

**NATIONAL AML/CFT STRATEGY**

**REPUBLIC OF MALTA**

**APRIL 2018**

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# Acronyms

<b>ACR</b>	Annual Compliance Report
<b>AML</b>	Anti-Money Laundering
<b>AML/CFT</b>	Anti-Money Laundering and Combatting the Financing of Terrorism
<b>BO</b>	Beneficial Owner
<b>BSU</b>	Banking Supervision Unit (MFSA)
<b>CBM</b>	Central Bank of Malta
<b>CDD</b>	Customer Due Diligence
<b>DNFBP</b>	Designated Non-Financial Businesses and Professions
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>FIAU</b>	Financial Intelligence Analysis Unit (Malta)
<b>FIU</b>	Financial Intelligence Unit
<b>IPSU</b>	Insurance and Pensions Supervision Unit
<b>MBA</b>	Malta Bankers' Association
<b>MFSA</b>	Malta Financial Services Authority
<b>MGA</b>	Malta Gaming Authority (formerly the Lotteries and Gaming Authority)
<b>ML</b>	Money Laundering
<b>ML/FT</b>	Money Laundering/Financing of Terrorism
<b>MLA</b>	Mutual Legal Assistance
<b>MLRO</b>	Money Laundering Reporting Officer
<b>MONEYVAL</b>	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
<b>MOU</b>	Memorandum of Understanding
<b>NCC</b>	National Co-ordinating Committee on Combating Money Laundering and Funding of Terrorism
<b>NRA</b>	National Risk Assessment
<b>Working Group</b>	The Working Group established for the purposes of carrying out the NRA
<b>PEP</b>	Politically Exposed Person
<b>PF</b>	Proliferation Financing
<b>PMLFTR</b>	Prevention of Money Laundering and Funding of Terrorism Regulations
<b>PMLA</b>	Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta)
<b>SMEs</b>	Small and Medium Sized Enterprises
<b>STR</b>	Suspicious Transaction Report
<b>TF</b>	Terrorism financing
<b>TII</b>	Tied Insurance Intermediary
<b>UNODC</b>	United Nations Office on Drugs and Crime

## Foreword

Malta is deeply committed to preventing, detecting and prosecuting money laundering and terrorist financing activities. Financial crime threatens the safety of our society, the integrity of our financial system, and the stability of our economy. We have therefore put in place an institutional framework to supervise, gather intelligence on, and take all necessary action against financial crimes.

However, we recognise that our national AML/CFT framework can be further strengthened to be more effective. We have conducted a National Risk Assessment (NRA) to identify our highest threats and vulnerabilities, as well as a gap assessment to identify those areas in our institutional framework which require improvement.

The development and publication of the National AML/CFT Strategy (the Strategy) is a major step forward in Malta's fight against money laundering and terrorist financing. The Strategy has been defined and based on the findings of the NRA to address Malta's highest risks and institutional weaknesses. It is a comprehensive exercise that covers all key elements of our national framework: from supervision and intelligence gathering to investigation to prosecution and confiscation.

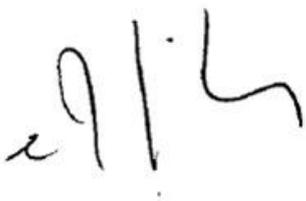
The Strategy highlights seven initiatives, broken down into approximately 50 actions, to be implemented over the next three years. We have already started implementation with the establishment of a National Coordination Committee, which will become fully operational this week.

The competent authorities (esp. supervisors, intelligence and law enforcement agencies, Attorney General, Law Courts and Asset Recovery Bureau) are well prepared and ready to start implementing the action plan immediately. The strengthening of the domestic competent authorities is being further supported by enhancements of the transparency of legal entities and arrangements, as well as closer and better coordinated international cooperation.

I am very grateful to all the stakeholders who contributed to the development of this Strategy, from policy-making, supervisory, law enforcement and other authorities as well as representatives of the private sector.

As we are now moving towards the implementation of the strategy, I am confident that the competent authorities will maintain their dedication and involvement.

We are determined to seeing through that the strategic initiatives will be carried out by 2020 so that Malta remains a safe country and maintains the stability and integrity of its economy.



Prof. Edward Scicluna

Minister for Finance

11 April 2018

## Executive Summary

Malta has defined a National AML/CFT Strategy to further mitigate the ML/TF risks it is exposed to and to address shortcomings in its AML/CFT framework.

The Strategy is based on the National Risk Assessment (NRA) and a thorough gap assessment of Malta's AML/CFT framework. The Strategy comprises seven key initiatives:

- I. **Establish a national coordination mechanism** responsible for defining the overall AML/CFT strategy and overseeing its implementation;
- II. **Strengthen and clarify the supervisory framework** by extending the breadth and depth of supervision and increasing resources;
- III. **Enhance internal capabilities of the financial intelligence unit**, especially in terms of staff number and training, access to additional databases and use of analytical tools;
- IV. **Enhance investigation and prosecution capabilities** with increased resources, specialisation and tools, in order to improve the number of investigations and their translation into legal enforcement;
- V. **Establish an effective asset recovery unit** with a well-equipped agency dedicated to tracing, confiscating and managing assets;
- VI. **Increase transparency of legal entities and arrangements**, in particular with regards to their beneficial ownership;
- VII. **Build on the existing international cooperation setup**, in particular to improve the effective implementation of targeted financial sanctions and to raise the role of Malta's supervisors in international fora.

The strategic initiatives will be completed by the end of 2020.

# 1. Objectives, design principles and approach

The objective of the National AML/CFT Strategy (the Strategy) is to address the shortcomings identified in Malta's AML/CFT framework and strengthen the national institutional framework to prevent, detect and deter money laundering and terrorism financing. The Strategy sets out the actions required to enhance the national AML/CFT framework and the three-year action plan to implement them.

The Strategy is based on the National Risk Assessment and a thorough gap assessment of Malta's AML/CFT framework. A wide range of stakeholders were involved in the NRA, including policy-makers, supervisors, intelligence and law enforcement agencies, Attorney General, law courts, the judiciary, other authorities and representatives of the private sector.

## 1.1. Objectives and design principles

Money laundering and terrorism financing are financial crimes that threaten the world's security, economic stability and the integrity of the financial system. With an estimated annual amount of money laundered of 2-5% of global GDP,<sup>1</sup> the laundering of criminal proceeds and the financing of terrorism enable and support criminal and terrorist activities. Europol estimates that, during the 2010-2014 period, only ~2.2% of criminal proceeds were seized and ~1.1% were eventually confiscated. Fighting ML/TF activities is a matter of urgency in the global effort against crime.

Malta is deeply committed to preventing, detecting and deterring money laundering and terrorism financing. The Maltese authorities have put in place an institutional framework to supervise, gather intelligence on and take action against financial crimes. However, the authorities recognise that the national AML/CFT framework must be further strengthened to improve its effectiveness.

### Purpose and objectives

The Strategy defines Malta's approach to further enhance its AML/CFT framework. In particular, this document recognises the key areas that require improvement, sets out Malta's overall strategy, and prioritises the underlying strategic initiatives.

### Design principles

The strategy has been defined in accordance with four key design principles:

- **Tailored:** Takes into account the specificities of Malta's demographic, social, political, institutional, legal, economic and financial context
- **Risk-based:** Prioritises actions based on the risks they address, leveraging the work performed in the NRA (e.g. mitigating highest vulnerabilities)
- **Well-governed:** Assigns owners to each action and ensures oversight of progress, and escalation and tracking of issues
- **Actionable:** Details in clearly defined, implementable action steps

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<sup>1</sup> United Nations Office on Drugs and Crime (UNODC), *Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes*, 2011

## 1.2. Approach

The Strategy was developed and based on the findings of the NRA and an assessment of the gaps in the national AML/CFT framework. The working group conducted the NRA to identify and assess the threats and vulnerabilities that Malta is exposed to, as well as the national combating abilities. In addition, an assessment of the current AML/CFT framework against international standards and best practices highlighted those areas where further work needs to be carried out.

The Strategy was then designed to address the identified shortcomings and mitigate Malta's highest ML/TF risks. The strategy was complemented with an Action Plan document that details each of ~50 actions and the associated steps, responsibilities and timelines.

Figure 1: Approach taken to design Malta's AML/CFT strategy



The Strategy was defined in coordination with the initiative owners (i.e. those in charge of implementing the changes) and with the involvement of a wide range of stakeholders, including:

- Policy-makers: Ministry for Finance, Ministry for Justice, Ministry for Home Affairs, Ministry for Social Policy, Ministry for Foreign Affairs
- Supervisors: FIAU, MFSA, MGA, Commissioner for Voluntary Organisations
- Law enforcement agencies: Police, Customs Department
- Office of the Attorney General
- Law courts
- Asset Recovery Bureau
- Other government agencies: Sanctions Monitoring Board, Commissioner for Revenue

- Representatives of the private sector: Chamber of Advocates, the Malta Institute of Accountants, the Institute of Financial Services Practitioners, the Malta Bankers' Association, the College of Notaries, the College of Stock Brokers, the Federation of Real Estate Agents.

## **2. National Risk Assessment**

The Strategy is based on the findings of the NRA and a gap assessment of the national framework. The NRA identifies high risk areas (e.g. threats or sectors) and measured the ability of Malta's national institutional framework and operating model to mitigate those risks. The gap assessment identified key shortcomings and prioritised them.

The completion of the NRA in 2017 forms the basis of Malta's risk based approach. The NRA identifies and assesses the threats (e.g. crimes generating proceeds, criminal groups) and vulnerabilities (i.e. sectors and products exposed to abuse or misuse) that Malta is exposed to, as well as the national combatting abilities (e.g. investigation, prosecution and confiscations).

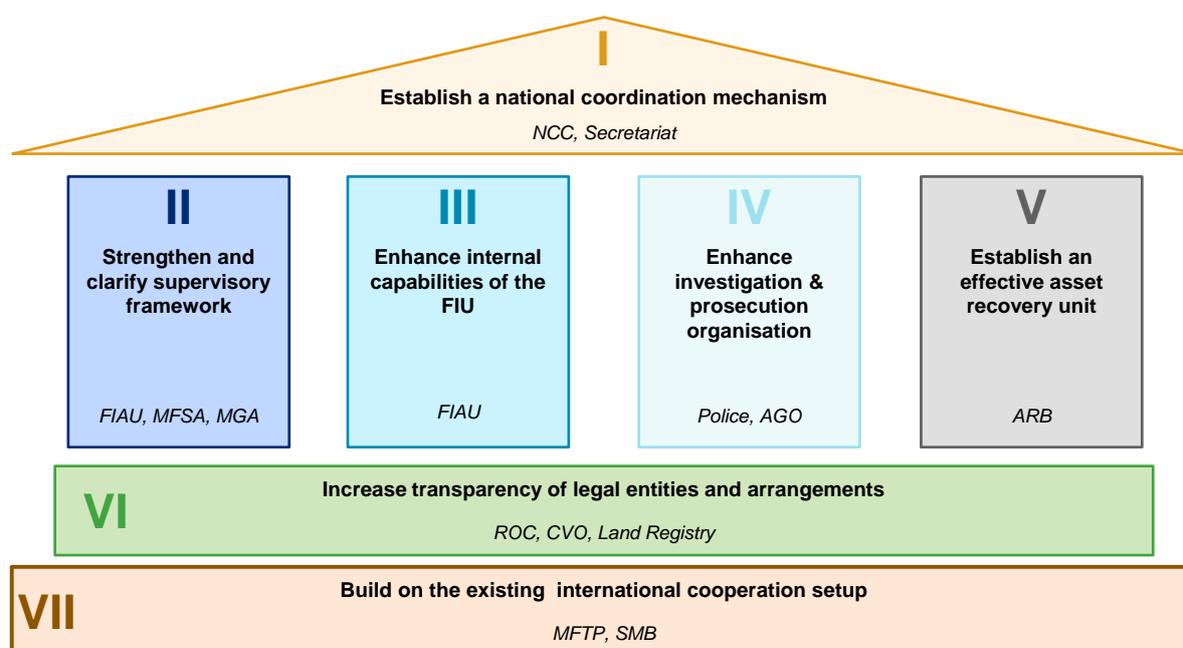
The Maltese Authorities conducted the NRA through a collaborative process involving all key stakeholders and using the World Bank National ML and TF Risk Assessment Tool. The FIAU was responsible for the coordination of the project with the support of World Bank experts and the involvement of all key stakeholders, including policy makers, supervisors, law enforcement authorities, Attorney General, Law Courts, Judiciary, other authorities and representatives of the private sector.

### 3. National AML/CFT Strategy

The Strategy is composed of seven key initiatives which, together, constitute a comprehensive overhaul of Malta's AML/CFT framework, thus contributing to strengthening Malta's ability to prevent, detect and deter money laundering and terrorism financing.

The figure below highlights the seven main initiatives.

Figure 1: Initiatives of the AML/CFT strategy



These initiatives will strengthen each of the pillars of Malta's approach to fighting money laundering and terrorism financing:

- I. The National Co-ordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC), supported by a dedicated secretariat, will coordinate and oversee the implementation of the Strategy;
- II. The MFSA, MGA and FIAU will extend the breadth and depth of their supervision of subject persons by increasing their resources and reviewing the scope of their activities;
- III. The FIAU will enhance its capabilities in terms of number and training of staff as well as their IT capabilities (esp. access to additional databases and use of analytical tools);
- IV. Law enforcement agencies will review their policies and organisation to increase their capabilities and the effectiveness of the investigation and prosecution of money laundering and terrorism financing;
- V. The establishment of the Asset Recovery Bureau will complement the efforts of law enforcement agencies and judicial authorities with a dedicated entity responsible and equipped for tracing, confiscating and managing assets;
- VI. A number of registers will be established or will undergo a major upgrade to provide more transparency about the beneficial ownership of companies, legal entities and arrangements (e.g. Register of Companies, Beneficial Ownership Register of Trusts, Register of Legal Persons, and Voluntary Organisations);

VII. Malta's role in international cooperation will be further improved through a number of measures, primarily regarding the simplification of the process for implementation of targeted financial sanctions and mutual legal assistance requests, as well as the approach of supervisors with regards to contributing to shaping international standards.

The implementation of the plan has already been initiated and will extend to 2020. The NCC, with the support of its secretariat, will oversee the implementation of the Strategy. Figure 2 below shows the high-level implementation timeline.

Figure 2: High-level implementation timeline



### 3.1. Establish a national coordination mechanism

The National Co-ordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC) will be in charge of defining and overseeing and coordinating the implementation of the national AML/CFT strategy. The members of the NCC include policy-makers (representatives from the Ministries for Finance, Home Affairs and Justice), supervisors (FIAU, MFSA, MGA), law enforcement agencies (Police) and the Attorney General.

The NCC will be supported by a permanent secretariat which will have three primary roles:

- Strategic role: Coordinate AML/CFT analyses, and monitor the evolution of ML/TF threats and vulnerabilities in Malta, while keeping stakeholders informed
- Implementation oversight role: Coordinate and monitor the implementation of the AML/CFT Action Plan against the agreed timelines
- Administrative and operational role: Create the NCC subcommittees and prepare and support the NCC meetings

The NCC and its secretariat will also take a leading role on a number of key projects such as supporting the preparation for the upcoming MONEYVAL evaluation in 2018 and coordinating the next NRA in 2020.

### 3.2. Strengthen and clarify the supervisory framework

AML/CFT supervision in Malta should have more breadth and depth to achieve a higher degree of effectiveness in the inspection of subject persons, and the assessment of the processes and controls put in place to prevent ML and TF. The number and intrusiveness of inspections as well as the type and value of enforcement measures (e.g. fines) must be increased.

Malta's AML/CFT supervisors will further intensify their efforts to regulate and supervise high-risk sectors, and sanction non-compliant entities. The MFSA, FIAU and MGA will strengthen their AML/CFT supervisory functions. The MFSA and MGA have drawn up plans to reorganise and enhance their approach to AML/CFT supervision. All supervisors plan to significantly increase the number of AML/CFT-dedicated resources and ensure adequate training. The MFSA has already put in place a dedicated team of AML/CFT supervisors and conducts AML/CFT supervision in a joint and coordinated manner with the FIAU. Supervisory resources are being effectively increased. The MFSA, MGA, and FIAU will focus their efforts on increasing scrutiny of high risk sectors (through increased off-site and on-site examinations) and providing clearer guidance.

For instance, as the scope of AML/CFT obligations has been extended to remote gaming entities as of January 2018, the MGA has already taken steps to strengthen its supervisory capacity. They plan to conduct 40-50 AML/CFT-focused inspections annually and to finalise the risk-based approach (e.g. entity-level risk assessment), sign off AML/CFT policies & procedures, and conclude a Memorandum of Understanding outlining its cooperation with the FIAU.

### 3.3. Enhance internal capabilities of the financial intelligence unit

The FIAU will continue to improve the necessary internal capabilities to optimally perform its role in receiving, analysing and disseminating financial intelligence in terms of both staff and IT capabilities. The FIAU will therefore enhance its internal capabilities by continuing to increase and train its staff; it will request access (both legally and operationally) to any additional databases it needs to gather sufficient intelligence to support its analyses; and it will explore the implementation of IT tools that would enable it to facilitate and enhance its analytical capabilities. The FIAU will also continue to develop additional capabilities in the longer term, such as increased focus on strategic analyses to identify trends and patterns, and support the establishment of policies and goals to further strengthen AML/CFT supervision.

### 3.4. Enhance investigation and prosecution organisation

Investigations need to be translated in a number and type of prosecutions and convictions in line with Malta's risk profile. The Police have designed a plan to strengthen its organisation to increase the size and level of specialisation in money laundering and terrorism financing. The Police will be setting up a specialised Money Laundering Unit (MLU). They have designed a staff development strategy to increase the number of staff and allow for additional training of current staff, thus improving both capacity and ML/TF expertise. In addition, the Police will make more frequent use of external experts (e.g. forensic accountants) when the expertise is not available in-house. Finally, the Police will enhance its access to the relevant information and its use of analytical and workflow tools.

In addition, a review of some legal requirements and procedures will be conducted to identify opportunities for simplification (e.g. timelines, use of electronic orders) and increased specialisation (e.g. among magistrates or judges, use of external experts).

Finally, additional and more detailed statistics will be collected to ensure adequate monitoring of the progress achieved in terms of the outcome of Malta's efforts with regards to investigating and prosecuting money laundering and terrorism financing.

### 3.5. Establish an effective asset recovery unit

The Police and Courts are responsible for asset recovery. The ability to trace, freeze and forfeit the proceeds of crime has been limited so far. The recent establishment of a dedicated Asset Recovery Bureau is expected to enhance the ability to trace, freeze and forfeit the proceeds of crime.

The establishment of the Asset Recovery Bureau (ARB) is a key milestone. The ARB will be equipped with the necessary legal powers, staff and tools to freeze, manage and confiscate proceeds of crimes. The Asset Recovery Bureau Regulations, enacted as of 1<sup>st</sup> October 2017, have equipped the ARB with sufficient powers to conduct its duties. The ARB is now in the process of defining its future operating model and increasing its capacity with the hiring of staff and selection of the necessary IT tools.

### 3.6. Enhance transparency of legal entities and arrangements

Centralised information about beneficial owners of legal entities has not been available to date and there is little publicly available information about legal arrangements in Malta. While subject persons are obliged to collect beneficial ownership information on legal entities and arrangements, this information is not centralised. In addition, registries and databases on other entities or assets (e.g. voluntary organisations, land registry) contain only partial information.

In order to prevent the misuse of legal entities and arrangements for ML/TF, a number of registers will be established or will undergo a major upgrade to provide more transparency about the beneficial ownership of legal entities and arrangements (e.g. Register of Companies, Beneficial Ownership Register of Trusts, Register of Legal Persons, and Voluntary Organisations).

In line with the 4<sup>th</sup> Anti-Money Laundering Directive, the Registry of Companies will extend the existing register to include beneficial ownership information of companies and other commercial partnerships. The MFSA will set up a register of beneficial owners of trusts and the Registrar of Legal Persons will set up a register of beneficial owners of other legal entities. The relevant subsidiary legislation was published at the end of 2017 and will be followed by implementation starting in early 2018.

The Commissioner for Voluntary Organisations (CVO) will strengthen its supervisory capacity. It will seek additional powers (esp. operational independence and sanctioning powers), and it will increase its internal capacity with additional resources and enhancing the comprehensiveness of its database of voluntary organisations. Finally, it will aim to raise awareness across voluntary organisations on ML/TF vulnerabilities as well as AML/CFT obligations and best practices.

### 3.7. Build on existing international cooperation setup

While Malta is already active in international cooperation and responsive to the requests it receives, it aspires to become a more proactive member in the international fight against money laundering and terrorism financing.

The process to implement targeted financial sanctions and update lists of designated persons will be reviewed to ensure the immediate and automatic applicability in Malta of international sanctions and lists. In addition, a national list of designated persons will be created and a number of processes and procedures will be defined.

The current processes applied to respond to MLA requests will be reviewed to ensure it is highly effective and well-coordinated across the Maltese authorities.

Malta will also strive to take a leading role in contributing to understanding of ML/TF risks and shaping international standards in the areas where it has developed or will develop particularly strong expertise.

## Appendix A. Key stakeholders

Figure 3: List of key stakeholders

<b>Category</b>	<b>Agency</b>	<b>Acronym</b>
<b>Policy-makers</b>	Ministry for Finance	MFin
	Ministry for Justice, Culture and Local Government	MfJ
	Ministry for Foreign Affairs and Trade Promotion	MFTP
	National Coordinating Committee on Combating Money Laundering and Financing of Terrorism	NCC
	Secretariat	-
<b>Supervisors, Central Bank, Revenue &amp; financial intelligence</b>	Financial Intelligence Analysis Unit	FIAU
	Malta Financial Services Authority	MFSA
	Malta Gaming Authority	MGA
	Central Bank of Malta	CBM
	Commissioner for Revenue	CfR
<b>Law enforcement and Judiciary</b>	Police Economic Crimes Unit	ECU
	Police Counter Terrorism Unit	CTU
	Office of the Attorney General	AGO
	Courts	-
	Asset Recovery Bureau	ARB
<b>Registers</b>	Registry of Companies	ROC
	Land Registry	-
	Office of the Commissioner for Voluntary Organisations	CVO
<b>Sanctions authorities</b>	Sanctions Monitoring Board	SMB
	Sanctions Unit	-

