



3rd Follow-Up Report

Mutual Evaluation of Fiji

August 2019





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Asia/Pacific Group
on Money Laundering

FIJI: 3rd ENHANCED FOLLOW-UP REPORT 2019

I. INTRODUCTION

1. The mutual evaluation report (MER) of Fiji was adopted in September 2016. This FUR analyses the progress of Fiji in addressing the technical compliance deficiencies identified in its MER. Technical compliance re-ratings are given where sufficient progress has been demonstrated. In addition to changes in technical compliance with recommendation 33, this report analyses technical compliance with those FATF Recommendations which have changed since the MER was adopted: 2, 5, 7, 8, 18 and 21.

2. The FUR process does not analyse progress to improve 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 Fiji's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:

- *Ms. Sue Wong, Principal Specialist, Regulatory Operations, Australian Transaction Reports and Analysis Centre (AUSTRAC)*
- *Detective Inspector Craig Hamilton, Asset Recovery Unit, Financial Crime Group, New Zealand Police*
- *Ms. Suzie White, Deputy Director Mutual Evaluations, 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 Fiji's current technical compliance ratings.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

5. Fiji'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) LC	(PC) LC	LC	C	(PC) C	(NC) PC	(NC) PC	PC	C	(PC) LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
(PC) C	(PC) C	C	C	(PC) C	(PC) LC	(PC) LC	(PC) LC	(NC) C	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	(NC) LC	(PC) LC	PC	PC	LC	LC	(PC) LC	C	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	(PC) LC	LC	C	PC	LC

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	Mod	Mod	Low	Mod	Mod	Low	Low	Low	Low

6. Given these results, at the time of its MER being adopted, Fiji was placed in enhanced (expedited) follow-up².

7. Fiji's 2017 FUR requested re-ratings of 16 recommendations (Recommendation 1, 5, 6, 7, 10, 11, 15, 16, 17, 18, 22, 23, 24, 25, 28 and 35) in its FUR. In July 2017 the APG plenary concluded that progress to compliant (C) had been made on two Recommendations (Recommendations 5 and 11) and that progress to largely compliant (LC) had been made on six Recommendations (Recommendations 1, 10, 16, 17, 18, 35). Eight of the 16 Recommendations requested for re-rating remained at non-complaint (NC)/partially compliant (PC) (Recommendations 6 (re-rated to PC), 7 (re-rated to PC), 15, 22 (re-rated to PC), 23, 24, 25, 28. On the basis of progress made, in 2017 Fiji was moved from enhanced follow-up (expedited) to enhanced follow-up.

8. Fiji's 2018 FUR requested re-ratings for nine recommendations (Recommendations: 2, 12, 15, 19, 22, 23, 28, 36 and 39.) In July 2018 the APG plenary concluded that progress to C had been made on three recommendations (Recommendations 12, 15 and 19) and that progress to LC had been made on five recommendations (Recommendations 2, 22, 23, 28 and 36). Recommendation 39 remained at partially compliant (PC).

III. TECHNICAL COMPLIANCE RECOMMENDATIONS REVIEWED

9. This section summarises the progress made by Fiji to improve its technical compliance by:
- addressing the technical compliance deficiencies identified in the MER, and
 - 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. Fiji requested re-rating of R.33, which was rated PC in the MER.

11. The APG welcomes the steps that Fiji has taken to improve its technical compliance with R.33. As a result of this progress, Fiji has been re-rated to compliant with R.33.

Recommendation 33 (Originally rated PC)

12. The MER found that the Fiji FIU maintained comprehensive statistics however Fiji received a PC rating for R.33 due to an absence of other relevant statistics. Statistics associated with ML/FT investigation and prosecution had to be complied at the request of the assessment team reflecting that such statistics were not maintained, when provided there was also data deficiency associated with these statistics. The Fiji Independent Commission against Corruption (FICAC) and Fiji Revenue and Customs Authority (FRCA) both could only provide limited statistics on their respective ML investigations related with corruption and taxation offences. Statistics were also limited in respect proceeds of crime activities and mutual legal assistance (MLA) and more broadly international co-operation.

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.

13. Fiji has now implemented processes to collect and maintain statistics relevant to R.33. The FIU continues to maintain comprehensive statistics which are published in its annual report. Since the 2016 MER the Fiji Police Force has developed systems to capture ML investigation, prosecution and proceeds of crime related data. Annual crime statistics in Fiji are also recorded and are published on publicly available websites. These statistics include the occurrence of predicate crimes, ML and would include the incidence of TF should that occur. Prosecution statistics are also recorded and independently maintained by the Office of the Director of Public Prosecutions, these statistics are also published online. Fiji has also implemented a data capture process to record MLA and extradition requests. Fiji Police maintain statistics on Interpol requests sent and received this data is maintained within the Interpol Office. Informal police to police requests occur with frequency however the number and type of these request is not statistically captured. The absence of this data is not considered a deficiency in this rating given that it is the informality of such information exchanges which encourages such exchanges and make such a process effective.

14. Fiji has made significant progress with the implementation of systems to capture statistics.

15. **Fiji is re-rated to compliant with R.33.**

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

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

Recommendation 2 (Originally rated PC, re-rated to LC in 2017)

17. 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.

18. In Fiji's 3rd MER R.2 was rated PC. Some deficiencies, which related to a lack of policies and strategies, were subsequently addressed which resulted in a re-rating to LC in Fiji's first FUR in 2017. The remaining deficiency noted in the 2017 FUR was Fiji's lack of operational co-ordination relating to PF.

19. Information is exchanged between Fijian agencies whilst maintaining the data protection and privacy requirements of the various agencies. Fiji has coordination and cooperation mechanisms in place which provide for the exchange of information domestically.

20. The deficiency noted in Fiji's 2017 FUR remains.

21. **Fiji remains largely compliant with R.2.**

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

22. 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.

23. Fiji was rated PC with R.5 in its MER. In the 2017 FUR Fiji was re-rated to C with R.5 following amendments made to the Public Order (Amendment) (No.2) Act 2017 (POA).

24. In relation to FATF's 2016 changes to R.5 to include "funds or other assets", the definition of property in Fiji's Proceeds of Crime Act is broad enough to include funds or other assets. S12X(b) of the POA addresses the requirements in 5.2bis.

25. **Fiji remains rated compliant with R.5.**

Recommendation 7 (Originally rated NC, re-rated to PC in 2017)

26. In June 2017 the Interpretive Note to R.7 was amended to reflect the changes made to the UNSCRs (i.e. the adoption of new UNSCRs) since the FATF standards were issued in February 2012.

27. Fiji was rated NC with R.7 in its 2016 MER, with the report noting that Fiji had not yet implemented any measures for the purpose of implementing targeted financial sanctions related to proliferation in order to comply with the UNSCRs.

28. Following amendments to the Public Order Act (POA) in 2017, Fiji's 2017 FUR considered R.7 and re-rated Fiji to PC. The FUR noted that foreign nationals and entities in Fiji are not subject to the requirements to freeze funds or other assets of designated persons or entities, and that there is no requirement to freeze properties of persons acting on behalf of, or at the direction of specified entities.

29. Section 12Q of the POA captures the successor resolutions to UNSCR 1718 and UNSCR 1737 (including UNSCR 2231) adopted since the FATF standards were issued in February 2012, however the deficiencies noted in the 2017 FUR remain.

30. **Fiji remains rated partially compliant with R.7.**

Recommendation 8 (Originally rated PC)

31. In June 2016, Recommendation 8 and its Interpretive Note were significantly revised.

32. Fiji was rated PC with R.8 in the 2016 MER. A number of important shortcomings identified in the analysis.

33. Deficiencies remain in Fiji's framework for the risk-based regulation of NPOs. Fiji advised that it is seeking technical assistance to conduct a review of the NPO sector and the National AML Council has commenced high-level discussions to address the gaps in compliance with R.8.

34. Fiji has not yet identified NPOs at risk of TF abuse, nor has it commenced outreach and supervision. Fiji has some sanction powers for violations by NPOs and there are MOUs established to share information on NPOs.

35. **Fiji remains rated partially compliance with R.8**

Recommendation 18 (Originally rated PC, re-rated to LC in 2016)

36. In November 2017 the Interpretative Note to R.18 was revised to clarify the requirements on sharing information relating to unusual or suspicious transactions within financial groups

37. Fiji was rated PC with R.18 in the 2016 MER as the requirements of Criteria 18.2 and 18.3 were not met.

38. In Fiji's 2017 FUR, a reduced weight was considered for the deficiency given the low number of financial groups in the country and R.18 was re-rated to LC.

39. Section 18 (1) FTR Act provides includes a tipping off offence and s18(2) of Fiji's FTR Act provides for exemptions to the tipping off offence in certain circumstances, permitting financial institutions to share information relating to STRs. The legislation does not specifically refer to branches and subsidiaries or financial group of the financial institution as referenced in R.18. However, Fiji's legislation includes provisions to safeguard confidential information to prevent tipping off and as well as the sharing of STR information in relevant circumstances.

40. **Fiji's remains rated largely compliant with R.18.**

Recommendation 21 (Originally rated LC)

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

42. Fiji was rated LC with R.21 in the 2016 MER as only a minor deficiency was identified.

43. Fiji's FTR Act provides for exemptions to the tipping off provision to allow for sharing of STR information in certain circumstances, which includes for the purpose of carrying out the financial institution's supervisory functions and for the purpose of performing that person's duties in the financial institutions.

44. **Fiji's remains rated largely compliant with R.21.**

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

45. Fiji reported that it is currently reviewing the TFS provisions in the POA to address gaps in compliance with R.6 and R.7 identified in Fiji's 2017 FUR. Further, it plans to develop and issue supporting guidelines for FIs and DNFBPs once the POA is amended.

46. With respect to R.24, Fiji is currently reviewing its Companies Act and Regulations to see how best to address the legal gaps on requirements for disclosure of beneficial ownership.

47. Fiji is drafting procedures to provide clarify on the process for dealing with extradition request, to address deficiencies relating to R.39.

IV. CONCLUSION

48. Overall, Fiji has continued to make steady progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated on one Recommendation, R.33.

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

50. Fiji has six recommendations remaining PC, namely R.6, R.7, R.8, R.24, R.25 and R.39. Fiji advised that it is working to address the deficiencies highlighted in these recommendations.

51. Overall, in light of the progress made by Fiji 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
LC	LC	LC	C	C	PC	PC	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	C	C	C	C	LC	LC	LC	C	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30

LC	LC	LC	PC	PC	LC	LC	LC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	C	LC	LC	LC	LC	C	PC	LC

52. The Fiji FUR was adopted by the APG Governance Committee on behalf of the membership in July 2019. Fiji 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.