



Financial Action Task Force

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Evaluations and Compliance Group

PORTUGAL: FIRST REGULAR FOLLOW-UP REPORT

14, 15 and 17 June 2021, Virtual Meeting

Issue: Plenary should decide the next steps in Portugal's follow-up process, taking into account its progress since its April 2017 on-site visit.

Action: For approval by written process. Responses required by 14 June 2021 (18:00, local time, Paris, France)

FATF-XXXII

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Portugal: First Regular Follow-up Report

Decision Paper by the Secretariat

Issue:	Plenary should decide the next steps in Portugal's follow-up process, taking into account actions taken by Portugal to enhance technical compliance with the FATF Standards and effectiveness of its AML/CFT regime since its on-site visit and adoption of its MER in November 2017.
Action:	For decision.
Recommendation(s):	That Portugal remains on regular follow-up and that Plenary invites Portugal to report back in June 2023 on progress to strengthen its implementation of AML/CFT measures.
Timing:	Delegations are asked for a response by 14 June 2021. If no objection or response is received by the aforementioned date, this paper will be considered agreed and adopted.

1. Background

1. The 4th round mutual evaluation report (MER) of Portugal was adopted in November 2017.¹ Portugal was placed in regular follow-up considering that the country was rated largely compliant with twenty-two, compliant with twelve FATF Recommendations and obtained six substantial and five moderate effectiveness ratings. This is Portugal's first follow-up report (FUR). Portugal's submission is available on the ECG secure site².

2. There is a general expectation by the FATF that countries will have addressed most, if not all of its technical compliance deficiencies by the third year after adoption of their MER. Portugal is not making re-rating requests in this FUR, however Portugal has made progress in different areas since its MER, in line with paragraph 94 of the FATF Procedures and as detailed in **Annex A**.

2. Proposal

3. That Portugal remains on regular follow-up and that Plenary invites Portugal to report back in June 2023 on progress to strengthen its implementation of AML/CFT measures, in line with point a) of paragraph 94 of the FATF Procedures.

3. Analysis

4. When deciding what the next steps in the follow-up process should be for Portugal, the Plenary should consider the following factors:

- a) At the time of its MER, Portugal was placed in regular follow-up as it was rated PC on six Recommendations: R.8, R.13, R.16, R.22, R.24, R.25, and rated Moderate level of Effectiveness on five IOs: IO.3, IO.4, IO.5, IO.6 and IO.8.

¹ [FATF/ME\(2017\)13/REV1](https://www.fatf-egroup.org/~/media/Files/2017/13/REV1).

² <https://community.oecd.org/docs/DOC-194699>

- b) FATF Procedures indicate that regular follow-up reports should focus on technical compliance re-ratings and/or demonstrating progress in addressing the shortcomings in the MER, with the expectation that countries would have made significant progress in the three-year period since the MER is adopted.³
- c) Portugal demonstrated progress in addressing the shortcomings in its MER through new laws and regulations, including a consolidated Anti-Money laundering, terrorist financing and counter-proliferation financing Law (hereinafter “AML/CFT Law”) and completed a revised National Risk Assessment (NRA) aimed at addressing the remaining technical compliance shortcomings. In addition, Portugal has also reported effectiveness updates. **Annex A** reflects details of progress reported by Portugal.
- d) Spain and Italy, both in regular follow-up, presented technical compliance re-ratings within the three-year period since their MERs were adopted. Plenary asked Spain and Italy to report back in the course of their 5th year Follow-Up Assessment (FUA). Spain’s FUA has taken place and Italy’s FUA has not taken place because the FUA process was paused October 2019, pending the outcomes of the Strategic Review.
- e) The next step in the follow-up process for Portugal would have been to have a FUA. However, this process was paused pending the outcomes of the Strategic Review. After its FUA, the next step in the follow-up process would then be to present a 2nd regular FUR (which means presenting another follow-up in roughly one or two years’ time, similar to when Spain and Italy were asked to report back). Although Portugal has not requested re-ratings, progress has been made in addressing the shortcomings in its MER and the six Recommendations originally rated PC are not criteria for enhanced follow-up or are considered “big six” under ICRG criteria. It would therefore be appropriate and consistent with what has been proposed in previous FATF follow-up reports of countries in similar situations, to recommend that Portugal remains on regular follow-up and reports back in a 2nd Regular FUR in June 2023.

4. Recommendation

5. It is recommended that Portugal remains in regular follow-up on the basis that it has six Recommendations rated PC for technical compliance and five IOs rated Moderate for effectiveness. It is also recommended that Portugal report back to the FATF in June 2023 on progress to strengthen its implementation of AML/CFT measures.

³ Paragraph 94 of the FATF Procedures.

Annex A.

Portugal 1st Regular Follow-Up Report

1. Background

1. The 4th round mutual evaluation report (MER) of Portugal was adopted in November 2017.⁴ Portugal was placed in regular follow-up considering Portugal was rated largely compliant with twenty-two, compliant with twelve FATF Recommendations and obtained six substantial and five moderate effectiveness ratings. This is Portugal's first follow-up report (FUR). Portugal's submission is available on the ECG secure site⁵.

1.1. Findings of the MER

2. The MER effectiveness and compliance ratings are the following:

Table 1. Effectiveness ratings, November 2017

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Substantial	Substantial	Moderate	Moderate	Moderate	Moderate	Substantial	Moderate	Substantial	Substantial	Substantial

Table.2 Technical compliance ratings, November 2017

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

1.2. Portugal's submission

3. The purpose of this FUR is to provide a brief update on Portugal's progress in addressing the issues identified in its MER. Portugal's submission with the details of all

⁴ [FATF/ME\(2017\)13/REV1](https://community.oecd.org/docs/DOC-194699).

⁵ <https://community.oecd.org/docs/DOC-194699>.

the progress made to strengthen Portugal's Anti-Money laundering / counter-terrorist financing (AML/CFT) regime since the adoption of its MER in November 2017.

4. Portugal is not seeking re-ratings at this stage. This FUR is for information only.

2. Overview of progress to date

5. Since the end of its onsite visit in April 2017, Portugal has put in place various measures aimed at: 1) improving the effectiveness of its AML/CFT regime, 2) addressing outstanding technical compliance deficiencies relating to Recommendations rated PC: R.8, R.13, R.16, R.22, R.24 and R.25 (as well as the new requirements of R. 2, R.7, R.15, R.18 and R.21) and 3) increasing effectiveness in moderate rating IOs: IO.3, IO.4, IO.5, IO.6 and IO.8.

2.1. Actions taken since the onsite visit

6. The following is a brief summary of the legislative and operational changes as well as other concrete measures Portugal has taken since the on-site visit to improve compliance in different Recommendations and Immediate Outcomes. New laws and regulations, including a new, consolidated Anti-Money laundering, terrorist financing and counter-proliferation financing Law (hereinafter named the "AML/CFT Law") were published, and a National Risk Assessment was completed in 2019, approved in early 2020 and publicly available [here](#). Details are available in Portugal's submission.⁶

- **Recommendation 8:** Portugal has started a comprehensive review of its NPO sector expected to conclude in 2021 and has begun work to prevent the abuse of the subset of NPOs placed at greater risk of abuse for TF purposes.
- **Recommendation 13:** Portugal has extended specific EDD measures for cross-border relationships with FIs established within the European Union.
- **Recommendation 15:** Portugal has started updating regulations applicable to Virtual Assets (VA) and Virtual Assets Service Providers (VASPs) to incorporate the revised requirements of R.15. The AML/CFT Law now includes VASPs as obliged entities subject to AML/CFT rules and supervision by the Bank of Portugal (BdP). Under this new regime, VASPs are subject to registration and their beneficial owners, members of management and supervisory bodies, as well as other persons occupying top management positions are subject to fit and proper assessments. The BdP issued a Notice implementing VASPs terms of registration. The Notice underwent public consultation and a new Notice is being prepared and will include issues such as how the "travel rule" applies to VASPs.
- **Recommendation 16:** Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 was issued to ensure completeness of information accompanying transfers of funds, repealing Regulation (EC) No. 1781/2006. Portugal's AML/CFT Law (Articles 147 through 156, in addition to the BdPs' Notice No. 2/2018) further implement and supplement these provisions.

⁶ <https://community.oecd.org/docs/DOC-194699>.

- **Recommendation 22:** Portugal updated its AML/CFT Law to improve CDD, PEP and new technologies requirements applicable to DNFBPs.
- **Recommendation 24 & Recommendation 25:** As part of its NRA, Portugal has assessed legal persons and arrangements. Portugal has identified and assessed threats considering the universe of the entities as a whole and intrinsic vulnerabilities and AML/CFT control systems in place for each type of entity. In addition, Portugal has taken a major step towards improving availability of beneficial ownership information as it established a Beneficial Ownership information registry (RCBE) which applies to all legal persons and similar entities, incorporated under Portuguese domestic law and to foreign entities. This includes trusts doing business in Portugal.
- **Immediate Outcome 1:** As highlighted in the overview Portugal has approved a comprehensive NRA in early 2020. The NRA is a very complete exercise, which identifies and analyses ML, TF and PF threats and vulnerabilities in both the financial and non-financial sectors, as well as legal persons and arrangements. The analysis carried out under the NRA made it possible for Portugal to revise the national strategy and policies to fight ML, TF and PF, focusing on policies found to be unsuited to the identified threats, vulnerabilities and risks.

Portugal also has a set of Strategies in place that contribute to ML, TF and PF prevention such as the National Strategy to Fight Corruption, the National Cyberspace Security Strategy, together with the National Counter Terrorism Strategy, the Strategy for Public Administration's Digital Transformation, as well as the Technological and Business Innovation Strategy 2018-2030. Portugal's co-ordination work through its AML/CFT Co-ordination Commission, chaired by the Deputy Minister for Finance and Tax Affairs and including representatives from a broad number of government entities, continued. The Commission accompanied the implementation of the RCBE and European Directives, as well as facilitated the exchange of information amongst entities with operational competences in the prevention and fight against ML and TF.

- **Immediate outcome 3 and Immediate Outcome 4:** As foreseen since the time of its MER, Portugal has been increasing resources for both its financial and DNFBP supervisors. Portugal has also taken into account risks identified by the new NRA for its supervisory work overall and to expand the capacity of supervisors for DNFBP oversight activity to be risk-based. In addition, in the financial sector, supervisors have updated guidance concerning indicators for high risk and/or potentially suspicious transactions; obligations to identify and assess ML and TF risk and beneficial ownership requirements, as well as promoted and participated in several events to deepen awareness of the private sector on AML/CFT requirements. Oversight authorities and self-regulatory bodies have promoted and participated in awareness events and updated guidance. Most oversight authorities have made legislation, guidance and other materials available in their websites to increase awareness and understanding.
- **Immediate outcome 5:** Portugal has conducted a very comprehensive ML, TF and PF risk assessment for legal persons and legal arrangements as part of its NRA. The assessment included not only threats for the universe of persons as a whole but intrinsic vulnerabilities and robustness of AML/CFT controls system in place for each legal type. In addition, Portugal established a Beneficial Ownership information registry, the RCBE, which will be a central database collecting information of entities either incorporated or operating in Portugal. The RCBE

includes provisions to ensure accuracy, sufficiency and timeliness of information and is available to competent authorities, obliged entities and public in general, with different levels of access and permissions.

- **Immediate outcome 6:** Portugal's FIU resources increased. The FIU now has a new Director and a separate FIU [website](#). The FIU has continued to co-operate with obliged entities and has raised awareness on risks, new trends and methods. STR reporting has increased, particularly in DNFBPs, following both amendments to the AML/CFT Law and training.
- **Immediate outcome 8:** Portugal amended a number of provisions to further secure confiscation of assets seized and expand possibilities of conducting financial or patrimonial investigations, after the end of the criminal enquiry, for the purpose of detecting and tracing assets to be confiscated. This together with the allocation of further resources has increased the ability of Portugal to locate and identify assets for seizing and subsequent confiscation. In addition, Portugal continued promoting the negotiation of agreements to enable asset sharing and created a specific Strategic Co-ordination Unit for Asset Recovery.