

FATF



Anti-money laundering and
counter-terrorist financing
measures

Singapore

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

November 2019

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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This report was adopted by the FATF Plenary at its October 2019 meeting.

Citing reference:

FATF (2019), *Anti-money laundering and counter-terrorist financing measures - Singapore, Enhanced Follow-up Report & Technical Compliance Re-Rating*, FATF, Paris
<http://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-singapore-2019.html>

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SINGAPORE: 3rd ENHANCED FOLLOW-UP REPORT

1. Introduction

The mutual evaluation report (MER) of Singapore was adopted in June 2016. Singapore did not request technical compliance re-ratings during its 1st or 2nd follow-up reports. This follow-up report analyses Singapore's progress in addressing certain technical compliance deficiencies which were identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses Singapore's progress in implementing new requirements relating to Financial Action Task Force (FATF) Recommendations which have changed since the end of on-site visit to Singapore in December 2015: Recommendations 2, 5, 7, 8, 18 and 21. This report does not address what progress Singapore 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 Singapore as follows for technical compliance:

Table 1. Technical compliance ratings, June 2016

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	LC	C	LC	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	LC	C	C	C	C	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	PC	PC	LC	C	PC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	C	LC	LC	PC	C	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: Singapore's Mutual Evaluation Report, September 2016, www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Singapore-2016.pdf

Given these results and Singapore's level of effectiveness, the FATF placed Singapore in enhanced follow-up¹.

¹ Enhanced follow-up is based on the FATF's traditional policy that deals with members with significant deficiencies (for technical compliance or effectiveness) in their AML/CFT systems, and involves a more intensive process of follow-up.

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

- Mr. Gonçalo Miranda, Head of Division, Banco de Portugal, Portugal, and
- Ms. Lynn Lerer, Legal Counsel, Israel Money-Laundering and Terror-Financing Prohibition Authority, Israel.

Section 3 of this report summarises Singapore'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 Singapore's progress to improve its technical compliance by:

- a) Addressing certain technical compliance deficiencies identified in the MER, and
- b) Implementing new requirements where the FATF Recommendations have changed since the on-site visit to Singapore (Recommendations 2, 5, 7, 8, 18 and 21).

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

Singapore has made progress to address the technical compliance deficiencies identified in the MER in relation to Recommendations 3, 6, 22, 23, 24, 25, and 28. As a result of this progress, Singapore has been re-rated on Recommendations 3, 23, 24 and 25. On Recommendations 6, 22 and 28, progress has been noted but does not justify re-ratings at this time.

Recommendation 3 (originally rated LC)

In its 4th round MER, Singapore was rated LC with R.3 based on a minor deficiency that the criminal sanction (SGD 1 million) available for legal persons convicted of money laundering offences was too low to be sufficiently dissuasive.

Singapore made amendments to its Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA), which came into effect on 1 April 2019. The amendment to the CDSA subjects legal persons to SGD 1 million (approx. EUR 649,100/USD 737,900) or twice the value of the property involved/benefit of drugs dealing/benefit of criminal conduct, whichever is higher, and therefore the fines now available to legal persons are sufficiently dissuasive.

Singapore has addressed the identified deficiency. **Singapore is therefore re-rated as Compliant with R.3.**

Recommendation 6 (originally rated LC)

In its 4th round MER, Singapore was rated LC with R.6, based on minor deficiencies: that not all financial institutions or Designated Non-Financial Businesses and Professions (DNFBPs) (especially those in the precious stones and metals dealers (PSMD) sector) had signed up to the Monetary Authority of Singapore (MAS) webpage which contained guidance and links to the designations, and that the indirect

obligation of reporting terrorist property provided by the Terrorism (Suppression of Financing) Act (TSOFA) did not cover the direct requirement of R.6. In addition, the TSOFA allowed for protection in the case of seizure or forfeiture, but not for freezing (the only element that was covered by R.6). It was also assumed that appropriate mechanisms for communicating terrorist financing (TF) designations were not in place for PSMDs.

The TSOFA now requires anyone in Singapore to report (suspected) terrorist property, including assets frozen or actions taken in compliance with the prohibition requirements of the relevant United Nations Security Council Resolutions (UNSCRs), to the police. It also protects the rights of *bona fide* third parties acting in good faith when implementing the obligations under R.6.

However, although the mechanism of communicating the designations exists, not all PSMDs have subscribed to the MAS website which contains relevant guidance and TF designations, or have received timely updates by mid-April 2019 (the deadline of Singapore's submission for re-ratings)².

Not all the identified deficiencies have been addressed. **Singapore therefore remains rated Largely Compliant with R.6.**

Recommendation 22 (originally rated PC)

In its 4th round MER, Singapore was rated PC with R.22, based on deficiencies with regard to the inadequate customer due diligence (CDD) requirements applicable to casinos, real estate agents, PSMDs and accountants, and the fact that the record-keeping obligations for real estate agents and accountants were not provided by law. In addition, while the Ethics Pronouncement 200 (EP-200)³ contains the necessary anti-money laundering and counter-terrorist financing (AML/CFT) requirements for accountants, these did not qualify as law or other enforceable means. Moreover, PSMDs (which were not pawnbrokers) were not subject to requirements on new technologies and reliance on third parties, as the CDSA did not have any specific requirements for these aspects.

Pursuant the legislation of Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act (PSPM (PMLTF) Act), the amendments to its Accounting Act and relevant subsidiary legislation and amendments, Singapore has addressed most of the deficiencies related to public accountants and PSMDs. Singapore has indicated that they will be taking further steps, but as of now, deficiencies related to real estate agents⁴ and casinos⁵ remain unaddressed. Given the inherently higher risk of casinos, as recognised in the country's national risk assessment (NRA) and MER, moderate shortcomings are still affecting the DNFBP sectors.

Singapore has not addressed all the identified deficiencies and moderate shortcomings still exist. **Singapore therefore remains rated Partially Compliant with R.22.**

² Singapore is in the process of registering all PSMDs by 9 October 2019. As part of the ongoing registration process, Singapore will ensure that all registered PSMDs subscribe to MAS' website.

³ Ethics standards issued by the Institute of Singapore Chartered Accountants

⁴ CDD and record keeping requirements are not in primary legislation.

⁵ CDD threshold for occasional transactions is SGD 10,000.

Recommendation 23 (originally rated PC)

In its 4th round MER, Singapore was rated PC with R.23, based on deficiencies in relation to the fact that the EP-200 did not qualify as law or other enforceable means, and that PSMDs were only required to perform internal control measures when entering into cash transactions set out in the CDSA Regulations, which did not cover specific elements as set out in criterion 18.1 (a)-(d). In addition, in relation to high-risk countries, the provisions in laws or enforceable means did not necessarily provide a wide-range of measures proportionate to risks.

Pursuant to the new PSPM (PMLTF) Act and its subsidiary regulation, which came into force on 10 April 2019, the deficiencies in relation to internal control measures of PSMDs have been addressed to a full extent.

However, some minor shortcomings remain on the possibility to promptly respond to the FATF calls on the need to adopt counter or enhanced customer due diligence measures towards high-risk jurisdictions. In addition, there is a lack of coverage of non-public accountants in the limited cases where they provide FATF-covered activities.

Singapore has addressed some of the identified deficiencies, but minor deficiencies still remain. **Singapore is therefore re-rated as Largely Compliant with R.23.**

Recommendation 24 (originally rated PC)

In its 4th round MER, Singapore was rated PC with R.24, based on the deficiencies in relation to the fact that Singapore did not assess the money laundering and terrorist financing (ML/TF) risks associated with all types of legal persons as part of its NRA exercise. In addition, there were gaps in foreign registered company information and residency requirements, as well as gaps in the length of time that relevant company information must be kept. While Singapore permitted nominee shareholders and nominee directors, Singapore law did not generally require disclosure to third parties of this status.

The amended Companies Act now requires foreign companies to keep a register of its members, including shareholder information, at its registered office in Singapore within 30 days after it is registered. It also requires nominee directors to inform their companies of the fact that they are nominee directors and to provide prescribed particulars of their nominators.

In addition, the Companies Act and the Limited Liability Partnerships Act (LLP Act) also set out requirements that companies (including foreign companies) should keep up-to-date and accurate beneficial ownership (BO) information, and that the liquidator of a company or a LLP should maintain all books and information of the company for 5 years after the dissolution of the company. In addition, with the new BO regime put in place, Singapore can now rapidly provide international cooperation in relation to BO information.

However, although Singapore published a typologies and best practices paper on legal persons, which includes a very high-level overview on the types of legal persons in Singapore, it does not fully meet the requirement of criterion 24.2⁶. In addition, there

⁶ In May 2019 Singapore issued a comprehensive restricted legal persons risk assessment. This report considers and separately assesses, in detail, the risk posed by the range of legal persons for ML and TF in Singapore including companies, limited liability partnerships, partnerships, sole proprietorships, societies etc.

is still no provision which requires the update of the information contained in the register of shareholders of foreign companies on a timely basis. Moreover, the sanctions for breaches of the requirements for reporting and updating the shareholders' registrar and beneficial ownership information are still not adequately dissuasive.

Singapore has addressed most of the identified deficiencies, but minor deficiencies still remain. **Singapore is therefore re-rated as Largely Compliant with R.24.**

Recommendation 25 (originally rated PC)

In its 4th round MER, Singapore was rated PC with R.25, based on the identified deficiency that Singapore neither required all forms of trustees of express trusts to obtain and hold information on the identity of settlors, the trustees, or any other natural persons exercising ultimate effective control over those trusts, nor required all trustees to keep accurate and up-to-date information in relation to trusts. Professional trustees (who are accountants) were not required to disclose the fact that it was acting as a trustee. In addition, trustees were required to perform their functions as trustees with a duty of care, but the Trustees Act did not provide specific penalties for failing to meet this obligation. Moreover, there was no civil or administrative penalty in place for failing to grant to competent authorities timely access to information held regarding trusts.

The new Trustees Act and the Trustees Regulations now require a trustee of an express trust to obtain and hold adequate, accurate and current information on the identity of any related party to a trustee. This information is required to be kept accurately and updated on a timely basis. Specified trustees (including accountants) are required to disclose their status to financial institutions and DNFBPs when entering a business relationship or conducting a transaction in their capacity as a trustee.

In addition, trustees are legally liable to a criminal offence if they do not comply with the obligations to obtain, keep and update information and are liable for fines if convicted. Financial institutions, including licenced trust companies, are liable to an offence for failing to provide information to the MAS. Failure to comply with law enforcement agencies (LEAs)' information production order is a criminal offence under the Criminal Procedure Code.

All the identified deficiencies have been addressed, **Singapore is therefore re-rated as Compliant with R.25.**

Recommendation 28 (originally rated PC)

In its 4th round MER, Singapore was rated PC with R.28, based on the deficiency that for PSMDs (which are not pawnbrokers), there was no designated competent authority or self-regulatory body (SRB) responsible for monitoring and ensuring compliance with AML/CFT requirements. In addition, given that the AML/CFT measures for the DNFBP sector had put in place recently, it was unclear and premature to conclude: (i) whether sanctions applied to individual non-compliant DNFBP sectors were proportionate and dissuasive enough, and (ii) whether the supervision was on a risk-sensitive basis. Moreover, the lack of regulation and supervision over PSMDs without pawnbroker's license posed a threat to the overall AML/CFT systems, especially taking account of the potential magnitude of the sector.

Since the on-site visit to Singapore for its 4th round MER, monitoring systems have been formally implemented with regard to public accountants and PSMDs, including a set of dissuasive sanctions in the case of the latter market operators.

However, the persistence of an uneven level of sanctions and the fact that the risk-based supervision in the PSMD sector has yet to commence (as at April 2019) should be considered as moderate shortcomings, with particular concern of the fact that PSMDs are recognised as an inherently higher risk subsector in the 2014 NRA.

Singapore has not addressed all the deficiencies and moderate shortcomings still exist. **Singapore therefore remains rated as Partially Compliant with R.28.**

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

Since the on-site visit to Singapore for its 4th round MER, the FATF has amended Recommendations 2, 5, 7, 8, 18 and 21. This section considers Singapore's compliance with the new requirements, and its progress to address the technical compliance deficiencies identified in the MER in relation to these Recommendations.

Recommendation 2 (originally rated C)

In October 2018, R.2 was 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 further requires a domestic mechanism for exchange of information. In its 4th round MER, Singapore was rated C with R.2.

The revised criterion 2.3 is met. The Inter-agency Committee (IAC)⁷ comprises all relevant authorities and has the ability to exchange information within this forum and to present policy recommendations to the AML/CFT Steering Committee⁸. In addition, the Risk and Typologies Inter-agency Group supports, through active engagement, the identification and management of ML/TF risks through interaction between LEAs and supervisory agencies.

The new criterion 2.5 is also met. In February 2018, the terms of reference of Singapore's AML/CFT Steering Committee were updated. The updated terms of reference enshrine a sufficient basis for a formal co-operation and co-ordination mechanism to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules.

The revised and new criteria have both been met. **Singapore therefore remains rated Compliant with R.2.**

⁷ The IAC is a forum for Singapore's agencies to share and exchange information such as emerging ML/TF and financing of proliferation threats and trends, FATF typologies, best practice and other developments.

⁸ Singapore's AML/CFT Steering Committee coordinates Singapore's national AML/CFT policies and activities.

Recommendation 5 (originally rated LC)

In February 2016, a new obligation was added to R.5, requiring countries to criminalise the financing of foreign terrorist fighters.

In its 4th round MER, Singapore was rated LC with R.5. The deficiency was that the criminal sanctions available for legal persons convicted of the TF offence and persons convicted of TF ancillary offences were too low to be sufficiently dissuasive.

The new criterion 5.2^{bis} is met. The TF offence under the TSOFA meets the requirement of criterion 5.2^{bis} and includes the 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 financing.

The penalties for the ancillary offences of the attempted TF offence are now sufficiently proportionate and dissuasive. However, the criminal sanction for legal persons is still too low to be dissuasive.

The new criterion is met, but one minor deficiency remains. **Singapore therefore remains rated Largely Compliant with R.5.**

Recommendation 7 (originally rated LC)

In November 2017, R.7 was amended to reflect changes to the UNSCRs on proliferation financing since the FATF standards were issued in February 2012.

In its 4th round MER, Singapore was rated LC with R.7. The deficiency was in relation to no provision in accordance with the exemptions under the UNSCRs and the implementation was left to discretion of the authorities.

Singapore has implemented UNSCRs relating to Democratic People's Republic of Korea (DPRK). With regard to Iran, the Monetary Authority of Singapore (Sanctions and Freezing of Assets of Persons – Iran) Regulations 2016 implement UNSCR 2231, which endorses the JCPOA⁹ and terminates all provisions of UNSCRs relating to Iran and proliferation financing. The United Nations (Sanctions – Iran) Regulations 2014, which relate to any other person or entity including DNFBPs, do not explicitly reference UNSCR 2231(2015) but provide a wide definition to the "UN Lists" (which includes "any list as updated from time to time by the Security Council of the United Nations or the Committee"). It would be beneficial to Singapore to expressly stipulate any relevant applicable UNSCRs within the Regulations, instead of specifying a broad definition which includes any other future lists and which may pose concerns as to the possible interpretation with regard to the application¹⁰.

In addition, the deficiency in its 4th round MER has not been addressed, as the exemption provisions of the MAS Act and UN Iran/DPRK Regulations have not been changed since its 4th round MER.

On this basis, Singapore remains rated Largely Compliant with R.7.

9 Joint Comprehensive Plan of Action.

10 Singapore has enacted the United Nations (Sanctions – Iran) Regulations 2019 on 5 August 2019, which makes explicit reference to UNSCR 2231. However, this is out of time for the purpose of the technical compliance assessment.

Recommendation 8 (originally rated LC)

In June 2016, R.8 and its Interpretive Note were substantially revised, and the assessment of R.8 in the MER therefore needs to be reviewed.

In its 4th round MER, Singapore was rated LC with R.8, based on shortcomings in relation to the fact that there were a variety of government institutions involved in the supervision of non-profit organisations (NPOs) and none of the provisions on monitoring were related to terrorist financing.

Singapore has identified the subset of organisations that fall within the FATF definition of NPOs and has identified the nature of TF threats posed to NPOs. In addition, Singapore has taken steps to promote effective supervision and monitoring, which enable them to apply risk based measures to this subset of NPOs. Moreover, Singapore has a range of sanctions available for violations by NPOs.

However, there is still no policy, procedure, or written process in place to ensure *effective* co-operation or information sharing among all levels of authorities holding relevant information on NPOs as required by revised R.8. No written guideline or best practice aimed at encouraging NPOs to conduct transactions via regulated financial channels wherever feasible was provided as of the deadline to prepare this report¹¹.

On this basis, Singapore remains rated Largely Compliant with R.8.

Recommendation 18 (originally rated C)

In February 2018, R.18 was amended to reflect the November 2017 amendments to the FATF Standards (INR.18), which clarified the requirements on sharing of information and analyses related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions. In its 4th round MER, Singapore was rated C with R.18.

The MAS Notice 626, among other instruments with identical provisions, allows group-wide sharing of customer, account, and transaction information, when necessary for ML/TF risk management. In addition, the Guidelines for Notice 626 further stated that this includes the disclosure of the fact that a suspicious transaction report (STR) has been submitted. Moreover, Singapore has provided practical examples on the sharing of analysis made on transactions or activities appearing to be unusual.

On this basis, Singapore remains rated as Compliant with R.18.

Recommendation 21 (originally rated C)

In February 2018, R.21 was amended to clarify that anti-tipping-off provisions are not intended to inhibit information sharing under R.18. In its 4th round MER, Singapore was rated C on R.21.

The MAS Notice 626, among other instruments with identical provisions, establishes a generic obligation to take into account the CDSA and TSOFA provisions (including on tipping-off) and puts in place internal policies, procedures and controls to that effect, including at group level through paragraphs 15.4 and 15.6. The latter provisions, with the interpretation provided by Guidelines for Notice 626, ensure that

11 Although Singapore provided a guidance on protecting charities against ML/TF and a paper/guidance on red flag indicators for TF in charities on 2 September 2019, it goes beyond the reasonable timeframe to assess them for this report.

anti-tipping-off provisions do not inhibit at least group-wide disclosure of the fact that an STR has been submitted.

The revised criterion has been met, **Singapore therefore remains rated as Compliant with R.21.**

3.3. Brief overview on other Recommendations rated PC/NC

Singapore reported progress on Recommendation 35, but the information provided has not been assessed by the experts. On Recommendation 35, penalties provided by the TSOFA for entities committing terrorism financing offences have been increased. The Charities Act has also been amended to increase the penalties for violations of the Act. In addition, penalties under the CDSA have also been increased.

4. Conclusion

Singapore has made progress to address the technical compliance deficiencies identified in the MER and has been upgraded on four Recommendations. Overall, only three Recommendations remain PC.

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	C	C	C	LC	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	LC	C	C	C	C	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	LC	LC	C	LC	C	PC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	C	LC	LC	PC	C	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).

Singapore will remain in enhanced follow-up on the basis that it has three Recommendations remaining rated PC for technical compliance, and seven Immediate Outcomes remaining rated ME/LE (out of which one Immediate Outcome is rated LE) for effectiveness. In accordance with the FATF Procedures, Singapore will continue to report back to the FATF on progress to strengthen its implementation of AML/CFT measures.

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November 2019

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

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

As a result of Singapore'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 4 of the 40 Recommendations.

The report also looks at whether Singapore's measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2016.

FOLLOW-UP
REPORT

