

FATF



Anti-money laundering and counter-terrorist financing measures

Canada

October 2021

1st Regular Follow-up Report &
Technical Compliance Re-Rating

Follow-up report





The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CTF) standard.

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Canada's 1st Enhanced Follow-Up Report

1. Introduction

The FATF Plenary adopted the mutual evaluation report (MER) of Canada in June 2016.¹ This FUR analyses Canada's progress in addressing the technical compliance deficiencies identified in its MER, relating to R.2, R.5, R.7, R.8, R.12, R.15, R.16, R.17, R.18, R.20, R.21, R.22 and R.23.

This is Canada's first enhanced follow-up report with re-rating requests. Overall, the expectation is that countries will have addressed most if not all technical compliance deficiencies by the end of the third year from the adoption of their MER. This report does not address Canada's progress to improve its effectiveness.

2. Findings of the MER

The MER rated Canada's technical compliance as follows:

Table 1. Technical compliance ratings, June 2016

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	LC	LC	LC	LC	C	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	NC	LC	C	NC	PC	PC	LC	C	PC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	NC	NC	PC	NC	LC	C	PC	PC	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	C	LC	LC	C	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Source: Canada Mutual Evaluation Report, June 2016: <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-canada-2016.html>

The following experts conducted the analysis of this re-rating request:

- Ms. Nicola Critchley, AUSTRAC, Policy Manager, Australia
- Ms. Ana Karen Aguilar Zárte, Deputy Director of International Affairs, Financial Intelligence Unit Mexico
- Mr. Tiago João Santos e Sousa Lambin, Senior Inspector, Instituto dos Mercados Publicos do Imobiliario, Portugal

¹ www.fatf-gafi.org/countries/a-c/canada/documents/mer-canada-2016.html

Section 3 of this report summarises the progress Canada has made in improving technical compliance. Section 4 sets out the conclusion and a table showing R.8, R.12, R.15, R.16, R.17, R.20, R.22 and R.23 re-rated.

3. Overview of progress to improve technical compliance

This section summarises Canada's progress to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER.

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

Canada has made progress to address the technical compliance deficiencies identified in the MER in relation to R.12, R.16, R.17, R.20, R.22 and R.23, and is re-rated because of this progress.

Recommendation 12 (originally rated NC)

In its 4th MER, Canada was rated NC with R.12 because it lacked provisions in laws or regulations which covered measures to identify and deal with politically exposed persons. Since its MER, Canada issued amendments to regulations made under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) in 2019 and 2020 introducing the following obligations for reporting entities: determine if dealing with a politically exposed person or a Head of International Organization and take appropriate measures such as obtaining the approval of senior management to keep the account open, take reasonable measures to establish the source of the funds or virtual currency and the source of the person's wealth, and conduct ongoing monitoring of their business relationships. However, there is no obligation to obtain senior management approval before establishing business relationships with PEPs.

Canada has addressed most of the deficiencies identified in its MER. On this basis, **R.12 is re-rated largely compliant.**

Recommendation 16 (originally rated PC)

In its 4th MER, Canada was rated PC with R.16 because Canada did not have specific requirements for intermediary and beneficiary financial institutions to identify cross-border electronic transfer of funds that contained inadequate originator information, and take appropriate follow-up action. The 2019 and 2020 regulatory amendments introduced requirements for intermediary and beneficiary institutions. Canada has addressed most of the deficiencies in its MER. On this basis, **R.16 is re-rated largely compliant.**

Recommendation 17 (originally rated NC)

In its 4th MER, Canada was rated NC because it did not have explicit requirements on life insurance entities and securities dealers in relation to either necessary CDD information to be provided by the relied-upon entity or supervision of that entity's compliance with CDD and record keeping obligations. It equally missed requirements on life insurance entities or securities dealers to assess which countries were high risk for third party reliance. The 2019 and 2020 regulatory amendments now contain these requirements for all reporting entities. A reporting entity (i.e. an entity listed in

section 5 of the PCMLTFA) includes life insurance companies and securities dealers. On this basis, **R.17 is re-rated compliant.**

Recommendation 20 (originally rated PC)

In its 4th MER, Canada was rated PC primarily because of the lack of a prompt timeline for suspicious transaction reporting. Since the MER, Canada has made legislative amendments to require reporting entities to report STRs promptly to FINTRAC, after establishing reasonable grounds to suspect that the transaction or attempted transaction relates to the commission or attempted commission of an ML or TF offence. The deficiencies identified in the MER in relation to the scope of the PCMLTFA remain a minor deficiency.

Canada has addressed one of the remaining deficiencies in its MER with regard to R.20. On this basis, **R.20 is re-rated to largely compliant.**

Recommendation 22 (originally rated NC)

In its 4th MER, Canada was rated NC with R.22 because among others, Canada lacked beneficial owner, PEP, new technologies and third party reliance obligations for DNFBPs. Canada implemented legislative measures in order to comply with CDD requirements for DNFBPs. The 2019 and 2020 regulatory amendments covering most DNFBPs, created the legal mechanisms needed to fulfil CDD and other requirements under Recommendation 22 (related to R.10, 11, 12, 15 and 17). Despite the efforts made by Canada, mainly on implementing the 2019 and 2020 amendments, improvements are still needed including regarding customer due diligence. In addition, some of the relevant DNFBPs are still not covered (see below). On this basis, **R.22 is re-rated to partially compliant.**

Recommendation 23 (originally rated NC)

In its 4th MER, Canada was rated NC with R.23 because suspicious transaction reporting obligations were too limited. Deficiencies on R.20 and 21 also had an impact on the rating of R.23. Regulatory amendments approved in 2019 and 2020 introduced improvements with regard to internal controls and reporting requirements (see R.20, R. 21 above) of DNFBPs, however, having some of the relevant DNFBPs (i.e. lawyers, Quebec notaries, and company service providers that are not included among trust companies) not covered affects the overall outcome. On this basis, **R.23 is re-rated to largely compliant.**

3.2 Progress on Recommendations which have changed since adoption of the MER and where progress has been made

Since the adoption of Canada's MER, the following FATF Recommendations have been amended which were not previously assessed during Canada's follow-up process: R.2, R.5, R.7, R.8, R.15, R.18 and R. 21.

Recommendation 2 (originally rated C)

In October 2018, R.2 was amended to require countries to have cooperation and coordination between relevant authorities to ensure compatibility of AML and counter-terrorist financing (AML/CFT) requirements with Data Protection and Privacy rules. The amended Recommendation further requires a domestic

mechanism for exchange of information. In its 4th round MER, Canada was rated C with R.2. Since the MER, Canada has continued to maintain national strategies and policies to inform AML/CFT policies and operations in line with identified risks. There are a number of standing committees, task forces and additional mechanisms to coordinate and cooperate domestically on AML/CTF and counter-proliferation financing policies and operational activities, as well as ensuring compatibility of AML/CFT requirements with Data Protection and Privacy Rules or other similar requirements.

The revised and new requirements of R.2 are met. On this basis, **R.2 remains rated compliant.**

Recommendation 5 (originally rated LC)

In February 2016, a new requirement was added to R.5, to criminalise the financing of foreign terrorist fighters. In its 4th MER, Canada was rated LC because provisions did not criminalize the collection or provision of funds with the intention to finance an individual terrorist or terrorist organization. Canada's TF offences extend to cover the financing of travel of individuals that leave Canada for the purpose of the perpetration, planning or preparation of, or participation in, terrorists' acts or the providing of receiving of terrorist training. The minor scope gap in financing merely with the intent to benefit an individual terrorist remains from its 4th MER. On this basis, **R.5 remains largely compliant.**

Recommendation 7 (originally rated LC)

In November 2017, R.7 was amended to reflect changes to the United Nations Security Council Resolutions on proliferation financing since the FATF Standards were issued in February 2012. In its 4th MER, Canada was rated largely compliant with R.7. Canada has maintained its compliance with the revised R.7 requirements, including implementing UNSCR 2231 (2015), and UNSCR 1718 (2006) and its successor resolutions. On this basis, **R.7 remains largely compliant.**

Recommendation 8 (originally rated C)

In June 2016, R.8 and its interpretative note was substantially reviewed to follow a more risk-based approach to non-profit organisations. Canada's compliance with the revised requirements was not assessed. Since the MER, Canada has revised its National Inherent Risk Assessment (NIRA) and updated the NPO Sector Review and has now included a different grouping of organisations within the FATF's definition of NPO. This is a recent development, and as a result, there are minimal requirements and obligations for some of these organisations. As the NIRA identifies the TF risks to the NPO Sector as a whole as high, this is given some weight.

The existing NPO outreach activities seem to focus on charities with an international connection, in line with risk, but there does not appear to be any outreach that addresses TF risks and vulnerabilities within the domestic context. The existing outreach material does contain some guidance on TF for charities operating in the international context but this could be improved to deepen awareness among NPOs in relation to TF risks and vulnerabilities. Canada is already in the process of updating this material. Canada supervises and monitors the registered charity sector's compliance with TF obligations as part of its charity governance framework. Registered charities represent a significant portion of the broader NPO sector and Canada's risk mitigation efforts are primarily focused on registered charities,

consistent with earlier risk assessment conclusions. However, noting that the recent NIRA update identified that the TF risks to the NPO sector as a whole are high, these issues represent moderate deficiencies.

On this basis, **R.8 is downgraded to partially compliant.**

Recommendation 15 (originally rated NC)

In October 2019, revisions were made to methodology for assessing R.15, to reflect amendments to the FATF Standards incorporating virtual assets (VA) and virtual asset service providers (VASP). These new requirements include: requirements on identifying, assessing and understanding ML/TF risk associated with VA activities or operations of VASPs; requirements for VASPs to be licensed or registered; requirements for countries to apply adequate risk-based AML/CFT supervision (including sanctions) to VASPs and that such supervision should be conducted by a competent authority; as well as requirements to apply measures related to preventive measures and international cooperation to VASPs.

In its 4th MER, Canada was rated NC with R.15 because there was no explicit legal or regulatory obligation to risk assess new products, technologies or business products, before or after their launch. Since its MER Canada introduced PCMLTFA amendments, as well as corresponding regulations (PCMLTFR), which established an obligation for reporting entities to include the assessment and documentation of ML/TF risks, taking into consideration their products, services and delivery channels, the geographic location of their activities and any other relevant factor in their compliance programs. If a person/entity intends to carry out a new development or introduce a new technology that may have an impact on clients, business relationships, products, services or delivery channels or the geographic location of their activities, they shall assess and document the risk before doing so (PCMLTFR, subsection 156(1)(2)).

In addition, Canada met most of the revised requirements of R.15 related to identifying and assessing the money laundering and terrorist financing risks emerging from VA and VASPs, regulating and supervising virtual asset activities and the activities or operations of VASPs. Canada's definition broadly covers forms of safekeeping and/or administration, and is applicable to virtual currencies, wallets, and private keys where a financial service is being offered. Canada has taken steps to deepen its understanding and analysis of the ML/TF risks posed by new technologies including VA and VASPs. The country elaborates multiple reports and impact assessments of FinTech including cryptocurrencies, e-commerce, blockchain, mobile payments, among others. Canada requires VASPs to register and VASPs are required to apply preventive measures, supervised and sanctioned as a reporting entity. Minor deficiencies remain as regards providing widest possible international co-operation with regard to VAs and VASP activities.

Canada has addressed the deficiencies in its MER and met most of the revised requirements of R.15. On this basis, **R.15 is re-rated largely compliant.**

Recommendation 18 (originally rated LC)

In February 2018, R.18 was amended to clarify requirements on sharing of information and analysis related to suspicious transaction reports within financial groups and interaction with tipping-off provisions. In its 4th MER, Canada was rated LC with R.18 because there were no legal requirements in relation to screening

procedures when hiring. Since the revisions to R.18, Canada has maintained the existing requirements for financial institutions, which apply equally to financial groups. Financial groups are required to implement group-wide programmes to combat ML/TF, including exchanging information required for CDD and ML/TF risk management, as well as the provision of information for AML/CTF purposes, including for risk management purposes. Canada has also made legislative amendments to the PCMLTFA to specifically include the relevant safeguards in relation to confidentiality and information exchange.

On this basis, **R.18 remains largely compliant.**

Recommendation 21 (originally rated LC)

In February 2018, R.21 was amended to clarify tipping-off provisions are not intended to inhibit information sharing under R.21. In its 4th MER, Canada was rated LC with R.21 because of a minor scope issue. There are no prohibitions on the sharing of information, including suspicious transaction reports (STRs), within financial groups domestically or internationally. Canada has amended the PCMLTFA to include a specific prohibition on disclosing that a STR is being prepared or will be filed with the FIU.

There remains a minor deficiency, in that the tipping off and confidentiality requirements do not explicitly extend to the reporting of suspicions related to ML predicate offences.

On this basis, **R.21 remains largely compliant.**

4. Conclusion

Overall, Canada has made progress in addressing most of the technical compliance deficiencies identified in its MER and has been upgraded on seven Recommendations and downgraded in one Recommendation (R.8).

Considering the progress made by Canada since the adoption of its MER, its technical compliance with the FATF Recommendations has been re-evaluated in the following manner:

Table 2. Technical compliance ratings, October 2021

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	C	C	LC	LC	LC	LC	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	LC	C	LC	LC	C	LC	C	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	NC	LC	C	PC	PC	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	C	LC	LC	C	LC

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

Canada will move to regular follow-up and will continue to inform the FATF of progress achieved on improving the implementation of its AML/CFT measures.

FATF



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Anti-money laundering and counter-terrorist financing measures in Canada

1st Regular Follow-up Report & Technical Compliance Re-Rating

As a result of Canada's progress in strengthening their measures to fight money laundering and terrorist financing since the assessment of the country's framework, the FATF has re-rated the country on 6 of the 40 Recommendations.

The report also looks at whether Canada's measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2016.

Follow-up report