ICLG

The International Comparative Legal Guide to:

Anti-Money Laundering 2019

2nd Edition

A practical cross-border insight into anti-money laundering law

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1 The Crime of Money Laundering and Criminal Enforcement

1.1 What is the legal authority to prosecute money laundering at national level?

Anti-money laundering and the combatting of financial terrorism ('AML/CFT') are principally regulated by the Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta) ('PMLA') and its subsidiary legislation, the Prevention of Money Laundering and Funding of Terrorism Regulations (Subsidiary Legislation 373.01 of the Laws of Malta) ('PMLFTR'), which have effectively transposed the Fourth AML Directive (Directive (EU) 2015/849 ('4AMLD')) into Maltese law.

The investigation and prosecution of money laundering and the funding of terrorism ('ML/FT') are regulated by Article 3 PMLA whereby every person charged with an offence shall be tried in the Criminal Court or before the Court of Magistrates as a court of criminal judicature in Malta or Gozo and as directed by the Attorney General ('AG'). As elaborated upon in question 1.4 hereunder, the Financial Intelligence Analysis Unit ('FIAU') does not prosecute ML/FT, but aids in the process of prosecution as a result of its supervisory nature.

1.2 What must be proven by the government to establish money laundering as a criminal offence? What money laundering predicate offences are included? Is tax evasion a predicate offence for money laundering?

For prosecution to succeed, there must be the conversion or transfer of property with the knowledge or suspicion that such property is derived, whether directly or indirectly, from criminal activity, and this for the purpose of concealing or disguising the origin of the property or assisting those involved in criminal activity. The same applies to the proceeds of said property. The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property with the knowledge or suspicion that such property is derived, directly or indirectly, from criminal activity or from an act of participation in criminal activity also constitute ML. Further to this, the acquisition, possession and use of said property and the retention of said property without a reasonable excuse is likewise an offence. Any attempts at these actions as per Article 41 of the Criminal Code (Chapter 9 of the Laws of Malta) ('CC'), or complicity in terms of Article 42 CC are also defined as ML.

Whereas the underlying criminal activity (predicate offence) from which funds originate is an essential element for prosecution, Article 2(2) PMLA specifically states that a person may still be convicted of ML in the absence of a judicial finding of guilt in respect of the underlying criminal activity. Its existence may be established through circumstantial or other evidence without it being necessary for the prosecution to prove or specifically pinpoint the criminal activity. A person can be accused of ML even though the predicate offence has not been established, as long as it can be proved beyond reasonable doubt that the source of such money or property was derived from criminal activity. The offender may be charged separately for the predicate offence.

As of 31 May 2005, and via Legal Notice 176 of 2005, Malta no longer has a restricted list of predicate offences. All criminal offences are predicate offences. Tipping-off is also an offence. As a defence, the accused must prove that he did not know or did not suspect that the disclosure was likely to prejudice the investigation. Tax evasion and all related tax crimes are also deemed to be predicate offences.

1.3 Is there extraterritorial jurisdiction for the crime of money laundering? Is money laundering of the proceeds of foreign crimes punishable?

Article 9 PMLA refers to situations which involve proceeds found outside of Malta, and the powers of investigation by Maltese authorities in connection with offences cognisable by courts outside of Malta. Article 10 PMLA deals with an extraterritorial request to the AG for the temporary seizure of all or any of the moneys or property, movable or immovable or a person charged or accused in proceedings before extraterritorial courts. Conflicts arise in scenarios where the predicate offence is or is not a crime in that relative jurisdiction.

The FIAU also features in the context of cross-border cases. It cooperates with similar foreign, national and supranational bodies, authorities and, or agencies in coordinating and exchanging information and in imposing administrative penalties and, or implementing other measures.

1.4 Which government authorities are responsible for investigating and prosecuting money laundering criminal offences?

The FIAU is the government agency established under the PMLA responsible for collecting, processing, analysing and disseminating information within the scope of preventing ML/FT and ensuring

compliance with the relevant laws and regulations. Upon receiving a report or tracking irregular activity, it must forward said report to the Commissioner of Police.

The investigative process is led by the Economic Crimes Unit within the Malta Police Force, more specifically the Money Laundering Unit. It secures evidence and witnesses both internationally and nationally. It is the police who proceed to prosecute in court in conjunction with the AG's office. The AG directs how a person is to be charged with the relative offence and this after taking into consideration various factors, including the person's age and the value of the property allegedly laundered.

1.5 Is there corporate criminal liability or only liability for natural persons?

Yes, corporate liability is included. Article 3(2) PMLA states that when an offence is committed by a body or persons, whether corporate or unincorporate, every person who at the time of the commission of the offence had an executive or administrative role shall be guilty of an offence unless he proves that the offence was committed without that person's knowledge and that he exercised all due diligence to prevent the commission of the crime. Article 3(4) PMLA specifically vests legal representation in the alleged offender, and where said legal representation no longer vests in that person, it shall lie with the replacing persons in his/her stead or other referred persons.

1.6 What are the maximum penalties applicable to individuals and legal entities convicted of money laundering?

Article 3(1) PMLA establishes that the maximum punishment is a fine not exceeding €2,500,000 or imprisonment for a period not exceeding 18 years or both. As for legal entities, there are three punishments: that given to the actual individual within the corporate body; the penalty given to the corporate body; and the subsequent forfeiture of proceeds of the corporate body by the Government.

Furthermore, non-compliance with the ML/FT procedures under the PMLFTR is punishable with administrative sanctions reaching a maximum of a €50,000 fine and/or two years' imprisonment.

1.7 What is the statute of limitations for money laundering crimes?

As the PMLA establishes a maximum penalty of 18 years' imprisonment for ML offences, the CC states that crimes liable to imprisonment for a term of not less than 20 years are barred by a lapse of 15 years. Whereas the PMLFTR awards two years' imprisonment, these crimes are then barred by a lapse of five years.

1.8 Is enforcement only at national level? Are there parallel state or provincial criminal offences?

Enforcement is at a national level as Malta is an island and has no provinces/states.

1.9 Are there related forfeiture/confiscation authorities? What property is subject to confiscation? Under what circumstances can there be confiscation against funds or property if there has been no criminal conviction, i.e., non-criminal confiscation or civil forfeiture?

The PMLA provides for the confiscation of property. In addition to Article 23 CC, i.e. the forfeiture of the *corpus delicti* (evidence of the crime), the court shall order the forfeiture in favour of the Government of the proceeds or of such property the value of which corresponds to the value of such proceeds (any economic advantage) and any property in the possession or under the control of any person found guilty and deemed to be derived from the offence of ML. The definition of 'property' includes movables or immovables, in or outside of Malta.

Article 4 of the Confiscation Orders (Execution in the European Union) Regulations (Subsidiary Legislation 9.15 of the Laws of Malta) states that the AG is competent to receive confiscation orders issued in the issuing State and to transmit to the executing State his own confiscation orders as issued in Malta by a court of criminal jurisdiction. When the AG receives a request by a judicial authority to be enforced in Malta made by a foreign court, an action is brought. Following legal procedures and a hearing, if enforcement of the order is obtained, then the property is confiscated by the Government. The AG may issue the precautionary acts needed. Confiscation can be an additional punishment to a fine and/or imprisonment, or it can occur via an order made by Malta or to Malta and subsequently enforced through a judgment given by the civil courts. The latter can occur without a criminal conviction and has more of a precautionary nature.

1.10 Have banks or other regulated financial institutions or their directors, officers or employees been convicted of money laundering?

No convictions against said institutions and individuals exist.

1.11 How are criminal actions resolved or settled if not through the judicial process? Are records of the fact and terms of such settlements public?

Criminal actions are resolved through the courts. There are instances where a lesser sentence of imprisonment is given in return for a larger fine. In addition, the FIAU imposes administrative sanctions which are public. In 2018 two penalties were given, one of €38,750 and the other of €15,000.

2 Anti-Money Laundering Regulatory/ Administrative Requirements and Enforcement

2.1 What are the legal or administrative authorities for imposing anti-money laundering requirements on financial institutions and other businesses? Please provide the details of such anti-money laundering requirements.

The FIAU is responsible for imposing AML/CFT requirements on all 'subject persons' and is regulated under Part II PMLA. It has published the sector-specific Implementing Procedures Part I and Part II ('IPI/IPII') which must be adhered to by subject persons. The IPI/IPII comprise an interpretive tool for the PMLA/PMLFTR while simultaneously assisting subject persons in designing systems for the prevention and detection of ML/FT. Measures to be taken include customer due diligence ('CDD'), mandatory risk procedures and the use of a risk-based approach, diligent recordkeeping and reporting procedures, and the provision of training to employees. For further information, please refer to question 3.1.

2.2 Are there any anti-money laundering requirements imposed by self-regulatory organisations or professional associations?

Reference is made to supervisory authorities which are deemed to be agents of the FIAU. The FIAU upon request or its own motion shall cooperate and exchange information with a supervisory authority when this would assist in AML/CFT. The Malta Financial Services Authority ('MFSA') conducts supervision amongst financial services licence holders and the Malta Gaming Authority does the same amongst licensed gaming operators. The subject person is nonetheless always responsible for providing the information requested.

2.3 Are self-regulatory organisations or professional associations responsible for anti-money laundering compliance and enforcement against their members?

Supervisory bodies are limitedly responsible for compliance and enforcement as they monitor their members passing on information to the FIAU which then takes enforcement action.

2.4 Are there requirements only at national level?

The requirements are only at a national level as Malta is an island and has no states/provinces. These comprise, predominantly, the PMLA, the PMLFTR, the National Coordinating Committee on Combating ML/FT Regulations (Subsidiary Legislation 373.02 of the Laws of Malta) as well as the IPI/IPII.

2.5 Which government agencies/competent authorities are responsible for examination for compliance and enforcement of anti-money laundering requirements? If so, are the criteria for examination publicly available?

Supervisory bodies aid the FIAU with compliance and monitoring in specific areas and professions. The FIAU then enforces, whilst overall retaining its compliance and monitoring obligations. All of the criteria that would lead to investigations are available on the FIAU website (http://www.fiumalta.org/).

2.6 Is there a government Financial Intelligence Unit ("FIU") responsible for analysing information reported by financial institutions and businesses subject to anti-money laundering requirements?

The FIAU is Malta's designated government FIU agency.

2.7 What is the applicable statute of limitations for competent authorities to bring enforcement actions?

Please refer to question 1.7 for the applicable statute of limitations.

For details regarding the FIAU, please refer to the information contained in the above questions.

2.8 What are the maximum penalties for failure to comply with the regulatory/administrative anti-money laundering requirements and what failures are subject to the penalty provisions?

The FIAU can in these cases act without the need for a court hearing and judgment. Under the PMLFTR, administrative failures are:

- Non-compliance with procedures to prevent ML/FT such as:
  - failing to maintain/apply procedures for CDD, recordkeeping and reporting; and
  - failing to establish internal control, risk assessment, risk management, compliance management and communications;
- commission of an offence under the PMLFTR by corporate/unincorporated bodies and other associations of persons;
- false declaration/false representation by an applicant for business;
- failure to carry out CDD;
- failure to carry out reporting procedures and obligations;
- tipping-off; and
- non-compliance with the IP, guidance, directives issued by the FIAU in terms of the PMLA and PMLFTR.

Administrative penalties may not exceed €50,000. There are a number of fines awarded in addition to imprisonment under the PMLA and these do not exceed €11,646.87.

2.9 What other types of sanction can be imposed on individuals and legal entities besides monetary fines and penalties?

The PMLFTR provides for reprimands in writing. It can also give one-time fixed penalties and, or penalties on a daily cumulative basis. The minimum daily penalty levied is of €250.

2.10 Are the penalties only administrative/civil? Are violations of anti-money laundering obligations also subject to criminal sanctions?

Apart from the PMLA, the PMLFTR provide for criminal sanctions such as:

- non-compliance with procedures (Regulation 4(5));
- a false declaration/false representation by an applicant for business (Regulation 7(10)); and
- tipping off (Regulation 16(1)).

All of these are subject to a fine not exceeding €50,000, or to imprisonment for a term not exceeding two years or both. A disqualification order can also be imposed on company officials for a specified period set by the courts which may be a minimum of one year and a maximum of 15 years.

2.11 What is the process for assessment and collection of sanctions and appeal of administrative decisions? a) Are all resolutions of penalty actions by competent authorities public? b) Have financial institutions challenged penalty assessments in judicial or administrative proceedings?

When a sanction is imposed by the FIAU under the PMLFTR, the subject person is informed of the potential breach detected and the possibility of an administrative sanction. Representations by the person are requested following which an internal evaluation is made by the Compliance Monitoring Committee. Should fault be found, reasons shall be given. Said sanction must be paid within 14 days. Instead of sanctions, warnings in writing may also be issued as well as in the course of its compliance/monitoring function. If a person feels aggrieved and the sanction exceeds €5,000, an appeal may be lodged both on points of fact and law. The appeal shall lie to the Court of Appeal (Inferior Jurisdiction) and the proceedings shall be

heard *in camera*, following which the judgment shall not be published. Administrative penalties imposed and not appealed are recoverable as a civil debt. Administrative penalties imposed which exceed €10,000 and which have become final and due shall be subject to publication according to the policies and procedures established by the Board of Governors of the FIAU.

3 Anti-Money Laundering Requirements for Financial Institutions and Other Designated Businesses

3.1 What financial institutions and other businesses are subject to anti-money laundering requirements? Describe which professional activities are subject to such requirements and the obligations of the financial institutions and other businesses.

As mentioned further above, AML/CFT requirements are applicable to 'subject persons', which are defined in Regulation 2 PMLFTR as, 'any legal or natural person carrying out either relevant financial business or relevant activity'.

'Relevant activity' includes, when acting in the exercise of their professional activities: auditors; external accountants; tax advisors; real estate agents; in the context of particular transactions, such as when they assist clients with the opening of bank accounts or the creation of companies, independent legal professionals, including lawyers; fiduciary and company services providers; licensed gaming operators; and, where the transaction in question involves payment in cash of €10,000 or more, persons engaged in the trading of goods.

In turn, 'relevant financial business' covers: activities carried out by the credit institutions; payment institutions and electronic money institutions; insurance undertakings and intermediaries; recognised, licensed or notified collective investment schemes and fund administrators; services providers licensed under the Investment Services Act (Chapter 370 of the Laws of Malta); services providers licensed under the Retirement Pensions Act (Chapter 514 of the Laws of Malta); safe custody services providers; regulated markets and the Central Securities Depository; VFA agents and licence holders within the meaning of the Virtual Financial Assets Act (Chapter 590 of the Laws of Malta) ('VFAA') and issuers of virtual financial assets; and any other associated activity. Any of the above relevant financial business activities carried out by branches established in Malta will also be subject to AML/CFT requirements.

The requirements, as principally deriving from the PMLA/PMLFTR, IPI/IPII, render it incumbent upon subject persons – including financial institutions – to implement robust AML/CFT systems and policies and procedures, including recordkeeping, reporting processes and internal controls. Subject persons are compelled to provide information to the relevant authorities on request. In addition, and as of March 2019, a subject person is required to submit a sector-specific annual Risk Evaluation Questionnaire to the FIAU regarding its set-up, risk assessment, and preventative measures.

3.2 To what extent have anti-money laundering requirements been applied to the cryptocurrency industry?

AML/CFT requirements are to be likewise applied to VFA agents, licence holders under the VFAA and issuers of virtual financial assets. These entities will also be expected abide by any IPII and, or sector-specific guidance that may be issued from time to time.

Notably, local AML/CFT requirements applicable to the VFA sector go beyond the scope of the Fifth AML Directive (Directive (EU) 2018/843), which is to take effect by 10 January 2020. Whereas Maltese legislation imposes AML/CFT obligations on all VFA service providers, the former regime only applies to cryptocurrency exchanges and custodian wallet providers.

3.3 Are certain financial institutions or designated businesses required to maintain compliance programmes? What are the required elements of the programmes?

Yes. Regulation 5(5) PMLFTR imposes the requirement on subject persons – including financial institutions – to, in a manner that is appropriate to the size and nature of the business, have effective AML/CFT systems and policies and procedures, as well as internal controls, in place. Subject persons are required to implement compliance management processes, employee screening policies and training programmes, as well as adopt sufficient reporting mechanisms. Where proportionate, an independent audit function should be set up to test these internal controls.

In addition, subject persons must appoint a Money Laundering Reporting Officer ('MLRO') which will assist in the coordination of its AML/CFT framework. The MLRO will be responsible for the oversight of the subject person's AML/CFT compliance.

Businesses are required to detail their compliance programmes in an internal AML/CFT procedures manual.

3.4 What are the requirements for recordkeeping or reporting large currency transactions? When must reports be filed and at what thresholds?

There are no fixed 'thresholds' *vis-à-vis* large transactions. Subject persons faced with sizable transactions are bound to comply with general AML/CFT recordkeeping and reporting requirements as set out, predominantly, in Regulations 13 and 15 PMLFTR. That said, however, section 3.1.5.1 IPI stipulates that subject persons are to pay special attention to 'complex or large transactions', which, 'have no apparent economic or visible lawful purpose', establishing their findings in writing. The findings should not automatically be reported to the FIAU or the relevant supervisory authority, but instead made available on request.

3.5 Are there any requirements to report routinely transactions other than large cash transactions? If so, please describe the types of transactions, where reports should be filed and at what thresholds, and any exceptions.

No, there are currently no routine-based reporting requirements.

The obligation to report arises in the context of suspicious activity. Such reporting is to be carried out with due regard to the requirement in Regulation 15(3) PMLFTR. This states that, where a subject person knows, suspects or has reasonable grounds to suspect that funds are the proceeds of crime or are related to FT, or that a person may have been, is, or may be connected with ML/FT, that subject person is to report the same to the FIAU via a Suspicious Transaction Report ('STR'). An STR is to be made as soon as is reasonably practicable, but no later than five working days from when the knowledge or suspicion first arose. STRs should be submitted to the FIAU in accordance with the guidance provided on the FIAU website.

3.6 Are there cross-border transactions reporting requirements? Who is subject to the requirements and what must be reported under what circumstances?

There are no specific reporting requirements regarding cross-border transactions. Subject persons are however required to inform the FIAU of any business relationships or transactions with persons from 'non-reputable jurisdictions' – as defined in Regulation 2 PMLFTR – which, in effect, do not apply measures equivalent to those laid down in the PMLFTR. The FIAU may, in collaboration with the relevant supervisory authority, discontinue any such business relationships, or prohibit the relevant transactions from being carried out.

Reference must also be made to the obligation to submit STRs as outlined in question 3.5 above.

3.7 Describe the customer identification and due diligence requirements for financial institutions and other businesses subject to the anti-money laundering requirements. Are there any special or enhanced due diligence requirements for certain types of customers?

Subject persons – including financial institutions – are to establish due diligence procedures for identifying and verifying the identity of a prospective customer. A customer may be a legal or natural person who: (i) seeks to form, or has formed, a business relationship with a subject person; or (ii) seeks to carry out an occasional transaction with a subject person.

CDD measures shall, however, only be applied in the context of occasional transactions when these involve: (i) a transaction of €15,000 or more; (ii) a money transfer or remittance within the meaning of the EU Funds Transfer Regulation (Regulation (EU) 2015/847) (the 'Funds Transfer Regulation') amounting to €1,000 or more; and (iii) a transaction of €2,000 or more in the context of licensed gaming operators. The incorporation of companies and, or the provision of tax advice by subject persons shall also be considered to constitute 'occasional transactions', thereby necessitating CDD.

In the context of business relationships, and following the verification of a prospective customer's details, which verification is carried out by the subject person by – as the case may be – viewing official documentation issued by independent sources, such as a government authority, the subject person will need to obtain details on the purpose and intended nature of said relationship. The information the subject person may need to collect in these circumstances includes: data of the customer's business or employment; the source and origin of funds the customer will be using in the business relationship; and the expected level and nature of the activity to be undertaken through the relationship. This information must be kept up-to-date, thereby enabling a business to amend its customer risk assessment if circumstances change, and, if necessary, carry out further CDD.

In higher-risk situations, subject persons must apply enhanced due diligence, namely: (i) where the customer has not been physically present for identification purposes; (ii) when transacting with politically exposed persons, or 'PEPs', such as Heads of State and Members of Parliament; (iii) in a cross-border correspondent banking relationship scenario; (iv) where the business relationship or a transaction is connected to a 'high-risk' jurisdiction (as acknowledged by the EU); and, generally (v) any situation where there may be a greater risk of ML/FT. Enhanced due diligence may necessitate: (i) obtaining additional information to establish the customer's identity; (ii) applying supplementary measures to check the documentation supplied; and (iii) taking adequate steps to establish the source of wealth and funds involved.

3.8 Are financial institution accounts for foreign shell banks (banks with no physical presence in the countries where they are licensed and no effective supervision) prohibited? Which types of financial institutions are subject to the prohibition?

In terms of Regulation 11(4) PMLFTR, subject persons carrying out relevant financial business are prohibited from entering or continuing correspondent relationships with shell institutions. Moreover, they are required to take appropriate measures to ensure that they do not enter into or continue correspondent relationships with respondent institutions which are known to permit their accounts to be used by shell institutions.

Regulation 2 PMLFTR defines a 'shell institution' as an institution carrying out activities equivalent to relevant financial business, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is not affiliated with a regulated financial group.

3.9 What is the criteria for reporting suspicious activity?

Please refer to question 3.5.

3.10 Does the government maintain current and adequate information about legal entities and their management and ownership, i.e., corporate registries to assist financial institutions with their anti-money laundering customer due diligence responsibilities, including obtaining current beneficial ownership information about legal entity customers?

Maltese companies, partnerships, foundations, trusts and associations must identify and maintain a register of their ultimate beneficial owner/s ('UBO/s') as well as provide this information to, respectively: (i) the Registrar of Companies, in the case of companies and partnerships; (ii) the MFSA, in the case of trusts; and (iii) the Registrar for Legal Persons in the case of associations and foundations, that each maintain UBO registers. This information will be made available to the FIAU.

3.11 Is it a requirement that accurate information about originators and beneficiaries be included in payment orders for a funds transfer? Should such information also be included in payment instructions to other financial institutions?

Payment service providers ('PSPs') are subject to the PMLFTR, which, in turn, mandate that any such entities adhere with the provisions of the Funds Transfer Regulation. Full information of the payer and payee – namely name, address and payment account number – must accompany all wire transfers, barring some exceptions. For example, if the PSPs of the originator and the beneficiary are both EU-based, the transfer need only be accompanied by the account number.

3.12 Is ownership of legal entities in the form of bearer shares permitted?

No. Ownership of shares is evidenced by their entry into a company's share register and by the issue of share certificates.

3.13 Are there specific anti-money laundering requirements applied to non-financial institution businesses, e.g., currency reporting?

Generally, the PMLA/PMLFTR apply in a like manner to all the persons listed in question 3.1, which include certain non-financial institution businesses.

There are some exceptions, such as the privilege applicable to various professionals, including lawyers, which in turn are exempt from the duty to report suspicious transactions to the FIAU in accordance with Regulation 15(9) PMLFTR in certain instances. Some additional requirements are imposed on PSPs, which must comply with the Funds Transfer Regulation (refer to question 3.11 above). In addition, credit institutions must comply with the IPII for the banking sector, while gaming operators must comply with the IPII for the remote gaming sector and, or land-based casinos, as may be the case.

3.14 Are there anti-money laundering requirements applicable to certain business sectors, such as persons engaged in international trade or persons in certain geographic areas such as free trade zones?

Aside from the business activities listed in question 3.1 above, there are no AML requirements applicable to other specific business sectors.

In terms of the IPI, customer risk and geographical risk are two of the factors that must be considered as part of a subject person's ML/FT risk assessment.

4 General

4.1 If not outlined above, what additional anti-money laundering measures are proposed or under consideration?

On 30 October 2018, the FIAU published a revised version of the IPI for public consultation. The IPI are in the process of being revised in order to reflect the legislative amendments which took place between December 2017 and January 2018 to the PMLA/PMLFTR following the transposition of the 4AMLD and, more importantly, to provide more qualitative AML/CFT guidance reflecting today's technological reality. The newly proposed IPI may be viewed on the FIAU website. The public consultation closed on 31 December 2018. The definitive version of the IPI is expected to be published during the coming weeks.

The issuance of public consultations regarding sector-specific IPII for corporate services providers, the insurance sector, trustees and fiduciaries, is also expected in due course.

In addition, the MFSA launched its Vision 2021 in January 2019, which comprises a comprehensive strategy designed to clamp down on ML/FT in the financial services sector.

4.2 Are there any significant ways in which the anti-money laundering regime of your country fails to meet the recommendations of the Financial Action Task Force ("FATF")? What are the impediments to compliance?

As at October 2018, Malta features neither in the FATF's Public Statement nor in its Official Statement entitled 'Improving Global AML/CFT Compliance: On-going process', and is therefore deemed not to have any serious strategic weaknesses or deficiencies in the measures it implements for combatting AML/CFT.

In terms of MONEYVAL's 2012 Mutual Evaluation Report, Malta has been found to be 'Compliant' with 25 FATF 40 + 9 Recommendations, 'Largely Compliant' with 15, and 'Partially Compliant' with nine. Submission of follow-up reports led to the determination of Malta having a comprehensive AML/CFT legal structure, now also with enhanced criminal provisions to fight AML/CFT which have been largely brought in line with standards set by FATF requirements. As a result, Malta was removed from the follow-up and included, instead, in the 'biannual' update procedure.

4.3 Has your country's anti-money laundering regime been subject to evaluation by an outside organisation, such as the FATF, regional FATFs, Council of Europe (Moneyval) or IMF? If so, when was the last review?

The latest evaluation was carried out by MONEYVAL during a visit to Malta in November 2018, primarily to gauge Malta's level of compliance with the FATF 40 Recommendations and the level of effectiveness of Malta's AML/CFT system, as well as to provide recommendations as to how the country's AML/CFT regime could be strengthened. Results will be issued in the form of a Mutual Evaluation Report and adopted at MONEYVAL's 58th Plenary Meeting scheduled for July 2019.

4.4 Please provide information for how to obtain relevant anti-money laundering laws, regulations, administrative decrees and guidance from the Internet. Are the materials publicly available in English?

Yes, all sources are available in English.

Reference is made to the website of the Ministry for Justice, Culture and Local Government (http://www.justiceservices.gov.mt/), where local legislation and regulations, including AML/CFT rules and regulations, may be accessed. In addition, the FIAU website enlists further information such as the IPI/IPII, additional guidance, FATF statements and MONEYVAL evaluations. The MFSA website (https://www.mfsa.com.mt/) also comprises substantial information on AML/CFT, including circulars and public consultations affecting the financial sector.

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CITY LEGAL is a boutique law firm with offices in Valletta that has, throughout recent years, adopted an innovative approach focused at offering customised legal services in a manner which encourages its lawyers to combine specialist sector knowledge with a personalised service, resulting in the delivery of commercially-focused and high-quality legal advice.

Committed to this approach, the firm's lawyers consider themselves partners in their clients' businesses, taking pride in their clients' achievements, and constantly looking to establish strong, trusted, and lasting relationships with them.

We consider foreign-based law firms, corporate service providers, and other professionals including accountants, licensed trustees, tax advisers, and IT specialists to be our partners on the international front. Having ensured a regular overseas presence, the firm has established a robust international client-base which complements its local operations.