



Anti-money laundering
and counter-terrorist
financing measures

Turks and Caicos Islands

4th Enhanced Follow-up Report &
Technical Compliance Re-Rating

October 2023

Follow-up Report





The Caribbean Financial Action Task Force (CFATF) is an inter-governmental body consisting of twenty-four member states and territories of the Caribbean Basin, Central and South America which have agreed to implement common countermeasures to address money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. For more information about the CFATF, please visit the website: www.cfatf.org

This report was adopted via written process by the CFATF in accordance with paragraph 92 of the CFATF Procedures for the Fourth Round of AML/CFT Evaluations, 2014 as amended, and paragraph 20 of the CFATF ICRG Procedures for the 4th Round of AML/CFT Evaluations, 2018 as amended.

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Turks and Caicos Islands' Fourth Enhanced Follow-Up Report–October 2023

1. INTRODUCTION

1. The mutual evaluation report (MER) of Turks and Caicos Islands was adopted in November 2019 during the L Caribbean Financial Action Task Force (CFATF) Plenary held in Antigua and Barbuda and published on 20 January 2020. Since it met the thresholds of having eight (8) or more NC/PC ratings for technical compliance and a low or moderate level of effectiveness for seven (7) or more of the eleven (11) effectiveness outcomes, the Turks and Caicos Islands was placed under the enhanced follow-up process¹.
2. This FUR analyses the progress of Turks and Caicos Islands in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated. There are no new requirements relating to FATF Recommendations, which have changed since TCI last sought TC re-ratings.
3. This report does not analyse any progress Turks and Caicos Islands has made to improve its effectiveness.
4. The assessment of Turks and Caicos Islands' request for technical compliance re-ratings and the preparation of this report was undertaken by Mrs. Livia Bertin-Mark, Deputy Director (Ag), AML Supervisory Unit, Financial Sector Supervision Department of the Eastern Caribbean Central Bank with support from Mr. Kerry Lucio, Law Enforcement Advisor of the CFATF Secretariat.
5. Section 4 of this report summarises the progress made to improve technical compliance. Section 5 contains the conclusion and a table illustrating Turks and Caicos Islands' current technical compliance ratings.

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up is based on the CFATF's policy that deals with members with significant deficiencies (for technical compliance and/or effectiveness) in their AML/CFT systems and involves a more intensive process of follow-up.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

6. Turks and Caicos Islands' MER ratings² and updated ratings based on its earlier FUR³ are as follows:

R.	Rating	R.	Rating
1	PC (MER 2019)	21	C (MER 2019)
2	LC (MER 2019) LC (FUR 2022)	22	PC (MER 2019) LC (FUR 2022)
3	C (MER 2019)	23	PC (MER 2019) C (FUR 2022)
4	C (MER 2019)	24	LC (MER 2019)
5	C (MER 2019)	25	C (MER 2019)
6	LC (MER 2019)	26	PC (MER 2019) LC (FUR 2022)
7	LC (MER 2019)	27	C (MER 2019)
8	C (MER 2019) LC (FUR 2022)	28	PC (MER 2019)
9	C (MER 2019)	29	C (MER 2019)
10	PC (MER 2019) C (FUR 2022)	30	C (MER 2019)
11	C (MER 2019)	31	LC (MER 2019)
12	C (MER 2019)	32	C (MER 2019)
13	PC (MER 2019)	33	LC (MER 2019)
14	PC (MER 2019) C (FUR 2022)	34	PC (MER 2019) LC (FUR 2022)
15	PC (MER 2019) NC (FUR 2022)	35	LC (MER 2019)
16	PC (MER 2019) LC (FUR 2022)	36	PC (MER 2019)
17	PC (MER 2019) C (FUR 2022)	37	LC (MER 2019)
18	C (MER 2019) C (FUR 2022)	38	LC (MER 2019)
19	PC (MER 2019) C (FUR 2022)	39	C (MER 2019)
20	C (MER 2019)	40	PC (MER 2019) C (FUR 2022)

7. Given these results and the effectiveness ratings in the MER, Turks and Caicos Islands was on enhanced follow-up.

² There four possible levels of technical compliance are: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Effectiveness ratings for the 11 Immediate Outcomes are: Low, Moderate (Mod), Substantial or High.

³ Current ratings and the year confirmed are indicated based on the original MER or follow-up re-ratings.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

8. In keeping with the CFATF Mutual Evaluation Procedures, this FUR considers progress made up until 26 May 2023. In line with the ME Procedures and FATF Methodology, the Expert's analysis has considered progress to address the deficiencies identified in the MER and the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional or operational framework is unchanged since the MER or previous FUR.
9. This section summarises the progress made by Turks and Caicos Islands to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER.

4. PROGRESS TO ADDRESS TECHNICAL COMPLIANCE DEFICIENCIES IDENTIFIED IN THE MER

4.1.1 Recommendation 13 (originally rated PC)

10. In its 4th round MER, Turks and Caicos Islands was rated PC with R.13. The technical deficiencies concerned imitations in the scope of applicability of the measures which did not apply to all FIs. This had a cascading effect throughout the Recommendation. Additionally, there were no requirements for a financial business to gather information about whether the respondent institution has been subject to regulatory action.
11. **Criterion 13.1(a) (Mostly met):** The Anti- Money laundering and Prevention of Terrorist Financing (Amendment) (No.4) Code 2022 was brought into effect on 18 November 2022 via Legal Notice 85 of 2022. Part 8 of the Code now applies to Financial Businesses which covers the full range of FIs as defined in the FATF Standards. Schedule 2 to the AML Regulations which defines Financial Businesses was expanded via LN 134 of 2021 to include the previously omitted MVTs, underwriting and placement life insurance and other investment related insurance.
12. Pursuant to Section 42 of the Anti- Money Laundering Terrorist Financing (Amendment) Code, Legal Notice 85 of 2022, Schedule 2 of the Regulations articulates the types of financial businesses operating in TCI which can engage in correspondent banking relationships. These include banks, MVTs providers and insurance underwriting and placement life insurance and other investment-related insurance. Cross-border activities of these sectors are captured by the correspondent banking requirements. While cross-border activities of MVTs and insurance companies which are covered in s.42 are similar to correspondent banking, TCI's legislation satisfies the requirement while it categorizes them as "correspondent banking". Accordingly, the provisions as captured do not allow for the establishment of any other similar relationships to a correspondent banking relationship.
13. While Regulation 42(d) of the AML/PTF Code places a requirement upon Financial Businesses to assess the reputation of the respondent institution, it is not clear whether this includes whether it has been subject to regulatory actions.
14. **Criterion 13.1(b)- (d) (Met):** The previously cascading deficiency relative to the scope of applicability of the requirements of Part 8 were rectified via LN85 of 2022 and amendments to Schedule 2 via LN 134 of 2021 (See c13.1 above).
15. **Criterion 13.2(a)&(b) (Met):** The previously cascading deficiency relative to the scope of applicability of the requirements of Part 8 were rectified via LN85 of 2022 and amendments to Schedule 2 via LN 134 of 2021 (See c13.1 above).
16. **Criterion 13.3 (Met):** The previously cascading deficiency relative to the scope of applicability of the requirements of Part 8 were rectified via LN85 of 2022 and amendments to Schedule 2 via LN 134 of 2021 (See c13.1 above).

Weighting and Conclusion

17. TCI has taken corrective action to ensure all categories of FIs, and not just banks, are subject to the previously existing requirements relative to correspondent banking. FIs in TCI cannot establish other similar relationships to correspondent banking. There is no requirement for financial businesses to gather information about whether the respondent institution has been subjected to regulatory actions.
18. **Turks and Caicos Islands is re-rated Largely Compliant with R.13.**

4.1.2. Recommendation 28 (originally rated PC)

In its 4th round MER, Turks and Caicos Islands was rated PC with R.28. The technical deficiencies included: (i) The Casinos Ordinance does not address any vetting and approval requirements for shareholders (that is not the applicant) and beneficial owners of the gaming operation.

19. **Criteria 28.1(a) (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. Casinos are required to be licensed by the Governor: *ss. 4-13 Casinos Ordinance.*
20. **Criterion 28.1(b) (Met):** The 2020 MER identified vetting requirements in the Casinos Ordinance for the applicant of a casino license or its directors and officers. TCI has augmented its legislative framework through the substitution of Section 30A in the AML/PTF (Amendment) Regulations, 2021 (Legal Notice 134 of 2021). Vetting requirements apply to all BOs and all financial businesses. Section 30A now states “the relevant supervisory authority of a financial business or such other person as the relevant supervisory authority may deem fit shall adopt the necessary legal or regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in a financial business or in the case of a casino, being an operator of the casino.
21. **Criterion 28.1(c) (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. AML/CFT oversight for casinos is the remit of the Gaming Inspectorate under the Gaming Control Ordinance.
22. **Criteria 28.2 (Met):** No deficiency cited in the MER. While there were changes to the AML/CFT framework, by virtue of the 2021 revision of the AML/PTF Regulation, there is no impact upon technical compliance. The FSC is the designated supervisory authority (s.24(1) AML/PTF Regs, s.161 (1) POCO) responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements (s.161 (3) and (4), POCO).
23. **Criterion 28.3 (Met):** The definition of financial business in Schedule 2 of the AML/PTF Regulations includes all DNFBPs. The FSC is responsible for monitoring DNFBPs’ compliance with AML/CFT obligations. Obligations include Registration (s.163(1), POCO); Compliance visits (s.164 POCO); Enforcement action (s.165, POCO); Directives (s.166, POCO); Disciplinary action (s.168, POCO); Recovery of administrative penalty (s.171, POCO); Power to require information and production of documents (s.172, POCO). Additionally, the FSC can take appropriate enforcement actions for breaches of the captured requirements. Section.161(3) POCO and Section161(4) POCO provides for the FSC to have the information gathering and enforcement powers provided under the FSCO in acting as the designated supervisory authority.
24. **Criterion 28.4(a) (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. The FSC has sufficient powers to monitor compliance by the DNFBPs of the AML/CFT requirements: s.164 POCO.
25. **Criterion 28.4(b) (Met):** The POCO at section 165(b) enables the FSC to ascertain the fitness and probity of DNFBPs, its designated anti-money laundering reporting officer or anti-money laundering compliance officer, its director or officer; or a person having a share or interest in the DNFBP, whether

equitable or legal. The FSC has issued “the fit and proper test” Guidance in 2020 to DNFBBs pursuant to s.43 of the FSC Ordinance. Paragraph 4 of the Guidelines makes it clear that the “fit and proper” standard is also applied by the FSC, as appropriate, to individuals who are beneficial owners and controllers, directors, senior officers, key employees (including compliance officers), auditors and actuaries of an applicant and a license-holder.

- 26. **Criterion 28.4(c) (Met):** No deficiency cited in the MER and there are no changes to the AML/CFT framework in this regard. The DNFBB Supervisor is entitled to take enforcement and disciplinary action against DNFBBs (ss. 165-170 POCO) as provided for in greater details under Recommendation 35.
- 27. **Criterion 28.5(a) (Met):** Risk-based supervision is being performed by the Gaming Inspectorate (for casinos) and by the FSC (for all other DNFBBs). The 2020 MER referenced at para 328 that Risk-based supervision of FSC-registered DNFBBs is required consistent with their size, diversity and their understanding of ML/TF risks (Reg. 23A, AMLR, LN 58/2018). In 2021, TCI revised the AML/PTF Regulations. Regulation 25(a) entirely aligns with the Standards requiring risk-sensitive supervision of DNFBBs on the basis of their understanding of the ML/TF risks, taking into consideration the characteristics of the DNFBBs, in particular their diversity and number. The approach of the Gaming Inspectorate is equivalent.⁴
- 28. **Criterion 28.5(b) (Met):** The MER referenced Regulation 23A AMLR noting that risk-based supervision is implemented by the FSC for DNFBBs and by the Gaming Inspectorate for casinos. The risk-based approach takes into consideration the ML/TF risk profile of the DNFBBs.⁵ In 2021, TCI revised the AML/PTF Regulations. Regulation 25(b) entirely aligns with the Standards stating verbatim the FATF criterion “ The DNFBB Supervisor’s supervision of designated non-financial businesses and professions shall be performed on a risk-sensitive basis, including— taking into account the ML/TF risk profile of those DNFBBs, and the degree of discretion allowed to them under the risk-based approach, when assessing the adequacy of the AML/CFT internal controls, policies and procedures of DNFBBs.

Weighting and Conclusion

- 29. **Turks and Caicos Islands is re-rated Compliant with R.28.**

5. CONCLUSION

- 30. Overall, Turks and Caicos Islands has made significant progress in addressing the technical compliance deficiencies. Turks and Caicos Islands has been re-rated C on 28 and LC on R 13.
- 31. A summary table setting out any underlying deficiencies for the Recommendations assessed in this report is included at **Annex A**.
- 32. Overall, in light of the progress made by The Turks and Caicos Islands since its MER was adopted, its technical compliance with the FATF Recommendations is as follows as of October 2023:

R.	Rating
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R.	Rating
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⁴ TCI has augmented its regime by requiring risk-based supervision of the entire gaming industry by the Gaming Control Commission. Guidance issued requires the application of a risk-based approach and takes into consideration the ML/TF risks by the business.

⁵ TCI has augmented its regime by requiring risk-based supervision of the entire gaming industry by the Gaming Control Commission. Guidance issued requires the application of a risk-based approach and takes into consideration the ML/TF profile.

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5. Turks and Caicos Islands has 37 Recommendations rated C/LC. Turks and Caicos Islands will remain in enhanced follow-up based on effectiveness ratings. Turks and Caicos Islands' next enhanced follow-up report is due November 2024.

1.1 Annex A: Summary of Technical Compliance –Deficiencies underlying the ratings⁶

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁶
R.13	PC (MER) LC (FUR 2023)	No requirement for financial businesses to gather information about whether the respondent institution has been subjected to regulatory actions.
R.28	PC (MER) C (FUR 2022)	

⁶ Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

⁶ Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.



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October 2023

Anti-money laundering and counter-terrorist financing measures in Turks and Caicos Islands

Follow-up Report & Technical Compliance Re-Rating

This report analyses the Turks and Caicos Islands' progress in addressing the technical compliance deficiencies identified in the CFATF assessment of their measures to combat money laundering and terrorist financing of January 2020.

The report also looks at whether the Turks and Caicos Islands has implemented new measures to meet the requirements of the FATF Recommendations that have changed since its 4th Round Mutual Evaluation assessment.

Follow-up Report