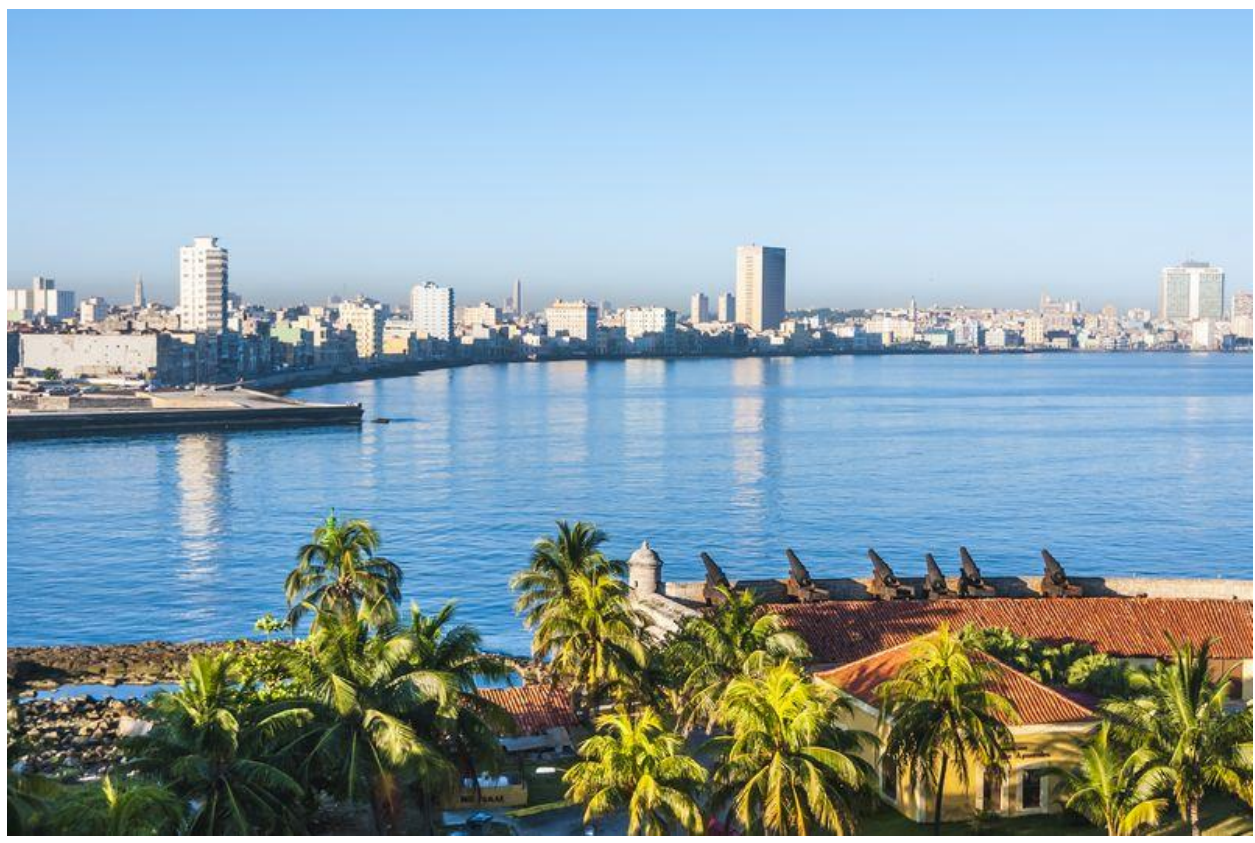


## Regular Follow-up report and Technical Compliance re-rating of Cuba



January 2024

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## CUBA: LAST REGULAR FOLLOW-UP AND TECHNICAL COMPLIANCE RE-RATING REPORT FOR THE FOURTH ROUND

### I. INTRODUCTION

1. In accordance with GAFILAT's Fourth Round procedures, Cuba's Mutual Evaluation Report (MER) was adopted in July 2015. This follow-up report analyses progress made by Cuba in addressing the technical compliance deficiencies identified in its MER. New ratings are granted when sufficient progress is observed. Overall, the expectation is that countries have addressed most, if not all, technical compliance deficiencies before the end of the third year since the adoption of their MER. This report does not address Cuba's progress in improving its effectiveness. Based on the above-mentioned Procedures, this report concludes with Cuba's regular follow-up for the Fourth Round.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. In relation to Technical Compliance, the MER, and subsequent re-ratings indicate that Cuba was rated as follows:

**Table 1. Technical Compliance Ratings, December, 2021**

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

*Note:* There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-Compliant (NC).

Sources: (i) Mutual Evaluation Report of Cuba: <https://www.gafilat.org/index.php/es/biblioteca-virtual/miembros/cuba/evaluaciones-mtuas-6/123-iem-cuba-texto-finalf/file>

3. Considering the results reflected in the MER, GAFILAT placed Cuba under the regular follow-up process<sup>1</sup>. The GAFILAT Executive Secretariat assessed Cuba's request for a new technical compliance re-rating and prepared this report. The re-rating request was submitted by the country on 8 June 2023 and was accompanied by the necessary supporting documentation within the timeframe foreseen in the procedures.

4. On this basis and following GAFILAT's current procedures, an assessor was appointed from the pool of the Group of Experts of GAFILAT (GEG) to conduct the analysis and develop this report. The assessment was conducted by Juan Fernando Argueta (Director of the Prevention and

<sup>1</sup> Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up is based on the FATF traditional policy that approaches members with significant (technical compliance or effectiveness) deficiencies in their AML/CFT systems, and it involves a more enhanced follow-up process.

Compliance Department of the Special Verification Intendency of Guatemala). The process was conducted under the coordination and support of Gustavo Vega, Deputy Executive Secretary of GAFILAT, and Guillermo Alejandro Hernández, Technical Specialist of the GAFILAT Executive Secretariat.

5. Section III of this report summarises Cuba's progress in improving technical compliance with Recommendation 15, which is the subject of this re-rating. Section IV presents the conclusion and a table showing which Recommendations were re-rated.

### III. OVERVIEW OF PROGRESS IN IMPROVING TECHNICAL COMPLIANCE

6. This section summarises Cuba's progress in improving its technical compliance by addressing the technical compliance gaps identified in the MER.

#### 3.1. Progress in addressing technical compliance deficiencies identified in the MER

7. Cuba has made progress in addressing its technical compliance deficiencies identified in the MER in relation to:

- Recommendation 15, currently rated as PC, is proposed to be re-rated to LC.

#### **Recommendation 15 - New Technologies (rated PC - Re-rated to LC)**

##### Criterion 15.1

##### I) Analysis:

8. Article 1 of Decree Law No. 317-2013 on the Prevention and Detection of Operations to Combat Money Laundering (ML), Financing of Terrorism (FT), Arms Proliferation (AP) and the Movement of Illicit Capital (MCI) provides the obligation of the reporting entities to identify and assess the vulnerabilities that may arise with regard to the aforementioned offences. Likewise, Article 20 cites as functions of the Coordinating Committee the identification and evaluation of national ML/FT/FP risks in the banking and financial system, as well as the development of the national assessment of its risk areas or sectors, and the proposal of the strategy for their prevention, identification and mitigation, which is presented by the President of the Central Bank of Cuba (BCC) to the Council of Ministers for approval.

9. In response to the above, Cuba indicated having developed a national strategy 2020-2022 to identify and assess ML/TF/PF risks, where vulnerabilities such as regulatory and technical inadequacies with respect to double taxation treaties; the declaration of financial accounts abroad operated by Cuban citizens and the growing use of IT platforms to provide services, business practices, and the use of virtual assets are indicated. In addition, the "Methodological Guide for the Prevention of ML/TF/PF Evaluation and Application of the National Risk Based Approach" was issued, with the general objective of applying and evaluating the ML/FT/FP National Risk Analysis (NRA).

10. The aforementioned guide was issued in response to Resolution No. 48/2014 of the BCC, which indicates that it will be used by the Coordinating Committee and its members in the identification and assessment of threats, vulnerabilities and risks of the country in terms of ML/TF and illicit capital movements, in order to develop a national diagnosis and the proposal of a strategy mentioned in Decree Law 317/2013 and Decree No. 322/2013. The guide addresses the

section identified as "New technologies", which refers to the identification and assessment of ML/TF/PF risks related to the development of new products and business practices, including delivery mechanisms and the use of new or developing technologies.

11. BCC Resolution No. 51/2013 states that Financial Institutions (FIs) shall include in the risk-based strategy for ML/TF/PF prevention, measures aimed at regulating customer due diligence and specific activities, among others, the risks associated with the development of new products, technologies and business practices; it further provides that the Superintendent of the BCC is responsible for issuing instructions and other regulations for the implementation of the aforementioned resolution, as well as its supervision in the National Banking System.

12. By virtue of the above, Instruction No. 26/2022 of the Superintendent of the BCC states that the regulated entities must identify, analyse and assess their ML, TF and PF risks; likewise, Article 63 states that the institution should manage ML/TF/PF risks that may arise with respect to:

- i) The development of new products and business practices, including delivery mechanisms.
- ii) The use of new or developing technologies for new or existing products.
- iii) Virtual asset activities and related transactions with VASPs previously authorised by the BCC.

## II) Conclusion:

13. Cuba has made important efforts for SOs to identify, analyse and evaluate their ML/TF/PF risks under this criterion. Likewise, Cuba indicated that it had conducted an assessment in 2020-2022, from which it provided a list of ML/TF/PF risks, threats and vulnerabilities, and from which the Methodological Guide for the assessment of national risks is derived. However, the risk-assessment public report was not available. From the provided evidence, it is possible to conclude that the national risks have been identified by the country in accordance with the requirement of Criterion 15.1. In view of the above, criterion 15.1 is **Mostly Met**.

## Criterion 15.2

### I) Analysis:

14. Instruction No. 26/2022 of the Superintendent of the BCC states that the assessment of risks associated with new or developing technologies is carried out prior to the launch of products and business practices that are expressly authorised. To manage risks related to virtual assets, the institution verifies that the providers of the services it deals with are licensed or registered, regulated and subject to supervision.

15. With regard to the obligation of FIs to take appropriate measures to manage and mitigate risks, the Instruction refers that the strategy designed by the Board of Directors of FIs should include defined internal control procedures for the management and mitigation of risks.

### II) Conclusion:

16. In accordance with Instruction No. 26/2022 of the Superintendent of the BCC, FIs assess risks in advance of the launch of new products, practices and technologies. Therefore, criterion 15.2 is **Met**.

## Criterion 15.3

**I) Analysis:****a)**

17. Cuba formed the Cryptoassets Group as an ad hoc group composed of the authorities represented in the Coordinating Committee for the Prevention and Fight against ML/TF/PF, created by Decree Law No. 317-2013. The Group produced, among other activities, a public report entitled "Summary of the Work on National AML/CFT Risk Assessment in VA and VASP: Compilation of Documents Worked During 2021/2022/2023", which addresses theoretical, conceptual and regulatory aspects, international standards and a diagnosis of weaknesses, threats, strengths and opportunities, as well as risk factors. Finally, the report concluded that the risk in Cuba is "Medium Low". The latter seems to provide the basis for the risk assessment of the VA and VASP sector, considering information regarding the materiality of the VASP sector in the country, as well as some factors on its functionality, operability, transactionality or an analysis of clients and typologies that would support the rating assigned to the activities of the VASPs<sup>2</sup>.

18. On the other hand, the country has worked on a "*Working Schedule for the Public Policy on Crypto-assets*", which lists a series of activities carried out between May 2021 and 2023,<sup>3</sup> as well as their status, including the issuance of BCC Resolutions Nos. 215/2021, 89/2022, 76/2023, AML/CFT supervision, updating of the ENR and training activities, among other issues.

**b)**

19. Resolution No. 215/2021 establishes the rules based on which the BCC regulates the use of certain VAs in commercial transactions, as well as the granting of licences to VASPs for operations related to financial, exchange and collection or payment activities, applicable in and from the national territory, under the terms established in Decree Law No. 362. Resolution 89/2022 of the BCC establishes the specific requirements for the authorisation, operation, regulation, supervision, monitoring, corrective mechanisms and cancellation of licences for VASPs operating in and from the national territory; it also provides the aspects that VASPs must comply with for their authorisation, as well as the procedures related to the AML/CFT/CPF system, especially regarding transfers of funds and the sending of STRs, as it considers VASPs to be regulated entities under Cuban law.

20. In this regard, the country has established certain guidelines from the licensing of VASPs, including having a system to prevent ML/TF/PF risks, despite the absence of the approved document that reflects the identification and assessment of the risks referred to in paragraph a) of this criterion, from the provided evidence it is possible to conclude that there is an adequate understanding of the risks and, therefore, the application of the RBA, to ensure that the measures to prevent and mitigate the ML/TF risk are proportional to the risks.

**c)**

21. Resolution 89/2022 states that to apply for an authorisation to operate as a VASP, the interested party must provide, among other documents, those related to the corporate purpose and status, describing the proposed operating model and VAs, platform and cryptographic

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<sup>2</sup> Cuba mentioned having carried out the 3rd update of the NRA, which includes the risk assessment of VA and VASP; however, as this document was still pending its approval procedure, it is outside the scope of this analysis.

<sup>3</sup> The country reported that it has not issued licences to VASPs. However, from December 2022 to the date of this evaluation, it has identified 6 platforms, all based in jurisdictions outside the country, which have been the subject of study by the FIU and government authorities, which they have approached for their formalisation, as a result of which one of the entities initiated the process for their licensing. Furthermore, 2 are inactive due to a case of fraud that was identified, and 2 others are in criminal proceedings, where bank accounts were frozen and cash was seized, along with the arrest and prosecution of 2 Cuban nationals.

standard to be used; procedures related to due diligence, ML/TF risk management, and procedures related to the AML/CTF/CPF system, respectively. It also establishes that the VASPs approved by the BCC will be considered reporting entities, therefore, they must submit their work procedures to the DGIOF, as part of the documentation required by the regulation; likewise, the VASPs must comply with the informative requirements, internal control standards, risk management, and other obligations established by the BCC.

22. BCC Resolution No. 76/2023 extends to VAs, VA activities and VASPs, by virtue of operations involving the use of such assets in commercial transactions and operations related to financial, exchange, collection and payment activities, within and from the national territory. The Resolution sets out the specific AML/CTF/CPF rules, as well as the registration, supervision and other aspects related to VASPs. The Resolution also establishes that VASPs must conduct an AML/CTF/CPF risk assessment considering their activities, characteristics, products and services of VA, prior to the launch or use of new products, practices and technologies with specific customers and activities, as well as to design and implement a strategy according to the risk profile, defined on the basis of their complexity, size, activity and scope, respectively.

23. The aforementioned strategy should contain, among other aspects: medium- and short-term objectives to identify risks, assess them and actions to mitigate them; human resources update and training programme, and audit and supervision of procedures and controls in place. In addition, the DGIOF verifies that the VASPs have procedures for ML/FT//FP risk management, implement mitigating actions and report suspicious transactions. With regard to CDD, VASPs are required to comply with measures for identification, verification and monitoring of transactions, and will adopt enhanced measures when they identify higher ML/TF/PF risks.

24. In this regard, although the aforementioned regulations state that VASPs must manage and/or assess ML/TF risks, it is not entirely clear that the methodology implemented must be updated and, if so, how often; nor is there evidence of the mechanisms to provide information on such assessment to the competent authorities.

## II) Conclusion:

25. The country has made significant regulatory efforts to regulate VASPs and incorporate them as regulated entities under the AML/CTF/CPF regime, with requirements to conduct CDD, as well as to identify and assess their own risks. While there is evidence of the identification and assessment of ML/TF risks arising from the activities of VAs and the activities or operations of VASPs, the finalized and approved risk-assessment document was not accessible due to confidentiality provisions, but it is reasonable to conclude that the risk of VAs is "medium-low". The latter results in criterion 15.3 being **Mostly Met**.

### Criterion 15.4

#### I) Analysis:

##### a)

26. Resolution No. 215/2021 defines VASPs in line with the FATF standards and establishes the rules for the licensing of VASPs for operations related to financial, exchange and collection or payment activities, within and from the country, under the terms established in Decree Law No. 362. Likewise, BCC Resolution No. 89/2022 establishes the requirements and necessary documentation, as well as the scenarios, for a VASP to apply for a licence, as follows: i) legal entities domiciled in a different jurisdiction who already have a license to operate as VASPs in that jurisdiction; ii) natural persons, regardless of them holding a license to operate as VASPs in the

jurisdiction where they are domiciled, and; iii) legal entities domiciled in Cuba, regardless of them holding a license to operate in a different jurisdiction.

27. It should be noted that, in order to obtain a licence, it is essential to have the approval of the DGIOF, which issues the respective resolution or else denies it in writing to the applicant, within a period not exceeding ninety working days from the date of receipt of the documentation. The BCC establishes in the licence the characteristics of the VAs, the conditions and restrictions of the authorised operations, as well as the measures to be complied with for the control and custody of the VAs; licences as VASPs are approved for a period of one year, extendable for a second year, given the experimental and novel nature of this type of activity. Authorised VASPs may only operate with virtual assets approved by the BCC, by means of the respective licence.

28. Finally, Resolution No. 215/2021 also states that the VASPs are registered, within the term set in the licence, in the register of reporting entities of the AML/CTF/CPF strategy, which is kept by the DGIOF; upon any change in their operations, ownership structure or of any other nature, they must request the respective authorisation from the BCC.

**b)**

29. Resolution 89/2022 states that, in order to consider the licence application, the BCC assesses the legality, opportunity and socio-economic interest of the initiative, the characteristics of the project, the responsibility of the applicants and their experience in the activity; furthermore, the corporate organization and government bodies are among the requirements requested by the BCC. The BCC issues the licence, after consultation with the Cryptoassets Group, and with the agreement of the DGIOF, who carries out a review on the requesting persons, based on the information and databases they have available.

30. In addition to the above, Resolution 76/2023 establishes that the DGIOF will enter the information of the VASPs in the register of reporting entities, which is updated every six months or when the VASP makes changes, without the need for a requirement. It is worth mentioning that the required data is: Name and surname/company name, Legal Representative, Licensing regulation, Address, Telephone and E-mail.

## **II) Conclusion:**

31. Resolutions 215/2021 and 89/2022 refer to the requirements, documentation and formalities necessary for the issuance of a license for the VASP by the BCC, as well as the scenarios under which they can apply for it. It also refers to the assessment carried out by the latter, with the agreement of the DGIOF, to prevent criminals or their associates from owning, being BOs, or having a majority or significant stake or occupying a management function in a VASP. Based on the above, criterion 15.4 is **Met**.

## **Criterion 15.5**

### **I) Analysis:**

32. Resolution No. 215/2021 establishes that FIs and other legal persons may only use AV among themselves and with natural persons to carry out monetary-mercantile, exchange and swap operations, as well as to cover pecuniary obligations, when so authorised by the BCC. Further, the bodies or agencies of the Central State Administration, political, mass and social organisations, and other institutions must control and supervise that their subordinate entities and the associative forms of which they are the relationship bodies refrain from using VAs and their services in



commercial, monetary-mercantile transactions or to cover pecuniary obligations, except in the cases authorised by the BCC.

33. Likewise, Resolution No. 89/2022 states that regulated entities that violate the provisions of these complementary regulations and those of the corresponding licence, as well as those that operate without a licence, incur administrative liability and will be sanctioned in accordance with the provisions of Decree Law 363, without prejudice to any criminal proceedings that may be applicable. In this regard, the decree states that providing collection or payment services to natural or legal persons, or support services to financial institutions without a BCC licence, as well as infringing BCC regulations, constitutes an offence. In addition, the BCC imposes one or more sanction measures, such as a fine or the prohibition to continue the offending conduct, for the commission of the offences provided for in the provisions of the decree.

34. It is important to note that the country has made important efforts to identify VASPs that may be operating without a licence, with a view to requiring their formalisation with the BCC. Measures undertaken by the DGIOF to assist in identification include analysis of STRs sent by regulated entities, monitoring of information from open and public sources, feedback and requests for information from investigative and prosecutorial authorities, as well as exchanges of information with other FIUs.

35. In addition, instruction No. 26/2022 states that if FIs, in the course of their operations, identify natural or legal persons carrying out activities as VASP without authorisation or registration, they shall refuse the operations and inform the Superintendency and the DGIOF of such fact.

## II) Conclusion:

36. The country has adopted measures to identify VASPs that may be operating without a license, in addition to which it has implemented a restriction on FIs and other legal persons to only use AV among themselves and with natural persons, for certain types of transactions. It has also established certain limitations on the use of AV, defined a sanctions regime and has prohibited the FIs to carry out transactions when individuals and legal persons perform VASP activities without authorisation. Based on the above, assessment criterion 15.5 is **Met**.

### Criterion 15.6

#### I) Analysis:

##### a)

37. As indicated in previous criteria, Resolutions No. 215/2021, 89/2022 and 76/2023 establish the regulatory framework for the activity of VASPs, as well as the specific AML/CTF/CPF rules for the sector. VASPs must also be licensed by the BCC and registered with the DGIOF, which is responsible for the supervision or control of VASPs.

##### b)

38. The powers of DGIOF under Resolution 76/2023 are to:

- Supervise or monitor the activity for which the licence was granted, as well as compliance with AML/CTF/CPF requirements by VASPs as well as other regulated entities engaged in VA activities.
- Carry out on-site and off-site ML/TF/PF risk-based supervision.
- Access books and records.
- Compel the provision of information.

- Propose to the President of the BCC the imposition of sanctions when appropriate, in accordance with the provisions of Decree Law 363. Those sanctions can range from fines to the suspension of authorised operations or activities, modification or cancellation of the licence issued by the BCC.

39. In addition to the above, Article 38.2 indicates that the information corresponding to transfers of VAs below the equivalent in freely convertible currency of one thousand US dollars, or its conversion into Cuban pesos, shall be made available to the corresponding authorities upon request. The regulation also indicates that one of the obligations of the VASPs is to inform the DGIOF of any STRs they detect.

## II) Conclusion:

40. VASPs are subject to authorisation and licensing requirements by the BCC, as well as regulation, registration and supervision by the DGIOF which has the necessary powers to ensure that VASPs comply with the AML/CTF/CPF requirements, as well as to request the BCC to impose the corresponding sanctions. By virtue of the above, assessment criterion 15.6 is **Met**.

### Criterion 15.7

#### I) Analysis:

41. As stated above, Resolutions No. 215/2021, 89/2022 and 76/2023 establish the regulatory framework and guidelines for the activity of VASPs, as well as the national AML/CTF measures to be applied by them, which are publicly available in the Official Gazette of the Republic.

42. Resolution No. 76/2023 states that the DGIOF undertakes training on vulnerabilities and ML/TF/PF risks that may be present in the business relationships of VASPs, as well as financial transactions associated with VAs and VASPs; it also states that it should ensure that its staff is trained to assess that the policies, procedures and controls of a VASP are appropriate, based on the assessment and management of the VASP's risks. Finally, the Directorate conducts outreach activities for public-private sector training and collaboration to educate and raise awareness of the risks related to AVs and VASP activities.

43. With regard to suspicious transaction reporting, Articles 48 and 49 of the aforementioned resolution stipulate the terms in which VASPs must report to the DGIOF any financial operation or transaction of which they suspect or have reasonable grounds to suspect that the funds or assets are the proceeds of a criminal activity and/or could be related to ML/TF/PF; the aforementioned report must contain all the information held by the VASP on both the originator and the beneficiary, as well as any other information.

#### II) Conclusion:

44. The regulations in force establish the AML/CTF regime that the VASP must observe and, further to this, the DGIOF is tasked with undertaking training and dissemination actions for a better understanding by the VASP with respect to their risks; it also covers the guidance for the detection and reporting of suspicious transactions. Based on the above, criterion 15.7 is **Met**.

### Criterion 15.8

#### I) Analysis:

a)

45. In the event of non-compliance with the provisions of Resolution No. 89/2022, regulated entities will be sanctioned in accordance with the provisions of Decree Law 363, Article 12 of which stipulates that the BCC shall impose one or more sanctions, including: a fine, surveillance regime, prevention from continuing with the infringing conduct, temporary freezing of accounts, order to close accounts, suspension of new authorisations to open accounts for a period of up to one calendar year, confiscation of profits obtained by committing the infringements, intervention, suspension of authorised operations or activities, or modification or cancellation of licences issued by the BCC.

46. The provisions also establish the circumstances for determining the sanctions to be applied; as well as the range of the amount of the fines in Cuban pesos for natural or legal persons with a maximum amount of 50,000 (Approx. 2,083 USD) for individuals and 5,000,000 (Approx. 208,333 USD) for legal persons<sup>4</sup>. The graduation will depend on the level of culpability or the existence of intentionality, the continuity or persistence of the infringing conduct and the nature of the damages caused, ensuring that the amount of the fine is proportional to the impact of the conduct. Finally, Article 16 of Resolution No. 89/2022 states that the amount of the fine may be increased or decreased by half of its amount, taking into account the characteristics of the person obliged to pay it and the consequences of the infringement. Where a natural or legal person commits an infringement of the same type and qualification as that which gave rise to a previous measure, the amount of the fine to be imposed may be increased by up to twice the amount that would be applicable in each case.

b)

47. Article 1 of the Decree Law establishes that the regime of sanctions is applicable to institutions licensed by the BCC, as well as to natural or legal persons who incur in the infractions provided for in this regulation. Similarly, legal persons are liable for infringement of the provisions issued by the BCC, irrespective of the liability that may be imposed on directors, officers and employees who are considered to be the perpetrators of the infringements provided for therein. However, it is not clear what sanctions apply to the directors and senior management of all VASPs.

## II) Conclusion:

48. The current regulation establishes sanctions for VASPs and their managers; however, a minor deficiency is identified in that it is not clear what the sanctions are for managers or hierarchy of VASPs. In this regard, criterion 15.8 is **Mostly Met**.

### Criterion 15.9

#### I) Analysis:

49. Resolution No. 76/2023 establishes for VASPs the preventive measures set out in the Recommendations as follows:

- Rec. 11: Articles 22 to 24.
- Rec. 12: Articles 25 and 26; however, there is a perceived minor deficiency, as there is no reference to customers or BOs that are PEPs of international organizations.
- Rec. 13: Articles 27 to 29.
- Rec. 14: Article 30.
- Rec. 15: Articles 31 and 32.
- Rec. 17: Articles 43 and 44.

<sup>4</sup> Reference exchange rate checked on November 3rd, 2023 on the website of the Banco Central de Cuba (bc.gob.cu/)

- Rec. 18: Articles 45 and 46.
- Rec. 19: Article 43.
- Rec. 20: Articles 48 to 50, and;
- Rec. 21: Article 51.

**a)**

50. Articles 22 to 51 of the Resolution refer to CDD, record-keeping, PEPs (with the noted exception related to PEPs from international organizations), correspondent banking, new technologies, electronic transfers and travel rule, reliance on third-parties, internal controls, foreign branches, high-risk jurisdictions, suspicious transaction reporting and tipping-off, while Article 17 establishes the threshold of USD 1,000 or its equivalent in Cuban pesos for its application.

**b)**

51. Article 34 of the Resolution requires that all transfers of VA be considered cross-border wire transfers, given the nature of VA and VASP activities. In this regard, Articles 35 to 38 provide for obtaining, maintaining and sending the required and accurate originator and beneficiary information. Article 38(2) provides for VASPs to make the required information available to the competent authorities upon request.

## **II) Conclusion:**

52. Resolution No. 76/2023 addresses the preventive measures that VASP should address in accordance with the requirements set out in Recommendations 10 to 21 in an adequate manner, although there is a minor deficiency regarding identification of customers of BOs that are PEPs of international organizations; in that regard criterion 15.9 is found **Mostly Met**.

### **Criterion 15.10**

#### **I) Analysis:**

53. Article 39 states that VASPs shall implement freezing measures and refrain from engaging in transactions with persons and entities designated by UNSC Resolutions. Furthermore, Article 41 states that transfers of VAs involving VASPs, or other reporting intermediaries or financial institutions shall comply with all the provisions, inter alia.

54. With respect to TFS, the obligation to freeze without delay for reporting entities in general derives from Decree Law 317-2013. With regard to VASPs the freezing measures are addressed in Resolution No. 76/2023, which refers to the following:

- It set forth the mechanisms to communicate designations and clear guidelines for obligations. (Articles 11 to 13).
- With regard to reporting of frozen assets or actions taken in compliance with the requirements set out in criteria 6.5 (e) and 7.2 (e), Article 11 states that the DGIOF should be notified immediately of any attempted disposition of funds by persons and entities designated by the UNSC; however, it does not expressly address the reporting of frozen assets or actions taken in compliance with the prohibition requirements of the relevant UNSCRs.

55. With respect to the above, while Article 48 of the above mentioned resolution states that VASPs report within 72 hours to the DGIOF any financial transaction or operation of which they suspect or have reasonable grounds to suspect that the funds or assets are the proceeds of

criminal activity, and/or could be related to AML/CTF/PF, this is applicable to sending a STR and does not seem to cover the requirement of the standard to inform the authority upon freezing assets. Regarding the mechanisms for de-listing and unfreezing of funds, Resolution No. 16/2022 of the Ministry of Interior, in its articles 34 to 46, addresses the corresponding guidelines. Likewise, Decree Law 363/2018 provides the relevant administrative sanctions to be applied for failing to comply with TFS obligations; and, for criminal sanctions, Law No. 151/2022 of the Criminal Code and Law No. 143/2021 of the Criminal Procedure applies.

56. It is also noted that the above provisions have been analysed in Recommendations 6 and 7, which have been rated as Compliant.

## II) Conclusion:

57. The current regulations include most of the SFD-related measures that must be applied by VASPs, with the exception of the communication that must be made about frozen assets, independently of the filing of a STR when there is an attempt to dispose those frozen assets, which is considered a minor deficiency. In this regard, criterion 15.10 is **Mostly Met**.

### Criterion 15.11

#### I) Analysis:

58. Resolution No. 76/2023, in Articles 55 and 56, clearly provides for international cooperation, given the cross-border and mobile nature of AVs, in order to mitigate the risks associated with the activities of VASPs; it also empowers the DGIOF, in its role as supervisor of VASPs operating under licence from the BCC, to exchange information promptly and constructively with its foreign counterparts.

#### II) Conclusion:

59. Resolution No. 76/2023 addresses the aspects required by the standard in relation to international cooperation, in that sense criterion 15.11 is **Met**.

### General Conclusion of Recommendation 15

60. Cuba has made important efforts through the approval of various regulations related to AV and VASP, such as Resolutions 215/2021, 89/2022, 16/2022 and 76/2023; Instructions 26/2022 and 1/2023; and Laws 143/2021 and 151/2022, which establish the entire regime of identification and risk assessment, licensing, supervision or control, sanctions, preventive measures and AML/CFT obligations of VASP. However, although an analysis and understanding of the risks related to the AV and PSAV sector is perceived, as well as some aspects related to new technologies mentioned in criterion 15.1, it has not been possible to access the approved risk assessment report, although it is considered that the conclusions reported, contrasted with the information provided, are reasonable. Additionally, there are minor deficiencies in criteria 15.8, 15.9 and 15.10.

61. In view of the above, it is proposed that Recommendation 15 is re-rated to **Largely Compliant**.

## IV. CONCLUSION

62. In view of Cuba's progress since the adoption of its MER, its technical compliance with the FATF Recommendations was again rated as follows:

**Table 2. Technical compliance ratings, December, 2023**

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

*Note:* There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC) and Non-Compliant (NC).

63. Based on the approved follow-up procedures for the Fourth Round, as well as the Road Map in preparation for the Fifth Round of Mutual Evaluations, Cuba concludes its Fourth-Round follow-up with this report. The great efforts made by the country throughout its regular follow-up process are recognized, and Cuba is urged to continue working on strengthening its AML/CTF/CPF system. However, any further progress made in strengthening its implementation of AML/CTF/CPF measures will be within the scope of the Fifth Round Mutual Evaluation.