

Anti-money laundering and counter-terrorist financing measures

Mauritius

3rd Enhanced Follow-up Report &
Technical Compliance Re-Rating
December 2020

Follow-up Report





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ESAAMLG's members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism and proliferation, in particular the FATF Recommendations.

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MAURITIUS: 3rd ENHANCED FOLLOW-UP REPORT & TECHNICAL COMPLIANCE RE-RATING

I. INTRODUCTION

1. The Mutual Evaluation Report (MER) of Mauritius was adopted by the Task Force in April 2018 and subsequently approved by the Council of Ministers in July 2018. This follow-up report (FUR) analyses progress made by Mauritius in addressing some of the technical compliance deficiencies identified in its MER. TC re-ratings are given where sufficient progress has been demonstrated. This report also analyses progress made in implementing the new requirements relating to Recommendation 15 which has changed since its 2nd FUR was adopted. The report does not analyse any progress Mauritius has made in improving its effectiveness. Progress in this area will be assessed as part of a subsequent follow-up assessment, and if found to be sufficient, may result in re-ratings of Immediate Outcome ratings at that time.
2. The assessment of Mauritius' request for TC re-ratings and the preparation of this report were undertaken by the following experts (supported by the ESAAMLG Secretariat: Mofokeng Ramakhala and Tom Malikebu):
 - Wonder Kapofu (Zimbabwe)
 - Osvaldo Santos (Angola)
 - Clare Abuodha (Kenya)
 - Vilho Nkandi (Namibia)
 - Julia Tloubatla (South Africa).
3. Section III of this report highlights the progress made by Mauritius and analysis undertaken by the Reviewers. Section IV sets out the conclusion and a table showing Recommendations which have been re-rated.

II. KEY FINDINGS OF THE MUTUAL EVALUATION REPORT

4. The MER¹ rated Mauritius' technical compliance as set out in Table 2.1 below. On the basis of these results, Mauritius was placed in the enhanced follow-up process².

¹ Mutual Evaluation Report (MER) of Mauritius, July 2018, <https://www.esaamlg.org/reports/Second%20Round%20MER%20of%20Mauritius-July%202018.pdf>

² Enhanced follow-up is based on the traditional ESAAMLG policy for members with significant shortcomings (in technical compliance or effectiveness) in their AML/CFT systems, and involves a more intense follow-up process.

Table 2.1. Technical compliance ratings¹ July 2018

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

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

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

5. Since the adoption of its MER in July 2018, Mauritius has taken measures aimed at addressing the technical compliance deficiencies identified in its MER. As a result, 26 Recommendations were re-rated (upgraded) to LC and C as highlighted in the Table below.

Table 3.1: Technical Compliance Re-ratings²

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

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

² <https://esaamlg.org/reports/FUR%20Mauritius-%20September%202019.pdf>

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6. This section of the report summarises further progress made by Mauritius to improve its technical compliance by addressing additional TC deficiencies identified in its MER and implementing the new requirements where the FATF Standards have changed since the adoption of the 2nd FUR (R.15).
 7. Mauritius has made progress in addressing the TC deficiencies identified in its MER in relation to R. 26 and 32. Following this progress, Mauritius has been re-rated largely compliant with R.26 and R.32. However, R.15 has been downgraded from C to PC because Mauritius has not addressed new requirements of this Recommendation which were adopted by the FATF in October 2019.

3.1.1. Recommendation 26: Regulation and Supervision of Financial Institutions (Originally rated PC)

8. In its 2nd Round MER, Mauritius was rated PC with R.26. The main deficiencies were that: (a) the frequency of onsite inspections were not determined on the basis of risks identified by the supervisors and the country; (b) there was no periodic review of ML/TF risk profile of financial institutions (FIs); (c) FIs were not subjected to consolidated group supervision for AML/CFT purposes; (d) no explicit prohibition against establishment or continued operation of shell banks; (e) it was not clear how Financial Services Commission (FSC) prevents criminals or their associates from holding or being beneficial owners of significant interest in FIs and that its fit and proper criteria do make any reference to criminal record.
9. The Bank of Mauritius (BoM) and FSC have developed and are implementing AML/CFT risk-based supervision frameworks whereby the frequency and intensity of on-site and off-site AML/CFT supervision of FIs are conducted on a risk sensitive basis. These principles and procedures are documented in the RBS AML/CFT Methodology Manual and the RBS AML/CFT User Manual (BoM) and Inspection Manual (FSC). The frameworks take into account the ML/TF risks, national ML/TF risks as highlighted in the NRA Report and the characteristics of the FIs or groups. BoM and FSC administer a questionnaire annually to the FIs to collect information such as products, delivery channels, customers, country risks, CDD status, transaction monitoring systems etc which inform the institution's or group risk profile. Based on this, the requirements of criterion c.26.5 have been adequately addressed. The Supervisors also review the ML/TF risk profile of financial institutions (FIs) and financial groups on a continuous basis and also when there are major events or developments in the management and operations of the FI or Group (c.26.6). **In considering the overall rating of R.26, the implementation of risk-based supervision has been given significant weighting.**
10. FIs licensed by BoM are obliged to implement group-wide AML/CFT programs and are subjected to consolidated group supervision for AML/CFT purposes [S.64A and S.64C (1) of the Banking Act]. However, there are no legal or institutional frameworks showing that FSC applies consolidated group supervision for AML/CFT purposes on conglomerates that provide financial services. Mauritius prohibits the establishment or continued operation of shell banks in the country. Furthermore, BoM and FSC

apply a fit and proper test on beneficial owners which includes checking the criminal record (S.5 of the Banking Act and S.20 of the Financial Services Act).

11. In a nutshell, Mauritius has made sufficient progress to address TC deficiencies identified in the MER. The supervisory authorities apply AML/CFT supervision of FIs on a risk sensitive basis. This includes foreign exchange bureaus and MVTs providers. For purposes of the overall rating, the implementation of RBS has been given significant weighting. In relation to prevention of criminals, the authorities have provided information that indicates that the FSC carries out background check on the criminal record of beneficial owners. However, there is a minor deficiency still outstanding relating to consolidated supervision. While BoM carries out consolidated supervision for AML/CFT purposes, the same is not the case with FSC.
12. **Mauritius is therefore re-rated Largely Compliant with Recommendation 26.**

3.1.2 Recommendation 32: Cash Couriers (Originally rated PC)

13. In its 2nd Round MER, Mauritius was rated PC with R.32. The main deficiency was that false or non declaration of currency or BNIs is not subject to confiscation. The MER also found other deficiencies such as absence of sanctions against false declarations and lack of coordination mechanisms or arrangements in place with regard to currency or BNIs. Progress to address some of these deficiencies was assessed under Mauritius' 2nd FUR and the finding was that Mauritius introduced sanctions against false declarations. However, the information provided in relation to coordination was not sufficient to warrant a re-rating (see 2nd FUR published on ESAAMLG¹). In addition, the MER found a deficiency in relation to the requirement to retain false declarations to facilitate international cooperation.
14. Mauritius introduced amendments through the Finance (Miscellaneous Provisions) Act 2018 which empower the Customs authorities to detain the currency or BNIs for a period of 6 months whenever they reasonably suspect ML and inform the FIU, Police and Independent Commission against Corruption [s.131A(4) of Customs Act]. In case of TF suspicion, the Customs Authorities detain the currency or BNIs and refer the matter to the Police or such other investigatory body together with the currency or BNIs. Furthermore, competent authorities have powers to stop or restrain the currency or BNI wherever there is a false declaration in order to ascertain whether there is evidence of ML or TF (Section 131A(3)(b) of Customs Act). Where the officer reasonably suspects that the false declaration involves ML, he is required to detain the currency or BNIs. **This adequately addresses the requirements of c.32.8.**
15. In relation to absence of coordination, the authorities have not provided new information since the 2nd FUR was adopted in September 2019 to justify re-consideration of c.32.7. Hence, the deficiency remains outstanding. With respect to c.32.9, under Sections 2 and 39 of the National Archives Act, all public bodies,

¹ <https://esaamlg.org/reports/FUR%20Mauritius-%20September%202019.pdf>

including the Mauritius Revenue Authority (Customs), are required to retain any written record and any other record conveying information by any other means whatsoever. MRA (Customs) has to retain all written records, including Currency Declaration Forms (CDF). In addition, s.131(A)(1A) of Customs Act requires that all declarations of currency and BNIs to be sent to the FIU. These declarations are uploaded in the GoAML system of the FIU and the information is available for sharing whenever there is a request from the FIU's counterparts. Furthermore, in terms of s.131A(4), when a Customs Officer suspects that ML or TF is involved, the information is sent to the FIU, Police and ICAC. Similarly, a Customs Officer has powers to detain and search a person whenever he has reasonable grounds to suspect a false declaration. All these agencies are obliged to keep the relevant documents as required under s.39 of the National Archives Act. So, although there is no explicit legal or institutional frameworks addressing retention of declarations, Mauritius has general provisions on retention of records which can support international cooperation. This is, therefore, considered to meet the requirements of c.32.9.

16. In a nutshell, Mauritius has made sufficient progress in addressing most of the deficiencies identified in the MER in relation to R.32 through amendments to the Customs Act. Furthermore, there are general provisions which require competent authorities to retain information pertaining to currency/BNIs in order to facilitate international cooperation. However, apart from submission of currency/ BNI declaration forms by the Customs to the FIU, it is not clear that there is adequate coordination amongst customs, immigration and other related authorities on issues related to implementation of R.32. This is considered to be a minor shortcoming.
17. **Mauritius is therefore re-rated Largely Compliant with Recommendation 32.**

3.1.3 Progress on Recommendations which have changed since adoption of the MER/FUR

Recommendation 15 (originally rated NC in its MER and re-rated C in its 2nd FUR)

18. In its 1st FUR and 2nd FUR¹, Mauritius was rated PC and C with R.15 respectively. However, since the adoption of the Mauritius MER and the FURs, R.15 has been amended resulting into extension of the range of AML/CFT requirements related to virtual assets (VAs) and virtual asset service providers (VASPs).
19. Mauritius has not identified and assessed ML/TF risks associated with virtual asset activities and virtual asset service provider activities. In addition, except for custodians which provide safe-keeping for VAs, VASPs are not required to be licensed or registered. Furthermore, VASPs are not designated as reporting entities and there is no legal basis for the supervision of VASPs for AML/CFT purposes, let alone risk

¹ <https://esaamlg.org/reports/FUR%20Mauritius-%20September%202019.pdf>

based supervision. This virtually means that the authorities do not monitor VASP activities and there is no way of detecting whether or not their activities are abused for ML/TF purposes. Consequently, since a significant category of VASPs is not subject to licensing/ registration and supervision, the authorities do not know the size of the sector and whether or not VASPs have appropriate policies and procedures to mitigate ML/TF risk. In this regard, considering inherent high risks associated with VAs and the fact that Mauritius is an international financial centre which is attractive to investors, absence of licensing/ registration and supervision are very fundamental vulnerabilities which have a potential to heighten ML/TF risks.

20. **Mauritius is therefore re-rated Partially Compliant with Recommendation 15.**

IV. CONCLUSION

21. Overall, Mauritius has made sufficient progress in addressing deficiencies in technical compliance identified in its MER to justify re-rating of R. 26 (initially rated PC) and R.32 (initially rated PC) to Largely Compliant.
22. R.15 which was re-rated C under the 2nd FUR has been downgraded from C to Partially Compliant considering that Mauritius has not addressed the new requirements of R.15 as set out from c.15.3 to c.15.11.
23. Considering progress made by Mauritius since the adoption of its MER, its technical compliance with the FATF Recommendations has been revised as shown in Table 4.1 below.
24. Mauritius will remain in enhanced follow-up and will continue to inform the ESAAMLG of the progress made in improving the implementation of its AML/CFT measures two months before each Task Force meeting.

Table 4.1. Technical compliance ratings, December, 2020

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

Note: Four technical compliance ratings are available: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant

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This report analyses Mauritius' progress in addressing the technical compliance deficiencies identified in the FATF assessment of their measures to combat money laundering and terrorist financing of July 2018.

Follow-up Report