



4th Follow-Up Report

Mutual Evaluation of Bangladesh

November 2020



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BANGLADESH: 4TH ENHANCED FOLLOW-UP REPORT 2020

I. INTRODUCTION

1. The mutual evaluation report (MER) of Bangladesh was adopted in September 2016. This 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 demonstrated. This report analyses progress made in implementing new requirements relating to FATF Recommendation 15.

2. This report does not analyse any progress Bangladesh has made to improve its effectiveness. Progress on improving effectiveness will be analysed as part of a later follow-up assessment and, if found to be sufficient, may result in re-ratings of Immediate Outcomes at that time.

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*
- *Syahril Ramadhan, Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), Indonesia*

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

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

5. Bangladesh's original MER ratings and updated ratings based on earlier FURs are as follows¹:

R.	Rating	R.	Rating
1	PC (2016 MER)	21	C (2016 MER)
2	LC (2016 MER)	22	LC (2016 MER)
3	LC (2016 MER)	23	LC (2016 MER)
4	LC (2016 MER)	24	PC (2016 MER)
5	LC (2016 MER)	25	PC (2016 MER)
6	C (2016 MER)	26	PC (2016 MER) ↑ LC (FUR 2019)
7	LC (2016 MER)	27	LC (2016 MER)
8	LC (2016 MER)	28	PC (2016 MER) ↑ LC (FUR 2020)
9	PC (2016 MER) ↑ LC (FUR 2019)	29	LC (2016 MER)
10	LC (2016 MER)	30	C (2016 MER)
11	C (2016 MER)	31	LC (2016 MER)
12	LC (2016 MER)	32	LC (2016 MER)

¹ Original MER ratings which have changed since the MER are in brackets on the left and current ratings are on the right of the cell.

13	LC (2016 MER)	33	PC (2016 MER) ↑ C (FUR 2020)
14	LC (2016 MER)	34	PC (2016 MER) ↑ LC (FUR 2019)
15	C (2016 MER)	35	PC (2016 MER)
16	PC (2016 MER) ↑ C (FUR 2019)	36	LC (2016 MER)
17	LC (2016 MER)	37	LC (2016 MER)
18	PC (2016 MER) ↑ C (FUR 2019)	38	LC (2016 MER)
19	PC (2016 MER) ↑ LC (FUR 2018)	39	LC (2016 MER)
20	C (2016 MER)	40	LC (2016 MER)

6. Given these results, Bangladesh was placed on enhanced follow-up.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7. In keeping with the APG Mutual Evaluation Procedures, this FUR considers progress made up until 1 June 2020. In line with the FATF Methodology, the review team analysis has considered the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional or operational framework is unchanged since the MER or previous FUR.

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

8. Bangladesh requested re-ratings of Recommendations 28 and 33 (which were rated PC). The APG welcomes the steps that Bangladesh has taken to improve its technical compliance with R.28 and R.33. As a result of this progress, Bangladesh has been re-rated on Recommendations 28 and 33.

Recommendation 28 (Originally rated PC)

9. The 2016 MER rated Bangladesh PC on R.28. The MER identified that there were limited steps to subject DNFBPs to systems for monitoring compliance with AML/CFT obligations and insufficient fit and proper requirements on DNFBPs with existing fit and proper checks not considering any adverse findings by a supervisory or regulatory authority. In addition, the frequency and intensity of AML/CFT supervision of DNFBPs did not yet reflect the ML/TF risk profile, although BFIU had begun considering the ML/TF risk profile of DNFBPs.

10. The 2016 MER rated criterion 28.1 as N/A and criterion 28.2 as met.

11. *Criterion 28.3 is met.* Bangladesh's 2018 risk-based supervision manual outlines the frequency of onsite inspections of DNFBPs based on risk level. DNFBPs considered high risk are placed on an annual onsite inspection cycle, medium risk DNFBPs are supervised onsite every 3 years, and low risk once every 5 years. 'Surprise inspections' are also undertaken as required. Surprise inspections may be triggered by regulatory observations, complaints, STRs, Media Reports etc. No surprise inspection has yet been conducted for DNFBPs due to the absence of any triggers in this sector at this time.

12. The DNFBPs risk-based supervision manual appears to suggest that Bangladesh combine off-site supervision with preliminary activities for onsite supervision. Bangladesh has not advised of any remedial action or sanctions to reporting parties as a result of off-site supervision, without conducting an onsite visit. In accordance with the risk-based supervision manual, the number of DNFBPs to undergo on-site and off-site supervision each year depends on the market and ML/TF-risk related information collected and the risk rating index prepared with this market information. Section 4.4.2 of

Bangladesh's supervisory manual lists the factors to be taken into consideration when assigning risk levels to DNFBPs.

13. *Criterion 28.4 is mostly met.* Money Laundering Prevention Rule 32 provides that reporting organisations (ROs) are to implement mechanisms to ensure that no criminals or their associates can become the owners, directors, managers or beneficial owners of an RO or an entity controlled by the RO. In order to do this, ROs are to obtain data/information/assistance from BFIU, other regulatory authorities or law enforcement agencies.

14. Self-Regulating Bodies (SRBs) are required to provide full assistance to BFIU and to conduct ML/TF risk assessments, with the help of BFIU, on individual ROs or their products and services from time to time. SRBs are also to inform BFIU, if notified of any non-compliance or any suspicious transactions/activities in order to prevent ML/TF (Money Laundering Prevention Rules (MLPR) Rule 33).

15. In support of the MLP rules, Bangladesh has provided the registration and licensing process SOP for real estate, DPMS, accountants and lawyers. These processes require that criminal records for all directors and identified beneficial owners be obtained from Bangladesh police, and that dependable and authentic documents are acquired from the relevant authorities.

16. Registration/licensing processes for DPMS, lawyers and accountants require any adverse open source news to be considered. However, the fit and proper requirements in the MLPR 2019 and in the registration/licensing process SOP still do not explicitly extend to considering any adverse findings by a supervisory or regulatory authority.

17. *Criterion 28.5 is met.* Bangladesh's DNFBP NRA and Risk Supervision Manual outlines how often DNFBPs are to be subjected to supervision based on their risk profile. As noted in 28.3 (above), the number of institutions to undergo on-site and off-site supervision depends on the market information collected and risk rating index prepared with market information collected by a checklist prepared in line with 4.4.2 of the Risk-Based Supervision Manual.

18. *Weighting and conclusion:* Bangladesh has implemented the 2018 risk-based supervision manual and conducted onsite or offsite monitoring on DNFBPs, depending on their risk rating. The MLPR 2019, and the registration/licensing procedures for SRB include requirements that criminal records be obtained from Bangladesh Police for all Directors and identified beneficial owners. There is still no explicit requirement to consider adverse findings by a supervisory or regulatory body. **Recommendation 28 is re-rated to largely compliant.**

Recommendation 33 (Originally rated PC)

19. In the 2016 MER, Bangladesh was rated PC for R.33. The MER identified gaps in statistics relating to the conduct of investigations, including use and results of powers of investigation, gaps in the amounts of seizures/confiscations, and the number of cases in which seizures and confiscation occurred and statistics are not well maintained for informal cooperation.

20. *Criterion 33.1 is met.* Bangladesh has provided statistics on investigations conducted by each LEA, number of cases on each type of ML, number of terrorist financing investigations and BSEC investigations.

21. Bangladesh has also provided:

- Statistics on ML cases relating to high risk predicate offences in Bangladesh,
- Data on investigations, prosecution, convictions on different types of predicate offences in

Bangladesh,

- Statistics on each type of ML including stand-alone ML, and break down on investigations, prosecution, and convictions and penalties applied for ML convictions; and
- Data on prosecutions and convictions on terrorist offences.

22. In addition, Bangladesh has provided statistics for confiscation in unexplained wealth matters and details on predicate offences involved in cases where seizing/freezing and confiscation were pursued, which were both gaps identified in the 2016 MER. Bangladesh has provided statistics on informal cooperation and creation and regulation of legal persons and arrangements and for the registration of NPOs.

23. *Weighting and conclusion:* Bangladesh has provided comprehensive statistics relating to the conduct of investigations and on prosecutions and convictions on ML, related predicate offences and TF. Bangladesh has also provided figures for confiscations, seizures and actions taken in relation to unexplained wealth. Bangladesh has provided well-maintained statistics for informal cooperation for the period 2016 to 2019. **Recommendation 33 is re-rated to compliant.**

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

Recommendation 15 (Originally rated C)

24. Since the adoption of Bangladesh's MER, Recommendation 15 and the associated assessment methodology under R. 15 have been amended to include requirements related to virtual assets (VA) and virtual asset service providers (VASPs).

New technologies

25. **Criteria 15.1 and 15.2 are met** as per the findings of the 2016 MER. There has been no change in this area since the MER, and available material supports the criteria rating of met.

Virtual assets and virtual asset service providers

26. Bangladesh has not demonstrated any explicit statutory prohibition to outlaw VA, including trading virtual currencies, in Bangladesh. The position taken by Bangladesh is that because virtual currencies are not approved through the Foreign Exchange Regulation Act (FERA) 1947 they are automatically made illegal. Although the intent is for VA to be illegal within Bangladesh, reliance on the FERA 1947 and, in turn, the application of the Money Laundering Prevention Act (MLPA) 2012 as they are currently drafted does not clearly make VA and VASPs illegal. Bangladesh indicates that the definition of "any currency" should include only fiat currency and there is no scope to deal with virtual currency. There is also no effort by Bangladesh to address the broader scope of 'virtual assets'. The warning notice provided to the public is not enough to support the position that virtual currencies are illegal.

27. Although Bangladesh has decided to prohibit VAs and VASP activities, sub-criteria 15.3 (a) and (b), C.15.5 and C.15.11 are still applicable as per footnote 44 of the FATF assessment methodology.

28. **Criterion 15.3 is partly met.**

29. *15.3(a)* Bangladesh has not demonstrated that it has identified and assessed the ML and TF risks emerging from VA activities and the activities or operations of VASPs. Bangladesh has undertaken a strategic analysis on the issue of VAs and VASPs, but this analysis has not been provided to the review team. Bangladesh has provided a summary reflecting the risk analysis, which indicates engagement on cryptocurrency and potential discussion of risk, although it is very high level. The

document includes recommended actions to be undertaken to mitigate risks associated with cryptocurrencies. However, the scope appears limited and does not address ML/TF risks specifically, or the broader issues around VA.

30. *15.3(b)* Measures to prevent or mitigate ML/TF risks from VA have been limited to risks of trading in virtual currencies, but not other forms of VA. As recommended in the *Analysis Summary: Cryptocurrency* document, the Bangladesh Bank has published four public warnings in the form of “Cautionary Advisories” which provide a warning to refrain from trading in unauthorised online virtual currencies. The cautionary advisories do not appear to constitute a directly enforceable prohibition. The position taken in the Cautionary Advisories is that because the transaction and the currency is not approved by the Bangladesh Bank or any other regulatory body, it is not supported by the FERA 1947; the Anti-Terrorism Act 2009 and the MLPA 2012.

31. The summary document provided by Bangladesh, *Analysis Summary: Cryptocurrency*, found that the freelancer foreign currency retention quota was the major source of foreign currency for crypto transactions. As a result the freelancer foreign currency retention quota has been reduced by Bangladesh Bank from 90% to 70%. Bangladesh reported that financial institutions should continuously monitor for possible transactions related to VAs or VASPs. The Bangladesh Financial Intelligence Unit (BFIU) has enhanced its capacity for social media monitoring. Also as recommended, the Bangladesh Police Criminal Investigation Department (CID) has undertaken visible action against VA activities, with the arrest of several persons who are website owners/persons facilitating foreign currency. Investigations are still underway and sanctions have not yet been imposed.

32. *15.3(c)* is not applicable. As per footnote 44 of the assessment methodology, as Bangladesh has decided to prohibit virtual assets there is no need to assess sub-criterion 15.3 (c).

33. **Criterion 15.4** is *not applicable*. As per footnote 44 of the assessment methodology, as Bangladesh has decided to prohibit virtual assets there is no need to assess this criterion.

34. **Criterion 15.5** is *mostly met*. Although Bangladesh has decided to prohibit VA and VASP activities, criterion 15.5 still applies as per footnote 44 of the FATF assessment methodology. Bangladesh has indicated that a strategic analysis on the issue of VAs and VASPs reveals no physical exchanges in Bangladesh and only a few third-party websites advertising services to Bangladesh citizens. It is understood that the strategic analysis report has been shared with law enforcement agencies (LEAs) including the Bangladesh Police CID. There have been arrests of website owners and/or people facilitating the exchanges, and charges have been laid under the FERA 1947. The matters are still under investigation and no sanctions have yet been applied following the arrests. Given the current scope of the FERA 1947 the charge will link to virtual currencies as a non-approved currency, but may not address the risk of ML/TF.

35. **Criteria 15.6 – 15.10** are *not applicable*. As per footnote 44 of the methodology, as Bangladesh has decided to prohibit virtual assets there is no need to assess these criteria.

36. **Criterion 15.11** is *mostly met*. Although Bangladesh has decided to prohibit VA and VASP activities, criterion 15.11 is still applicable as per footnote 44 of the FATF Methodology. The systems Bangladesh has in place for international cooperation more broadly would remain applicable in relation to ML, predicate offences or TF related to VA or VASPs.

37. Bangladesh is able to provide and obtain assistance in criminal and related matters, including regulating payment systems and currency management. The FIU and LEAs are able to share information with foreign counterparts in relation to ML, predicate offences or TF that may involve VA or VASPs. Supervisory authorities for FI and DNFBPs and regulators for companies and non-profit organisations are able to share information to prevent or detect ML, predicate offences or TF that may

involve VA or VASPs. VASPs are prohibited, and as such there is no explicit basis for information exchange with foreign counterpart VASP supervisors as required by this criterion.

38. Bangladesh has neither received nor sought international cooperation in relation to VAs or VASPs. While there are no specific mechanisms to provide cooperation in relation to VAs, the BFIU is the agency responsible for coordinating the rapid provision of international cooperation on AML/CFT matters including VA and unregistered VASPs.

Weighting and Conclusion

39. Bangladesh has taken steps to identify and assess risks of virtual/cryptocurrencies, but it is not clear that this has been extended to an assessment of the ML/TF risks that VAs and VASPs pose. While steps have been taken to prohibit VASPs and warn the public and FI/DNFBPs against dealing with VA/VASPs, it is not clear if the current use of the FERA 1947 and the Warning Notice is enough to make crypto-currencies illegal. Bangladesh has taken some action to identify natural or legal persons that carry out VASP activities without the requisite license or registration, but has not yet applied appropriate sanctions to them. The main deficiency is a lack of analysis directly relating to ML/TF risks of VA and VASPs. On this basis, **Recommendation 15 is re-rated to Partially Compliant.**

IV. CONCLUSION

40. Bangladesh has been re-rated to largely compliant on Recommendation 28 and compliant on Recommendation 33. The new obligations related to VA and VASPs under R.15 has reduced the level of compliance with R.15 to partially compliant.

41. Overall, in light of the progress made since the MER was adopted, Bangladesh's technical compliance with the FATF Recommendations is as follows as of the reporting date (1 June 2020):

R.	Rating	R.	Rating
1	PC (2016 MER)	21	C (2016 MER)
2	LC (2016 MER)	22	LC (2016 MER)
3	LC (2016 MER)	23	LC (2016 MER)
4	LC (2016 MER)	24	PC (2016 MER)
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12	LC (2016 MER)	32	LC (2016 MER)
13	LC (2016 MER)	33	PC (2016 MER) ↑ C (FUR 2020)
14	LC (2016 MER)	34	PC (2016 MER) ↑ LC (FUR 2019)
15	C (2016 MER) ↓ PC (FUR 2020)	35	PC (2016 MER)
16	PC (2016 MER) ↑ C (FUR 2019)	36	LC (2016 MER)

17	LC (2016 MER)
18	PC (2016 MER) \uparrow C (FUR 2019)
19	PC (2016 MER) \uparrow LC (FUR 2018)
20	C (2016 MER)

37	LC (2016 MER)
38	LC (2016 MER)
39	LC (2016 MER)
40	LC (2016 MER)

42. Bangladesh has 35 Recommendations rated C/LC. Bangladesh will remain in enhanced follow-up, and will continue to report back to the APG on progress to strengthen its implementation of AML/CFT measures.