

5th Enhanced Follow-Up Report for The Kingdom of Morocco

Technical Compliance Re- Rating Request

Anti-Money Laundering and
Combating the Financing of Terrorism

May 2024

Kingdom of Morocco

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This document contains the 5th Enhanced FUR for the Kingdom of Morocco, which includes a TC re-rating request for six recommendations (15,24,25,31,32,38). This report reflects Morocco's efforts since adopting the MER in April 2019 and the 4th Enhanced FUR. The 38th MENAFATF plenary has adopted this report, provided that the Kingdom of Morocco remains in the Enhanced FU process and submits its 6th Enhanced FUR in the 40th plenary meeting in May 2025.

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5th Enhanced Follow-Up Report for The Kingdom of Morocco (with Technical Compliance Re-Rating Request for some Recommendations)

I. 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 40 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. Also, the Kingdom submitted the 3rd EFUR at the 34th Plenary Meeting in May 2022 with request for technical compliance re-ratings for 14 Recommendations (4, 6, 7, 15, 22, 23, 24, 25, 28, 30, 31, 32, 35 & 40), and concluded with a request to upgrade the ratings of 9 Recommendations to “Compliant/Largely Compliant”. Moreover, the Kingdom submitted the 4th EFUR at the 36th Plenary Meeting in May 2023 without a request for technical compliance re-ratings.
3. The 5th EFUR of Morocco contains a request for re-analysing the technical compliance for 6 Recommendations (15, 24, 25, 31, 32 & 38).

II. Findings of the Mutual Evaluation Report and the 1st and 3rd Enhanced Follow-Up Report:

4. According to the Mutual Evaluation Report (MER) and the 1st and 3rd EFUR, 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) Recommendations, as follows:

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

R.1	R. 2	R. 3	R. 4	R. 5	R. 6	R. 7	R. 8	R. 9	R. 10
LC	LC	LC	LC	LC	LC	LC	LC	C	LC
R. 11	R. 12	R. 13	R. 14	R. 15	R. 16	R. 17	R. 18	R. 19	R. 20
LC	LC	C	LC	NC	LC	C	LC	LC	LC

R. 21	R. 22	R. 23	R. 24	R. 25	R. 26	R. 27	R. 28	R. 29	R. 30
C	LC	LC	PC	PC	LC	LC	LC	LC	LC
R. 31	R. 32	R. 33	R. 34	R. 35	R.36	R. 37	R.38	R.39	R. 40
PC	PC	LC	LC	C	LC	LC	PC	LC	LC

*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. In coordination with the Secretariat, Mr. Selim Bejaoui, expert at the Tunisian Financial Analysis Committee in the Republic of Tunisia, and Ms. Mashaal Abdullah Al Muqaitib, an expert at the Anti-Money Laundering Committee in the Kingdom of Saudi Arabia, have conducted an analysis for the recommendations of the request of technical compliance re-rating, supported by the Secretariat, represented by Mr. Islam Samir, senior MER officer.

III. 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 Morocco addressed some of the deficiencies related to technical compliance identified in the mutual evaluation report and the third enhanced follow-up report with regard to the recommendations (15,24,25,31,32, 38). Below is an analysis of the efforts made by the Kingdom for each recommendation separately, according to the attached analysis:

Recommendation 15: Mutual Legal Assistance: NEW TECHNOLOGIES (NC)

- a) 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-analysed based on the latest amendment made to it by the FATF in October 2019 (after the on-site visit to the Kingdom of Morocco).
- b) According to the 3rd EFUR, Morocco addressed some of the deficiencies identified in the MER, but the compliance rating was downgraded to “NC”, due to the new requirements regarding virtual assets. The risks associated with new products at the national level have not been assessed, nor have the risks of virtual assets and the activities or operations of virtual asset service providers been evaluated.

Additionally, it has not been clarified from the information provided by the Kingdom whether it prohibits virtual assets or not.

c) To address the deficiencies in the 3rd EFUR, the Moroccan authorities have taken several measures, including adopting the second version of the NRA for ML/TF risks in 2021, and it was circulated to all concerned parties to take into account its results and work to unify the understanding of risks. This assessment included an analysis of the risks associated with the use of modern technologies and internet techniques (cybercrime), risks related to the virtual world (only virtual assets and not activities or operations of virtual asset service providers), and risks associated with environmental conditions (such as the COVID-19). Additionally, all financial entities are now required to identify and assess the ML/TF risks that may arise from the development of new products and business practices, including new distribution mechanisms, and the use of new technology associated with new products. This assessment must be completed before adopting new products, practices, or technology and must lead to appropriate measures to manage and mitigate these risks, as per publications and circulars issued by the authorities supervising financial institutions as follows:

- The Exchange Office issued Periodic Circular No. 1/2023 aiming to amend Article 6, which concerns assessing the risks of new products, as it included that the currency exchange company must ensure that the risks of new products, practices and technologies are evaluated before adopting them and implement appropriate measures to manage and mitigate the aforementioned risks.
- The Moroccan Capital Market Authority issued Circular No. 2022/02 in its ninth article, which stipulates the following: “The subject person must identify and evaluate the risks of money laundering and terrorist financing that may result from: - the development of new products and business practices, including new marketing mechanisms; - Using modern technology in the context of carrying out its activities. This assessment must be completed before new financial instruments, practices or technologies are adopted, and lead to appropriate measures being taken to manage and mitigate these risks.”
- Article Six of the Circular of the Chairman of ACAPS No. (AS/02/19), published in the Official Gazette on 12 December 2019, stipulates that the subject person must identify and evaluate the risks of money laundering and terrorist financing that may result from: A. The development of new business practices and operations, including new delivery mechanisms; B: The use of new technology in the exercise of its activities; this assessment should be completed prior to the adoption of new practices or technologies and lead to appropriate measures being taken to manage and mitigate the said risks.

- **Conclusion:** Despite efforts to address deficiencies, the second version of the NRA for ML/TF risks did not include risks related to the development of new products and professional practices (including new service delivery methods and those arising from the use of new or underdeveloped technologies) nor did it include risks associated with activities or operations of virtual asset service providers. Although there has been an enhancement in monitoring virtual assets and identifying traders, appropriate sanctions have not been imposed on violators. Additionally, the assessment team did not receive legal or legislative texts from Moroccan authorities indicating a direct ban on dealing with virtual assets, except for publications and notices aimed at raising awareness among financial institutions and the public about the risks associated with these assets (excluding risks related to activities or operations of virtual asset service providers). Furthermore, authorities have not provided evidence of monitoring the enforcement of the ban on such currencies or providing awareness or notices to LEAs or public prosecutors on how to investigate such crimes or impose appropriate sanctions on offenders. Regarding international cooperation, efforts have been made to exchange information, but virtual assets and their service providers have not yet been included.
- Since the remaining deficiencies are moderate, the rating of compliance for this recommendation is “PC”.

Recommendation 24: Transparency and Beneficial Ownership of Legal Persons (PC)

- A) 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 mechanisms requiring companies to take reasonable measures to obtain and hold up-to-date information on beneficial ownership. Also, there are no provisions granting authorities, particularly LEAs, the necessary powers to obtain timely access to basic BO information held by relevant parties. Additionally, Moroccan authorities have not implemented measures to

overcome obstacles hindering corporate transparency, including bearer shares, to prevent their exploitation for MLC/TF purposes. Furthermore, Moroccan authorities have not provided any information demonstrating measures to prevent the misuse of legal entities that hold nominal shares or directors in ML/TF operations.

B) According to the 3rd EFUR, Morocco addressed some of the deficiencies identified in the MER. However, the technical compliance rating continued to be "PC", for the following deficiencies:

- The continuous absence of any information related to the National Registry of the Self-Contractors which is held by Morocco Post is made publicly available. On the other hand, despite the issuance of a decree related to the "Public Register of UBOs of Companies established in Morocco and Legal Arrangements," which indicates that the register is maintained through an electronic platform created for this purpose, to be populated by declarations submitted by company representatives and qualified legal arrangements or those authorized for this purpose, however, this platform is not accessible to the public, and there is no clear mechanism in place to ensure that the information provided on this platform is accurate and updated in a timely manner.
- Although the Kingdom has indicated the completion of the NRA related to legal entities, it is not considered comprehensive and does not include ML/TF risks, as it relied solely on the level of supervision and legislative texts to conclude a low level of risk.
- The absence of any legal provisions requiring companies to retain the information specified in criteria 24-3, as well as the lack of requirement to maintain a register of shareholders or members including details such as the type and number of shares owned, the name of the registered shareholder, voting rights, and all relevant information regarding share transfers. Furthermore, there is no obligation on companies to keep this information updated according to the requirements of the criteria. The measures taken by Morocco did not indicate compliance with the requirements of criteria 24.14 (a, b, c).
- The Moroccan authorities did not provide any information reflecting assurance against the misuse of legal entities with nominal shareholders or directors in ML/TF activities, nor did they provide support for their prohibition of such activities if existed. They have not taken appropriate measures to enable Moroccan authorities to monitor the type of assistance received from other countries in response to requests for basic information about legal entities, their shareholders, and beneficial owners. Additionally, there has been no verification of the information received from foreign counterparts regarding its quality and accuracy before use, and there is no formal mechanism for monitoring the quality of the received assistance.

C) To address the deficiencies in the 3rd EFUR, the Moroccan authorities took the following actions:

- The Ministry of Economy and Finance issued a circular regarding clarifications on the decree related to the UBO public register of legal entities established in the Kingdom. The circular allows public access to the information contained in the register, according to a mechanism determined by the Moroccan Office of Industrial and Commercial Property, excluding self-contractors. The circular also explains the verification process of the information in the register and its regular comparison with other databases. Additionally, it outlines the legal obligations for legal entities, directors, or other relevant individuals to retain information about beneficial owners and related documentation at their premises for up to ten years after the entity is removed from the register. These information and documentation must be sufficient, accurate, and regularly updated.
- The ML/TF risks associated with legal entities were assessed in the second update of the NRA for money laundering and terrorist financing in Morocco, which was adopted in December 2021. According to the results obtained, there are two levels of risk: "relatively moderate" and "relatively low," concerning the potential exploitation of legal persons in ML/TF various forms. It is not clear whether self-contractors were included among the forms of legal entities covered by this update of the NRA.
- The competent authorities' powers to obtain basic and BO information available in the possession of related parties have been strengthened under the last paragraph of Article (7) of the AML Law as amended, which stipulates that "qualified authorities in the AML/CFT field must be provided with the information they request within the specified deadlines". Competent authorities can access the UBOs public register and obtain all information related to legal entities, including information related to UBOs. Additionally, partnership agreements have been signed between the General Prosecutor's Office and the Bank of Maghrib to enhance the powers of search and investigation authorities, culminating in the establishment of a secure information system aimed at expediting the processing of information requests issued by public prosecutors. The General Prosecutor's Office, through a directive addressed to public prosecutors, has urged them to ensure the use of the secure information system linking them with the Bank of Maghrib to request information about bank accounts and to ensure continuous access to the UBOs public register of companies established in Morocco. Furthermore, legal arrangements have been made to obtain all data and information, in addition to concluding an information exchange agreement between the General Prosecutor's Office and the UTRF. However, these new legal amendments did not include some entities and other administrations other than supervised entities.

- The Moroccan authorities have taken measures to overcome obstacles hindering the transparency of legal entities, including bearer shares, to ensure they are not exploited in money laundering and terrorist financing. This was achieved through amending the law governing joint-stock companies and enacting specific transitional provisions regarding the conversion of bearer shares into registered shares, as well as prohibiting the issuance of bearer shares from the date of the law's publication.
- The circular issued by the Ministry of Economy and Trade also includes an obligation on administrators (managers) and shareholders, acting on behalf of any shareholder or partner, to disclose to the relevant company the identity of the person who appointed them, and include this information in a special register kept at the company's headquarters. And keep documents and information related to the identity of persons who exercise self-works to submit them to the competent authorities when necessary and cooperate with the competent authorities to the greatest extent possible in identifying the BOs and cooperate with DNFBPs to provide sufficient, accurate and updated information about such. The texts contained in Law No. 17, 95 required the acting shareholders and acting managers: Disclosure of those on whose behalf they represent to the legal person in which they contribute or manage. The circular also included in the paragraph on how to maintain a public register for the BOs and the data required to be included. It is necessary for companies, legal arrangements, managers, liquidators or others persons concerned with dissolving the company must retain the information referred to in Article 11 of the decree (for a period of ten years after the company has been removed from this register), while ensuring its authenticity and ensuring that it is sufficient, accurate, and regularly updated to determine the identity of the BO. Companies must also retain at its headquarters, a copy of its articles of association, keeping a list of directors, as well as keeping a special register for its shareholders or partners that includes the shares or shares owned by each shareholder or partner, specifying their number and type, and ensuring that this register is updated on a regular basis. All information relevant to share transfers must also be maintained.
- The circular issued by the Ministry of Economy and Trade also indicates that the UBO public register is accessible to the public, and the information therein must be preserved in a manner that facilitates easy access for the purpose of facilitating rapid, constructive, and effective international cooperation, especially by competent foreign authorities. It has previously been stated in the initial circular regarding the UBO public register of legal entities established in the Kingdom that the information contained in the UBO public register may be used within the framework of international cooperation.

- The efforts exerted regarding international cooperation also included the issuance of periodic reports by the Public Prosecution to expedite and effectively execute judicial cooperation requests with counterpart authorities, with special attention given to the data and subjecting it to periodic assessment to track indicators of the implementation of outgoing and incoming international judicial cooperation requests. This assessment includes factors such as the number of requests, the speed of execution, the effectiveness of coordination, and the quality and accuracy of exchanged information. Additionally, it was revealed that both the Ministry of Justice and the Public Prosecution have electronic applications related to money laundering, terrorist financing, and associated predicate offenses, allowing for the monitoring of the quality of legal assistance received from other countries. However, the operational mechanisms of these applications have not been clarified, nor has a mechanism for monitoring requests for assistance in identifying the beneficial owners residing abroad been established.
- **Conclusion:** The Kingdom has addressed most of the deficiencies identified in the mutual evaluation report and the 3rd enhanced follow-up report, yet information regarding self-contractors remains unavailable to the public. It was not included in the second edition of the NRA of money laundering and terrorist financing. Additionally, specific measures enabling authorities in Morocco to monitor the quality of assistance received from other countries in response to requests for obtaining basic information about legal entities, their shareholders, and beneficial owners have not been taken. Furthermore, the mechanism for monitoring requests for assistance in identifying the beneficial owners residing abroad has not been clarified.
- Since the deficiencies are minor, the rating of compliance for this recommendation is “LC”.

Recommendation 25: Transparency and Beneficial Ownership of Legal Arrangements (PC)

- A) 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.
- B) According to the 3rd EFUR, Morocco addressed some of the deficiencies identified in the MER and the compliance rating was upgraded to “PC”, for the following deficiencies:
- Although the circular issued by the Ministry of Economy and Finance regarding the UBO public register of legal entities and arrangements required trustees to disclose information for legal arrangement purposes and required legal arrangements to submit disclosures to the public register, it did not require trustees or funds to retain basic information. The information to be

retained and disclosed did not include information about other regulated agents and service providers to the fund, including investment advisors, directors, accountants, and tax advisors. Despite trustees being required to disclose and keep the information updated, there was no provision stating that this information should be periodically updated (periodic updating). Furthermore, the Kingdom has not taken any measures to ensure that trustees disclose their status to DNFBPs when establishing a working relationship or carrying out a transaction exceeding the specified threshold.

- 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 UBO public register 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.

C) To address the deficiencies in the 3rd EFUR, the Moroccan authorities took the following actions:

- The Ministry of Economy and Finance issued a circular regarding clarifications concerning the decree related to the UBO public register of legal entities established in Morocco. The legal arrangements were included in the UBO public register, and administrators and shareholders acting on behalf of any shareholder or partner were required to disclose to the relevant company the identity of the person they represent. This information was to be included in a special register held at the headquarters of this legal arrangement. Furthermore, they were required to retain documents and information related to the identities of individuals acting on their behalf to be provided to the competent authorities when necessary. The circular also indicated that trustees, administrators, or anyone holding a similar position in legal arrangements must obtain accurate, sufficient, up-to-date information regarding the identity of the founder(s), trustee(s), or any other natural person who directly or indirectly exercises effective control ultimately over the legal arrangement, whether by law or in practice, as well as persons of equivalent position, regulated agents, service providers, investment advisors, directors, accountants, and tax advisors for the legal arrangement. The circular also emphasized the necessity of obtaining accurate, sufficient, up-to-date information regarding assets held or managed by the financial institution or DNFBPs concerning trustees or those in their capacity who have a working relationship or carry out a

- transaction on their behalf. Information pertaining to this should be retained for a period of ten years from the date of their cessation of office.
- The competent authorities' powers to obtain basic and BO information available in the possession of related parties have been strengthened under the last paragraph of Article (7) of the AML Law as amended, which stipulates that “qualified authorities in the AML/CFT field must be provided with the information they request within the specified deadlines”. Competent authorities can access the public register of the Bos of companies established in Morocco and of legal arrangements , whether established outside Morocco or similar legal arrangements subject to its national law and obtain all information related to legal entities, including information related to them. Additionally, partnership agreements have been signed between the General Prosecutor's Office and the Bank of Maghrib to enhance the powers of search and investigation authorities, culminating in the establishment of a secure information system aimed at expediting the processing of information requests issued by public prosecutors. The General Prosecutor's Office, through a directive addressed to public prosecutors, has urged them to ensure the use of the secure information system linking them with the Bank of Maghrib to request information about bank accounts and to ensure continuous access to the UBOs public register of companies established in Morocco. Furthermore, legal arrangements have been made to obtain all data and information, in addition to concluding an information exchange agreement between the General Prosecutor's Office and the UTRF. However, these new legal amendments did not include some entities and other administrations other than supervised entities.
 - The circular issued by the Ministry of Economy and Trade also indicates that the UBO public register is accessible to the public, and the information therein must be preserved in a manner that facilitates easy access for the purpose of facilitating rapid, constructive, and effective international cooperation, especially by competent foreign authorities. It has previously been stated in the initial circular regarding the UBO public register of legal entities established in the Kingdom that the information contained in the UBO public register may be used within the framework of international cooperation.
 - The efforts exerted regarding international cooperation also included the issuance of periodic reports by the Public Prosecution to expedite and effectively execute judicial cooperation requests with counterpart authorities, with special attention given to the data and subjecting it to periodic assessment to track indicators of the implementation of outgoing and incoming international judicial cooperation requests. This assessment includes factors such as the number of requests,

the speed of execution, the effectiveness of coordination, and the quality and accuracy of exchanged information.

- **Conclusion:** The Kingdom has addressed most of the deficiencies identified in the mutual evaluation report and the 3rd enhanced follow-up report. However, the Moroccan authorities did not provide clear mechanism about locally exchanging the information related to legal arrangements.
- Since the deficiencies are minor, the rating of compliance for this recommendation is “LC”.

Recommendation 31: Powers of Law Enforcement and Investigative Authorities (PC):

- A) 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. 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.
- B) According to the 3rd EFUR, Morocco addressed some of the deficiencies identified in the MER, but the compliance rating is still “PC”. Morocco did not provide any new updates regarding its efforts to modify its analysis of Criteria 1, 2, and 3 of Recommendation 31. However, concerning sub-criterion 31.4, the Kingdom has provided information indicating the capability of the relevant judicial police in investigating ML/TF crimes to access and request all necessary information available from FIU.

C) To address the deficiencies in the 3rd EFUR, the Moroccan authorities took the following actions:

- The competent authorities' powers to obtain basic and BO information available in the possession of related parties have been strengthened under the last paragraph of Article (7) of the AML Law as amended, which stipulates that "qualified authorities in the AML/CFT field must be provided with the information they request within the specified deadlines". Additionally, partnership agreements have been signed between the General Prosecutor's Office and the Bank of Maghrib to enhance the powers of search and investigation authorities, culminating in the establishment of a secure information system aimed at expediting the processing of information requests issued by public prosecutors, and reduce the period to respond to the information requests to 60 minutes after directing the request. The General Prosecutor's Office, through a directive addressed to public prosecutors, has urged them to ensure the use of the secure information system linking them with the Bank of Maghrib to request information about bank accounts. Furthermore, information exchange agreement was signed between the General Prosecutor's Office and the UTRF, and enhance previous information exchange agreements, such as the agreement with the AMMC signed in 2018, which provided competent authorities with extensive powers to track significant assets, including bank accounts (or other financial data) or other assets held by different entities specified by Article 02 of Law 43.05 related to combating money laundering, as amended by Law 12.18. This includes insurance companies, stock exchange brokerages, as well as DNFBPs such as lawyers, accountants, and others. However, these new legal amendments did not include some entities and other administrations other than supervised entities.
- The Public Prosecution in Morocco issued Circular No. 15/RNA/S2023 dated 01/04/2023, urging public prosecutors to utilize specialized search techniques stipulated in the Code of Criminal Procedure regarding ML/TF investigations, and predicate offences, especially concerning controlled delivery and call interception. These powers apply to judiciaries as well as the judicial police , since they are both interconnected. Although the circular broadly referred to "special investigation techniques," it did not explicitly mention the use of "undercover operations" or "accessing computer systems". Nevertheless, the Kingdom has actively endeavoured to enhance the capabilities of investigative and LEAs in investigating cybercrimes by establishing a network at the level of public prosecutions dedicated to monitoring cybercrime cases. Additionally, training sessions have been organized for specialized judges and judicial police officers in this field.
- **Conclusion:** The Kingdom has addressed most of the deficiencies identified in the mutual evaluation report and the 3rd enhanced follow-up report. However, the circular of the public prosecution did not mention the use of "undercover operations" or "accessing computer systems".

- Since the remaining deficiencies are minor, the rating of compliance for this recommendation is “LC”.

Recommendation 32: Cash Couriers (PC):

- A) 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.
- B) According to the 3rd EFUR, Morocco addressed some of the deficiencies identified in the MER, and the compliance rating was upgraded to “PC”, due to the following deficiencies: although the Customs Administration established a legal provision subjecting commercial documents, means of payment, and financial instruments upon entry to or exit from the Kingdom to a declaration, to be determined by a regulatory text, when their value equals or exceeds MAD 100,000, the above-mentioned provision did not legally mandate the declaration of cash currencies. Although Article 66 outlined penalties related to the declaration system, the penalties were not dissuasive or proportionate to the nature of the violation. 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. While officers empowered to draw up reports have the right to seize commercial documents, means of payment, financial instruments, goods, modes of transport subject to confiscation, and all documents related to these items everywhere, it was not specified what the necessary duration for the same, and it does not include currencies, precious metals and stones. There were no mechanisms for international cooperation or mechanisms for retaining data and information when submitting a declaration or

disclosure exceeding the specified threshold, or in case of false declaration or disclosure, or ML/TF suspicion. Furthermore, the Exchange Law, Customs Code, or any other law did not include proactive measures or strict guarantees to ensure the proper use of information or data collected through the border transaction monitoring system.

C) To address the deficiencies in the 3rd EFUR, the Moroccan authorities took the following actions:

- The Kingdom strengthened its legal framework regarding the mandatory declaration of currencies and BNIs carried across borders by amending Article 66 -bis, which constitutes the binding legal framework. The amended article now includes cash currencies, along with modifying the currency declaration form, which previously covered declaration procedures only upon currency importation. Now, both currency importation and exportation are subject to declaration requirements according to the conditions specified in Article 66-bis of the Customs and Indirect Taxes Code.
- On the other hand, the application of provisions regarding physical transportation across borders now extends to precious metals and stones following the issuance of a Circular by the Customs and Indirect Taxes Administration on 06/10/2023. Additionally, under the same Circular, monitoring of the physical transportation of currencies and BNIs is not limited to travellers but also encompasses other forms of transportation such as shipping or postal services. However, these provisions were not included in the amended Article 66-bis of the Customs and Indirect Taxes Code.
- The Kingdom has also amended its legal provisions to make the penalties imposed on violators of non-declaration or false declaration of currency and BNIs dissuasive and proportionate. Article 297-bis of the Customs Code was amended to increase the maximum penalties for violations of the declaration requirements. The fine now is changed from half the undisclosed amount to the full amount. Additionally, a second penalty can be imposed under the Exchange Law, with a fine equal to five times the value of the undisclosed amount. If these operations are suspected to be for money laundering or terrorist financing, the case is referred to the Public Prosecutor's Office. Furthermore, Article 45-bis of the same Code has been amended to extend the retention period for records, declarations, and documents held by the Customs Administration, which are related to operations or activities subject to internal consumption taxes to four years, extending to ten years for physical transportation of cash, commercial papers, payment instruments, and financial instruments.
- Furthermore, the information exchange system between the National Financial Information Unit and the Customs Administration has been strengthened through a cooperation agreement signed

on 19/05/2023. This agreement enables the exchange of information available in the databases of both entities regarding currency seizures and ML/TF suspicions. There are also sufficient coordination mechanisms within the Customs Administration, both internally among its relevant departments overseeing the physical transportation of currency and BNIs, and externally with the National Financial Information Unit and the inspection teams under the Ministry of Interior at various border points. Additionally, Article 55-bis of the Customs Code has been amended to establish strict guarantees for the proper use of information available through the declaration system.

- **Conclusion:** The Kingdom has addressed most of the deficiencies identified in the mutual evaluation report and the 3rd enhanced follow-up report. However, the requirements of the mode of transport such as shipping and postal services were amended in accordance with the circular of the Customs and Indirect Taxes Administration, without mentioning the same in the legal text i.e. Article 66-bis.
- Since the deficiencies are minor, the rating of compliance for this recommendation is “LC”.

Recommendation 38: Mutual Legal Assistance: Freezing and Confiscation (PC)

- A) According to the MER, Morocco was rated “PC” with Recommendation 38, due to the following deficiencies: the Moroccan legislations don’t indicate that response procedures to foreign countries' requests, whether for identification, freezing, seizure, or confiscation, should be swift. However, these legislations primarily focus on assets alone. Additionally, the requirement of conviction for confiscation poses a barrier to compliance with the Criteria 38.2 requirements. Moreover, there are deficiencies in the Criteria 38.3 requirements, as there are no legal provisions indicating mechanisms for managing frozen, seized, or confiscated assets and how to dispose them, when necessary, as stipulated in the Criteria. Furthermore, there are no provisions granting the state the authority to share confiscated assets with other countries.
- B) To address the deficiencies in the MER, the Moroccan authorities took the following actions:
- The Public Prosecution issued Circular No. 15/2023, granting public prosecutors the necessary authority to respond swiftly and effectively to requests for international judicial cooperation regarding the identification, seizure, and freezing of: (a) assets laundered from money laundering, predicate offences, or terrorist financing, (b) proceeds generated from money laundering, predicate offences, or terrorist financing, (c) instrumentalities used in money laundering, predicate offences, or terrorist financing, (d) means intended for use in money laundering, predicate offences, or terrorist financing, and (e) assets of equivalent value. , and although the immediate interaction with these requests, according to the second clause of the circular, included only

- seizure and freezing without confiscation, it has become clear that the Kingdom applies - in the necessary speed and effectiveness - the most important precautionary measures before implementing confiscation rulings are identifying, seizing and freezing property, which helped reduce the time taken for completing requests for international judicial cooperation. The Kingdom of Morocco also joined the 2022 Council of Europe Convention No. 198 on money laundering and the identification, seizure, and confiscation of proceeds of crime and financing of terrorism, also The Kingdom of Morocco submitted an explanatory memorandum regarding the application of the Public Prosecution's circular issued during the month of May 2024 to include confiscation in the second item regarding the immediate response to seizure and freezing requests. However, the content of that memorandum was not considered because it was issued outside the period of receiving documents for the current follow-up report (6 months before the plenary meeting).
- The legislative framework in the Kingdom has indeed distinguished between confiscation as an additional penalty under Articles 42 and 43 of the second chapter related to supplementary penalties in the Penal Code, and confiscation as a preventive measure under Article 62 of the chapter of personal and real preventive measures, as well as Article 89 of the Moroccan Penal Code, which explicitly orders confiscation as a preventive measure for seized items that are used, possessed, carried, or sold in connection with a crime, even if no conviction has been issued. Additionally, confiscation can be applied in the following cases:
 - In case of the death of the accused: According to Article 94 of the same law, the death of the accused does not prevent the implementation of confiscation as a preventive measure.
 - In case of absence or fleeing: The procedures of the absenteeism specified in Articles 443 to 454 of the Code of Criminal Procedures are applied.
 - the case of failure to identify the accused is not included in Moroccan criminal law.
 - Article 715 of the Code of Criminal Procedures stipulates that the execution of international judicial assistance requests from abroad is carried out in the same manner as domestic requests within the territory of the Kingdom, in accordance with Moroccan legislations. Therefore, the provisions of the mentioned laws, which do not require a conviction for execution of seizure, also apply to responding to international cooperation requests by Morocco under the same standards. Thus, the Kingdom has legal authority to provide international assistance requests based on seizure procedures not contingent on conviction. This applies even in cases where the accused is deceased or fleeing. However, the situation of failure to identify the perpetrator is not applicable within the fundamental principles and provisions of Moroccan criminal law.

- The Kingdom coordinates procedures and mechanisms for seizure and confiscation with other countries, in proportion to bilateral or multilateral agreements or based on the principle of reciprocity. While the Kingdom does not have a specialized structure for managing seized assets, Article 19 of Law 43.05 relating to money laundering, as amended by Law 12.18, assigns to the relevant judicial authorities the responsibility of identifying an institution or specialized body whose powers are limited to guarding and monitoring assets, without specifying the mechanisms for managing these assets, especially their disposal when necessary.
- There is no explicit legal provision granting the Kingdom the authority to share confiscated assets with other countries. However, the Kingdom does not prohibit the principle of sharing confiscated assets with other foreign countries, provided that its conditions and mechanisms are regulated either through bilateral or multilateral agreements, international treaties, or through mutual agreement and consensus with the requesting country.
- **Conclusion:** In view of the efforts made to address the shortcomings, especially with regard to the Kingdom's rapid and effective response to the most important precautionary measures that precede confiscation requests, which are identifying, seizing and freezing the property, instrumentalities and proceeds concerned with sub-criterion 38.1, and in view of the remaining shortcomings related to the lack of clear mechanisms for property management, confiscation and the possibility of disposing thereof when necessary, in addition to the lack of an explicit legal text that allows the Kingdom the ability to share confiscated property with other countries. However, the Kingdom does not prohibit the principle of sharing confiscated property with other foreign countries, provided that its conditions and mechanisms are regulated by either bilateral or multilateral agreements and treaties, or through agreement and mutual consent on a specific formula with the requesting country.
- Since the remaining deficiencies are minor, the rating of compliance for this recommendation is "LC".

IV. Conclusion

1. The reviewing experts (Reviewers), after analysing the information submitted by the Moroccan authorities attached to their rerating request of 6 recommendations that were assessed in the Mutual Evaluation Report and in 3rd EFUR concluded that "Partially Compliant" and "Non-Compliant" were achieved in the following:
 - To upgrade the rating of the Recommendations 24, 25, 31, 32&38 from "**Partially Compliant**" to "**Largely Compliant**".

- To upgrade the rating of Recommendation 15 from “Non-Compliant” to “Partially Compliant”.

2. Compliance ratings after re-rating can be summarized as follow:

Table (2): Re-Rating of the Technical Compliance ratings

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

* Note: There are four potential levels to Technical Compliance (Compliant; Largely Compliant; Partially Compliant and Non-Compliant)

3. Kingdom of Morocco achieved “Compliant” in 5 Recommendations; “Largely Compliant” in 34 Recommendations; “Partially Compliant” in 1 Recommendation. As a result of the analysis of the re-rating requests IN 1st,3rd, and 5th EFUR in accordance with MENAFATF's procedures, Morocco remains in the Enhanced Follow-Up process, and shall submit its 6th Enhanced FUR report to the 40th MENAFATF Plenary Meeting in May 2025.