



# THE MALTA WORKSHOPS

SMALL INTERNATIONAL FINANCIAL CENTRES:  
Vulnerabilities & Opportunities for Partnership



## BRIEFING NOTE ON THE MALTA WORKSHOPS ON SMALL INTERNATIONAL FINANCIAL CENTRES - VULNERABILITIES AND OPPORTUNITIES FOR PARTNERSHIP

From March 19th to March 23rd, the Ministry for Foreign and European Affairs of Malta organised 'The Malta Workshops', a series of virtual workshops that sought to explore the particularities of small international financial centres (SIFCs) and the challenges they face in combating money laundering and financing of terrorism. Over five days, high-profile panellists discussed the unique set of features shared by many SIFCs, and how these may be exploited for money laundering or terrorism financing purposes. An urgent need for enhanced cooperation between SIFCs was identified as a key element in the fight against money laundering and terrorism financing to mitigate the specific risks that SIFCs are exposed to. Following each 3-hour long session, open debates spurred further interactions and Q&A slots for the attendees helped address specific queries participants had.

### MONEY LAUNDERING/TERRORISM FINANCING RISKS ASSOCIATED WITH HIGH-NET-WORTH INDIVIDUALS (HNWIS)

The first Workshop focused on the risks associated with high-net-worth individuals (HNWIs). Panellists from, among others, Malta's National Coordinating Committee on Combating Money Laundering & Funding of Terrorism, the Council of Europe, the US Treasury, the Canadian Embassy to Malta, and Malta's Financial Intelligence Unit discussed the recent changes in trends in high net-worth migration and the standards to be applied in servicing and mitigating the risks associated with such individuals in the money laundering and terrorist financing context.

HNWIs are commonly considered to pose elevated corruption and embezzlement, tax evasion and white-collar crime risks. Traditional services offered by SIFCs such as private banking but also more recent initiatives such as citizenship by investment (CBI) cater specifically to HNWIs and as a result HNWIs with new passports or residency papers, and with greater access to a country's financial systems and additional avenues for investment.

The Workshop stressed that the main challenges in servicing HNWIs are establishing the source of wealth and funds and ensuring that customers onboarded do not carry out unlawful business activities. The stringent application of CDD procedures and close scrutiny of the client profile and business relationship throughout the lifespan of the relationship with HNWIs were identified as key mitigants of ML/TF risks. Additionally, the Workshop advocated for an intensified dialogue between SIFCs on how to handle and manage such business, and for the development of consistent standards along with increased cooperation amongst countries in dealing with HNWIs.

In this respect, Malta proposed the creation of a mechanism through which countries offering CBIs can exchange information on denied applications. Having adequate vetting mechanisms in place would hinder HNWIs from obtaining permissive access to the global economy and further investment opportunities. Such a mechanism would heighten cooperation between SIFCs and decrease the opportunity of forum shopping by doubtful individuals – both measures the Workshop strongly encouraged.

The Workshop concluded that with the migration of high net worth continuing in the aftermath of the COVID pandemic and as a result of global warming, resolving the due diligence challenges of HNWIs will continue to remain an ongoing challenge for many countries around the world, but the implementation of Malta's proposal would undoubtedly constitute a significant step in the right direction.

## **INTERNATIONAL SANCTIONS EVASION TYPOLOGIES INVOLVING SIFCS**

On day two, representatives from King's College London, the Dubai Financial Services Authority, the US Treasury, and Malta's Sanctions Monitoring Board delved into sanctions evasion schemes involving SIFCs. Best practices for sanction evasion screening techniques were explored and possible avenues for cooperation between SIFCs such as the creation of a multilateral register on de-flagged vessels, and the creation of mechanisms to exchange beneficial ownership information for companies were discussed.

SIFCs welcoming business concepts such as the creation of commercial/financial free zones or the establishment of unbureaucratic and low-cost registration frameworks for vessels and companies expose themselves to heightened ML and TF risks. Often, SIFCs' globally interconnected economies and geographical locations exacerbate their risk exposure. The Workshop called for SIFCs to prioritize effective sanctions enforcement systems to address the exposure.

Panellists focused their presentations primarily on trade-related schemes for evading sanctions and the transparency of the ownership and control structures of trade related businesses and instruments such as trading vessels. Panellists agreed that sanctions compliance and the effectiveness of registers is directly linked to the ability to detect and monitor the ultimate beneficial owner(s). Accordingly, the Workshop urged governments to proactively make vessel and company registries more transparent and to exchange registered information in a more effective manner.

Malta, having not only conducted regular and country-specific assessments on sanction evasion risks but also having educated and raised awareness of sanction evasion typologies in the private sector, was praised for having taken multiple vital steps towards enhanced compliance. In addition, Malta increased its information sharing domestically and cross-border, adopted enhanced legislation on international sanctions enforcement, strengthened the mandate and powers of the Sanctions Monitoring Board, issued clear guidance notes to both the private and public sector and put significant resources into ameliorating national and international collaboration.

The Workshop concluded that effective cooperation between countries is key to combatting international sanction evasion techniques, with Malta having shown that it is headed in the right direction. Also, cases presented during the Workshop illustrated that Malta and other SIFCs are also having some advantages on this matter compared to their larger peers, which are increasingly agile in developing and enforcing coordinated policy responses due to their small size.

## **THE TRANSIENT NATURE OF TCSP BUSINESS**

The third day of the Workshop series focused on trust and company service providers (TCSPs), with panel members coming from the World Bank, UNODC, the Malta Financial Services Authority, and the Anguilla Financial Services Commission. TCSPs in SIFCs are of a particular interest as in the past they have often been found to be utilized to incorporate companies that serve as conduits for channelling funds, with the bank accounts of such companies often held elsewhere. The Workshop focused in particular on the challenges arising for SIFCs in these areas, as TCSPs in SIFCs oftentimes have a low degree of visibility into the beneficial ownership and control elements of transnational corporate structures that span across multiple jurisdictions.

In addition, legal entities established by TCSPs are very often serviced by other entities that fall under AML/CFT obligations, and as such there are severe negative cascading effects that the TCSP business may have on other aspects and sectors of the financial system.

Malta has taken significant step to mitigate the risks associated with local TCSPs by pursuing consistent, risk-based regulatory and supervisory practices as well as persistent awareness and capacity building activities for the private and public sector. Most importantly, Malta has boosted its national and international cooperation as well as ameliorated the updating and transparency of beneficial ownership information.

## **INTERNATIONAL COOPERATION TO ACHIEVE STAND-ALONE MONEY LAUNDERING CONVICTIONS**

Panellists from, among others, the World Bank, UNODC, the Guardia di Finanza and Malta's Office of the Attorney General discussed the importance of international cooperation in the criminal process to obtain confiscations and convictions for financial crimes in the penultimate Workshop session. The previous Workshops showed that SIFCs adopt business models that expose them to mainly foreign generated proceeds of crime, which are then channelled through SIFCs by way of transactions or investments. Given these dynamics, the fourth Malta Workshop delved into how stand-alone money laundering and non-conviction based (NCB) confiscation can aid law enforcement and prosecution authorities of SIFCs to overcome, or at least minimize, the obstacles and secure positive outcomes in the criminal process.

Financial crimes undoubtedly threaten the safety and soundness of SIFCs' financial systems, giving rise to the need for criminal investigations and prosecutions to focus on complex, sophisticated and transnational schemes. The fact that currently only about 1% of all criminal proceeds is being confiscated further strengthens this viewpoint. However, to efficiently investigate such schemes, criminal authorities have to extensively cooperate with foreign authorities. Such cooperation is in most cases burdensome and time consuming, which made the Workshop call for greater proactive approaches in pursuing money laundering in the context of domestic investigations and prosecutions.

First and foremost, countries need to appreciate their ML/TF risks in order to build effective mechanisms to trace, seize and recover criminal proceeds and use limited resources in the most effective way. Prior to cooperating with counterparts, such an understanding has to be achieved via regular strategic analyses and risk assessments. The Workshop stressed that only once a country fully grasps the risks of ML & TF can it start effectively addressing the issue by, for example, defining money laundering as a stand-alone offense or introducing NCB confiscation.

Nonetheless, these provisions have to actually be applied in practice in order to guarantee risk-based results, the collection of valuable information and the development of red flags and early warning systems. Again, the need for competent authorities to increase their engagement in international and national cooperation with intelligence units as well as administrative, judicial and law enforcement agencies to inform domestic criminal proceedings for stand-alone ML offenses was one of the main takeaways.

Malta, for example, has taken positive, proactive steps in consolidating its effectiveness in the fight against financial crime. Not only has it conducted a national risk assessment to identify its jurisdiction's risks, but Malta also started harvesting information from mutual legal assistance requests and sought to increase its active assistance and evidence gathering from foreign judicial authorities. These actions were supplemented by Malta singlehandedly identifying evidence that could be used for stand-alone money laundering and, ultimately, adopting a NCB confiscation regime.

## **SUPERVISION AND LICENSING PRACTICES RELATING TO SECTORS WITH MINIMAL PHYSICAL PRESENCE**

The fifth and final session of the 'Malta Workshop' series involved speakers, among others, from the European Central Bank, Moneyval, the Cayman Islands Monetary Authority, the Alderney Gambling Control Commission, and the Council of Europe delving into a discussion of the relevance of presence requirements for financial and non-financial businesses and entities subject to AML/CFT, and of adequate supervision and licensing practices for sectors with minimal physical presence. In particular newly emerging sectors such as online gambling and virtual assets are on the one hand important revenue generators for SIFCs but, on the other hand, are often not subject to the same physical presence requirements as traditional financial businesses. This brings about concerns over a reduced ability by SIFCs to effectively supervise such sectors, or to hold individuals accountable for any wrongdoing of the licensee.

The use of case studies helped highlight best practices in terms of physical presence requirements and the challenges associated with the AML/CFT supervision of entities with minimal or no physical presence. From a regulator's point of view, unmanageable regulatory risks and brass-plate firms are to be avoided and licensees that are run by subservient or expendable managers also cause red flags. The Workshop stressed that jurisdictions should focus on licensing firms that have their nexus in the jurisdiction and should guide licensees on the regulatory expectations within the country.

Furthermore, an emphasis was put on countries' need to implement principle-based regulations that are adaptive, objective and targeted. The need for information gathering from other same-entity regulators, followed by full cooperation in information sharing among authorities was also brought up.

Employing experienced industry staff, following suitable enforcement actions and being able to outsource supervisory tasks were also seen as being a cornerstone for mitigating risks associated with virtual service providers.

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Overall, the five sessions sought to explore the particularities of SIFCs, the associated challenges they face in keeping financial flows transparent, and areas where increased cooperation would bring about tangible results on the world stage. The panellists provided an interesting range of issues that form the core of SIFCs' risk exposure, as well as shed light on what policy efforts in the area of AML/CFT are needed to effectively address them. What came to the fore over the five days was the utility and feasibility of future initiatives between SIFCs that would strengthen cooperation and minimize their risk exposures.

Malta undertook to convene a second edition of The Malta Workshops in 2022 to continue to discuss the latest trends, risks and challenges, in the fight against money laundering and financing of terrorism, and to report on the concrete results, successes and best practices registered and put in place.