

Republic of Tajikistan: Second enhanced follow-up report



June
2021

1. Introduction

1. The mutual evaluation report (MER) of the Republic of Tajikistan in the framework of the 2nd round of EAG mutual evaluations was approved at the 29th EAG Plenary meeting in November 2018. 1st follow-up report (without TC re-ratings request) was presented in course of the 31st EAG Plenary meeting in November 2019.
2. This 2nd follow-up report (FUR) represents an analysis of the results achieved by Tajikistan in addressing the technical compliance deficiencies identified in the MER. The revision of the ratings was made with regard to those Recommendations, for which substantiated significant improvements to the national AML/CFT system have been provided. This report also provides an analysis of the changes in the national AML/CFT system related to the updating of the FATF Recommendations¹, which were approved one month before the visit of the assessment team and after the visit².
3. The following experts assessed the information provided by the country for a review of the ratings:
 - Mr. Sabit Jumatayev (The Agency of the Republic of Kazakhstan on financial monitoring),
 - Mr. Chyngyz Kenenbaev (member of the assessment team in 2018, State Financial Intelligence Service under the Government of the Kyrgyz Republic),
 - Mr. Soat Rasulov (member of the assessment team in 2018, by the written permission of the Department on combatting economic crimes under the General Prosecutor's Office of the Republic of Uzbekistan),
 - Ms. Galina Tivinskaya (member of the assessment team in 2018, Financial Monitoring Department of the State Control Committee of the Republic of Belarus).
4. Section 3 of this report contains analysis of the AML/CFT system amendments aimed at improving technical compliance. Section 4 presents the conclusion of the analysis and a list of FATF Recommendations for which the ratings have been changed.

2. Outcomes of the MER

5. According to the MER, Tajikistan was given the following ratings³:

Effectiveness ratings

IO1	IO2	IO3	IO4	IO5	IO6	IO7	IO8	IO9	IO10	IO11
SE	SE	ME	ME	ME	ME	LE	ME	SE	ME	LE

Рейтинги технического соответствия

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	C	LC	LC	LC	PC	NC	PC	C	LC

¹ R2, R15, R18 и R21.

² Took place in March 2018.

³ There are the following possible levels of technical compliance with the FATF Recommendations: compliant (C), largely compliant (LC), partially compliant (PC), non-compliant (NC) and not applicable (NA). There are the following possible levels of effectiveness in achieving the Immediate Outcomes: high effectiveness (HE), substantial effectiveness (SE), moderate effectiveness (ME) and low effectiveness (LE).

R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
LC	PC	LC	LC	PC	PC	N/A	LC	LC	C
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	PC	LC	LC	PC	PC	LC	PC	C	LC
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
C	LC	LC	LC	PC	C	LC	PC	LC	LC

Source: https://eurasiangroup.org/files/uploads/files/MER%20of%20Tajikistan_2.pdf

6. According to the Procedures for the EAG Second Round of Mutual Evaluations (WGEL_(2013)_7_rev.14) Tajikistan was put on the enhanced follow-up process, since the country was rated NC/PC with twelve (12) Recommendations and was assessed as having the low/moderate level of effectiveness in achieving eight (8) Immediate Outcomes.

3. Overview of Progress to Improve Technical Compliance

7. This section summarizes the changes and progress made by Tajikistan to:
- address the technical compliance deficiencies identified in the MER; and
 - ensure technical compliance with the new requirements of the FATF Recommendations that came into force after completion of the on-site visit (R2, R15, R18, and R21).

3.1. Progress to Address Technical Compliance Deficiencies Identified in the MER

8. Tajikistan informed on progress in addressing deficiencies on the following Recommendations:
- R7 which was rated NC;
 - R6, R8, R12, R16 and R35 which were rated PC.
9. Since the adoption of the MER in November 2018, the following laws and regulations have been adopted and enacted in Tajikistan:
- Regulations of the Government of the Republic of Tajikistan № 129 of 29.03.2019. "On the Procedure for Measures to Freeze and Unfreeze Funds or Other Assets of Individuals and Organizations Included in the List of Persons Linked to Terrorism";
 - Law "On Amendments and Additions to the Law of the Republic of Tajikistan "On Public Associations" from January 2, 2019, № 1575;
 - Law "On amendments and additions to the Law of the Republic of Tajikistan "On insurance activity" from 02.01.2019, № 1573;

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- Law "On amendments and additions to the Law of the Republic of Tajikistan "On payment services and payment system" dated 7.08.2020, № 1723;
 - Law "On Amendments and Additions to the Law of the Republic of Tajikistan "On Banking Activity", № 1722, dated August 7, 2020;
 - Law "On Amendments and Additions to the Code of the Republic of Tajikistan on Administrative Offences" of January 2, 2020, №1659;
 - The procedure for accounting and transfer of electronic funds (approved by Resolution No. 130 of the Board of the National Bank of the Republic of Tajikistan, 24.10.2019);
 - Procedures for cross-border funds transfers and activities of payment systems performing such transfers in the Republic of Tajikistan (approved by the Resolution of the Board of the National Bank of the Republic of Tajikistan, No. 117 of 27.09.2019);
 - Procedure for engaging bank payment agents and monitoring compliance with the terms of their engagement (approved by the Resolution of the Board of the National Bank of the Republic of Tajikistan of 12.04.2018, № 51);
 - Procedure for conducting inspections of credit organizations, summarizing and presenting their results, approved by the Decree of the Board of the National Bank of the Republic of Tajikistan (dated January 30, 2014, № 13, as amended on July 14, 2020, № 92);
 - Procedure for inspection of professional participants of the insurance market (approved by the Resolution of the Board of the National Bank of the Republic of Tajikistan dated 16.05.2018, № 73, as amended on 13.09.2019, № 115);
 - Rules for conducting inspections of business entities in the field of electric communication, postal communication and informatization (approved by the order of the Head of the Communications Service under the Government of the RT from 18.04.2019 № 2.19-09, registered in the Ministry of Justice of the RT from 21.05.2020, № 361.1);
 - Law "On amendments and additions to the Criminal Code of the Republic of Tajikistan" dated 17.05.2018, №1515;
 - Law of RT "On Amendments and Additions to the Law of the Republic of Tajikistan "On the National Bank of Tajikistan" from 3.08.2018, № 1548;
 - Law of RT "On Amendments and Additions to the Law of the Republic of Tajikistan "On the National Bank of Tajikistan" of August 7, 2020, №1721.

Recommendation 6 (rated PC in the MER)

10. The PC rating is due to the following deficiencies: Tajikistan has not identified a competent authority responsible for proposing persons or entities to the 1267/1989 Committee and the 1988 Committee for designation; there are shortcomings with respect to the identification of candidates on the lists of these UN Committees; there are no procedures for considering and applying an evidentiary standard of proof of “reasonable grounds” or “reasonable basis” when deciding whether or not to make a proposal for designation; compilation of the National List due to the presence of criminal proceedings; the requirement to freeze funds does not apply to all individuals and legal entities, and is limited only to reporting ones; there is no obligation for financial institutions and DNFBP to report to the competent authorities about attempts to

perform operations by designated persons; there are no publicly known procedures for unfreezing funds in the event of false-positive freezing of funds.

11. The updated "Procedure for conducting measures to freeze and unfreeze financial or other assets of individuals and organizations included in the list of persons associated with terrorism" (hereinafter - Procedure №129) was approved by the Decree of the Government of the Republic of Tajikistan №129 dated 29.03.2019. This document has supplemented and replaced the "Procedure for conducting measures to freeze and unfreeze financial or other assets of individuals and organizations included in the list of persons associated with terrorism" (approved by Government Decree No. 646 dated 02.11.2015), which was in effect before the above-mentioned Decree.
12. Pursuant to Procedure №129, the State Committee for National Security of the Republic of Tajikistan (SCNS) has been appointed the authorized state body responsible for making proposals for the inclusion of individuals or organizations in the lists formed by the UN Security Council Committees 1267, 1989, 1988 and 2253 (para. 21). In addition, Procedure №129 (paragraphs 14-17, 21-22) describes mechanisms for identifying individuals and organizations, procedures for considering and using established forms with the necessary factual information attached, but at the same time Procedure No. 129 does not provide for mechanisms of verification based on the establishment criteria specified in UNSCR 1373, including on requests for freezing of funds initiated by other countries within the framework of freezing mechanisms under UNSCR 1373 (2001).
13. Procedure №129 establishes the grounds for inclusion in the lists (section 2, paragraph 7) - this is the available information about the participation of individuals and organizations in terrorist activities, FT or PF (proliferation financing), or being under control of such individuals and organizations. Individuals and organizations determined by the UN Security Council Committees involved in terrorist activities, FT or PF are subject to inclusion in the lists. There are Consolidated List (section 2, paragraph 8), the National List (section 2. Paragraph 9) and the International List (section 2. Paragraph 10) are formed in Tajikistan. However, Procedure No. 129 does not provide guidance on the timeframe for considering an international request (ingoing or outgoing) or information in terms of whether there are reasonable grounds or sufficient grounds to suspect or presume that a nominee meets the criteria under UNSCR 1373 (2001).
14. The reporting entities, as well as other individuals and legal entities that carry out a transaction, are obliged to freeze without delay and without prior notice the assets of the persons included in the lists (para. 43 of Procedure No. 129). Based on the wording, paragraph 43 of Procedure №129 does not apply to funds and other assets that are in the possession or under the control of designated persons (for example, in the case of holding cash without conducting a transaction).
15. It should be noted that the legislation of Tajikistan does not have a prohibitive norm on the provision of financial and other services to designated persons and organizations. There are no similar norms in Procedure No. 129, which were stipulated in paragraphs 11 and 26 of the previous Procedure No. 646.

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16. There is an obligation for reporting entities to report to the competent authorities on attempts to conduct operations by designated persons (paragraph 47 of Procedure №129).
 17. Publicly known procedures for unfreezing funds in case of false positive freezing are stipulated by paragraphs 45, 52-53 of Procedure №129. The procedure of access to assets for humanitarian purposes is stipulated by paragraph 50 of Procedure №129.
 18. By the adoption of Procedure №129 Tajikistan has made a significant progress in addressing the deficiencies under R6. The following deficiencies remain:
 - no mechanisms are provided for implementing verification based on the designation criteria specified in UNSCR 1373, including on requests for freezing of funds initiated by other countries under freezing mechanisms under UNSCR 1373 (2001);
 - there are no procedures or timelines for the consideration of an international request or information in terms of whether there are reasonable grounds or sufficient justification to suspect or believe that the proposed nominee meets the criteria for designation under UNSCR 1373;
 - the freezing requirement does not apply to all natural and legal persons operating in the Republic of Tajikistan, but is limited to the natural and legal person conducting the transaction/operation;
 - the legislation of the Republic of Tajikistan does not prohibit the provision of financial and other services to designated persons and entities.
 19. Tajikistan generally has mechanisms for the effective application of targeted financial sanctions against terrorism and its financing. However, given the remaining deficiencies, the rating for R.6 remains unchanged – PC.

Recommendation 7 (rated NC in the MER)

20. The current NC rating is due to the fact that the Tajik legislation did not contain legal provisions allowing the use of TFS (targeted financial sanctions) related to proliferation.
 21. Procedure №129 includes provisions related to combatting proliferation financing (PF). Thus, the requirements to freeze funds without delay also apply to designated persons and entities involved in PF (paragraphs 1, 8).
 22. Procedure №129 establishes a requirement for reporting entities, as well as for individuals and legal entities, to freeze property (funds) and other financial resources of designated persons and organizations without delay and without prior notice (para. 43 of Procedure №129), but limits this requirement only to the entities that carry out a transaction. In this regard, the freezing requirement does not apply to all natural and legal persons operating in the Republic of Tajikistan, but is limited to the natural and legal person conducting the transaction/operation.
 23. A list of funds and assets that are in the possession of designated persons, subject to freezing, has been drawn up (para. 40 of Procedure №129). Mechanisms for transferring information
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about designations to reporting entities, as well as guidance documents for financial institutions and other persons and organizations that may possess information about the funds and assets of designated persons, have been introduced by paragraphs 3-4 and 45 of Procedure №129. A requirement has been introduced to report attempts to perform transactions with the assets of persons included in the lists (para. 47 of Procedure №129).

24. The Law No. 1515 dated 17.05.2018 introduced amendments and additions to the Criminal Code of the Republic of Tajikistan regarding the criminalization of PF. This measure in conjunction with the adopted Procedure №129 (paragraphs 1, 43) prevents the provision of any funds or assets to designated persons or organizations. At the same time, the legislation of Tajikistan does not have a prohibitive norm on the provision of financial and other services to designated persons and organizations.
25. Paragraph 41 of Procedure №129 establishes that "the freezing of property (funds) and other financial resources of individuals is carried out in accordance with human rights, respect for the rule of law and recognition of the rights of bona fide (innocent) third parties." However, there are no specific measures to protect the rights of bona fide third parties acting in good faith.
26. Procedure №129 does not provide for the requirement to monitor and enforce compliance by financial institutions and DNFBPs with the relevant legal norms on the application of targeted financial sanctions for PF. This deficiency calls into question the application of sanctions.
27. Procedure №129 establishes procedures for de-listing of designated persons/organizations involved in PF (paras.27-30). Unfreezing of funds in case of false positive freezing of funds can be carried out according to paragraphs 45, 52-54 of Procedure №129. The procedure of access to assets for humanitarian purposes is stipulated by paragraph 50 of Procedure №129.
28. Paragraphs 48 and 51 of Procedure №129 introduce provisions allowing refilling of accounts frozen in accordance with UN Security Council Resolutions 1718 or 1737 through interest or other income. The same paragraphs allow making payments under contracts or obligations that arose before the provisions of the UN Security Council resolutions came into effect, and also establish procedures that determine the actions of Tajikistan in accordance with UN Security Council Resolutions 1737 on making any payments under contracts concluded before the identification of the person or organization by the UN Security Council.
29. By the adoption of the Procedure №129, Tajikistan has made a significant progress in addressing the deficiencies under R7. The following deficiencies still remain:
 - the freezing requirement shall not apply to all natural and legal persons operating in the Republic of Tajikistan, but shall be limited to the natural and legal person carrying out the transaction/operation;
 - the legislation of the Republic of Tajikistan does not prohibit the provision of financial and other services to designated persons and organizations;
 - there are no requirements for monitoring and ensuring compliance by financial institutions and DNFBPs with the regulations stipulated in Procedure №129.

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30. Despite the remaining deficiencies, in general the Republic of Tajikistan has mechanisms for the effective application of targeted financial sanctions against the proliferation of weapons of mass destruction. **In this regard, R7 is re-rated as PC.**

Recommendation 8 (rated PC in the MER)

31. The PC rating is due to the following deficiencies: Tajikistan has not identified the nature of threats posed by terrorist entities to the NPOs or how terrorist actors abuse those NPOs; the authorities only reviewed the adequacy of laws related to public organisations; Tajikistan lacks any strategy/concept for promoting openness of NPOs; Tajikistan does not conduct cooperation with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities; Tajik supervisors do not apply the risk-based approach to supervision over NPOs; penalties provided for by the Tajik law are neither effective nor dissuasive.
32. The experts in this progress report were not provided with documents (or extracts therefrom) that identified the nature of threats posed to NPOs by terrorist entities, as well as how terrorists might abuse NPOs. Also, the materials of the updated (after 2018) assessment of the NPO sector are not presented. In addition, there is no review of laws and regulations that apply to other types of NPOs besides social organizations.
33. Law № 1575 dated 02.01.2019 introduced amendments to the Law "On Public Associations", which determined the steps to ensure the transparency of NPOs, their storage of information on financial transactions, storage and submission to the registering authority of information on the identification data of persons who control or manage activities a public association, including founders, members of governing and supervisory bodies. However, the measures taken apply only to public organizations, thus, the transparency of other NPOs (e.g., religious organizations) falling within the FATF definition is not ensured.
34. At the same time, the Law № 1575 dated 02.01.2019 entrusted the registering authorities with the obligation to submit information to the authorized body (Financial Monitoring Department under the National bank of Tajikistan – FMD), if there is a suspicion or sufficient grounds to suspect that a public association is a cover for fundraising by a terrorist and extremist organization or is used as a channel for the financing of terrorism, extremism and proliferation of weapons of mass destruction. However, this obligation goes beyond the requirements of R8. Furthermore, no corresponding changes have been made to the AML/CFT/CPF Law⁴.
35. Webinars and other activities of the Ministry of Justice of the Republic of Tajikistan carried out together with the FMD in 2018-2019, as well as carried out by the FMD and the Association of Microfinance Organizations of Tajikistan and the Open Society Institute of the Tajikistan Assistance Foundation in 2020 with NPO representatives are aimed at strengthening interaction with the NPO sector and raising awareness of NPOs of potential vulnerabilities to the FT risks. These meetings are related to the identification of potential vulnerabilities of NPOs, but they cannot be regarded as interagency cooperation directly related to risk assessment in the NPO sector.

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36. The legislation of Tajikistan still does not include the principles of risk-based supervision or control of NPOs.
37. The Law of RT from 02.01.2020 No.1659 introduced amendments and additions to the Code on Administrative Offences (CAO). In particular, amendments were made to Articles 474.4, 477, 478, 527.1, 566 and 603.1 of the CAO of the RT, and sanctions (fines) were increased under these articles. The increase in sanctions was two to three times, sometimes ten times. At the same time, the shortcomings associated with the lack of risk assessment and risk-based supervision do not allow us to conclude that the requirements for sanctions are fully met.
38. Tajikistan has shown some progress. However, most of the deficiencies have not been addressed. **The rating for R8 remains PC.**

Recommendation 12 (rated PC in the MER)

39. The PC rating is due to the following deficiencies: there is no risk management system to determine PEPs; there is no requirement for FIs to obtain senior management approval before continuing the relationship with the customer or beneficial owner if it becomes a PEP; the term 'domestic PEP' does not include prominent politicians, senior military and judicial officials, heads of state corporations, and prominent figures of political parties; requirements of criteria 12.1 (except for 12.1 (d)) and 12.2 are not implemented in relation to close associates of PEPs; there is no requirement to conduct CDD measures where the beneficiary of funds under a life insurance policy is a PEP.
40. Tajikistan has supplemented the Law "On Insurance Activities". The new Article 20 of the said Law requires insurance (reinsurance) organizations to determine whether the insured (client), its beneficial owner and beneficiary is a PEP. At the same time, the mentioned Law refers to the mandatory identification of the risks of PEP and, if the risks are identified, the insurance organization is obliged to inform the FIU on the suspicious transaction. At the same time, FIs are not required to notify their senior management and conduct an in-depth review of the business relationship with the policyholder in case of the identification of high risks with respect to PEPs. There is a reference to the AML/CFT Law, which, in turn, does not contain provisions on the implementation of these measures in relation to PEPs - beneficiaries of insurance policies.
41. Tajikistan has demonstrated some progress. However, most of the deficiencies have not been addressed. **The rating for R12 remains PC.**

Recommendation 16 (rated PC in the MER)

42. The PC rating is due to the following deficiencies:
- FIs are not required to ensure that all cross-border wire transfers are accompanied by originator and beneficiary information;

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- there is no requirement stipulating that where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file should contain originator and beneficiary information;
 - FIs are not required to verify the originator and beneficiary information for accuracy if the transfer amount is less than USD 1000 or there is a suspicion of ML/TF;
 - FIs are not required to ensure that domestic wire transfers are accompanied by originator information or this information is provided to the beneficiary FI and relevant authorities;
 - the established requirements for retaining originator and beneficiary information are not in line with R11;
 - there is no requirement not to execute the wire transfer if it does not comply with the requirements specified at criteria 16.1-16.7;
 - intermediary FIs executing cross-border wire transfers are not required to retain all accompanying originator and beneficiary information;
 - intermediary FIs executing cross-border wire transfers are not required to retain all the information received from the ordering financial institution or another intermediary financial institution for at least 5 years;
 - there is no requirement for intermediary FIs executing cross-border wire transfers to take reasonable measures to identify cross-border wire transfers that lack required originator or beneficiary information;
 - there is no requirement for intermediary FIs executing cross-border wire transfers to have risk-based policies and procedures for determining (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information and (ii) the appropriate follow-up action;
 - there is no requirement for beneficiary FIs to monitor and identify cross-border wire transfers that lack required originator information or required beneficiary information;
 - there is no requirement for beneficiary FIs to verify the identity of the beneficiary and maintain this information for at least 5 years;
 - there is no requirement for beneficiary FIs to have risk-based policies and procedures for determining (i) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information and (ii) the appropriate follow-up action;
 - money or value transfer service providers are not required to comply with the requirements of R16.
43. Tajikistan has supplemented the Law "On Payment Services and Payment System" with provisions establishing requirements for payment service providers to verify and identify the identity of a customer receiving a money transfer. There are no similar direct requirements for the person sending the money transfer. In cases of sending transfers, the sender is a client of the payment service provider, and the payment service providers are required to identify and verify the identity of the client and the beneficial owner, as required by Articles 5 and 7 of the AML/CFT/CPF Law. These measures are unconditionally applied to any money transfers. There is no threshold.
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44. Article 4 of the Law "On Payment Services and Payment System" introduces the requirement for cross-border electronic transfers (one sender), grouped for sending in one file, so that such a file contains information about the originator and the beneficiary.
 45. If there is a suspicion of ML/TF, FIs are obliged to verify the originator and beneficiary, as well as to store information on transactions related to money transfers for at least 5 (five) years after the transaction and termination of the business relationship, as well as store information about the client (Parts 17 and 19 of Art. 4 of the Law "On payment services and payment system").
 46. Intermediaries in cross-border wire transfers are required to ensure that all accompanying information is stored "for at least 5 (five) years after the transaction and the termination of the business relationship" (Parts 15 and 19 of Art. 4 of the Law "On Payment Services and Payment System").
 47. FIs (intermediaries and beneficiary institutions) are required to establish procedures for taking reasonable measures to identify transfers that do not contain the identity of the originator or beneficiary and they also should have risk-based policy, including rejecting or suspending a wire transfer that does not contain information on the originator or beneficiary of the wire transfer (Part 16 of Art. 4 of the Law "On Payment Services and Payment System"). The obligation to consider termination of correspondent relations with the credit financial institution involved in the money transfer is stipulated as a follow-up action.
 48. The newly introduced amendments to the Law "On Payment Services and Payment System" apply to the subjects of the payment system, which include credit organizations, postal organizations and international money transfer systems (Art. 34).
 49. Tajikistan has made significant progress in the implementation of R16. Most of the deficiencies noted in the MER have been addressed. There remains a shortcoming in the absence of a direct requirement to verify and identify the identity of the client sending a money transfer. **The R16 is re-rated as LC.**

Recommendation 35 (rated PC in the MER)

50. The PC rating is due to the following deficiencies: a broad range of effective, proportionate and dissuasive sanctions against FIs (except for credit institutions), DNFBPs their senior management are absent.
 51. Sanctions for non-compliance with the requirements of the AML/CFT/CPF legislation are provided for in the updated article 527.1 of the Code of Administrative Offences (CAO) of the Republic of Tajikistan, according to which fines for non-compliance with the requirements of the law, in the absence of signs of a criminal offense, are increased by 2-5 times (for individuals - from 509 up to 1018 US dollars, for individual entrepreneurs - from 1527 to 2546 US dollars, for legal entities - from 5092 to 10184 US dollars).
 52. Strengthening sanctions, applicable not only to legal entities, but to their officials, represents a positive progress in the implementation of the R35 requirements. In addition, the connection of the above sanctions with violations in the field of AML/CFT can be traced in the laws of
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the Republic of Tajikistan (Article 30 of the Law "On Insurance Activities", Article 57 of the Law "On the Securities Market", Article 17 of the Law "On Pawnshops", Article 30 of the Law "On Postal Communication").

53. At the same time, the amendments made to the CAO related only the increase in fines; accordingly, the CAO does not provide for other types of sanctions, such as suspension or deprivation of a license, deprivation of a physical person's special right for violating the AML/CFT/CPF legislation. In addition, the old version of the CAO provided for sanctions in the form of confiscation of the object of administrative offence. This type of sanction is absent in the current version.
54. Thus, Tajikistan has shown progress in increasing fines, but there is still a deficiency in terms of the fact that the country does not apply a wide range of sanctions, but is limited to fines only. **The R35 is re-rated as LC.**

3.2. Progress on Recommendations which have changed since completion of the on-site visit

55. R2 and R15 have been amended since the MER approval. Just before the on-site mission in February 2018 the FATF Methodology was amended in relation to R18 and R21. This section presents an analysis of the compliance of the national AML/CFT system of the Republic of Tajikistan with the updated text of the Recommendations, as well as a review of progress in addressing the technical compliance deficiencies identified in the MER in relation to the same Recommendations.

Recommendation 2 (rated C in the MER)

56. In October 2018, the FATF Methodology had been changed in order to reflect the amendments of R2: the new requirement for countries was added so that countries should have cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with data protection and privacy rules. The revised R2 also requires countries to have a mechanism for exchanging information domestically.

New requirements set out in R2

57. Guidance on Promoting AML/CFT/CPF Cooperation and Information Sharing between the FMD and Law Enforcement Agencies mentioned in paragraph 40 of the MER (see R2, TC Annex) is a tool, using which a uniform and clear mechanism of interaction and information exchange between FMD and law enforcement agencies is established. The bilateral agreements concluded on the basis of this Guidance established the modalities of this interaction.
58. The requirements to ensure an appropriate storage, protection and safety regime for information received in the course of its activities that constitutes official, commercial, banking or other secrets protected by law are established both for the FIU and for state authorities by the AML/CFT/CPF Law (subparagraph 2 of paragraph 2 of Art. 13 and subparagraph 2 of paragraph 1 of Art. 14).

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59. Pursuant to the Law "On Protection of Personal Data" personal data is divided into data for public and restricted access (Article 9, Paragraph 1). It provides for the collection and processing of personal data without the consent of the subject in cases when public authorities perform the functions prescribed by the legislation of the Republic of Tajikistan (Art. 12). At the same time, requirements for the protection of these data (Art. 5) and the basic principles of processing personal data with the consent of the subject of personal data (para. 1 of Art. 8) are established.
60. The Tajik legislation is in line with new requirements of R2. **Rating remains the same – C.**

Recommendation 15 (rated PC in the MER)

61. In October 2019, revisions were made to the FATF Methodology for assessing R15, to reflect amendments to the FATF Standards incorporating virtual assets (VA) and virtual asset service providers (VASP). These new requirements include: requirements on identifying, assessing and understanding ML/TF risk 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 that such supervision should be conducted by a competent authority; as well as requirements to apply measures related to preventive measures and international cooperation to VASPs.
62. The PC rating is due to the following deficiencies: there is no requirement for FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products; FIs are not required to take appropriate measures to manage and mitigate the risks arising from new technologies.
63. According to the updated version of the Law "On Payment Services and Payment System" (Art. 7, part 12) "subjects of the payment system" are required to identify, assess and take necessary measures to supervise and minimize existing and possible ML/TF/PF risks associated with "new types of financial services", implementation of "new ways" of providing such services. This should be done prior to the provision or introduction of such services. Similar requirements are introduced for operators (providers) of payment services (Procedure of accounting and electronic money transfers, paragraphs 32-33). At the same time, these requirements do not apply to other FIs (insurance companies, leasing companies, securities market participants).

New requirements set out in R15

64. The legislation of the Republic of Tajikistan does not establish any requirements related to virtual asset service providers (VASPs). Information on the prohibition of VASPs activities was also not provided.
65. Given the incomplete coverage of financial institutions and the new requirements under R15, **the rating remains the same – PC.**

Recommendation 18 (rated LC in the MER)

66. In February 2018, R18 was amended to reflect the November 2017 amendments to the FATF Standards, which clarified the requirements on sharing of information and analyses related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions.

New requirements set out in R18

67. The LC rating is due to the deficiency that there is no requirement for financial groups to implement group-wide AML/CFT programmes. This deficiency had not been addressed by the time of the analysis of the country's progress materials (February 2021). **The rating for R18 remains LC.**

Recommendation 21 (rated C in the MER)

68. In February 2018 the FATF Methodology was amended to reflect the amended FATF Standards: it was clarified that anti-tipping-off provisions were not intended to inhibit information sharing under R18.

New requirements set out in R21

69. According to the current version of the AML/CFT/CPF Law, managers and employees (permanent and temporary) do not have the right to inform their clients or other persons about the fact of sending information to the FIU.

70. These provisions do not appear to inhibit information sharing under R.18 with the exception of STR exchange, which is not mandatory requirement. Thus, the revised standard remains met.

71. **The R21 rating remains the same - C.**

4. Conclusion

72. The Republic of Tajikistan has made progress in addressing the technical compliance deficiencies identified in the MER. Hence, the Recommendations below are re-rated as follows:

- R7 is upgraded from NC to PC;
- R16 and R35 are upgraded from PC to LC.

73. Tajikistan has demonstrated progress in improving its compliance with R8, R12 and R15 but the provided information is insufficient for upgrading the technical compliance ratings.

74. As for the Recommendations that have been amended since the on-site visit, Tajikistan fully implemented new requirements of R2 and R21. However, the new requirements of R15 and R18 have not been implemented.

75. In the light of the progress made by Tajikistan in improving its national AML/CFT system after the adoption of the MER, the technical compliance with the FATF Recommendations has been re-rated as follows (the upgraded ratings are **marked in bold**):

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

76. Tajikistan remains in the enhanced follow-up process and will continue to report to the EAG on progress in strengthening its national AML/CFT system.