



2nd Follow-Up Report

Mutual Evaluation of Cambodia

August 2019





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Asia/Pacific Group
on Money Laundering

CAMBODIA: 2nd ENHANCED (EXPEDITED) FOLLOW-UP REPORT

I. INTRODUCTION

1. The mutual evaluation report (MER) of Cambodia was adopted in July 2017. This FUR analyses Cambodia's progress in addressing the technical compliance (TC) deficiencies identified in its MER. Technical compliance re-ratings are given where sufficient progress has been demonstrated. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since the MER was adopted: Recommendations 2, 5, 7, 18 and 21. This report does not analyse any progress Cambodia has made to improve its effectiveness. Cambodia's progress with effectiveness will be analysed as part of the 5th year follow-up assessment and, if found to be sufficient, may result in re-ratings of Immediate Outcomes at that time.

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

- *Mr. Filipe Manuel Peixoto Pereira, Legal Advisor, Legal Affairs Bureau, Macao, China (legal expert)*
- *Mr. Md. Masud Rana, Joint Director, Policy and International Wing, Bangladesh Financial Intelligence Unit (financial intelligence unit/law enforcement expert)*
- *Mr. Eliot Kennedy, Deputy Executive Secretary, APG Secretariat*

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

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

4. Cambodia's original MER ratings and current ratings based on progress recognised in FURs are as follows¹:

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC	PC	LC	LC	LC	LC	NC	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	PC	PC	LC	C	PC	LC	PC	(PC) LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	PC	LC	PC	PC	PC	LC	PC	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	PC	(PC) LC	PC	LC	PC	PC	LC	PC

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.

IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
Mod	Mod	Low	Low	Low	Low	Low	Low	Sub	Mod	Low

5. Given these results, Cambodia was placed in enhanced (expedited) follow-up².

6. In its 2018 FUR, Cambodia requested re-ratings of 14 Recommendations: Recommendation 7 (which was rated NC); Recommendations 1, 2, 8, 16, 19, 22, 26, 28, 33, 34 and 37 (which were rated PC); and Recommendations 6 and 30 (which were rated LC). The review team concluded that progress to LC had been made on two of the 12 Recommendations rated NC or PC (Recommendations 19 and 34). Insufficient progress had been made to justify re-ratings on the other Recommendations.

III. TECHNICAL COMPLIANCE RECOMMENDATIONS REVIEWED

7. This section summarises the progress made by Cambodia 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

8. Cambodia has requested re-ratings of Recommendations 1, 2 and 33, all of which were rated PC in the MER. Cambodia also outlined progress made in relation to Recommendations 22 and 28, but did not seek a re-rating of those Recommendations.

Recommendation 1 (Originally rated PC)

9. Cambodia was rated PC for R.1 in its 2017 MER. The main deficiencies were that the outcomes of Cambodia's 2016 national risk assessment (NRA) had not been provided to reporting entities (REs); Cambodia had not yet applied a broad risk-based approach to the allocation of resources based on the results of the NRA (which had been finalised only the week before the onsite visit); measures in relation to higher and lower risks were not fully reflective of the results of the NRA; and risk-based monitoring of AML/CFT compliance had not fully extended to all REs.

10. In its 2018 FUR, the review team found that Cambodia had taken several important measures to address a number of the deficiencies related to R.1, however, moderate deficiencies remained in relation to several criteria, including c.1.4, c.1.5 and c.1.8, and there were minor deficiencies in relation to several other criteria. On this basis, the rating of R.1 remained PC.

11. In relation to c.1.4, the MER noted that the outcome of the national risk assessment (NRA) was not provided to FIs and DNFBPs. The Cambodian authorities published a sanitized version of the NRA in August 2018 and have conducted awareness sessions for the public and private sectors, including with the casino and real estate sectors in October 2018. The deficiency identified in the MER has now been addressed and this criterion is now met.

12. In terms of risk mitigation and allocation of resources (c.1.5), the MER found that Cambodia had not yet applied a broad risk-based approach to the allocation of resources allocation based on the results of the NRA. As noted in the 2018 FUR, CAFIU has increased its compliance staffing levels

since the ME on-site visit in 2016 from six to nine officials, with an additional officer in each area responsible for supervising the three high-risk sectors identified in the NRA (banks, casinos and real estate). CAFIU is now implementing a risk-based approach to AML/CFT supervision for the banking sector and CAFIU and MEF are working on risk-based off-site tools for the casino sector, which will impact positively on the allocation of resources. However, no information has been provided concerning resource allocation across other supervisory level on AML/CFT based on the ML/TF risks, and further information is required as to what types of implementing measures the authorities are being taken to prevent or mitigate those risks. Over the last 12 months, the Cambodian authorities have also set up the Anti-Money Laundering and Counter Financial Terrorism Task Force of GCNP (the police), an internal working group within the MOJ, which consists of prosecutors and judges, in charge of AML/CFT, and procedural changes within the ACU to pursue the financial aspects of any complaints as part of the standard investigation procedure. The review team was also informed that the reporting entities themselves (NAGA casino and the real estate companies) have prepared self-risk assessment tools, however, no copies of those tools were made available to the review team. This criterion is now mostly met.

13. In relation to measures addressing higher risks (c.1.7), the MER found that Cambodia had only recently identified its higher areas of risk through the NRA process and had not therefore provided any information to REs about these higher risks. As noted above, the Cambodian authorities have now shared the results of the NRA with a wide range of stakeholders and are drafting amendments to the AML/CFT Law to allow the competent authorities to issue the necessary instruction to FIs and DNFBPs to conduct EDD where risks are identified as high and apply simplified measures where risks are low. However, it is noted that those amendments are not yet in force and effect. This criterion remains partly met.

14. In relation to simplified measures (c.1.8), the MER noted that the Prakas on AML/CFT 2008 allows some form of simplified customer due diligence (CDD) measures for remittances/wire transfers below USD 1,000, but that this simplified measure was not based on an assessment of risk. In fact, the NRA assessed cross-border wire transfers as "medium" risk. It was not clear therefore whether this exemption is consistent with the NRA. In addition, the NRA assessed financial inclusion products as "low" risk, however, no explicit simplified measures have been introduced for such products. The review team notes the update from Cambodia and its intention to issue an instruction on simplified measures following amendments to the AML/CFT law. This criterion remains partly met.

15. In terms of c.1.9, CAFIU has established a framework for and commenced testing of a risk-based approach for the AML/CFT supervision of the banking sector. The review team acknowledges the Cambodian authorities' initiatives to work closely with and increase examinations of the higher risk sectors as per the NRA and their intention to develop risk assessment guidelines for DNFBP sectors. The review team also acknowledges that CAFIU's examination content covers all the relevant issues related to the ML/TF risk, however, the review team notes that the lack of supervisory resources has an impact on CAFIU's examinations as well as other supervisory measures. There is no explicit information regarding the activities of supervisors other than CAFIU or self-regulatory bodies to ensure that FIs and DNFBPs are implementing their obligations under Recommendation 1, including measures for risk assessment and risk mitigation. Therefore, this criterion remains mostly met.

16. In relation to risk mitigation and simplified measures (c.1.12), the review team acknowledges the initiatives taken by the Cambodian authorities to review the AML/CFT law and regulations. However, without any enforceable instructions, the deficiency identified in the MER remains and this criterion remains partly met.

17. Cambodia has taken several important measures to address a number of the deficiencies related to R.1, however, moderate deficiencies remain in relation to several criteria, including, c.1.7, c.1.8 and c.1.12, and there are minor deficiencies in relation to several other criteria.

18. Cambodia remains partially compliant with R.1.

Recommendation 2 (Originally rated PC)

19. Cambodia was rated PC with R.2 in its 2017 MER. The main technical deficiencies were that Cambodia had not developed a national AML/CFT policy informed by ML/TF risks (criterion 2.1); there were significant gaps in national cooperation and national coordination, in particular at the operational level (criterion 2.3) and there was a lack of a coordination mechanism in relation to combating the financing of proliferation of weapons of mass destruction (criterion 2.4).

20. In relation to c.2.1, Cambodia has revised its National Strategy (National Strategy 2019-2023) and the key strategic objectives of this document seem to be aligned with its assessed NRA. Therefore, this deficiency has been fully addressed and this criterion is now met.

21. In relation to operational coordination (c.2.3), this criterion was partly met in the MER, but was found to be met in 2018 FUR, as the deficiency identified in the MER had been addressed through the establishment of an Inter-Ministerial Technical Working Group on Anti-Money Laundering and Combating the Financing of Terrorism. Regarding the new element of criterion 2,3, to exchange information domestically, the MOUs between various agencies include a section on information sharing, and information is exchanged through the Inter-Ministerial Technical Working Group. This criterion remains met.

22. Regarding cooperation/coordination in relation to PF (c.2.4), the MER noted that Cambodia has established a National Authority for the Prohibition of Chemical, Nuclear, Biological and Radiological Weapons. However, this authority's mandate did not extend to combating the financing of proliferation of weapons of mass destruction and this criterion was found to be not met. The review team acknowledges the work being undertaken to develop a legal framework against proliferation financing, and the establishment in March 2018 of the Inter-Ministerial Working Group on sanctions against the DPRK. While this criterion cannot be fully assessed until the legal provisions have been put in place (Recommendation 7 refers), the review team agrees that this criterion is now partly met.

23. Criterion 2.5, which is a new element added in October 2018, requires that countries should have cooperation and coordination between relevant authorities to ensure the compatibility of AML/CFT requirements with Data Protection and Privacy rules and other similar provisions (e.g. data security/localisation). Cambodian authorities are sharing information domestically with the provision of MoU. Each agency has authorised a focal point for disseminating or receiving information aiming to ensure security and confidentiality of the shared information. Moreover, every institution has its own internal rule to ensure data protection and privacy. This criterion is met.

24. Cambodia has addressed the concerns identified in relation to criterion 2.1 and its existing mechanisms meet the new requirements for information exchange under criterion 2.3 and the new requirements under criterion 2.5 in relation data privacy. Cambodia has also begun to address its deficiencies under criterion 2.4, however this process is not yet complete. Cambodia has taken important measures to address most of the deficiencies related to R.2.

25. Cambodia is re-rated to largely compliant with R.2.

Recommendation 33 (Originally rated PC)

26. Cambodia was rated PC with R.33 in its 2017 MER. The main technical deficiencies were a lack of comprehensive and reliable statistics in particular in relation to international cooperation and property frozen, seized and confiscated.

27. Cambodian authorities have reported that competent authorities are using case management systems and increasing staffing for maintaining records. Moreover, Cambodia has established dedicated teams within the ACU and GCNP.

28. The review team notes that FIU data reveals an increase in disseminations of intelligence to the LEAs. However, data relating to other LEAs is not available.

29. The Cambodian authorities provided some data regarding ML-related investigations and prosecutions however the data solely comes from GCNP and ACU, but from no other LEAs. There have been no TF investigations, prosecutions or convictions.

30. The Cambodian authorities provided some data on property identified (and, presumably, frozen). However, no statistics were provided regarding seized and confiscated property or assets.

31. In respect to formal international cooperation, Cambodia has provided statistics in relation to progressed in terms incoming requests, however, no clear data has been provided on informal international cooperation across the regulators and LEAs.

32. **Cambodia remains partially compliant with R.33.**

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

33. Since the adoption of Cambodia's MER, Recommendations 2, 5, 7, 18 and 21 have been amended. This section considers Cambodia's compliance with the new requirements (other than Recommendation 2, which is assessed above).

Recommendation 5 (Originally rated PC, upgraded to C in 2017 FUR)

34. In October 2016, R.5 and its Interpretive Note were revised to clarify the term "funds and other assets"; the term "funds" was replaced by "funds or other assets" in INR.5, to clarify that both R.5 and R.6 apply to the same scope of assets. In addition, the Glossary definition of the term "funds or other assets" was updated to further clarify that specific forms of support to terrorism highlighted in recent UN Security Council Resolutions (economic resources including oil and other natural resources) are within the scope of the definition. Criteria 5.2, 5.3 and 5.4 were updated in February 2017 to reflect these changes (this was several months after the evaluation on-site visit to Cambodia, so Cambodia was not formally assessed against the revised criteria, though the analysis did make some reference to the new requirements).

35. Cambodia was rated LC with R.5 in its 2017 MER. In relation to the revised aspects of R.5, the definition of 'property' stated in Article 3 of the Law on Counter Terrorism and in Articles New-3 (c) of the AML/CFT Amendment Law does not extend to interests, dividends or other income or value accruing from or generated from the property, and any other assets which may potentially be used to obtain funds, goods or services, as required by the extension of Recommendation 5 to apply to 'other assets' as well as funds.

36. Overall, only minor deficiencies exist under R.5 in relation to the dissuasiveness of sanctions, the lack of criminalisation when a TF offence or an attempted offence is committed by a group of persons acting with a common purpose and that the definition of property does not extend to "other assets" as required.

37. **Cambodia remains largely compliant with R.5**

Recommendation 7 (Originally rated NC)

38. In November 2017, in criterion 7.4 (c) and 7.5 (a) the UNSCR reference changed from 1737 to 2231 and in criterion 7.5 (b) UNSCR 2231 was added.

39. Cambodia was rated NC with R.7 in its 2017 MER. The technical deficiencies related to the fact that no specific measures had been adopted for implementing targeted financial sanctions related to proliferation, in order to comply with UNSCRs.

40. MOI is working with Australian experts to develop legal framework for targeted financial sanctions related to proliferation of WMD. This is a welcome development, but there is still no legal and institutional framework in place to implement targeted financial sanctions related to proliferation of WMD.

41. Cambodia is yet to address the other deficiencies identified in the MER.

42. **Cambodia remains non-compliant with R.7.**

Recommendation 18 (Originally rated PC)

43. In November 2017 the INR.18 was revised to clarify the requirements on sharing information relating to unusual or suspicious transactions within financial groups. In February 2018, R.18 was revised to reflect the changes in INR.18.

44. Cambodia was rated PC with R.18 as the requirements of criteria 18.2 and 18.3 were not met. The 2017 MER concluded that there are moderate shortcomings in meeting Recommendation 18, which was rated partially compliant.

45. Cambodian authorities have indicated that they are working on amendments to the AML/CFT law and to regulations to address the requirements under criterion 18.2. Cambodia remains partially compliant with R.18.

46. **Cambodia remains partially compliant with R.18.**

Recommendation 21 (Originally rated LC)

47. In November 2017, R.21 (c.21.2) was revised to clarify that the tipping off provision is not intended to inhibit information sharing for R.18.

48. Cambodia was rated LC with R. 21 where only a minor deficiency was identified under c.21.1. Criterion 21.2 was found to be met, but this criterion has been updated since the MER to include the requirement that the prohibition against tipping off does not inhibit the sharing of information required under R.18.

49. Cambodia's legal working group and IMF experts are working on a revision to the AML/CFT law and regulations to the deficiency in c.21.1, but this process is not yet complete. Regarding c.21.2, the 2017 MER found that "laws and regulations applicable to banks and other FIs do not inhibit sharing customer information between parent banks or financial institutions and branches or subsidiaries".

50. **Cambodia remains largely compliant with R.21.**

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

51. Regarding R.22 (rated PC), Cambodia has indicated that the NCC legal sub-working group is working with IMF experts on drafting amendments to the relevant Prakas 2010 (Reporting Entities Not Regulated by the National Bank of Cambodia) to address the identified deficiencies. This is a welcome development, but is yet to be completed.

52. In relation to R.28 (rated PC), Cambodia is planning to draft a MOU between CAFIU and the Ministry of Economic and Finance, in the area of AML/CFT supervision of casinos, real estate, insurance and trusts, which is expected to be finalized soon. Cambodia's draft Casino Law and Law on Trusts have been submitted to the Council of Ministers for review and are expected to be enacted in 2018. This progress is noted, but the new measures are yet to be completed.

IV. CONCLUSION

53. Cambodia has continued to make progress to address the technical compliance deficiencies identified in its MER, including through establishing of review processes and drafting of some new legislation.

54. Cambodia requested re-ratings in relation to three recommendations (R.1, R.2 and R.33), and has made sufficient progress on R.2 to be re-rated from PC to LC. Cambodia has also made progress in relation to R.1 and R.33, but insufficient to support a re-rating.

55. With respect to the recommendations which were amended after the MER was adopted, Cambodia has retained the ratings previously assigned in either its MER or its earlier FUR.

56. Overall, in light of the progress made by Cambodia 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	LC	NC	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	PC	PC	LC	C	PC	LC	PC	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	PC	LC	PC	PC	PC	LC	PC	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	PC	LC	PC	LC	PC	PC	LC	PC

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