



4th Follow-Up Report

Mutual Evaluation of Fiji



FIJI: 4TH ENHANCED FOLLOW-UP REPORT 2020

I. INTRODUCTION

1. The mutual evaluation report (MER) of Fiji was adopted in September 2016. This FUR presents the progress Fiji has reported in addressing the technical compliance deficiencies identified in its MER. This report does not include detailed analysis of technical compliance or analysis of any progress Fiji has made to improve its effectiveness.

2. As Fiji did not request re-ratings for any Recommendations, the preparation of this report was undertaken by the APG Secretariat.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

3. Fiji's original MER ratings and updated ratings based on earlier FURs are as follows¹:

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Mod	Mod	Mod	Mod	Low	Mod	Mod	Low	Low	Low	Low

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

4. At the time of its MER being adopted, Fiji was placed in enhanced (expedited) follow-up. On the basis of progress made, in 2017 Fiji was moved to enhanced follow-up. Fiji currently has six Recommendations rated PC and none rated NC.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

5. This section summarises the progress reported by Fiji to improve its technical compliance. The information presented has not been subject to analysis against the assessment methodology.

¹ Original MER ratings which have changed since the MER are in brackets on the left and current ratings are on the right of the cell.

3.1. Progress to address technical compliance deficiencies identified in the MER

6. Fiji reports that it remains committed to addressing the remaining gaps identified in the 2016 MER. The Fijian Government through the National AML Council is driving national efforts to implement recommendations outlined in the MER.

7. Fiji is finalising a national action plan to eradicate trafficking of persons in Fiji. The action plan ensures that Fiji's response to Human Trafficking is driven by the pillars of the Palermo Protocol – prevention, protection, prosecution and partnership.

8. Fiji is finalising a review of its NRA, focussing on Fiji's ML threats. The findings of the review have been reported, with consultations held with key law enforcement agencies.

Recommendation 6 (TFS related to Terrorism and TF)

9. Fiji reported that the Solicitor General's Office is revising the Public Order Act to address the deficiencies remaining under R.6 and R.7. Consultation on the draft Public Order Amendment Bill has been ongoing from 2018. The United Nations Counter Terrorism Executive Directorate (CTED) and APG Secretariat have provided assistance in reviewing and commenting on the Bill. Fiji reports that the revised Public Order Act will:

- identify a competent authority to propose designations under UNSCRs 1267, 1988 and 1373
- put in place legal authority for collecting and soliciting information of suspected persons / entities suspected to meet the criteria for designation
- protect the rights of bona fide third parties
- enable TFS to be implemented immediately

10. The FIU will issue guidance to FIs and DNFBPs on their targeted financial sanctions (TFS) obligations after the amendments to the Public Order Act have been passed.

Recommendation 7 (TFS related to proliferation)

11. The 2017 Public Order Amendment Act introduced a legal framework for combating financing the proliferation of WMD. Fiji's 2017 FUR identified remaining deficiencies in R.7 which Fiji reported will be addressed by the revision to the Public Order Act.

Recommendation 8 (Non-profit organisations (NPOs))

12. Fiji sought technical assistance from the APG to address the deficiencies under R.8, with a consultant engaged by APG in 2019 to conduct a review of the NPO sector, covering all elements of C.8.1 and including recommendations for competent authorities. The review was also to deliver an AML/CFT supervision strategy, work program and manual for Fiji's at-risk NPOs. A draft report on the findings and recommendations was submitted to the Registrar of NPOs Office. The TA project has been put on hold, with another consultant identified to complete this project in 2020.

13. The Companies Amendment Act 2020 is in force and effect and requires charitable companies to prepare financial statements, which will increase their transparency. The Registrar of Companies may publish and make publicly available any information in relation to a charitable company that does not comply with these requirements.

Recommendation 24 (Transparency and beneficial ownership of legal persons)

14. Fiji reported that the Companies (Budget Amendment) Act 23 came into effect on 15 January 2020.

15. In relation to basic information, Fiji reported that in 2019 the Registrar of Companies (ROC) launched an online company registry. All business names and companies must digitally re-register with the Registrar by 31 December 2020. Companies that do not re-register will be deemed deregistered. The re-registration process will ensure all company information held with the ROC is current and correct. At the completion of the re-registration process, Fiji will consider an ML/TF risk assessment of all types of legal persons using accurate and current data. Information held online by the ROC is publicly available. The name, number and status of a company is publicly accessible online, free of charge, other online information is available upon payment of a fee.

16. Fiji reported that the article of association for governance of the company requires the company to maintain information regarding voting rights of members. This document is filed as part of the company registration process in Fiji. Section 85 of the Companies Act requires the company register to be kept either at the registered office or at the principal place of business unless Registrar approves another place.

17. In relation to beneficial ownership, Fiji reported that Section 251(8) of the Companies Act 2015 requires companies to maintain current information relating to shares held non-beneficially. This act requires non-listed companies to indicate any shares that a member does not hold beneficially and to include the name of the beneficial owner of the share. Section 7 of Companies (Budget Amendment) Act 2019 and section 82 of the Companies Act 2015 require companies to maintain information on the beneficial owners of shares in their register of members. Section 81 of the Companies Act provides that companies must set up and maintain the register, including beneficial ownership information. The ROC and the Reserve Bank of Fiji (RBF) have the power to request this information from the Companies when required. Section 11 of the Companies Regulations 2015 states that the RBF or the ROC may require the disclosure of the name and address of any person entitled to the beneficial interest of a security.

18. In relation to record keeping, Fiji reported that Section 381 of the Companies Act 2015, regarding record keeping requirements has been repealed. Section 82(9) of the Companies Act requires companies to maintain in their register of members, the name and details of each person who stopped being a member of the company within the last 7 years and the date on which the person stopped being a member.

19. In relation to competent authorities accessing information, Fiji reported that Section 7 of the Companies (Budget Amendment) Act 2019 and section 82 of the Companies Act 2015 require companies to maintain information on the beneficial owners of shares in their register of members. Section 7 of Companies (Budget Amendment) Act 2019 and section 251 of the Companies Act 2015 requires that where a company is given notice under section 251 that any share is held non-beneficially, the company must determine the person who holds the beneficial ownership interest of the share.

Recommendation 39 (Extradition)

20. Fiji is drafting procedures to clarify the process for dealing with extradition requests including the designation of comity countries.

4.2. Progress on Recommendations which have changed since adoption of the MER

Recommendation 15 (New technologies)

21. Since the adoption of Fiji's last FUR, Recommendation 15 has been amended to include requirements related to virtual assets (VA) and virtual asset service providers (VASPs).

22. Fiji reported that it has not yet identified and assessed the ML/TF risks emerging from virtual asset activities and the activities or operations of VASPs. Fiji advises that VASP activities and operations are currently prohibited. Fiji has the following legislative controls and measures:

- a. Prohibition on any type of foreign assets ownership by residents of Fiji;
- b. Prohibition of offshore payments and supply of offshore credit of any type by residents of Fiji;
- c. Explicit recognition of only Fijian currency as legal tender for any payments conducted in Fiji.

23. The Exchange Control Act prohibits any person in Fiji (unless approved by Reserve Bank of Fiji):

- a. to make any payment to or for the credit of a person resident outside Fiji;
- b. to make any payment to or for the credit of a person resident in Fiji by order or on behalf of a person resident outside Fiji; and
- c. to place any sum to the credit of any person resident outside Fiji.
- d. Section 8 of the Exchange Control Act provides for the explicit prohibition for a person resident in Fiji (unless approved by RBF):
- e. to make any payment outside Fiji to or for the credit of any person resident outside Fiji.

24. Fiji reported that the Reserve Bank of Fiji Act stipulates that only Fijian fiat currency issued by RBF is legal tender in Fiji, and defines “currency” as bank note, currency note or coin. In addition, there are controls and prohibitions under the Exchange Control Act on the exchange, use, payments and transactions in Fiji in foreign currencies. Due to its legislative controls Fiji does not intend to introduce new legislation to specifically regulate VASPs or to add VASPs as a reporting “financial institution” under AML/CFT.

25. Fiji has not advised of any action taken to identify persons that carry out VASP activities without license or registration, or of any sanctions applied.

26. The systems Fiji has in place for international cooperation more broadly would remain applicable in relation to ML, predicate offences or TF related to VA or legal persons established in Fiji that may be operating an unregulated VASP.

IV. CONCLUSION

27. As Fiji did not request technical compliance re-ratings this report does not contain detailed analysis of progress.

28. Fiji has continued to make progress to rectify deficiencies identified in its MER.

29. At the December 2020 APG Mutual Evaluation Committee, APG members endorsed the Fiji FUR 2020 for out-of-session adoption. Fiji has 34 Recommendations rated C/LC. Fiji will remain in enhanced follow-up (due to its MER effectiveness results), and will continue to report to the APG on progress to strengthen its implementation of AML/CFT measures. Fiji’s fifth progress report is due 1 October 2021.