

Follow-up Report of Bhutan
Endorsed by the APG Mutual Evaluation Committee
Distributed for Out-of-Session Adoption by Members
1 June 2023

Purpose – out-of-session adoption

1. The APG Mutual Evaluation Committee (MEC) has met and decided to recommend APG members adoption of Bhutan’s 6th Follow-Up Report (FUR) in keeping with the out-of-session process set out in the APG ME Procedures 2021.

Action item

Recommendation to APG members:

- Adopt the Bhutan Follow-Up Report October 2022, 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 October 2022 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. The FUR was considered and endorsed by the MEC following detailed review by the Global Network and MEC discussion.

4. The Bhutan FUR October 2022 and related Analytical Tool were distributed to the Global Network for comments. Two delegations provided comments. The Review Team considered the comments and made changes to the draft FUR. The revised FUR was distributed ahead of the MEC meeting.

5. The MEC considered the revised draft Bhutan FUR October 2022 at its meeting on 30 May 2023. As no major disagreements or major issues were raised with any aspect of the FUR, the report was endorsed without change and recommended for adoption by members.

6. Following adoption by members, the FUR will be subject to a final *ex post* review by the Global Network prior to publication.

Bhutan
6th Enhanced Follow-Up Report October 2022

1. PURPOSE

1. In accordance with the APG Third Round Mutual Evaluation Procedures 2021, this report presents the APG review team’s analysis of Bhutan’s sixth follow-up report (FUR).

Key findings

Bhutan has requested a re-rating of R.4, R.7, R.8, R.24, R.28, R.34 and R.40 which were rated Partially Compliant (PC) in the MER or previous FURs.

The review team finds sufficient progress has been made to re-rate R.4, R.7 and R.34 to Largely Compliant (LC), and R.8, R.24, R.28 and R.40 remain at PC.

Recommendations for members

It is recommended that:

- Bhutan remain on enhanced follow-up;
- The Co-Chairs write to relevant Minister(s) bringing their attention to the remaining deficiencies;
- Bhutan submit its next follow-up progress report by October 2023.

2. INTRODUCTION

2. The mutual evaluation report (MER) of Bhutan was adopted in September 2016. FURs with re-ratings were adopted in 2018 and 2020.
3. This FUR analyses the progress of Bhutan in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.
4. This report does not analyse any progress Bhutan has made to improve its effectiveness.
5. The assessment of Bhutan’s request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:
 - Jack Matthews, Assistant Director, Transnational Crime Branch, Attorney Generals Department, Australia
 - Sarunlarp Sopanik, Supervision and Examination Division, Anti-Money Laundering Office (AMLO), Thailand

The FUR was supported by David Shannon, Director, APG Secretariat

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

3. FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

7. Bhutan's technical compliance ratings¹ based on the MER and earlier FURs are as follows:

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

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

8. Given the MER and FUR results, Bhutan remained on enhanced follow-up. Prior to 1 October 2022 Bhutan had two Recommendations rated as NC, nine rated as PC, 22 rated as LC and seven rated as C.

4. PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

9. In keeping with the APG Mutual Evaluation Procedures, this FUR considers progress made up until 1 October 2022. In line with the ME Procedures and FATF Methodology, the review team analysis has considered progress to address the deficiencies identified in the MER and 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.

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

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

10. Bhutan requested re-rating for R.4, R.7, R.8, R.24, R.28, R.34 and R.40 which were rated PC in either the MER or subsequent FURs.
11. The APG welcomes the steps that Bhutan has taken to improve its technical compliance with these recommendations, which are analysed below.

Recommendation 4 (Originally rated PC)

12. Bhutan was rated PC with R.4 in its MER and 2020 FUR, with the report noting that gaps with criminalisation of some categories of predicate offences undermined the scope of available confiscation measures, and that mechanisms and powers for asset management and disposal were limited.
13. **Criterion 4.1** is *mostly met*. The 2020 FUR found that Chapter VII of the AML/CFT Act 2018 includes a comprehensive regime for both conviction-based and non-conviction based (civil) forfeiture in Bhutan. However the gaps in the criminalisation of offences identified in R.3, relating to market manipulation, maritime piracy and counterfeiting and piracy of products reduce the scope of asset forfeiture, and as such are applied across criterion 4.1. Bhutan amended the Penal Code in 2021 to create the offences of (a) racketeering and serious organised crimes (sections 284C and 294D) and (b) market abuse (sections 284A and 284B). This is complemented by the limited aspects of insider trading covered in s.65 of the Anti-Corruption Act 2011, as noted in the 2020 FUR. However, a gap remains with powers to confiscate property laundered, proceeds or instrumentalities or property of corresponding value in relation to foreign maritime piracy offences, and counterfeiting/pirating of intellectual property offences. However, as the previous FUR noted in its findings of Bhutan's risk and context, these predicates are minor gaps.
14. **Criterion 4.2** is *met*. The AML/CFT Act 2018 sets out powers for to prevent or void actions that may prejudice the country's ability to freeze or seize or recover property that is subject to confiscation. Section 130 of the AML/CFT Act 2018 has the effect of empowering the court to direct that any disposition or dealing be set aside where the disposition or dealing contravenes a freezing order, except where the disposition or dealing was for sufficient consideration or to a person acting in good faith. This exemption appropriately protects the rights of bona fide third-party purchasers for value and is a recognised and appropriate limitation that does not constitute a deficiency. In addition, the Anti-Corruption Act (section 106 (1)) and the Penal Code (PCB) provide further bases to prevent or void actions that may otherwise inhibit the ability of competent authorities to restrain or confiscate property.
15. **Criterion 4.3** is *met*. The findings of the 2020 FUR remain as they apply to the AML/CFT Act 2018. Since the 2020 FUR Bhutan has amended the AML/CFT Rules 2022, which include the same operative paragraphs discussed in the analysis in the 2020 FUR, albeit with amended section numbers (s.267 - 268) for *bona fide* third party protections.
16. **Criterion 4.4** is *met*. Since the 2020 FUR, relevant agencies, including the Office of the Attorney General (OAG), the Anti-Corruption Commission, Royal Bhutan Police, the Bhutan Narcotic Control Authority, and the Department of Revenue and Customs have issued several new manuals, instructions and procedures, providing significantly improved clarity as to agencies' processes for managing and disposing of confiscated property. These are complemented by institutional changes at OAG, with the standing up of a new Property and Judgment Enforcement Division in 2021, which holds the overarching responsibility for managing and disposing of seized and confiscated property in Bhutan. The Division's establishment is supported by Standard Operating Procedures issued in 2022, which establish procedures setting out the roles and responsibilities of prosecutors and law enforcement in managing and disposing of confiscated property. In addition, OAG issued 'Guidelines on Sealed Bid Auction' and 'Guidelines on Escrow Money Management' in 2022, further setting out the process by

which confiscated property and money is managed and disposed of by authorities. At the operational level, the Royal Bhutan Police have issued a Seized Property Management Manual 2022 further setting out the steps required to be taken by law enforcement in dealing with seized property, including prior to confiscation. Collectively, these complement the ACC's 2019 Evidence Management Policy which sets out detailed steps to be taken in the management and disposal of property seized and confiscated in connection with corruption.

17. Taken together, these steps mean the two key LEAs and the prosecutors now have comprehensive mechanisms and detailed policies and procedures governing the management and disposal of assets that have been seized or confiscated.

Weighting and Conclusion

18. Bhutan has made further progress with its legal framework and implementing powers for freezing, seizing, managing and confiscating proceeds and instruments of crime. Bhutan has expanded the scope of offences where asset restraint and forfeiture actions can be taken. Bhutan has taken steps to establish comprehensive mechanisms for asset management and disposal that are underpinned by detailed policies and standard operating procedures. A minor gap remains with powers to confiscate property laundered, proceeds or instrumentalities or property of corresponding value in relation to foreign maritime piracy, counterfeiting/pirating of intellectual property offences, and related ML. In this regard, the findings of Bhutan's risk and context in the previous FUR that the remaining gap is minor is noted.

19. Recommendation 4 is re-rated to **Largely Compliant**.

Recommendation 7 (Originally rated PC)

20. Bhutan was rated PC with R.7 in its MER and 2018 FUR, with the report noting [LIST]
21. **Criterion 7.1 is met.** Since the FUR 2018 Bhutan has issued the AML/CFT Regulations 2022 which set out requirements for REs to update a sanctions database on the basis of the UN designations without delay upon it being updated by the UN and to implement sanctions screening and freezing without delay. This is in addition to the obligation assessed in the 2018 FUR for all natural and legal persons in Bhutan to take action to implement the TFS upon the Department of Law and Order (DLO) giving formal notice on the website (s.83, AML/CFT Act). Bhutan demonstrated that the DLO has taken further steps to publish the UN designations related to the DPRK, most recently the changed listings in September 2022.
22. **Criterion 7.2 is mostly met.**
23. **Criterion 7.2(a)** Bhutan requires all natural and legal persons to give effect to TFS without delay (Section 83 and 119(3) of the AML/CFT Act). The freezing mechanism automatically considers funds and other assets of all natural and legal persons to be frozen upon formal notice from DLO (Section 82(5)). Funds or property are widely defined in keeping with the FATF standards. The freezing obligations are enforceable on all natural and legal persons (s.180 of the AML/CFT Act 2018)
24. **Criterion 7.2(b)** Freezing obligation to all natural and legal persons and the scope of property to be frozen to: (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular act, plot or threat of proliferation; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of designated persons or entities (Sections 83 and 110 and 119(3) of the AML/CFT Act 2018).

25. *Criterion 7.2(c)* Natural and legal persons are prohibited from providing any funds or other assets, economic resources, or financial or other related services, available, directly or indirectly, wholly or jointly, for designated persons or entities; and (iii) entities owned or controlled directly or indirectly by designated persons or entities, as well as (iv) persons and entities acting on behalf of, or at the direction of designated persons or entities (Sections 119(2) of the AML/CFT Act 2018).
26. *Criterion 7.2(d)* Bhutan has a mechanism for communicating designations via website and through requiring all FI/DNFBP to maintain a database of sanctions and to update the database without delay upon the UN updating the designation lists. Bhutan has not issued guidance in relation to TFS against proliferation of WMD.
27. *Criterion 7.2 (e)* All the natural and legal persons are required to report to the FIU any assets frozen or actions taken in compliance with the freezing requirements of the relevant UNSCRs, including attempted transactions (s. 119(3) of the AML/CFT Act). REs are required to report attempted attempts to provide funds to designated persons or entities (s.229 AML/CFT Rules and Regulations 2022).
28. *Criterion 7.2(f)* Bhutan has limited measures which protect the rights of *bona fide* third parties acting in good faith when implementing the obligations under R.7. The AML/CFT Act 2018 (s.120-121) sets out a basis for an affected party apply in writing to the DOL for the unfreezing of his or her property, and calls on the affected parties to include relevant documentation to support their claim of the affected party. References in the Act to applications for relief to be in keeping with any issued rules or regulations would not impede the operation of s.121..
29. **Criterion 7.3** is *mostly met*. The AML/CFT Act sets out a clear basis for the supervisor to undertake supervision to ensure compliance by FIs and DNFBPs with the TFS obligations set out in the AML/CFT Act 2018 and the Rules and Regulations 2022 (s.38 of the Act). On 10 May 2022 the RMA Board transferred responsibility for the DLO to administer the TFS, including sanctioning non-compliance, in keeping with the 2022 Rules and Regulations. The available fines in the 2018 regulation (NU10,000,000, approx. USD 121,000) remain in the 2022 Regulation. Natural persons (which may include RE directors and senior management) and legal persons (including REs), upon conviction, that fail to comply with the obligation to freeze, prohibition on funds and reporting requirements are, upon conviction, liable for value-based sentencing in accordance with the Penal Code (Under Section 180 of the AML/CFT Act 2018,). In keeping with the findings of the MER 2016 and FUR 2018 (assessed at R.35), sanctions for legal persons are dissuasive, while value based sanctioning may not be dissuasive for natural persons in all circumstances.
30. **Criterion 7.4** is *partly met*.
31. *Criterion 7.4(a)* Bhutan does not have publicly known procedures enabling listed persons and entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730, or informing designated persons or entities to petition the Focal Point directly.
32. *Criterion 7.4(b)* The AML/CFT Act 2018 provides a publicly known procedure to apply for and for decisions to be taken to unfreeze the funds or other assets of persons or entities with the same or similar name as designated persons or entities, who are inadvertently affected by a freezing mechanism (i.e. a false positive), upon verification that the person or entity involved is not a designated person or entity (Sections 120-124).
33. *Criterion 7.4(c)* The AML/CFT Act 2018 (s.85-89) sets out a framework for authorising access to funds or other assets, where countries have determined that the exemption conditions set out in UNSCRs 1718 and 2231 are met, in accordance with the procedures set out in those resolutions.
34. *Criterion 7.4(d)* Bhutan has a mechanism for communicating de-listings via its website and through requiring all FI/DNFBP to maintain a database of sanctions, including when names are removed by the

UN and to update the database without delay upon the UN updating the designation lists. Bhutan has not issued guidance in relation to TFS against proliferation of WMD.

35. **Criterion 7.5** is *met*

36. *Criterion 7.5 (a & b)* Bhutan includes comprehensive requirements with regard to contracts, agreements or obligations that arose prior to the date on which accounts became subject to TFS, including relevant determinations and, as needed prior notifications to the UN Security Council (s.114-118 of the AML/CFT Act 2018).

Weighting and Conclusion

37. Bhutan has made further progress with its legal framework and implementing powers for TFS against proliferation of WMD. Broadly comprehensive freeze obligation and prohibitions on providing funds, however a lack of guidance and small weaknesses with sanctions to enforce compliance against natural persons remain.

38. Recommendation 7 is re-rated to ***Largely Compliant***.

Recommendation 8 (Originally rated PC)

39. Bhutan was rated PC with R.8 in its MER and 2020 FUR. The 2020 FUR noted that Bhutan has made some progress in relation to Recommendation 8 such as outreach to the NPO sector and updated CSO rules and regulations and reporting requirements. However, the absence of identification of a subset of high-risk NPOs, and no evidence of a risk-based approach to supervision remain significant deficiencies.

40. **Criterion 8.1** is *partly met*.

41. *Criterion 8.1(a)* As outlined in the MER, Bhutan had previously reviewed its NPO sector (referred to as Civil Society Organisations) legislations in the lead-up to drafting and subsequent passage of the Civil Society Organisation Act 2007 (CSOA) and the CSO Rules and Regulations 2010 (CSO Regulations). Bhutan conducted an NRA in 2017 and assessed that NPOs pose a low ML/TF risk. In Bhutan, no threats were posed by any terrorist entities to CSOs till date. On this basis Bhutan has taken some steps to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF abuse. Bhutan's overall low TF risk is noted. Overall the findings of the 2020 FUR remain.

42. *Criterion 8.1(b)* The 2017 NRA considered the low risks of NPOs being used for terrorism or TF, based on the threats posed by terrorist entities to the NPOs which are at risk. Overall the findings of the 2020 FUR remain.

43. *Criterion 8.1(c)* Bhutan has not yet finalised the review of Bhutan's Civil Society Organizations Authority and NRA updates.

44. *Criterion 8.1(d)* Bhutan has conducted two assessments of risk in the NPO sector with the last done through the NRA in 2017. Risk assessment and sectoral monitoring to review new information demonstrate that the funds of CSOs are mainly routed through government agencies and donations from foreign sources are routed through bank accounts of the NPOs. This monitoring is an important step, but further reassessment of risks is needed.

45. **Criterion 8.2** is *mostly met*.

46. *Criterion 8.2(a)* Since the MER Bhutan has taken some steps to promote accountability, integrity and public confidence in the administration and management of NPOs. The Authority, under the new framework for annual registration renewal and annual monitoring (s.15 (f), CSO Act) requires CSOs to submit annual reports which also includes audited financial statements in order to renew their registration certificates (. Basic information on religious organizations registered with the Chhoe dey Lhentshog can be viewed online.
47. *Criterion 8.2(b)* Bhutan has undertaken some outreach and continuing engagement with NPOs and with donors to raise their awareness with obligations, including the potential vulnerabilities of NPOs to TF risk/abuse and the implementation of CFT measures that NPOs can take to protect themselves against such abuse. Outreach was conducted in relation to the new regulatory framework for the Civil Society Organizations (Amendment) Act (CSOA) on 17 November 2021 attended by the CSOA Secretariat and further outreach in August 2022 attended by five agencies and from 10 NPOs.
48. *Criterion 8.2(c)* Bhutan has not separately developed best practice related to CFT in keeping with Bhutan's context and low TF risks. The recently enhanced good practice promoting and monitoring transparency of NPOs programmes and activities and their finances reflect the substance of refining good practice. The MER outlined a strong platform for transparency and oversight. In addition, new controls have been added through the CSOA (Amendment) in 2022 which provides a new mandate to the Authority to supervise all CSOs to ensure their compliance with the obligations for AML/CFT. The CSO Authority carries out routine monitoring of all the registered CSOs twice a year (September-October and March-April). The CSO Authority follows a standard operating procedure for monitoring and inquiry of CSOs. CSOs are submitting their annual reports and audited financial statements. The monitoring reflects evolving and improving practice. .
49. *Criterion 8.2(d)* Bhutan encourages NPOs to conduct transactions via regulated financial channels. CSOs are required to maintain current deposit accounts for management of activities. Foreign CSOs are required to maintain an account with a licensed Bhutan institution, and deposit USD 500,000 annually into this account (Section 111 of the CSOA Rules). The CSO Financial Reporting Manual allows CSOs operate on a cash basis taking into account the contest of Bhutan, but requires all cash transactions be properly recorded by a uniform standard. Religious organisations are required to route all donations, funds, grants, etc through authorised FIs (s.58, Religious Organisations Act 2007).
50. **Criterion 8.3** is *met*. Largely in keeping with sub-paragraph 6(b) of INR.8, Bhutan applies the existing regulatory (recently enhanced) measures to address the current terrorist financing risk to the jurisdiction, including its NPOs. This includes through improved regulatory measures to address transparency of operation and funding of NPOs. The Civil Societies Organisations (CSO) Act 2007, Civil Society Organisation Rules and Regulations 2017 regulate public benefit organizations (PBOs) and mutual benefit organizations (MBOs) as CSOs, which must be registered. A CSO registered as a non-governmental organisation in a foreign country that is operating or intending to operate in Bhutan is required to register (s.49 of the CSO Act).
51. The CSO Authority has a framework to obtain information on activities, size and other relevant features of all registered CSOs through registration and reporting regimes and an inquiry mechanism under the section 17-19 of Civil Society Organisation Act 2007. PBOs are required to route all donations, grants, subsidies, etc through an authorized FI (s.66, CSO Act). CSO are required to record all charity or donations, regardless of amount, made to any institution (s.68, CSO Act). PBOs are required to establish accounting systems in accordance with the Financial Rules and Regulations and make full disclosure of financial information, including sources of funding, application of funds and audited accounts (Chapter 13 of the CSO Act). CSOs are required to submit their annual accounts and the annual reports (s. 95 & 97, CSO Act), which includes programme and budget and expenditure information, including breakdown of earnings and expenditures. This control helps to ensure that all funds are fully accounted

for, and are spent in a manner that is consistent with the purpose and objectives of the CSO's stated activities.

52. Bhutan's Civil Society Organizations Authority carries out routine monitoring of all the registered CSOs twice a year (September-October and March-April). This monitoring is supported by an SOP.
53. **Criterion 8.4** is *mostly met*.
54. *Criterion 8.4(a)* Bhutan has improved its monitoring of all CSOs including MBOs and FCSOs. The Civil Society Organizations (Amendment) Act of 2022 empowers the CSO Authority to supervise all CSOs to ensure their compliance with the obligations for AML/CFT. The Authority carries out routine monitoring of all the registered CSOs twice a year (September-October and March-April). The Authority has an SOP for monitoring CSOs. Offsite monitoring is supported by submissions of annual reports from all CSOs which include audited financial statements and a process of renewal of registration certificates.
55. *Criterion 8.4(b)* The findings remain as per the MER.
56. **Criterion 8.5** is *met*.
57. *Criterion 8.5(a)* There have been a number of developments since the MER related to the effective co-operation, co-ordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs. Since 2019 the CSOA facilitates communication between CSOs and government agencies. The CSOA secretariat has issued a Standard Operating Procedure for monitoring and Inquiry of CSOs. The SOP provides procedures for how an inquiry is received from CSOs and relevant agencies and adds to cooperation and coordination with information sharing.
58. *Criterion 8.5(b)* RBP is responsible for any TF investigations. Bhutan maintains a reasonable degree of investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations. This is in keeping with Bhutan's TF risk profile and its context.
59. *Criterion 8.5 (c)* The Chhoekey Lhentshog can share information with the FID and the RBP (s. 31(3)-(5), AML/CFT Act) in the context of TF investigations.
60. *Criterion 8.5 (d)* Appropriate information sharing mechanisms as outlined in R.5, R.2 and R.31 apply equally to sharing information related to suspicion of a particular NPO related to TF. The FID-RMA and CSOA signed an MoU for sharing of information and cooperation in February 2018.
61. **Criterion 8.6** is *mostly met*. Since the MER there has been a clear legal basis for cooperation between the DLO and the CSO Authority to support responses to international cooperation. In relation to identified points of contact or any procedures to respond to international requests for information regarding NPOs suspected of TF, the head of the CSOA will be the contact point to respond to international requests. The CSO (Amendment) Act of Bhutan 2022, the new composition of the Authority includes a representative in the Executive level from the DLO. In February 2018 an MoU was signed between FID-RMA and CSOA for sharing of information and cooperation, which supports responding to and making international requests. The focal contact point has been reflected in the MoU. The CSO Authority also shares information on CSOs with the DLO upon requested. Some of the deficiencies noted in the FUR 2020 remain relating to international cooperation requests for regulatory information held by the Chhoekey Lhentshog.

Weighting and Conclusion

62. Bhutan has made further progress with its legal framework and implementing activities to protect NPOs from abuse for TF. This includes increased monitoring of those few sectors of NPOs that may be at risk for TF. A review of Bhutan's Civil Society Organizations Authority and NRA updates are yet to be finalised. However, as noted in the MER and 2020 FUR Bhutan has not used all relevant sources of information, in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of TF abuse in Bhutan and use those finding to better target risk mitigation activities in the sector. Bhutan's relatively low TF risks and its context are noted when weighing the deficiencies identified.

63. Recommendation 8 remains **Partially Compliant**.

Recommendation 24 (Originally rated PC)

64. Bhutan was rated PC with R.24 in its MER, with the rating maintained in the 2018 FUR.

65. **Criterion 24.1** is *mostly met*. The findings of the 2018 FUR remain as they apply to this criterion.

66. **Criterion 24.2** is *met*. Bhutan's 2017 NRA was conducted using the IMF NRA methodology and considered risk posed different types of legal person created or registered in Bhutan. The assessment considered all types of legal persons including registered companies, companies owned or controlled by non-residents and partnerships (page 112 of the NRA report). Noting Bhutan's context of low levels of company formation, the NRA reasonably assessed the risks arising from different types of legal persons created in the country..

67. **Criterion 24.3** is *met*. The findings of the 2018 FUR remain in relation to requirements for registration of basic information on legal persons.

68. **Criterion 24.4** is *met*. The findings of the 2018 FUR remain in relation to requirements for legal persons to maintain basic information within the country.

69. **Criterion 24.5** is *met*. In addition to the findings of the MER and the 2018 FUR, there have been a number of additions to the obligations for filing basic information. Enhanced obligations for online filing has added to mechanisms to ensure that basic information registered is accurate and update on a timely basis, including when there are changes between annual filings. This has included checking at points for annual filing and periodic filing of updated basic information. Based on identified failings to file returns in 2021 and 2022, Bhutan has commenced a process to strike off a large number of companies, with a process of 3 months' notice and then a final notice to strike off.

70. **Criterion 24.6** is *partly met*.

71. *Criterion 24.6(a & b)* Bhutan does not yet place obligations on companies to collect or to file BO information. The Companies Act 2016 (s.87) includes the term "register of beneficial owners" which is a register maintained by a depository and is deemed in the act to be a register of shareholders or debenture holders, as the case may be. This does not extend to the concept of beneficial ownership as contemplated in R.24.

72. *Criterion 24.6(c)* The findings of the 2018 FUR is maintained in relation to deficiencies with the definition of 'beneficial owner' in the Companies Act. Since the last FUR Bhutan has issued an unenforceable Guideline to REs to assist their conduct of CDD on beneficial ownership. This guideline should assist with the quality of CDD to identify beneficial owners of customers of REs, which is likely to increase the accuracy of BO information available to authorities to obtain from REs. The guideline provides information on how to determine beneficial ownership by identifying the individual(s) that

own 25% or more of a customer, those with effective control of a customer, and persons on whose behalf a transaction is conducted (s.1.5).

73. **Criterion 24.7** is *partly met*. The finding with this criterion is as per the 2018 FUR.
74. **Criterion 24.8** is *mostly met*. The findings of the 2018 FUR remains. The Companies Act 2016 does not require that companies incorporated thereunder have a resident natural person (such as a resident director or secretary) or DNFBP (such as a TCSP) responsible or authorised to cooperate with, or accountable to, competent authorities. Section 213 requires that companies have a secretary and section 214 requires that the secretary is responsible for legal compliance, but neither section, nor any other section of the Act, requires that the secretary shall be a resident of Bhutan
75. **Criterion 24.9** is *partly met*. The finding with this criterion is as per the 2018 FUR.
76. **Criterion 24.10** is *met*. Bhutan demonstrated that further powers are available for information held by the registry and for information held by companies.
77. **Criterion 24.11** is *met*. The finding with this criterion is as per the MER.
78. **Criterion 24.12** is *not met*. The finding with this criterion is as per the MER and the 2018 MER.
79. **Criterion 24.13** is *mostly met*. The finding of the 2018 FUR highlight s.405 of the Companies Act 2018 contains a general sanction, for non-compliance with the Company Act, of a one-off maximum fine of Nu 100,000 (~15,000 USD) and a per-day maximum fine of Nu 10,000 (~154 USD) (maximum) for repeat offences. The quantum of fines available is not proportionate or dissuasive, even taking into account Bhutan's context.
80. **Criterion 24.14** is *partly met*. The finding of the 2018 FUR are noted, as are the findings on R.40 in this report.
81. **Criterion 24.15** is *not met*. Bhutan did not demonstrate that it monitors the quality of assistance received from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

Weighting and Conclusion

82. The majority of findings for R.24 remain as per the 2018 FUR, although Bhutan has made some progress through further assessing risks of different types of legal persons and issuing a CDD Guideline in 2019 to REs to improve the accuracy of beneficial ownership information that may be made available to competent authorities upon request to REs.
83. Recommendation 24 remains **Partially Compliant**.

Recommendation 28 (rated PC)

84. Bhutan was rated NC for R.28 in the MER and was upgraded to PC in the 2016 MER. This recommendation was further reviewed in the 2018 and 2020 FURs.
85. **Criterion 28.1** is *N/A*. The finding is as per the MER.
86. **Criterion 28.2** is *met*. Since the MER Bhutan has further clarified the designated competent authorities for DNFBP supervision and ensuring compliance. Ministry of Economic Affairs is designated to

supervise real estate agents; Dealers in precious metals; and dealers in precious stones. The Jabmi Tshogdey is designated to supervise lawyers registered under the Jabmi Act (s. 41-42, AML/CFT Act 2018). The FIU is the supervisor for REs for which no supervisor is identified (s.44).

87. **Criterion 28.3** is *partly met*. Since the MER and last FUR Bhutan has undertaken a detailed sectoral risk assessment of private accountants and independent legal professionals as the 2017 NRA found these two DNFBPs sectors to higher likelihood that the customers could be involved in ML compared to other sectors of DNFBPs. Moreover, Bhutan has not undertaken any onsite supervision of DNFBPs.
88. Based on findings of the sectoral risk assessment, Bhutan supervisors undertake a limited form of offsite supervision of some DNFBP sectors through monitoring the transactions of the registered and licenses DNFBPS via Bank transactions. As required by the AML/CFT Rules and Regulations 2022, the reporting entities are required to submit a month CTR and STR via online system called BFIAS.
89. **Criterion 28.4** is *mostly met*.
90. *Criterion 28.4(a)* The finding of met remains in keeping with the MER.
91. *Criterion 28.4 (b)* Since the last FUR Bhutan has issued revised Trade and Industry Rules and Regulations, 2022, which apply to dealers in precious metals & stones and the Real estate agents and apply some provisions on fit and proper requirements to the owners. Bhutan reported that there are 42 licensed/ registered gold and silver smiths, and 41 licensed/registered real estate agents which are subject to licence renewal every 12 months. The revised Trade and Industry Rules and Regulations, 2022 require 'security clearance for criminal record' to be produced before a licence can be granted (r.11). This does not set a clear fit and proper standard at the point of market entry. The rules are clearer at the point of annual renewal as the Ministry shall not renew a licence if the person has an adverse record of law. It is not clear if the obligations on fit and proper apply to beneficial owners of corporate licensees and the obligations do not extend to associates of criminals.
92. *Criterion 28.4 (c)* The findings of the 2018 FUR remain as they apply to this criterion.
93. **Criterion 28.5** is *partly met*.
94. *Criterion 28.5(a)* The findings of the 2018 FUR remain as they apply to this criterion.
95. *Criterion 28.5(b)* The findings of the 2020 FUR remain as they apply to this criterion. The lack of at least limited offsite supervision of DNFBPs remains.

Weighting and Conclusion

96. The majority of findings for R.28 remain as per the 2020 FUR, particularly noting that no onsite supervision of DNFBP has taken place. Bhutan has made some progress through issuing additional fit and proper requirements in its licencing framework for dealers in precious metals and stones and real estate agents. In addition, Bhutan supervisors have undertaken a form of offsite monitoring of some DNFBP sectors, based on findings of the sectoral risk assessment, through monitoring the transactions of the registered and licensed DNFBPs via Bank transactions
97. Recommendation 28 remains ***Partially Compliant***.

Recommendation 34 (Originally rated PC)

98. Bhutan was rated PC with R.34 in its MER.
99. **Criterion 34.1** is *mostly met*. Since the 2018 FUR Bhutan has produce four guidelines for REs, which address a number of priority issue for Bhutan: the 2018 CDD Guideline and the 2019 Beneficial Ownership Guideline 2019 help to address priority challenges with CDD and identification of beneficial owners of customers and transactions. The 2019 Guidelines on RBA Framework for Banks is noted as providing overall support to the most prominent sector. The 2019 Guideline on PEPs helps to address priority risk area.
100. The FIU has established portal for REs to report and to exchange information with the FIU. This has been used to provide feedback to REs to a reasonable extent, considering Bhutan’s context.

Weighting and Conclusion

101. Since the last FUR Bhutan has issued a range of additional guidelines to address priority preventive measures and high-risk threats to assist implementation by REs. In addition, the FIU has established secure online portal for information exchange with REs, which supports feedback. There are still minor gaps in relation to feedback.
102. Recommendation 34 is re-rated to ***Largely Compliant***.

Recommendation 40 (rated PC)

103. Bhutan was rated PC for R.40 in the MER.
104. **Criterion 40.1** is *Mostly Met*. Since the MER Bhutan has amended the AML/CFT Act 2018 which further empowers the FIU to share information and cooperate with foreign counterpart in the FID’s capacity as FIU (s. 31 & 37 of AML/CFT Act and se 19-21 of the AML/CFT Rules and Regulations 2022). The Act also empowers the FID to share information received from a foreign counterpart. The ACA also empowers cooperation on Anti-Corruption. S.28-31 of the AML/CFT Act 2018 provides a basis for Supervisors in Bhutan to conduct activities and exercise their powers and obtain information on behalf of foreign supervisors for the widest range of AML/CFT activities. There are a range of additional powers for cooperation of other competent authorities, including other LEAs and the tax authorities.
105. **Criterion 40.2** is *Partly Met*. Since the MER the FID is empowered to cooperate with foreign counterpart FIUs. (Sec. 21 of AML/CFT Rules and Regulation 2022). Other deficiencies identified in the MER remain.
106. **Criterion 40.3** is *Partly Met*. Since the MER Bhutan has entered into further MOUs and agreements with a wide range of foreign counterparts in keeping with the shared transnational crime risks facing Bhutan. Of particular note are the FIU to FIU MOUs across SAARC and ASEAN countries, in particular with India. These appear to have been negotiated in a timely manner since the MER.
107. **Criterion 40.4** is *Partly Met*. As an Egmont member, the Bhutan FIU provides feedback in a timely manner through the Egmont Secure web. Bhutan did not demonstrate feedback in cooperation with other foreign counterparts beyond the FIU.
108. **Criterion 40.5** is *Met*. The 2020 FUR noted that ACC, BNCA and DCR have legislative or policy mechanisms to facilitate information exchange activities, which are not subject to any

unreasonable and unduly restrictive conditions. The AML/CFT Rules and Regulations 2022 clarifies that the FIU may cooperate with foreign counterparts and that there are no unreasonable or unduly restrictive conditions on the provision of information exchange or assistance (Sec. 20, AML/CFT Rules and Regulations).

109. **Criterion 40.6** is *Mostly Met*. The findings remain as per the MER.
110. **Criterion 40.7** is *Mostly Met*. The findings remain as per the MER.
111. **Criterion 40.8** is *Partly Met*. In addition to the measures outlined in the MER, S.28-31 of the AML/CFT Act 2018 provides a basis for Supervisors in Bhutan to conduct activities and exercise their powers and obtain information on behalf of foreign supervisors for the widest range of AML/CFT activities.
112. **Criterion 40.9** is *Met*. findings of the MER and FUR as well as the AML/CFT Rules and Regulations 2022 provide the FIU with an adequate legal basis for cooperation.
113. **Criterion 40.10** is *Met*. Bhutan demonstrated that the FIU has provide feedback to their foreign counterparts, upon request and whenever possible, on the use of the information provided.
114. **Criterion 40.11** is *Met*. The findings remain as per the MER.
115. **Criterion 40.12** is *Met*. The findings remain as per the MER.
116. **Criterion 40.13** is *Met*. Supervisors are empowered to exchange with foreign counterparts information domestically available to them, including information held by financial institutions, in a manner proportionate to their respective needs (s.28-29, AML/CFT Act 2018).
117. **Criterion 40.14** is *Met*. In addition to the findings of the MER, the AML/CFT Act 2018 (s.29) and the bilateral MOU with India (2011) support exchange the widest range of information when relevant for AML/CFT purposes, in particular with other supervisors that have a shared responsibility for financial institutions operating in the same group.
118. **Criterion 40.15** is *Met*. S. 30 of the AML/CFT Rules and Regulations 2022 empowers supervisors to conduct enquiries on behalf of foreign counterparts and may request their foreign counterparts to conduct enquiries on their behalf. Assistance shall be provided to foreign counterparts, particularly for the purpose of conducting effective group supervision.
119. **Criterion 40.16** is *Met*. The AML/CFT Act 2018 (s.31) provides a basis to agree to undertakings to regulate the basis on which shared information is to be used by the agency that will receive the information. This includes prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the requesting financial supervisor is under a legal obligation to disclose or report the information. In such cases, at a minimum, the requesting financial supervisor should promptly inform the requested authority of this obligation.
120. **Criterion 40.17** is *Partly Met*. Bhutan did not demonstrate that further actions have been taken to empower LEAs to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF, including the identification and tracing of the proceeds and instrumentalities of crime.
121. **Criterion 40.18** is *Not Met*. Bhutan did not demonstrate that further actions have been taken since the MER and the findings of the MER are unchanged.

122. **Criterion 40.19** is *Partly Met*. In June 2022 the ACC and the OAG issued a a Joint Investigation Guideline which is chiefly aimed at domestic joint investigations, but explicitly outlines certain aspects related to a joint investigation with foreign counterparts. However, the guideline does not go into sufficient detail of powers, mechanisms and practices of such joint investigation with foreign counterparts.

123. **Criterion 40.20** is *Not Met*. Bhutan did not demonstrate that further actions have been taken since the MER on cooperation with non-counterparts. The findings of the MER remain.

.. Weighting and Conclusion

124. Since the MER Bhutan has made some important progress in relation to international cooperation between FIUs and between supervisors. This includes both regulatory frameworks and practical instruments to improve cooperation, including with priority partners with share transnational risks (eg MoU with India). Moderate shortcomings remain with cooperation between LEAs and their foreign partners.

125. Recommendation 40 remains *Partially Compliant*.

4.3. CONCLUSION

126. Bhutan has made progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated to LC with R.4, R.7, R.34 and R.40 which were rated PC in either the MER or subsequent FURs.

127. A summary table setting out the underlying deficiencies for each of the recommendations assessed in this report is included at Annex A.

128. In light of the progress made by Bhutan since its MER was adopted and its previous FURs, its technical compliance with the FATF Recommendations as follows as of October 2022:

R.	Rating
1	NC (MER 2016) ↑ LC (FUR 2018)
2	PC (MER 2016) ↑ LC (FUR 2018)
3	PC (MER 2016) ↑ LC (FUR 2020)
4	PC (MER 2016), (FUR 2020) ↑ LC (FUR 2022)
5	NC (MER 2016) ↑ LC (FUR 2018)
6	NC (MER 2016) ↑ PC (FUR 2018) ↑ LC (FUR 2020)
7	NC (MER 2016) ↑ PC (FUR 2018) ↑ LC (FUR 2022)
8	PC (MER 2016), (FUR 2020) (FUR 2022)
9	LC (MER 2016) ↑ C (FUR 2018)
10	C (MER 2016)
11	C (MER 2016)

R.	Rating
21	NC (MER 2016) ↑ LC (FUR 2018), (FUR 2020)
22	C (MER 2016)
23	PC (MER 2016) ↑ LC (FUR 2018)
24	PC (MER 2016) PC (FUR 2022)
25	LC (MER 2016)
26	PC (MER 2016) ↑ LC (FUR 2020)
27	C (MER 2016)
28	NC (MER 2016) ↑ PC (FUR 2018), (FUR 2020) PC (FUR 2022)
29	NC (MER 2016) ↑ LC (FUR 2018)
30	PC (MER 2016) ↑ LC (FUR 2020)
31	PC (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)

32	PC (MER 2016) ↑ LC (FUR 2018)
33	PC (MER 2016) ↑ LC (FUR 2020)
34	PC (MER 2016) ↑ LC (FUR 2022)
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) PC (FUR 2022)

129. As of 1 October 2022 Bhutan has two Recommendations rated as NC, six rated as PC, 25 rated as LC and seven rated as C.

Summary of Technical Compliance –Deficiencies underlying the ratings ²

Compliance with FATF Recommendations		
Rec	Rating	Factor(s) underlying the rating
R.4	LC	<ul style="list-style-type: none"> – 4.1 - a gap remains with powers to confiscate property laundered, proceeds or instrumentalities or property of corresponding value in relation to foreign maritime piracy offences, and counterfeiting/pirating of intellectual property offences
R.7	LC	<ul style="list-style-type: none"> – 7.2(c) - Bhutan has not issued guidance in relation to TFS against proliferation of WMD – 7.3 - value based sanctioning may not be dissuasive for natural persons in all circumstances – 7.4 (a) - no procedures enabling listed persons and entities to petition a request for de-listing at the Focal Point for de-listing established pursuant to UNSCR 1730, or informing designated persons or entities to petition the Focal Point directly – 7.4 (d) - guidance in relation to TFS against proliferation of WMD
R.8	PC	<ul style="list-style-type: none"> – 8.1 (a) - Bhutan has not sufficiently assessed NPO sector risk to identify which subset of NPOs that fall within the FATF definition of NPO and then identify the features and types of NPOs which, by virtue of their activities or characteristics, are likely to be at risk of TF abuse in Bhutan. – 8.1(b) - Bhutan has not identified the nature of threats posed by terrorist entities to NPOs that are at risk as well as how or whether terrorist actors abuse those NPOs. – 8.1(c) - A review of Bhutan’s Civil Society Organizations Authority and NRA updates are yet to be finalised – 8.1(d) - Further reassessment of risks is needed – 8.2(c) - Bhutan has not separately developed best practice for NPOs related to CFT – 8.4(a) - Bhutan has improved its monitoring, but it is not yet risk-based. – 8.6 - Deficiencies remain relating to international cooperation requests for regulatory information held by the Chhoedey Lhentshog
R.24	PC	<ul style="list-style-type: none"> – 24.6 (a & b) - There are no obligations on companies to collect or to file BO information – 24.6(c) The findings of the 2018 FUR on deficiencies with CDD and the definition of ‘beneficial owner’ in the Companies Act – 24.7 - The requirement to keep information held by companies in Bhutan up to date does not extend to BO information – 24.8 - The Companies Act 2016 does not require that companies incorporated thereunder have a resident natural person (such as a resident director or secretary) or DNFBP (such as a TCSP) responsible or authorised to cooperate with, or accountable to, competent authorities. – 24.9 - winding-up provisions of the Companies Act do not include record keeping obligations following dissolution

² Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

Compliance with FATF Recommendations		
Rec	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> – 24.12 - The Companies Act does not prohibit nominee shareholders and there is an absence of measures to mitigate the risk associated with shadow directors and nominee shareholders. – 24.13 - The quantum of fines available is not proportionate or dissuasive, even taking into account Bhutan’s context – 24.14 – minor deficiencies with international cooperation apply with exchange of basic and BO information. – 24.15 - Bhutan did not demonstrate that it monitors the quality of assistance received from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad
28	PC	<ul style="list-style-type: none"> – 28.3 - Bhutan has not undertaken any onsite supervision of DNFBPs – 28.4(b) - Revised Trade and Industry Rules and Regulations, 2022 do not set a clear fit and proper standard at the point of market entry. It is not clear if the obligations on fit and proper apply to beneficial owners of corporate licensees and the obligations do not extend to associates of criminals. – 28.4(c) - sanctions for legal persons are dissuasive, while value based sanctioning may not be dissuasive for natural persons in all circumstances – 28.5 – supervision of DNFBPs is not performed on a risk sensitive basis
34	LC	<ul style="list-style-type: none"> – Minor gaps remain in relation to feedback to REs
40	PC	<ul style="list-style-type: none"> – 40.1 – gaps in the ensuring the rapid and widest range of cooperation – 40.2 – clear and secure gateways are identified or clear processes for prioritising and timely execution of requests – 40.3 - Bilateral agreements have not yet been arranged with the widest range of foreign counterparts – 40.4 - Bhutan did not demonstrate feedback in cooperation with other foreign counterparts beyond the FIU – 40.6 - Bhutan did not demonstrate sufficient controls and safeguards on the use of information received – 40.7 – appropriate confidentiality provisions were not demonstrated across all relevant agencies – 40.8 - Bhutan did not demonstrate all relevant competent authorities can conduct inquiries on behalf of foreign counterparts – 40.17 - Bhutan did not demonstrate that further actions have been taken to empower LEAs to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF, including the identification and tracing of the proceeds and instrumentalities of crime – 40.18 – Bhutan did not demonstrate LEAs can use their investigation techniques to conduct inquiries on behalf of foreign counterparts – 40.19 – the ACC and OAG guideline does not go into sufficient detail of powers, mechanisms and practices of such joint investigation with foreign counterparts – 40.20 - Bhutan did not demonstrate that further actions have been taken since the MER on cooperation with non-counterparts