

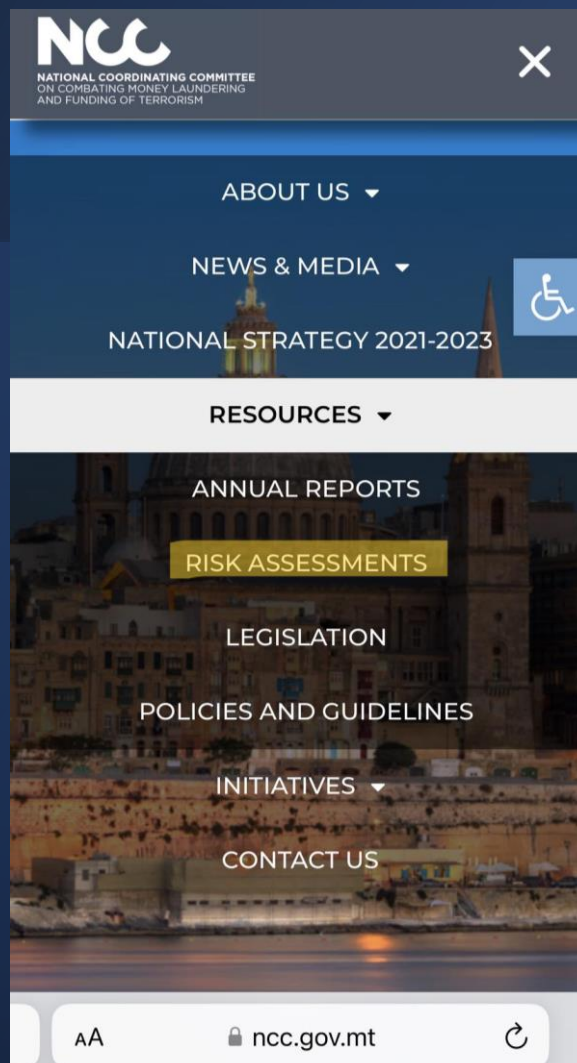
Malta's 2023
National Risk
Assessment –
*Designated
Non-Financial
Businesses and
Professions*

2023 NRA – process, main findings, main outcomes

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How to download the 2023 NRA:



Layout of the presentation

- 2023 NRA Methodology, Stakeholders, and Process
- Key findings of the 2023 NRA
 - ML threats and vulnerabilities
 - Sectoral residual risk
 - TF and PF/TFS
 - Focus on the DNFPBs: TCSPs, accountants, auditors, lawyers, tax advisors, notaries, and real estate agents
- Way forward

2023 NRA Methodology, Stakeholders, and Process

Methodology

Methodology

- Took into consideration the:
 - EU Supranational Risk Assessment
 - 2019 Mutual Evaluation Report for Malta by MONEYVAL
 - 2021 Post-Observation Period Report for Malta
 - Reports by the European Banking Authority
 - FIAU strategic analysis (REQ data, STRs/SARs, CBAR)
 - Analysis conducted in several sectoral working groups, and from every working group a detailed restricted paper was produced that fed into the public version of the NRA.

Stakeholders



FIAU



MFSA

MALTA FINANCIAL SERVICES AUTHORITY

MBR

MALTA BUSINESS REGISTRY



TAX & CUSTOMS ADMINISTRATION MALTA



Transport Malta



2023 NRA



Office of the State Advocate



Malta Maritime Law Association



ASSET RECOVERY BUREAU MALTA



BORD TA' SORVELJANZA DWAR IS-SANZJONIJIET SANCTIONS MONITORING BOARD MALTA



BANK CENTRALI TA' MALTA EUROSISTEMA CENTRAL BANK OF MALTA

commerce.gov.mt



National Working Groups

National working groups	Chairperson	Participants
ML threats	NCC	FIAU, MFSA, MBR, MGA, OCVO, MTCA, SMB, CBM, AG, MPF, ARB, Malta Freeport Terminal, Court Services Agency
ML vulnerabilities	AG	State advocate, FIAU, MFSA, MBR, MGA, OCVO, MTCA, MPF, NCC
TF	MSS	AG, CBM, FIAU, MPF, MFSA, MBR, SMB, OCVO, MTCA, NCC
PF and TFS	SMB	AG, CBM, FIAU, MPF, MFSA, MBR, OCVO, MTCA, MSS, NCC

Sectoral Working Groups

	Chairperson	Participants
<i>Designated Non-Financial Business Professions (DNFBPs) working groups</i>		
Gaming	MGA	FIAU, NCC, private sector representatives.
TCSPs, Accountants, Auditors, Lawyers, and Tax Advisors	NCC	FIAU, MFSA, MBR, MTCA, Malta Institute of Accountancy, Chamber of Advocates, Accountancy Board, Malta Institute of Taxation, Institute of Financial Service Practitioners, private sector representatives
High Value Goods	NCC	FIAU, MBR, Commerce Department, Transport Malta, MTCA, Malta Ship Registry, Customs Department, private sector representatives.
Immovables, notaries and real estate agents	NCC	Real Estate Licencing Board, FIAU, MTCA, Notarial Council, private sector representatives (including Malta Developers Association).
<i>Virtual Financial Asset Service Providers (VFASPs), Virtual Financial Assets and new emerging technologies</i>	MFSA	FIAU, ARB, OAG, MPF, NCC, private sector representative bodies

Sectoral Working Groups

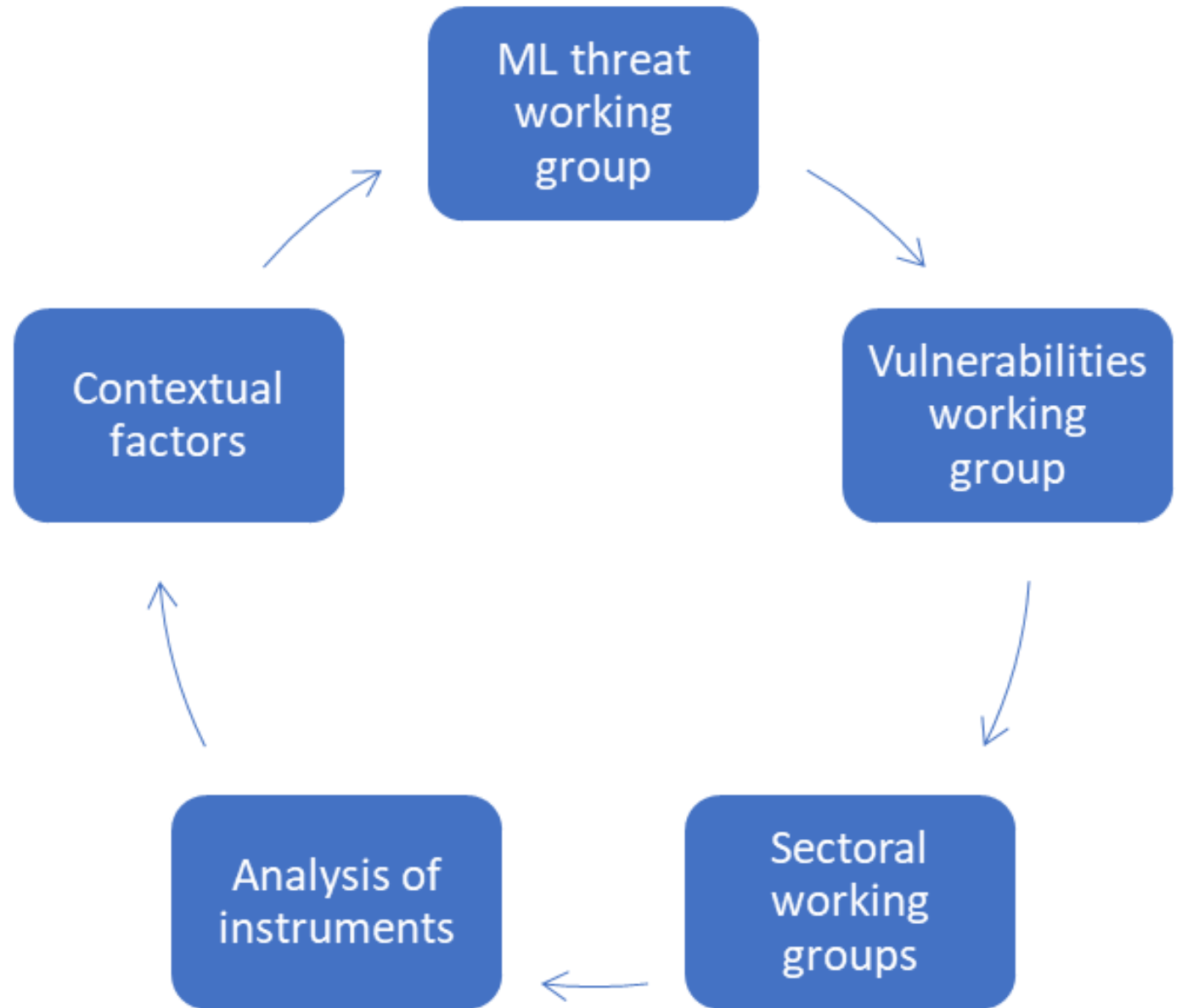
Financial Group	Sector	Working	Chairperson	Participants
Banks			FIAU	MFSA, CBM, NCC, Malta Bankers Association, core banks
Financial Institutions (money remitters, payment service providers, e-money institutions)			MFSA	FIAU, NCC, CBM, College of Stockbroking firms, Financial Institutions Malta Association, representative bodies
Investments			MFSA	FIAU, NCC, Malta Asset Service Association, representative bodies
Insurance			MFSA	FIAU, NCC, Malta Insurance Association, Malta Association of Insurance Brokers, and representative bodies
Pension schemes			MFSA	FIAU, NCC, College of Stockbroking firms, representative bodies

'Other instruments' Working Groups

Other instruments	Chairperson	Participants
Legal persons	MBR	FIAU, MFSA, MPF, Office of the AG, MTCA, NCC, private sector representatives.
Legal arrangements	MFSA	FIAU, MBR, MTCA, NCC, private sector representatives
Voluntary Organisations	OCVO	FIAU, MBR, MFSA, MPF
Citizenship / Residency by investment schemes	NCC	FIAU, MTCA, Agenzija Komunita Malta, Residency Malta Agency

2023 NRA process

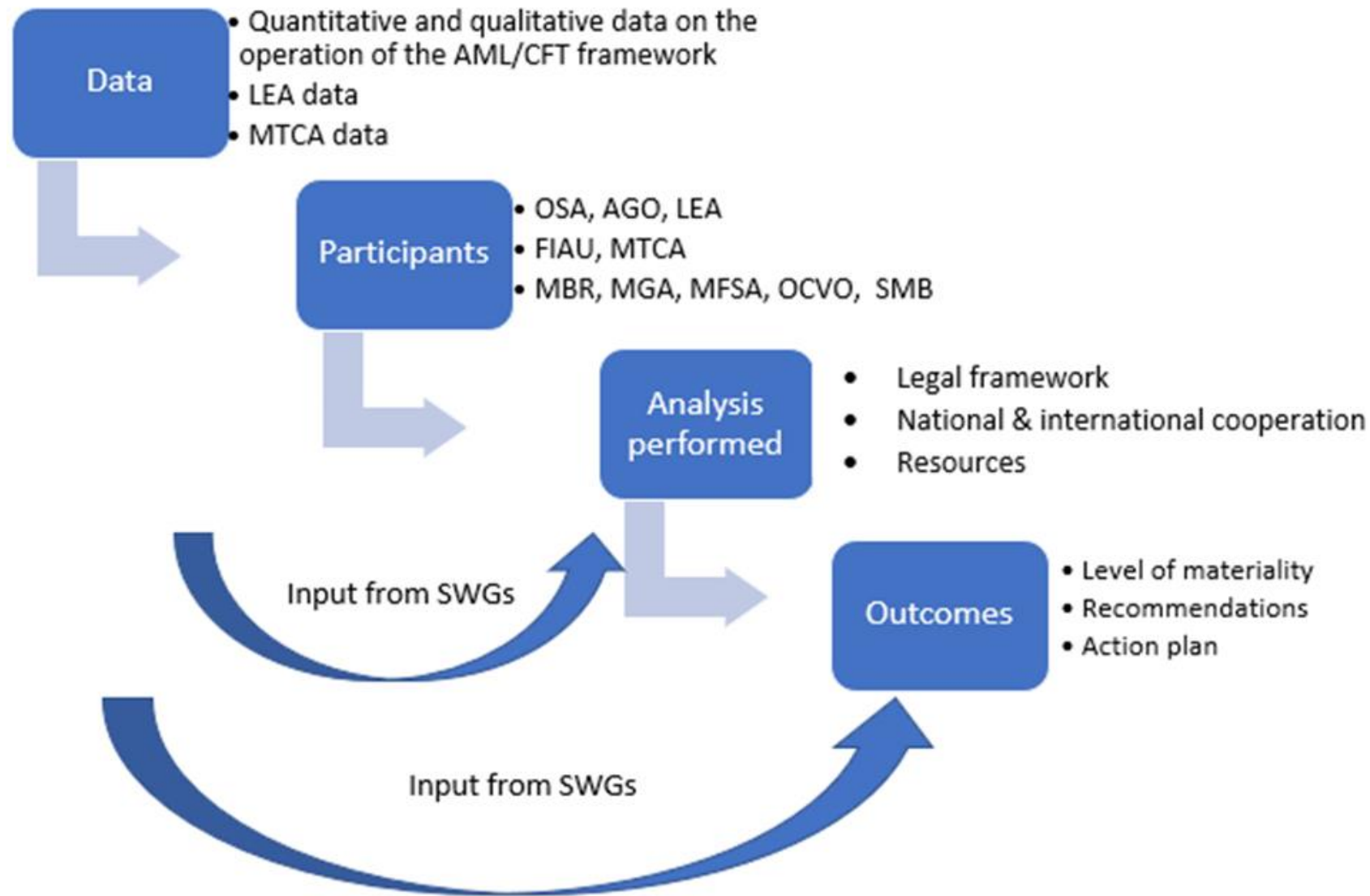
2023 NRA process



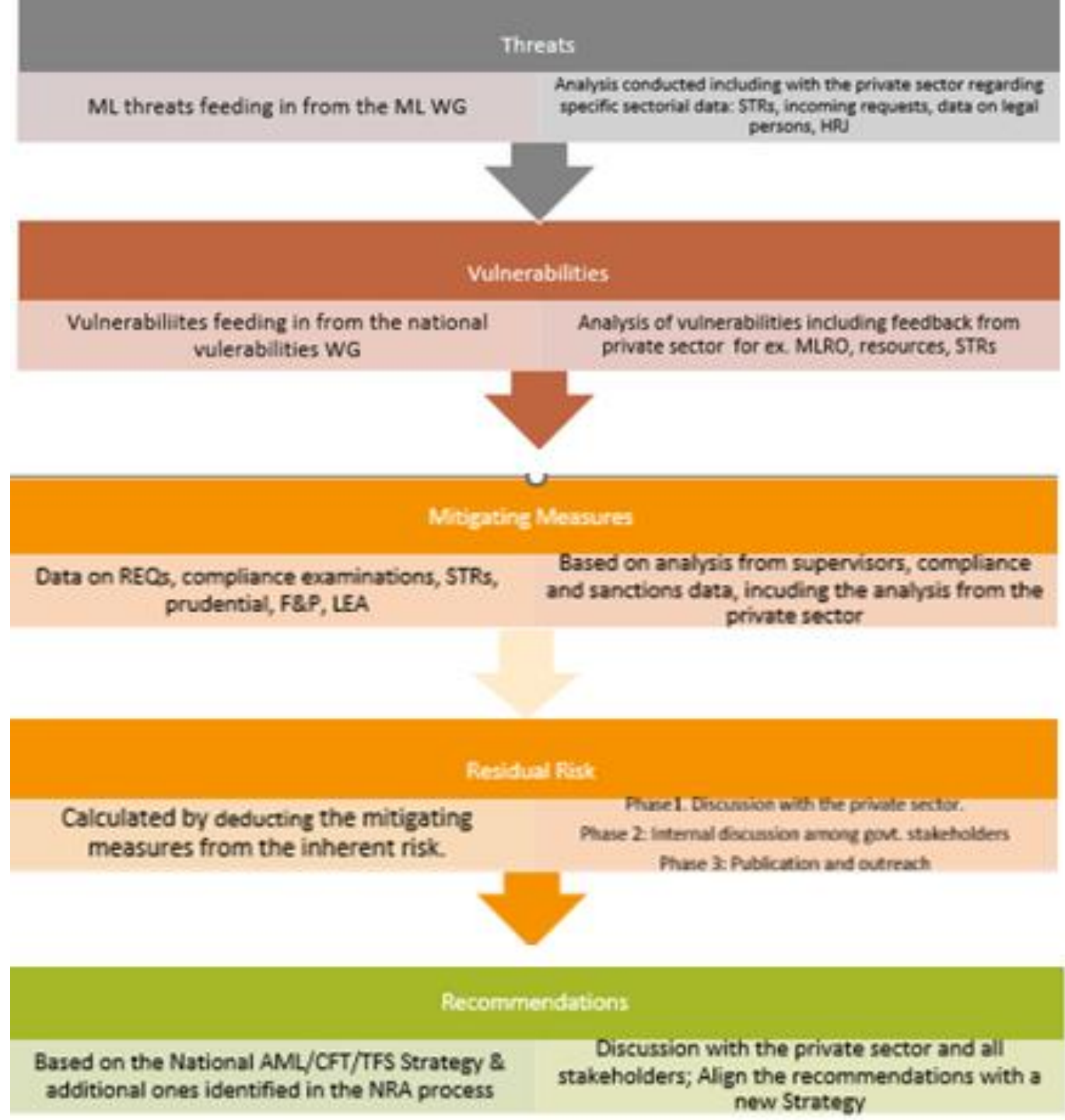
Data used in the ML threat working group



Vulnerability working group process



Outline of all the Sectoral Working Group analysis



Analysis of the other instruments



Analysis of the contextual factors

Legislative & institutional

- 2019 MER
- 2021 Enhanced FUR
- 2021/2022 ICRG process
- Capacity building
- Strengthening good governance

Size and materiality of the economy

- GDP & other economic indicators
- Relative size of various sectors (FIs, DNFBPs, VFASPs)
- Non-financial instruments
- Financial flows

Informal economy

- Size of the informal economy
- Macroeconomic analysis
- Cross-border cash flows

Key findings: Residual risk

Rating categories

Rating level of threat	Rating level of vulnerability	Rating level of effectiveness of mitigating measures	Rating level of the residual risk
Low	Low	Low level	Low
Medium-low	Medium-low	Moderate	Medium-low
Medium	Medium	Substantial	Medium
Medium-high	Medium-high	High	Medium-high
High	High	Very high	High

Residual risk 2023 NRA vs 2018 NRA

Risk assessment	2018 NRA residual risk	2023 NRA residual risk
Money Laundering – residual risk		
Financial sector		
Banking	Medium-high	Medium
Financial Institution	Medium-high	Medium-high
Investment services	Medium-high	Medium
Pensions	Medium	Medium
Insurance	Medium	Medium-low
DNFBPs		
Gaming		
Remote gaming	High	Medium
Land-based gaming	Medium-low	Medium
Recognition notice framework	N/A	Medium-high
CSPs	High	Medium-high
Accountants and auditors	Medium-high	Medium
Lawyers	High	Medium
Tax advisors	N/A	Medium-high
Dealing in immovable property	Medium-high	Medium-high
High value goods	N/A	Medium-high
VFAs and VFASPs		Medium

Residual risk 2023 NRA vs 2018 NRA

Risk assessment	2018 NRA residual risk	2023 NRA residual risk
<i>Other instruments - ML residual risk</i>		
Legal persons	High	Medium-high
Legal arrangements	High	Medium
Citizenship & residency by investment schemes	N/A	Medium
NPOs (Voluntary Organisations)	High	Medium
<i>Other risk assessments</i>		
Terrorism Financing		Medium
Proliferation Financing and Targeted Financial Sanctions related risks	N/A	Medium

Sectors that are 'medium-high' residual risk

Risk assessment	Inherent risk	Effectiveness of mitigating measure	Residual risk level
Legal persons	Medium-high	High	Medium-high
Financial Institutions	Medium-high	Substantial	Medium-high
Gaming sector: Recognition notice framework	Medium-high	Moderate	Medium-high
CSPs (including trustees and fiduciaries)	Medium-high	Substantial	Medium-high
Tax advisors	Medium-high	Moderate	Medium-high
Dealing in immovable property	Medium-high	Substantial	Medium-high
Dealing in high value goods	Medium-high	Substantial	Medium-high

‘Medium-high’ ML predicate offences

<i>Money Laundering of the proceeds of:</i>	Inherent risk	Effectiveness of mitigating measure	Residual risk level
Domestic drug trafficking	Medium-high	Substantial	Medium-high
Local organized crime	Medium-high	Substantial	Medium-high
Foreign organised crime	Medium-high	Substantial	Medium-high
Foreign crime: fraud (including cybercrime)	Medium-high	Substantial	Medium-high

'Medium-high' ML typologies

	Inherent risk	Effectiveness of mitigating measure	Residual risk level
Abuse of Maltese registered companies with no sufficient links to Malta, for ML or concealment of BO	High	Substantial	Medium-high
The use of cash and cash-based businesses	High	Substantial	Medium-high
Trade based ML abusing geographical location and transshipment activity	Medium-high	Substantial	Medium-high
Abuse of complex corporate structures for ML or concealment of BO	Medium-high	Substantial	Medium-high
Laundering through high-value movables	Medium-high	Substantial	Medium-high
Laundering through immovable property transactions	Medium-high	Substantial	Medium-high

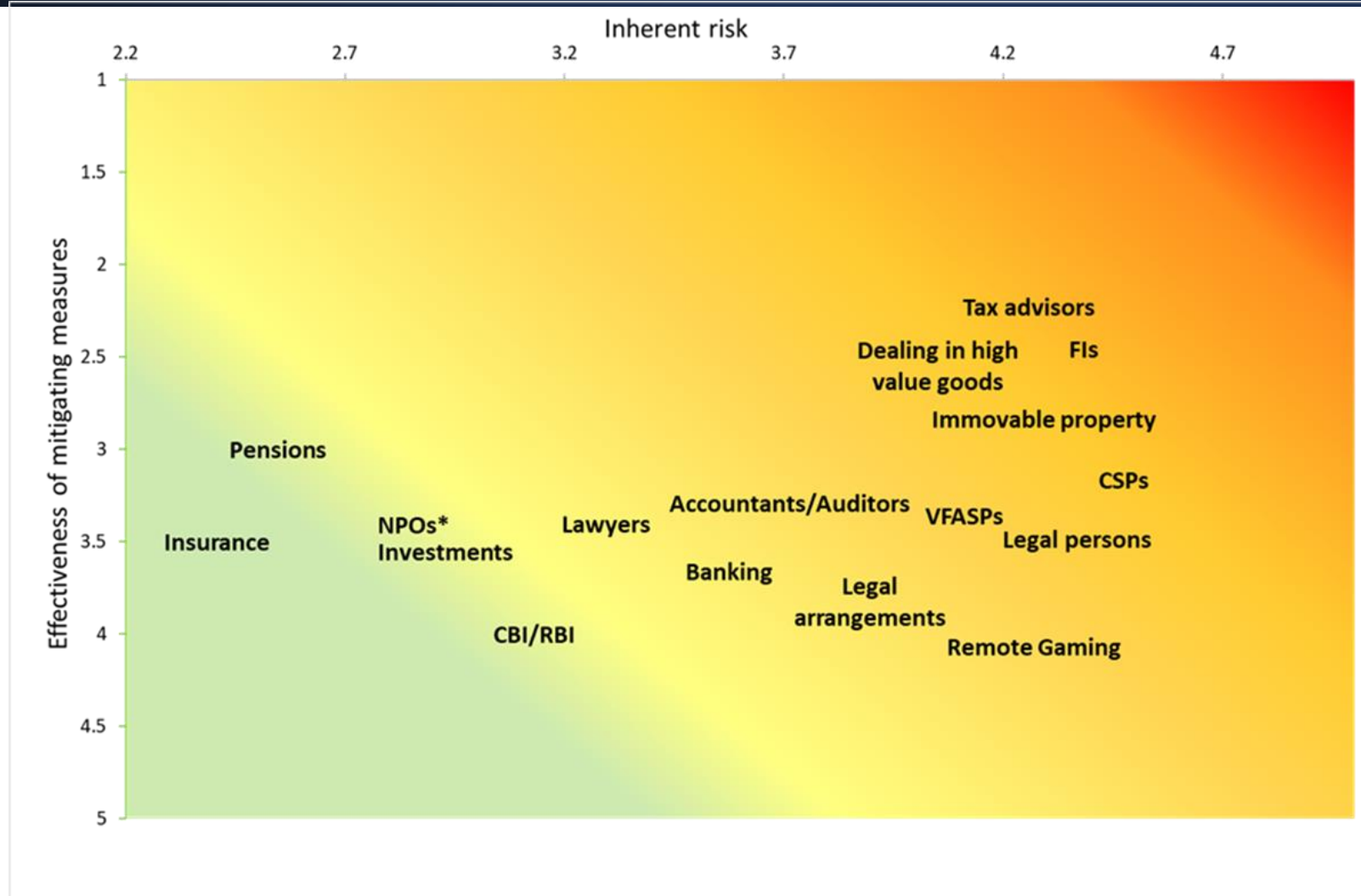
Also, to note:

	Inherent risk	Effectiveness of mitigating measure	Residual risk level
Abuse of Maltese companies as conduits in VAT fraud	Medium-high	High	Medium
Cross border cash activity	Medium	Substantial	Medium
Laundering of foreign proceeds of fraud through remote gaming operations	Medium	Substantial	Medium

Rating of vulnerabilities

	Overall rating
Vulnerability in the constitutional framework in the judicial review of sanctions that may impede supervisors from imposing proportionate, effective, and dissuasive administrative sanctions, including pecuniary penalties.	High
Challenges in monitoring activities of legal persons with no sufficient links to Malta	High
De-risking	High
Limited pool of professional human resources	High
Vulnerabilities in the judicial system including the committal proceedings, the ML trial without jury, and the virtual evidence and vulnerabilities in relation to selling of assets by the ARB during criminal proceedings	High
Lack of criminal defence regime protecting subject persons when submitting suspicious reports and there is the appropriate consent from the FIAU	Medium-high
Possible differences between sectoral MLRO approval procedures	Medium-high
Recognition framework for foreign gaming license holders	Medium-high
Obstacles to authorities' cooperating and coordination in enforcement matters	Medium-high

ML residual risk heat map



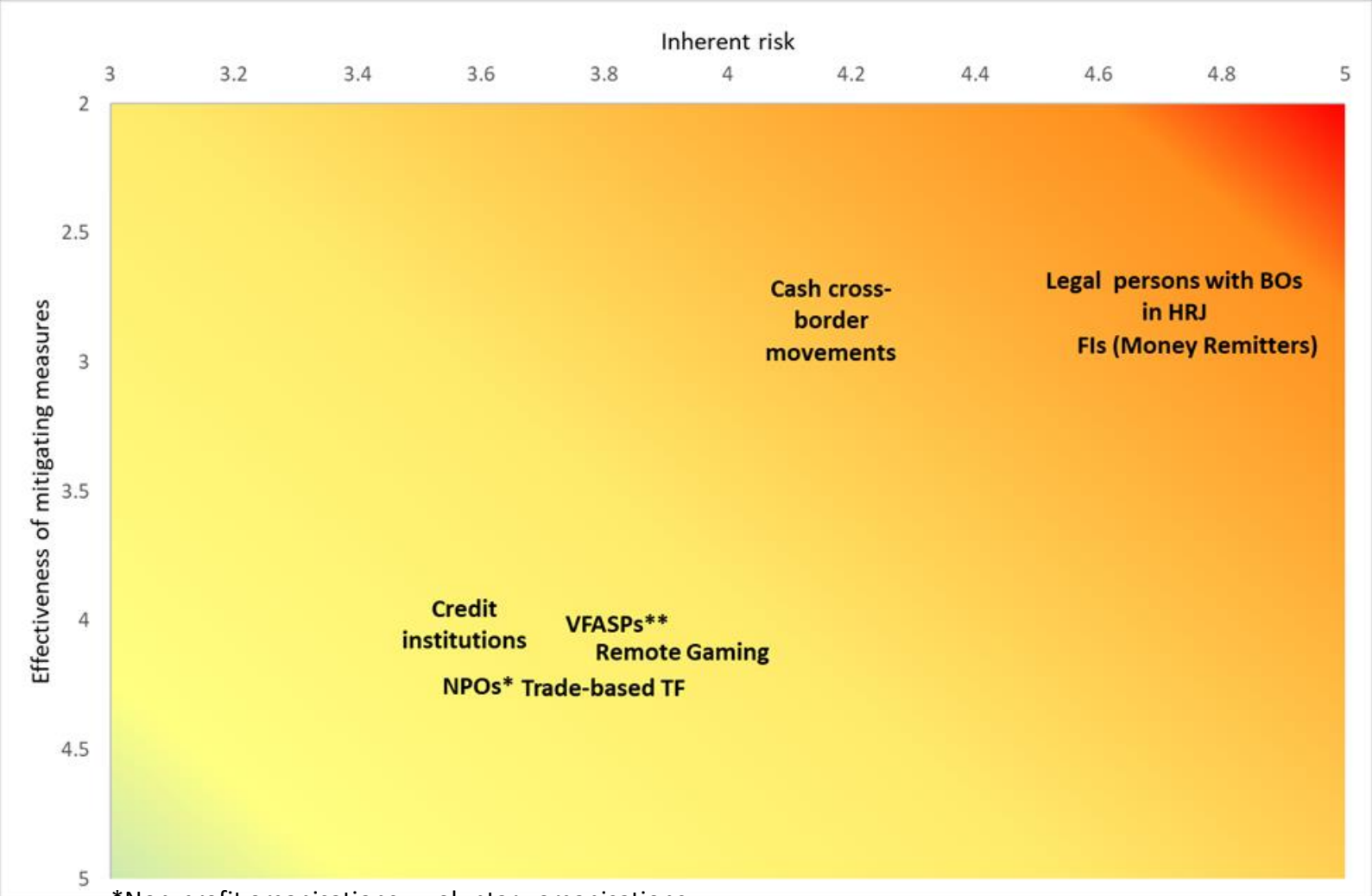
*Non-profit organisations – voluntary organisations

Key findings:
TF and PF/TFS

TF

- The overall terrorism financing risk is 'medium'.
- The competent authorities have taken several actions in order to make sure that there is nothing left unaddressed and to ensure that Malta is assessing the risks from every possible angle.

TF residual risk heat map



*Non-profit organisations – voluntary organisations

**This refers to the licensed VFASPs.

TF residual risk

Topic	Inherent risk	Effectiveness of mitigating measure	Residual risk
Movement of funds for TF via financial institutions (remitters)	High	Substantial	Medium-high
Involvement of Maltese companies with BOs in HRJ possibly linked to TF (with no business relationship with the financial sector in Malta)	High	Substantial	Medium-high
Movement of funds for TF via cash cross-border movements	Medium-high	Substantial	Medium-high
Raising/Movement of funds for TF via disbursements of VOs (NPOs) that fall under the FATF scope	Medium-high	Substantial	Medium-high
Movement of funds for TF via credit institutions	Medium-high	High	Medium

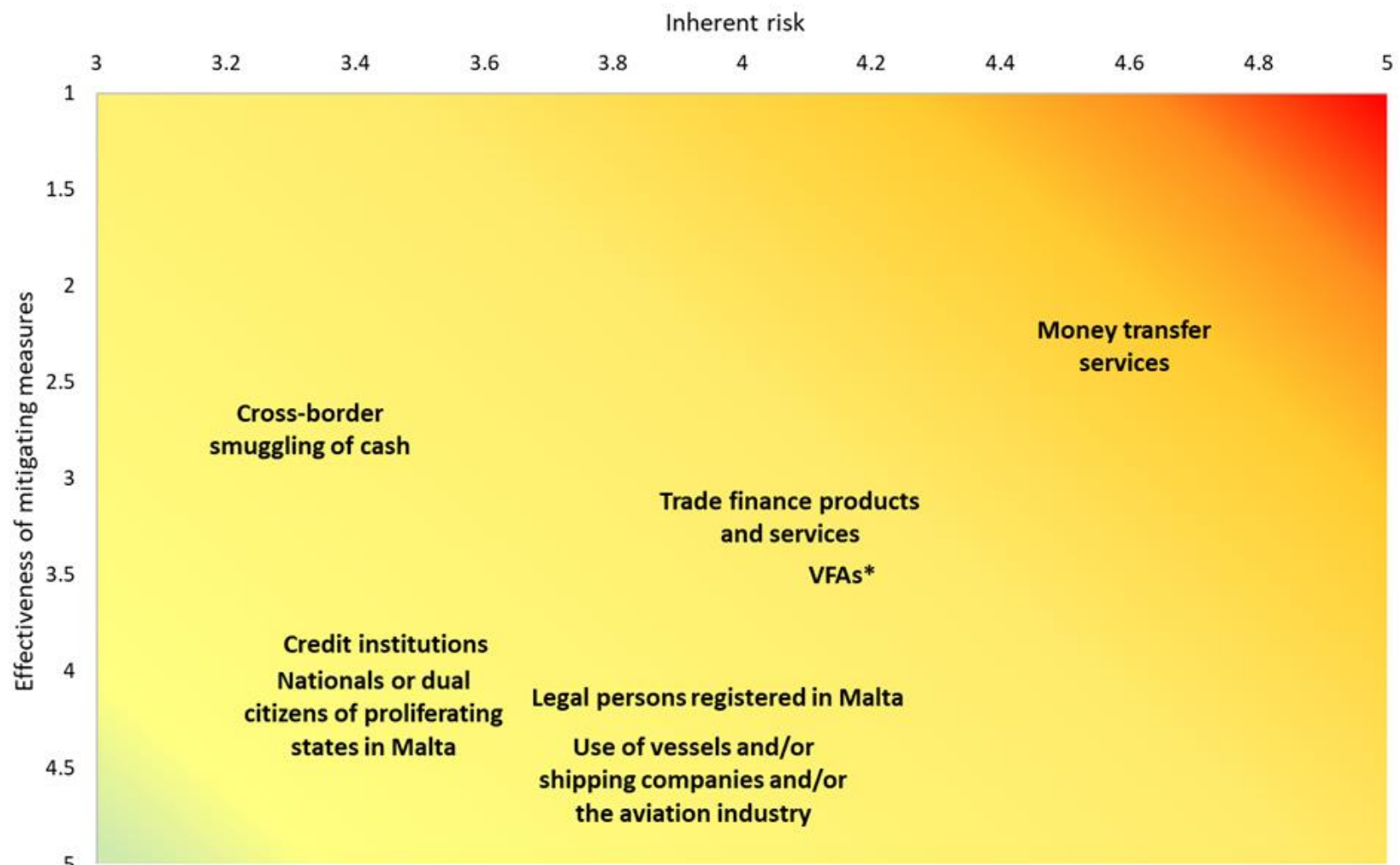
TF residual risk

Topic	Inherent risk	Effectiveness of mitigating measure	Residual risk
Movement of funds for TF via cryptocurrencies	Medium-high	High	Medium
Movement of funds for TF via remote gaming	Medium-high	High	Medium
Trade-based TF	Medium-high	High	Medium
Movement of funds through beneficiaries of Trusts	Medium	High	Medium-low
Domestic raising of funds for TF	Medium	High	Medium-low
Threat of abuse for TF by VOs (NPOs) that do not fall under the FATF scope	Medium-low	High	Medium-low
Using TF funds domestically	Medium	Very high	Medium-low

PF-TFS

- The overall residual risk of proliferation financing and targeted financial sanction evading is that of 'medium'.
- The residual risk is driven by the risk of money transfer services used to conduct cash transfers related to procurement of goods.

PF-TFS residual risk heat map



*This refers to the licensed VFASPs.

Main PF-TFS residual risk

Risk assessment	Inherent risk	Effectiveness of mitigating measure	Residual risk level
<i>PF and TFS risks</i>	Medium-high	High	Medium
Money transfer services used to conduct transfers related to procurement of goods	Medium-high	Moderate	Medium-high
Cross-border smuggling of cash to support proliferation activities	Medium-high	Substantial	Medium-high
Use of trade finance products and services in procurement of proliferation-sensitive goods	Medium-high	Substantial	Medium

DNFPBs

What sectors are covered here?

- CSPs (including trustees and fiduciaries)
- Accountants
- Auditors
- Lawyers
- Tax advisors
- Notaries
- Real estate agents

CSPs (including trustees and fiduciaries)

ML residual risk – CSPs (including trustees and fiduciaries)

Topic	Inherent risk	Effectiveness of mitigating Measure	Residual risk
<i>Abuse of Maltese registered legal persons with no sufficient links to Malta for ML/TF purposes or concealment of BOs:</i>			
When providing only services of a registered office	High	Moderate	High
When providing the service of formation of legal persons	Medium-high	Substantial	Medium-high
When acting as, or arranging for another person to act as, a director of a legal person	Medium-high	High	Medium
When acting as, or arranging for another person to act as, a secretary of a legal person	Medium	High	Medium-low

CSPs (including trustees and fiduciaries)

- Overall ML residual risk: ***medium-high***
- What are the typologies of ML applicable here for example:
 - Abuse of Maltese registered legal persons with no sufficient links to Malta, for ML or concealment of BO.
 - Abuse of complex corporate structures for ML or concealment of BO.

CSPs (including trustees and fiduciaries)

- Cross-reference is to be made to the ML residual risk analysis of the legal persons, where it is to be noted that:
 - Only 42% of the legal persons registered in Malta have an IBAN in Malta.
 - So, CSPs are the main gatekeepers of legal persons.
- Legal persons have a 'medium-high' ML residual risk.

CSPs (including trustees and fiduciaries)

- It is also to be noted that:
 - Moderate improvements are needed with regards to CDD carried out on legal persons' bank account when pooled accounts are used, and with regard to STR reporting by subject persons and the multi-pronged approach.
 - the multi-pronged approach is missing when legal persons are not set up by a local CSP or not banking in Malta.
 - The percentage of legal persons set up by a CSP stood at 98.3% in 2020, which decreased to 95.4% in 2021, to 91.5% in 2022.

Accountants and auditors

ML residual risk – accountants and auditors

Topic	Inherent risk	Effectiveness of mitigating measure	Residual risk
<i>Laundering of money through:</i>			
Audit and assurance	Medium-high	Substantial	Medium-high
Preparation of financial statements	Medium	High	Medium-low
Liquidation	Medium	High	Medium-low

Accountants and auditors

- Overall residual risk: *medium*
- What is the key vulnerability here:
 - Challenges in monitoring activities of legal persons with no sufficient links to Malta
- So, cross-reference is to be made to the residual risk analysis of the legal persons, where we see that number of registered persons being incorporate in Malta with no Maltese involvement is increasing over the years.

Lawyers

ML residual risk – lawyers

	Inherent risk	Effectiveness of mitigating measure	Residual risk
<i>Laundering of money through:</i>			
Buying or selling of real estate or business entities	Medium-high	Substantial	Medium-high
The planning or carrying out of transactions for clients concerning the organization of contributions necessary for the creation, operation, or management of legal persons	Medium-high	Substantial	Medium-high
The planning or carrying out of transactions for clients concerning the opening or management of bank, savings, or securities accounts	Medium	Substantial	Medium
Planning or carrying out of transactions for clients concerning the managing of client money, securities, or other assets	Medium	Substantial	Medium
Liquidation of the legal persons	Medium	High	Medium-low

Lawyers

- Overall ML residual risk: *medium*
- Key applicable ML typologies here are:
 - Laundering through immovable property transactions.
 - Abuse of Maltese registered legal persons with no sufficient links to Malta, for ML or concealment of BO.

Lawyers

- So, cross-reference is to be made to the residual risk analysis of dealing with immovable property and that of legal persons.
- Here of importance is the reference to tax offences related to the purchase of real estate property transfers including by undervaluation.
- According to data from the MTCA, in 2021, there were 4,550 cases of potential undervaluation, which constituted 32% of all purchase deeds during that year.

Tax advisors

ML residual risk – tax advisors

Topic	Inherent risk	Effectiveness of mitigating measures	Residual risk
<i>Abuse of tax advice services for ML purposes with lack of commercial rationale by</i>			
Advice on specific tax related questions, tax audit, tax planning or tax optimization	High	Low	High
Cross border tax advisory services	High	Low	High
Corporate re-organisations	Medium-high	Substantial	Medium-high
Repatriation of assets	Medium-high	Substantial	Medium-high
Succession and estate planning	Medium-high	Substantial	Medium-high
Transfer / Sale of ongoing concerns	Medium	Substantial	Medium
Re-domiciliation of entities	Medium	Substantial	Medium

Tax advisors

- Overall ML residual risk: ***medium-high***
- Key conclusion:
 - lack of market entry controls present a higher weight in the inherent risk analysis,
 - no effective mitigating measure here.

Tax advisors

- Cross reference to be made to the National Tax Risk assessment that fed into the 2023 NRA, where one of the conclusions was that Malta's income tax regime is at risk of being misused to launder the proceeds of crime.

Dealing in immovable property: notaries and real estate agents

ML residual risk – dealing in immovable property

Topic	Inherent risk	Effectiveness of mitigating measures	Residual risk
Laundrying the proceeds of domestic crime including tax crime, through the acquisition of immovable property	High	Substantial	Medium-high
Tax offences related to the purchase of real estate property transfers including by undervaluation	High	Substantial	Medium-high
Laundrying through the use of cash in mortgage loan repayments, leasing, renovation or finishings	Medium-high	Moderate	Medium-high
Notaries' services abused for ML through property acquisitions	Medium-high	Substantial	Medium-high
Real estate agents' services abused for ML through property acquisitions	Medium	Moderate	Medium
Laundrying of proceeds of crime through the purchase of real estate by legal persons including through complex structures	Medium	Substantial	Medium
Laundrying the proceeds of foreign crime in Malta through the acquisition of immovable property	Medium	Substantial	Medium

Dealing in immovable property

- Overall ML residual risk of the sector: ***medium-high***
- ***Notaries' services abused for ML through property acquisitions: medium-high***
- ***Real estate agents' services abused for ML through property acquisitions: medium***
- Residual risk is driven by ML through:
 - Domestic side rather than foreign, even when taking into consideration the high-end property.

Dealing in immovable property

- Key ML typologies in this sector are:
 - The use of cash when it comes to mortgage loan repayments, leasing, renovation, or finishings, and obviously
 - The laundering through immovable property transactions

Way forward

Way forward

- Outreach on the 2023 NRA.
- NRA will be updated every three years in line with the National AML/CFT/TFS Strategy that addresses the findings of the NRA.

Thank you for your kind attention

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