FATF

Anti-money laundering and counter-terrorist financing measures

Denmark

February 2021

3rd Enhanced Follow-up Report & Technical Compliance Re-Rating

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.

For more information about the FATF, please visit the website: **www.fatf-gafi.org**

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Denmark's 3rd Enhanced Follow-Up Report

1. INTRODUCTION

The mutual evaluation report (MER) of Denmark was adopted in June 2017. Denmark's 1st Enhanced Follow-up Report (FUR) with technical compliance re-ratings was adopted in October 2018 and its 2nd FUR was adopted in October 2019. This 3rd enhanced FUR analyses Denmark's progress in addressing some of its technical compliance deficiencies identified in its 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 that have changed since its 2nd enhanced FUR was adopted: R.15. Overall, the expectation is that countries will have addressed most if not all technical compliance deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Denmark has made to improve its effectiveness.

2. FINDINGS OF THE MER AND 2ND ENHANCED FOLLOW-UP REPORT

The 2nd enhanced FUR rated Denmark's technical compliance as follows:

Table 1. Technical compliance ratings, October 2019

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	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	C	LC	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's 2nd Enhanced Follow-up Report & Technical Compliance Re-Rating, November 2019: www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Report-Denmark-2019.pdf

The following expert assessed Denmark's request for technical compliance re-ratings:

- Mr. Gavin Raper, Manager, Regulatory Supervision, 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 the technical compliance deficiencies identified in the MER; and

b) Implementing new requirements where the FATF Recommendations have changed since the 2nd enhanced FURs was adopted (R.15).

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 R.6, 7, 8, 25, and 26. Because of this progress, Denmark has been re-rated on these Recommendations.

Recommendation 6 (originally rated PC)

In its 4th round MER, Denmark was rated PC with R.6. Moderate deficiencies were identified in the MER, including the following: the inability to freeze without delay the assets of persons/entities designated by the UN; the absence of formal mechanisms to designate or seek designation of individuals not listed by the UN; and gaps in legislation applicable to Greenland and the Faroe Islands.

On 10 January 2020, the Act amending the Danish AML Act (*amended AML Act*) entered into force. The *amended AML Act*, particularly Section 34a, created a national mechanism that obliges the freezing of assets of persons/entities designated by the UN without delay and without prior notice. Denmark has also established a procedure to formally designate persons and entities.

However, Section 34a does not include the freezing of funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities, where such designated person or entity does not "control" the assets of the persons acting on its behalf or discretion. While such funds or assets could be covered by provisions to freeze in the

Administrative *Justice Act*, they would not be frozen "without delay", as required per the FATF Standards.

In addition, the deficiencies identified in the MER regarding Greenland and the Faroe Islands remain unchanged.

R.6 is therefore re-rated largely compliant.

Recommendation 7 (originally rated PC)

R.7 was rated as PC in Denmark's 4th round MER, due to the inability to freeze assets of designated persons without delay. In addition, Greenland and the Faroe Islands did not meet any of the criteria under R.7.

Since then, the mechanism created by section 34a of the *amended AML Act* (described under R.6) generally enables the prevention, suppression and disruption of proliferation of weapons of mass destruction and their financing, without delay. However, the same deficiency described in R.6 applies, as section 34a would not freeze funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities, without delay, where such designated person or entity does not "control" the assets of the persons acting on its behalf or discretion. While other mechanisms in the Danish criminal justice system (i.e. *the Administrative Justice Act*) could be relied on to freeze such funds or assets, they could not do so "without delay" as required by the FATF Standards.

In addition, the deficiencies identified in the MER regarding Greenland and the Faroe Islands remain unchanged.

R.7 is therefore re-rated largely compliant.

Recommendation 8 (originally rated PC)

In its 4th round MER, Denmark was rated PC with R.8. The main technical deficiencies were: Denmark authorities had only taken limited steps for supervision and had not started a risk-based approach to supervision; only a partial identification of the features and types of non-profit organisations (NPOs) which by virtue of their activities may be at risk of TF abuse had been taken; no outreach or educational policies or procedures to NPOs, and no coordination of policies or procedures for effective information sharing. Greenland reported very limited compliance with R.8 and no information was provided about the Faroe Islands.

Since then, several steps have been taken to identify risks related to NPOs. Denmark published a sectoral-specific NPO NRA in April 2020 which collected information from a number of government authorities. The NPO NRA assesses threats and vulnerabilities, finding that militant Islamist groups and right wing extremists pose the greatest risks to Denmark. Denmark concluded, based on a process using typologies and descriptions on risk profiles of NPOs, that only a small number of NPOs are high risk.

The Fundraising Board adopted formal policies for the risk-based supervision of NPOs. In addition, Denmark implemented a number of new measures that increase oversight of its NPO sector. Namely, all fundraising

activities require a permit from the Fundraising Board (charged with overseeing NPOs), funds raised must be banked, and accounts of fundraising events lodged. Audited accounts are required for NPOs with turnover greater than DKK 50 000 (EUR 6 717). The Fundraising Board has established policies and procedures for pursuing educational outreach with the NPO sector. National co-ordination is also improved as Danish National Police have a representative on the Fundraising Board, who must have money laundering and terrorism financing subject matter expertise.[1]

Despite these significant advancements, there have been no updates for Greenland and the Faroe Islands. While Denmark assesses risks in Greenland and Faroe Islands as low, the lack of measures in place result in significant vulnerabilities for these territories.

R.8 is therefore re-rated largely compliant.

Recommendation 25 (originally rated PC)

In its 4th round MER, Denmark was rated PC with R.25 due to no requirements for trustees to disclose their status to FIs or DNFBPs and the limited information held on trusts. No information was provided concerning Greenland or the Faroe Islands requirements related to trusts or trustees.

The *amended AML Act*, which implements the European Union's 5th Anti-Money Laundering Directive, strengthens due diligence and record-keeping requirements for trustees and beneficial owners. Minor deficiencies remain, as Denmark accepts a certificate of registration for trusts registered in other EU countries without necessarily requiring proof that accurate beneficial ownership information is held by the relevant jurisdiction. In addition, the deficiency identified in the MER, related to no requirements on trustees to collect information on trust agents and service providers, remains.

Finally, the gaps for Greenland and the Faroe Islands, as described in Denmark's MER, also remain.

R.25 is therefore re-rated largely compliant.

Recommendation 26 (originally rated PC)

In its 4th round MER, Denmark was rated PC with R.26. The primary deficiencies identified were: inadequate risk-based approach to supervision given the lack of adequate risk assessments for individual financial institutions (FIs), savings institutions not subject to fit & proper requirements, need for additional supervisory resources and inspections of FIs.

Denmark has made significant improvements in AML/CFT supervision, increasing resources available to the Danish Financial Supervisory

1 The Danish National Police nominated the *Politiets Efterretningstjeneste* (PET), Denmark's national intelligence and security authority, as its representative.

Authority (FSA) and increasing the number of FI inspections. The number of STRs filed by FIs has increased markedly and the *amended AML Act* creates new mechanisms for Danish authorities to cooperate with foreign supervisory counterparts. Savings institutions are now covered by fit and proper requirements.

Denmark has largely completed upgrading its risk assessment tool. The current Generation 2 risk modelling system currently in place improves upon deficiencies identified in the MER, even though it is not based on regular inputs from all FIs. Once fully operational late in 2021, Denmark's new risk modelling system, the Generation 3 scorecard, will provide supervisors with sophisticated and systematic updates from FIs to prioritise future assessments.

Deficiencies identified in the MER regarding Greenland and the Faroe Islands remain, with respect to FIs based in those territories not supervised by the Danish FSA.

R.26 is therefore re-rated largely compliant.

3.2. Progress on Recommendations which have changed since adoption of the 1st enhanced FUR

Since the adoption of Denmark's 2nd enhanced FUR, the FATF amended R.15. This section considers Denmark's compliance with the new requirements.

Recommendation 15 (PC in MER, re-rated to LC in 1st FUR)

In June 2019, R.15 was revised to include obligations related to virtual assets (VA) and virtual asset service providers (VASPs). These new requirements include: requirements on identifying, assessing and understanding ML/TF risks associated with VA activities or operations of VASPs; requirements for VASPs to be licensed or registered; requirements for countries to apply adequate risk-based AML/CFT supervision (including sanctions) to VASPs and for such supervision to be conducted by a competent authority; as well as requirements to apply measures related to preventive measures and international co-operation to VASPs.

In its 4th Round MER, Denmark was rated PC with R.15, as Denmark had no explicit requirements in law or regulation to address the risks associated with new technologies.

Since its 4th Round MER, Denmark has amended its AML Act, which now requires FIs to regularly assess risks related to new products, technologies and delivery channels. FIs are also required to keep these assessments up to date and put in place relevant controls. As such, the deficiencies identified during the MER have been addressed.

In relation to new requirements for VA/VASPs, Denmark has introduced a regime which covers some of the activities in the FATF definition of VASP (i.e. "Covered VASPs"), including natural and legal persons engaged in exchange services between virtual currencies and fiat currencies'

(exchange platforms) and custodian wallet providers. However, the scope does not extend to exchange between one or more forms of virtual assets, transfer of virtual assets and participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

In relation to requirements for assessing risks, the 2018 NRA (and 2020 NRA on TF) assess risks associated with VA, but not with respect to Covered VASPs or related activities and operations. VASPs in Denmark are subject to the same risk-based framework that applies to FIs (described in R.26).

Covered VASPs are required to register with the Danish FSA. In addition, a number of measures apply to prevent criminals from holding, or being the beneficial owner of a significant or controlling interest, or holding a management function in, a Covered VASP. However, it is unclear whether these measures would apply the associates of such persons, as required under the FATF Standards. Danish authorities can apply sanctions to unregistered Covered VASPs, however Denmark has not yet demonstrated that it has taken any actions to identify unregistered Covered VASPs.

Covered VA/VASP activities, as defined by the Danish *amended AML Act*, are supervised by the Danish FSA. Within the Danish FSA, a specialist team supports supervisors on VA/VASP issues. Denmark has already commenced supervision of Covered VASPs, with further inspections planned. Danish authorities have appropriate of sanctions available. However, in certain cases, Danish supervisory authorities are ultimately unable to independently set some higher levels of administrative fines without prior approval of the State Prosecutor.

While extensive guidance has been provided to obliged entities, specific guidance to the VA/VASP sector was only published in November 2020. Because this guidance was ultimately published after the cut-off date for submitting materials, it cannot be taken into account for this Report. Furthermore, the Danish FSA does not appear to provide sufficient feedback to Covered VASPs that are registered with it.

Denmark applies most of the preventative measures in relation to R.10 to R.21, has implemented the EUR/USD 1 000 threshold for occasional transactions with Covered VASPs, but has not implemented the requirements of R.16.

In Denmark, the communication mechanisms, reporting obligations and monitoring regarding targeted financial sanctions in R.6 and R.7 apply to Covered VASPs.

Denmark has addressed the deficiencies identified in its MER and has met some of the new criteria of R.15, but moderate deficiencies remain.

R.15 is therefore downgraded to partially compliant.

4. CONCLUSION

Overall, Denmark has made progress in addressing most of the technical compliance deficiencies identified in its MER and has been upgraded on R. 6, 7, 8, 25 and 26. However, R.15 is downgraded to partially compliant, where Denmark met some of the new requirements of R.15 but moderate deficiencies remain.

Considering progress made by Denmark since the adoption of its MER, its technical compliance with the FATF Recommendations has been re-evaluated in the following manner:

Table 2. Technical compliance ratings, February 2021

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	LC	C	**LC**	**LC**	**LC**	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	**PC**	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	**LC**	**LC**	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	C	LC	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 and will continue to inform the FATF of progress achieved on improving the implementation of its AML/CFT measures.

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www.fatf-gafi.org

February 2021

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

3rd Enhanced Follow-up Report & Technical Compliance Re-Rating

As a result of Denmark's progress in strengthening their measures to fight money laundering and terrorist financing since the assessment of the country's framework, the FATF has re-rated the country on 5 of the 40 Recommendations.

The report also looks at whether Denmark's measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2017.

Follow-up report