



4th Follow-Up Report

Mutual Evaluation of Mongolia

July 2021





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MONGOLIA: 4th ENHANCED FOLLOW-UP REPORT 2021

I. INTRODUCTION

1. The mutual evaluation report (MER) of Mongolia was adopted in September 2017. This FUR analyses the progress of Mongolia in addressing the technical compliance deficiencies identified in its MER. Technical compliance re-ratings are given where sufficient progress has been demonstrated. This report does not analyse any progress Mongolia has made to improve its effectiveness.

2. The assessment of Mongolia's request for technical compliance re-ratings and the preparation of this report was undertaken by the following expert and supported by Secretariat members:

- *Ms. Nirmala Devi Ramadass (Manager, DNFBP Supervision), Bank Negara Malaysia*
- *Mr. Shannon Rutherford and Mr. Gimo Laxamana, APG Secretariat*

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

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

4. Mongolia's MER ratings¹ and updated ratings based on earlier FURs are as follows:

R.	Rating	R.	Rating
1	PC (MER 2017)	21	PC (MER 2017) ↑ C (FUR 2019)
2	PC (MER 2017) ↑ LC (FUR 2019)	22	NC (MER 2017) ↑ LC (FUR 2019)
3	LC (MER 2017)	23	NC (MER 2017) ↑ LC (FUR 2019)
4	LC (MER 2017)	24	PC (MER 2017) ↑ LC (FUR 2019)
5	LC (MER 2017)	25	PC (MER 2017) ↑ LC (FUR 2019)
6	PC (MER 2017) ↑ LC (FUR 2019)	26	PC (MER 2017) ↑ LC (FUR 2019)
7	NC (MER 2017) ↑ LC (FUR 2019)	27	LC (MER 2017)
8	PC (MER 2017)	28	NC (MER 2017), ↑ PC (FUR 2019) ↑ LC (FUR 2019)
9	LC (MER 2017)	29	PC (MER 2017) ↑ C (FUR 2019)
10	LC (MER 2017)	30	C (MER 2017)
11	C (MER 2017)	31	C (MER 2017)
12	LC (MER 2017)	32	PC (MER 2017) ↑ LC (FUR 2019)
13	LC (MER 2017)	33	PC (MER 2017) ↑ LC (FUR 2019)
14	PC (MER 2017) ↑ C (FUR 2020)	34	PC (MER 2017) ↑ LC (FUR 2019)
15	LC (MER 2017) ↓ PC (FUR 2020)	35	PC (MER 2017) ↑ LC (FUR 2020)

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

16	LC (MER 2017)
17	NC (MER 2017) ↑ LC (FUR 2019)
18	LC (MER 2017)
19	PC (MER 2017) ↑ LC (FUR 2019)
20	LC (MER 2017)

36	C (MER 2017)
37	C (MER 2017)
38	LC (MER 2017)
39	LC (MER 2017)
40	LC (MER 2017)

5. Given these results and the effectiveness ratings, Mongolia was placed on enhanced follow-up².

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. In keeping with the APG ME Procedures, this FUR considers progress made up until 1 February 2021. This section summarises the progress made by Mongolia to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER. There are no new requirements still to be assessed that have changed since the last FUR was adopted.

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

7. Mongolia requested re-ratings of the following Recommendations: 1, 8, and 15 (each were rated PC).

8. The APG welcomes the steps that Mongolia has taken to improve its technical compliance. As a result of this progress, Mongolia has been re-rated to largely compliant on Recommendations 1. However insufficient progress has been made to justify a re-rating of Recommendations 8 and 15.

Recommendation 1 (Originally rated PC)

9. Mongolia was rated PC in the MER for R.1. The deficiencies identified were: (i) TF risks assessment has limited consideration on the TF risks faced by NPOs, (ii) risk assessment for legal persons do not assess the risks associated with the type of legal persons themselves, (iii) risk assessment had not been conducted on sectors such as real estate, accountants, insurance, dealers in precious metals (DPMS), securities, remittance, legal persons and the NPO sector, (iv) limited outreach on risk had been undertaken for accountants, lawyers and notaries, (v) limited allocation of resources based on risk, and (vi) application of simplified due diligence is not risk-based.

10. Criterion 1.1 is *mostly met* – Since its MER, Mongolia has taken an active approach to identifying and assessing its ML/TF risks and rectifying MER deficiencies. Noting the key deficiency highlighted in the MER regarding assessment of TF threats and vulnerabilities, in Mongolia completed a TF and PF national-level assessment in 2018 and a NPO assessment in 2020. Mongolia has also undertaken 11 assessments³ covering most if not all higher-risk sectors. While these assessments are of differing levels of comprehensiveness, the review team has placed weight on the totality of their scope and that they reasonably allow Mongolia to continue to implement a risk-based approach to combating ML/TF.

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

³ Mongolia has completed the following sub-national assessments: (i) banking risk assessment (first discussed in the 2019 FUR), (ii) real estate 2018 risk assessment (first discussed in the 2019 FUR), (iii) Non-bank FI (FRC) 2018 risk assessment (first discussed in the 2019 FUR) covering security companies, insurance, non-bank FIs, and savings and loan cooperatives, (iv) non-bank FI (FRC) 2019 risk assessment (first discussed in the 2020 FUR) covering non-bank FI and their different services, insurance companies and professional and their different services, professional institutions in the securities market, savings and loan cooperatives, real estate broker and mediators, (v) legal persons 2019 risk assessment (first discussed in the 2020 FUR), (vi) dealers in precious metals and stones (DPMS) risk assessment (first discussed in the 2020 FUR), (vii) accountants 2018 risk assessment (first discussed in the 2020 FUR), (viii) notaries 2019 risk assessment (first discussed in the 2019 FUR), (ix) legal professional 2019 risk assessment (first discussed in the 2020 FUR), (x) NPO 2020 risk assessment – see c.8.1 below, (xi) VAS 2020 - See c.15.3.

11. While not given weight, Mongolia's second NRA is near completion.
12. Criterion 1.2 is *met*. Mongolia's National Coordination Council (NCC), established under article 22 of the AML/CFT Law, is the designated to assess ML/TF risks.
13. Criterion 1.3 is *met*. The NCC is required to keep risk assessments up to date with Mongolia completing 11 assessments since its first NRA in 2016 and TF risk assessment in 2018. In addition, Mongolia's second NRA is near completion.
14. Criterion 1.4 is *met*. All of Mongolia's risk assessments (see above) are publically available online mainly via the FIU's and FRC's websites, and www.amlcft.mn. The assessments have also been provided to all relevant competent authorities, FIs and DNFBPs.
15. Criterion 1.5 is *met*. Mongolia is applying a risk-based approach to allocating resources and implementing measures against ML/TF through its National AML/CFT Strategy, NCC and key AML/CFT agency level activities.
16. Criterion 1.6 is *N/A*. Mongolia has not applied exemptions under c.1.6.
17. Criterion 1.7 is *met*. Chapter 2 of the Preventive Measures Regulation (PMR) addresses this criterion requiring the results of NRA to be considered in the RE risk assessment.
18. Criterion 1.8 is *met*. REs may apply simplified CDD under Article 5.5 of the AML/CFT law with provision within the PMR clarifying that simplified CDD can only be applied when low risks are identified consistent with the Mongolian Government's own ML/TF risk assessments.
19. Criterion 1.9 is *mostly met*. AML/CFT supervisors are ensuring FIs and DNFBPs are implementing their obligations under R.1, and R.26 and R.28 are both rated largely compliant.
20. Criterion 1.10 is *met*. The PMR set outs detailed requirements in accordance with c.1.10(a) to c.1.10(d) for FI and DNFBPs to identify, assess and understand their ML/TF risks.
21. Criterion 1.11 is *met*. Article 14 of the AML/CFT law provides the legal basis for FIs and DNFBPs to mitigate their risks with internal monitoring and risk management programmes required to the adopted by the Board of Directors or equivalent management body. The PMR includes detailed requirements on FI and DNFBPs covering all elements of c.11(a) to c.11(c). BOM has published a AML/CFT Risk Based Management Guidance Note, which sets out BOM's expectation around ML/TF risk management. However the review team does not consider this guidance note as enforceable means in accordance with the FATF methodology.
22. Criterion 1.12 is *mostly met*. Mongolia only allows simplified measures if lower risk has been identified and there is no suspicion of ML/TF. As outlined above, c.1.9 is mostly met.

Weighting and conclusion

23. Since its MER Mongolia has taken an active approach to implementing a risk-based approach to combating ML and TF. The key c.1.1 deficiency in the MER related to TF risk assessment is rectified by a national-level TF assessment, and Mongolia has also undertaken 11 other assessments covering most if not all higher-risk sectors. While these assessments are of differing levels of comprehensiveness, the review team has placed weight on the totality of their scope and that they reasonably allow Mongolia to continue to implement a risk-based approach to combating ML/TF. There are minor shortcomings at c.1.9 and 1.12. ***Recommendation 1 is re-rated to Largely Compliant.***

Recommendation 8 (Originally rated PC)

24. Mongolia was rated PC with R.8 in its MER. The deficiencies identified were: (i) the NRA did not adequately assess the threats and risks associated with NPOs, (ii) Mongolia had not (a)

encouraged or undertaken outreach to raise awareness among at-risk NPO, (b) worked with at-risk NPOs to develop best practice, and (c) encouraged NPOs to conduct transactions via regulated financial channels, (iii) the level of monitoring and supervision of NPOs was unclear, (iv) sanctions under the NPO Law were not proportionate and dissuasive, and (v) there was limited expertise and capability of the General Intelligence Agency (GIA) to examine NPOs suspected of TF abuse; and no evidence was provided of previous TF investigation relating to NPOs.

25. Criterion 8.1 is *mostly met*. Mongolia completed a second NPO risk assessment (RA) in 2020. The assessment identifies NPOs that meet the FATF definition, TF threats, and at-risk NPOs as well as including a review of the adequacy of measures. While the lack of a legal requirement for funding sources of NPOs to be verified impacts RA data validity, this gap is mostly overcome by a reasonable RA process and methodology informed by World Bank's guideline and recommendations. Overall, the process, methodology, information sources, NPO stakeholder involvement, and conclusions of the risk assessment are reasonable.

26. Criterion 8.2 is *mostly met*. Sustained sector outreach including on TF related issues continues through the implementation of the 2020 Action Plan on Risk Assessment and Outreach Activities for the NPO Sector, and the 2021 Action Plan on Outreach to the NPO sector including encouragement to use formal financial channels. However it is unclear the extent to which this outreach focused on higher-risk entities (as identified in the recent NRA) and supported development and refinement of formal best practice. Mongolia has policies to promote accountability, integrity, and public confidence in NPOs which are unchanged from the MER.

27. Criterion 8.3 and 8.4 are *partly met*. Some measures to promote accountability, integrity and public confidence, monitoring of these measures and relevant sanctions may mitigate some TF risks. However Mongolia did not demonstrate these measures are being used to mitigate identified TF risks. They are not being applied in a targeted manner for higher-risk NPOs. Mongolia has not implemented targeted risk-based measures, including any targeted monitoring, for identified higher-risk entities. Legislative measures and sanctions in response to the NPO risk assessment (these included requirements around identifying source of funding) were delayed due to COVID-19 and will be introduced to parliament in early 2022.

28. Criterion 8.5 is *mostly met*. GIA is the lead agency for TF matters related to NPOs and is Chair of the National Counter-Terrorism Council (NCTC; a 22 member council for the exchange information and cooperation on terrorism and TF related matters). The GIA has the powers and functions for full access to administration and management information on NPOs (including financial and programmatic information) during the course of an investigation (Article 11.1 and 12.1 of the Law on Intelligence Agency, and Article 6.1 of the Criminal Procedure Code). The NCTC in combination with GIA's powers and functions provide appropriate mechanisms to allow for the promote sharing of information for preventive and investigative actions in situations (1) to (3) outlined in this criterion. The GIA is enhancing its capability to conduct TF investigation of NPO through technical assistance and training.

29. Criterion 8.6 is *mostly met*. GIA is the National Focal Point for all TF related matters including those associated with NPOs. However, GIA does not have any specific procedures in place to respond to international requests for information about specific higher-risk NPOs.

Weighting and conclusion

30. The review team has placed significant weight on the lack of targeted TF risk-based measures, their monitoring and sanctions for higher-risk NPOs identified in Mongolia's 2020 NPO risk assessment. ***Recommendation 8 remains Partially Compliant.***

Recommendation 15 (Originally rated PC)

31. In its 2017 MER, Mongolia was rated LC with R.15. In October 2018, R.15 was amended to include requirements relating to virtual assets (VA) and virtual asset service providers (VASPs). Mongolia was re-rated PC in its 2020 FUR.

32. Criterion 15.1 is *met*. As discussed in R.1, Mongolia has conducted several national and sector level ML/TF risk assessments. To the extent that new technologies (e.g. products, business practices, delivery methods) were adopted by REs at the time of assessment process, these are captured in the ML/TF sectoral risk assessment. REs must identify and assess ML/TF risks emerging from new products, business practices, and new/developing technologies (Art 5.8 of the AML/CFT Law; Art 2.1 and Art 10 of the PMR).

33. Criterion 15.2 is *met*. REs are required to undertake the risk assessments prior to the launch/use and take appropriate measures to manage and mitigate the risks (Art 10.1 of the PMR).

34. Criterion 15.3 is *partly met*.

35. *15.3(a) is mostly met*. Mongolia has assessed its ML/TF risks—and in excess of what the standards require—PF risks emerging from VA/VASP activities, and produced a VASP risk assessment report. The report reasonably identified vulnerabilities including the lack of a regulatory and supervisory framework, though at this point the review team holds some concerns about the reasonability of the overall conclusions and whether all threats were considered.

36. *15.3(b) is partly met*. Mongolia is taking steps to apply the risk-based approach to ensure commensurate AML/CFT measures are in place with identified risk. There is no regulatory framework for VASP activities at present, but Mongolia is in the process of enacting relevant laws to regulate VA/VASPs, which are expected to enter force sometime from mid-2021 to 1 January 2022. The review team was unable to consider this in its analysis. As an interim measure, BOM and FRC have issued public statements stressing the importance of understanding their risks and the absence of a regulatory framework for VASPs, and provided outreach to identified Mongolian VASPs. FRC has established a regulatory sandbox in response to novel developments in the overall financial sector, but minimal weighting was applied as there are no enforceable means explicitly requiring entities undertaking VA/VASP activities to avail themselves of this mechanism. Furthermore it has not been used for identified VASPs in Mongolia to subject them to AML/CFT measures.

37. *15.3(c), and 15.4 to 15.9 are not met*. Mongolia does not have enforceable means in response to these criteria. Mongolia is in the process of enacting relevant laws to regulate VA/VASPs, which are expected to enter force sometime from mid-2021 to 1 January 2022. Therefore VASPs are yet to be defined and subject to AML/CFT measures. As a result minimal weighting was applied to notices issued to three identified *de facto* VASPs, which are not covered by AML/CFT measures, and a newly-introduced opt-in regulatory sandbox. Competent authorities have conducted outreach with these identified VASPs but in the context of this criterion, these efforts are impeded by the absence of enforceable AML/CFT measures.

38. Criterion 15.10 is *partly met*. The lack of a regulatory and supervisory regime for VASPs applies. Targeted financial sanctions obligations—including communication mechanisms, reporting obligations, and monitoring—are in place in Mongolia. However, though Article 14 of the Law on Proliferation of Weapons of Mass Destruction and Combating Terrorism broadly states all individuals and legal entities are obliged to report and take necessary measures to prevent proliferation and terrorism, it was unclear how Mongolia ensures communication mechanisms, reporting obligations, and monitoring as tested in criteria 6.5(d), 6.5(e), 6.6(g), 7.2(d), 7.2(e), 7.3, and 7.4(d) apply to VASPs, as required by c.15.10.

39. Criterion 15.11 is *partly met*. As noted in the previous FUR, there are no constraints on Mongolia’s ability to cooperate under existing mechanisms—as set out in R.37 to 40—on matters pertaining to VA/VASPs. However there is no legal basis which explicitly establishes a statutory basis for cooperation with foreign counterparts on ML/TF and predicate offences relating to virtual assets.

Weighting and conclusion

40. Controls remain in place to ensure assessment and responsiveness to risks from new products, business practices, and technologies. With respect to VA/VASPs, Mongolia has taken steps to identify ML/TF risks and gaps in the regulatory framework, and to address them through a whole-of-government working group, drafting VA/VASP laws and regulations, and interim measures including public outreach. However there is no registration regime for VASPs and therefore they are not subject to any supervision or monitoring. **Recommendation 15 remains Partially Compliant.**

IV. CONCLUSION

41. Mongolia has made significant progress towards overcoming deficiencies on technical compliance identified in its MER. This progress has continued in its fourth FUR with Mongolia being re-rated on Recommendation 1.

42. In relation to R.1, Mongolia has taken an active approach to implementing a risk-based approach to combating ML/TF. Mongolia has rectified its primary deficiency by a national-level TF assessment and also completed other 11 assessments covering a majority of higher-risk sectors. While these assessments are of differing levels of comprehensiveness, the review team has placed weight on the totality of their scope and that they reasonably allow Mongolia to continue to implement a risk-based approach to combating ML/TF. There are minor shortcomings at c.1.9 and 1.12.

43. In relation to R.8, which remains partially compliant: While a NPO risk assessment is complete, significant weight on the lack of targeted TF risk-based measures, their monitoring and sanctions for higher-risk NPOs identified in Mongolia’s 2020 NPO risk assessment.

44. In relation to R.15, which remains partially compliant: Controls are place for new technologies and Mongolia have completed a risk assessment of their VASP sector. However Mongolia is in the process of enacting relevant laws to regulate VA/VASPs, which are expected to be enacted sometime from mid-2021 to 1 January 2022.

45. Overall, in light of the progress made by Mongolia since its MER was adopted, its technical compliance with the FATF Recommendations is as follows, as of the reporting date February 2021:

R.	Rating
1	PC (MER 2017) ↑ LC (FUR 2021)
2	PC (MER 2017) ↑ LC (FUR 2019)
3	LC (MER 2017)
4	LC (MER 2017)
5	LC (MER 2017)
6	PC (MER 2017) ↑ LC (FUR 2019)
7	NC (MER 2017) ↑ LC (FUR 2019)
8	PC (MER 2017)
9	LC (MER 2017)
10	LC (MER 2017)

R.	Rating
21	PC (MER 2017) ↑ C (FUR 2019)
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23	NC (MER 2017) ↑ LC (FUR 2019)
24	PC (MER 2017) ↑ LC (FUR 2019)
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27	LC (MER 2017)
28	NC (MER 2017) ↑ PC (FUR 2019) ↑ LC (FUR 2019)
29	PC (MER 2017) ↑ C (FUR 2019)
30	C (MER 2017)

11	C (MER 2017)
12	LC (MER 2017)
13	LC (MER 2017)
14	PC (MER 2017) ↑ C (FUR 2020)
15	LC (MER 2017) ↓ PC (FUR 2020)
16	LC (MER 2017)
17	NC (MER 2017) ↑ LC (FUR 2019)
18	LC (MER 2017)
19	PC (MER 2017) ↑ LC (FUR 2019)
20	LC (MER 2017)

31	C (MER 2017)
32	PC (MER 2017) ↑ LC (FUR 2019)
33	PC (MER 2017) ↑ LC (FUR 2019)
34	PC (MER 2017) ↑ LC (FUR 2019)
35	PC (MER 2017) ↑ LC (FUR 2020)
36	C (MER 2017)
37	C (MER 2017)
38	LC (MER 2017)
39	LC (MER 2017)
40	LC (MER 2017)

46. Mongolia has 37 Recommendations rated C/LC. Mongolia 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. Mongolia's fifth progress report is due 1 February 2022.