



Asia/Pacific Group  
on Money Laundering

**APG Mutual Evaluation Committee**  
**Endorsed Follow-up Report of Bhutan**  
**Proposed for Adoption**  
**December 2021**

**Purpose**

1. The APG Mutual Evaluation Committee (MEC) has met and decided to recommend APG members adopt Bhutan's 5<sup>th</sup> Follow-Up Report (FUR) in keeping with the out-of-session standard process set out in the APG ME Procedures 2021.

**Recommendation to APG members:**

- Adopt the Bhutan Follow-Up Report 2021, including the recommendations contained therein, in keeping with the APG's agreed out-of-session process.

**Background**

2. The ME Procedures and MEC terms of reference (para. 29) confirm that the MEC's role is to consider each FUR, and for those FURs where there are no major disagreements, make a recommendation to the membership to adopt the FUR out-of-session.

3. The Bhutan FUR 2021 has been prepared and considered by the MEC in keeping with Section X of the APG ME Procedures 2021, in particular paragraphs 160 and 162. As Bhutan did not request re-ratings, the FUR was prepared by the Secretariat and shared with members ahead of MEC discussion.

4. The MEC considered the Bhutan FUR 2021 at its meeting on 2 December 2021. No major disagreements or major issues were raised with any aspect of the FUR. The whole report was endorsed and recommended for adoption by members.

# BHUTAN

## 5<sup>TH</sup> ENHANCED FOLLOW-UP REPORT 2021

### I. PURPOSE

5. In accordance with the APG Mutual Evaluation Procedures 2021, this report presents the APG Secretariat’s analysis of Bhutan’s fifth follow-up report (FUR), for members’ consideration.

#### **Key Findings**

Bhutan has taken some further steps including legislative amendments, conclusion of memoranda of understanding (MOUs) for information exchange and new procedures to address deficiencies across a number of Recommendations.

Previous Bhutan FURs have assessed all the recommendations changed since Bhutan’s MER was adopted.

#### **Recommendations for Members**

It is recommended that:

- Bhutan remains in enhanced follow-up;
- Bhutan provides its next FUR by 1 October 2022; and
- The Co-Chairs write to relevant Minister(s) bringing their attention to the remaining deficiencies.

### II. INTRODUCTION

6. The mutual evaluation report (MER) of Bhutan was adopted in September 2016. This FUR presents the progress of Bhutan has reported in addressing the technical compliance deficiencies identified in its MER. This report does not include detailed analysis of technical compliance or analysis of any progress Bhutan has made to improve its effectiveness.

7. As Bhutan did not request re-ratings for any Recommendations, the preparation of this report was undertaken by the APG Secretariat.

### III. FINDINGS OF THE MUTUAL EVALUATION REPORT

8. Bhutan’s MER ratings and updated ratings<sup>1</sup> based on earlier FURs are as follows:

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
LE	ME	LE	LE	LE	LE	LE	LE	ME	LE	LE

R.	Rating
1	NC (MER 2016) ↑ LC (FUR 2018)

R.	Rating
21	NC (MER 2016) ↑ LC (FUR 2018), (FUR 2020)

<sup>1</sup> There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). While for effectiveness: high level of effectiveness (HE), substantial level of effectiveness (SE), moderate level of effectiveness (ME) and low level of effectiveness (LE).

2	PC (MER 2016) ↑ LC (FUR 2018)
3	PC (MER 2016) ↑ LC (FUR 2020)
4	PC (MER 2016), (FUR 2020)
5	NC (MER 2016) ↑ LC (FUR 2018)
6	NC (MER 2016) ↑ PC (FUR 2018) ↑ LC (FUR 2020)
7	NC (MER 2016) ↑ PC (FUR 2018)
8	PC (MER 2016), (FUR 2020)
9	LC (MER 2016) ↑ C (FUR 2018)
10	C (MER 2016)
11	C (MER 2016)
12	C (MER 2016)
13	C (MER 2016)
14	PC (MER 2016) ↑ LC (FUR 2018)
15	C (MER 2016) ↓ NC (FUR 2020)
16	LC (MER 2016)
17	LC (MER 2016)
18	LC (MER 2016), (FUR 2020)
19	LC (MER 2016)
20	PC (MER 2016) ↑ LC (FUR 2020)

22	C (MER 2016)
23	PC (MER 2016) ↑ LC (FUR 2018)
24	PC (MER 2016)
25	LC (MER 2016)
26	PC (MER 2016) ↑ LC (FUR 2020)
27	C (MER 2016)
28	NC (MER 2016) ↑ PC (FUR 2018), (FUR 2020)
29	NC (MER 2016) ↑ LC (FUR 2018)
30	PC (MER 2016) ↑ LC (FUR 2020)
31	PC (MER 2016)
32	PC (MER 2016) ↑ LC (FUR 2018)
33	PC (MER 2016) ↑ LC (FUR 2020)
34	PC (MER 2016)
35	PC (MER 2016) ↑ LC (FUR 2018)
36	PC (MER 2016)
37	NC (MER 2016)
38	NC (MER 2016) ↑ LC (FUR 2018)
39	LC (MER 2016)
40	PC (MER 2016)

9. Given the MER and FUR results, Bhutan remains on enhanced follow-up. Bhutan currently has two Recommendations rated as NC, nine rated as PC, 22 rated as LC and seven rated as C.

#### IV. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

##### 4.1. Progress to address technical compliance deficiencies identified in the MER

10. Bhutan did not request re-ratings with any Recommendations. However, Bhutan reported on a number of areas of technical compliance progress as set out below.

##### *R.2 – National Cooperation and Coordination*

11. As of October 2021, Bhutan’s Financial Intelligence Department (FID) has concluded 10 new memoranda of understanding (MOUs) for exchange of information with various domestic agencies, the latest one with the Department of Cottage and Small Industries in May 2021.

12. The FID has also initiated an annual forum for FID Ecosystem to further enhance the cooperation and coordination with the AML/CFT Supervisors and Law Enforcement Agencies, with the first forum held in May 2021.

##### *R.4 – Confiscation and Provisional Measures*

13. In 2021, Bhutan has amended the Penal Code where the offences of (a) racketeering and serious organised crimes (sections 284C and 294D) and (b) market abuse (sections 284A and 284B) are

included in the Code, which allows the law enforcement agencies to pursue for seizing and confiscation actions relating to these offences.

14. In addition, during its 11<sup>th</sup> meeting, the NCC has also directed the Royal Bhutan Police (RBP) to develop the necessary legal mechanism on the safekeeping, disposal of the seized / frozen assets. The RBP is currently in the process of drafting the relevant guidelines.

#### *R.7 – Targeted Financial Sanctions Related to Proliferation*

15. The Department of Law and Order (DLO) has developed the standard operating procedure (SOP) for the Domestic Designation Committee (DDC). The first meeting of the DDC was conducted on 25 August 2021 where members were briefed on the SOP for DDC. There was no designation considered at the meeting.

#### *R.8 – Non-Profit Organisations (NPOs)*

16. In line with section 3(f) of the AML/CFT Act 2018, the Civil Society Organisation Authority (CSOA) was identified to take up the function of the AML/CFT supervision of the Civil Society Organisations (CSO/NPO) sector with effect from 7 April 2021. The CSOA is in process of revising the Civil Society Organisations Act of which the CSOA Secretariat has made a presentation to the Legislative Committee of National Council of Bhutan on 10 May 2021.

17. Bhutan reported that the CSOA Secretariat has drafted SOP on Compliance and Inquiry and also revised the SOP on new CSO Registration Procedures. The draft SOP which was discussed during a workshop held from 16 to 19 June 2021 will be submitted to the upcoming Authority Meeting for further review and endorsement.

#### *R.15 – Virtual Assets and Virtual Assets Service Providers*

18. The FID is planning to undertake a risk assessment on the virtual assets (VA) and virtual asset service providers (VASPs) in Bhutan. The appropriate policy reform and counter measures in relation to VA and VASPs will be based on the findings of this risk assessment.

#### *R.24 – Transparency and Beneficial Ownership of Legal Persons*

19. Bhutan reported on a number of changes to the framework for transparency of legal persons which came into effect after the adoption of the MER through the Companies Act 2016. Changes in Directors are to be filed for approval to Registrar of Companies and it needs to be updated in the Companies Register/Record for Directors as provided under section 228(g) of the Companies Act 2016. Section 140 of the Companies Act 2016 stipulates that the filing/reporting of changes of directors has to be made to the Registrar/Authority in a prescribed form within 30 days from the date of the appointment of the new director. The appointment of new directors will also subject to the criminal checks based on the unique identification number assigned.

20. Section 52 of the Companies Act 2016 was also amended to widen the scope of “beneficial owner” to include foreign investor holding shares in companies incorporated in Bhutan. This is in recognising that there has been active foreign direct investment (FDI) since the liberation of Bhutan’s FDI policy in 2014 and potential ML/TF threat.

21. Bhutan has also launched the Online Single Window Registry System in 2020 pursuant to the Companies Act 2016 (Chapter 16), to enable the creation of digital information on all Directors and Beneficial Owners/shareholders. The information can be accessed by FID and law enforcement

authorities. In addition, the Registry system is also integrated with FID's portal to improve data sharing mechanism between FID and the Office of Registrar of Companies.

#### *R.28 – Regulation and Supervision of DNFBBs*

22. Bhutan reported that AML/CFT awareness session for the DNFBB supervisors and entities was conducted on 19 April 2021. Bhutan confirms that based on the risk and context, Bhutan has small DNFBB sector with relatively minimal volume of activity within the sector and as such, no on-site supervision has been undertaken so far.

#### *R.34 – Guidance and Feedback*

23. Bhutan reported that the FID has revised the following Guidelines to assist reporting entities in complying with the requirements under the AML/CFT Act 2018 and AML/CFT Rules and Regulations 2018:

- a. Guideline for Insurance Companies 2020;
- b. Guideline for Capital Market Intermediaries 2021; and
- c. Guideline for Money Service Business 2021.

*(The copy of the above stated guidelines is available on the RMA website)<sup>2</sup>*

#### *R.37 – Mutual Legal Assistance*

24. Bhutan reported that a mutual legal assistance (MLA) Bill has been prepared by the DLO with technical assistance from International Monetary Fund. The Bill was submitted to the Cabinet on 16 March 2021 for onward submission to the Office of Attorney General for their review. Further, the DLO prepared and submitted Legislative Impact Assessment on the MLA Bill to the Cabinet on 25 May 2021.

#### *R.40 – Other Forms of International Cooperation*

25. Bhutan Income Tax Administration has entered into Double Tax Avoidance Agreement with its counterpart in Bangladesh in 2017. As of October 2021, the FID has signed MoUs with 12 foreign FIUs and is planning to sign MoUs with the FIUs of Australia and Japan.

## **V. CONCLUSION**

26. As noted above, Bhutan reported further progress across a number of areas of technical compliance. Some steps are noted towards addressing the technical compliance deficiencies identified in the MER. As Bhutan did not request technical compliance re-ratings, Bhutan currently has two Recommendations rated as NC, nine rated as PC, 22 rated as LC and seven rated as C.

27. Bhutan will remain in enhanced follow-up, and will continue to report to the APG on progress to strengthen its implementation of AML/CFT measures. Bhutan's next progress report is due on 1 October 2022.

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<sup>2</sup> [https://www.rma.org.bt/laws\\_bylaws.jsp](https://www.rma.org.bt/laws_bylaws.jsp)