



3rd Follow-Up Report

Mutual Evaluation of Bangladesh

August 2019





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Asia/Pacific Group
on Money Laundering

BANGLADESH: 3rd ENHANCED FOLLOW-UP REPORT 2019

I. INTRODUCTION

1. The mutual evaluation report (MER) of Bangladesh was adopted in September 2016. This follow-up report (FUR) analyses the progress of Bangladesh in addressing the technical compliance deficiencies identified in its MER. Technical compliance re-ratings are given where sufficient progress has been made. In addition to technical compliance with the five recommendations requested by Bangladesh, this report analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since the MER was adopted: 2, 5, 7, 8, 18 and 21.

2. The FUR process does not analyse any progress 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.

3. The assessment of Bangladesh's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- *Kirsty Pleace, Department of Internal Affairs, New Zealand*
- *Patricia Godinho Silva, Portuguese Securities Market Commission (CMVM), Portugal*
- *Syahril Ramadhan, Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Indonesia*
- *Mohammad Alrashdan, APG Secretariat*
- *Nicole van Lent, APG Secretariat*

4. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Bangladesh's current technical compliance ratings.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

5. The MER rated¹ Bangladesh as follows:

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

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

C	LC	LC	PC	PC	PC	LC	PC	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	PC	PC	LC	LC	LC	LC	LC

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Moderate	Substantial	Moderate	Low	Low	Moderate	Low	Low	Substantial	Moderate	Substantial

6. Given these results, at the time of the MER being adopted Bangladesh was placed on enhanced follow-up².

7. Bangladesh's 2017 FUR did not request any re-ratings.

8. The Bangladesh 2018 FUR requested re-ratings for five Recommendations (Recommendations: 16, 18, 19, 26 and 34). In July 2018 the APG Annual meeting concluded that insufficient progress was made to justify a re-rating of these Recommendations.

III. TECHNICAL COMPLIANCE RECOMMENDATIONS REVIEWED

9. This section summarises the progress made by Bangladesh 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 MER was adopted.

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

10. Bangladesh requested re-ratings of the following Recommendations: 9, 16, 18, 26 and 34 (which were rated PC).

11. The APG welcomes the steps that Bangladesh has taken to improve its technical compliance with 9, 16, 18, 26 and 34 and as a result of this progress Bangladesh has been re-rated on all of these Recommendations.

Recommendation 9 [R.9] (Originally rated PC)

12. R.9 was rated PC in the 2016 MER. The report noted that Bangladesh had not issued exemptions for financial institutions to undertake information sharing, in particular relating to Recommendations 13, 16 and 17.

13. In 2019, Bangladesh issued Money Laundering Prevention Rules, 2019 (MLPR) and Circular No.22 dated 31 January 2019, which require reporting organisations (ROs) (including financial institutions (FIs)) to share information relating to correspondent banking, wire transfers and reliance on third parties.

14. The review team found that the MLPR and Circular No.22 address the deficiencies to a large extent and allow FIs to undertake information sharing applicable to correspondent banking services and wire transfers in relation to Recommendations 13 and 16. The MLPR does not clearly specify what is

² There are three categories of follow-up based on mutual evaluation reports: regular, enhanced and expedited. For further information see the APG Mutual Evaluation Procedures.

meant by information on reliance of third party' in relation to R.17, and therefore minor deficiencies remain.

15. Bangladesh is re-rated to largely compliant with R.9.

Recommendation 16 [R.16] (Originally rated PC)

16. R.16 was rated PC in the 2016 MER. The MER noted deficiencies including no requirement for FIs to collect a unique transaction number in the absence of an account number; inter-bank wire transfers are exempt from the requirement to collect transfer information and that there is no express prohibition on ordering banks executing wire transfers if requirements for wire transfers are not met.

17. Bangladesh issued BFIU Circular No. 21, 30 January 2019, to revise Paragraph 9 of BFIU Circular No. 19, to include obligations for FIs (including mobile financial services operators (MFS) and post offices) while conducting wire transfer transactions, including the requirements of having accurate information of the applicant and complete information of the beneficiaries, as well as the account number or unique transaction number for the applicant (originator) for single files. Paragraph 9.3(1) of BFIU Circular No. 21 prohibits the ordering banks from executing any wire transfer unless the information and instructions related requirements in sub-paragraphs 9(1) and (2) of the Circular are properly met.

18. Bangladesh is re-rated to compliant with R.16.

Recommendation 18 [R.18] (Originally rated PC)

19. R.18 was rated PC in the 2016 MER. Technical deficiencies were that there was no specific requirement for FIs to implement group-wide AML/CFT policies and procedures, and no requirements on foreign branches or subsidiary branches of insurance companies, capital market intermediaries and money changes.

20. The Interpretive Note to R.18 was revised in November 2017 to clarify the requirements on sharing information relating to unusual or suspicious transactions within financial groups.

21. Bangladesh issued MLPR 2019, which generally requires FIs to implement, where applicable, group wide AML and CFT Program and Policies. This AML and CFT Program and Policies should include information sharing provisions and procedures. The BFIU Circular No. 23 dated 31 January, 2019 also provides detail on AML and CFT Program and Policies for the financial group and information sharing among the institutions under the group. Section 1(g) of this circular includes binding requirements to maintain and safeguard confidentiality when exchanging information among enlisted financial institutions, branches and subsidiaries, and if necessary, correspondent banking service, wire transfer transactions and services received by third party.

22. MLPR 6(5) requires that the group-based policy and program implemented by ROs should contain provisions for exchange of, amongst other things, Customer Due Diligence (CDD) information, money laundering risk mitigation information and all other information essential to combat money laundering (ML) and terrorist financing (TF). This provision also includes requirements to exchange customer, account, and transaction information related to the identification of abnormal (unusual) or suspicious transactions or activity related information.

23. The MLPR 2019 also requires FIs (including insurance companies, capital market intermediaries and moneychangers) to implement the requirements of home country AML/CFT measures by their subsidiaries and branches located abroad. In addition BFIU Circular No. 23 dated 31 January, 2019 also obliges all foreign and subsidiary branches of ROs to implement those requirements.

24. **Bangladesh is re-rated to compliant with R.18.**

Recommendation 26 [R.26] (Originally rated PC)

25. R.26 was rated PC in the 2016 MER. The report detailed a number of deficiencies, including that fit and proper checks for FIs do not extend to beneficial ownership, limited measures were in place to prevent criminals from holding a license or managing a FI and that on-site supervision was not expanded beyond banks. The report also noted that there was no formal mechanism in place for supervisors to update assessment of sectoral ML/TF risks where there are major events/changes to a FI or sector, and no formal mechanism to evaluate shareholders/senior management for stock dealers, brokers and authorised representatives.

26. Through the amended MLPB 2019 and particularly section 32(1), Bangladesh requires all regulatory authorities to implement a market entry control mechanism while issuing a license, granting registration or approving the business activities which includes steps to be taken to prevent criminals or their associates being the owners, directors, managers or beneficial owners of ROs.

27. Section 31(2) of the Banking Company Act 1991 (amended in 2018), also empowers the Bangladesh Bank to impose any conditions it thinks fit during the licensing process, including a fit and proper test for sponsors/directors which notes a requirement for no record of criminal activities or adverse regulatory judgments. It also allows for further checks using other agencies, if required, for further verification of the authenticity of the information.

28. In January 2019, a number of Bangladesh supervisors including: Bangladesh Bank, NBFIs, MRA and BSEC, have all issued standard operating procedures which include formal mechanisms to evaluate shareholders/senior management for stock dealers, brokers and authorised representatives.

29. The authorities indicated that Bangladesh is conducting risk assessments at a national level, sectoral level and entity level every three years, and is reviewing the non-government organisation (NGO) sector for ML/TF risk however no assessment has been conducted since 2015. The Bangladesh Financial Intelligent Unit (BFIU), along with regulators and ROs, arranged required sessions or outreach programs in case any major event arises.

30. Bangladesh have taken significant steps in ensuring that fit and proper checks are completed when businesses are first taken on as customers. However, there is no clear requirement for this to be tested on an ongoing basis when there are changes to the businesses such as management, business direction or significant shift in shareholding/ownership.

31. Bangladesh has also issued the BFIU Risk Based Supervision Manual in March 2018 that provides the formal mechanism for the BFIU to update their assessment of sectoral ML/TF risks when there are major events or changes to a particular financial institution or sector. However, the Manual does not provide any requirement for the supervisor to update the entity risks following a major event or change.

32. **Bangladesh is re-rated to largely compliant with R.26.**

Recommendation 34 [R.34] (Originally rated PC)

33. R.34 was rated PC in the 2016 MER. The technical deficiencies were that Bangladesh had not issued sufficient guidance on TF risks, and had not produced guidance covering the most pressing elements of ML risk, including those arising from domestic politically exposed persons (PEPs), corruption (e.g. state owned commercial banks, public sector procurement), fraud, smuggling and the capital market.

34. The BFIU issued guidance to ROs on TF and proliferation financing (PF), and has therefore addressed this deficiency. However, there is still no guidance provided on corruption, fraud risks, smuggling risks and the risks associated with capital market and state-owned commercial banks. It is also noted that the BFIU is the only agency that has provided guidance for ROs. The guidance is produced in consultation with other regulatory authorities in Bangladesh.

35. The BFIU issued guidelines/guidance notes on 27 January 2019 on PEPs, reporting suspicious transactions and beneficial ownership for ROs. The BFIU provided feedback to ROs in 2018, including feedback to FI's, insurance companies and money changers. In addition, the BFIU provided further guidance in feedback sessions relating to STRs and CTRs. The review team found that Bangladesh has addressed the deficiencies to a large extent but that some deficiencies remain.

36. **Bangladesh is re-rated to largely compliant with R.34**

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

37. Since the adoption of Bangladesh's MER, Recommendations 2, 5, 7, 8, 18 and 21 have been amended. This section considers Bangladesh's compliance with the new requirements.

Recommendation 2 [R.2] (Originally rated LC)

38. In October 2018 an amendment was made to the FATF standards which required countries to ensure that data protection and privacy rules were compatible between relevant coordinating and cooperating agencies. There was also an amendment to criterion 2.3 to add the requirement to exchange information domestically.

39. R.2 was rated LC in the 2016 MER. The report noted a technical deficiency that Bangladesh's national policies do not sufficiently prioritise key risk areas such as state-owned commercial banks and the securities sector.

40. Section 24 (2) of the MLPA states that the governmental, semi-governmental, autonomous organizations or any other relevant institutions or organizations shall, upon any request or spontaneously, provide the BFIU with the information preserved or gathered by them. Section 24 (3) of the same Act states that "For the purpose of this Act, the BFIU may, upon request or if necessary spontaneously provide ML and TF related information to other government agencies".

41. Bangladesh has a mechanism for authorities to cooperate and share information for AML/CFT purposes and continues to comply with R.2, through using go_AML as a data and information sharing and storage mechanism that would facilitate a Messages Board while communicating with BFIU on ML and TF cases. Overall, there do not appear to be Data Protection and Privacy obligations on competent authorities, FIs or DNFBPs that impede the AML/CFT requirements.

42. **Bangladesh remains rated largely compliant with R.2.**

Recommendation 5 [R.5] (Originally rated LC)

43. In October 2015 and in October 2016, R.5 and its Interpretive Note were revised to clarify the term "funds and other assets", and to require that TF offences including the financing of individuals travelling to a State other than their States of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

44. R.5 was rated LC in the 2016 MER. The report noted a technical deficiency in the recommendation that monetary penalties for sanctioning the TF offence were not sufficiently dissuasive.

45. With regards to the new elements of this Recommendation, section 7(1) of the Anti-Terrorist Act 2009 (ATA 2009) includes any money, service, material support or any other property, while section 2(14) of the same Act, identify broadly the definition of “property” in a way that mirrors the related requirements of criterion 5.2, 5.3 and 5.4, that would cover “funds or other assets” including oil or other natural resources and related material and any other assets which are not funds but which potentially may be used to obtain funds, goods or services.

46. In relation to the revised aspects of Recommendation 5 (criterion 5.2bis), Bangladesh does not specifically criminalise the financing of travel of individuals for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. 7(1)(b) takes a broad approach and criminalises all forms of provision/collection of funds to a ‘terrorist person’ for any purpose, which would include travelling for training. The challenge is that the definition of ‘terrorist person’ at section 2(14) (A) defines terrorist person as any natural person who commits an offence under section 6(1), 10, 11, 12 or 13.

47. Section 6(1) is a comprehensive definition of terrorist acts. Sections 10-13 are the ancillary offences to offences of both ‘terrorist acts’ and to TF, which give some coverage (e.g. section 10 covers ‘contributing to terrorist acts).

48. Overall, 5.2bis is covered if the terrorist person can be tied to a terrorist act. A gap remains where the intention is to fund travel to train with a terrorist group and it cannot be tied to a terrorist act or something ancillary to a terrorist act. Given the gap in the original rating was mostly about the quantum of sanctions available for TF, this additional gap would not bring the rating down to partially compliant.

49. **Bangladesh remains rated largely compliant with R.5.**

Recommendation 7 [R.7] (Originally rated LC)

50. In June 2017, the Interpretive Note to R.7 was amended to reflect the changes made to the proliferation financing-related United Nations Security Council Resolutions (UNSCRs) since the FATF standards were issued in February 2012, in particular, the adoption of new UNSCRs.

51. R.7 was rated LC in the 2016 MER. The report noted a technical deficiency in relation to R.7, that there was no requirement for FI’s to determine which countries can be third parties that meet the conditions dependent on the level of that country’s risk.

52. With regard to the new elements of this Recommendation, Bangladesh covers the changes addressed by the amended version of c.7.4(c) and c.7.5, as section 20(A) of the ATA 2009 and rule 2(g) of the Anti-Terrorism Rules 2013 (ATR 2013) covers the current resolutions and successor resolutions relating to PF on weapons of mass destruction along with terrorism and TF.

53. **Bangladesh remains rated largely compliant with R.7.**

Recommendation 8 [R.8] (Originally rated LC)

54. In June 2016, R.8 and the relating Interpretive Note to R.8 were significantly revised, which means that the R.8 analysis in the 3rd round ME is now outdated.

55. R.8 was rated LC in the 2016 MER. The report noted a deficiency that competent authorities lack dissuasive enforcement powers and suitable compliance monitoring with registration and filing requirements for certain categories of non-profit organisations (NPOs) and persons working on behalf of those NPOs.

56. The information provided by Bangladesh has differentiated between some of the NGO/NPO entity types, with some noted as highest risk and some as lesser risk. Bangladesh has maintained the view that all NPOs/NGOs have some level of TF risk inherent in their structure.

57. Bangladesh has conducted assessments of the NPO/NGO sector in 2008 and 2015. No recent assessment of the NPO sector has occurred, however Bangladesh have reported that the process is underway to commence an updated review. The 2015 NGO risk assessment included a comprehensive review of the legal and regulatory framework of all NPOs in Bangladesh along with a TF risk assessment. In relation to its review of the legal framework, Bangladesh has taken steps to address gaps identified in its legislation. As part of the TF assessment, Bangladesh noted global and local trends on the risk of TF through NGOs and NPOs and also consulted local NGOs, law enforcement agencies (LEAs) and other government agencies.

58. Bangladesh has clear policies and legislation governing different types of NPOs that promote transparency, integrity and public confidence. NPOs are encouraged to conduct transactions via regulated financial channels.

59. Bangladesh conducts regular outreach and training programmes to deepen awareness among NPOs and the donor community, and the NGO Affairs Bureau (NGOAB), Microcredit Regulatory Authority (MRA), Department of Social Services and Bangladesh FIU (BFIU) have conducted regular meetings and discussions on internal strategies to combat TF.

60. Bangladesh has taken positive steps to promote supervision and monitoring of NPOs. NPOs are registered under the NGOAB and MRA, and the BFIU is authorised to monitor and supervise the activities of NPOs and as a part of its surveillance program. The BFIU Risk Based Supervision Manual details an RBS model to exercise supervision powers commensurate with identified ML/TF risks. There is no evidence that MRA or NGOAB conduct risk-based supervision.

61. A number of laws give the power to respective authorities to impose sanctions. These sanctions vary, and in some instances can be considered proportionate, effective, and dissuasive sanctions and in others cannot.

62. Legislation allows for information sharing between local authorities in Bangladesh and foreign counterparts. Section 23 (2) of the MPLA 2012 requires Bangladesh Bank to provide investigation agencies with any information in relation to ML or suspicious transaction and the BFIU may obtain information from an NPO and share this information with the LEA, under the MLPA or the ATA 2009. The ATA authorises the Bangladesh Police to investigate suspicious NPOs and LEAs investigating any criminal matter that relates to an NPO may also obtain information on the activities of the relevant NPO via the Code of Criminal Procedures 1898.

63. The BFIU is the authority designated under the MLPA to respond to international requests for information, including relating to NPOs suspected of TF or other forms of terrorist support.

64. **Bangladesh remains largely complaint with R.8.**

Recommendation 21 [R.21] (Originally rated C)

65. In November 2017, R.21 was amended to clarify that the tipping off provision is not intended to inhibit information sharing under R.18. Bangladesh was rated compliant for R.21 in its 2016 MER.

66. The BFIU Circular No. 23, 31 January 2019 provides that information can be exchanged among enlisted financial institutions, branches and subsidiaries, and if necessary, correspondent banking service, wire transfer transactions and services received by third party. Confidentiality must be maintained in those information exchanges. Rule 6 of the MLPR 2019, also allow for the exchange of suspicious transaction information whilst maintaining the required confidentiality.

67. **Bangladesh remains rated compliant with R.21.**

3.3. Brief overview of progress on other recommendations rated NC/PC

68. In relation to R.1, Bangladesh reported that it is in its final stage of developing its National Strategy to Prevent Money Laundering, Terrorist Financing and Proliferation Financing. Bangladesh reported that it has reviewed the National ML/TF Risk and Vulnerability Report and it's scheduled to be tabled by the National Coordination Committee for the NRA.

69. In relation to R.24 and R.25, Bangladesh reported that a number of competent authorities have approved internal manuals on licensing and registration which included relevant features of the fit and proper requirements on beneficial ownership.

IV. CONCLUSION

70. Overall, Bangladesh has made good progress in addressing the technical compliance deficiencies identified in its MER and was re-rated on five Recommendations.

71. Bangladesh has addressed a number of the deficiencies identified under R.9, R.16, R.18, R.26 and R.34. As a result, Bangladesh has been re-rated to compliant with R.16 and R.18 and largely compliant with R.9, R.26 and R.34. Bangladesh remains largely compliant with the revised R.2, R.5, R.7 and R.8 and maintains compliant rating with the revised R.21.

72. Overall, in light of the progress made by Bangladesh since its MER was adopted, its technical compliance with the FATF Recommendations is currently as follows:

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

73. The Bangladesh FUR was adopted by the APG Governance Committee on behalf of the membership in July 2019. Bangladesh will remain on enhanced follow-up, and will continue to report back to the APG on progress to strengthen its implementation of AML/CFT measures.