



**2<sup>nd</sup> Follow-up Report**

# **Mutual Evaluation of Bangladesh**

**September 2018**





The Asia/Pacific Group on Money Laundering (APG) is an autonomous and collaborative international organisation founded in 1997 in Bangkok, Thailand consisting of 41 members and a number of international and regional observers. Some of the key international organisations who participate with, and support, the efforts of the APG in the region include the Financial Action Task Force, International Monetary Fund, World Bank, OECD, United Nations Office on Drugs and Crime, Asian Development Bank and the Egmont Group of Financial Intelligence Units.

APG members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism, in particular the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF).

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Asia/Pacific Group  
on Money Laundering

## BANGLADESH: 2<sup>ND</sup> ENHANCED FOLLOW-UP REPORT 2018

### I. INTRODUCTION

1. The mutual evaluation report (MER) of Bangladesh was adopted in September 2016. This follow-up report analyses the progress of Bangladesh in addressing the technical compliance deficiencies identified in its MER. Technical compliance re-ratings are given where sufficient progress has been demonstrated. This report does not analyse any progress Bangladesh has made to improve its effectiveness. Bangladesh's progress with effectiveness will be analysed as part the 5<sup>th</sup> year follow-up assessment and, if found to be sufficient, may result in re-ratings of Immediate Outcomes at that time.

2. The 2018 assessment of Bangladesh's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- *Syahril Ramadhan, Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Indonesia*
- *Dolon Sarkar, Ministry of Justice, New Zealand*
- *Marnie Campbell, APG Secretariat*

3. The draft FUR was distributed to the global network for review on 15 June 2018 prior to its consideration by the APG Mutual Evaluation Committee on 22 July 2018 and adoption by the APG Plenary on 27 July 2018.

4. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Bangladesh's current Technical Compliance ratings.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT

5. The MER rated<sup>1</sup> Bangladesh as follows:

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Moderate	Substantial	Moderate	Low	Low	Moderate	Low	Low	Substantial	Moderate	Substantial

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
PC	LC	LC	LC	LC	C	LC	LC	PC	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	LC	LC	LC	C	PC	LC	PC	PC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	LC	LC	PC	PC	PC	LC	PC	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

6. Given these results, Bangladesh was placed on enhanced follow-up<sup>2</sup>.

<sup>1</sup> There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

7. In Bangladesh's 2017 follow-up report, it did not request any re-ratings.

### **III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE**

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

8. Bangladesh reported progress to address the technical deficiencies identified in the MER in relation to Recommendations: 16, 18, 19, 26 and 34 (which were rated PC).

9. As a result of this progress, Bangladesh has been re-rated on Recommendation 19. The APG welcomes the steps that Bangladesh has taken to improve its technical compliance with 16, 18, 26 and 34; however, insufficient progress has been made to justify a re-rating of these Recommendations.

#### *Recommendation 16 (Originally rated PC)*

10. Bangladesh was rated PC for R.16 in its 2016 MER. The MER noted that there was no requirement for FIs to collect a unique transaction number in the absence of an account number.

11. In September 2017, Bangladesh issued BFIU Circular No. 19. Paragraph 9.1(1)(c) of the circular requires an account number or unique transaction number for the applicant (originator) for batch files, in addition to accurate information of the applicant and complete information of the beneficiaries.

12. However, according to paragraph 9.1(1)(a) and (b), for single transfers, whether at the threshold, or below or above the threshold there is no requirement to collect either an account number or a unique transaction reference number for the originator or for the beneficiary. Paragraph 9.1(1)(b) also requires "information of the beneficiary" to be preserved while paying cross-border wire transfers, but does not specify what information this should be.

13. The deficiency regarding the lack of any requirement for FIs to collect a unique transaction number in the absence of account number is addressed for batch files only (criterion 16.2). The deficiency remains for all single transfers (criterion 16.1 and criterion 16.3).

14. The MER further noted that there was no explicit prohibition on an ordering bank executing a wire transfer if the requirements for wire transfers are not met. Paragraph 3.6 of BFIU Circular No. 19 (2017) requires banks not to conduct any transactions if the customer fails to comply with CDD measures. Paragraph 3.6 relates to failure to successfully complete CDD. There is no explicit prohibition on executing a wire transfer if the wire transfer requirements in C.16.1-16.7 are not met. The deficiency under criterion 16.8 remains.

15. No substantive progress has been made on Recommendation 16. On this basis, R.16 remains PC.

#### *Recommendation 18 (Originally rated PC)*

16. Bangladesh was rated PC for R.18. Deficiencies noted were no specific requirements for FIs to implement group-wide AML/CFT policies and procedures, and no specific requirements on foreign branches and subsidiaries for insurance companies, capital market intermediaries and moneychangers.

17. There is still no requirement for FIs to implement group-wide AML/CFT procedures.

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<sup>2</sup> There are three categories of follow-up based on mutual evaluation results: regular, enhanced and enhanced (expedited). For further information see the APG Mutual Evaluation Procedures.

18. Paragraph 4 of BFIU Circular no. 19 (2017) requires foreign branches and subsidiaries of banks to comply with the instructions of the Money Laundering Prevention Act 2012, the Anti-Terrorism Act 2009, the rules and regulations under those acts, and instructions issued by BFIU, with any failure in compliance to be reported to BFIU. There are still no specific requirements for foreign branches and subsidiaries of other FIs, including insurance companies, capital market intermediaries and moneychangers.

19. No substantive progress has been made on Recommendation 18. On this basis, R.18 remains PC.

#### *Recommendation 19 (Originally rated PC, re-rated to LC)*

20. In its 2016 MER, Bangladesh was rated PC for R.19. The report identified that there was no statutory basis for binding obligations to implement counter-measures and limited mechanisms in place to advise ROs of concern with higher risk jurisdictions.

21. Bangladesh cites Rule 28 of Money Laundering Prevention Rules 2013 as providing a statutory obligation to undertake enhanced due diligence to business relationships and transactions with natural and legal persons from countries for which this is called for by FATF. Rule 28 provides for enhanced due diligence, but no other counter-measures. Other possible counter-measures are not identified in any statutory instrument or guide. The deficiency at Criterion 19.2 has not been fully addressed.

22. BFIU Circular 19 (2017), paragraph 3.13(2) provides that EDD is to be undertaken “before establishing, maintaining and performing transaction with individual or entity...of those countries” listed by FATF as high risk and non-cooperative. A link to FATF public statements and compliance documents is provided in a footnote to this paragraph. BFIU website contains the same link.

23. Bangladesh has addressed the deficiency to a large extent, with only minor shortcomings remaining. On this basis, R.19 is re-rated LC.

#### *Recommendation 26 (Originally rated PC)*

24. In its 3rd MER, Bangladesh was rated PC for R.26. The main technical deficiencies identified were a lack of fit and proper checks of banks and FI shareholders in relation to beneficial owners, limited measures to prevent criminals or their associates from entering the market, and a lack of formal mechanism or processes for the supervisors to evaluate the shareholder or senior management of stock dealer, stock broker and their authorised representative. There was also no regulation on evaluation of portfolio managers and mutual fund directors and senior management.

25. The report also found deficiencies in applying a RBA to both off-site and on-site supervision. Supervisors also did not have any formal mechanism or processes to update their assessment of sectoral ML/TF risks following major events or changes to a particular financial institution or sector.

26. Since the report, Bangladesh states that it has implemented improved processes to verify beneficial ownership information in relation to banks and FI shareholders under the Banking Act 2007. Fit and proper checks are being applied to beneficial owners of banks and FI shareholders and information collected through this process is verified against LEA, BFIU and intelligence agency reports. However, these measures do not appear to be required by legislation or other enforceable means as the MER found that fit and proper measures in the Banking Act do not explicitly extend to beneficial owners. Fit and proper measures for directors and senior management of non-bank financial institutions also do not explicitly extend to beneficial owners. Bangladesh did not provide any information on any legislative amendments made to the Banking Act since the MER.

27. Bangladesh has also improved licensing, registration and control processes to prevent criminals and their associates from entering the market. Regulatory authorities require declarations



from directors about their criminal background, which are then verified through information collected from LEAs, BFIU and intelligence agencies. However, the scope of Section 127 (6) of the Insurance Act 2000 has not been expanded to include ML conviction as a ground for prohibiting the grant or renewal of a licence, or managing an insurance company. It is also unclear whether the verification of information is a requirement under legislation or other enforceable means.

28. Bangladesh Securities and Exchange Commission has developed an office procedure based on the instruction of NCC to evaluate for fit and proper test shareholder or senior management for stock dealers, stockbrokers and authorised representatives. However, this measure does not appear to be required by legislation or by other enforceable means.

29. The BFIU has also developed a Risk Based Supervision Manual for reporting organizations and this forms the basis of a RBA to both off-site and on-site supervision of ROs for all regulatory authorities. The deficiency at Criterion 26.5 has been fully addressed.

30. While the NRA requires sector risk assessments to be updated every two years and section 21 of the MLPR requires FIs to conduct periodic risk assessments, no other formal processes or mechanisms are included to enable supervisors to update assessments as a result of any major events or shifting ML risks in any financial institution or sector.

31. Bangladesh has made some progress towards addressing deficiencies identified in the MER, however none of these measures are required by law or by other enforceable means. On this basis, R.26 remains PC.

#### ***Recommendation 34 (Originally rated PC)***

32. Bangladesh was rated PC for R.34. The main technical deficiency was that Bangladesh had not produced guidance covering the most pressing elements of risk, including those arising from domestic PEPs, corruption risks (e.g. public sector procurement), fraud risks, smuggling risks, TF risks and persistent risks in the capital market and state-owned commercial banks.

33. Since the report, Bangladesh has taken some steps to raise awareness among ROs of TF and FTF risks in Bangladesh, including through hosting regional conferences on regional terrorism and terrorism financing risks, special meetings with compliance officers of ROs and disseminating FATF TF risk indicators to banks. However, no formal assessment or detailed guidance on TF and FTF has been provided to all sectors.

34. Bangladesh has produced a circular incorporating guidance on domestic PEPs for the banking sector. However, similar guidance for other relevant non-banking sectors (such as the securities sector) is yet to be developed. In addition, guidance on ML risks arising from fraud, the capital market, and corruption through public sector procurement, which have all been identified as high risk for ML, is yet to be developed. Bangladesh has conducted regional awareness programmes on ML risks arising from smuggling.

35. Some of the deficiencies identified in the MER have been addressed, however, major deficiencies remain. On this basis, R.34 remains PC.

### **3.2 Brief overview of progress on other recommendations rated NC/PC**

36. Bangladesh has not reported on progress with other recommendations rated NC/PC for which it has not sought a re-rating.

## **IV. CONCLUSION**

37. Overall Bangladesh has made some progress in addressing the technical compliance deficiencies identified and has been re-rated on one Recommendation (one upgrade).

38. As Bangladesh has addressed most of the deficiencies for Recommendation 19, but minor deficiencies remain, R.19 is re-rated as LC. Some steps have been taken to improve compliance with Recommendations 16, 18, 26 and 34, but there are still major shortcomings and the rating for these Recommendations remains as PC.

39. In light of the progress made by Bangladesh since its MER was adopted, its technical compliance with the FATF Recommendations is currently as follows:

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
PC	LC	LC	LC	LC	C	LC	LC	PC	LC
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	LC	LC	LC	C	PC	LC	PC	<b>LC</b>	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	LC	LC	PC	PC	PC	LC	PC	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

40. At the 2018 APG Annual Meeting members adopted the Bangladesh FUR and decided that Bangladesh will remain on enhanced follow-up, and will continue to report back to the APG on progress to strengthen its implementation of AML/CFT measures.

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