

FATF



Anti-money laundering and
counter-terrorist financing
measures

Denmark

1st Enhanced Follow-up Report &
Technical Compliance Re-Rating

November 2018

Follow-up report





The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

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DENMARK: 1st ENHANCED FOLLOW-UP REPORT

1. INTRODUCTION

The mutual evaluation report (MER) of Denmark was adopted in June 2017. This is Denmark's 1st Enhanced Follow-up Report (FUR). This follow-up report analyses Denmark's progress in addressing certain technical compliance deficiencies which were identified in Denmark's MER. Re-ratings are given where sufficient progress has been made. This report also analyses Denmark's progress in implementing new requirements relating to FATF Recommendations which have changed since Denmark's assessment: R.7, 18 and 21. This report does not address what progress Denmark has made to improve its effectiveness. A later follow-up assessment will analyse progress on improving effectiveness which may result in re-ratings of Immediate Outcomes at that time.

2. FINDINGS OF THE MER AND 1st FUR

The MER rated Denmark as follows for technical compliance:

Table 1. Technical compliance ratings, June 2017

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

Source: Denmark Mutual Evaluation Report, June 2017, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Denmark-2017.pdf>.

Given these results and Denmark's level of effectiveness, the FATF placed Denmark in enhanced follow-up.¹ The following experts assessed Denmark's request for technical compliance re-rating:

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

- Mr. CAO Zuoyi, Deputy Director, Anti-Money Laundering Bureau, The People's Bank of China.
- Mr. Gavin Raper, Manager, Legal and Policy, AUSTRAC.
- Ms. Lauren Hirsh, Manager, Legal and Policy, AUSTRAC.
- Mr. Richard Lee, Director Compliance, AUSTRAC.

Section 3 of this report summarises Denmark's progress made in improving technical compliance. Section 4 sets out the conclusion and a table showing which Recommendations have been re-rated.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

This section summarises Denmark's progress to improve its technical compliance by:

- a) addressing certain technical compliance deficiencies identified in the MER, and
- b) implementing new requirements where the FATF Recommendations have changed since its MER was adopted in June 2017 (R.7, 18 and 21).

3.1 Progress to address technical compliance deficiencies identified in the MER

Denmark has made progress to address the technical compliance deficiencies identified in the MER in relation to ten Recommendations: R. 2, 10, 12, 15, 16, 17, 18, 22, 24 and 33. As a result of this progress, Denmark has been re-rated on these Recommendations.

Denmark also made progress in Recommendations 3 and 23. However, progress was insufficient to justify a re-rating at this time.

Recommendation 2 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.2. The technical deficiencies related primarily to Denmark lacking AML/CFT national policies informed by its national risk assessments and a lack of coordination or mechanism responsible for AML/CFT policies. There was also no responsible authority or mechanism to coordinate PF related policies and activities.

A revised AML Act was approved by the Danish parliament in June 2017 and in force as of 1 July 2017, which, by law established the AML/CFT Forum, called Money Laundering Forum (MLF), to coordinate AML/CFT activities, presided by the Financial Supervisory Authority and with participation from all authorities responsible for AML/CTF activities. The Forum has been in existence for many years although not formerly established by law. Denmark also undertook work to establish an AML/CFT strategy which is expected to be approved by the relevant parliamentary committees in September 2018.

More work needs to be done towards ensuring national strategies are informed by NRAs although only minor deficiencies remain. **On this basis, Denmark is re-rated as largely compliant with R.2.**

Recommendation 3 (originally rated LC)

In its 4th MER, Denmark was rated LC with R.3. The technical deficiencies related primarily to Denmark lacking a self-laundering offence. Amendments to the ML Offence were made in May 2018 and came into force in July 2018. These amendments criminalise self-laundering

by transfer and conversion. However, self-laundering by concealment or disguise is not explicitly captured by the offence and self-laundering is still not criminalised in Greenland or the Faroe Islands. In addition, maximum penalties for the ordinary ML offence are not proportionate and dissuasive. **On this basis, the rating of LC is maintained.**

Recommendation 10 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.10. The technical deficiencies were significant and related to shortcomings regarding when CDD was to be carried out, the lack of an obligation to conduct CDD on policy holders of insurance contracts; no obligation to verify a person acting on behalf of someone else, unless a risk assessment required it; exemptions concerning public companies in other countries which were not limited by requirements for adequate transparency, the lack of a clear requirement for proof of existence and name/address for legal arrangements as well as a requirement to identify senior managing officials, settlors of trusts, among other deficiencies regarding legal arrangements. There were also some weaknesses regarding timing of CDD and CDD exemptions did not appear to be based on proven low risk.

Denmark issued a revised AML Act in June 2017 and a set of Explanatory Notes which covered a significant amount of outstanding items including an obligation to identify the beneficiary of an insurance policy, and in appropriate cases, obtain sufficient information to be able to identify a beneficiary at the time of payment (if unavailable initially) and for verification to occur before pay out. The definition of beneficial owner was expanded to include the identification of management officials and there are no exemptions to CDD.

Denmark has addressed most of the deficiencies identified during its MER and only minor deficiencies remain. There are no provisions to oblige entities to verify the identity of a lawyer acting on behalf of a customer, to effectively manage ML/TF risks in instances when completion of verification occurs after the establishment of a customer relationship and there are still shortcomings with regard to both beneficial ownership and insurance related obligations. **Denmark is therefore re-rated as largely compliant with R.10.**

Recommendation 12 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.12. The technical deficiencies related to: the lack of coverage of domestic and foreign PEPs or international organisation PEPs, the absence of measures for PEPs that are beneficial owners and the fact that the timeframe to consider a person a PEP was limited to 12 months. There were also no measures to check whether beneficiaries of life insurance contracts and beneficial owners are PEPs. These deficiencies were all addressed through a revised AML Act (particularly section 18 and explanatory notes) issued in June 2017. Denmark has addressed all of the deficiencies identified during its MER. **Denmark is therefore re-rated as compliant with R.12.**

Recommendation 15 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.15. The technical deficiencies related to the lack of an explicit requirement in law to deal with new technologies. This was specifically addressed by the revised AML Act in June 2017 and explanatory notes, with only a minor gap remaining, concerning the requirement to conduct a risk assessment *prior* to the launch of new products, practices and technologies. **Denmark is therefore re-rated as largely compliant with R.15.**

Recommendation 16 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.16. The technical deficiencies related primarily to deficiencies with the regard to accompanying beneficiary information.

The new EU wire transfer regulation (EU Regulation 2015/847), in force since June 2017, requires cross-border wire transfers to be accompanied by beneficiary information and requires intermediary institutions to: ensure wire transfers are accompanied by the necessary beneficiary and originator information; identify wire transfers that lack the necessary information and have measures in place to determine when to execute or reject a transfer. It also requires all payee and intermediary institutions to take into account information from both sides of the transaction, as a factor when assessing whether an STR has to be filed. In addition, EU Directive 2015/849 requires compliance officers to file an STR with the FIU of the Member State in whose territory the obliged entity transmitting the information is established. The specific requirement for intermediary institutions to keep records where technical limitations prevent required information from remaining with a domestic wire transfer is no longer applicable because there are no longer any technical limitations to transmitting the originator and beneficiary information in the domestic EU system.

All FIs are required to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities when conducting wire transfers. These measures are in accordance with the obligations set out in UNSCRs 1267, 1373 and their successor resolutions.

However, there are deficiencies as regards provisions applicable to Greenland and the Faroe Islands, which need to be addressed. **Denmark is therefore re-rated as largely compliant with R.16.**

Recommendation 17 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.17. The technical deficiencies related to among others, a lack of measures regarding third parties, including that of ensuring that the third party has measures in place for CDD and record keeping and can provide documentation without delay; ensuring the third party is regulated and supervised for AML/CFT requirements, and ensuring relying entities are required to operate on a risk-based approach.

The AML/CFT Act requires third parties to be subject to regulation and supervision for AML/CFT compliance. However, this requirement only applies to third parties outside the EEA. Likewise, the level of country risk is not entirely taken into account when considering whether reliance is permitted on a third party in another EU country, although reliance is not permitted on third parties in jurisdictions named by the European Commission as High Risk.

Progress has been made toward addressing the identified deficiencies. However, some deficiencies remain regarding reliance on third parties within the EU and EEA. **Denmark is therefore re-rated as largely compliant with R.17.**

Recommendation 22 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.22. The technical deficiencies related to deficiencies in R.10, 12, 15 and 17 which also had an impact in compliance with R.22. To this respect, Denmark has addressed most of the deficiencies identified during its MER and only minor deficiencies remain. R.10 is now proposed to be rated LC, R. 12 is now proposed to be

rated C, R. 15 is now re-rated as LC and R. 17 is now proposed to also be re-rated to LC. The MER rating of LC for Recommendation 11 remains. **Denmark is therefore re-rated as largely compliant with R.22.**

Recommendation 23 (originally rated LC)

In its 4th MER, Denmark was rated LC with R.23. The technical deficiencies related to lawyers being excluded from the obligation to report attempted transactions by persons that are not yet their clients and deficiencies in R.18 and R.19, which had an impact in compliance with R.23.

Denmark now requires lawyers to report attempted transactions, and R. 18 has been re-rated to LC, with minor deficiencies remaining relating to internal audit requirements that affect this Recommendation. The MER ratings of LC for R. 19 and C for R. 21 remain.

Denmark's rating of largely compliant with R.23 therefore remains.

Recommendation 24 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.24. The technical deficiencies related to not all non-commercial foundations being required to register; a lack of an obligation for beneficial ownership information on all Danish legal persons to be available, among others.

Denmark has addressed most of the deficiencies identified during its MER through the passage of the Beneficial Ownership Act (BO Act), and two Executive Orders, which introduced a beneficial ownership register and oblige most legal persons to collect and register beneficial ownership information. However, some minor deficiencies remain, as the BO Act does not cover all legal persons and there are a range of deficiencies specific to Greenland and the Faroe Islands which have not been addressed.

Denmark is therefore re-rated as largely compliant with R.24.

Recommendation 33 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.33. The technical deficiencies related to a lack of clear statistics related to ML investigations/prosecution/convictions, TF investigations, inter-EU MLA requests, and seizures/confiscations. Denmark has put in place mechanisms such as dedicated case numbers and guidance to the police, which allows it to provide most of the referred statistics, however, Denmark is yet to improve with regard to statistics on TF investigations, and seizures/confiscations. **On this basis, R.33 is re-rated to LC.**

3.2 Progress on Recommendations which have changed since Denmark's Mutual Evaluation Report

Since the adoption of Denmark's Mutual Evaluation Report, the FATF has amended Recommendations 7, 18 and 21. This section considers Denmark's compliance with the new requirements.

Recommendation 7 (originally rated PC)

In June 2017, the Interpretive Note to R.7 was amended to reflect the changes made to the proliferation financing-related United Nations Security Council Resolutions (UNSCRs) since

the FATF standards were issued in February 2012, in particular, the adoption of new UNSCRs. Denmark continues to implement targeted financial sanctions under UNSCR 1718 and its successor resolutions through EU legislation. However, there remain issues regarding implementing targeted financial sanctions without delay. In addition, Greenland and the Faroe Islands do not meet any of the requirements of R.7. **As a result, Denmark remains partially compliant with R.7.**

Recommendation 18 (originally rated PC)

In its 4th MER, Denmark was rated PC with R.18. The technical deficiencies related to the lack of a requirement to implement internal controls, screening procedures when hiring employees and the lack of a requirement for an independent audit function. Financial groups were also not required to implement group-wide programmes against ML/TF. Denmark has addressed most of the deficiencies identified during its MER (through the revised AML Act issued June 2017; section 8 and explanatory notes) and only minor deficiencies remain, particularly with regard to the need for an internal audit. In November 2017, the Interpretive Note to R.18 was amended to clarify the scope of information-sharing requirements. Denmark's AML Act includes procedures for information sharing within a group and permits the sharing of information relating to a STR while maintaining safeguards to prevent tipping-off. **On this basis, Denmark is re-rated to largely compliant.**

Recommendation 21 (originally rated C)

In November 2017, R.21 was amended to clarify that tipping off provisions are not intended to inhibit information sharing under R.18. There is a clear exemption to Denmark's provisions on tipping-off which permits information sharing on STRs within a group (Section 38 of the revised AML Act issued June 2017). **Denmark therefore remains compliant with R.21.**

3.3. Brief overview of progress on other Recommendations rated NC/PC

Denmark reported progress in several other Recommendations rated PC (none are rated NC). For Recommendation 1 (PC), a number of changes have been made and continue to be made, including increased focus on assigning resources based on risk, and among others, ensuring that the Financial Services Authority has adequate resources. On R.6 (PC), Denmark noted that the EU has overhauled procedures for implementing targeted financial sanctions to reduce the delay between UN designation and EU transposition. It also highlighted the importance of implementation of TFS in Greenland and the Faroe Islands. For R.8 (PC), a revised TF NRA is being prepared, while the Ministry of Justice and the Danish Security and Intelligence Services consider how to best address R.8 deficiencies. Other actions were also reported for other Recommendations, including R. 13, 25, 26, 34 and 35.

3.4 CONCLUSION

Overall, Denmark has made good progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated on ten Recommendations. Nine Recommendations remain PC. Denmark fully addressed the deficiencies in Recommendation 12 which is re-rated as C. Denmark has also addressed most of the technical compliance deficiencies identified on R.2, 10, 15, 16, 17, 18, 22, 24 and 33, such that only minor shortcomings remain and these Recommendations are re-rated as LC. Recommendation 3

and 23 remained rated LC. While Denmark complies with the revised requirement of R.7, outstanding deficiencies remain, meaning Denmark remains PC. Denmark complies with the updated requirements of R.18 and R.21. R.18 is being re-rated to LC as noted above and R.21 will maintain its C rating.

In light of Denmark's progress since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, October 2018

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

Denmark will remain in enhanced follow-up on the basis that it has nine Recommendations rated PC as well as on the basis that it had a low or moderate level of effectiveness for seven or more (eight) of the 11 effectiveness outcomes (FATF Procedures, para. 79(a) (i) and (iii)). According to the enhanced follow-up process, Denmark will continue to report back to the FATF on progress to strengthen its implementation of AML/CFT measures.

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Anti-money laundering and counter-terrorist financing measures in Denmark

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses Denmark's progress in addressing the technical compliance deficiencies identified in the FATF assessment of their measures to combat money laundering and terrorist financing of June 2017.

The report also looks at whether Denmark has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2017 assessment.

FOLLOW-UP
REPORT

