

FATF



Anti-money laundering and
counter-terrorist financing
measures

Kingdom of Saudi Arabia

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

January 2020

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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KINGDOM OF SAUDI ARABIA: 1ST ENHANCED FOLLOW-UP REPORT

1. Introduction

The mutual evaluation report (MER) of the Kingdom of Saudi Arabia (Saudi Arabia) was adopted in June 2018. This is Saudi Arabia's first follow-up report and it analyses Saudi Arabia's progress in addressing the technical compliance deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses Saudi Arabia's progress in implementing new requirements relating to FATF Recommendations which have changed since the onsite visit to the country in November 2017: R.2, R.18 and R.21. 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 Saudi Arabia 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 Mutual Evaluation Report

The MER rated Saudi Arabia as follows for technical compliance:

Table 1. Technical compliance ratings, September 2018

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	C	LC	C	PC	PC	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	C	C	LC	LC	C	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	C	LC	LC	C	C	C	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	PC	C	C	PC	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: Kingdom of Saudi Arabia Mutual Evaluation Report, 24 September 2018], <https://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER-Saudi-Arabia-2018.pdf>.

Given Saudi Arabia's effectiveness results, the FATF placed Saudi Arabia in enhanced follow-up. The following expert assessed Saudi Arabia's request for technical compliance re-rating and prepared this report:

- Ms. Poovindree Naidoo, Senior Legal and Policy Advisor, Financial Intelligence Centre, South Africa.

Section 3 of this report summarises Saudi Arabia'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 Saudi Arabia'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 onsite visit to the country (R.2, 18 and 21).

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

Saudi Arabia has made progress to address the technical compliance deficiencies identified in the MER in relation to the Recommendations 6 and 7, which were rated PC.

As a result of this progress, Saudi Arabia has been re-rated on Recommendations 6 and 7. The FATF welcomes the steps that Saudi Arabia has taken to improve its technical compliance with R.2, R.18 and 21. However, insufficient progress has been made to justify a re-rating of R.2 and to maintain the Compliant rating of R.18 and 21.

Recommendation 6 (Originally rated PC)

In its 4th round MER, Saudi Arabia was rated PC based on the following shortcomings: Saudi Arabia's measures to implement TF targeted financial sanctions did not ensure that the sanctions will be applied without delay; not all natural and legal persons in Saudi Arabia were required to freeze the funds and assets of designated persons and entities; there was no specific prohibition on nationals and persons within the jurisdiction from making any funds and other assets available to designated individuals and entities; and the procedures for de-listing and unfreezing assets were not clear.

Saudi Arabia has since amended its main Mechanisms implementing United Nations Security Council Resolutions (UNSCRs) 1267/1989/2253, 1988, and 1373. The three Mechanisms have been issued by the President of the State Security Presidency in January 2019 and came into effect at that time. These mechanisms now require all natural and legal persons in Saudi Arabia to freeze funds and assets of designated persons and entities and prohibit all natural and legal persons from making funds available to designated persons or entities. They also ensure that targeted financial sanctions are implemented without delay, with an obligation for FIs, DNFBS and any other natural or legal persons to closely monitor the lists and take immediate action whenever the lists are updated.

However, there are some remaining deficiencies. The general prohibition is not entirely in line with the FATF Standards as it does not prohibit the provision of financial or other related services to designated persons or entities, entities owned or controlled by designated persons or entities, and persons and entities acting on behalf of or at the direction of designated persons or entities. The sectoral guidelines establish this prohibition for FIs and DNFBPs, but there is no indication that the prohibition would apply to all other nationals, or persons and entities within the jurisdiction. The mechanisms and the CFT Law do not include a provision for measures that protect the rights of bona fide third parties, such as the competent authorities, financial institutions and DNFBPs implementing their obligations under Recommendation 6. The Mechanisms do not provide for communicating designations or de-listing to the financial sector and DNFBPs. The UNSCR 1988 Mechanism does not include specific provision for publicly available information on procedures to facilitate reviews by the 1988 Committee including the Focal Point mechanisms and does not set out the procedure to be followed for de-listing.

Saudi Arabia has made good progress that address some of the deficiencies identified in its MER. Only minor deficiencies remain. Saudi Arabia is re-rated to LC.

Recommendation 7 (Originally rated PC)

In its 4th round MER, Saudi Arabia was rated PC on R.7 based on the following shortcomings: the Permanent Committee responsible for communicating with all competent authorities concerned regarding the implementation of the UNSCRs did not include all relevant agencies, especially some relevant FIs and DNFBPs supervisors; no supervisory authority had yet published procedures to implement the provisions of UN Resolutions; the mechanism to apply for a de-listing request was not publicly available; the implementing regulations did not specify the timing and obligations related to communication of de-listing for the private sector; and the partial release of certain funds could be made to a designated person.

Since then, Saudi Arabia's Permanent Committee for the Implementation of the UNSCRs issued under Chapter VII of the Charter of the UN has reviewed its internal regulations setting out its internal duties and responsibilities. It now includes all relevant supervisory agencies.

The Capital Market Authority, the Ministry of Commerce and Investment and the Saudi Arabian Monetary Authority have all issued guidelines to their sector on the implementation of the Resolutions, on the obligations of the supervised entities and the applicable sanctions in case of violation. They have also issued circulars dealing with the issue of attempted transactions.

The Ministry of Foreign Affairs has now a dedicated website explaining the implementation of the UNSCRs and it contains information on the mechanism to apply for de-listing and relevant contact information for further enquiries. The internal regulations of the Permanent Committee mentioned above also address the issue of de-listing communication and related obligations and guidance.

However, no progress was reported on the deficiencies related to the authorisation to release funds to a designated person. Only this deficiency remains outstanding and Saudi Arabia is re-rated to LC.

3.2. Progress on Recommendations which have changed since the MER

Since the onsite visit to the Kingdom of Saudi Arabia, the FATF amended Recommendations 2, 18 and 21. This section considers Saudi Arabia's compliance with the new requirements.

Recommendation 2 (Originally rated LC)

In February and October 2018, R.2 and its interpretive note were amended to require countries to have co-operation and co-ordination between relevant authorities to ensure compatibility of AML/CFT requirements with data protection and privacy rules. The amended Recommendation also requires a domestic mechanism for exchange of information.

As indicated in the MER, the membership of the Anti Money Laundering Permanent Committee (AMLPC) includes the ministries and agencies relevant to AML activities and it can co-ordinate with the other non-members as needed. The committee is responsible for reviewing international standards and proposing any legislative, regulation or circulars to be adopted by the competent authorities. The AMLPC has taken steps to support operational co-ordination. The Permanent Committee for Counter Terrorism (PCCT) is responsible for co-ordinating policies that combat terrorism and its financing. The PCCT includes most of the relevant ministries and agencies. The PCCT is responsible for policy co-ordination and operational co-ordination. While the AML Law and article (82) of the LTCF Law permits the national exchange of information among authorities in matters related to ML or TF, it is not clear from the information provided by Saudi Arabia for this follow-up report whether these Committees serve as mechanisms to exchange information.

There are some requirements in place in Saudi Arabia dealing with privacy, data protection and other similar provisions. However, no evidence was provided to demonstrate that there is co-operation and co-ordination, whether formal or informal, between relevant authorities on the compatibility of these requirement with AML/CFT requirements.

The 2018 MER also identified some minor deficiencies on R.2: Saudi Arabia's national action plan was focussed on strengthening the AML/CFT system but some of the risks identified in the NRA were not addressed by this action plan; and the FIU was not a direct member of the Permanent Committee for Counter Terrorism (PCCT) in charge of the co-ordination of policies for combatting terrorism and its financing nor a member of the Permanent Committee for the Implementation of the UNSCRs issues under Chapter VII of the Charter of the UN;

In September 2018, the Resolution No.42 of the Council of Ministries approved a revised and updated action plan supporting the national AML/CFT strategy. The revised action plan addresses some elements that have been identified through the NRA but it appears to be informed by the deficiencies identified in the country's MER rather than by the risks identified in the NRA.

The FIU is now a member of the Permanent Committee for the Implementation of the UNSCRs issued under Chapter VII of the Charter of the UN (as a result of the amendments referred to in paragraph 13). This deficiency has been addressed. The FIU also forms part of a technical team under the State Security President involved in the PCCT but is still not a direct member of this Committee.

While some progress is reported by Saudi Arabia, there are still some minor deficiencies with respect to R.2 and the LC rating is maintained.

Recommendation 18 (Originally rated C)

In November 2017, the Interpretive Note to Recommendation 18 was modified to clarify the information sharing requirements for unusual or suspicious transactions within financial groups, including providing this information to branches and subsidiaries when necessary for AML/CFT risk management.

Article 14 of the AML Law and Article 14 of the Implementing Regulations provide for group-wide programmes for branches and majority owned subsidiaries. However, Article 14 of the Implementing Regulations does not indicate whether the analysis of transactions or activities, which appear unusual, should be provided at the group level compliance, audit or for AML/CFT functions. It also does not provide that branches and subsidiaries should receive such information from these group-level functions when relevant and appropriate to risk management.

On this basis, there is a minor deficiency and R.18 is downgraded to LC.

Recommendation 21 (Originally rated C)

In November 2017, Recommendation 21 was revised in order to clarify that the tipping-off requirements regarding an unusual or suspicious transaction report or related information does not intend to prevent the sharing of information under R.18.

Article 16 of the AML Law and Article 71 of the CFT Law prohibit the disclosure of the fact that an STR or related information is being filed with the FIU. These articles also indicate that this obligation should not preclude disclosures or communications between directors and employees or communications with lawyers or competent authorities. This exclusion does not, however, cover information sharing on STR at the group level functions, as foreseen under R.18. This constitute a minor deficiency and R.21 is downgraded to LC.

3.3. Brief overview of other Recommendations rated NC/PC

Saudi Arabia reported progress with respect to Recommendation 33. The country has designated a central authority for compiling the statistics and developed a mechanism for collecting statistics through an automated solution, which will be used in the near future. Saudi Arabia also developed a manual on data and statistics which unified the definitions and methods for collecting statistics. Saudi Arabia also reported progress on Recommendation 36. Notably, the country indicated that it has amended its Anti-Bribery Law and is in the process of adopting the Penal Law of Assaulting Public Assets.

4. Conclusion

Overall, Saudi Arabia has made some progress in addressing the technical compliance deficiencies identified in its MER, sufficient to justify upgrading two Recommendations. Only two recommendations remain PC. However, Saudi Arabia does not meet the new requirements of R.2, R.18 and R.21 and its technical compliance with the FATF Recommendations has been re-rated as follows.

Table 2. Technical compliance with re-ratings, October 2019

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	C	LC	C	LC	LC	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	C	C	LC	LC	C	LC	C	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	LC	C	LC	LC	C	C	C	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	PC	C	C	PC	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).

Saudi Arabia will remain in enhanced follow-up, and will continue to report back to the FATF on progress to strengthen its implementation of AML/CFT measures.

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Anti-money laundering and counter-terrorist financing measures in the Kingdom of Saudi Arabia

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

As a result of Saudi Arabia's progress in strengthening their measures to fight money laundering and terrorist financing since the assessment of the country's framework, the FATF has upgraded the country on 2 of the 40 Recommendations.

The FATF has also re-rated the country on 2 of the Recommendations that have changed since their 2018 mutual evaluation.

Follow-up report