

FATF



Anti-money laundering and
counter-terrorist financing
measures

Austria

1st Enhanced Follow-up Report &
Technical Compliance Re-Rating

December 2017

Follow-up report





The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

For more information about the FATF, please visit the website: www.fatf-gafi.org

This document and/or any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

This report was adopted by the FATF at its November 2017 Plenary meeting.

Citing reference:

FATF (2017), *Anti-money laundering and counter-terrorist financing measures - Austria*, 1st Enhanced Follow-up Report & Technical Compliance Re-Rating, FATF, Paris
www.fatf-gafi.org/publications/mutualevaluations/documents/fur-austria-2017.html

© 2017 FATF. All rights reserved.

No reproduction or translation of this publication may be made without prior written permission. Applications for such permission, for all or part of this publication, should be made to the FATF Secretariat, 2 rue André Pascal 75775 Paris Cedex 16, France (fax: +33 1 44 30 61 37 or e-mail: contact@fatf-gafi.org).

Austria: 1st Enhanced Follow-up Report & Technical Compliance Re-Rating

I. INTRODUCTION

The mutual evaluation report (MER) of Austria was adopted in June 2016. This follow-up report analyses the progress of Austria in addressing the technical compliance deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since the MER was adopted: Recommendations 5 and 8. 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 Austria has made to improve its effectiveness. Progress on improving effectiveness will be analysed as part of a later follow-up assessment and, if found to be sufficient, may result in re-ratings of Immediate Outcomes at that time.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

The MER rated Austria as follows for technical compliance:

Table 1. Effectiveness and Technical compliance ratings, June 2016¹

Effectiveness Ratings ¹										
IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
ME	SE	ME	ME	ME	LE	LE	ME	SE	ME	SE

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

Notes:

1. There are four possible levels of effectiveness for each immediate outcome (IO): high (HE), substantial (SE), Moderate (ME), and low (LE).

2. There are four possible levels of technical compliance for each Recommendation (R.): compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Source: Austria Mutual Evaluation Report, June 2016, www.fatf-gafi.org/publications/mutualevaluations/documents/mer-austria-2016.html.

Given these results, Austria was placed in enhanced follow-up. The assessment of Austria's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- Ms. Christina Pitzer, Senior Adviser, German Federal Financial Supervisory Authority (BaFin) (financial expert)
- Ms. Indira Crum, Analyst to the Deputy Comptroller for Compliance Risk, Office of the Comptroller of the Currency, U.S. Department of the Treasury (financial expert); and
- Ms. Virpi Koivu, Senior Officer, Police Department, Finnish Ministry of the Interior (legal expert).

Section III of this report summarises Austria's progress in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

This section summarises Austria's progress to improve its technical compliance by:

1. Addressing the technical compliance deficiencies identified in the MER, and
2. Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.5 and R.8).

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

Austria has made progress to address the technical compliance deficiencies identified in the MER in relation to the following 12 Recommendations:

- Recommendations 1, 2, 12, 15, 16, 18, 22, and 29 (which were rated PC)
- Recommendations 9, 10, 23, and 28 (for which it was rated LC)

As a result of this progress, Austria has been re-rated on Recommendations: 1, 2, 9, 10, 12, 15, 16, 18, 22, and 29. The FATF welcomes the steps that Austria has taken to improve its technical compliance with Recommendations 23 and 28; however, insufficient progress has been made to justify a re-rating of these Recommendations.

Recommendation 1 (originally rated PC)

In its 4th MER, Austria was rated PC with R.1. The main technical deficiencies related to: inadequate identification of the money laundering (ML) and terrorist financing (TF) risks; no risk-based approach to allocating resources; no full implementation of specific measures to manage or mitigate the risks identified in the National Risk Assessment (NRA); no requirement in Austria for financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) to ensure that national information on risks is incorporated into their risk assessments; the lack of requirements for certain FIs and DNFBPs to document their risk assessments; insufficient requirements for all FIs and DNFBPs to monitor the implementation of their risk management systems and take enhanced measures if necessary; and a blanket exemption from customer due diligence (CDD)

requirements for lawyers and notaries in the case of a number of designated customer types.

Austria's new Financial Markets Anti-Money Laundering (FMAML) Act requires Austria to redevelop its NRA based on input from a new national coordination committee comprised of the Ministry of Finance; Ministry for Justice; Ministry for the Interior; Ministry for Science, Research and Economy; Ministry for Europe, Integration and Foreign Affairs; Financial Markets Authority; and Oesterreichische Nationalbank (art. 3). DNFBP supervisors and private sector representatives are expected to participate in at least one meeting per year, although there is no legislative requirement for their representation. The purpose of the NRA is to: identify Austria's ML/TF risks; guide the allocation of resources; identify areas where FIs must take enhanced measures; and ensure risk-based rules are drawn up for each sector (FMAML Act, art. 3(3)). FIs and DNFBPs are now required to incorporate information from the NRA into their own risk assessments and put in place strategies to manage and mitigate identified risks (FMAML Act, art. 4; Gambling Act, art. 31c(1); Trade Act, art. 365n1(3); Accountancy Act, art. 44(2); Public Accountants and Tax Consultants Act, art. 88(1), para. 2; Lawyers Act, s. 8a(2); Notarial Code, s. 36a(2)). A new NRA has not yet been developed.

FIs, casinos, high-value dealers, real estate agents, lawyers, notaries, and Trust and Company Service Providers (TCSPs) are now required to document their risk assessment (FMAML Act, art. 4(1) and (2)); Gambling Act, art. 31c; Lawyers Act, s. 8a(3); Notarial Code, s. 36a(3); Trade Act, art. 365n1(2)). There is no explicit documentation obligation for accountants (Public Accountant and Tax Consultant Act, art. 88(3); Accountancy Act, art. 44(2)). Nor are accountants explicitly required to keep risk assessments up-to-date.

FIs and DNFBPs, except casinos, are required to appoint a compliance officer to monitor implementation of risk-management systems (FMAML Act, art. 23; Trade Act, art. 365n1; Lawyers' Act, s. 8a(2); Notarial Code, s. 36a(2); Accountancy Act, art. 52d(2); Public Accountant and Tax Consultants Act, art. 99(2)). FIs are also required to appoint a member of the Board (FMAML Act, art. 23). Casinos are required to assess their ML/TF risks, but have no specific obligation to monitor the implementation of risk management systems. All FIs and DNFBPs must apply enhanced measures where rendered necessary by risk (FMAML Act, art. 9; Trade Act, s. 365s; Lawyers' Act, s. 8a(1); Notarial Code, s. 36a(1); Accountancy Act, art. 50; Public Accountant and Tax Consultants Act, art. 94). The blanket exemption from CDD requirements for certain customer types for lawyers and notaries has been removed; simplified due diligence is permitted only in low-risk situations (Lawyers' Act, s. 8e(1); Notarial Code, s. 36e(1)).

Most of the deficiencies identified in the MER have been addressed and only minor deficiencies remain. On that basis, R.1 is re-rated to LC.

Recommendation 2 (originally rated PC)

In its 4th MER, Austria was rated PC with R.2. The main technical deficiencies related to: insufficient information on AML/CFT policies that are informed by the risks identified; the lack of a designated authority or mechanism with responsibility for AML/CFT policies; and DNFBP supervisors were not included in the AML/CFT cooperation and coordination mechanisms.

The purpose of the forthcoming NRA is to develop AML/CFT policies and strategies based on identified risks (FMAML Act, art. 3). A new NRA has yet to be developed. Austria has created a new national coordination committee with responsibility for AML/CFT policy in Austria (FMAML Act, art. 3(1)). The Federal Ministry for Science, Research and Economy, which has overarching responsibility for the DNFBP supervisors, is required to nominate two members of the committee (FMAML Act, art. 3(1)) and intends to secure the participation of DNFBP supervisors. The draft rules of procedure for the committee also provide that DNFBPs and/or their supervisors can participate in the committee.

Most of the deficiencies identified in the MER have been addressed and only minor deficiencies remain. On that basis, R.2 is re-rated as LC.

Recommendation 9 (originally rated LC)

In its 4th MER, Austria was rated LC with R.9. The main technical deficiency was the ability for FIs to appeal law enforcement's requests for financial information. This ability has now been removed and Austria has created an electronic register of account information which law enforcement agencies can access electronically without a court order (Accounts Register Act, art. 4; Criminal Procedure Code, art. 116(6)).

Austria has addressed the deficiency identified in the MER. On that basis, R.9 is re-rated to C.

Recommendation 10 (originally rated LC)

In its 4th MER, Austria was rated LC with R.10. The main technical deficiencies for insurance undertakings or intermediaries were: no prohibition on holding anonymous accounts and no specific requirements for insurance intermediaries concerning the minimum of information required to identify legal persons or arrangements. For FIs, the main deficiencies were no requirements to: verify that one natural person was authorised to act on behalf of another; conduct the full range of CDD measures for wire transfers above the applicable threshold; identify and verify the protector(s) of a trust; or obtain information on the powers that regulate and bind a legal person or arrangement, as well as the names of the relevant person having a senior management position. FIs also lacked a specific provision to permit waiver of identification and verification procedures to avoid tipping off the customer.

Insurance undertakings and intermediaries are now prohibited from holding anonymous accounts (FMAML Act, art. 12(2); Trade Act, art. 365u(7)) and insurance intermediaries are required to identify legal persons through legally valid documents providing, at a minimum, the "name, legal form, power of representation, and place of incorporation" (Trade Act, art. 365p). As part of the "power of representation" verification, insurance undertakings and intermediaries must obtain information on persons holding senior management positions within a legal person or arrangement (FMAML Act, art. 6(1); Trade Act, art. 365p(1)).

FIs are now required to verify the "power of representation" (FMAML Act, art. 6(1); Trade Act, art. 365p(1)) and conduct the full range of CDD for wire transfers (EU Regulation 2015/847; FMAML Act, art. 5(2)). Beneficial owners must be identified,

and from September 2017 this will explicitly include the protector of a trust (FMAML Act, art. 2(3)) (this is already the case for insurance intermediaries (Trade Act, art. 365n)). The identity of legal persons and arrangements must be verified and FIs must obtain information on persons holding senior management positions as part of the “power of representation” verification (FMAML Act, art. 6(1); Trade Act, art. 365p(1)). FIs are now permitted to waive customer identification and verification where it may tip off the customer (FMAML Act, art. 20; Trade Act, art. 365w(1)).

Austria has addressed the deficiencies identified in the MER. On that basis, R.10 is re-rated to C.

Recommendation 12 (originally rated PC)

In its 4th MER, Austria was rated PC with R.12. The main technical deficiencies were the lack of requirements for: insurance intermediaries to apply the requisite enhanced measures to foreign politically exposed persons (PEPs) residing in Austria; FIs to obtain senior management approval to continue business relationships with persons who become PEPs during the business relationship; FIs and insurance undertakings to identify domestic PEPs; and insurance undertakings and intermediaries to inform senior management prior to the pay-out of policy proceeds.

Insurance intermediaries are now required to apply the requisite enhanced measures to all categories of PEPs, as required by the FATF Standards (Trade Act, art. 365n(4) and 365s(1)-(4)). FIs are required to obtain senior management approval to continue a business relationship with a new PEP and to apply enhanced measures to all PEPs (FMAML Act, art. 11 for FIs;¹ Trade Act, art. 365s(1) for insurance intermediaries). Insurance undertakings and intermediaries are now required to inform senior management of policy proceed pay-outs (FMAML Act, art. 11(2); Trade Act, art. 365s(2)).

Austria has addressed the concerns identified in the MER. On that basis, R.12 is re-rated to C.

Recommendation 15 (originally rated PC)

In its 4th MER, Austria was rated PC with R.15. The main technical deficiencies were: FIs were not obliged to assess the risk of new technologies, practices or products prior to their launch; and insurance intermediaries were not required to assess and adopt strategies to manage ML/TF risks posed by new technologies.

FIs are now required to undertake a full risk assessment before launching new products or technologies (FMAML Act, art. 4(1)). Insurance intermediaries are required to adopt policies and measures to manage risks posed by new products and technologies (Trade Act, art. 365n1(4)).

Austria has addressed the deficiencies identified in the MER. On that basis, R.15 is re-rated to C.

¹ Though certain domestic offices are specifically identified, the FMAML Act’s general definition of PEPs (art. 2) does not distinguish between foreign and domestic PEPs therefore applying to both.

Recommendation 16 (originally rated PC)

In its 4th MER, Austria was rated PC with R.16. The main technical deficiency was that the EU wire transfer regulation did not cover beneficiary information and contained limited requirements for intermediate financial institutions.

The new EU Regulation (EU Regulation 2015/847) requires wire transfers to be accompanied by beneficiary information (arts. 4, 5, 6) and requires intermediary institutions to: ensure wire transfers are accompanied by the necessary beneficiary and originator information (art. 10); keep records (art. 16); identify wire transfers that lack the necessary information (art. 11); and have measures in place to determine when to execute or reject transfers (art. 12). The Regulation came into force in Austria in June 2017.

The new EU Regulation addresses the deficiencies identified in Austria's MER. On that basis, R.16 is re-rated to C.

Recommendation 18 (originally rated PC)

In its 4th MER, Austria was rated PC with R.18. The main technical deficiencies were the lack of requirements for: FIs to ensure high standards when hiring employees; FIs, insurance undertakings or insurance intermediaries to implement group-wide AML/CFT programmes; and insurance intermediaries to appoint a compliance officer, undertake internal audits, or apply the higher standard when the requirements of Austria and another country differ.

FIs must now have policies and procedures in place to consider potential employees' "propriety with regard to their attachment to legal values". Insurance intermediaries must ensure potential employees meet certain criteria, including undergoing AML/CFT training and being free from relevant convictions or sanctions (Trade Act, arts. 13 and 137b). Employers are also required to conduct a regular review of staff (Trade Act, art. 365n1). The majority of insurance intermediaries (68.9%) operate as a single natural person. FIs are required to adopt and implement group-wide AML/CFT policies (FMAML Act, art. 24(1) for FIs; Trade Act (art. 365z(1) for insurance intermediaries). Insurance intermediaries are now required to appoint a compliance officer; undertake an independent audit; and apply the higher standard where the requirements of Austria and another country differ (Trade Act, arts. 365n1(4) and 365z(3)).

The deficiencies identified in the MER have been addressed. On that basis, R.18 is re-rated to C.

Recommendation 22 (originally rated PC)

In its 4th MER, Austria was rated PC with R.22. Regarding casinos, the main technical deficiencies were: ongoing monitoring of business relationships applied only to EU/EEA citizens; in most cases, there was no obligation to identify the beneficial owner; casinos were not required to verify that a person acting on another's behalf is so authorised; no requirement to perform enhanced CDD where ML/TF risks are higher; no requirement for internet casinos to conduct CDD on their customers; no PEPs requirements; record-keeping requirements did not include business correspondence or the results of analysis undertaken in the course of CDD;

a lack of specific record-keeping requirements for internet casinos; and no requirement to ensure the availability of information to competent authorities.

Casinos are now required to: conduct ongoing monitoring of all business relationships; identify the beneficial owner; verify the identity and power of representation of those acting on another's behalf; perform enhanced CDD in situations of increased risk; and apply all requisite PEPs requirements. Internet casinos must conduct CDD (Gambling Act, art. 31c; FMAML Act, arts. 6, 9, and 11). All casinos must keep records of CDD information and transaction; however, it is not explicit that this includes business correspondence (Gambling Act, art. 31c; FMAML Act, art. 21). Casinos must now have systems to respond to A-FIU or supervisor enquiries into whether they have a relationship with a particular person (Gambling Act, art. 31c(2); FMAML Act, art. 22).

Regarding accountants, real estate agents, high-value dealers, and business consultants, the main technical deficiency in the MER was the lack of obligation to identify customers that are legal persons or arrangements, or to verify the settlor, trustee(s), or protector of a trust, and the inability of these entities to waive identification requirements where it might tip off a customer. PEPs requirements for real estate agents, dealers in precious metals and stones, and business consultants did not cover foreign PEPs residing in Austria, domestic PEPs, or persons who have been entrusted with a prominent function by an international organisation.

Accountants, real estate agents, high-value dealers, and business consultants are now required to identify customers that are legal persons or arrangements (Trade Act, art. 365p(1); Public Accountants and Tax Consultants Act, art. 90(1); Accountancy Act, art. 46(1)). These entities are also required to identify and verify the beneficial owner of a trust, which includes the settlor, trustee and protector (Trade Act, art. 365p(2); Public Accountants and Tax Consultants Act, art. 90(2); Accountancy Act, art. 46(2)). Identification requirements can be waived to avoid tipping off the customer (Trade Act, art. 365w(1); Public Accountants and Tax Consultants Act, art. 97(6); Accountancy Act, art. 52b(6)). PEPs requirements for real estate agents, dealers in precious metals and stones, and business consultants now include both domestic and foreign PEPs (regardless of location) and officials of an international organisation (Trade Act, art. 365n).

Regarding lawyers and notaries, the main technical deficiencies in the MER were: no requirement to understand the ownership and control structure of their customers, identify customers that were legal persons or arrangements, identify and verify the protector(s) of a trust, apply CDD to customers that existed before the entry into force of AML/CFT regulations, or waive identification requirements where it might tip off a customer; and a blanket exemption from CDD requirements for certain customer types. Lawyers, notaries and accountants were not required to: ensure that transaction records were sufficient to permit reconstruction of the transaction; or apply PEP requirements to domestic PEPs, or persons who have been entrusted with a prominent function by an international organisation.

Lawyers and notaries must now: "understand the specific ownership and control structure" of customers; identify legal persons and arrangements; identify and verify the protector of a trust; and apply CDD regardless of when the business relationship was established (Lawyers' Act, s. 8b; Notarial Code, s. 36b). CDD requirements can be waived where performing them would alert the customer to their suspicions

(Lawyers' Act, s. 8b; Notarial Code, s. 36b). The blanket exemption for certain customer types has been removed: simplified due diligence is permitted where a situation is deemed low risk (based on non-exhaustive criteria), otherwise full CDD must be applied (Lawyers' Act, art. 8e(2); Notarial Code, art. 36e(2)). Lawyers and notaries must now keep transaction records sufficient to permit reconstruction of the transaction (Lawyers' Act, s. 12(3); Notarial Code, s. 49(3)). Accountants are not explicitly subject to a similar requirement (Public Accountant and Tax Consultant Act, art. 98(1); Accountancy Act, art. 52c(1)). Lawyers, notaries and accountants must now apply PEP requirements to domestic PEPs or persons entrusted with a prominent function by an international organisation (Lawyers' Act, s. 8f(2); Notarial Code, s. 36f(2); Public Accountants and Tax Consultants Act, art. 87(2); Accountancy Act, art. 43(2)).²

The final technical deficiency identified in the MER was the lack of requirements for any DNFBP regarding the risks posed by new technologies. DNFBPs are now required to assess and mitigate the risks relating to new technologies (Trades Act, art. 365n1(4), para. 1; Lawyers' Act, s. 8b(8); Notarial Code, s. 36b(8); Public Accountants and Tax Consultants Act, art. 99(1), para. 1; Accountancy Act, art. 52d(1), para. 1; Gambling Act, art 31c(2), para. 1; FMAML Act, arts. 4 and 23).

Most of the deficiencies identified in the MER have been addressed and only minor deficiencies remain. On that basis, R.22 is re-rated to LC.

Recommendation 23 (originally rated LC)

In its 4th MER, Austria was rated LC with R.23. The main technical deficiencies were: the reporting requirement for casinos did not cover attempted transactions; insufficient requirements for screening and training employees, and no requirement to have an independent audit; lawyers, notaries, real estate agents, high-value dealers, and TCSPs were not required to appoint a compliance officer, adopt screening procedures for employees, or establish an independent audit function; no requirement for accountants to appoint a compliance officer at the management level or to establish an independent audit function; and a lack of requirements for casinos (including internet casinos) to apply enhanced due diligence in case of high-risk countries.

Casinos are now required to report attempted transactions; consider potential employees "propriety with regard to their attachment to legal values"; provide ongoing AML/CFT training to employees, and undertake an independent audit of AML/CFT policies and procedures (Gambling Act, art. 31c; FMAML Act, arts. 16(1) and 23). Lawyers, real estate agents, high-value dealers, and TCSPs are now required to appoint a compliance officer (Lawyers' Act, s. 8a(2); Trade Act, art. 365n1(4)). Notaries are not subject to such a requirement. There remain no explicit requirements for new employee screening for lawyers, notaries, real estate agents, high-value dealers, and TCSPs. Real estate agents, high-value dealers, and TCSPs are required to appoint a compliance officer and subject their internal AML/CFT controls to an independent audit (Trade Act, art. 365n1(4)). The Boards of Regional Bars and the Regional Chambers of Civil Law Notaries monitoring lawyers' and

² For accountants, the definition of PEPs does not distinguish between domestic or foreign PEPs and therefore covers both.

notaries' compliance with professional regulations, including AML/CFT requirements; no additional independent audits are required. Accountants are now required to appoint a compliance officer who reports directly to management and a member of the Board is deemed responsible for compliance with the AML/CFT provisions (Public Accountants and Tax Consultants Act, art. 99(2) and Accountancy Act, art. 52d). There remains no requirement that accountants establish an independent audit function. Finally, casinos are now required to conduct enhanced CDD on persons from a high-risk country (Gambling Act, art. 31c(2); FMAML Act, art. 9).

Austria has addressed some of the deficiencies identified in the MER, however minor deficiencies remain. On that basis R.23 remains LC.

Recommendation 28 (originally rated LC)

In its 4th MER, Austria was rated LC with R.28. The main technical deficiencies were: insufficient controls to prevent associates of criminals being the beneficial owner of a significant or controlling interest in a casino or owning or operating a casino; insufficient controls to prevent associates of criminals from holding (or being the beneficial owner of) a significant or controlling interest in real estate agents, dealers in precious metals and stones, and business consultants; and a failure to supervise all DNFBPs on a risk-sensitive basis, specifically casinos, lawyers, notaries, accountants, public accountants, and tax consultants.

Improved systems are now in place to reduce the risk of associates of criminals being the beneficial owner of a significant or controlling interest in a casino or owning or operating a casino, including Ministerial approval of significant share purchases (Gambling Act, art. 30(1)). The Minister can only approve the purchase where the applicant demonstrates "sound and prudent management" (Gambling Act, art. 14(2)). Measures exist to exclude convicted criminals from having substantial influence over the business operations of other DNFBPs (Trade Act, art. 13), but similar requirements do not appear to be in place to prevent associates of criminals from holding (or being the beneficial owner of) a significant or controlling interest in real estate agents, dealers in precious metals and stones, and business consultants. Legislative amendments have been made to ensure risk-based supervision of casinos, lawyers, notaries, accountants and tax consultants (Gambling Act, art. 31(6)); Lawyers' Act, s. 23(2); Notarial Code, s. 154(1); Accountancy Act, art. 52i(1); Public Accountants and Tax Consultants Act, art. 104(1)). This is also likely to be improved through Austria's AML/CFT Action Plan.

Austria has addressed some of the deficiencies identified in the MER, however minor deficiencies remain. On that basis R.28 remains LC.

Recommendation 29 (originally rated PC)

In its 4th MER, Austria was rated PC with R.29. The main technical deficiencies were: the A-FIU conducted only basic operational analysis and did not conduct any strategic analysis; and the A-FIU was not in charge of analysing FT-related suspicious transaction reports (STRs).

The A-FIU is now required to disseminate the results of its analyses and provide reporting entities with information on ML/TF methods and indicators of suspicious

transactions (Criminal Service Intelligence Act, art. 4(2); FMAML Act, art. 16(4)). Given the recency of these changes, it is not yet clear whether the FIU is conducting strategic analysis using available and obtainable information, including data from other competent authorities, to identify MLTF trends and patterns. The A-FIU is required to analyse STRs relating to TF (Criminal Service Intelligence Act, art. 4(2)).

Some of the deficiencies identified in the MER have been addressed, and only minor deficiencies remain. On that basis, R.29 is re-rated to LC.

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

Since the adoption of Austria's MER, the FATF amended Recommendations 5 and 8. This section considers Austria's compliance with the new requirements.

Recommendation 5 (originally rated C)

In February 2016, R.5 was amended to require countries to criminalise the financing of the travel of foreign terrorist fighters. Austria does not have a separate offence for financing of the travel of foreign terrorist fighters; however, the existing offences of terrorist financing, contributing to terrorist training, or participation in a terrorist association may be broad enough to cover this conduct (Criminal Code, arts. 12, 278b, 278d, and 278e). In practice, the offence of participation in a terrorist association has been used to convict one individual for organising travel for the purpose of terrorism and to indict another for financing travels for terrorist purposes.

Austria complies with the amended R.5. On that basis R.5 remains C.

Recommendation 8 (originally rated PC)

49. In June 2016, R.8 and its Interpretive Note were significantly revised rendering the analysis of R.8 in Austria's MER obsolete.

Austria has not yet undertaken a risk assessment to identify NPOs at risk of TF abuse, the nature of threats, how terrorist actors use NPOs, or the adequacy of NPO laws and regulations. Some measures are in place to promote accountability, integrity, and public confidence in NPOs (e.g. registration; requirements regarding boards and auditors; accounting and financial obligations; and the maintenance of a national register). Some sporadic outreach and education efforts have been taken to raise awareness of NPO vulnerabilities to TF and best practices to address TF risk in the NPO sector are in the early stages of development. Accounting obligations may provide some impetus for NPOs to utilise regulated financial channels, but this has not been explicitly encouraged. NPOs are largely self-monitored; external supervision is focused on registration and tax compliance. This supervision is not able to clearly demonstrate that risk based measures apply to NPOs at risk of TF abuse. The NPO register is public to ensure information can be shared, and is maintained by relevant local authorities. Additional information can be requested by law enforcement authorities where necessary. International requests for information are handled in the same manner as other international assistance requests (i.e. the A-FIU handles suspicious transaction-related requests while law enforcement agencies provide general assistance in criminal matters).

Major deficiencies exist in Austria's compliance with the amended R.8. On that basis R.8 remains PC.

IV. CONCLUSION

Overall, Austria has made good progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated on 10 Recommendations.

As Austria has addressed the deficiencies in respect of Recommendations 9, 10 12, 15, 16, and 18 these Recommendations are now re-rated as C. Many steps have also been taken to rectify the issues relating to Recommendations 1, 2, 22, and 29 such that only minor shortcomings remain and, for that reason, these Recommendations are re-rated as LC.

Steps have been taken to improve compliance with Recommendations 23, and 28, but minor shortcomings still remain and, consequently, the rating for these Recommendations remains LC.

For Recommendation 5, which has been revised since Austria's MER was adopted, Austria's existing legislative framework meets the new requirements; Recommendation 5 therefore remains C. For Recommendation 8, which has been significantly amended since Austria's MER, Austria has taken some initial steps, but more is required to adequately implement the new requirements and consequently the rating remains PC.

Overall, in light of the progress made by Austria since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. **Technical compliance with re-ratings, December 2017¹**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	C	C	PC	PC	PC	C	C
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	C	LC	C	C	C	LC	C	C	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	C	C	LC	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	LC	C	LC	LC	LC	C	LC

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

Austria will remain in enhanced follow-up on the basis that it had a low or moderate level of effectiveness for 7 or more (8) of the 11 effectiveness outcomes (FATF Procedures, para. 79(a)(iii)). According to the enhanced follow-up process, Austria will continue to report back to the FATF on progress to strengthen its implementation of AML/CFT measures.

Acronyms

CDD	Customer due diligence
DNFBP	Designated non-financial businesses and professions
FI	Financial institution
FIU	Financial intelligence unit
FMAML Act	Financial Markets Anti-Money Laundering Act
LC	Largely compliant
MER	Mutual evaluation report
ML	Money laundering
NC	Non-compliant
NRA	National risk assessment
PC	Partially compliant
PEP	Politically exposed person
TCSP	Trust and Company Service Provider
TF	Terrorist financing

FATF



www.fatf-gafi.org

December 2017

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

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses Austria's progress in addressing the technical compliance deficiencies identified in the FATF assessment of their measures to combat money laundering and terrorist financing of September 2016.

The report also looks at whether Austria has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2016 assessment.

FOLLOW-UP REPORT