, the judicial police can access information held by the Authority through the goAML system, given that it has been linked to the said system since June 2019.

65. Conclusion: The Kingdom addressed some deficiencies identified in the MER, but it did not provide any new updates that would change the analysis of criterion 1, 2, and 3 of Recommendation 31. As to sub-criterion 31.4, the Kingdom provided information indicating the ability of the judicial police concerned with ML/TF investigations to access and seek all the necessary information held by the UTRF. **Accordingly, the compliance rating for this Recommendation is "Partially Compliant".**

**Recommendation 32 (Cash Couriers) (Non-Compliant):**

66. According to the MER, Morocco was rated "Non-Compliant" with Recommendation 32, due to the following deficiencies: Customs authorities lack the legal framework that requires the implementation of the declaration system for the cross-border transportation of currency and BNIs from and to Morocco. The Moroccan law did not authorize customs or other concerned authorities to request further information from the carrier with regard to the origin of the currency or BNIs, upon discovery of a false declaration. The exchange law or the customs code did not provide for proportionate and dissuasive sanctions against a person who does not submit or who submits a false declaration of currency or BNIs; and the customs directive on the obligation of declaration did not comprise proportionate and dissuasive sanctions against a person who submits a false declaration when carrying cross-border currency or BNIs. The assessment team did not perceive any legal mechanism for cooperation among the Customs Administration and other concerned authorities to implement the requirements on controlling the transportation of currency and BNIs across the Moroccan borders. The Customs Administration reports to the UTRF the violations of the provisions of the AML law that they detect during the exercise of their functions and the provision of information obtained during the declaration process is not covered.

67. There is no explicit provision on cases where currency should be stopped when there is a suspicion of ML/TF or where there is a false declaration. The legal system adopted by Morocco for monitoring the cross-border movement of funds and BNIs did not contain any information on the existence of a mechanism for international cooperation among the authorities concerned with this system and other authorities at the international level. The exchange law, the customs code or any other law did not comprise preventive controls or strict safeguards to ensure proper use of information or data collected through the system for monitoring cross border transactions. There are no sanctions of any type in the event where the cross-border transportation of currency and BNIs is related to TF or predicate offenses. Nothing refers to confiscation in the event where the cross-border transportation of currency and BNIs is related to TF or predicate offenses.

68. In order to address the deficiencies mentioned in the MER, amendments were made to the legal sections of the Customs Code, by virtue of the finance law of 2022, including the establishment of a legal framework requiring the implementation of the declaration system. Section (66 bis) of this Code stipulated that “bills of exchange, means of payment and financial instruments are subject, upon entering or exiting the subjected territory, to declaration whose form is determined through regulations, when they are equal to or exceed the amount of 100,000 Dirhams (equivalent to USD 10,000 approximately). The Kingdom pointed out to section 42 of the Customs and Indirect Tax Code which provided for the right given to customs agents and officers to view records, papers and documents and to have access to all the information on the transactions which concern the customs work, in a way that ensures the right to seek further information from the carrier with regard to the origin of the currency or BNIs, upon discovery of a false declaration. Section 297 of the amended Customs Code, more specifically in clause 7 thereof considered that the violation of the provisions of section 66 bis on the declaration system is a violation of the second degree, which entails, according to the punishment scale and under section 297 bis of the same code a penalty equaling half the amount declared.

69. The assessment team was provided with a copy of a cooperation agreement between the Moroccan Customs and Indirect Tax Department and the FIU. It contained the provisions governing cooperation between both parties in the exchange of information, particularly information on currency declaration with regard to a suspicion of ML provided by the customs services within the scope of their competence to the FIU.

70. On the other hand, the Kingdom stated that the National Financial Intelligence Authority was enabled to have direct access to the customs information system and to peruse the currency declaration database. The Kingdom added that there is cooperation between the Customs Administration and other concerned authorities to implement the requirements on controlling the transportation of currency and bearer negotiable instruments across the Moroccan borders. Section 235-1 of the code amended in 2022 stated that officers reporting offenses are entitled to seize, everywhere, the bills of exchange, means of payment, financial instruments and means of transportation liable to confiscation, as well as all the related documents. The Kingdom also said that the information on the declaration of cross-border currency is recorded and saved in an information system (a database) and kept for 10 years. The country made a legislative amendment to article 82.1 of Law No.12-18 amending and supplementing Law No.43-05 and increased the minimum financial penalty from 20,000 Dirhams to 50,000 Dirhams for natural persons, while the minimum financial penalty for legal persons was increased from 100,000 Dirhams to 500,000 Dirhams.

71. The Kingdom of Morocco also made a legislative amendment by increasing the minimum financial penalty from 20,000 Dirhams to 50,000 Dirhams, while the maximum penalty was increased from 100,000 Dirhams to 500,000 Dirhams for legal persons, through an amendment to article 82-1 of Law No.12-18 amending and supplementing Law No.43-05. Article 574-5 stipulated the following: Total confiscation of the objects, tools and property used or intended for use in committing the offense and the resulting proceeds or the equivalent value of these objects, tools, property and proceeds should always be ordered, in case of a money laundering conviction, while preserving the right of bona fide third parties.

72. **Conclusion:** The Kingdom addressed some deficiencies determined in the MER, but the Customs Administration established a legal text by virtue of which bills of exchange, means of payment and financial instruments are subject, upon entering or exiting the subjected territory, to declaration whose form is determined through regulations, when they are equal to or exceed the amount of 100,000 Dirhams. The section above, however, did not cover the legal obligation to declare cash and although section 66 determined the sanctions related to the declaration system, these sanctions are not proportionate with the type of violation. The assessment team did not perceive any legal mechanism for cooperation between the Customs Administration and other concerned authorities to implement the requirements on controlling the transportation of currency and bearer negotiable instruments across the Moroccan borders. Although officers reporting offenses are entitled to seize, everywhere, the bills of exchange, means of payment, financial instruments, goods and means of transportation liable to confiscation, as well as all the related documents, and although the period required for this action could not be perceived and this does not include currency and precious metals and stones; furthermore, it did not appear that there is a mechanism for international cooperation or mechanisms for maintaining data and information when making a declaration or disclosure which exceeds the prescribed threshold or when there is a false declaration or false disclosure or when there is a suspicion of ML/TF. The exchange law, the customs code or any other law did not comprise preventive controls or strict safeguards to ensure proper use of information or data collected through the system for monitoring cross border transactions. **Accordingly, the compliance rating for this Recommendation is “Partially Compliant”.**

**Recommendation 35 (Sanctions) (Partially Compliant):**

73. According to the Mutual Evaluation Report, Morocco was rated “Partially Compliant” with Recommendation 35, due to the following deficiencies: Financial sanctions set out in the AML law only represent non-proportionate and non-dissuasive financial sanctions and do not extend to cover any other type of administrative penalties. The AML law did not provide for any administrative sanctions that can be imposed on subject entities despite the existence of provisions in the legislations of supervisors; however, there remains a limitation given that the administrative sanctions cannot be considered as targeting those who fail to comply with the AML/CFT requirements.

74. In order to address the deficiencies mentioned in the MER, the Kingdom of Morocco made a legislative amendment under Law No.12-18 amending and supplementing Law No.43-05, where chapter 574.3 of Law No.12.18 was amended in order to add criminal sanctions for the ML offense, with respect to natural persons, by increasing the maximum financial penalty from 20,000 Dirhams (USD 2000) to 50,000 Dirhams (USD 5000) and the maximum financial penalty from 100,000 Dirhams (USD 10,000) to 500,000 Dirhams (USD 50,000). In addition, article 574-5 of the law stipulated that “total confiscation of the objects, tools and property used or intended for use in committing the offense and the resulting proceeds or the equivalent value of these objects, tools, property and proceeds should always be ordered, in case of a money laundering conviction, while preserving the right of bona fide third parties.

75. The financial administrative sanctions in article 28 of Law No.12.18 on combating money laundering and terrorist financing was amended by expanding the scope of sanctions that can be applied against subject persons who do not comply with the AML/CFT requirements, and their

managers and agents. In this context, the minimum sanction was decreased from 100,000 Dirhams (USD 10,000) to 20,000 Dirhams (USD 2000) and the maximum sanction was increased from 500,000 Dirhams (USD 50,000) to 1,000,000 Dirhams (USD 100,000). Article 28.1 of the same law added disciplinary administrative sanctions such as (addressing a caution, withdrawing the license, temporary suspension, and prohibition or restriction on conducting the activity,...). These sanctions are considered dissuasive and proportionate.

76. **Conclusion:** The kingdom has addressed all shortcomings mention in the MER, **Accordingly, the compliance rating for this Recommendation is “Compliant”.**

**Recommendation 40 (Forms of International Cooperation) (Partially Compliant):**

77. According to the MER, Morocco was rated “Partially Compliant” with Recommendation 40, due to the following deficiencies: There is no clear text on providing international cooperation in relation to predicate offenses, and the information on fulfilling the conditions of promptness and the provision of the widest range of cooperation, spontaneously and upon request to all the competent authorities is not clear. Investigative or judicial authorities do not have a legal basis for exchanging information with foreign counterparts. There are no explicit texts indicating that the other authorities are using the most efficient means of international cooperation, except for BAM and the UTRF. There are no laws or explicit texts indicating that other competent authorities have clear and secure gateways, mechanisms or channels for the transmission and execution of requests for information in relation to international cooperation, except for the UTRF and security agencies. Competent authorities do not have processes provided for as regards the prioritization and timely execution of requests. Competent authorities do not have processes provided for as regards safeguarding the information received in terms of international cooperation, except for the UTRF.

78. There is no text evidencing the signature of agreements in a timely manner, with the widest range of foreign counterparts, for all competent authorities. There is no information on the provision of feedback in a timely manner to the authority from which assistance is requested by other competent requesting authorities, on the use and usefulness of the information. The Moroccan laws do not indicate whether there are impediments for receiving mutual assistance on the grounds that the crime involves fiscal matters (except for extradition), and at the same time, ML predicate offenses do not involve fiscal crimes. The Social Insurance and Reserve Control Authority (ACAPS) does not have any legal text allowing to exchange information when the request involves fiscal matters. The UTRF does not have texts explicitly confirming the establishment of controls and safeguards to ensure that information exchanged is used only for the purpose it is requested for or provided for to all the relevant authorities. Supervisors and LEAs have no legal texts that ensure appropriate confidentiality for requests for cooperation and exchange of information. There are no texts that explicitly assert that the UTRF, the supervisory and monitoring authorities and other competent authorities are able to refuse requests which do not fulfill the conditions for the protection of information by competent counterparts.

79. There are no powers for LEAs and supervisors, except the Capital Market Authority to conduct inquiries on behalf of foreign counterparts and exchange all information that may be obtained as a result of a domestic inquiry. The UTRF does not have an explicit text on the provision of an international cooperation related to the predicate offenses. The Exchange Office has no legal basis for providing international cooperation with foreign counterparts with respect to supervisory



information. There are no texts allowing the Exchange Office to exchange information with foreign counterparts through conventions and use of information domestically obtainable for exchange purposes. There are no explicit texts or rules that provide for the exchange of regulatory information such as information on the domestic regulatory framework and general information on financial sectors among financial supervisors and counterparts. There are no explicit texts or rules that indicate the possibility of exchanging prudential information among financial supervisors and counterparts.

80. There are no explicit texts or rules that indicate the possibility to exchange AML/CFT information such as the internal AML/CFT procedures and policies of FIs, CDD information, customer files and samples of accounts and transaction information. There are no texts indicating that financial supervisors are able to conduct inquiries on behalf of foreign counterparts and to authorize them or facilitate their ability to conduct inquiries themselves in the country. There are no texts or rules that ensure that the requesting supervisors should obtain the prior authorization of the requested supervisors for any dissemination of information exchanged or use of that information for supervisory or non-supervisory purposes, or even inform them in advance if there is a legal obligation to disclose or report the information. LEAs do not have powers to conduct inquiries and obtain information on behalf of foreign counterparts, except for the DGSN. There are no explicit texts or rules that indicate the ability of LEAs to form joint investigative teams to conduct cooperative investigations, and establish arrangements or multilateral arrangements, to enable such joint investigations.

81. In order to address the deficiencies mentioned in the MER, articles 13.1, 15, 21, 20, 22, 24 and 31 of the AML law No.18-12 supplementing and amending certain provisions of the Criminal Code and Law No. 43-05, article 112 of law No.103.02 as amended and supplemented by law No.51.20 and article 5 of law No.12.64 establishing the ACAPS were amended. Laws permitted supervisors to enter into agreements with their counterparts and several bilateral and multilateral agreements and memorandums of understanding were concluded. Article 112 of law No.51-20 amending and supplementing law No.103-12 on compliance with professional secrecy in any agreement concluded by BAM was amended and a guidance on the procedures applied by BAM was also issued.

82. A guidance on the procedures governing the exchange of information and documents between BAM and foreign counterpart supervisors was issued. A detailed database on the international judicial cooperation requests was established at the Ministry of Justice and it includes the legal assistance requests, rogatory letters, extradition requests and formal complaints. The country also designated the international cooperation pole at the Directorate General of National Security within the Ministry of Interior as an international cooperation channel and also to seek assistance from the National Central Bureau (BCN) and the liaison division of the Arab Interior Ministers, either through the International Criminal Police Organization (Interpol) or the General Secretariat of the Arab Interior Ministers Council, in addition to the Moroccan liaison officers approved abroad. The Kingdom also provided statistics evidencing that LEAs have conducted inquiries on behalf of foreign entities. It assigned mutual focal points between the National Squad of the Judicial Police and all the supervisory and monitoring authorities. It also provided all heads of national offices and the agencies related to the National Squad of the Judicial Police and heads of the regional squad of the judicial police with user accounts to access the "GO-AML" system. The Kingdom assigned liaison judges in several countries. In parallel, the Kingdom has liaison judges

from various countries at the Ministry of Justice in Rabat. The liaison judge has important powers in the judicial cooperation field, through the facilitation of bilateral judicial cooperation in civil and criminal areas.

83. Article 15 of Law No.12-18 stated that the National Financial Intelligence Authority is entrusted with the joint representation of national departments and authorities before the international AML/CFT bodies; therefore, the Unit is an important channel for international cooperation with respect to the various concerned authorities. Article 22 of Law No.12-18 supplementing and amending Law No. 43-05 stipulated that all the requests made by the Unit should be answered...” Besides, the Unit is compelled to provide the purpose of requesting the information, subject to its membership of the Egmont group. The Kingdom indicated that the security agencies receive, through the Interpol channel and the international cooperation pole, several requests from non-counterparts, regarding information not handled by the security agencies. Once they receive this type of requests, they refer them to other non-counterparts (the commercial navigation directorate, the civil status departments) in order to make use of the required information and provide it to the requesting entities, according to the conditions and ethics governing the police security cooperation. Information can be also exchanged indirectly with non-counterparts through the international rogatory letter mechanism.

84. Conclusion: The Kingdom addressed most of the deficiencies determined in the MER, however, it still has to put in place clear texts that provide for the conditions of promptness and the provision of the widest range of cooperation, spontaneously and upon request to all the competent authorities; It should use the most efficient means of international cooperation, except for BAM and the UTRF and include fiscal crimes among the ML predicate offenses (according to article 574-2 of law No.12-18). Accordingly, the UTRF and entities that exchange information through it would be able to exchange information on such offenses. It still needs to put in place texts that explicitly assert that the UTRF, the supervisory and monitoring authorities and other competent authorities are able to refuse requests which do not fulfill the conditions for the protection of information by counterparts. The country should also stipulate those financial supervisors are able to facilitate the foreign counterparts’ ability to conduct inquiries themselves in the country in order to facilitate effective supervision, except BAM. It should establish clear texts indicating that there are clear and secure gateways, mechanisms or channels for the prioritization and timely execution of requests, with respect to agreements signed by the ACAPS and the Moroccan Authority for Capital Markets (AMMC).

85. The country should establish clear texts indicating that the ACAPS and the AMMC are able to conduct inquiries on behalf of foreign counterparts, and exchange with these counterparts all information that would be obtainable by them if such inquiries were being carried out domestically. Furthermore, the country should also provide texts stipulating that supervisors are able to exchange with counterparts regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors, prudential information, and AML/CFT information, such as internal AML/CFT procedures and policies, customer due diligence information, customer files, samples of accounts and transaction information outside the scope of the signed agreements only. **Accordingly, the compliance rating for this Recommendation is “Largely Compliant”.**



*b. The Recommendations for which the country received a (PC /NC) rating:*

**Recommendation 15 (New Technologies) (Partially Compliant):**

86. According to the MER, Morocco was rated “Partially Compliant” with Recommendation 15, due to the following deficiencies: Morocco did not identify the ML/TF risks relating to new products at the national level. On the other hand, the legislative texts did not provide for any legal obligation that requires the insurance sector, the capital market and the exchange offices to take measures to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices. Financial institutions are not required either to undertake the risk assessment prior to the launch or use of products, practices and technologies or to take appropriate measures to manage and mitigate these risks. The Recommendation was re-analyzed based on the latest amendment made to it by the FATF in October 2019 (after the on-site visit to the Kingdom of Morocco).

87. In order to address the deficiencies mentioned in the MER, article 4 of Law No.12-18 stated that subject persons should “identify and assess ML/TF risks which result from the development of new products or new business practices, including new distribution mechanisms, or from the use of new or developing technologies for new, pre-existing or developing products and take appropriate measures to mitigate these risks”. Guiding Directive No.DG.2/2019 on the application of the risk-based approach requires subject persons to identify and assess the ML/TF risks which may result from new business practices, including means or channels of distribution, prior to their use...”.

88. **Conclusion:** It did not appear that the associated risks were identified and assessed, and no clear reference was made to the fact that subject persons - except those who are subject to the ACAPS - are required to conduct a risk assessment before introducing or using products, practices or technologies. The information provided by the Kingdom did not indicate whether or not it prohibits virtual assets. **Accordingly, the compliance rating for this Recommendation is “Non-Compliant”.**

**Conclusion**

89. After analyzing the information and documents submitted by Moroccan authorities and which are enclosed with its request for re-rating 14 Recommendations rated “Partially Compliant” and “Non-Compliant” in the MER, the expert reviewers concluded the following:

- a- Recommendations which are subject of the re-rating request:
  - Upgrade the rating of Recommendation (35) from “Partially Compliant” to “Compliant”.
  - Upgrade the rating of five Recommendation (4, 6, 22, 23, 28, 30, 40) from “Partially Compliant” to “Largely Compliant”
  - Upgrade the rating of Recommendations (25, 32) from “Non-Compliant” to “Partially Compliant”.
  - Upgrade the rating of Recommendation (7) from “Non-Compliant” to “Largely Compliant”.
  - Maintain the rating of Recommendations (31, 24) as “Partially Compliant”.

- b- The Recommendation which was amended after the on-site visit:
- Downgrade the rating of Recommendation (15) from “Partially Compliant” to “Non-Compliant”.

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

**Table No. (2): TC ratings of May compliance re-ratings**

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

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

91. Based on the above, The Kingdom of Morocco was rated “Compliant” with (5) Recommendations, “Largely Compliant” with (29) Recommendations, “Partially Compliant” with (5) Recommendations and “Non-Compliant” with (1) Recommendation. As a result of the analysis of the first request for technical compliance re-rating and according to the MENAFATF procedures, Morocco shall be kept under the enhanced follow-up, provided that it submits its fourth Enhanced Follow-Up Report to the 36th Plenary Meeting in May 2023.