Anti-money laundering and counter-terrorist financing measures

Republic of Cabo Verde

1st Enhanced Follow-up Report



I. INTRODUCTION

1. The mutual evaluation report (MER) of the Cabo Verde was adopted in May 2019. Cabo Verde has requested for technical compliance re-ratings on 28 FATF Recommendations. This first Follow-up Report (FUR) analyses the progress made by Cabo Verde in addressing some technical compliance deficiencies identified in its MER.

2. This First FUR also analyses Cabo Verde's progress in implementing the new requirements relating to the FATF Recommendations which have changed since the on-site visit (Recommendations (R.) 2, 7, 15, 18 and 21).

3. Generally, countries are expected to have resolved most, if not all, of the technical compliance deficiencies by the end of the third year following the adoption of their MERs. This report does not address progress made by Cabo Verde to improve its effectiveness. Such progress will be analysed as part of a subsequent follow-up assessment and could lead to a re-rating under the Immediate Outcomes if considered sufficient.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

4. The MER rated[1] Cabo Verde for technical compliance as follows:

Table 1. Technical Compliance Ratings, May 2019

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

5. Given these results and Cabo Verde's level of effectiveness, GIABA placed the country in Enhanced Follow-up[2]. The following experts (supported by the GIABA Secretariat) assessed Cabo Verde's request for technical compliance re-rating:

- Mr. Edward Cudjoe (Head of Legal and Prosecutions, Economic and Organised Crime Office, Ghana); and
- Mr. Ibrahim Salvaterra (Inspector, Supervision of Financial Institutions, Central Bank, Sao Tome and Principe).

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

[1] There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-compliant (NC).
[2] Enhanced follow-up is based on the GIABA's traditional policy that deals with members with significant deficiencies (for technical compliance or effectiveness) in their AML/CFT systems, and involves a more intensive process of follow-up.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7. This section summarises Cabo Verde's progress to improve its technical compliance by addressing the deficiencies identified in its MER and implementing the new requirements where the FATF Recommendations have changed since the onsite visit to the country (R.2, R.7, 15, R.18 and R.21).

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

8. While Cabo Verde has taken steps to address technical compliance deficiencies identified in the MER in relation to Recommendations 1and 2, insufficient progress has been made to justify upgrades for the ratings of these Recommendations.

9. Cabo Verde did not make legislative amendments or adopt procedures to comply with the changes made to Recommendations 7, 18 and 21 which changed after the on-site visit. As a result, the country is downgraded on Recommendations 7 and R.21. The country did not provide information on how it meets the new requirements of Recommendations 2 and 15. The ratings for these Recommendations remain PC.

3.1.1. Recommendation 1 (Originally rated PC- no re-rating)

10. The following were the shortcomings identified in relation to R.1: Cabo Verde had neither updated the AML/CFT National Strategy nor adopted the Integrated National Plan for the Fight against Drugs (PNILDC) and the Strategic Internal Security Plan (PESI); although the requirement is described in the AML/CFT Law, the national risk assessment (NRA) did not find any sector of activity likely to benefit from exemptions or simplified due diligence mechanisms; BCV Notice No. 4/2017, of September 7, established concrete measures that implement Article 10(4) of Law no. 120/VIII/2016, of March 24, omitting insurance entities and DNFBPs from the scope of application of said Notice; there were no legal and regulatory measures for insurance companies and DNFBPs to comply with the requirements of the FATF methodology to the assessment of risk.

11. Resolution no, 93/2019 of 17 approved and published the Integrated National Program to Fight Drugs and Related Crimes (PNILDC) 2018-2023. PNILDC has 26 programme areas and addresses the combined threats of drug demand and offer and related criminal justice challenges. The PNILDC anchors its intervention strategy around five strategic axes, namely: (i) Prevention and Research; (ii) Care, Treatment, and Social Reintegration; (iii) Reduction of Risk Reduction and Damages; (iv) Combatting Illicit Trafficking, Organised Crime and Terrorism and; (v) Enhancement of Integrity in the Criminal Justice System. The programme aims to reduce drug trafficking and related crimes, limit drug supply in the national market and transshipments of drugs.

12. The Commission for the Combat against Drugs (CCCD) and supervised by the Ministry of Justice, in conjunction with the United Nations Office on Drugs and Crime (UNODC) in Cabo Verde, is responsible for coordinating the PNILDC. The PNILDC has outlined a wide range of strategies and actions to address the challenges facing the country in the fight against drugs, drug trafficking and organised crime and money laundering. The program has an estimated budget of USD 7 million.

13. Cabo Verde has published a Summary of its 2017 NRA Report on the websites of the FIU and GIABA (www.uif.gov.cv). Also, the authorities have sensitised the general public to raise awareness of the outcomes of the NRA.

14. Concrete progress has only been made regarding the integration of AML in the PNILDC and publication of a redacted version of the NRA. **On this basis, Cabo Verde remains rated PC with Recommendation 1.**

3.1.2. Recommendation 2 (originally rated PC- no re-rating)

15. The MER rated Cabo Verde PC on Recommendation 2 due to the following shortcomings: There was no designated entity or authority to coordinate AML/CFT policies and strategies; recommendations of the NRA were yet to be transposed into national AML/CFT policies; There was no operational or coordinated structure or structure for policies and strategies for AML/CFT that could coordinate cooperation between law enforcement authorities and the consequent development and implementation of AML/CFT policies and activities.

16. Cabo Verde reported that the NRA recommendations as well as the detailed Action Plan were automatically transposed by sectorial prevention mechanisms, which took ownership of them with a view to their implementation.

17. In 2019[3], two workshops were held to evaluate the results obtained with the implementation of the referred Action Plan. With the support from USDOT and GIABA and internal resources, several activities have already been carried out.

18. There is no evidence that sectoral mechanisms had taken account of the recommendations of the NRA. R 2.1 requires countries to have national AML/CFT policies which are informed by the risks identified, and are regularly reviewed. For instance, the AML/CFT Laws have not been reviewed based on the outcomes of the NRA. Cabo Verde has not demonstrated that the country has adopted policies which are informed by the risk identified. The action plan should be an operational document based on other policy documents (s), for instance, a national strategy document. In this regard, the review of the implementation of the Action Plan does not address the deficiency related to criterion 2.1.

19. Resolution 13/2020 established the Inter-ministerial Commission for the Coordination of Policies on Prevention and Combating Money Laundering, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction (the Commission). It has the mandate to coordinate national ML/TF, risk assessment, and promote the exchange of information among competent authorities, among others. Membership of the Commission comprises representatives of public and private sector authorities and entities in Cabo Verde, and is coordinated by the Ministry of Finance and Ministry of Justice and Labour. The Commission has administrative and financial independence and draws its annual budget from the national Government. The Commission has the mandate to define, identify, assess, monitor and coordinate responses to the risks of ML/TF/PF which Cabo Verde is or may be exposed to, and contribute to the technical compliance of same (Article 3).

[3] The country did not provide the exact date.

20. The Commission is not operational[4]. Also, the Anti-Terrorism mechanisms do not provide for TF.

21. **No concrete progress has been reported. Cabo Verde remains rated PC with R. 2.**

3.2. Progress on Recommendations which have changed since the MER

3.2.1. Recommendation 2 (Originally rated PC)

22. In February and October 2018, the FATF amended R.2 and its interpretive note to require countries to have co-operation and co-ordination between relevant authorities to ensure compatibility of AML/CFT requirements with data protection and privacy rules. The amended Recommendation also requires a domestic mechanism for the exchange of information.

23. As stated under Section 3.1, Cabo Verde has, by law, established an Inter-Ministerial Committee on AML/CFT policy cooperation and coordination between competent authorities. One of the functions of the Committee is to promote information sharing for AML/CFT purposes. Cabo Verde has legal frameworks on privacy and data protection (for example, Law 41/VIII/2013, General Legal Regime for the Protection of Personal Data of Natural Persons; Law No. 42/VIII/2013, National Data Protection Commission (CNPD); and Law No. 86/VIII/2015 - Regulation of the Installation and Use of Video Surveillance Systems in Public Spaces). The National Commission of Data Protection is the data protection authority in Cabo Verde.

24. **No information on progress has been provided. On this basis, Cabo Verde remains rated PC with R.2.**

3.2.2. Recommendation 7 (Originally rated LC-re-rated PC)

25. In November 2017, the FATF amended R.7 to reflect changes to the United Nations Security Council Resolutions (UNSCRs) on proliferation financing since the FATF standards were issued in February 2012.

26. In its MER, Cabo Verde was rated LC with R.7. The deficiencies related to the absence of an express provision to permit the addition to frozen accounts interests or other income owed to designated persons or entities, and payments due under contracts; protection for bona fide third parties acting in good faith; application of freezing requirements to funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities; obligation of reporting entities to report to competent authorities any assets frozen or actions taken in compliance with the prohibition requirements, including attempted transactions, of the relevant UNSCRs; specific measures for monitoring and ensuring compliance by reporting entities with their obligations under Recommendation 7.

27. Since the adoption of the MER, Cabo Verde has not revised its legal framework to address the deficiencies highlighted in its MER, including incorporating the updates to R.7 (1874(2009), 2087(2013), 2094(2013), 2270(2016),2321(2016) and 2356(2017) and UNSCR 2231(2015)). However, under the CFT Act, designated persons or entities related to related PF refers to those designated under Resolutions 1718 and successor resolutions in respect of

[4] The Commission became operational in July 2020, after the reporting period.

the DPRK. Cabo Verde has not revised its framework nor issued guidelines on specific restrictions including targeted financial sanctions for Iran under the Joint Comprehensive Plan of Action (JCPOA).

28. **No progress has been reported. On this basis, R.7 is re-rated PC.**

3.2.3. Recommendation 15 (Originally rated PC-no re-rating)

29. In October 2019, the FATF revised the Methodology for assessing R.15, to reflect amendments to the FATF Standards incorporating virtual assets (VA) and virtual asset service providers (VASP).

30. In its MER, Cabo Verde was rated PC with R.15 because there was no obligation for reporting entities to identify and assess the ML/TF risks that may arise in the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products. These existing deficiencies are still outstanding. Cabo Verde has not provided information on the other criteria of Rec 15.

31. **Cabo Verde has not provided information on the measures taken to comply with the new requirements of Recommendation 15. On this basis, Cabo Verde remains rated PC with R. 15.**

3.2.4. Recommendation 18 (originally rated PC – no re-rating)

32. In February 2018, the FATF amended R.18 to reflect the November 2017 amendments to the FATF Standards (Interpretive note 18), which clarified the requirements on sharing of information and analyses related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions.

33. In its MER, Cabo Verde was rated PC due to absence of legal requirement regarding the application of an ML/TF program having regard to the ML/TF risk and size of business; information sharing policies and procedures required to comply with customer due diligence and for ML/TF risk management (the ML/TF program applicable at group level); and measures related to the prevention and combatting of TF.

34. **No progress has been reported. On this basis, Cabo Verde remains rated PC with R.18**.

3.2.5. Recommendation 21 (Originally rated C- re-rated LC)

35. In November 2017, R. 21 was revised to clarify that the tipping-off requirements regarding an unusual or suspicious transaction report or related information do not intend to prevent the sharing of information under R.18.

36. The MER was rated Cabo Verde Compliant with R.21 because the country met all the criteria. However, it was noted upon further review that each criterion was rated Partly Met due to non-coverage of TF matters.

37. Also, Cabo Verde has neither addressed the existing deficiency related to the absence of a requirement for information sharing policies and procedures applicable at group level under R. 18, nor amended its legal framework to indicate that tipping off requirements regarding an unusual or suspicious transaction report or related information does not intend to prevent the sharing of information under R.18. **On this basis, R. 21 is re-rated LC.**

IV. CONCLUSION

38. Overall, Cabo Verde has not made sufficient progress in addressing the technical compliance deficiencies in the MER and has been re-rated on 2 Recommendations. Recommendation 7 has been re-rated from LC to PC; Recommendation 21 has been re-rated from C to LC.

39. In light of the progress made by Cabo Verde since its MER was adopted, its technical compliance with the FATF Recommendations is as follows as of the reporting date May 2020:

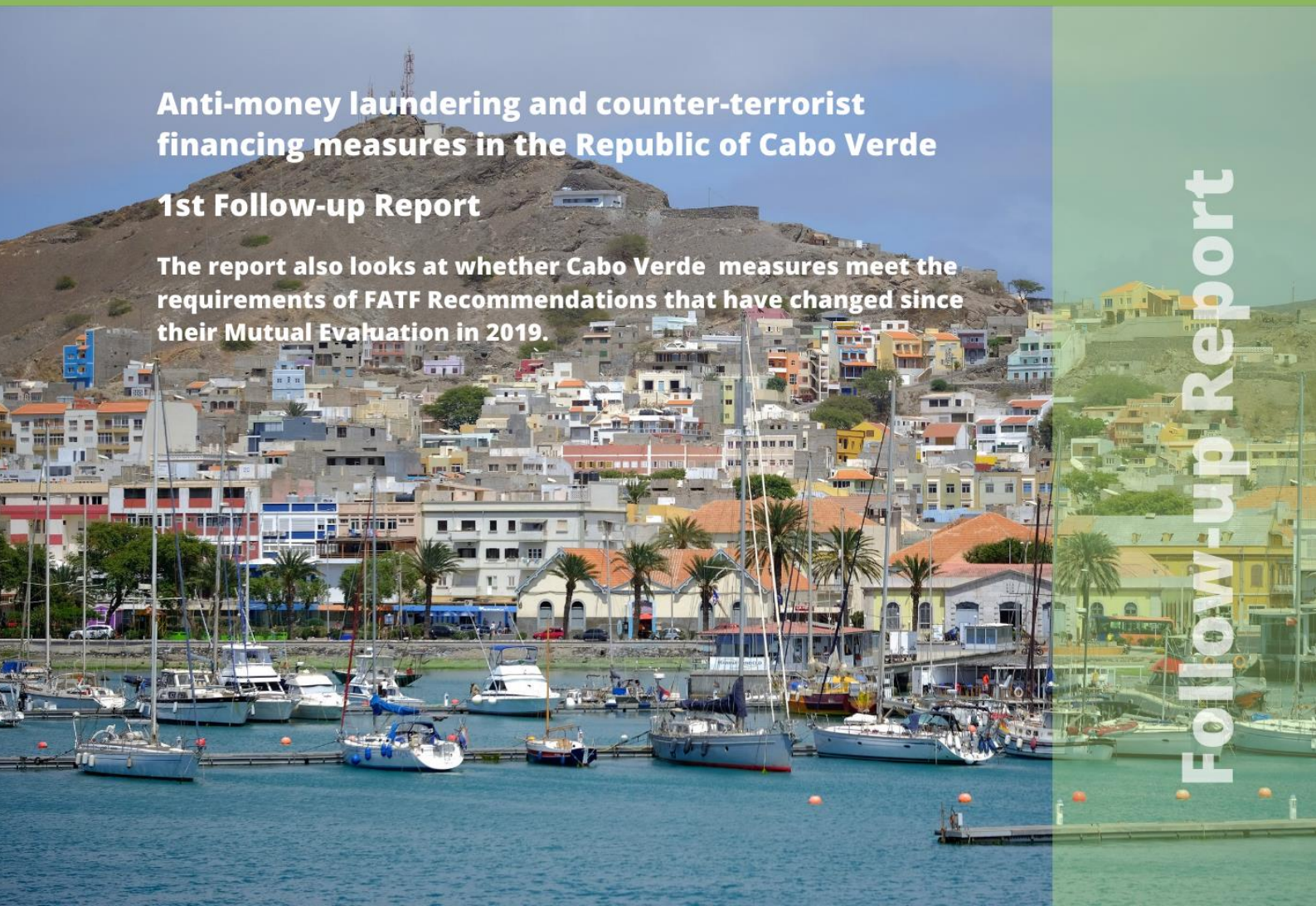
Table 2: Technical Compliance Ratings, April 2021

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

40. Cabo Verde will remain on the Enhanced Follow-up process and will continue to report to the GIABA Plenary on progress to strengthen its implementation of AML/CFT measures. Cabo Verde is expected to report back in May 2021.

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April 2021



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1st Follow-up Report

The report also looks at whether Cabo Verde measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2019.

Follow-up Report