

FATF



Anti-money laundering and
counter-terrorist financing
measures

Iceland

Follow-up Report &
Technical Compliance Re-Rating

September 2019

Follow-up report





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ICELAND: 1ST ENHANCED FOLLOW-UP REPORT

1. Introduction

The mutual evaluation report (MER) of Iceland was adopted in February 2018. This is the 1st enhanced follow-up report which analyses Iceland's progress in addressing certain technical compliance deficiencies which were identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses Iceland's progress in implementing new requirements relating to FATF Recommendations which have changed since the onsite visit to Iceland in July 2017: Recommendations 2, 7, 18 and 21. This report does not address what progress Iceland 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 Mutual Evaluation Report

The MER rated Iceland as follows for technical compliance:

Table 1. Technical compliance ratings, February 2018

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

Source: [Iceland's Mutual Evaluation Report, February 2018](#)

Given these results and Iceland's level of effectiveness, the FATF placed Iceland in enhanced follow-up¹. The following experts assessed Iceland's request for technical compliance re-ratings:

- Ms. Lai Kuen Yap, Advisor, Central Bank of Malaysia, Malaysia,
- Ms. Eva Thunegard, Director of Supervision, Prosecution Authority, Sweden, and
- Mr. Andy Watson, Senior Associate, Financial Conduct Authority, United Kingdom.

Section 3 of this report summarises Iceland'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 on technical compliance

This section summarises Iceland'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 the MER was adopted (R.2, 7, 18 and 21).

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

Iceland has made progress to address the technical compliance deficiencies identified in the MER in relation to Recommendations 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 22, 23, 27, 28, and 35. As a result of this progress, Iceland has been re-rated on Recommendations 9, 10, 12, 15, 16, 17, 19, 20, 22, 23, 27, 28 and 35. On Recommendations 13 and 14, progress has been noted but does not justify re-ratings at this time.

Recommendation 9 (originally rated LC)

In its 4th round MER, Iceland was rated LC for R.9 based on a minor technical deficiency that the Financial Supervisory Authority (FSA) could only share information if required by law or by a court order.

Iceland implemented the 4th EU Anti-Money Laundering Directive No. 2015/849 (4th EU AMLD) through the Act on Anti-Money Laundering and Terrorist Financing No. 140/2018 (the new AML Act), which entered into force on 1 January 2019. The new AML Act imposes a duty on the FSA to share information upon request or at its own initiative. The new AML Act also permits the FSA, as a member of Iceland's anti-money laundering and counter-terrorist financing (AML/CFT) Steering Committee, to share

¹ 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 anti-money laundering and counter-terrorist financing (AML/CFT) systems, and involves a more intensive process of follow-up.

information and data with other members of the Committee to co-ordinate AML/CFT measures.

Iceland has addressed the identified deficiency. **Iceland is therefore re-rated as Compliant with R.9.**

Recommendation 10 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.10, based on the shortcomings identified with respect to overly broad possibilities to apply simplified customer due diligence (CDD), no specific requirement for financial institutions (FIs) to include the beneficiary of a life insurance policy as a relevant risk factor, and no requirement for FIs to identify the settlor or the protector of foreign legal arrangements. In addition, there was no provision permitting FIs not to pursue CDD and to file a suspicious transaction report (STR) when at risk of tipping-off a customer.

Pursuant to the new AML Act, simplified CDD is now allowed in accordance with the risk assessments by the country or by obliged entities. Iceland has also adopted the Risk Factor Guidelines issued by the European Supervisory Authorities (ESAs), which stipulates that the beneficiary of a life policy be a relevant risk factor in application of enhanced CDD measures. In addition, the new AML Act requires the identification of settlor and protector, by amending the definition of beneficial owner.

With regard to the deficiency on tipping-off and filing an STR, the new AML Act now allows FIs not to pursue CDD and to notify the Financial Intelligence Unit (FIU) if continued CDD will prevent the investigation or prosecution of a suspicious transaction.

Iceland has addressed all of the identified deficiencies. **Iceland is therefore re-rated as Compliant with R.10.**

Recommendation 12 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.12, based on deficiencies with respect to the definition and coverage of politically exposed persons (PEPs), and the lack of a requirement for FIs to determine whether a beneficiary or a beneficial owner of a life insurance policy is a PEP.

The definition and scope of PEPs have been amended in the new AML Act to cover domestic PEPs, persons who have been entrusted with a prominent function by an international organisation and family members and/or close associates of domestic PEPs, in line with the FATF standard. FIs are now required to determine whether a beneficiary or beneficial owner of a life insurance policy is a PEP, and inform senior management when a PEP is identified.

All the identified deficiencies have been addressed. **Iceland is therefore re-rated as Compliant with R.12.**

Recommendation 13 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.13, because of gaps identified in relation to the lack of application of enhanced CDD for correspondent banking within the European Economic Area (EEA) and no requirement for FIs to fully understand the nature of the respondent's business.

The new AML Act requires additional measures be applied on cross-border correspondent banking relationships “with a third-country respondent institution.” However, the term “third-country” does not include countries within the EEA. Similarly, the requirement for FIs to understand the nature of respondent’s business does not apply to correspondent relationships with EEA countries.

Iceland has not addressed the identified deficiencies. **Iceland therefore remains rated Partially Compliant with R.13.**

Recommendation 14 (originally rated LC)

In its 4th round MER, Iceland was rated LC with R.14, based on the minor deficiencies identified with regard to the lack of a requirement for agents of money or value transfer services (MVTs) providers to be registered, FSA not acting proactively to identify illegal MVTs activity and not monitoring agents of EEA MVTs providers that offer services in Iceland.

Pursuant to the new AML Act and the Act on Payment Services, agents of MVTs providers are now required to be registered and to be monitored. Since the adoption of Iceland MER, the FSA has undertaken proactive review of publicly available information to detect potential illegal MVTs activity. However, the FSA is still in the process of conducting a risk assessment and developing a risk-based approach of agents of MVTs providers.

Most of the deficiencies identified have been addressed and only a minor deficiency remains. **Iceland therefore remains rated Largely Compliant with R.14.**

Recommendation 15 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.15, based on the identified deficiency with regard to lack of a direct requirement for FIs to identify and assess the money laundering and terrorist financing (ML/TF) risks in relation to the development of new technologies, new business practice or new and pre-existing products. The MER also found that competent authorities had not identified or assessed the ML/TF risks in relation to new technologies.

The new AML Act now requires obliged entities to carry out a ML/TF risk assessment before new products or services are marketed and when using new distribution channels and new technologies.

However, competent authorities are still in the process of assessing risks in relation to new technologies, and the actions conducted by the FSA on risk assessment does not fully support the requirement that countries (not just the FSA) should identify the risks.

Iceland has addressed most of the identified deficiencies, but minor deficiencies remain. **Iceland is therefore re-rated as Largely Compliant with R.15.**

Recommendation 16 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.16, based on the deficiencies identified with regard to a lack of requirements relating to information on the beneficiary, requirements on intermediary institutions and specific requirements for MVTs providers who control both the ordering and beneficiary side of a wire transfer.

The new EU Regulation No. 2015/847 on information to be accompanying wire transfers, which was transposed by Iceland and came into force as of 1 January 2019, requires cross-border wire transfers to be accompanied by the required beneficiary information. The EU Regulation equally requires intermediary institutions to ensure the wire transfers are accompanied by the necessary beneficiary and originator information. If the wire transfers lack the necessary information, the intermediary institution must have measures in place to determine when to execute or reject a transfer.

All payee and intermediary institutions are required to take into account information from both sides of the transaction, as a factor when assessing whether an STR has to be filed. The 4th EU AMLD 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.

All the identified deficiencies have been addressed, **Iceland is therefore re-rated as Compliant with R.16.**

Recommendation 17 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.17, based on the deficiencies with regard to no requirement for FIs relying on third parties to immediately obtain the necessary information concerning CDD and to consider the country specific ML/TF risks when determining in which country the third party may be based.

With the implementation of the new AML Act, there is now an explicit requirement to ensure the provision of the CDD information by third parties without delay. The new AML Act also requires obliged entities relying on CDD from a third party to take into consideration the ML/TF risks in the country that the third party is located.

The identified deficiencies have been addressed. **Iceland is therefore re-rated as Compliant.**

Recommendation 19 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.19, as there was no requirement to pay particular attention and conduct enhanced CDD in circumstances where higher TF risks are identified. In addition, it was not clear if Icelandic authorities had the power to apply countermeasures proportionate to the risks when called upon to do so by the FATF or independently of any call to do so.

Pursuant to the new AML Act, FIs are required to apply enhanced CDD to transactions or business relationships with natural persons or entities involving high-risk countries either when called to do so by the FATF or in its own initiative. This requirement also applies to higher TF risk countries.

All the identified deficiencies have been addressed. **Iceland is therefore re-rated as Compliant with R.19.**

Recommendation 20 (originally rated LC)

In its 4th round MER, Iceland was rated LC with R.20 with one minor deficiency that there was no explicit requirement for FIs to report suspicious transactions promptly when a suspicion was formed after the transaction was executed.

Article 21 of the new AML Act now requires obliged entities, their employees and managers to notify the FIU of all suspicious transactions in a timely manner. The explanatory note to article 21 further provides that the term “in a timely manner” should be interpreted as “as soon as there is a suspicion.”

The minor deficiency has been addressed, **Iceland is therefore re-rated as Compliant with R.20.**

Recommendation 22 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.22 as deficiencies identified in R.10, R.12, R.15² and R.17 were applicable for designated non-financial business and professions (DNFBPs). The deficiencies in relation to CDD and PEP requirements for lawyers and public auditors were particularly significant for Iceland.

Since the adoption of Iceland’s MER, the deficiencies identified in R.10, R.12 and R.17 have been addressed. In addition, the deficiency in R.15 which was related to obligations of DNFBPs has also been addressed.

The identified deficiencies have been addressed. **Iceland is therefore re-rated as Compliant with R.22.**

Recommendation 23 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.23 as deficiencies identified in R.18, R.19 and R.20 were applicable for DNFBPs. The MER also found that most notably, there was no mechanism for Iceland to enforce countermeasures against high-risk countries.

The deficiencies identified in R.19 and R.20 have been addressed, while the deficiencies in R.18 have not been fully addressed as noted above. In addition, with the adoption of the new AML Act, obliged entities are now required to apply enhanced CDD in transactions or business relationships with natural persons or entities involving high-risk countries.

The identified deficiencies have been mostly addressed, with minor deficiencies remaining. **Iceland is therefore re-rated as Largely Compliant with R.23.**

Recommendation 27 (originally rated LC)

In its 4th round MER, Iceland was rated LC with R.27, as the range of sanctions imposed by the financial supervisors were not dissuasive or proportionate, and did not include the power to withdraw, restrict or suspend a financial institution’s license or to apply administrative sanctions directly for AML/CFT breaches.

Pursuant to article 44, 45, 46, 50 and 51 of the new AML Act, the sanctions are now dissuasive and proportionate as they include daily fines, administrative fines, suspension of the board of directors and manager and the revocation of an FI’s operating licence. Administrative sanctions can be applied by the FSA for AML/CFT breaches.

² A typo has occurred in the MER, the reference should have been to R.15 instead of R.14.

The one minor deficiency identified has been addressed. **Iceland is therefore re-rated as Compliant with R.27.**

Recommendation 28 (originally rated NC)

In its 4th round MER, Iceland was rated NC with R.28, based on the deficiencies with regard to the lack of a system for monitoring DNFBPs' compliance with AML/CFT requirements in practice, the inadequate range of enforcement or supervisory powers by supervisors and very limited risk-based outreach to the DNFBP sub-sectors.

Although actions have been taken to monitor the majority of DNFBPs, Iceland has not covered all DNFBP sectors (for instance, dealers in precious metals or stones). In addition, while initial work to understand the risk profile of DNFBPs has commenced, risk-based supervision is not carried out across all DNFBPs.

Some deficiencies identified in the MER have been addressed, but moderate shortcomings still remain. **Iceland is therefore re-rated as Partially Compliant with R.28.**

Recommendation 35 (originally rated PC)

In its 4th round MER Iceland was rated PC with R.35, based on the deficiencies with regard to limited sanctions available and the fact that the sanctions were not adequately effective, proportionate or dissuasive.

Pursuant to the new AML Act, both the FSA, as the supervisor of FI's, and the Directorate of Internal Revenue as the supervisor of DNFBPs now have a broader range of sanctioning powers. In addition, Article 50 of the new AML Act allows supervisors to suspend the board of directors and the managing director, if the entity has seriously, repeatedly or systematically violated the provisions of the new AML Act.

However, deficiencies have not been fully addressed, as authorities still do not have adequate or proportionate sanctions for violations of oversight measures by non-profit organisations (NPOs) or persons acting on behalf of these NPOs.

The deficiencies identified have been mostly addressed with a minor deficiency remaining. **Iceland is therefore re-rated as Largely Compliant with R.35.**

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

Since the on-site visit to Iceland, the FATF has amended Recommendations 2, 7, 18 and 21. This section considers Iceland's compliance with the new requirements, and its progress to address the technical compliance deficiencies identified in the MER in relation to these Recommendations.

Recommendation 2 (originally rated PC)

In October 2018, R.2 was amended to cover that countries should have co-operation and co-ordination between relevant authorities to ensure compatibility of AML/CFT requirements with Data Protection and Privacy Rules. The amended recommendation further requires a domestic mechanism for exchange of information.

Iceland was rated PC with R.2, based on deficiencies with regard to lack of policies informed by identified risks and lack of mechanisms in place for competent authorities to coordinate on AML/CFT policies and activities. In addition, neither the National Security Council nor the AML/CFT Steering Committee was operating either alone or in coordination as the country's coordinator of national AML/CFT policies, and the Steering Committee was not typically a coordination or cooperation mechanism to combat the financing of proliferation of weapons of mass destruction (WMD).

The Steering Committee now has a legal basis pursuant to article 39 of the new AML Act, which provides that the minister appoint a Steering Committee and the committee shall be responsible for the coordination of measures against money laundering and terrorist financing.

Concerning the revised criteria (c2.3 and c2.5), the Steering Committee now coordinates measures related to AML/CFT. Supervisors and other competent authorities that are responsible for AML/CFT are obliged to share information and data covered by the new AML Act.

However, Iceland has not yet developed policies informed by identified risks and the mandate of the Steering Committee does not cover combating the proliferation financing of weapons of mass destruction.

Iceland has addressed some deficiencies and has met the revised criteria under R.2, but moderate shortcomings still remain. **Iceland therefore remains rated Partially Compliant with R.2.**

Recommendation 7 (originally rated PC)

In November 2017, R.7 was amended to reflect changes to the United Nations Security Council Resolutions on proliferation financing since the FATF standards were issued in February 2012.

In its 4th round MER Iceland was rated PC with R.7. Deficiencies were identified regarding the inability to implement sanctions regarding Iran without delay, inadequate scope of assets subject to freezing, monitoring for compliance and allowing a designated person to make payments due under contracts that pre-date imposition of the sanction.

Iceland has addressed the deficiency regarding Iran by regulation 843/2017, which specifies that sanction lists published on the relevant United Nations website and their subsequent changes and updates shall enter into force as soon as they are published on the relevant website.

However, not all United Nations Security Council Resolutions are implemented yet and Iceland is in the process of developing new legislation and measures to fully implement the requirements under R.7.

The deficiencies have not been fully addressed and the revised standard has not been met. **Iceland remains rated Partially Compliant with R.7.**

Recommendation 18 (originally rated PC)

In February 2018, R.18 was amended to reflect the November 2017 amendments to the FATF Standards (Interpretive Note to Recommendation 18) which clarified the requirements on sharing of information related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions.

In its 4th round MER, Iceland was rated PC on R.18, based on shortcomings related to a lack of general requirement for FIs to maintain an independent audit function to test the AML/CFT system, and lack of a binding requirement for FIs to implement group-wide programmes against ML/TF.

Pursuant to the new AML Act, obliged entities are now required to have either an independent audit function or an independent auditor to carry out audits and test the internal policies, controls and procedures. Obligated entities are required to apply group wide policies and procedures for AML/CFT purposes pursuant to article 32(1) of the new AML Act.

However, some deficiencies remain in relation to the requirement that obliged entities should maintain group-wide policies and procedures for entities in another EEA state. This is mitigated by the fact that Icelandic FIs have no foreign branches and there is only one registered foreign subsidiary. In addition, this does not apply to all FIs.

On this basis, Iceland is re-rated as Largely Compliant with R.18.

Recommendation 21 (originally rated C)

In February 2018, R.21 was amended to clarify that tipping-off provisions are not intended to inhibit information sharing under R.18.

In its 4th round MER, Iceland was rated C on R.21. The new AML Act prohibits FIs or their directors against disclosing that a report of suspicious transactions and funds has been made. However, an exemption is made for the disclosure within an FI's group (article 27(3)(a) and (b) of the new AML Act) that permits sharing of the fact that such a report has been made. This is only restricted where a branch or majority owned subsidiary is not complying with the group-wide policies and procedures required by article 32(1) of the Act. While this restriction may inhibit information sharing under Recommendation 18, it only applies in limited circumstances.

On this basis, Iceland remains rated as Compliant with R.21.

3.3. Brief overview on other Recommendations rated PC/NC

Iceland reported progress on Recommendations 1, 6, 8, 24, 25, 26, 32 and 34, the information provided has not been assessed by the experts. On R.1 Iceland reported that they are working on a new risk assessment in accordance with the FATF Methodology. With regard to R.6, Iceland reported that a legislative proposal on financial sanctions has been put forth. With regard to R.8, Iceland reported that following the risk assessment, relevant policies will be drafted and appropriate mechanism to supervise NPOs will be put in place. With regard to R.24 and R.25, Iceland reported that a new legislative proposal on beneficial ownership has been put forth. With regard to R.26, Iceland reported that the FSA has conducted a

comprehensive risk assessment of all obliged entities. With regard to R.32, Iceland reported that a new legislative proposal amending the Customs Act has been sent to the parliament. Lastly, Iceland reported progress on R.34 that the Steering Committee published two educational brochures on training of staff and STRs.

4. Conclusion

Iceland has made progress to address the technical compliance deficiencies identified in the MER and is therefore re-rated on Recommendations 9, 10, 12, 15, 16, 17, 19, 20, 22, 23, 27, 28 and 35.

With regard to the revised Recommendations 2, 7, 18 and 21 since the on-site visit to Iceland, Iceland is re-rated on R.18, remains rated PC with R.2 & R.7 and C with R.21.

In light of Iceland'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, June 2019

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC	PC	C	LC	LC	PC	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	C	PC	LC	LC	C	C	LC	C	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	C	LC	PC	PC	PC	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	PC	LC	PC	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).

Iceland will remain in enhanced follow-up on the basis that it has 12 Recommendations remaining rated PC/NC for technical compliance, and 10 Immediate Outcomes remaining rated ME/LE (out of which 6 are rated LE) for effectiveness. In accordance with the FATF Procedures, Iceland will continue to report back to the FATF on progress to strengthen its implementation of AML/CFT measures.

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September 2019

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

Follow-up Report & Technical Compliance Re-Rating

As a result of Iceland'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 13 of the 40 Recommendations.

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

Follow-up report