



# Fourth Regular Follow-up Report and Re-Rating of Cuba



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## REPUBLIC OF CUBA: FOURTH FOLLOW-UP REPORT

### I. INTRODUCTION

1. In accordance with GAFILAT's Fourth Round procedures, Cuba's Mutual Evaluation Report (MER) was adopted in July 2015 under the framework of the XXXI Plenary of Representatives of GAFILAT held in San Jose, Costa Rica. This follow-up report analyses the 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. A subsequent follow-up evaluation will analyse the progress made on effectiveness, which may eventually result in a new rating of the Immediate Outcomes.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER and the First Follow-up Report rated Cuba as follows in relation to technical compliance:

**Table 1. Technical Compliance Ratings, July 2015**

<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	LC	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*	C	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	PC	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>
PC	C	LC	LC	PC	LC	LC	LC	LC	LC

\* Rating given in the First Follow-up Report of the country

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://gafilat.org/index.php/es/biblioteca-virtual/miembros/cuba/evaluaciones-mtuas-6/124-mer-cuba-eng>

ii) First Follow-up Report of Cuba, <https://gafilat.org/index.php/es/biblioteca-virtual/miembros/cuba/informes-de-seguimiento-6/1250-1st-re-rating-on-the-fourth-round-mutual-evaluation-of-cuba>

3. Considering these results, GAFILAT placed Cuba under the regular follow-up process.<sup>1</sup> The Executive Secretariat of GAFILAT evaluated Cuba's request for a new technical compliance rating and prepared this report.

<sup>1</sup> The regular follow-up is the default monitoring mechanism for all countries.



4. Section III of this report summarises Cuba's progress in improving technical compliance. Section IV shows the progress made by the country in complying with Recommendations that were amended since the date of adoption of its MER. Finally, Section V presents the conclusion and a table showing which Recommendations were re-rated.

### **III. OVERVIEW OF THE PROGRESS MADE TO IMPROVE TECHNICAL COMPLIANCE**

5. As it was mentioned above, this section summarises Cuba's progress in improving its technical compliance by addressing the technical compliance deficiencies identified in the MER.

#### **3.1 Progress in approaching technical compliance deficiencies identified in the MER**

6. Cuba addressed its technical compliance deficiencies identified in the MER in relation to the following Recommendations:

- Recommendation 31, originally rated PC
- Recommendation 28, originally rated PC, and
- Recommendation 35, originally rated PC.

7. As a result of this progress, Cuba was re-rated in relation to Recommendations 31, 28 and 35.

#### ***Recommendation 31 – (originally rated PC – re-rated C)***

8. Regarding the deficiency identified in criterion 31.2, paragraph TC 82 of the MER points out the lack of a specific legal framework to apply the special investigative techniques contained in the Vienna and Palermo Conventions that the country has ratified.

9. On November 18, 2019, the country issued Decree-Law 389 amending the Criminal Code, the Law against Terrorist Acts and the Law of Criminal Procedure, dated October 8, 2019 (Decree 389), containing various amendments in the AML/CFT field, in particular the amendment to Book Two, Title I, Chapter II of the Law of Criminal Procedure (Article 4.1 Decree 389), which includes Article 110 on special investigative techniques.

10. In this sense, this article considers as special investigative techniques, among others: 1) Undercover investigation, 2) Use of electronic or other types of surveillance, and 3) Controlled deliveries; they should be used whenever they are suitable or necessary for the investigation of criminal acts that, due to their seriousness, connotation or organization, require their implementation. It



should be noted that use of Cooperating witness is also contained within art. 110 of Decree-Law 389 (2019). However, for the purposes of studying this Recommendation, this figure was approached as a legal tool in order to strengthen a judicial strategy for the presentation of the case by the prosecutor.

11. Regarding the legal capacity of the Cuban authority to access computerized systems, the aforementioned modification clarifies in numeral 11, that it is considered "electronic surveillance" or of another nature, among others, to the intervention of the communications of any type, to access to computerized systems and other technical resources that allow knowing and demonstrating the criminal act.
12. In conclusion, it is considered that Cuba has made important efforts by issuing Decree-Law 389/2019, through which various amendments to the criminal types of ML and TF are addressed, as well as the amendment to the Law of Criminal Procedure which includes a Chapter on special investigative techniques as required by criterion 31.2.
13. For this reason, Cuba is considered to have overcome the deficiency identified in criterion 31.2 and **it is proposed that the rating be raised to Compliant.**

### ***Recommendation 28 – (originally rated PC – re-rated C)***

14. With regard to the deficiency identified in criterion 28.4, paragraph TC 303 of the MER states that the Ministry of Labour cannot conduct ML/TF supervision, nor can it apply a regime of sanctions for self-employed bookkeepers (who carry out accounting activities under the AML/CFT regime) in the event of non-compliance.
15. In this regard, on February 21, 2020, Cuba issued Resolution No. 86, which establishes the functions and working system of the Ministry of Finance and Prices as the governing body for the activity of self-employed workers such as the following: 1) Bookkeepers, 2) Insurance agents and 3) Tax Intermediaries (Article 2.1 Resolution No. 86), instructs the competent authorities to carry out supervision, monitoring, and control based on the risks identified for bookkeepers and other self-employed workers.
16. Similarly, at the municipal and provincial level, the same supervisory and sanctioning powers mentioned above are granted to the provincial and municipal Finance and Prices Directorates for Tax Intermediaries' activities. (Article 5.1 Resolution No. 86). Likewise, Chapter IV of said resolution establishes the regulations on the measures to be adopted and the competent authorities in AML/CFT/CFP matters (Article 9), in particular considering Bookkeepers as Reporting Institutions to be supervised in AML/CFT matters through the functional control procedure (Article 10).



17. In addition, Article 13 of Resolution No. 86 establishes the procedure by which the competent authority—once it detects deficiencies or AML/CFT/CFP violations—must proceed to notify the competent authority of the non-compliance, conduct a follow-up, establish remedial plans and measures, or if necessary impose sanctions, including temporary or permanent suspension of operations. In this regard, Chapter I of Decree-Law 357 “On personal violations in the exercise of self-employment” of March 17, 2018, in its Article 2.1. establishes the measures applicable to bookkeepers and other reporting institutions when they contravene the applicable regulations, which consist of the following:
- a) Preventive notification
  - b) Fine
  - c) Cancellation of the authorisation to exercise the self-employed activity, for a period of up to 2 years
  - d) Permanent cancellation of the authorisation to exercise the self-employed activity
  - e) Confiscation of instruments, equipment, tools, raw materials, and other inputs, as well as processed and finished products resulting from self-employment; and
  - f) Confiscation of the housing, under the terms and conditions set forth in Chapter III of the Decree-Law.
18. From the foregoing, it is estimated that Cuba overcomes the deficiency identified for criterion 28.4.
19. Furthermore, with regard to the deficiency identified in criterion 28.5, paragraph TC 304 of the MER states that the Ministry of Justice (MINJUS) and the Ministry of Labour are not yet developing risk-based supervision on ML/TF matters to other DNFBCs.
20. In this regard, Cuba has issued various sectoral AML/CFT regulations for DNFBCs, including:

**A) For Notaries:**

21. On January 6, 2016, the Notary’s Office of the Ministry of Justice issued Instruction No. 1 containing the specific control guide intended to prevent and combat ML/TF/FP. Section one of this instruction empowers the MINJUS (through the Notary’s Office and its various Provincial Directorates of Justice) to control and supervise the activity of notaries. Supervision is carried out by means of two complementary mechanisms: a) Through self-control of the specific function carried out daily by each Notary, and b) Through self-control of the periodic function carried out by Principal Notaries to self-assess the group’s management.



22. In order to carry out these self-control measures, control and supervision guidelines are established for notaries to prevent and combat ML/TF/FP, as well as a classification of the remarks, infringements, and technical deficiencies detected.
23. In turn, the country issued Methodology No. 2/2017 with procedures and measures to prevent public notaries from being used by unscrupulous persons in the use of front men or name lenders, in acts of transfer of ownership of housing and motor vehicles.
24. In addition, Annex IV of the Control Guide for AML/CFT/CFP established in Instruction 1 (2016) carries out a RBA classifying notaries as RIs in categories of higher and lower risk in accordance with the nature of the acts they perform. In this sense, those of the Special Notaries are classified as notaries with higher risk and those of lower risk are those assigned to civil service companies sponsored by the MINJUS and those assigned to the departments of Justice. Additionally, section II of said annex establishes: a) the notarial acts of higher risk, their mitigating factors and risk factors, and b) the notarial acts of lower risk, their mitigating factors and risk factors. Likewise, some geographic risk factors are weighted.
25. Regarding the frequency and intensity of AML/CFT supervisions, in addition to the fact that the second paragraph of the first section of Instruction 1 states that the periodic charge self-control is executed at least 4 times a year, Annex IV of the Control Guide for AML/CFT/CFP prevention established in Instruction 1 (2016), indicates that supervisors carry out the necessary checks in relation to the red flags identified, with the organizations and entities that are required, through the provincial directorates of Justice or the Ministry of Justice, as appropriate. In this sense, it is estimated that the constant review of alerts is carried out based on the understanding of risks and the characteristics of the RI, as required by the criteria.

#### **B) For Lawyers:**

26. On April 17, 2017, MINJUS issued Methodology No. 4 specifying ML/TF/FP risk-based supervisory actions for lawyers and establishing the verification of the application of disciplinary measures for non-compliance with the obligation to submit STRs.
27. In this regard, the following will be essential elements in the supervisions: 1) Verification that the corresponding CDD measures have been adopted in the legal services contract signed, 2) Classification and verification of the documents provided, 3) Understanding and collection of information on the corporate or business purpose of the business relationship, 4) Verification of the application of disciplinary measures for failure to submit information, 5) The obligation to



inform the supervisor when failure to submit STRs is detected, and 6) Assessment of the effectiveness of the measures imposed within one year.

28. For its part, on May 19, 2017 the National Board of the National Organisation of Collective Law Firms (ONBC, Organización Nacional de Bufetes Colectivos) issued Agreement No. 589 for the prevention of activities potentially related to ML/TF/FP, which addresses relevant aspects of risk-based supervision, the issuance of STRs and the procedure for the application of corrective measures for non-compliance with these provisions by the sector.
29. Chapter III, Rule 22 of the ONBC Standards and Procedures Handbook identifies lawyers who, due to the nature of their acts, are subject to AML/CFT/CFP measures; mainly those who provide professional services in operations involving the purchase and sale of real estate and the creation, operation, or management of companies or firms or other forms of management authorised by law (Article 1). Likewise, art. 6 of the aforementioned Manual, establishes the obligation of the supervisory Provincial Directorates to identify and evaluate the vulnerabilities of each supervised entity, taking into account the intensity with which due diligence measures are applied, in accordance with their risks, the characteristics of each place, the particular threats and their possible consequences.
30. Provincial supervision and control sub-directorates are required to carry out control actions every six months by monitoring contracted matters (whether they are in progress or completed), taking into account the red flags identified and prioritising the geographical areas of greatest risk. (Article 19). It should be noted that the supervisory guidelines contained in Annex 2 to Standard 22 are applicable to the implementation of monitoring, supervision and control activities. It addresses the various aspects to be verified as general prevention requirements, customers red flags, peculiarities of acts of transfer of ownership and other acts and aspects related to advice to legal persons. In this sense, it is understood that the determination of the frequency and intensity required for AML/CFT supervision in accordance with the Standard is based on the understanding of the risks that derive from the alerts themselves and the prioritization of other factors such as the geographic one.

### **C) For Bookkeepers:**

31. The supervision, monitoring and control based on the risks identified to the bookkeepers is established in Resolution No. 86 according to the analysis of criterion 28.4, empowering the Ministry of Finance and Prices in its capacity as supervisor to execute the actions of supervision, monitoring and control that correspond, based on the risks identified.
32. Also, the obligation to supervise in a risk-sensitive manner is contained in subsection e) of art. 7 of Res. 86 (2020) where the preparation and periodic





updating is addressed, jointly with the RIs and in the manner determined, to guarantee that this sector has greater effectiveness in AML/CFT.

33. In conclusion, from the information described above, it is noticed that supervisors take into account the ML/TF risk profile of DNFBPs when applying the RBA as explained and, to that extent, they also consider the degree of discretion required in this criterion. In addition, the country has demonstrated significant progress in risk-based supervision for the DNFBP sectors that were pending under the MER (notaries, lawyers, and accountants). In this regard, the adoption of different regulatory bodies for the diversity of sectors has made it possible to define the powers and obligations of the competent authorities for AML/CFT supervision in these sectors. For its part, the amendments made to the regulatory framework already contain the sanctioning regime required for bookkeepers in case of non-compliance with AML/CFT regulations.
34. For this reason, Cuba is considered to have overcome the deficiency identified in criterion 28.5 and **it is proposed that the rating be raised to Compliant.**

### ***Recommendation 35 – (originally rated PC – not re-rated)***

35. Regarding the deficiency identified in criterion 35.1, paragraph 551 of the MER states that the amount of the maximum fines applicable to legal entities appears limited.
36. In this regard, on September 14, 2018, Cuba issued Decree-Law 363 which, in its Article 10, establishes the type of violations that promote illegal activities, including ML/TF/FP, among them: 1) Failure to file STRs, 2) Concealment, falsification, and inaccuracy of such reports, as well as failure to submit them, 3) Failure to comply with the obligation to freeze without delay any funds of persons or entities designated by the UNSC, or by virtue of domestic lists, and 4) Violation of instructions and circulars issued by the Central Bank of Cuba.
37. In order to understand the scope and proportionality of the sanctions in this Recommendation, it is important to take into account the monetary and exchange peculiarities of the country.<sup>2</sup>

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<sup>2</sup> The currency used by the population in Cuba for: a) transactions carried out between Cubans in national territory, b) for the payment of goods and services offered by the State and companies with state capital to Cubans and c) for compliance with the various fines contained in its laws and regulations, is the Cuban Peso (CUP) - such is the case, for example, of the fines contained in arts. 15 to 17 of DL 363-. However, it was not possible to officially obtain the CUP exchange rate apart from the different open sources of information consulted, which rate it at 0.037 CUP per 1 US dollar.

On the other hand, in parallel the country uses the so-called Cuban Convertible Peso (CUC) that is used for the acquisition of consumer goods and services in the network of establishments created to market their products and services in that currency. In this regard, according to information from the Central Bank of Cuba, the exchange rate from CUC to US dollars is 1 CUC for every US dollar.<sup>2</sup> Although, as mentioned previously, the sanctions in Cuban regulations (for both natural and legal persons) are expressed in CUP, the country has stated that for the sanctions corresponding to legal persons, the



38. In this sense, article 15 of Decree-Law 363 establishes the ranges between which the value of the fine to be applied is determined, either for natural or legal persons. For natural persons, the fine is up to 50 thousand CUP (approx. 1,850 USD) and for legal persons, the fine is up to 5 million CUP (approx. 185,000 USD). However, the fines can reach up to 15 million CUP (approx. 555,000 USD), depending on the assessment criteria. In this sense, for example, the article establishes that, in determining the value of the fine at the time of its application, assessment criteria related to the degree of responsibility or the existence of intent, the continuity or persistence of the offending behaviour and the nature of the damage caused must be taken into account, ensuring that the amount of the fine is proportional to the impact of the behaviour. In turn, Article 16 provides for aggravating circumstances of up to 7.5 million CUP (approx. 277,500 USD) in fines, and mitigating circumstances of up to half the amount of the fine, depending on the characteristics of the party bound to pay it and the consequences of the infringement. In this regard, Article 17 considers the recidivism of a natural or legal person as a penalty, the amount of the fine is increased by up to twice the amount that would otherwise correspond, resulting in fines of up to 15 million CUP (approx. 555,000 USD).
39. In this regard, it is recognized that the Cuban regulations incorporate, through the assumptions described above, broader sanctions for non-compliance in the matter, and it is considered that these amounts comply with the proportionality and dissuasiveness required by the Standard.
40. From the foregoing, it is estimated that Cuba addresses the deficiency identified for criterion 35.1 related to the maximum amount of fines applicable to legal persons.
41. In addition, according to paragraph 308 of the MER, the lack of a sanctioning regime for money order companies is also identified as a deficiency.
42. In this regard, Resolution No. 152 of December 17, 2014 of the BCC granted a license to the Cuban Post Office Group (Grupo Empresarial de Correos de Cuba) to provide national and international money order services (Declaration One) and includes it as an AML/CFT/CFP RI (Declaration Two) in accordance with the provisions of Decree Law 317/2013 and its complementary regulations.
43. Consequently, money order companies, in their capacity as RIs, are subject to Article 1.1.2 of Decree Law 363 on administrative violations of banking, financial and exchange regulations. In this regard, under Article 12 of the said decree-law, money order companies that commit the various AML/CFT/CFP violations (Article 10) may be subject to one or more of the following measures: 1) Fine, 2)

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applicable exchange rate is the established for the CUC, however, this statement could not be corroborated within the legal framework.



Surveillance regime exercised by the Superintendence of the Central Bank of Cuba, in the case of financial institutions licensed by the Central Bank of Cuba, 3) Preventing the continuity of the infringing conduct, 4) Temporary freezing of accounts, 5) Order to close accounts, 6) Suspension of new authorisations to open accounts for a period of up to one calendar year, 7) Suspension of the participation of financial institutions in the systems operated by the Central Bank of Cuba and the various services it provides, 8) Confiscation of the proceeds from the commission of the offences, 9) Confiscation of numismatic pieces, 10) Intervention by financial institutions established in the country, 11) Suspension of authorised operations or activities, or modification or cancellation of licences issued by the Banco Central de Cuba, and 12) Arrangements for the liquidation of financial institutions.

44. In addition, on May 12, 2017, the President of Cuban Post Office Group, through the issuance of Resolution No.73, enforced the measures and sanctions to be applied for non-compliance with the obligations provided for in the legal provisions on AML/CFT matters. In particular, Declarations Five and Six establish the following sanctions:
  - 1) Written warning
  - 2) Partial modification of the licence
  - 3) Licence cancellation
  - 4) Additional information regime
  - 5) Orders to comply with specific instructions to restore the legal order that has been broken.
45. From the foregoing, it is estimated that Cuba overcomes the deficiency identified for criterion 35.1.
46. With regard to the deficiency in paragraph 309 of the MER on the non-existence of the range of sanctions applicable to bookkeepers, in accordance with the analysis of criterion 28.4, the deficiency has been analysed and addressed.
47. In addition, with regard to the deficiency in paragraph 310 of the MER regarding the sanctioning regime applicable to NPOs, although the adoption of the Law of Associations—which includes sanctions for the sector—is foreseen in the legislative calendar up to 2022, the country shows some progress in this area.
48. Through Resolution No. 30 of April 23, 2019, the “Regulations for the Assistance and Control of Foundations and Associations for which the Ministry of Culture is the Liaison Body” was approved, applicable to all forms of association under the regulation and supervision of the Ministry of Culture (MINCULT). Article 14 establishes the following behaviours as infringements: Those arising from the serious violation of a legal provision, resulting in damage to the prestige of the Foundation, Association, body, or country. Meanwhile, Article 15 lists the serious



infringements, namely: 1) Conducting activities that are harmful to the social interest, 2) infringing legal provisions, statutes and regulations, 3) carrying out commercial activities that have not been approved, 4) promoting illegal activities, including ML, TF and FP, 5) receiving financial funds or material resources from donations abroad without complying with the established procedure, 6) using financial funds in activities that are contrary to the purpose for which they were established, and 7) others that, due to their effects, deserve to be classified as serious.

49. In this respect, the following measures can be implemented to the NPOs:
  - 1) Freezing of accounts (according to Instruction No. 26/2013 of the Superintendent of the BCC),
  - 2) Request to the President of the Foundation (Resolution No. 30, Article 16.1, subparagraph (a) of the MINCULT),
  - 3) Promotion of the revocation of the President of the Foundation (Resolution No. 30, Art. 16.1, subparagraph (b) of MINCULT),
  - 4) Withdrawal of certificate, licence, and registration (Resolution No. 30, Article 16.1, subparagraph (c) of the MINCULT), by Law 54 that applies to all Associations and its Regulation Resolution No. 56/86 Article 79 subsection c) for breaching current laws), and
  - 5) Filing of civil, administrative or criminal actions with respect to the NPOs or the persons acting on their behalf, as appropriate.
50. The aforementioned measures are applicable to the offending Foundation and Association pursuant to the Regulation, without prejudice to any civil or criminal liability that may arise (Resolution 30, Article 18 of MINCULT).
51. Likewise, Article 17 of the Regulation of the Law of Associations provides that, in the event of a serious infringement by an Association, the Directorate of Associations of the Ministry of Justice must be requested to apply an administrative sanction, both to the Association and to its directors, as established in the Regulation of the same law.
52. Although to date fines to the sector are not part of the sanctioning system, as an instrument in the range of sanctions a country can apply in accordance with the footnote to criterion 8.4 b), it is contemplated that they will be addressed once the Law of Associations is refined in accordance with the legislative calendar in 2022.
53. Despite the progress detailed above, this law needs to be improved so that the sanctions to associations for which MINCULT is not the liaison body provide for a greater range of sanctions.
54. Moreover, in accordance with the exception contained in Article 2 of Law 54/1985 (Law of Associations), mass and social organisations, as well as



ecclesiastical and religious associations are not subject to this body of law, since their control is governed by actions of the Comptroller General of the Republic (CGR) pursuant to Article 12.2 (c) of Law 107/2009 "Law on the Comptroller General of the Republic," which refers only to the control and use of public funds received by them.

55. Cuba indicated that such control actions by the CGR will include, when appropriate, measures of an administrative nature in accordance with Decree-Laws 196 and 197 against those directly and collaterally responsible, in addition to measures of a criminal nature. However, with respect to the enforcement of DL 196, in accordance with its Article 2, on Public Officials (*Cuadros del Estado*), it is considered that it is not enforceable against mass and social organisations, since its nature is associative and entails a privacy dimension. Furthermore, with respect to the application of DL 197—although in accordance with Article 1 (b), said law is applicable to the units that depend on political, social, and mass organisations—it is considered that this body of law only governs the legal-labour relations of Cuban citizens and foreigners residing in the country who serve as leaders or officials of the aforementioned forms of association, but not with respect to the sanctions for non-compliance with their obligations established under R.8.
56. In addition, with respect to ecclesiastical or religious associations, although they are constitutionally recognised in the country (Article 15), there is no other regulation that requires compliance with the obligations established under R.8, and therefore no range of sanctions applicable to this type of association is identified in line with this criterion.
57. From the above, it is estimated that Cuba has met to a good extent the deficiency identified in criterion 35.1.
58. With regard to the deficiency identified in criterion 35.2, paragraph TC 331 of the MER states that the sanctions applicable to directors and/or senior managers for the cases that apply in Recommendations 8, 23 and for the Post Office Group are not clear.
59. In this regard, administrative sanctions are applicable to associations in Cuba in accordance with Article 19 of the Law of Associations (Law 54/1985 and its Regulations), as well as to its directors for infringing the provisions of the law or the internal by-laws or regulations and the rules on relations. Measures will be adjusted in the light of the infringement committed, the seriousness of the events, and the damage caused.
60. As indicated in the previous criterion, associative forms such as mass and social organisations and ecclesiastical or religious associations, among others, are exempted under Article 2 of the Law of Associations.



61. However, for forms of association for which MINCULT is the liaison body, there are sanctions that apply to both the association and its directors (Art. 16.1 of MINCULT Res. No. 30) which consist of:
- 1) Request to the President of the Foundation
  - 2) Promotion of the revocation of the President of the Foundation, and
  - 3) Request for the termination of the foundation.
62. It should be noted that in accordance with Article 16.1(2) of MINCULT Resolution No. 30, in order to determine the measures to be applied, the nature of the infringement, the results of comprehensive and individual checks, the characteristics of the offender, the degree of participation and responsibility, the seriousness of the damage caused, as well as the impact of the events on the system of culture or image of the country are taken into account.
63. With regard to the sanctions applicable by the ONBC pursuant to R.23, in the case of lawyers, Article 27 of Decree-Law 81 establishes the range of sanctions to be imposed, such as:
- a) Warning
  - b) A fine not exceeding 10% of their monthly remuneration
  - c) Transfer to a lower level position
  - d) Permanent separation from ONBC.
64. In turn, lawyers belonging to Specialised Services Firms, in their capacity as public officials, are subject to the disciplinary regime of Articles 19 and 20 of Decree-Law 197, with the following measures:
- a) Private warning
  - b) Warning to the Board of Directors
  - c) Warning to the working group where the offender operates
  - d) Warning to the collective of the work centre to which the offender belongs
  - e) Temporary demotion to a lower rank position and similar work conditions, for a term of six months up to one year
  - f) Temporary demotion to a lower position, and different working conditions, for a period of six months to one year
  - g) Permanent demotion to a lower position, and similar working conditions
  - h) Permanent demotion to a lower position, and different working conditions
  - i) Permanent separation from the entity
  - j) Permanent separation from the sector or activity.



65. As far as notaries are concerned, since they have the status of public officials, the disciplinary regime of Decree-Law 197 is applicable to them, as described in the previous paragraph.
66. In turn, in accordance with paragraph 3 a) of Article 2.1 of Decree Law 317/2013 and the third resolution of BCC Resolution No. 73/2014, DNFBPs in Cuba (including notaries) are subject to the AML/CFT/CFP regime and when they fail to comply with the provisions on the matter they shall be administratively sanctioned, in accordance with the applicable legislation, without prejudice to any criminal and civil actions that may be taken.
67. In the case of bookkeepers, the sanctions do not apply to senior managers and directors as these are natural persons authorised to work on a self-employed basis.
68. With regard to the sanctions applicable to the Post Office Group, and in accordance with paragraph 619 of the MER, the administrative-disciplinary responsibility applied concomitantly within the framework of the civil service (Code of Ethics for State Employees, Decree-Laws 196 and 197), is applicable to all directors and/or senior managers related to the civil service and in this case, it is applicable to the directors and/or senior managers of the sector in their capacity as reporting institutions.
69. In addition, Decree-Law 363 of September 14, 2018, established the regime of measures applicable to financial institutions, representation offices, non-financial entities which provide assistance services to financial, collection, payment, or other institutions, as well as to natural or legal persons which incur in violations provided for in that law. In this regard, the Post Office Group, as a non-financial entity providing assistance services to FIs, applies Article 1.1 on the liability of legal persons regardless of the potential liability of managers, officials, and workers who are considered to be the perpetrators of the infringements provided for in this Decree-Law.
70. Finally, Decree-Laws 196 and 197 on the Working System with State and Government Officials and on the Working Relations of personnel appointed to hold positions as managers and officials are also applicable to them, which contain the ethical regulations and disciplinary regime of managers, executives and officials.
71. From the above, it is estimated that Cuba has largely overcome the deficiency indicated in criterion 35.2, except for NPOs and other associative forms other than those regulated by MINCULT.
72. In conclusion, Cuba has demonstrated significant progress in establishing sufficiently proportionate and dissuasive amounts of sanctions for the various reporting institutions that presented deficiencies in accordance with the above



analysis. At the same time, it was possible to verify that there exists a legal framework that provides for the sanctioning regime applicable to money order companies in the AML/CFT field, as well as to bookkeepers.

73. In relation to NPOs under the regulation of MINCULT, even if the improvement to the Law of Associations that the country will make so that it includes fines as one of the sanctions enforceable for non-compliance with AML/CFT obligations is considered necessary, it should be highlighted that the new MINCULT regulations, in its capacity as liaison body, provide for sanctions for its reporting institutions. Such regulations set forth a range of effective, proportionate, and dissuasive sanctions as required under the criterion.
74. In turn, as Cuba pointed out, the Law of Associations exempts from compliance to mass and social organisations, and ecclesiastical and religious associations, since these are subject to the regulations of the CGR under Article 12.2(c) of Law 107/2009 entitled "Law on the Comptroller General of the Republic." However, from the reading of the law, it can be seen that this authority only has the power to control and use the public funds that these forms of association may receive.
75. In addition, the deficiency indicated in criterion 35.2 is partially met for NPOs and other forms of associations other than those regulated by MINCULT and fully met for lawyers, notaries, and Post Office Group. In this sense, **it is considered that the rating should corresponds to Largely Compliant** since minor deficiencies still remain.

#### **IV. OVERVIEW OF THE PROGRESS MADE ON THE RECOMMENDATIONS AMENDED BY THE STANDARD SINCE THE MER**

76. Cuba addressed the new technical compliance requirements with respect to the following Recommendations:
  - Recommendation 2, originally rated C
  - Recommendation 5, originally rated C
  - Recommendation 8, originally rated PC
  - Recommendation 18, originally rated C
  - Recommendation 21, originally rated C, and
  - Recommendation 15, originally rated C.

#### ***Recommendation 2 – (originally rated C – it remains C)***





77. With regard to compliance with criterion 2.4, which provides that competent authorities should have similar cooperation and, where appropriate, coordination mechanisms to combat TF, Cuba, in accordance with Article 19 of Decree Law 317, established the Coordinating Committee, which is responsible for drafting, proposing the AML/CFT national assessment, and coordinating policies and actions to combat ML/TF/FP or other related behaviours that are similarly serious.
78. In addition, BCC Resolution No. 41/2014 describes the coordination functions and mechanisms in this area, in particular paragraphs a), i) and j), respectively, which describe a risk-based AML/CFT/CFP strategy proposal and the participation of the Coordinating Committee.
79. From the foregoing, it is estimated that Cuba has addressed criterion 2.4.
80. As regards compliance with criterion 2.5 on the cooperation and coordination between the relevant authorities to ensure consistency of the AML/CFT requirements with data protection and privacy regulations and other similar provisions, in accordance with articles 46, 47, 48, 50 and 97 of the Constitution, Cuba enshrines the rights of data protection and privacy of personal information, and also acknowledges the right of all persons to access their personal data in registers, files, or other databases and information of a public nature, as well as to request its non-disclosure and its due amendment, rectification, modification, updating, or cancellation, in accordance with the provisions of the law.
81. In this regard, the DGIOF and the competent authorities involved in the exchange of information are governed by Decree-Law 199 on the Security and Protection of Official Classified Information and Resolution No. 1 of the Minister of the Interior, which implements the regulations of the aforementioned Decree-Law. Under these guidelines, it establishes its system of protection, conservation of documentary information, and collection in technological devices, while guaranteeing its due protection.
82. For this reason, Cuba is considered to have addressed criterion 2.5 (in addition to 2.4) and **it is proposed that the rating be kept as Compliant.**

### ***Recommendation 5 – (originally rated C – it remains C)***

83. Regarding compliance with criterion 5.2 bis, which states that the offence of TF must include the financing of travel of individuals who travel to a State other than the State of residence or nationality for the purpose of perpetrating, planning, preparing, or participating in terrorist acts or providing or receiving terrorist training, Cuba made the respective legal amendments.



84. In this regard, on October 8, 2019, Decree-Law 389 was issued amending the Criminal Code, the Law against Terrorist Acts and the Law of Criminal Procedure. Article 3 provides for the amendment of Article 25 of Law 93 "Law against Terrorist Acts", in order to include the relevant element of UNSCR 2178 regarding the threat posed by foreign terrorist fighters by criminalising the financing of travel of individuals who travel to States other than the State of their residence or nationality for the purpose of perpetrating, planning, preparing or participating in terrorist acts or providing or receiving terrorist training.
85. From the foregoing, it is considered that Cuba addresses criterion 5.2 bis and **it is proposed that the rating be kept as Compliant.**

### ***Recommendation 8 – (originally rated PC – it remains PC)***

86. In Cuba, civil societies are recognised as forms of association under Article 396.2 of the Civil Code (Law 59). For their part, companies, associations, political, mass, and social organisations and their enterprises and foundations are classified as LPs in accordance with Article 39.1 of the same Civil Code in paragraphs (c), (ch), and (d) respectively.
87. In accordance with Article 22 (f) of the Constitution, one of the forms of ownership is that exercised by associations over their property for the fulfilment of non-profit purposes. For its part, Article 14 of the Constitution recognises as one of the forms of association *"mass and social organisations that bring together different sectors of the population, represent their specific interests, and incorporate them into the tasks of building, consolidating and defending the socialist society..."* According to the information provided by the country, these types of associations are mainly made up of neighbours, students, women, peasants, and workers. Additionally, Article 15 of the Constitution recognises religious institutions and fraternal associations.
88. Regarding the fulfilment of criterion 8.1 a), according to the National Registry of Associations of the Directorate of Associations of the Ministry of Justice, there are currently 2,244 registered forms of different types of associations (associations of cultural nature, environment, education, unions, foundations, mass and social organisations and other forms of associations) 50% of which are Fraternal Associations (1151). The associations contemplated under Law 54 (Law of Associations) have methodological attention in accordance with Resolutions No. 5 and 6 of 2018, of the Directorate of Associations of the Ministry of Justice, which refine the "Methodology for the Inspection of Associations" and the "Methodology for the Inspection Visits to Liaison Bodies," where the aspects of TF risks are specified (Articles 8 (d), (e) and (f) and 3 (a) and



(b), respectively). In this sense, Resolutions No. 5 and 6 of 2018 described above are only applicable to the forms of association contemplated in Article 2 of the Law of Associations and not to mass and social organisations and ecclesiastical or religious associations.

89. Based on the description of all the forms of association recognised in the country, Cuba considers 9 NPOs as the most likely to represent an interest for TF misuse (7 Foundations and 2 Associations) and all of them operate under the supervision of the MINCULT as their Liaison Body.
90. The country points out that in the 2017–2019 NRA update, the TF risks of 9 NPOs were evaluated and a low TF risk was determined for all of them, mainly due to the nature of the activities they carry out and the set of mitigating factors established to control their performance. However, despite the information presented by Cuba and the information that was available, such as the 2014 *“Methodological guide for the prevention and detection of transactions in the fight against money laundering, terrorist financing and the movement of illegal capital, and the evaluation and application of the national risk-based approach (AML/CFT Methodological Guide),”* already evaluated in the 2015 MER, it is estimated that there is an asymmetry with respect to the understanding of the activities and nature of the forms of association in the country and the category of NPOs as required by the Standard and, consequently, their adequate identification.
91. In this regard, Cuba points out that no mass or social organisation, nor any ecclesiastical or religious association, has been identified as bearing any vulnerability associated with TF. In this connection, the country reported that mass and social organisations, for example, only receive funds from their members to cover expenses related to their functioning in accordance with their statutes and missions in society. Furthermore, with regard to ecclesiastical or religious associations, Cuba indicated that they are not dedicated to the collection or disbursement of funds for charitable purposes, and that in the event that any donation is received from abroad, it goes through the control process established by the Ministry of Foreign Trade and Investment. However, with respect to ecclesiastical or religious associations, for instance, it is not contemplated that they may be abused for TF purposes, for example, through the reception of resources at the domestic level in the form of donations combined with the lack of applicable regulations to monitor the use of such funds in accordance with the purpose and objectives declared by such associations.
92. With regard to criterion 8.1 b) the country indicates that in its NRA, the following were identified as TF threats: i) terrorist leaders and organisations based outside Cuba and whose objective is to commit actions on Cuban territory, ii) the incidence of travellers and persons who may use Cuba’s geographical position for the commission of this illicit, iii) the abuse of banking services and NPOs for



the purposes of TF, and iv) the proceeds of illegal origin or not, which are generated, entered, returned, or passed through its territory. However, there were no supporting documents to verify this information.

93. In addition, Article 19.1 of MINCULT Resolution No. 30/2019 establishes that this authority must prepare and keep an updated risk plan where the risks faced by foundations and associations under its monitoring are identified and analysed, including the prevention of ML/TF/FP. In this regard, the country emphasised, that after analysing the universe of forms of association, the 9 NPOs related to MINCULT were identified again, in view of the fact that in the rest of the associations, their nature, statutes, context and risk had not changed. Beyond the normative reference, the existence of a risk plan to address these issues in accordance with MINCULT Res. No. 30/2019 could not be verified.
94. Regarding criterion 8.1 c), Cuba has measures established in its regulations, such as those related to the process of opening bank accounts for associations regulated under BCC Res. No. 49/2003, which provides for mandatory CDD elements to be fulfilled. Likewise, Article 9, paragraphs (b) to (g) of MINCULT Resolution No. 30/2019 empowers said authority to control accounting and other aspects that justify the expenditure, the source of income, and to review the use of property received, in order to detect that it is not used to finance illegal activities or other unauthorised activities.
95. For their part, the forms of association covered by the Law of Associations are subject to MINJUS Resolutions No. 5 and 6/2018, both in the performance of inspections to associations, and inspection visits to the liaison bodies, where specific aspects of CFT are provided for.
96. However, beyond the measures described above for the forms of association under the responsibility of MINCULT and MINJUS, it was not possible to assess the corresponding measures for ecclesiastical and religious organisations in order to be able to take effective and proportionate action to address the risks identified in accordance with the criteria.
97. With respect to criterion 8.1 d), the Coordinating Committee for the Prevention and Fighting of ML/TF, by means of BCC Resolution No. 48/2014, implements the "Methodological guide for the prevention and detection of transactions in the fight against ML/TF and the movement of illegal capital, and the evaluation and application of the national risk-based approach," where the diagnosis, analysis, Strategy and Action Plan are designed for three years, with the annual monitoring of the fulfilment of objectives and an annual updating scheme.
98. In addition, Article 19.1 of MINCULT Resolution No. 30 establishes that this authority must keep an updated risk plan where the risks faced by foundations and associations under its monitoring are identified and analysed, including the



prevention of ML/TF/FP. However, it was not possible to identify the existence of a provision that would provide for the specific obligation of regular re-evaluation for mass and social organisations or ecclesiastical or religious organisations, which prevents reviewing new information on the operations and possible TF vulnerabilities of these forms of association and ensuring the effective implementation of measures in accordance with the criteria.

99. From the above, it is estimated that Cuba has partly met criterion 8.1.
100. Furthermore, with regard to criterion 8.2 a), the Law of Associations (Chapter II, IV, and V) and Resolution No. 53 (Regulations) establish different principles and guidelines for the process of incorporation, registration, and control over associations and foundations, thus promoting their transparency, integrity, and public trust. For their part, with regard to the various forms of association such as mass and social organisations and ecclesiastical or religious organisations, these policies are found in the Cuban Constitution (Articles 14 and 15) and in Articles 396.2 c) and 39.1 (d) of the Civil Code.
101. Likewise, on criterion 8.2 b), with regard to outreach and educational activities to generate greater awareness among the forms of association, Cuba points out that different educational encounters are held between the DGIOF, the corresponding Liaison Body (MINJUS, MINCULT, or other authority, as the case may be) and the different forms of association. In that sense, for example, Res. No. 5/2018, which establishes the Methodology for carrying out inspections of associations whose liaison body is the MINJUS, in particular, paragraph 8 (f) provides that during inspections, the execution of collaborative projects must be verified in accordance with the approved rules to avoid risks and prevent them from being used for TF. Likewise, Cuba pointed out as a recent outreach activity in 2020, within the framework of the COVID-19 pandemic, some training actions with reporting institutions of different forms of association in 8 provinces of the country.
102. Regarding the approach and educational programs for its various forms of associations, the information that was analysed did not make it possible to give an account of the scope and approach adopted in the country's efforts to comply with the provisions of this criterion.
103. With regard to criterion 8.2 c), the country indicates that the ML/TF sectoral risk assessment for the 2017–2019 scenarios and the corresponding assessment for 2020–2022 will be adopted as a practice to improve the approach to identified risks and vulnerabilities, protecting NPOs from TF abuse. Although, the aforementioned, could not be verified beyond the following actions stated by the country to mitigate this risk in accordance with its schedule:



1. Execution of control and monitoring actions by MINCULT in compliance with Resolution No. 30/2019 and the application of the corresponding corrective measures. Term: Three years
  2. Inspection visits to MINCULT by the MINJUS Directorate of Associations. Term: Three years
  3. The DGIOF shall develop targeted training actions and issue good practice guides. Term: Three years
  4. Enactment of the new Law of Associations by the National Assembly of People's Power. Term: As of 2022.
104. As a result, the country's actions to develop and improve best practices for addressing TF risk and vulnerabilities of mass and social organisations and ecclesiastical or religious organisations are not addressed as required by the criterion.
105. With regard to criterion 8.2 d), as indicated by Cuba, the forms of association in the country can only use regulated financial channels for their operations (even when receiving donations from abroad, they must be approved by the Ministry of Foreign Trade and Investment). Nevertheless, from the analysis of Resolution No. 15/2006, it can be seen that, exceptionally, entities such as associations, foundations and civil societies, among others, under the current banking regulations (Article 4 (e) and (f)) are also able to receive and use specific cash donations (Art. 8.3). These donations must be received in accounts authorised for this purpose by the liaison bodies, among others. In this sense, the various forms of association in Cuba, including mass and social organisations and ecclesiastical or religious associations, by virtue of being civil societies, may exceptionally receive occasional cash donations from abroad. However, it is considered that some forms of associations, such as ecclesiastical organisations, due to their nature, operate by collecting and executing domestic resources that could be received outside the regulated financial channels, which increases their risk of abuse for TF.
106. From the above, it is estimated that Cuba has partly met criterion 8.2.
107. Moreover, with regard to criterion 8.3, as has been pointed out, Cuba designates a liaison body (competent authority) to monitor the forms of association in accordance with the nature of the activity they conduct. In the case of cultural associations (197) plus the 9 NPOs with the highest risk of TF, the MINCULT, as a liaison body, exercises control over the foundations and associations under its authority, in accordance with Article 1 of Resolution 30/2019. Such monitoring is carried out through comprehensive controls or by direction (Art. 2 of Res. No. 30/2019) and in the case of comprehensive control it is carried out at least once a year (Art. 3.1). As part of the risk plan addressed in Chapter IV of Res. No. 30/2019, it is provided that MINCULT must prepare and keep updated a plan that identifies and analyses the risks faced by the foundations and associations



under its monitoring, and it must include AML/CFT matters (Articles 19.1 and 19.2). At the same time, it is important to highlight the control carried out on the legal documents of foundations and associations, such as i) articles of incorporation, ii) registration in the corresponding registry for associations, iii) statutes and their regulations, iv) rules of relationships, v) minutes of the boards of directors and control boards with the listing of agreements, vi) bank licenses and accounts, vii) income and expense books, and viii) the administrative file of the properties they own; among others. (Art. 7, Res. No. 30/2019).

108. For the rest of the associations, in accordance with the Law of Associations and MINJUS Resolutions No. 53/1986 (Regulations), No. 5/2018 and No. 6/2018, the principles and guidelines on the control of the sector are established, among others.
109. In this respect, under Articles 8 (a), (c), (d), (e) and (f) of the Res. No. 5/2018, the duty of the liaison body to verify the following items during its inspections of these forms of associations is established: i) possession of statutes, ii) protection and conservation of information, iii) verification of the origin of funds to assess risks and prevent their use for TF, iv) registration in the corresponding registry, v) receipt of donations and their origin to assess risks and prevent their use for TF, and vi) execution of collaborative projects to avoid risks and prevent their use for TF.
110. In turn, Article 3 (a), (b) and (f) of the Res. No. 6/2018 (which establishes the methodology for visits by the MINJUS to the rest of the liaison bodies) indicates that as part of the control established by these authorities to their reporting institutions, they must evaluate the set of actions, among others, related to i) verification of the source of funds to assess the risks and prevent their use for TF, ii) reception of donations and verification of compliance with the rules of the Ministry of Foreign Trade and Investment, verifying the source of the money, anticipating possible risks of TF and iii) participation in international cooperation projects ensuring that the rules of the Ministry of Foreign Trade and Investment have been complied with and that it is possible to verify the source of the money and its final destination, as well as the association's participation. However, the verification of reception of funds is only applicable to foreign funds and not to those arising from domestic transactions.
111. Despite the progress that these measures represent, since they address some aspects in order to prevent the abuse of TF for a significant part of the forms of association in the country, it can be seen, as previously indicated, that mass and social organisations and ecclesiastical or religious associations are exempted from this particular monitoring as they are not covered under the Law of Associations. The foregoing is without prejudice to the fact that these forms of association are constitutionally recognised in Articles 14 and 15, to the monitoring that FIs perform on the basis of the CDD they operate with and, only



in the case of mass and social organisations, to the control that the CGR exercises only with respect to the **public funds** they receive and their use. In that sense, no measures to promote the effective monitoring of these last associative forms could be identified in the country.

112. From the above, it is estimated that Cuba has partly met criterion 8.3.
113. With respect to criterion 8.4 a), as noted in the previous criterion, applicable provisions for the forms of association under MINCULT's jurisdiction cover to some extent the RBA required by the Standard, since articles 19.1 and 19.2 of Res. No. 30/2019 refer to MINCULT's duty to carry out and update a plan that identifies the AML/CFT risks of the associations and foundations under its responsibility.
114. Moreover, with respect to the analysis made to the Law of Associations, its Regulations and Res. No. 5 and 6 of 2018, it is considered that these provisions do not imply risk-based measures required by the Standard, but these rather provide for general guidelines applicable to all forms of association under its competence, which are monitored within the framework of its inspections.
115. With respect to monitoring that includes RBA measures for mass and social organisations and ecclesiastical or religious associations, compliance with this criterion could not be assessed as they are only subject to general measures as analysed in detail in the previous criterion, given that they are exempt from the monitoring mechanisms of the Law of Associations and the regulations thereof.
116. With respect to criterion 8.4 b), with respect to the sanctions applicable to forms of association, reference is made to the analysis made in R.35 (para. 47–57).
117. From the above, it is estimated that Cuba has partly met criterion 8.4.
118. With regard to criterion 8.5 a), as it was pointed out in the analysis of criteria 2.4 and 2.5, the work corresponding to the prevention of ML/TF is developed under the direction of the AML/CFT Coordinating Committee. Among the different authorities that participate and are relevant for the regulation and supervision of the forms of association, MINJUS and the DGIOF (through the BCC) participate in the work conducted by this committee where ongoing coordination is materialised, which enables the assistance and exchange of technical and support information that is required. In addition, the country indicates that the DGIOF maintains regular cooperation relations with MINCULT as the liaison body with NPOs at risk of TF abuse in the country. In this regard, MINCULT provides inputs to the activities of the AML/CFT Coordinating Committee through specific requests or spontaneous information.





119. Additionally, Cuba indicates that it worked jointly in the elaboration of the sectoral risk assessment and it has participated in a coordinated way in the delivery of training actions with the main directors of the NPOs. In this sense, the coordination among authorities in this area has also been reflected in the work carried out by the AML/CFT Coordination Committee where, within the framework of the risk assessments, the MINJUS, the Ministry of the Interior, the BCC, the MINCULT, the Ministry of Foreign Affairs, the General Customs of the Republic, the CGR, the Attorney General's Office, the People's Supreme Court, and the DGIOF participate.
120. With regard to criterion 8.5 b)—although from the information analysed there are no investigative experiences related to possible cases of misuse of NPOs for TF purposes, since the country expressed that so far no indications or signs have been detected about forms of associations abused for TF in Cuban territory—it is considered that law enforcement authorities have the legal framework in place that allows them to investigate, forfeit, freeze, seize, and confiscate property in the framework of a possible case of TF in accordance with the R.30 and 31 of the MER (with the exception of some deficiencies to develop parallel investigations).
121. With respect to criterion 8.5 c), Article 41 of the Criminal Procedural Law provides that bodies, agencies, organisations and other entities, including those of an economic nature of any kind, must provide the Courts, Prosecutors, Magistrates, or Police with the reports, data and background information that they require for the investigation of the crime. In this regard, the competent authorities may have full access to information on the administration and management of NPOs during the course of an investigation.
122. With respect to criterion 8.5 d), the DGIOF, pursuant to articles 3.1 and 3.2 of DL 322/2013, exchanges relevant information to clarify and analyse the activities associated with the crimes of ML/TF/FP. Likewise, it analyses such information once it has been integrated and processed, in order to identify vulnerabilities and risks related to the behaviours, patterns, or trends of criminal activity, and in this way, determines the individuals and areas with the highest probability of risk and incidence, and proposes the strategy for their prevention and fight.
123. In that sense, the DGIOF may disseminate relevant information, for example, to the police body specialised in dealing with terrorism and its financing. In addition, the country indicated that the conditions are created to inform without delay and develop parallel investigations as appropriate when it is suspected that an NPO is involved in TF or is being used for such purposes, or when it is concealing the diversion of funds for TF, in accordance with Resolution No. 12/2014 of the Minister of the Interior.



124. In addition, all financial institutions, as RIs of the AML/CFT system, are required to apply enhanced due diligence to NPOs and report to the DGIOF any suspicious transaction related to an NPO, should such a circumstance arise.
125. However, the deficiencies addressed throughout criteria 8.1 to 8.4 related to mass and social and ecclesiastical or religious organisations prevent Cuba from establishing the mechanisms required by this criterion for such forms of association, and—consequently—it was not possible to determine that any information concerning them can be shared expeditiously among the competent authorities, and thus undertake the preventive or investigative actions pursued by the Standard.
126. It is important to mention that although CDD obligations performed by FIs related to the operation of the different forms of associations allow the filing of STRs to the DGIOF and the application of enhanced measures for the sector when appropriate, these mechanisms only cover transactions made through the financial system.
127. From the above, it is estimated that Cuba has partly met criterion 8.5.
128. With respect to criterion 8.6, as mentioned in the previous criterion, the authorities have the necessary contact, exchange, and coordination mechanisms, as well as procedures to provide effective response to information requests from abroad concerning NPOs suspected of TF. The powers in this matter are set forth in Decree-Law 317 as well as in Decree 322 which have been analysed above.
129. Requests for information regarding certain NPOs under suspicion of TF or other forms of support to terrorism are directed through the MINREX if there is no bilateral cooperation agreement in that regard with the requesting country. If there is an agreement, it must be requested through a rogatory letter to the FGR according to Article 11 of Law 83/1997.
130. From the foregoing, it is estimated that Cuba has met criterion 8.6.
131. In conclusion, Cuba's latest regulatory progress in updating and strengthening the regulatory framework of the various forms of association is recognised, in particular the issuance of Res. 5 and 6 of 2018 in the framework of the application of the Law of Associations. Likewise, the progress made through MINCULT Res. 30 that provides for monitoring measures and obligations for associations and foundations under its control is acknowledged.
132. Additionally, the progress the country is making in order to update its 2020–2022 NRA is considered important despite the challenges caused by the COVID-19 pandemic and the logistical limitations it has implied for the coordination



with all the actors involved. However, from the information provided on the progress of this document which is still under development, it was observed that the parameters of categorization used for the different forms of associations in the country and their classification as NPOs with potential risk of TF abuse according to the Standard show some inconsistencies. For example, the most relevant are of opportunity is that ecclesiastical or religious organisations are not contemplated as NPOs in accordance with the requirements of the Standard and that, according to international experience, they usually have significant risks of being misused for TF purposes. Likewise, it is considered that mass and social organisations—even though from the analysis of the information provided they seem to have strong links with the State and are controlled through the CGR itself in terms of the public funds they receive—have not been adequately addressed in accordance with the requirements of this recommendation.

133. Furthermore, in accordance with the regulations submitted by Cuba, there are monitoring measures mainly derived from MINCULT Resolution No. 30, the Law of Associations and MINJUS Resolutions No. 5 and 6 of 2018. However, no provision was identified that requires liaison bodies to apply targeted control measures with a RBA for all forms of associations with respect to their TF risk. It is estimated that the RBA is applied mainly to the 9 NPOs identified as having the highest risk and for which MINCULT is the liaison body, and not to the rest of the forms of association.
134. With reference to the application of sanctions to the sector, the deficiencies analysed in R.35 are noted. Finally, it was noted that the country has effective capacity to respond to international information requests on NPOs of concern under the Standard, particularly those managed by the DGIOF.
135. From the above, it is estimated that Cuba partially addresses criteria 8.1, 8.2, 8.3, 8.4, and 8.5 and adequately addresses criterion 8.6; therefore, **it is proposed that the rating be maintained as Partially Compliant** since there are still moderate deficiencies to be covered.

### ***Recommendation 18 – (originally rated C – it remains C)***

136. With respect to criteria 18.2 b) and 18.2 c), regarding the inclusion of information and analysis of transactions or activities that appear to be unusual with respect to adequate safeguards on the confidentiality and use of information exchanged, including those to prevent tipping-off, on February 28, 2019, the country issued Instruction No. 2 of the Superintendent of the BCC on the implementation of the update of FATF Recommendations 18 and 21, amending Instruction No.26/2013 “Specific Rules for the Detection and Prevention of Transactions to Combat Money Laundering, Terrorist Financing, and the Proliferation of Weapons of Mass Destruction”.



137. In this regard, Article 70 bis was added to the above-mentioned regulations by means of this instruction, establishing that financial groups and financial institutions, including subsidiaries based in Cuba and abroad, shall apply internal control measures, containing the following:
- 1) Procedures for sharing the information required for the purposes of CDD and ML/FT risk management.
  - 2) Procedures for sharing with due confidentiality, at the financial group or financial institution level, information and analysis of transactions or operations that are classified as unusual or suspicious, provided that they are relevant to ML/TF risk management.
138. From the above, it is considered that Cuba addresses criteria 18.2 b) and 18.2 c) and **it is proposed that the rating be kept as Compliant.**

### ***Recommendation 21 – (originally rated C – it remains C)***

139. With regard to criterion 21.2 and the note that the provisions contained therein are not intended to prevent the exchange of information under R.18, it is considered that based on the analysis of criterion 18.2 b) and c) above, this criterion has been addressed.
140. For this reason, Cuba is considered to have addressed criterion 21.2 and it **is proposed that the rating be kept as Compliant.**

### ***Recommendation 15 – (originally rated C – rated PC)***

141. Regarding criterion 15.3 a), on the obligation to identify and evaluate ML/TF risks arising from virtual assets (VA) and virtual asset service providers (VASP), Cuba shows the following progress:
142. On February 14, 2020, the BCC Superintendent's Instruction No. 2 was issued on the "Implementation of the Updating of FATF Recommendation 15" amending Art. 63 of Instruction No. 26/2013 to include the obligation of FIs to manage ML/TF risks that may arise with respect to the activities of VAs and operations related to VASPs upon authorisation by the BCC. (Paragraph 3). Additionally, the second section of Instruction No. 2, defines the terms VA and VASP according to the Glossary of the FATF Recommendations.
143. In relation to the country's obligation to identify and evaluate ML/TF risks arising from the activities of VAs and VASPs, even when it is recognized that Cuba is working on the update of the NRA for the period 2020–2022 for this matter, it



could not be corroborated that the country identifies and assess the ML/TF risks of these according as required by the Standard. However, it should be noted that Instruction No. 2 of the BCC sets the bases where, among other issues, the obligations of internal and external suppliers are provided for once they operate in Cuban territory and become a RI after their licensing with the BCC.

144. Cuba mentioned that to date it does not have information on the possible operation of VAs and VASPs established in the country; however, it is aware that they are not exempt from this phenomenon and identifies some foreign platforms that are used by communities of approximately two thousand people. Likewise, the country pointed out that in 2018 a Strategic Report was produced, focused on the evaluation of the Fintech phenomenon, its reality in Cuba and its associated risks, and that between 2019 and 2020, 10 strategic reports have been generated and disseminated to the competent authorities. Likewise, the country indicated that the strategic studies in this matter were used as inputs for the update of the NRA.
145. Regarding the criterion 15.3 b) on the implementation of a RBA to apply mitigating agents, to the VAs and VASPs are subject to Res. No. 51 and 26 of 2013 (according to the third paragraph of Instruction No. 4/2020) on risk management once they operate in the country. In that sense, it is estimated that even though Cuba indicates that there are no Cuban VAs operations or generated in the country at the moment, and therefore there are no VASPs with license granted by the BCC, the country is evaluating the possible granting of licenses in view of some applications filed, and it would apply a RBA in accordance with the mentioned Res. No. 51 and 26. However, although from the Instruction No. 2/2020 of the BCC the obligation to be licensed in order to carry out this activity related to financial entities such Instruction is addressed to can be inferred, it is not clear that this obligation exists for the VAs or VASPs that do not intend to have any Cuban financial entity or service as an intermediary, and therefore Res. No. 51 and 26 of the BCC would not be applicable to them.
146. Furthermore, from the reading of Decree-Law 362/2018, and specifically Article 9 thereof, it is clear that non-financial entities that provide financial support services to financial institutions, for collection or payment, hereinafter referred to as **(non-financial support entities)** are those legal persons incorporated under Cuban law, which while not being financial institutions, their activities include providing **collection or payment** services to natural or legal persons or **support services to financial institutions**, and require a license from the BCC to carry out the authorised financial activities or services. However, it is not clear that such non-financial support activities include all the operations that, according to the standard, can be performed by the VASPs.
147. Likewise, the country argues that VAs/VASPs that are not included in the case of a non-financial support entity should be covered by the provisions of Article



2 of DL 362/2018, and therefore, the provisions of the referred DL regarding the obligation to obtain a license before the BCC (Article 9) would also apply to them, as well as Res. No. 51 and 26 of the BCC. The article mentioned above provides that its provisions may be applied to persons not expressly included therein, if they carry out **operations in the national territory** that are **related to financial and exchange activities** and that due to their volume or for reasons of monetary, credit or exchange policy, require authorization from the BCC. In this sense, it is considered that the provision is too broad and it would not involve reliably all the operations that, according to the standard, could be carried out by VASPs; this is the case, for example, of the ones engaged in the exchange or transfer of virtual assets not using the Cuban financial system.

148. Regarding criterion 15.3 c) on the requirement of VASPs to identify and mitigate their own ML/TF risks, Cuba points out that according to Instruction No. 2/2020, section Three, FIs must comply with the adequate management of ML/TF risks arising from VAs and VASPs. In turn, BCC Instruction No. 4/2020, addressed to non-financial entities licensed by the BCC, broadly establishes that the specific rules to prevent and fight ML/TF and the Regulations for freezing funds pursuant to UNSCRs are applicable to them. This regulation also establishes the threshold of CUC 1,000 (equivalent to 1,000 USD) to perform CDD upon occasional transactions, and the obligation for wire transfers to include the basic information of both the originator and the recipient. However, no explicit obligation was identified for the VASPs themselves to identify, evaluate, and mitigate their ML/TF risks as established in criteria 1.10 and 1.11.
149. Based on the above, it is estimated that criterion 15.3 is partly met.
150. In reference to criterion 15.4 a) on the licensing or registration of VASPs, in accordance with BCC Instruction No. 2/2020, it is established that FIs shall manage the ML/TF risks that may arise from VAs and VASPs, and in order to manage and mitigate such risks, they shall ensure that the VAs and VASPs they are related to are licensed or registered, regulated, and subject to supervision.
151. As mentioned in the previous criterion, in accordance with section 9.2 of DL 361, the BCC is in charge of regulating and supervising the activities carried out by **non-financial support entities** and that due to their volume or for reasons of monetary, credit or exchange policy, require prior authorization from such institution. Although it was not possible to identify a provision that indicates that the VASPs (whether individuals or legal entities) and all the operations that, according to the standard, fall directly under the category of non-financial support entities, it seems that they are intended to operate under such category as described in article 19 of DL 362/2018.
152. However, as indicated in the previous criterion, with respect to the VASPs that do not provide services through FIs (which are **not** non-financial support



entities), but that provide VA services without intermediation or participation of financial institutions, it is considered that the Cuban legislation does not provide for an obligation of licensing or registration, added to the fact that no provision was identified that prohibits operating as VASPs when there is no such intermediation or participation of the Cuban financial system.

153. Regarding criterion 15.4 b) concerning the obligation of the competent authorities to adopt the necessary legal or regulatory measures to prevent criminals or their associates from owning, being beneficial owners, or having a majority or significant participation, or from occupying a management position in a VASP, the provisions of Article 23 of DL 362/2018, which provide for the requirements for obtaining a license from the BCC, are observed, aimed at knowing the general data of shareholders, the capital, and names of the president and senior managers of the institution or entity, as well as permits from both the regulator and the supervisor of such entity—if it was established abroad—and a statement of commitment to comply with international standards on AML/CFT. Furthermore, as mentioned, it is not clear that said DL and its provisions are applicable to all VASPs or to all the operations that, according to the standard, can be performed by them, as is the case of the exchange and transfers between virtual assets when no Cuban financial institution or service is used.
154. From the foregoing, it is estimated that Cuba has partly met criterion 15.4.
155. With respect to criterion 15.5 regarding the obligation that countries must take measures to identify the natural or legal persons that carry out VASP activities without the necessary authorisation or registration, and apply the appropriate sanctions, the first section of Instruction No. 2 indicates that if in the course of their activities FIs identify natural or legal persons that carry out activities as virtual asset service providers without the necessary authorisation or registration, this situation must be reported to the BCC's Superintendence.
156. Additionally, the DGIOF, in coordination with the competent authorities, is working on the identification of the use of third country platforms with VA or VASP purposes by persons in Cuban territory, which yielded some findings of the strategic reports referred to by the country in criterion 15.3, which are understood to be part of the input for the updating of the NRA. However, as it has been exposed in the previous criteria, the link between VASPs that are not included in the category of **non-financial support entities** and the DL 361 and 362 regarding the supervision and the eventual sanction that could be imposed by the BCC in those cases is not clear.
157. From the foregoing, it is estimated that Cuba has partly met criterion 15.5.



158. In relation to criterion 15.6 a) which states that the VASPs should be subject to adequate regulation and risk-based supervision or monitoring by a competent authority, including systems to ensure compliance with national AML/CFT requirements, according to the analysis of criterion 15.4 a), there is an obligation that requires the supervision or monitoring of **non-financial support entities, including VASPs**, by the BCC. However, it is to be repeated that for the case of the VASPs that do not fall under the term of non-financial support entities, it is considered that the Cuban legislation does not provide for AML/CFT risk-based supervision or monitoring requirements in accordance with the criterion.
159. As mentioned in criterion 15.3, on the country's assertion in relation to the application of Art. 2 of DL 362/2018, for VAs/VASPs that do not fall under the category of non-financial entity according to the description made by article 19 of the same DL, it should fall under the provisions of article 2 mentioned above, and therefore, the provisions of the Decree-Law would apply to them with the obligation to obtain the license from the BCC, as well as the application of Res. No. 51 and 26 of the BCC for their respective supervision.
160. However, such provision is considered too broad, and therefore, it is understood that there is a need for a legal instrument that would clarify its scope in relation to what should be understood by each of the cases, in order to provide greater legal certainty by identifying, for example, what type of specific activities and under what circumstances, should be licensed by the BCC and therefore subject to its regulation and supervision in terms of AML/CFT. In this sense, it is considered that, for example, legal or natural persons that are engaged in the exchange or transmission only between virtual assets would not fall under any of the cases established by Articles 2 and 19 of DL 362/2018.
161. Regarding criterion 15.6 b), Cuba reported that the BCC will exercise the regulation and supervision in AML/CFT matters of **non-financial support entities** VASPs. However, as mentioned above, it is considered that for the rest of the VASPs that are **not** included in the definition of non-financial support entities pursuant to Article 19 of DL 362/2018, or if appropriate to Article 2 of the same law, Cuban regulations do not provide for the obligation to carry out inspections, submit reports, or the authority to impose sanctions by the competent supervisors, since they would be beyond the scope of the aforementioned DL and therefore, of BCC Instruction No. 4. This would be the case, for example, of natural or legal persons engaged in the exchange or transfer only between virtual assets.
162. From the foregoing, it is estimated that Cuba has partly met criterion 15.6.
163. With respect to criterion 15.7, on the obligation of competent authorities and supervisors to establish guidelines and provide information that will help the VASPs to apply national AML/CFT measures and, in particular, to detect and





report suspicious transactions, it is estimated that to VASPs that are classified as **non-financial support entities**, BCC Instruction No. 4/2020 would be applicable, which instructs **non-financial support entities** to apply the rules established in terms of AML/CFT/FP as appropriate, Instruction No. 26 addressed to FIs that establishes the specific guidelines to prevent and combat ML/TF. Article 7.5 of Decree 322, which establishes that the DGIOF is responsible for organising training programs on prevention and combating ML/TF, is also applicable to them.

164. Furthermore, as mentioned above, it is considered that for the rest of the VASPs that are **not** included in the definition of non-financial support entities pursuant to Article 19 of DL 362/2018, or if appropriate to Article 2 of the same regulation, the Cuban regulations do not provide for the obligation to establish guidelines pursuant to this criterion since they would be beyond the scope of the aforementioned DL and therefore of BCC Instruction No. 4; this is the case, for example, of natural or legal persons that are engaged in the exchange or transfer only between virtual assets.
165. From the foregoing, it is estimated that Cuba has partly met criterion 15.7.
166. With respect to criterion 15.8 a) and the obligation of the countries to ensure that there is a range of effective, proportionate, and dissuasive sanctions, whether criminal, civil, or administrative, available to deal with VASPs that do not comply with the AML/CFT requirements, with respect to VASPs that are classified as **non-financial support entities**, it is considered that the corresponding sanctioning regulations of the BCC would be applicable to their reporting institutions in AML/CFT matters pursuant to Resolution One of Instruction No. 4/2020 of the BCC.
167. In addition, the country indicates that it is provided that in the case of the VASPs classified as **non-financial support entities** by means of Decree-Law 363 that establishes the administrative violations derived from the provisions on banking, financial, and exchange matters, the regime of measures applicable to natural or legal persons that incur in infractions provided for in that regulation would be established. In this respect, Article 1.2 provides that legal entities are liable for the non-compliance of the provisions issued by the BCC, regardless of the potential liability of the managers, officers and workers who are considered to be the perpetrators of the infringements provided for in that Decree-Law.
168. In accordance with the range of sanctions established in Article 12 of DL 363—which include a fine, temporary freezing of accounts, order to close accounts, temporary or definitive suspension of participation in the system, confiscation of the benefits obtained from the commission of the violations, and even the suspension of the operations or authorised activities, or modification or



cancellation of licences—it is understood that these, in general, can be effective, proportionate, and dissuasive.

169. Finally, as mentioned above, it is considered that for the rest of the VASPs that are **not** included in the definition of non-financial support entities pursuant to Article 19 of DL 362/2018, or if appropriate, to Article 2 of the same regulation, the Cuban regulations do not provide for the obligation to apply a range of sanctions pursuant to this criterion since they would be beyond the scope of the aforementioned DL. This is the case, for example, of natural or legal persons that due to their activity, the relationship with the Cuban financial or exchange activity would not be considered to be necessary.
170. Regarding criterion 15.8 b) on the obligation that the sanctions must be applied not only to the VASPs, but also to their directors and hierarchical directors, in accordance with what was indicated in the previous paragraph, the range of sanctions would be applicable to the directors and hierarchical directors of the VASPs that are **non-financial support entities** and not to the VASPs that are **not** included in the definition according to Article 19 of DL 362/2018, or if appropriate, to Article 2 of the same law.
171. From the foregoing, it is estimated that Cuba has partly met criterion 15.8.
172. Regarding criterion 15.9 a) on the preventive measures applicable to the VASPs, in particular the transactionality threshold of USD/EUR 1000 for CDD purposes (R.10), it is considered that to VASPs that are **non-financial support entities**, as mentioned above, BCC Instruction No. 4/2020 would be applicable. In that sense, according to Decree Law 362/2018, the rules that cover the preventive measures provided in Instruction No. 26/2013 addressed to FIs are applicable to them.
173. Regarding the respective compliance related to R.10, according to the paragraph Second (b) of the above-mentioned Instruction No. 4, the designated threshold for occasional transactions above which enhanced CDD must be carried out is CUC 1000 (equivalent to USD 1000). However, it is considered that for the rest of the VASPs that are **not** included in the definition of non-financial support entities pursuant to Article 19 of DL 362/2018, or if appropriate, to Article 2 of the same law, Cuban regulations do not provide for the obligation to apply this criterion since they would be out of the scope of the DL mentioned above.
174. As to criterion 15.9 b), with respect to compliance with R.16 on the transfers of VAs, as in the previous paragraph, paragraph Second (c) of Instruction No. 4 would be applicable to the VASPs that are **non-financial support entities** and, therefore, they should ensure that the transfers of virtual assets, both foreign and domestic, record the basic information on their originator and beneficiary.



Such information should be available on a permanent basis and for immediate use by the authorities.

175. Moreover, it is considered that for the rest of the VASPs that are **not** included in the definition of non-financial support entities pursuant to Article 19 of DL 362/2018, or if appropriate, to Article 2 of the same law, Cuban regulations do not provide for the obligation to apply this criterion since they would be out of the scope of the DL mentioned above.
176. From the foregoing, it is estimated that Cuba has partly met criterion 15.9.
177. Regarding criterion 15.10 on the obligation to apply Targeted Financial Sanctions (TFSs), for VASPs that are **non-financial support entities**, as mentioned above, BCC Instruction No. 4/2020 would be applicable. In that sense, according to Decree Law 362/2018, the rules that cover the preventive measures provided in Instruction No. 26/2013 addressed to FIs are applicable to them.
178. With respect to compliance related to the application of the TFSs of R.6 and 7, pursuant to paragraph Third of Instruction No. 4 mentioned above, compliance with the specific rules for the detection and prevention of operations in the fight against ML/TF/FP and the Regulations for the freezing of funds of persons and entities designated under the UN Security Council Resolutions will be supervised by the financial supervisors and the regional directors of the BCC, and, therefore, the VASPs (**non-financial support entities**) would be required to comply with the obligations related to TFSs.
179. Moreover, it is considered that for the rest of the VASPs that are **not** included in the definition of non-financial support entities pursuant to Article 19 of DL 362/2018, or if appropriate, to Article 2 of the same law, Cuban regulations do not provide for the obligation to ensure communication, reporting, and targeted financial sanctions' follow-up mechanisms under this criterion, since they would be out of the scope of the DL mentioned above.
180. From the foregoing, it is estimated that Cuba has partly met criterion 15.10.
181. With respect to criterion 15.11, countries should provide the widest possible range of international cooperation in relation to ML, predicate offences, and TF in relation to VAs, based on R.37–40. In accordance with the analysis of compliance with R.37-40 in the country's MER, it is clear that Cuba largely has the legal and institutional bases to provide mutual legal assistance and is able to freeze and confiscate assets based on the principle of reciprocity and the bilateral agreements it has signed that include measures on property and its repatriation, respectively. Likewise, in the area of extradition, the country has a broad regulatory framework that allows it to request it, and has different means



to provide other forms of international cooperation beyond the principle of reciprocity. For example, in terms of financial intelligence, the country is a full member of the Egmont Group and has signed various MoUs on the exchange of information and cooperation with different foreign counterparts.

182. In this sense, it is estimated that Cuba would be in a position to provide a wide range of international cooperation on ML and its predicate offences and TF when it relates to **non-financial support entities** VASPs and not for those not included in the definition provided in Article 19 of DL 362/2018, or if appropriate, in Article 2 of the same law.
183. In addition, according to Cuba's own MER, the BCC, in its capacity as AML/CFT supervisor, under Resolution 79/1998, has the obligation to cooperate on the basis of reciprocity with its foreign counterparts (TC 363). However, as mentioned above, this would only be possible with respect to non-financial support entities VASPs or, as the case may be, those that fall under the provisions of Article 2 of the same law, and are therefore under the supervision of the BCC itself.
184. From the foregoing, it is estimated that Cuba has partly met criterion 15.11.
185. In brief, the many advances that Cuba has made in order to incorporate the new requirements in R.15 into its regulations are acknowledged. The efforts related to the issuance of BCC Superintendent's Instruction No. 2 of 2020 that addresses the obligation of FIs to manage the ML/TF risks of VAs and their VASPs, as well as the issuance of BCC Superintendent's Instruction No. 4 of 2020 that includes **non-financial support entities** as AML/CFT reporting institutions are noteworthy.
186. While the country expressed that there are no known—and therefore undocumented—activities related to VAs and VASPs based in that country, it is important to mention that, from the strategic studies carried out in this regard, the country mentions that there are small communities that use this type of services that offer platforms based outside Cuba. In addition, from the information provided by the country, it is inferred that the AML/CFT obligations of the **non-financial support entities** would be applicable to them. However, there is also the possibility, as analysed in criterion 15.4 a), that there are natural or legal persons that carry out certain operations included in the standard for the VASPs that do not necessarily fall into this category according to the definition of Article 19 of DL 362, nor in the case of Article 2 of the same law, and that, therefore, the rest of the AML/CFT obligations contained in R.15 are not applicable to them. In this sense, it could be said that the criteria could be considered met for the VASPs of **non-financial support entities**, but not for those that are not.



187. From the above, it is estimated that the criteria, 15.3, 15.4, 15.5, 15.6, 15.7, 15.8, 15.9, 15.10, and 15.11 are partly met. Therefore, it is estimated that the **rating should be adjusted to Partially Compliant** since there are moderate deficiencies mainly related to the lack of clarity in the regulations related to the obligation of VAs and VASPs that could operate in the country to register and/or be licensed before the authorities by the non-financial support entities’ and, therefore, the rest of the AML/CFT obligations required by this recommendation are not applicable to them.

#### IV. CONCLUSION

188. Cuba continues making significant progress in addressing the Technical Compliance deficiencies identified in its MER and has been re-rated for R.31 (Partially Compliant to Compliant), R.28 (Partially Compliant to Compliant) and R. 35 (Partially Compliant to Largely Compliant). It also maintained its rating of Partially Compliant regarding R.8, and of Compliant regarding R.2, R.5, R.18 and R.21. Finally, it was re-rated in R.15 (from Compliant to Partially Compliant).
189. In view of Cuba’s progress since the adoption of its MER, its technical compliance with FATF Recommendations was re-rated as follows:

**Table 2. Technical Compliance Ratings, December 2020**

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	LC	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).

190. Cuba will continue in the regular follow-up process and will continue to report to GAFILAT on the progress made to strengthen its implementation of AML/CFT measures.