

Jurisdiction briefing: Malta

A Basel AML Index briefing following the decision of the Financial Action Task Force (FATF) to delist Malta from its list of jurisdictions under increased monitoring (“grey list”) in June 2022.

In a nutshell

Jurisdiction: Malta

On FATF grey list: June 2021 to June 2022

Principal reasons: Low performance in effectiveness

Latest FATF reports: September 2019 (Mutual Evaluation Report) and April 2021 (Follow-Up Report), by Moneyval

Significance: Being delisted is essential for Malta to regain investors' trust in its AML/CFT framework

More info on Malta’s money laundering risks (Expert Edition subscribers):

<https://index.baselgovernance.org/country/MT>

1 Background: FATF evaluations in Malta

Malta was evaluated by Moneyval, the regional FATF body in Europe, in November 2018. The Mutual Evaluation Report (MER) was published in July 2019.¹ This was the fifth time that Moneyval had assessed Malta but the first time it had used the fourth-round FATF evaluation methodology adopted in 2013.² The fourth-round methodology emphasises the effectiveness of anti-money laundering and counter-financing of terrorism (AML/CFT) measures in practice, and not only technical compliance with the FATF Recommendations.

The 2019 MER found that Malta had obtained positive results when enacting the necessary AML/CFT laws (the technical compliance aspect). However, the country performed poorly in implementing the AML/CFT global standards (the effectiveness aspect). As a result of its poor performance in the effectiveness criteria, Malta was referred to the International Co-operation Review Group (ICRG), a body set up in 2007 to analyse high-risk jurisdictions and recommend specific actions to address the ML/TF risks emanating from them.

¹ <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-malta-2019.html>

² <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatfissuesnewmechanismtostrengthenmoneylaunderingandterroristfinancingcompliance.html>

Upon the publication of the 2019 MER, Malta was given a year’s observation period. According to the Maltese media, Malta was given a set of 58 recommended actions to improve its AML/CFT effectiveness.³ At the same time, it was also expected to carry out the necessary legal reforms to address the remaining gaps in achieving the technical compliance criteria.

2 Key gaps and action plan

Moneyval issued a Follow-Up Report (FUR) for Malta in April 2021.⁴ The report found that Malta had successfully carried out all necessary legal reforms and reached a “compliant” or “largely compliant” assessment with regard to technical compliance with all 40 FATF Recommendations.

Progress in improving effectiveness was not 100 percent. According to the Maltese media, “out of 58 effectiveness recommendations, Malta failed to implement three”.⁵ These pending actions triggered Malta’s placement on the list of jurisdictions under increased monitoring (i.e. the grey list) in June 2021.⁶ The three deficiencies might refer to the Immediate Outcomes (IOs) 5 and 6, but there is no public confirmation on this:

IO	Effectiveness objective
5	Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments
6	Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.

The action plan included:

- **improving the accuracy of available beneficial ownership information** on Maltese companies;
- **sanctioning companies and company gatekeepers** for failings related to obtaining beneficial ownership information; and
- **generating and using financial intelligence** in investigating and prosecuting tax evasion and related money laundering.

³ <https://timesofmalta.com/articles/view/maltas-grey-listing-contributing-factors-and-the-road-ahead.919453>

⁴ <https://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-malta-2021.html>

⁵ <https://timesofmalta.com/articles/view/maltas-grey-listing-contributing-factors-and-the-road-ahead.919453>

⁶ <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2021.html>

3 How was the decision to de-list Malta taken?

The decision to take Malta off the grey list came four months after the FATF publicly announced that initial indications showed that Malta had substantially completed the necessary reforms and appeared to have addressed the shortcomings identified.⁷

In its February 2022 review, the FATF noted that Malta had “substantially completed its action plan” by making reforms, including the increased use of the Financial Intelligence Unit’s (FIU) capabilities to pursue money laundering and criminal tax cases. However, the FATF decided that Malta needed an on-site review to ensure the AML/CFT measures were being implemented in practice.⁸

The FATF team held an on-site visit to confirm the results in April 2022.⁹ The decision to de-list Malta was finally taken in the FATF plenary session in June 2022.

4 Where was the progress made?

The FATF reported that Malta had progressed in the three pending action plan items. The FATF President at the time, Marcus Pleyer, specifically mentioned that Malta has:¹⁰

- doubled the resources of the Business Registry, conducted a thorough risk assessment and set out to inspect all registered companies;
- successfully identified companies that have concealed their true owners – as a result, significantly more penalties were imposed in 2021 against companies;
- applied “effective and dissuasive sentences” with professionals and business entities who are in a position to enable financial crime, including lawyers, accountants and company service providers;
- enhanced the use of financial intelligence to combat money laundering linked to tax crimes.

The Maltese media reported that the country had significantly enhanced the Malta Business Registry. For instance, a fifth of all requests for new company formation were rejected due to incomplete beneficial ownership information. Additionally, the Malta Business Registry

⁷ <https://www.mondaq.com/money-laundering/1202830/malta-removed-from-fatf-grey-list>

⁸ <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-march-2022.html>

⁹ https://www.coe.int/en/web/moneyval/home/newsroom/-/asset_publisher/zTE3FjHi4YJ7/content/fatf-on-site-visit-to-malta

¹⁰ <https://www.sovereigngroup.com/news/news-and-views/fatf-delists-malta-after-recognising-significant-progress/>

conducted a record 13,717 know-your-customer checks.¹¹ Local media also reported cases of sanctioning gatekeepers for violating AML regulations.¹²

Little other detailed information is available because the results of the ICRG's reassessment of Malta's effectiveness are not public. The ICRG methodology does not currently require publication of the follow-up effectiveness score. This is something we sincerely hope will change in the future to enable a better analysis and risk assessment.

5 Malta in the Basel AML Index

Malta's overall ML/TF risk score in the Basel AML Index Public Edition (released in 2021) is 5.45. In the Expert Edition, which is updated quarterly as new data emerges, the current score is 5.07. Either way, this places Malta in the **medium risk category** compared to other global jurisdictions.

The Basel AML Index¹³ uses FATF data from both MERs and FURs to score a jurisdiction's ML/TF risks. Information on a jurisdiction's categorisation as being "under increased monitoring" ("grey list") or a "high-risk jurisdiction" ("black" list) is included in the Basel AML Index Expert Edition¹⁴ for information or decision-making purposes. This information is included in a separate column to the jurisdiction's risk scores. Being on these lists does not have an impact on the overall score of the jurisdiction in the Basel AML Index.

Malta achieved the following score in the FATF assessments:

- 30% for effectiveness
- 77% for technical compliance

Based on the Basel AML Index methodology and calculations, Malta's score on the FATF indicator alone is 5.42 (Public Edition) or 5.86 (Expert Edition – last updated on 30 June 2022). Again, this is a medium risk score compared to the global average.¹⁵

¹¹ <https://timesofmalta.com/articles/view/malta-business-registry-doubles-inspections-and-screening-rates.932404>

¹² <https://timesofmalta.com/articles/view/notary-fined-62000-for-breaching-anti-money-laundering-rules.899573>

¹³ The Basel AML Index is an independent country ranking and risk assessment tool for money laundering and terrorist financing (ML/TF), produced by the Basel AML Index since 2012. See: <https://index.baselgovernance.org>.

¹⁴ Designed for busy professionals, the Basel AML Index Expert and Expert Plus editions offer deep, detailed and up-to-date insights into a jurisdiction's ML/TF risk score and the reasons behind it. Both editions are free for public-sector, international, non-profit and academic organisations. See: <https://index.baselgovernance.org/expert-edition>

¹⁵ The Basel AML Index uses a double weight for effectiveness criteria in its methodology. See: <https://index.baselgovernance.org/methodology>.