

FATF



Anti-money laundering and counter-terrorist financing measures

Germany

Follow-Up Report &
Technical Compliance Re-Rating

December 2023

Follow-up report





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Germany: 1st Enhanced Follow-up Report

Introduction

The FATF Plenary adopted the mutual evaluation report (MER) of Germany in June 2022¹. Based on the MER results, Germany was placed into enhanced follow-up. This is Germany's 1st Enhanced Follow-up Report (FUR) with technical compliance re-ratings. This FUR analyses Germany's progress in addressing some of the technical compliance deficiencies identified in its MER. Re-ratings are given where progress has been made.

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 Germany has made to improve its effectiveness.

Ms. Guðrún Árnadóttir, Assistant Superintendent, HoFIU from Iceland, supported by Ms. Lisa Kilduff, Policy Analyst from the FATF Secretariat, assessed Germany's request for technical compliance re-ratings.

The first part of this report summarises Germany's progress in improving technical compliance. The final part sets out the conclusion and includes a table showing Germany's MER ratings and updated ratings based on this report.

Progress to improve Technical Compliance

This section summarises Germany's progress to improve its technical compliance by addressing some of the technical compliance deficiencies identified in the MER (R.6 and R.7).

Progress to address technical compliance deficiencies identified in the MER

Germany has made progress to address the technical compliance deficiencies identified in the MER in relation to R.6 and 7. Because of this progress, Germany has been re-rated on these Recommendations.

¹ www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-germany-2022.html

Recommendation 6

	Year	Rating
MER	2022	PC
FUR1	2023	↑ LC

- a) **Criterion 6.1 (Mostly Met) (a – e)** As set out in 2022, designations under UNSCR 1267/1989/2253 and the 1988 regime (collectively referred to as “UNSCR 1267 etc.”), the Federal Foreign Office, *Auswärtiges Amt* (AA), is the competent authority for proposing designations to the relevant UN Committee via Germany’s Permanent Representation to the UN (See 2022 MER, c.6.1(a)). When assessing a proposal for designation, the *Ressortkreis* and the AA consider whether there is reliable information that provides reasonable grounds to believe that the UN designation criteria is met. This includes reviewing police and intelligence findings, information from judicial authorities and publicly accessible information (See 2022 MER, c.6.1(c)). Germany uses the standardised UN forms when submitting designation applications (See 2022 MER, c.6.1(d)) and provides the UN Committee with evidentiary information in an annex when submitting designation applications (See 2022 MER, c.6.1(e)). Regarding c.6.1(b), shortcomings were identified regarding the process that Germany uses to identify targets for designation and the factors it considers before proposing a designation beyond the UN criteria. The MER finds that while a national process is in place, it is not written or formalised, but is based on convention. No changes have been made since the MER and the above shortcoming remains.
- b) **Criterion 6.2 (Mostly Met) (a – e)** As set out in 2022, Germany implements UNSCR 1373 designations primarily through the EU mechanism and has the possibility to issue national freezing/prohibition orders. The AA is the competent German authority for submitting requests to the EU and for co-ordinating Germany’s position on designations proposed by other EU Member States (See 2022 MER, c.6.2(a)). Germany applies a ‘reasonable grounds’ threshold for proposing designations, following the approach described in c.6.1(c). Proposals are not conditional on the existence of a criminal proceeding (See 2022 MER, c.6.2(d)).
- c) As outlined under 6.1(b), the process for identifying and proposing targets for designation is not documented. The same deficiencies apply under c.6.2(b). If Germany receives a request for designation directly from another country, the AA will consult other German authorities before making a proposal for designation to the EU. However, there are still no fixed timeframe for examination of requests for designation to ensure such determinations are prompt and no EU or national procedure for requesting non-EU countries to give effect to EU designations or domestic freezing/prohibition orders under the AWG, even if there is an approximation procedure that allows non-EU Member States to adopt the EU sanctions lists (See 2022 MER, c.6.2(c) and 6.2(e)). As such, the shortcomings identified under c.6.2(b), (c) and (e) remain as no changes have been made since the MER.

- d) **Criterion 6.3 (Mostly Met)** (a – b) As set out in 2022, where a domestic freezing/prohibition order is issued under the AWG, no notification or advance notice is given to persons or entities implicated by such orders (See 2022 MER, 6.3(b)). German operational agencies and LEAs have relevant powers to collect information to identify targets for designation. The *Ressortkreis* relies on this information when assessing or proposing designations, in addition to other information it collects or requests. However, there is no legal authority or domestic framework that entitles the *Ressortkreis* to solicit the necessary information to identify potential targets for designation (See 2022 MER, c.6(a)). No changes have been made since the MER and this shortcoming remains.
- e) **Criterion 6.4 (Met)** The 2022 MER identified shortcomings regarding the issuance of freezing/prohibition orders and c.6.4 was rated as ‘Partly Met’. For TFS under the UNSCR 1373 mechanism, these measures are implemented without delay through the EU mechanism. However, these orders applied only to accounts/funds held by credit and financial service institutions (not all natural and legal persons). For TFS under UNSCR 1267 etc., while Germany could and can issue freezing/prohibition orders (by way of an administrative act) that apply domestically to reduce the implementation delays seen under the EU mechanism, the MER found that AWG orders cannot be issued on weekends or holidays. This meant that the framework did not allow implementation without delay for sanctions issued by the UN immediately prior to weekends (including Fridays) or holidays. On 28 December 2022, Germany revised its AWG to clarify freezing obligations apply directly from the moment of designation by the UN Security Council, and until the announcement of an AWG order or entry into force of a directly applicable legal act of the European Union published in the Official Journal of the European Communities or of the European Union, and up to five days (AWG, s.5a). This avoids risk of delays in implementation of sanctions issued close to weekends or holidays. Accordingly, the deficiency identified in the MER has been addressed and this criterion has been re-rated as ‘Met’.
- f) **Criterion 6.5 (Mostly Met)** (a – f) As set out in 2022, orders under the AWG (in advance of EU designations) prohibit natural and legal persons from making funds or economic resources available (template Order to Restrict Capital and Payment Transactions with certain Persons or Partnerships) (See 2022 MER, c.6.5(c)). EU Best Practices on sanctions implementation state that good faith third parties should not be held liable and German civil law protections would extend to third parties implementing EU requirements. At the national level, third parties applying AWG orders or EU regulations are protected under the rules of German civil law (See 2022 MER, c.6.5(f)).
- g) However, for EU 1373 designations, there is no requirement in Germany to freeze assets of listed individual or entities that are EU internals and the national framework is somewhat limited in application. While orders can be issued that cover EU internals in Germany, they apply only to certain FIs (not all natural or legal persons), so are limited in scope (See 2022 MER, c.6.5(a)). According to section 6a of the Banking Act (KWG), BaFin can order FIs to freeze relevant deposits including for EU internals in case there are sufficient reasons for suspicion that deposits serve to fund a possible terrorist attack or serve – or would serve if a financial transaction were to be carried out – the purpose of terrorist

financing under section 89 of the Criminal Code (StGB) or of the financing of a terrorist organization under section 129a, including when read in conjunction with section 129b of the Criminal Code (StGB). At the EU level and in Germany, the definition of assets does not explicitly cover jointly owned assets or funds or assets controlled by, indirectly owned by, derived from assets owned by, or owned by a person acting at the direction of a designated person or entity. However, as these orders are explicitly made to pre-empt an upcoming EU designation, they are likely to be interpreted broadly to mirror the scope of the EU regulations (See 2022 MER, c.6.5(b)). Natural and legal persons are prohibited in Germany from making funds, other assets, or economic resources available to designated persons unless authorised. Germany has mechanisms in place to publicise designations for FIs and DNFBPs. Proactive notification measures are focused on FIs (including VASPs), particularly banks. However, no mechanism is in place to immediately notify new designations to all FIs and DNFBPs (See 2022 MER, c.6.5(d)). Lastly, although there is no obligation for FIs and DNFBPs to report assets frozen in accordance with orders under the AWG, AWG orders are used as a temporary measure to pre-empt an EU designation, the EU reporting obligations will typically be triggered by a corresponding EU designation shortly after the AWG order (See 2022 MER, c.6.5(e)). No changes have been made since the MER, and as such the shortcomings under c.6.5(a), (b), (d) and (e) remain.

- h) **Criterion 6.6** (*Mostly Met*) (a – g) As set out in 2022, the AA is the competent authority that can submit a request for de-listing to the UN Sanctions Committee directly. This decision is based on the procedure and criteria set out in c.6.1 and is in line with UN Committee procedures (See 2022 MER, c.6.6(a)). Regarding de-listing procedures for designations under the 1373, orders under the AWG operate as a temporary measure and expire automatically after one month or upon implementation of the designation at the EU level (See 2022 MER, c.6.6(b)). Orders imposed under the AWG or under the Banking Act (KWG) can be challenged by petitioning the ordering authority, or before the German courts (See 2022 MER, c.6.6(c)) and the Deutsche Bundesbank provides a dedicated financial sanctions hotline and contact addresses through which individuals can seek advice on de-listing (See 2022 MER, c.6.6(d) and (e)). Funds mistakenly frozen under AWG orders can be released following legal action on the basis that only the assets of listed persons must be frozen. The process for doing so is a standard court appeal. However, AWG orders are generally temporary and are lifted when a corresponding EU designation comes into force (See 2022 MER, c.6.6(f)). De-listings are communicated in the same way as new listings (See 2022 MER, c.6.6(g)). No changes have been made since the MER, and as such, the shortcoming that there is no mechanism in place to immediately notify new designations to all FIs and DNFBP remains (See 2022 MER, c.6.5 (d)).
- i) **Criterion 6.7** (*Met*) As set out in 2022, for freezing/prohibition orders under the AWG, the Federal Ministry for Economic Affairs and Climate Action (BMWK) has the authority to grant access to funds frozen where necessary to satisfy basic expenses or pay certain reasonable expenses such as legal fees. As such, orders are temporary and requests for access to funds are rarely if ever received in practice. BaFin has the authority to grant access to funds frozen under the KWG for equivalent purposes.

- j) **Weighting and conclusion:** The 2022 MER cited a major deficiency regarding Germany's framework for implementing TFS, noting that it did not provide for implementation without delay because the AWG orders could not be issued on weekends or holidays. The new section (5a) in the Foreign Trade and Payments Act (AWG) addresses this gap for criterion 6.4 and the rating has been changed accordingly. Given that the shortcoming related to implementation without delay (c.6.4) - which has been addressed by Germany in this FUR - was weighted heavily for this Recommendation at the time of the MER, and considering that other deficiencies remaining are minor, Recommendation 6 is re-rated as **Largely Compliant**.

Recommendation 7

	Year	Rating
MER	2022	PC
FUR1	2023	↑ LC

- a) **Criterion 7.1 (Met)** As set out in 2022 and in line with the deficiencies outlined under c.6.4, as AWG orders could not be issued on weekends or holidays, there was a delay in implementation of proliferation-related TFS designations issued immediately prior to weekends or holidays. As stated under the analysis for c.6.4, Germany's revision to the AWG allows for freezing obligations to apply directly from the moment of designation by the UN Security Council, and until the announcement of an AWG order or entry into force of a directly applicable legal act of the European Union published in the Official Journal of the European Communities or of the European Union, and up to five days (AWG, s.5a). This avoids risk of delays in implementation of sanctions issued close to weekends or holidays. Accordingly, the deficiency identified in the MER has been addressed and this criterion was re-rated from 'Partly Met' to 'Met'.
- b) **Criterion 7.2 (Mostly Met)** (a – f) As set out in 2022, at the EU level, regulations require all natural and legal persons within the EU to freeze the funds or other assets of designated persons or entities as soon as a designation is published. In Germany, AWG orders prohibit natural and legal persons from making funds or economic resources available to the designated person or entity (See 2022 MER, c.7.2(a) and (c)). Regarding measures which protect the rights of *bona fide* third parties acting in good faith when implementing obligations for proliferation-related TFS, the AWG provides for protections for third parties in relation to orders under the AWG (See 2022 MER, c.7.2(f)).
- c) However, as outlined under c.6.5(b), at the EU level and in Germany, the definition of assets vis-à-vis freezing obligations does not explicitly cover jointly owned assets or funds or assets controlled by, indirectly owned by, derived from assets owned by, or owned by a person acting at the direction of a designated person or entity. However, as these orders are explicitly made to pre-empt an upcoming EU designation, they are likely to be interpreted broadly to mirror the scope of the EU regulations (See 2022 MER, c.7.2(b)). Germany uses the same mechanisms described in c.6.5(d) to communicate designations and provide guidance

regarding proliferation-related TFS and the same deficiencies apply. Mechanisms to immediately communicate new listings or de-listings do not apply to all FIs or DNFBPs (See 2022 MER, c.7.2(d)). In addition, there is no obligation for FIs and DNFBPs to report assets frozen in accordance with orders under the AWG (See 2022 MER, c.7.2(e)). No changes have been made since the MER, and as such the shortcomings under c.7.2(b), (d), and (e) remain.

- d) **Criterion 7.3** (*Mostly Met*) As set out in 2022, monitoring and enforcement of proliferation-related TFS is largely the same as for terrorism-related TFS (see c.6.5). The Deutsche Bundesbank and the Main Customs Offices are specifically authorised to monitor compliance with EU and AWG TFS obligations. Outside the financial sector, professional bodies have a general duty to monitor their sector's compliance with all obligations, which could include TFS. However, there is no clear monitoring or enforcement responsibility for other DNFBPs. not engaged in the cross-border movement of goods. A breach of the freezing and prohibition orders is punishable by a prison sentence of up to five years. There are no sanctions for breaching reporting requirements. No changes have been made since the MER, and as such the shortcomings regarding the lack of monitoring or enforcement responsibility for some DNFBPs and sanctions for breaching reporting requirements remain.
- e) **Criterion 7.4** (*Mostly Met*) (a – d) As set out in 2022, regarding de-listing, unfreezing and access procedures, listed persons may approach the AA which provides a recommendation on a case-by-case basis to the petitioner on a possible course of action (See 2022 MER, c.7.4(a)). Procedures for unfreezing funds due to a false positive are the same as those described under c.6.6(f) and the Deutsche Bundesbank has the authority to grant access to frozen funds in accordance with EU Regulations and in line with the UNSCR exemption conditions (See 2022 MER, c.7.4(c)). However, in line with deficiencies identified under c.6.5(d), no mechanism is in place to immediately notify new designations to all FIs and DNFBPs (See 2022 MER, c.7.4(d)). No changes have been made since the MER and as such the shortcoming regarding notification of new designations remains.
- f) **Criterion 7.5** (*Met*) (a – b) As set out in 2022, Germany has an equivalent provision under national AWG orders to the EU Regulations which permit the payment of interest or other earnings to frozen accounts as well as payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the UNSCR provisions (See 2022 MER, c.7.5(a)). Provisions in the EU Regulations authorise the payment of sums due under a contract entered into prior to the designation of such person or entity, provided the payment does not contribute to an activity prohibited by the regulation and after prior notice is given to the UN Sanctions Committee. In Germany, the Deutsche Bundesbank is responsible for authorising payments and assesses applications. While there is no similar allowance under national AWG orders, such orders are temporary, and superseded by an EU designation (see 2022 MER, c.6.5(e)).

- g) **Weighting and conclusion:** In the 2022 MER, it was considered a major shortcoming that the framework Germany used to implement both terrorist-related and proliferation-related TFS did not provide for implementation without delay because the AWG orders could not be issued on weekends or holidays. The new section (5a) in the Foreign Trade and Payments Act (AWG) addresses this gap for criterion 7.1. Given that the shortcoming related to the issue concerning implementation without delay (c.7.1) was weighted heavily for this Recommendation, and considering that other remaining deficiencies are minor, Recommendation 7 is re-rated as **Largely Compliant**.

Conclusion

Overall, Germany has made progress in addressing some of the technical compliance deficiencies identified in its MER and has been re-rated on R.6 and R.7.

The table below shows Germany's MER ratings and reflects the progress it has made, including any re-ratings based on this report:

Table 1. Technical compliance ratings, October 2023

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	LC	C	C	LC	LC (FUR 2023) PC	LC (FUR 2023) 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	PC	LC	LC	C	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	PC	LC	LC	C	LC	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	LC	LC	LC	C	C	C	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Germany has three Recommendations rated PC. Germany will report back to the FATF on progress achieved in improving the implementation of its AML/CFT measures in October 2024.

Annex to the FUR

Summary of Technical Compliance – Deficiencies underlying the ratings

Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	LC	<ul style="list-style-type: none"> • It is not clear that there is a whole-of-government approach or if authorities at the <i>Länder</i>-level allocate resources and implement measures to prevent and mitigate ML/TF (c.1.5). • Certain VASPs are temporarily exempt from requirements relating to virtual asset transfers for pragmatic, rather than risk-based reasons (c.1.6). • The list of low-risk factors that FIs and DNFBPs should consider in applying simplified due diligence includes factors that are not based on an assessment of risk (c.1.8). • There are some limitations in the risk-based approach applied by <i>Länder</i>-level supervisors (c.1.9 & c.1.12).
2. National co-operation and coordination	LC	<ul style="list-style-type: none"> • The Steering Committee for Combating ML/TF (RÜST GW/TF) does not include all stakeholders that are responsible for implementation of AML/CFT measures (as only two <i>Länder</i> representatives participate) and does not have binding authority (c.2.2). • Operational and policy co-ordination mechanisms exist, but do not include all relevant stakeholders (notably the FIU) (c.2.3). • There are no formal mechanisms for law enforcement co-ordination on ML (c.2.3). • Supervisory co-operation mechanisms do not always include all relevant supervisors, and DNFBP supervisors of some sectors have no co-ordination mechanisms (c.2.3). • Mechanisms for PF co-operation are focused on TFS, rather than broader PF issues (c.2.4).
3. Money laundering offences	C	All criteria are met.
4. Confiscation and provisional measures	C	All criteria are met.
5. Terrorist financing offence	LC	<ul style="list-style-type: none"> • Germany's TF offences an intention to "seriously intimidate the public" which is not permitted for the Convention's annex offences (c.5.1). • Germany's TF offences do not extend to cover financing of an individual terrorist for any purpose because the offender must know or intend for the funds to be used for an offence (c.5.2 and c.5.4).
6. Targeted financial sanctions related to terrorism & TF	PC (MER) LC (FUR 2023)	<p>The following deficiencies were updated in this 1st FUR:</p> <ul style="list-style-type: none"> • The process for identifying and proposing targets for designation is not documented (c.6.1(b) & c.6.2(b)). • There is no requirement or process to ensure prompt determination of requests for designation received by Germany or the EU (c.6.2(c)). • There is no EU or national procedure for requesting non-EU countries to give effect to EU designations or domestic freezing/prohibition orders under the AWG (c.6.2(e)). • There is no legal authority or domestic framework that entitles the Ressortkreis to solicit the necessary information to identify potential targets for designation (c.6.3(a)). • For EU 1373 regime does not require the freezing of assets of "EU internals" and the national framework is somewhat limited in application (c.6.5(a)). • At the EU level, the definition of assets does not explicitly cover jointly-owned assets or funds or assets controlled by, indirectly owned by, derived from assets owned by, or owned by a person acting at the direction of a designated person or entity (c.6.5(b)). • Mechanisms to immediately communicate new listings or de-listings do not apply to all FIs or DNFBPs (c.6.5(d) & c.6.5(g)). • There is no obligation for FIs and DNFBPs to report assets frozen in accordance with orders under the AWG (c.6.5(e)).
7. Targeted financial sanctions related to proliferation	PC (MER) LC (FUR 2023)	<p>The following deficiencies were updated in this 1st FUR:</p> <ul style="list-style-type: none"> • At the EU level, the definition of assets does not explicitly cover jointly-owned assets or funds or assets of persons acting on behalf of or at the direction of a designated person or entity (c.7.2(b)). • Mechanisms to immediately communicate new listings or de-listings do not apply to all FIs or DNFBPs (c.7.2(d) & c.7.4(d)). • There is no obligation for FIs and DNFBPs to report assets frozen in accordance with orders under the AWG (c.7.2(e)).
8. Non-profit organisations	LC	<ul style="list-style-type: none"> • Germany has not worked with NPOs to develop best practices to address identified TF risks and vulnerabilities (c.8.2(c)).

		<ul style="list-style-type: none"> Germany has not encouraged NPOs to conduct transactions via regulated financial channels (c.8.2(d)). Measures for associations that do not seek non-profit status are not fully in line with risks (c.8.3). There is a very minor gap in oversight for associations that do not seek non-profit status where there is no indication of extremism (c.8.4(a)). Administrative sanctions do not apply to all those acting on behalf of an NPO (c.8.4(b)). Information-sharing mechanisms do not always include the FIU or administrative monitoring bodies (such as registrars) (c.8.5(a)). There is no formal mechanism or established reporting channel for registrars to share suspicions with law enforcement (c.8.5(d)).
9. Financial institution secrecy laws	C	All criteria are met.
10. Customer due diligence	LC	<ul style="list-style-type: none"> There is no requirement that verification of the beneficial owner must use information or data from a reliable source and there is a limited requirement that identification and verification processes are sufficient to satisfy the FI that it knows who the BO is (c.10.5). The requirement to take adequate measures to understand the customer's ownership and control structure does not apply to legal arrangements (c.10.8). FIs are not required to obtain the information set out in c.10.9 for legal arrangements, and, for legal persons, there is no explicit obligation to obtain the names of senior managers or the address of the principal place of business (where different to the head office) (c.10.9). Insurance intermediaries are not required to obtain information on the characteristics or categories used to designate beneficiaries for beneficiaries designated by characteristics/class, and there is no requirement that verification of identity occur no later than the time of payout (c.10.12). There is no specific requirement for FIs to include the beneficiary of a life insurance policy as a relevant risk factor for enhanced due diligence and insurance intermediaries are not subject to all of the insurance-specific CDD requirements (c.10.13). When applying CDD to existing customers, there is no explicit obligation to take into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained (c.10.16). The list of low-risk factors that FIs must consider in applying simplified due diligence includes factors that are not based on an assessment of risk (c.10.18). Where CDD cannot be completed, the requirement to consider filing a STR is in non-binding guidance (c.10.19). There is no explicit provision allowing entities to omit CDD and file a STR where they believe that the CDD process would tip-off the customer (c.10.20).
11. Record keeping	C	All criteria are met.
12. Politically exposed persons	LC	<ul style="list-style-type: none"> The requirement to establish source of funds would not always cover source of wealth (c.12.1). It is not clear that PEPs requirements apply to extended family members or close social associates (c.12.3). Insurance intermediaries are not subject to the life insurance-specific obligations where their customer is a PEP (c.12.4).
13. Correspondent banking	PC	<ul style="list-style-type: none"> There is no obligation for FIs to determine and document all AML/CFT responsibilities of third-country respondent institution (e.g., record-keeping, suspicious transaction reporting) (c.13.1). Mandatory enhanced due diligence measures for correspondent banking relationships apply only to respondent institutions outside the EEA (c.13.1).
14. Money or value transfer services	LC	<ul style="list-style-type: none"> There is no specific obligation to include agents in the principle's AML/CFT programme or to monitor their ongoing compliance (c.14.5).
15. New technologies	LC	<ul style="list-style-type: none"> It is not explicit that an FI's update of its risk assessment must occur prior to the launch or use of new products, practices and technologies (c.15.2(a)). Germany's risk assessment of VASPs is not yet fully comprehensive, which limits its ability to counter misuse (c.15.3). AML/CFT guidance specific to VASPs is somewhat limited (c.15.7). Sanctions may not always apply to VASP's directors and senior management (c.15.8(b)). Certain VASPs are exempted from the travel rule during a transitional period (c.15.9(b)).
16. Wire transfers	C	All criteria are met.

17. Reliance on third parties	LC	<ul style="list-style-type: none"> There is no specific requirement that an FI must satisfy itself that a third party is regulated, supervised, and has measures in place for compliance with R.10 and 11, nor is there clear guidance on this (c.17.1). Reliance on third-parties that are established in an EU Member State is not based on an assessment of the level of country risk (c.17.2 & c.17.3).
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> Insurance intermediaries are not always required to include an internal audit in their ML/TF risk management systems (c.18.1).
19. Higher-risk countries	C	All criteria are met.
20. Reporting of suspicious transaction	C	All criteria are met.
21. Tipping-off and confidentiality	C	All criteria are met.
22. DNFBPs: Customer due diligence	LC	<ul style="list-style-type: none"> Minor deficiencies identified in R.12, 15 and 17 apply equally to DNFBPs (c.22.3, c.22.4 & c.22.5).
23. DNFBPs: Other measures	C	All criteria are met.
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> The risk assessment does not fully assess the risks associated with legal persons created in Germany and there was limited input from operational authorities (c.24.2). Not all legal persons are required to register basic information, information collected across different registers is inconsistent and not all information is made publicly available (c.24.3). Not all legal persons are required to collect and maintain information on shareholders or BO or records (c.24.4, c.24.6 & c.24.9). No obligation to provide accurate and timely updates to basic and BO information (c.24.5 & c.24.7) There are no specific measures requiring a natural person resident in the country to be accountable to competent authorities for providing basic or beneficial ownership information for legal persons (c.24.8). LEAs do not have direct access to BO information through the Electronic Account Retrieval System which can cause delays in getting access to information (c.24.10). Nominee shares and nominee directors are not prohibited and there are only partial measures in place to ensure they are not misused (c.24.12). There are sanctions in place for non-compliance with obligations with respect to the Transparency Register but no similar sanctions apply for compliance with the directory of foundations (c.24.13). There is no centralized system for monitoring international cooperation requests and formal MLA requests are required to obtain a significant amount of basic and BO information (c.24.14 & 24.15).
25. Transparency and beneficial ownership of legal arrangements	LC	<ul style="list-style-type: none"> The regulatory regime does not extend to trust-like structures (c.25.1). There is an obligation to update information on the Transparency Register without delay but there is no guidance on what this means and there is only ad hoc verification of information filed on the Register (c.25.2). Information held on the Transparency Register can only be shared with foreign countries via a mutual legal assistance request which can impeded the provision of rapid assistance (c.25.6).
26. Regulation and supervision of financial institutions	LC	<ul style="list-style-type: none"> <i>Länder</i> supervisors (of insurance companies and intermediaries) are not required to take into account the factors specified in c.26.5 in applying a risk-based approach (c.26.5).
27. Powers of supervisors	C	All criteria are met.
28. Regulation and supervision of DNFBPs	LC	<ul style="list-style-type: none"> Measures to prevent criminals or their associates from being professionally accredited generally focus on the applicant, operator and/or manager of the entity; there are limited proactive checks for TCSPs; and limited measures for criminals' associates c.28.4(b). Supervisory activity (outside of inspections) does not explicitly need to be based on risk profile and there is no model guidance or similar document to ensure a consistent risk-based approach across all DNFBP supervisors (c.28.5).
29. Financial intelligence units	C	All criteria are met.
30. Responsibilities of law enforcement and investigative authorities	C	All criteria are met.
31. Powers of law enforcement and investigative authorities	C	All criteria are met.
32. Cash couriers	C	All criteria are met.
33. Statistics	PC	<ul style="list-style-type: none"> There are no clear ML investigation statistics and ML is not always recorded in prosecution statistics. TF investigations and prosecutions are not counted distinct from terrorism offences (c.33.1(b)).

		<ul style="list-style-type: none"> Data and statistics on asset confiscation do not capture information on asset repatriation or the predicate offence generating the proceeds (c.33.1(c)). There is no central data or uniform statistics kept on mutual legal assistance cases (c.33.1(d)).
34. Guidance and feedback	LC	<ul style="list-style-type: none"> It is not clear that sufficient guidance and feedback is provided to FIs not supervised by BaFin (certain insurance undertakings and insurance intermediaries).
35. Sanctions	LC	<ul style="list-style-type: none"> Sanctions for natural persons related to breaches of requirements by NPOs are limited (c.35.1). There may be situations where sanctions cannot be applied to FI or DNFBP directors or senior managers (c.35.2).
36. International instruments	LC	<ul style="list-style-type: none"> Some issues were identified with respect to its implementation of the TF Convention (c.36.2).
37. Mutual legal assistance	C	All criteria are met.
38. Mutual legal assistance: freezing and confiscation	C	All criteria are met.
39. Extradition	C	All criteria are met.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> Apart from the FIU and BaFin, there is also no clear authority for other agencies to enter into MOUs with foreign counterparts when required (c.40.3). Apart from the FIU or under MLA, there are no legal provisions to ensure competent authorities do not prohibit or place unreasonably or unduly restrictive conditions on the provision of assistance (c.40.5).

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

Follow-up Report & Technical Compliance Re-Rating

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

Follow-up report