

FATF



Anti-money laundering and counter-terrorist financing measures

Iceland

November 2020

2nd Enhanced Follow-up Report &
Technical Compliance Re-Rating

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.

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Iceland's 2nd Enhanced Follow-Up Report

1. INTRODUCTION

The mutual evaluation report (MER) of Iceland was adopted in February 2018 and its 1st enhanced follow-up report (FUR) with technical compliance re-ratings was adopted in June 2019. This 2nd enhanced FUR analyses Iceland's progress in addressing some of its technical compliance deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses Iceland's progress in implementing new requirements relating to FATF Recommendations which have changed since its 1st enhanced FUR was adopted: R.15. 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 Iceland has made to improve its effectiveness. A later follow-up assessment will analyse progress on improving effectiveness which may result in re-ratings of Immediate Outcomes at that time.

2. FINDINGS OF THE MER AND 1ST ENHANCED FOLLOW-UP REPORT

The 1st enhanced FUR rated Iceland's technical compliance as follows:

Table 1. Technical compliance ratings, June 2019

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

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

Source: Iceland 1st Enhanced Follow-up Report & Technical Compliance Re-Rating, September 2019: <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/FUR-Iceland-2019.pdf>

The following experts assessed Iceland' request for technical compliance re-ratings:

- Mr. Andy Watson, Senior Associate, Financial Crime Advisory and Transformation Department, Specialist Supervision Division, United Kingdom, and
- Ms. Eva Thunegard, Chief Public Prosecutor, Prosecution Authority, Sweden.

Section 3 of this report summarises Iceland's progress made in improving technical compliance. Section 4 sets out the conclusion and a table showing which Recommendations have been re-rated.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

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

- a) Addressing the technical compliance deficiencies identified in the MER; and
- b) Implementing new requirements where the FATF Recommendations have changed since the 1st enhanced FUR was adopted (R.15).

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

Iceland has made progress to address the technical compliance deficiencies identified in the MER in relation to R.1, 2, 6, 7, 8, 24, 25, 26, 32 and 34. Because of this progress, Iceland has been re-rated on these Recommendations.

The FATF welcomes the steps that Iceland has taken to improve its technical compliance with R.28. However, insufficient progress has been made to justify a re-rating of this Recommendation.

Recommendation 1 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.1. The main technical deficiencies were: Iceland's 1st national risk assessment was not being used by the public and private sectors for resource allocation or prioritizing anti-money laundering and counter-terrorist financing (AML/CFT) efforts; financial institutions and Designated Non-Financial Business or Professions (DNFBPs) were not required to identify, assess and understand their ML/TF risks and preventive measures, including enhanced due diligence (EDD) were prescribed through regulation.

Iceland implemented the *Act on Measures against Money Laundering and Terrorist Financing No. 140/2018 (new AML Act)* on 1 January 2019. According to Article 4(1) of the *new AML Act*, the National Commissioner of the Icelandic Police (NCIP) issued Iceland's second national risk assessment (NRA) on 5 April 2019. The second NRA, which is publicly available via the website of NCIP and other competent authorities, provides a good grounding of the risks that are faced in Iceland.

In addition, the *new AML Act* requires all obliged entities to undertake a risk assessment of their operations and transactions taking into account the findings of the NRA and the risk assessment is required to be used by obliged entities when carrying out risk-based supervision. Preventive measures including EDD are now prescribed in the *new AML Act*, not through regulation.

R.1 is re-rated compliant.

Recommendation 2 (originally rated PC)

In Iceland's 1st enhanced FUR¹, R.2 was maintained rated as PC. The remaining main deficiencies were: although Iceland had addressed some of the deficiencies identified in its 4th round MER and had met the revised criteria under R.22, it had not yet developed policies informed by identified risks and the mandate of the Steering Committee did not cover combating the proliferation financing of weapons of mass destruction (WMD).

Following Iceland's second NRA, the *Policy of Icelandic Government on Actions against Money Laundering, Terrorist Financing and Proliferation and Financing of Weapons of Mass Destruction* was published in July 2019, which makes reference to the need to address the risks identified in the second NRA. In addition, the Steering Committee published an Action Plan, assessing the weaknesses identified in the NRA and setting out the steps to address them within specific timeframes. As such, the policies in place now are informed by identified risks.

In addition, the mandate of the Steering Committee now provides that it is responsible to formulate policy, ensure oversight and co-operation and co-ordination of preventive actions against money laundering and terrorist financing (ML/TF), including against the funding of WMD.

Iceland has addressed all the identified deficiencies.

R.2 is therefore re-rated compliant.

Recommendation 6 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.6. Moderate deficiencies were identified in the MER, including inadequate scope of assets subject to freezing, lack of mechanisms for designating persons and lack of procedures and publicly available information on unfreezing funds.

The *Act on the Freezing of Funds and the Designation of Entities on a Sanctions List in relation to Terrorism Financing and the Proliferation of Weapons of Mass Destruction No. 64/2019 (Sanctions Act No. 64/2019)* came into force in 2019. The Sanctions Act No. 64/2019, particularly Article 4 and its interpretative note prescribes that freezing obligations now apply to the full range of assets required by FATF standards.

In addition, article 8 of the *Sanctions Act No. 64/2019* provides a mechanism to identify targets for designation and prescribes rules and guidelines regarding the standard for making proposals for designation. Moreover, the Act now provides details on the review of designation decisions and on removal from a sanctions list. Iceland now has publicly known procedures and instructions on the website of the Ministry of Foreign Affairs regarding the submission of de-listing requests.

Iceland has addressed all the identified deficiencies.

R.6 is therefore re-rated compliant.

1. www.fatf-gafi.org/publications/mutualevaluations/documents/fur-iceland-2019.html

2. In October 2018, R.2 was amended to cover that countries should have co-operation and co-ordination between relevant authorities to ensure compatibility of AML/CFT requirements with Data Protection and Privacy Rules.

Recommendation 7 (originally rated PC)

In Iceland's 1st enhanced FUR, the rating of R.7 was maintained as PC, as not all United Nations Security Council Resolutions (UNSCRs) had been implemented and Iceland was in the process of developing new legislation and measures to fully implement the requirements of R.7.

Since then, the *Regulation No. 843/2017* that implements UNSCRs related to Iran has been amended to incorporate the United Nations Security Council website. Designations and amendments therefore become effective in Iceland upon publication on that website.

The new legislation, the *Sanctions Act No. 64/2019*, now covers all targeted financial sanctions, including those related to Iran. It also provides that the Financial Supervisory Authority (FSA) and the Directorate of Internal Revenue (DIR) are designated supervisors and there are now sufficient measures in place for monitoring, ensuring compliance and applying sanctions for non-compliance with the obligations under R.7.

In addition, as referred to above, Iceland now has publicly known procedures and instructions on the website of the Ministry of Foreign Affairs regarding submission of de-listing requests. Moreover, the *Sanctions Act No. 64/2019* allows for a designated person to make payments due under contracts entered into prior to listing and also covers exemptions from freezing of funds.

Iceland has addressed all the identified deficiencies.

R.7 is therefore re-rated compliant.

Recommendation 8 (originally rated NC)

In its 4th round MER, Iceland was rated NC with R.8. The main technical deficiencies were: Icelandic authorities had not yet taken any steps to identify the features and types of non-profit organisations (NPOs) which by virtue of their activities may be at risk of TF abuse; there was no outreach to the NPO sector on TF issues; it was not clear that up-to-date information on the administration and management of NPOs would be available during the course of an investigation.

Since then, several steps have been taken to identify risks related to NPOs. In the second NRA, risks relating to NPOs are assessed based the FATF definition of NPOs. The NPOs at most risk of being misused with respect to TF are identified.

In addition, Iceland has advanced policies to promote accountability, integrity and public confidence in the administration of NPOs. The Steering Committee is responsible for this and has started targeted outreach to NPOs. Moreover, a new *Act on the Obligation of Non-Profit Organisations to Register No. 119/2019* requires NPOs to be registered and monitored. The Act also provides sanctions of fines or imprisonment for up to two years, which are adequate and proportionate.

Iceland has not demonstrated that there have been any risk-based measures applied to NPOs at most risk of terrorist financing abuse, including inspections or others. However, Iceland has established procedures and assigned resources to this effect, thereby making this only a minor shortcoming.

R.8 is therefore re-rated largely compliant.

Recommendation 24 (originally rated PC)

In its 4th round MER Iceland was rated PC with R.24, as there were serious gaps with respect to the availability of beneficial ownership information and measures to keep basic information accurate and updated for all types of legal persons. Also, where an Icelandic company had elements of foreign ownership, the availability of this information was further impeded.

The new *Act on the Registration of Beneficial Ownership No. 82/2019 (BO Act No. 82/2019)* now requires all legal persons operating in Iceland or are registered in the Business Register, including branches of foreign public or private limited companies, to collect, record and provide beneficial ownership (BO) information to the Business Register. In addition, the *BO Act No. 82/2019* provides a mechanism to identify and describe the process for obtaining and recording BO information. Obligated entities are required to notify any changes relating to registration within two weeks.

In addition, the second NRA assessed risks concerning all types of legal persons. Competent authorities and the financial intelligence unit (FIU) now have timely access to BO information. The sanctions against failure to comply with BO requirements are now proportionate and dissuasive.

However, not all types of legal persons are required to list categories of shares or voting rights. Non-commercial foundations are still not required to register in a company registry.

Iceland has addressed most of the identified deficiencies, with some minor deficiencies remaining.

R.24 is therefore re-rated largely compliant.

Recommendation 25 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.25. The main technical deficiencies were: requirements on professional trustees to conduct customer due diligence (CDD), maintain records and provide information did not extend to trust relevant parties that were neither the customer nor the customer's beneficial owner; trustees of foreign trusts were not required by law to disclose their status to reporting entities or to give authorities access to information held by them in relation to the trust. Other deficiencies identified in R.10 and 24 were also relevant.

The *new AML Act* has widened the scope of BOs of a trust and covers all relevant parties. BOs of a trust or a similar legal arrangement are defined to include settlors, trustees, protectors (if any), beneficiaries and other natural persons who exercise control over the trust or a similar arrangement. Information concerning relevant parties are now required to be accurate and up-to-date. The *new AML Act* now requires trustees of foreign trusts to disclose their status to reporting entities.

In addition, deficiencies identified in both R.10 and 24 which were relevant, were also addressed in Iceland's 1st FUR.

Iceland has addressed all the identified deficiencies.

R.25 is therefore re-rated compliant.

Recommendation 26 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.26. The main deficiencies were: AML/CFT supervision of financial institutions (FIs) other than banks, appeared to be limited; authorities had not yet demonstrated that FSA supervision was based on a comprehensive ML/TF risk assessment (as opposed to prudential risk); it was not clear whether group consolidated supervision was carried out for AML/CFT.

Regarding the AML/CFT supervision, since its 4th round MER the FSA has produced a risk assessment, which was last updated in September 2019. The FSA also developed work schedules covering on-site and off-site inspections for the period of 2018-2020, which demonstrates that the FSA's decisions to monitor institutions are based on ML/TF risks. In addition, Iceland has updated the AML Act in 2018 to provide requirements for group-wide policies and procedures, including data protection and sharing of information within the group.

However, it is unclear if the FSA supervises core principle institutions in line with International Organization of Securities Commissions (IOSCO) and International Association of Insurance Supervisors (IAIS) principles.

Iceland has addressed most of the identified deficiencies, with some minor deficiencies remaining.

R.26 is therefore re-rated largely compliant.

Recommendation 28 (NC in the MER and re-rated to PC in 1st FUR)

In its 1st FUR, Iceland was re-rated from NC to PC with R.28. In Iceland 1st FUR, although actions had been taken to monitor the majority of DNFBPs, Iceland had not covered all DNFBP sectors (for instance, dealers in precious metals or stones). In addition, while initial work to understand the risk profile of DNFBPs had commenced, risk-based supervision was not carried out across all DNFBPs.

Since then, progress has been made in relation to the supervision of DNFBPs, including designation of the DIR to supervise all DNFBP sectors in Iceland. In addition, the DIR has developed sector specific strategies which focus on the areas of higher risk identified by the DIR and in the second NRA.

However, it is not clear the extent to which these strategies developed by the DIR are fully risk-based. Lawyers are being subject to supervision, but there was limited evidence to demonstrate how such supervision was appropriate to the risks identified. Dealers in precious metals and stones are deemed to be medium risk in the NRA, but off-site work has only been conducted in the form of questionnaire. Lotteries are assessed as overall lower risk, but the outcome of monitoring is still unclear. These deficiencies are not minor in the context of AML/CFT supervision of DNFBPs in Iceland.

Iceland has addressed some of the identified deficiencies, but moderate deficiencies still remain.

R.28 therefore remains rated partially compliant.

Recommendation 32 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.32. The main technical deficiencies were: there was no obligation to declare cash or bearer negotiable instruments transported by cargo; sanctions were not effective, proportionate or dissuasive and at the time of the onsite, there was no coordination between customs and other competent authorities.

The *Act No. 9/2019 on the amendment of the Customs Act No. 88/2005* came into force on 1 May 2019 and now provides an obligation to declare cash and bearer negotiable instruments transported by cargo. According to the amended Customs Act, funds may be seized if illegally imported, or if there is reasonable ground to believe that they will be used in conjunction with the provisions of the Penal code. In addition, an importer, exporter, customs agent, traveller or crew member who deliberately or by gross negligence makes a false declaration can now be fined.

The Icelandic Directorate of Customs now works closely with the FIU, the police at the borders and the National Commissioner of the Icelandic Police regarding the implementation of R. 32 (and other matters). There have been meetings and outreaches between these authorities and there is a representative from the Directorate of Customs participating in the Steering Committee.

Iceland has addressed all the identified deficiencies.

R.32 is therefore re-rated compliant.

Recommendation 34 (originally rated PC)

In its 4th round MER, Iceland was rated PC with R.34, with deficiencies in relation to the fact that the Icelandic FIU (FIU-ICE) had not provided sufficient guidance on suspicious transaction reports (STRs) to either FIs or DNFBPs and there had been only very limited outreach to DNFBPs by supervisors.

Since the 4th round MER, the Icelandic FSA has undertaken proactive steps to make obliged entities under its supervision aware of their obligations and to give feedback on compliance. With the appointment of the DIR as supervisory authority for DNFBPs, outreach and guidance have improved, including issuance of guidance on red flags for the legal sector, accountancy sector, slot machines, cash intensive businesses and real estate agents.

In addition, the FIU-ICE issues warnings and attends meetings/presentations either separately or alongside the DIR and the FSA. It has also published 15 reports covering typologies, trends and red flags. In relation to feedback on the use of STRs, the FIU-ICE provided examples of information shared with commercial banks and credit undertakings. The FIU-ICE has also developed a special form for reporting STRs to the FIU-ICE.

Iceland has addressed all the identified deficiencies.

R.34 is therefore re-rated compliant.

3.2. Progress on Recommendations which have changed since adoption of the 1st enhanced FUR

Since the adoption of Iceland's 1st enhanced FUR, the FATF amended R.15. This section considers Iceland's compliance with the new requirements.

Recommendation 15 (PC in MER, re-rated to LC in 1st FUR)

In June 2019, R.15 was revised to include obligations related to virtual assets (VA) and virtual asset service providers (VASPs). These new requirements include: requirements on identifying, assessing and understanding ML/TF risks 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 for such supervision to be conducted by a competent authority; as well as requirements to apply measures related to preventive measures and international co-operation to VASPs.

In its 1st FUR, Iceland was re-rated from PC to LC with R.15, as there were still minor deficiencies remaining: competent authorities were still in the process of assessing risks in relation to new technologies, and the actions conducted by the FSA on risk assessment did not fully support the requirement that countries (not just the FSA) should identify the risks.

Since its 1st FUR, steps have been taken by both the country and particularly, the FSA to assess the ML/TF risks in relation to new technologies, including publishing its second NRA in which risks in relation to new technologies were assessed. However, this work is not complete enough to allow competent authorities to fully understand these risks and to remedy this deficiency.

In relation to VA/VASPs, the second NRA has a chapter that assesses the risks of "cryptocurrencies", but the assessment only demonstrates a basic, high-level understanding of potential risks. The *new AML Act* also requires VASPs within the scope of the Act to carry out a risk assessment and to mitigate and manage the risks. However, there is no information on whether a RBA has been applied and whether the required mitigations measures have been implemented in Iceland.

Iceland has introduced a regime for some of the activities captured in the FATF definition of a VASP, including the provision of exchange services between virtual currencies, electronic currencies and fiat currencies, as well as provision of a custodian wallet. However, the scope does not extend to activities listed in points (iii) and (v) of the FATF definition.

VASPs are required to register with the FSA only if they are operating in Iceland, but not when they are incorporated in Iceland. The FSA is required to deny an application for registration from a VASP, if the managers or beneficial owners of the VASP have, in the preceding five years, been declared bankrupt or been sentenced for any criminal act under relevant laws.

The FSA is required to apply administrative sanctions against activities that are pursued without registration and has rejected applications from VASPs according to the *new AML Act*. However, it is not clear whether the FSA monitors for unregistered activities, using the tools it uses to identify unregistered Money or Value Transfer Service (MVTs) activities. No specific plans in relation to VA/VASPs have been provided.

VA/VASP activities, as defined by the Icelandic *new AML Act*, are supervised by the FSA. The FSA has a range of powers to supervise and monitor compliance of obliged entities with the *new AML Act*. Sanctions applicable by the FSA for AML/CFT breaches are dissuasive and proportionate. However, the deficiencies in relation to the RBA (see R.26) also affect the effectiveness of the regulation and supervision of VASPs.

While extensive guidance has been provided to obliged entities, evidence of specific guidance to VA/VASPs is limited. The FSA does not appear to provide sufficient feedback to the VASPs that are registered with it.

Iceland applies most of the preventative measures in relation to R.10 to R.21 but has not implemented the 1000 EUR/USD threshold for occasional transactions, nor implemented the requirements of R.16.

In Iceland, the communication mechanisms, reporting obligations and monitoring regarding targeted financial sanctions in R.6 and R.7 apply to VAs and VASPs.

Iceland has addressed some of the deficiencies identified and has met some of the new criteria of R.15, but moderate deficiencies remain. **R.15 is therefore downgraded to partially compliant with R.15.**

3.3 Overview of progress achieved on other Recommendations rated partially compliant

Iceland also made progress on R.13: following the implementation of the *new AML Act*, requirements described under criteria 13.1 and 13.2 now apply to institutions within the EEA. The new AML Act also provides that obliged entities should make an independent assessment of information and must understand the operation and administrative structure of customers that are legal persons.

CONCLUSION

Overall, Iceland has made progress in addressing the technical compliance deficiencies identified in its MER and has been upgraded on R.1, 2, 6, 7, 8, 24, 25, 26, 32 and 34. However, insufficient progress was made to justify the re-rating of R.28. In addition, R.15 is downgraded to partially compliant.

Considering progress made by Iceland since the adoption of its MER, its technical compliance with the FATF Recommendations has been re-evaluated in the following manner:

Table 2. Technical compliance ratings, October 2020

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

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

Iceland will remain in enhanced follow up and will continue to inform the FATF of progress achieved on improving the implementation of its AML/CFT measures.

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2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

As a result of Iceland's progress in strengthening their measures to fight money laundering and terrorist financing since the assessment of the country's framework, the FATF has re-rated the country on 10 of the 40 Recommendations.

The report also looks at whether Iceland's measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2018.

Follow-up report