



REPUBLIC OF HONDURAS

SEVENTH ENHANCED FOLLOW-
UP REPORT AND TECHNICAL
COMPLIANCE RE-RATING



January 2020

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HONDURAS: SEVENTH ENHANCED FOLLOW-UP REPORT

I. INTRODUCTION

1. In accordance with GAFILAT's Fourth Round procedures, Honduras' Mutual Evaluation Report (MER) was adopted in 2015 under the framework of the XXXVII Plenary of Representatives of GAFILAT. This seventh follow-up report analyses Honduras' progress in addressing the technical compliance deficiencies identified in its MER. New ratings are granted when sufficient progress is observed. This report also analyses Honduras' progress in implementing the new requirements related to the FATF Recommendations that have changed since the on-site visit to the country: Recommendations 2, 5, 7, 8, 18 and 21. 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 Honduras' 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 rated Honduras as follows in relation to technical compliance:

Table 1. Technical Compliance Ratings, December 2018

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

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

Sources: Honduras Mutual Assessment Report, <http://gafilat.org/index.php/es/biblioteca-virtual/miembros/honduras/evaluaciones-mutuas-9/1952-iemhonduras-cuartaronda/file>

3. Considering these results, GAFILAT placed Honduras under the enhanced follow-up process¹. The Executive Secretariat of GAFILAT evaluated Honduras' request for a new technical compliance rating and prepared this report.

4. Section III of this report summarizes Honduras' progress in improving technical compliance, as well as the analysis of the FATF Recommendations that have changed since the on-site visit in the country. Section IV, moreover, presents the conclusion and a table showing which Recommendations were re-rated.

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

III. OVERVIEW OF THE PROGRESS MADE TO IMPROVE TECHNICAL COMPLIANCE

5. In accordance with the above, this section summarizes Honduras' progress in improving its technical compliance by:

- a) Addressing the technical compliance deficiencies identified in the MER, and
- b) Implementing the new requirements in cases where the FATF Recommendations have changed since the on-site visit to Honduras.

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

6. Honduras has worked to address its technical compliance deficiencies identified in the MER in relation to the following Recommendations:

- Recommendation 1, originally rated PC
- Recommendation 2, originally rated LC
- Recommendation 3, originally rated LC
- Recommendation 10, originally rated LC
- Recommendation 17, originally rated PC
- Recommendation 23, originally rated PC
- Recommendation 28, originally rated PC
- Recommendation 29, originally rated LC
- Recommendation 34, originally rated NC, and
- Recommendation 35, originally rated PC.

7. As a result of this progress, Honduras was re-rated on the Recommendations: R. 3, 10, 17, 23, 29 and 34. GAFILAT acknowledges the progress made by Honduras in improving technical compliance with Recommendations 1, 2, 28 and 35. However, it is considered that the progress made so far does not allow to upgrade the rating of these Recommendations.

Recommendation 1 - Risk assessment and implementation of a risk-based approach (originally rated PC – not re-rated)

8. Honduras' MER established the following deficiencies: 1) The regulation does not establish the frequency to update the National Risk Assessment (NRA) nor does it define the aspects of public access or dissemination means on the results thereof. 2) The allocation of resources to the agencies that are part of the AML/CFT system does not seem to be proportionate to the risks faced by each of them, and 3) The reporting institutions (RIs) do not have their risks documented.

9. With regard to the first deficiency, FIU Resolution No. 547/21-05-2015 states in paragraph 2) that the NRA is confidential and that only partial information corresponding to each of the sectors will be disseminated. In this sense, the Regulations of the Regime of Obligations, Control Measures and Duties of Supervised Institutions in relation to the Special Anti-Money Laundering Law (hereinafter referred to as the Regulations of the AML Law) published on May 28, 2016, in its Article 53 establishes that the National Banking and Insurance Commission (CNBS) shall regularly communicate to RIs, through resolutions, the risk factors of customers, products and services, higher risk geographical areas and distribution channels,

in accordance with the results of the NRA prepared by the Interinstitutional Commission for the Prevention of Money Laundering and Terrorist Financing (CIPLAFT).

10. In addition, FIU Resolution No. 547/21-05-2015 states in its numeral 4) that the CIPLAFT shall define the frequency for updating the NRA. However, CIPLAFT still needs to define this.

11. As for the second deficiency, the legal framework proposed by the country in relation to the Law of Definitive Deprivation of Property of Illicit Origin and the Law against ML was previously analysed in the MER of Honduras. Thus, the deficiency indicated in criterion 1.5 persists.

12. With regard to the third deficiency, the Regulations of the AML Law and FIU Resolution No. 489/13-06-2018, Regulations of the Law for the Regulation of Designated Non-Financial Businesses and Professions (hereinafter Regulation of the DNFBPs Law) establish the obligation of RIs to keep updated and substantiated the assessments of the risks they are exposed to (Articles 48 and 40, respectively).

13. In addition, the Regulations of the AML Law also stipulate that RIs should prepare and submit to the Board of Directors a quarterly report evaluating and establishing the inherent risk rating, control and consolidated or institutional residual risk and each risk factor (Article 48). Thus, the deficiency indicated in the MER in relation to criterion 1.10 has been overcome.

14. Therefore, in accordance with the information provided, Honduras has made important efforts to overcome the deficiencies identified in its MER through the approval of the Regulations of the AML Law and the DNFBPs Law. However, the country has not yet established the frequency for updating the NRA; furthermore, the allocation of resources to the agencies that are part of the AML/CFT system does not appear to be commensurate with the risks faced by each of them, which is considered an important deficiency. It is therefore proposed that the rating be maintained as **Partially Compliant**.

Recommendation 3 - Money laundering offence (originally rated LC – re-rated C)

15. In the MER of Honduras, it was suggested that the fact that some categories of crimes are not explicitly included such as illicit trafficking in stolen goods, counterfeiting and piracy of products, is considered as a deficiency.

16. In this regard, in accordance with article 439 of the Criminal Code approved by Decree No. 130-2017 on May 10, 2019, establishes counterfeiting of currency, offences against industrial and intellectual property and smuggling as predicate offences to ML. This addresses the deficiency identified in the MER in relation to criterion 3.2.

17. Therefore, Honduras has provided information whose analysis shows the overcoming of the deficiency indicated in its MER regarding R.3. It is therefore proposed that the rating be upgraded to **Compliant**.

Recommendation 10 - Customer due diligence (originally rated LC – re-rated C)

18. The Honduran MER noted as a shortcoming that it was not possible to skip customer due diligence in cases where the customer could be tipped-off.

19. In this regard, Article 30 of the Regulations of the AML Law of 2016 establishes that when the RI has suspicions of illegal activities and considers that when performing due diligence measures it would alert the customer, it should present an STR to the FIU. In these cases, they should justify and document the reason why the CDD actions were not conducted. Thus, the deficiency identified in the MER in relation to criterion 10.20 has been overcome.

20. Therefore, in accordance with the information provided by the country, the deficiency has been overcome and there is the possibility of not conducting CDD in accordance with the assumption referred to in criterion 10.20 of the Assessment Methodology. In this sense, it is proposed that the rating be raised to **Compliant**.

Recommendation 17 - Reliance on third parties (originally rated PC – re-rated LC)

21. The Honduran MER established the following as deficiencies under R.17: i) The lack of clarity in defining the scope of reliance on third-parties, where it was not clear whether this power also applied to identify the customer and the beneficial owner (BO) (criterion 17.1); ii) It is not clear that the risk of the country where reliance on third-parties is permitted should be taken into account (criterion 17.2); and iii) With regard to criterion 17.3 a) on institutions delegating CDD to third parties in the same financial group, the MER points to a lack of clarity on how CDD measures are implemented, including record keeping, PEP, AML/CFT programmes and risk mitigation.

22. The legal framework provided by the country in relation to the AML Law, to verify the overcoming of the deficiencies mentioned, has already been analysed in the mutual evaluation process of Honduras and reflected in the MER.

23. However, with regard to overcoming the deficiency of criterion 17.1, Article 43 of the Regulations of the AML Law provides that RIs may only rely on unrelated third parties for customer knowledge and due diligence measures in accordance with the RI's Compliance Program; however, the latter is ultimately responsible for:

- a. Immediately obtaining the necessary information to identify the customer and the BO, as well as understanding the nature of the professional, economic or business activity.
- b. Establishing policies and procedures to ensure that the third party provides, without delay, copies of identification data and other relevant documentation relating to due diligence requirements.
- c. Ensuring that the third party is regulated and supervised and that it has implemented measures to comply with due diligence requirements and adequate record keeping.

24. The contents of criterion 17.1 are thus addressed.

25. In relation to the deficiency indicated in criterion 17.2, Article 43 of the Regulations of the AML Law establishes that when the third party resides abroad, RIs should ensure that it complies with paragraphs a - b of this Article (previously analysed to verify compliance with criterion 17.1) and take into account information on the risk level. Therefore, the content of criterion 17.2 is addressed.

26. As regards the deficiency of criterion 17.3.a, Article 44 of the Regulations of the AML Law establishes that when the RI is part of a financial or economic group, national or international, and the latter relies on a third party from the same group, the customer knowledge and CDD process should observe the policies and procedures established in the Individual or Corporate Compliance Program of the RI, as

well as the provisions of Article 43 previously analysed for compliance with criterion 17.1. However, Article 44 referred to, does not establish the obligation for the group to apply recordkeeping requirements in accordance with Recommendations 11 and 12, as well as AML/CFT programs in line with R.18. Thus, the deficiency described in the MER in relation to criterion 17.3.a is not yet addressed.

27. Therefore, according to the analysis of the information presented by the country, Honduras has made important efforts to overcome the deficiencies noted in the MER in relation to R.17. However, the provisions of criterion 17.3 of the Assessment Methodology have yet to be addressed. It is therefore proposed that the rating be upgraded to **Largely Compliant**.

Recommendation 23 - DNFBPs: Other Measures (originally rated PC – re-rated C)

28. According to the MER, the lack of regulation for DNFBPs with respect to internal controls, including ongoing training and selection procedures for compliance staff, was identified as a deficiency.

29. Article 13 c) of the Regulations of the DNFBPs Law of June 2016 establishes as a requirement for Corporate Compliance Officers that they should have specialised and certified training in ML risk prevention and management, preferably with knowledge in risk analysis, information systems management, legal and auditing aspects. In addition, this Article addresses the deficiency of having procedures to select personnel for compliance areas (paragraphs a-d of Article 13 mentioned above).

30. In this sense, the legal framework establishes requirements for officers of corporate compliance areas to demonstrate relevant work experience, knowledge in the formulation and implementation of AML/CFT policies, procedures and controls.

31. In addition, Article 14 of the same regulation establishes as part of the content of the AML/CFT Compliance Programme for DNFBPs, the area of employee knowledge and training.

32. Similarly, Article 18 develops the obligations of RIs in terms of training for their employees, mainly those concerning specialised training plans, which officials of the institution are targeted, and the obligation to carry out evaluations to verify compliance by the recipients of the training, among others to ensure compliance.

33. Thus, it is estimated that Honduras overcomes the deficiency related to the lack of regulation for DNFBPs in matters of internal controls and that this includes ongoing training and selection procedures for AML/CFT compliance staff, as required by criterion 23.2.

34. In addition, according to the Honduras' MER, with regard to criterion 23.2, it was also identified as a deficiency that the assumptions of R.18 were not contemplated in the regulation applicable to persons engaged in the purchase and sale of precious metals and stones.

35. Persons engaged in the purchase and sale of precious metals and stones have been included as RI by the DNFBPs Law (Article 3.7). Consequently, the Regulations of the DNFBPs Law are applicable to them. (Article 3).

36. In this regard, Articles 12 to 15 of the Regulations of the DNFBPs Law on management of prevention, compliance, AML/CFT programs, policies and procedures, address what is indicated in R.18. This addresses the deficiency corresponding to criterion 23.2.

37. With regard to the deficiency concerning the lack of provisions relating to business relations with customers located in, or nationals of countries on which the FATF has requested the application of countermeasures, Honduras establishes in Article 31 of the Regulations of the DNFBBs Law the obligation for its RIs to apply CDD policies and procedures whether normal or enhanced, or even any other countermeasure proportional to the risks identified, in relation to natural and legal persons, whose transactions or operations are coming from, or going to countries designated by the FATF as little or non-cooperative.

38. The article also states that such measures should form part of the RI Compliance Programme without limiting it to incorporating other countries, depending on their prevention policies and risk-based management if they deem it appropriate, regardless of the designation made by the FATF.

39. In this regard, it is considered that Article 31 of the Regulations of the DNFBBs Law provides for the application of enhanced CDD expressly for business relations as required by criterion 19.1. In this connection, RIs should apply enhanced CDD proportionate not only to the risks and transactions with their customers (natural and legal persons) of higher risk countries identified by the FATF, but also to business relations with them.

40. For this reason, from the data presented by the country, it is considered that the deficiency is covered, thus complying with the provisions of criterion 23.3.

41. Therefore, according to the analysis of the information presented by the country, Honduras overcomes the deficiency related to the lack of regulation for DNFBBs in matters of internal controls and that this includes ongoing training and selection procedures for AML/CFT compliance staff, as required by criterion 23.1. It also covers the deficiency corresponding to criterion 23.2 and is applicable to all DNFBBs, including those engaged in the purchase and sale of precious metals and stones.

42. In turn, enhanced CDD is applied in relation to business relations from or to countries designated by the FATF as non-cooperative under criterion 23.3. Accordingly, it is proposed that the rating be raised to **Compliant**.

Recommendation 28 - Regulation and supervision of DNFBBs (originally rated PC – not re-rated)

43. The Honduran MER indicates in criterion 28.4 that “additionally, Article 25 of the Law for the Regulation of DNFBBs applies which, although it has a range of fines, does not seem to cover a wide range of proportionate and dissuasive sanctions”. In addition, the law itself states that for the purposes of the application of sanctions, the corresponding regulations should be issued, even though they were not available at the time of the evaluation.

44. It should be noted that at the date of preparation of this report, Honduras stated that it had the CNBS Regulations on Sanctions applicable to DNFBBs pending for signature, but it has yet to be published, so there is no information available to determine that the deficiency of criterion 28.4 b) with regard to sanctions for this sector is covered.

45. Moreover, with regard to the deficiency indicated in the same criterion concerning the lack of necessary measures by the competent authorities to prevent criminals and their accomplices from obtaining accreditations, or having control or managing a DNFBBs, or being BO or occupying a managerial position in the DNFBBs, the information provided by the country with regard to the Law for the Regulation of DNFBBs has already been analysed in the MER of Honduras.

46. Articles 11 and 14 of the Rules for the Registration of Natural and Legal Persons Engaged in DNFBPs established by CNBS CIRCULAR No. 015/2017 indicate the provisions that the user (whether natural or legal person) should complete and submit for registration, as well as the obligation to submit an affidavit which must be attached at the time of registration. However, the provisions indicated by the country do not address what is stated in criterion 28.4.b with respect to DNFBPs and their BOs.

47. From the above analysis, there are no elements to determine that the country overcomes the deficiency related to criterion 28.4.b.

48. In addition, the MER points out as a deficiency that in some non-financial RI sectors, the requirements do not address the issue of actual ownership, so that according to the analysis developed in relation to the previous deficiency, the Standard for Registration of natural and legal persons engaged in DNFBPs does not have provisions that address criterion 28.4.b in relation to BOs (actual ownership).

49. In this regard, the efforts made by Honduras to take the necessary measures to prevent criminals or their associates from being BOs or significantly participating in DNFBPs is acknowledged, as is the case with the forthcoming publication of the CNBS Sanctions Regulations applicable to DNFBPs. However, until this regulation is in force there is no information to determine that its content covers the deficiency of criterion 28.4 b). It is therefore proposed that the rating be maintained as **Partially Compliant**.

Recommendation 29 - Financial Intelligence Unit (originally rated LC – re-rated C)

50. Regarding the first deficiency described in the MER related to the lack of power by the FIU to provide feedback to RIs and supervisors to improve the quality of STRs, in accordance with Article 79 of the Regulation of the AML Law published in May 2016, the power of the CNBS is established for the purpose that, at least once a year, it provides feedback to RIs, by the means it deems appropriate, on the quality of the information submitted in response to requests for information, STRs and regular reports.

51. In addition, the same article states that the FIU shall publish the typologies identified and others published by international organisations in the matter, making it easier for RIs to identify possible transactions or activities that may be linked to illegal activities.

52. With regard to DNFBPs, Article 70 of the Regulations of the DNFBPs Law establishes that the FIU should provide feedback to RIs by the means it deems appropriate, on the quality of the information received in response to the STRs, Regular Reports and Information Requests. In addition, it shall publish the typologies identified and others published by international organisations in the matter, making it easier for RIs to identify possible transactions or activities that may be linked to illegal activities. For this reason, it is estimated that the deficiency related to the lack of feedback to RIs is overcome.

53. Regarding the second deficiency identified in criterion 29.4 b) of the Honduran MER, in relation to the lack of a strategic analysis area that develops red flags and updated typologies, the information provided in relation to the ML Law was already analysed in the MER.

54. In addition, Annex 2 of GA Resolution No. 510/15-06-2016 shows in the flow chart the analysis department that consists of 3 specialties: Tactical, operational and strategic analyses. Thus, the provisions of criterion 29.4.b are addressed.

55. In that regard, the country reported that a Strategic Analysis Specialist and a Financial Information Analyst were hired since 2016. Since the operation in October 2016, various activities have been developed, including:

- i. Creation of a team to design and elaborate a handbook of systems capturing FIU transactions.
- ii. Conceptual design of interoperability of FIU systems.
- iii. Design and implementation of systems for sending and receiving requirements from RIs.
- iv. Concept document for adoption of BI technology in the FIU.
- v. Five reports of national typologies prepared and published
- vi. Implementation of multipurpose BI dashboard.
- vii. Geographical Analysis (approximations for the definition of national risk jurisdiction based on the number of detentions for drug trafficking offenses, contrasting with municipalities with a higher suspicious transaction report).
- viii. Collection of necessary information for the elaboration of the analysis of Typologies related to the predicate offence of Extortion (in process).

56. The contents of criterion 29.4 b) are thus addressed.

57. Therefore, according to the analysis of the information presented by the country, Honduras has the power to provide feedback to RIs and supervisors in order to improve the quality of STRs in accordance with criterion 29.2 a). Additionally, the FIU is empowered to carry out strategic analysis and has an analysis department that deals with strategic analysis functions. (Criterion 29.4.b.) Consequently, it is proposed that the rating be raised to **Compliant**.

Recommendation 34 - Guidance and feedback (originally rated NC – re-rated C)

58. With regard to the deficiency related to criterion 34.1 on the feedback that the FIU and Supervisors should give to all RIs in compliance with their guidelines, Honduras states in Article 79 of the Regulations of the AML Law (published in May 2016) that the Commission shall at least once a year provide feedback to RIs, by the means it deems appropriate, on the quality of the information submitted in response to requests for information, STRs and regular reports. In addition, the FIU shall publish the typologies identified and others published by international organisations in the matter, making it easier for RIs to identify possible transactions or activities that may be linked to illegal activities.

59. Likewise, the FIU and the supervision area of the CNBS presented the minutes of the meetings on quality feedback of STRs with RIs, as well as copies of quality transaction reports. Based on the foregoing, it is considered that, the deficiency indicated in criterion 34.1 is overcome.

60. Therefore, of the information analysed, Honduras has the legal power to provide feedback to RIs at least once a year (Article 79 of the Regulations of the AML Law), and may also publish the typologies identified and others published by international bodies. In addition, the country provided information on some feedback sessions with RIs in order to exemplify the type of feedback being developed. Consequently, it is considered that the deficiency has been overcome and it is proposed that the rating be raised to **Compliant**.

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

61. With regard to the first deficiency of Recommendation 35, which states that the country has no clear sanctions for DNFBPs or NPOs, the information provided by Honduras in relation to the AML and the DNFBPs Laws has already been analysed in the MER.

62. Moreover, Article 64 of the Regulations of the DNFBPs Law set forth that without prejudice to civil and criminal liability, in accordance with the legal framework in which natural or legal persons considered as DNFBPs may incur in non-compliance with any of the obligations established in the Law, these Regulations, Rules for Registration, circulars, resolutions and others issued by the CNBS, RIs shall be sanctioned in accordance with the provisions of the CNBS Sanctions Regulations enforceable on RIs of the DNFBPs Sector.

63. According to the analysis of R.28, 4 b), the CNBS Sanctions Regulations applicable to DNFBPs are still awaiting publication, and therefore, there is no information to determine that the deficiency of criterion 35.1 on sanctions for DNFBPs is covered.

64. Moreover, there are no provisions relating to the application of sanctions with respect to certain infractions for NPOs (R.8) as indicated in its MER.

65. Therefore, from the foregoing analysis and in addition to the analysis of criterion 28.4 b) related to the fact that the CNBS Sanctions Regulations applicable to DNFBPs are not yet in place, the deficiency on sanctions of criterion 35.1 is not addressed. In this sense, it is proposed that the rating be maintained as **Partially Compliant**.

3.2 Progress on Recommendations that have changed since the adoption of the MER

66. Since the adoption of the Honduran MER, the FATF has amended the Recommendations as follows. By virtue of the foregoing, the following section analyses Honduras' compliance with the new requirements.

Recommendation 2 - National cooperation and coordination (originally rated LC – not re-rated)

67. The MER of Honduras stated in the analysis of criterion 2.1 that the country “has developed a national ML/TF risk analysis with the support of the IDB, which presents some priority areas and four main lines of action. However, it is not clear that this constitutes a strategy at the national level to mitigate the ML/TF risks identified in the analysis”.

68. In this sense, Honduras, with the support of the IDB has developed its national AML/CFT/CFP strategy as a result of a coordinated process that involved all actors from governmental and non-governmental institutions with competence in the matter. The action plan has 21 goals based on 6 guiding axes: Regulatory framework, institutional strengthening, financial intelligence, financial investigation, supervision and control, and international cooperation.

69. This document was prepared under the coordination of the FIU under the National Banking and Insurance Commission, on the basis of the Honduran NRA on ML/TF and the Honduran MER. In this regard, it addresses the deficiency identified in the MER with respect to criterion 2.1.

70. In addition, with regard to the deficiencies indicated in criteria 2.2 and 2.4, the information provided by the country in relation to Decree No. 144-2014, Law against ML, was previously analysed in the Honduran MER.

71. However, the CIPLAFT Regulations approved in August 2017 state that the function of the CIPLAFT is to design and implement public policies for the prevention, control and combating of ML/TF: i) Prepare a national strategy for the prevention, control and fight against money laundering and terrorist financing, as well as a methodology for identifying, evaluating, supervising or monitoring, managing and mitigating the country's risks associated with the identification and mitigation of such risks; ii) ensure effective intervention by the inter-agency system against ML/TF, leading to the imposition of sanctions for those who violate the applicable legal framework, (iii) generate policies to raise awareness and generate a culture of legality in society through the members of the system, (...) This addresses the shortcoming in the MER with respect to the regulations specifying the functions of CIPLAFT as the coordinating body responsible for ensuring the efficient functioning of the system for preventing, controlling and combating ML/TF.

72. In addition, with regard to the obligation to have a cooperation and coordination mechanism to combat the financing of PWMD, the CIPLAFT Regulations do not establish powers or attributions in this area, thus the deficiency identified in the MER with respect to the country's lack of cooperation and, where appropriate, coordination mechanisms to combat the PF persists.

73. Concerning the addition of criterion 2.5, article 5.5 of the AML Law indicates that it is the function of the CIPLAFT to promote mechanisms for inter-institutional cooperation among existing or future bodies, aimed at the application of the Law within the country's public and private sectors. Thus, there do not appear to be any limitations relating to Data and Privacy Protection and other similar provisions that prevent the competent authorities from developing their cooperation and coordination mechanisms in the field of AML/CFT.

74. Honduras has therefore developed its national AML/CFT/CFP strategy which contains an action plan to address the risks associated with ML/TF identified in its NRA. It also has regulations specifying the functions of CIPLAFT as the coordinating body responsible for ensuring the efficient functioning of the system for the prevention, control and combating of ML/TF.

75. In addition, there do not appear to be any limitations relating to Data and Privacy Protection and other similar provisions that prevent the competent authorities from developing their cooperation and coordination mechanisms in the field of AML/CFT.

76. However, there are still minor deficiencies concerning the fact that the country does not have cooperation and, where appropriate, coordination mechanisms to combat the PF. It is therefore proposed that the rating be maintained as **Largely Compliant**.

Recommendation 5 – Terrorist financing offence (Originally rated LC – not re-rated)

77. With regard to the term “funds and other assets” in R.5, under Article 2.2 of the TF Law (Decree No. 241-2010), assets or funds should be understood as property of any type, tangible or intangible, movable or immovable, regardless of whether they have been obtained legally or illegally. Likewise, legal documents or instruments, whatever their form, including digital electronic form, that prove ownership or other rights in such property, including, without prejudice to the existence of others, the following: Bank

credits, traveller's cheques, bank cheques, drafts, shares, securities, obligations, bills of exchange, letters of credit, interest, dividends, other income or value generated by such assets.

78. In that sense, the definition of funds or assets indicated in the CFT Law includes the FATF definition and is applicable to the criminalisation of TF in Article 3 of said Law; this Article is referenced in the MER in paragraph TC 80.

79. In addition, in relation to criterion 5.2 bis, in accordance with Article 587 of the Criminal Code, financiers are to be understood as those who in any way contribute or help to contribute, on their own behalf or through an intermediary, to the financing of terrorist associations, who must be punished with imprisonment of fifteen (15) to twenty (20) years and a fine of one thousand (1000) to two thousand (2000) days.

80. Whoever attends camps or training sessions for the purpose of receiving indoctrination or training for the commission of terrorist offences must be punished with imprisonment of five (5) to seven (7) years and a fine of five hundred (500) to one thousand (1000) days. The same penalties increased by one-third (1/3) shall be imposed on those who provide the training or indoctrination referred to in the preceding paragraph. (Article 591 of the Criminal Code).

81. Thus, the legislation provided by the country addresses aspects related to attending training for the commission of terrorist acts. In addition, the criminal nature of the financier means that any type of support is covered, including the financing of travel from one State to another other than that of residence or nationality; however, even if this financing would be limited to terrorist association, criterion 5.2 bis is largely addressed.

82. Therefore, the concept of funds and other assets established by the FATF is covered by Honduras through the current CFT Law. In addition, compliance with criterion 5.2 bis is considered only partial since the financing of travel from one State to another other than that of residence or nationality to perpetrate, plan, prepare or participate in terrorist acts, and the provision of terrorist training is only possible in cases involving membership of terrorist associations. It should be noted that the minor deficiencies in the TF criminalisation are still in place. In the light of the analysis with regard to the new criteria, it is considered that the rating be maintained as **Largely Compliant**.

Recommendation 7 – Targeted financial sanctions related to proliferation (Originally rated PC – not re-rated)

83. The country does not yet have provisions on the implementation of measures including aspects under UNSCR 2231. Likewise, the deficiencies identified in the MER remain: 1) It is necessary to expressly extend the measures applicable for the prevention of the proliferation of weapons of mass destruction since, by their nature, they should not result from the supplementary application or from an interpretation of the Law. 2) Current legislation should include measures and mechanisms in accordance with the relevant UNSC resolutions in line with the Honduran legal system. It is therefore proposed that the rating be maintained as **Partially Compliant**.

Recommendation 8 – Non-profit organisations (Originally rated LC – re-rated NC)

84. The criteria of the Assessment Methodology in relation to R.8 were changed with respect to the FATF review of its content and interpretive note. In this regard, an analysis was made of Honduras' compliance with each of the criteria of the current R.8.

85. With regard to criterion 8.1, (a) The country has not yet submitted information on provisions relating to the identification of subgroups of non-profit organisations (NPOs) that fall under the FATF definition. In accordance with Article 56 of the CFT Law, any non-profit association or organisation wishing to collect or receive, grant or transfer funds should be registered with the Civil Associations Registration and Monitoring Unit (URSAC), part of the Secretariat of State in the Office of the Interior and Population. However, the country should use all available information resources to identify the characteristics and types of NPOs that, by virtue of their activities or characteristics, are likely to be at risk of TF abuse.

86. (b) The country has no provisions for identifying the nature of threats posed by terrorist entities to NPOs at risk, as well as the ways in which NPOs are misused by terrorist actors.

87. (c) There are no provisions on the categories of NPOs that could be misused to support TF and to direct effective and proportionate actions that would address the identified risks.

88. (d) The country did not submit information related to the obligation to periodically reassess the NPO sector based on its vulnerabilities with respect to terrorist activities, which would allow for the effective implementation of measures.

89. In relation to criterion 8.2, (a) Article 59 of the CFT Law establishes that NPOs should maintain adequate accounting procedures and present their corresponding financial statements to the competent authorities for such purposes, submitted two months after the close of the financial year. The same legal framework establishes that all sums of money received as donations must be deposited in an account of a national FI. Likewise, according to Decree 32-2011 "Special Law for the Promotion of Non-Governmental Organisations for Development", in its Article 19, it is stated that when a State entity allocates funds to a Non-Governmental Organisation for Development (NGOD), the Secretariat of State of the Interior and Population shall control such funds.

90. As established in Agreement No. 770-A-2003, it states that associations should present annual activity reports, as well as their financial statements and balance sheet, which may be audited to corroborate their veracity. As for the receipt of donations by these institutions, those that exceed the amount of two thousand United States dollars, or its equivalent in another currency, should be recorded with the details of the donor, date, nature and amount of the donation, which should be kept for a minimum period of ten (10) years at the availability of the competent authorities.

91. (b) The country did not provide information indicating that it is undertaking outreach activities and educational programs to raise awareness among NPOs and the donor community about vulnerabilities, misuses and risks of TF or about measures to protect against such misuse. In this regard, it was also identified in the MER that there are no outreach programs with NPOs to make them aware of the TF risks they are exposed to.

92. (c) The country did not submit information that would enable them to work with the NPOs to develop and refine best practices to address TF risk and vulnerabilities.

93. (d) Article 59 of the CFT Law states that associations or NPOs are required to deposit into a bank account with a national FI all sums of money given to them as donations or in the context of the transactions they are required to carry out.

94. With regard to criterion 8.3, Resolution No. 1537-30-08-2011, Regulations for the prevention and detection of TF, states in Article 53 that the authority in charge of supervising AML/CFT matters is the Superintendence of Business Companies. Along the same lines, the URSAC has the power to request from civil associations the information it deems necessary, including financial statements and accounting documentation. However, in accordance with the subgroups of NPOs identified under the FATF definition, the Honduran authorities have not used the available resources to enable them to identify characteristics and types of NPOs that, depending on their activities or characteristics, have probable risks of misuse for TF and therefore could not develop RBA supervision to NPOs.

95. With regard to criterion 8.4, (a) As mentioned in the analysis of criterion 8.3, the Superintendence of Business Companies is the authority responsible for AML/CFT supervision for NPOs, and the URSAC may request from civil associations such information as it deems necessary. However, the types of NPOs that according to their own activities or characteristics may have probable risks of misuse for TF have not yet been identified.

96. (b) Pursuant to Article 61 of the CFT Law, without prejudice to the criminal sanction that could be incurred for participating in terrorist acts or their financing, associations or NPOs that do not comply with the provisions of the Law shall be sanctioned in accordance with the following: 1) The application of a fine, the amount of which is that established in Article 78 of the Law (Fine equivalent to twenty to five hundred highest minimum salaries); 2) The prohibition to carry out activities of the association or organisation for a maximum term of five (5) years; and 3) The dissolution of the association or organisation. However, the legal framework does not show the proportionality of the sanctions and, therefore, the possibility of applying effective and dissuasive sanctions for violations of the requirements of NPOs and persons acting on their behalf cannot be identified.

97. In relation to criterion 8.5, (a) This criterion was analysed in the evaluation process of the Republic of Honduras, and was reflected in the MER as follows: “There is no evidence that mechanisms exist for the relevant authorities to quickly share information in relation to an NPO”.

98. (b) Chapter XV of the CFT Law (Articles 68 - 74) indicates the special investigative techniques such as controlled delivery and undercover agent, to which the competent authorities are empowered for the prosecution of the crimes contained in the referred Law. However, the capacity of the Honduran authorities to examine NPOs under suspicion or that are being exploited by or actively supporting terrorist activities or organisations is unknown.

99. (c) According to Article 50 of the CFT Law and Article 24 of the Regulations for the Prevention and Detection of TF, the FIU has the power to request information from any natural or legal person that does not have the status of a RI. At the same time, it may have access to all sources and systems of information to verify and complete information provided or to carry out the analysis of cases of financing of terrorism. In addition, Article 59 of the Law provides that NPOs should submit their financial statements to the designated authorities.

100. (d) Pursuant to Article 48 of the CFT Law, the FIU is empowered to receive, analyse and disclose STRs related to TF submitted by RIs. Associations or NPOs should report to the FIU when: 1) they receive

cash donations equal to or in excess of two thousand dollars or its equivalent in national or foreign currency; 2) they receive donations of funds suspected or likely to be linked to a terrorist operation or to the financing of terrorist acts; 3) they receive loans, credits or any other form of contributions either in cash or in kind within the amount indicated in numeral 1. Likewise, once NPOs under Article 55 of the Regulations for the Prevention and Detection of TF detect a suspicious transaction, they should refer it to the FIU.

101. However, the country has not yet submitted information on appropriate mechanisms for sharing information expeditiously with competent authorities to take preventive or investigative action when there is suspicion or reasonable grounds to suspect that an NPO (1) is involved in terrorist financing misuse and/or is a screen for fund-raising by a terrorist organisation; (2) is being exploited as a conduit for terrorist financing, including for the purpose of evading asset freezing measures, or for other forms of support for terrorism; or (3) is concealing or disguising the clandestine diversion of funds intended for legitimate purposes, but which are being redirected for the benefit of terrorists or terrorist organisations.

102. With respect to criterion 8.6, this was evaluated during the evaluation process of Honduras, and the conclusions expressed in the MER by the evaluation team were that according to the country, requests for international cooperation related to terrorism cases are received by the Ministry of Foreign Affairs, an authority that transfers such cases to the FIU for appropriate consultations among RIs. However, no document, circular or regulation was known by means of which this mechanism is established.

103. Therefore, Honduras has the CFT Law in place through which some provisions have been established for compliance with current R.8. However, there are no provisions covering criteria 8.1 a, b, c and d, 8.2 b and c, 8.3, 8.4 a and b, 8.5 a, b and d and 8.6. It is therefore proposed that the rating be changed to **Non-Compliant**.

Recommendation 18 - Internal controls and foreign branches and subsidiaries (Originally rated LC – not re-rated)

104. With regard to the first deficiency that the Law is not entirely clear as to the type of training to be provided in TF matters, paragraph TC 196 of the MER indicates that staff training is embodied in Article 32 of the above-mentioned Resolution (ML Resolution No. 869/29-10-2002). Thus, the deficiency persists.

105. In addition, with regard to the application of the highest standard for financial groups, in accordance with Article 15 of the Regulations of the AML Law, it is established that branches, subsidiaries or other service provision modalities located abroad, majority owned by a financial and/or economic group supervised by the Commission, should comply with the AML risk prevention and management measures required in Honduras, when the minimum prevention requirements abroad are less strict; provided that this is permitted by the laws and regulations of the country where the branches, subsidiaries or other service provision modalities are located. Thus, the deficiency identified is considered to have been addressed.

106. In relation to the addition in criterion 18.2 b), the information provided by the country in relation to the AML Law was previously analysed in the MER in paragraph TC 198.

107. Furthermore, in accordance with Article 13 b) of the Regulations of the AML Law, financial and/or economic groups should develop: Policies and procedures to exchange information within the group for AML prevention purposes, establishing adequate safeguards on confidentiality and use of the information

exchanged. Thus, the legal framework presented by the country partially addresses criterion 18.2 b) in relation to ML. However, it is not applicable for the exchange of information related to TF.

108. In relation to the addition to criterion 18.2.c), the analysis developed in paragraph TC 199 of the MER with respect to confidentiality safeguards are applicable to what is indicated in the amendment of criterion 18.2.c), with respect to the safeguards to prevent tipping-off. Therefore, this addresses the amendment to the criterion mentioned.

109. Therefore, in accordance with the legal framework provided by Honduras, the deficiency raised in the MER with regard to the application of the highest standard by financial groups has been overcome. Amendments to criterion 18.2b) in relation to ML are also addressed. Moreover, the analysis developed in the MER regarding confidentiality safeguards is applicable to the amendment of criterion 18.2.c).

110. However, there are still the deficiencies identified in the MER related to the fact that the Law is not clear in relation to the type of training to be provided on TF, there are no provisions relating to the exchange of information at the level of financial group related to TF in line with the requirements of criterion 18.2.b. It is therefore proposed that the rating be maintained as **Largely Compliant**.

Recommendation 21 – Tipping-off and confidentiality (Originally rated C – not re-rated)

111. Criterion 21.2 was discussed in paragraph TC 212 of the MER, and it is stated that RIs are prohibited from disclosing the request or provision of information to the FIU. In this context, Article 60 of the regulation establishes that STRs should not be shown or discussed with customers or users, nor with third parties, except for the authorities or Competent Jurisdictional Bodies. These provisions do not prevent the exchange of information established in the amendments of criterion 18.2.b since they are for third parties and do not apply to members of the same group.

112. Therefore, in accordance with the analysis developed in the MER of Honduras to R.21, the legal provisions presented are not intended to prevent exchange under the amendments of R.18.2.b. It is therefore proposed that the rating be maintained as **Compliant**.

IV. CONCLUSION

163. In general, Honduras has been making significant progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated in Recommendations 3 to Compliant, 10 to Compliant, 17 to Largely Compliant, 23 to Compliant, 29 to Compliant and 34 to Compliant. It should also be noted that the ratings of most of the Recommendations that changed since the approval of the MER, i.e. Recommendations 2, 5, 7, 18 and 21, did not change. However, Recommendation 8 has been re-rated as Non-Compliant.

164. In view of Honduras' progress since the adoption of its MER, its technical compliance with FATF Recommendations was re-rated as follows:

Table 2. Technical Compliance Ratings, December 2019

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

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